

A Charge Clearly Proved

A 2464 Word Short Story

By

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Like desperados waiting for a train, the old men gathered in Sonny's Barbershop to swap stories. The one Toby Parsons told about Jake Ryan's murder and what Bill Wilton did about it was the best.

Sonny was working on my flattop. It was hard to hear above the buzz of his clippers, so I strained to pay close attention to hear every word. Toby, who always sat in the empty barber's chair, its perch making him master of ceremonies, cut a corner off a block of his chewing tobacco during a lull in the conversation. "You boys ever figure out who killed Owen Richardson?"

The old timers tipped back their panamas and shook their heads. Charlie Nicks pulled out a Lucky Strike and lit up. "Bill Wilton was blamed for it, but it was never proved in court. Nobody knows for sure, unless of course, you're about to tell us for a fact what happened."

Ever since I could remember – a good seven or eight years – I'd heard tales in the barbershop about Bill Wilton, rancher and deadly gunman, who died at eighty-two – the year I was born – 1940. The stories told how deadly accurate he was with a pistol or a rifle, how he outfoxed cattle speculators, killed rustlers who shot first, or found water where everyone else said there wasn't any.

Toby stuffed the chaw in his cheek and waited for it to soften. "Well boys, this here is the way it was. Bill Wilton and Jake Ryan was best friends from the time they's little fellers. When the Wiltons moved out here, Jake come with 'em and helped 'em git their ranch started. Bill's sister, Sarah, and Jake was plannin' to get married but her mama wanted 'em to wait until Jake started his own place and they's a little older. They thought that's wise advice, so after the Wilton ranch was up and runnin', Jake got a job runnin' the Jones brothers ranch in Lobo Canyon. Jake was so straight with folks and good with cattle that they give him ten dollars a month more than the going rate and told him that when he got his own cattle he could graze 'em with theirs 'till he had his own place. Jake, smart as he was, with a deal like that, was gonna be able to git his own place purty quick.

"In them days, old man Richardson was running cattle on shares on the free range. He's a tryin' to run ever'body else off so he could take their water and have all the grass fer his herds. He tried to run off Jake and Bill. Jake and the old man come near to settlin' things with lead a

few times, but they's lucky and it never come to that. Bill, he just stayed out of the old man's way. Richardson weren't about to push him cause Bill's right deadly with that pistola of his.

'Bout a year goes by. Jake, he's doin' so well, Miss Sarah decides it's time to go up to Santa Fe and find a weddin' dress. Just so happened that's when things hit the fan."

Nicks took a long draw on his cigarette, blew the smoke up towards the ceiling fan, and squinted at Toby. "How come you know all this personal stuff, Toby?"

" 'Cause I worked hand in glove with Wilton in them days. Couple 'o days after Bill put Sarah and his mother on the train fer Santa Fe, Luis Alaniz come riding in like the devil's after him. Tells us that he's been out looking fer stray cattle and that he'd found Jake's body. We 'bout rode our horses into the ground gittin' over to Lobo Canyon.

"When we come up on him, Jake looked like he was just stretched out taking a nap in the shade of an overhang at the spring. He's usin' a rock fer a piller, had his hat pulled down to shade his eyes, there's a quirt he's a bradin' lying on his chest, and his gun hand was just a laying there beside his holster. They's just one little thing wrong with the scene." Toby touched the end of his forefinger between his brushy eyebrows. "They's a bullet hole right smack between his eyes. Never knew what hit him.

"Bill sat there beside him, his head bowed, fer musta been, oh, ten minutes. At first, I thought he was prayin' for Jake's soul. Weren't no such thing. He's a swearin' revenge.

"We found the killer's tracks not thirty feet from Jake's body. Follered his horse down the canyon and then over into the next one before the trail disappeared. Looked like whoever done it got away clean." Toby spat in the old brass spittoon he kept in the barbershop next to 'his chair' as the others leaned forward in their chairs.

By this time Sonny was standing there listening too, his clippers turned off. "Well, did he?"

"Did he what?" Toby wiped his lower lip with the back of his hand and leaned back in his chair grinning.

