

**THE  
TAINTED TRIAL  
OF  
FARAH JAMA**

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Published by Wild Dingo Press  
Melbourne, Australia  
books@wilddingopress.com.au  
www.wilddingopress.com.au

First published by Wild Dingo Press 2014.

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Cover and internal design: Susan Miller, millervision@netspace.net.au  
Editor: Katia Ariel and Iris Breuer  
Printed in Australia by Ligare

National Library in Australia  
Cataloguing-in-Publications Data  
Szego, Julie, 1969–  
The tainted trial of Farah Jama / Julie Szego.

ISBN: 9780987381149 (paperback)

Jama, Farah Abdulkadir.  
Boden, Kimani.  
Sonnet, Brett.  
Rape–Victoria–Investigation.  
DNA fingerprinting–Victoria.  
Evidence tampering–Victoria.  
Forensic pathology–Victoria.  
Judicial error–Victoria.

363.2509945

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of paper in this book.



Julie Szego began her career as a lawyer before she switched to journalism. She spent 12 years at *The Age* newspaper where she held various roles, including social affairs reporter, senior writer, leader writer and fortnightly columnist. During her time at the paper she wrote a number of highly-acclaimed pieces to mark the 60th anniversary of the liberation of Auschwitz, investigated the cultural divide between the inner-city and the outer suburbs as part of an award-winning series on Melbourne, and wrote a profile of the Somali-Dutch-American feminist activist, Ayaan Hirsi Ali.

She wrote a monthly column for *The Australian Jewish News* for seven years, contributed to a book of essays on Australian Jewish culture and edited and interpreted her father's 2001 memoir, *Two Prayers to One God*. She also teaches university courses in writing and journalism. *The Tainted Trial of Farah Jama* is her first book.

### **Disclaimer**

The utmost care has been taken to accurately record and represent the people and events in this story. Some names and details have been changed to protect their identity or privacy.

The publishers