"You old idjit! Whoever did it. Did they get away clean?"

"We thought they did 'til Luis noticed the spike tip on a Spanish dagger was covered with blood and had a short o' string on hide on it. That there Spanish dagger weren't more'n fifty yards down the trail from where Jake was. The killer had rode his horse right into it gittin' away.

It's the only clue we had. Wilton said if he had to, he'd look at ever' horse in the basin to find who done it.

"Turned out he didn't have to look very long. 'Bout a week later he's buyin' supplies over to Jones Brothers Mercantile and he sees Owen Richardson's pinto tied in front of the saloon. Owen was old man Richardson's second son. He's a big tall feller, maybe six-six, something like that, and about as mean and worthless as they come. Well, sir, that pinto had a tear in his hide that was healing up and still tender to the touch."

I blurted out what we were all thinking. "Did Wilton go in the saloon and shoot it out with him?"

Toby spat and shook his head. "Naw, naw he didn't, but he told me later it was mighty temptin'. Said he had to be shore he got the right feller fer Jake's sake. Next afternoon, Wilton and me borrowed that pinto out of Richardson's pasture and led him over to Lobo Canyon. He was kinda shy around that cactus, like he'd seen it before, but we finally got him to walk by it and, shore 'nough, the tear in his hide was exactly where the bloody cactus spike would have put it."

"Did Wilton shoot Owen then?"

Everybody in the barbershop laughed except Toby. "Naw. If he killed Owen right there in front o' God and ever'body, even in a fair fight – which he shore as hell was wantin' to do – he'd a been hanged. See, right after we found Jake, Wilton went to the sheriff and asked when he's gonna investigate. Sheriff says there ain't nuthin' he'n do. Weren't no witnesses and he weren't gonna waste time and money on a wild goose chase. Says Wilton's gotta have a 'charge clearly proved' to make an arrest and win in court, and a little blood on a cactus ain't nuthin'. Wilton figures if he don't have a fool proof case, the sheriff, who's always sidin' with the Richardsons and the big-money speculators will come after him if somethin' happens to Owen."

Sonny nodded. "Yes, sir, I remember my daddy tellin' my mother how crooked that sheriff was. He's always tryin' to make daddy pay him extra protection money for just doin' the job he's already supposed to be doin'. So what did Wilton do?"

"Well, sir, Bill decided he'd get that evidence for 'a charge clearly proved' his own self, and use the law to take care of Mr. Owen Richardson, and that's just what he did. He knowed Owen was a blowhard and had to be talkin' about what he'd done around the Richardson's bunkhouse. So Wilton started stopping at the campfires of Richardson's cowhands out on the

free range. You know, just bein' neighborly while he's takin' care of his stock. Weren't long before two Richardson men separately claimed that Owen told 'em he'd caught Jake napping and plugged him dead center. Owen said his daddy weren't gonna be bothered by that no-good son of a..." Toby stopped to spit and looked over at me staring at him with wide eyes. "...uh...rascal, Jake Ryan, no more."

I looked around the room and all the old men were looking at me, grinning and nodding. "So then did Wilton shoot Owen?" They laughed and slapped their knees.

Toby laughed too. "Not yet. Wilton figured he had to keep them boys alive if they was ever gonna talk, and they weren't gonna stay alive and talk as long as they's on the Richardson payroll. So he hires 'em away from the Richardsons and waits two months fer the grand jury to meet the next quarter. Word got out what Wilton was up to, but them Richardsons didn't try nuthin'. Wilton and his witnesses rode into town the night before the grand jury met, and talked to the district attorney the next mornin'. He seemed interested enough and took their depositions. Wilton and them fellers waited around the courthouse for four or five days to give their testimony to the grand jury, but they's never called. Walking out the door after the grand jury finished, the district attorney tells Wilton case ain't gonna be called that session. Wilton, he knows it ain't never gonna be called."

I play straight man once more. "Did Wilton shoot Owen after that?" This time no one laughs and all are looking at Toby who hits the spittoon dead center again.

"Don't know. You figure it out. Wilton's brother, Nolan, had a little ranch not far from Richardson's. A couple of weeks after the grand jury met, Owen's pinto showed up in Nolan's pasture. Nolan's wife put out some hay fer it a few days and then sent Owen a note sayin' that she's tired of feeding it and that he needed to come git it. He rode over the very next mornin' to pick up his pinto. But he never showed at Nolan's place, just disappeared. When Owen went missin', Old man Richardson, he went crazy. Puts ever' man he pays and some that owed him IOUs in the saddle and goes thunderin' over to Nolan's a lookin' fer Owen. He wound up burnin' down the ranch house and then had the cahones to claim Nolan done it to get rid of Owen's bloodstains on the floor. He nearly hanged Nolan, but cooler heads stopped that.

"Richardson and his boys rode all over the country lookin' fer Owen. They found his bones out in the sands after a couple weeks. Buzzards and coyotes had been chewin' on 'em purty good and there weren't much left of him. Only way they identified Owen's remains was by

his boots and some jewelry he wore. His revolver had been fired twice and the rest of its cartridges was still loaded.”

Everyone waits for me to ask what they’re thinking. “Had he been shot?”

Toby holds up two fingers. “Twice.” He puts the tips of the fingers against his skull on the left temple. “Right there.” The barbershop is quieter than a tomb, every eye on Toby.

“Old man Richardson found a justice of the peace and had him swear out a warrant for Wilton and a couple of his boys fer murder. Then he commences to ride all over the countryside lookin’ fer ‘em. You’n bet he’s a planning to bring ‘em back across their saddles. That posse wore out horses for the next two months trying to catch Wilton and his boys.”

I couldn’t take my eyes off Toby. “Did Richardson catch ‘em? Was there a big shoot-out?”

“Never caught ‘em, and there weren’t another feller shot on either side. Wilton led ‘em on a hard chase. Richardson’s posse’d loose the trail, turn around to go back and there’d be Wilton’s boys a lookin’ at ‘em on their back trail. He could’ve ambushed and killed ‘em all if’n he had a mind to and they knowed it. Purty soon Richardson’s boys started packin’ it in and leavin’. They’s worried old Bill was gonna stop runnin’ and start shootin’. Richardson, he’d finally had enough and he quit too. Sold out and moved on to greener grass.

“Grand jury indicted Wilton and his boys fer murderin’ Owen. Wilton, he turned himself in and Judge Fortis give him a bond so’s he could stay out o’ jail and work his ranch ‘til the trial. ‘Bout the only thing that good-fer-nuthin’ district attorney could establish durin’ the trial was that Wilton had a motive fer killin’ Owen. Problem was so did a lot of other fellers. Trial lasted a couple a days. It’s obvious the territory didn’t have no case. Took the jury ‘bout 10 minutes to say, ‘Not guilty.’”

Every head in the barbershop was nodding north-south, and we were all grinning. Toby shot another brown stream toward the spittoon and added an epilogue to his story.

“After the judge told Bill he’s free to go, all his neighbors come up and shook his hand and thanked him fer runnin’ the Richardsons off. But they’s a bunch of sour faces in the crowd too – them that had shares in Richardson’s herd, they weren’t at all happy that Bill got off and they let the sheriff know it.

“Outside the courtroom, the sheriff, he comes up to us and he says to Bill, ‘Yuh got away with it this time Wilton. Next time you’ll hang.’”

“Old Bill, he just looks at the sheriff a minute and nods. Then he says real quiet like, ‘Reckin, I will sheriff, when you have a ‘charge clearly proved’.’”

We all grinned and nodded. Sonny lifted his clippers ready to start cutting hair again. “What’d the sheriff say to that?”

“That old sheriff, he didn’t say nuthin. Just turned around and stomped off.”

Toby looked over at me, grinned, and crossed his arms. “So do you think Wilton killed Owen Richardson, young feller?”

Sonny, who’d already turned on his clippers, turned them off again, listening for what I’d say. Every eye in the barbershop was on me.

I looked over at Toby and grinned back. “No, sir. It was never a ‘charge clearly proved’.”

It was the best compliment of my young life when Toby said above the laughter, “Son, you learn mighty fast.”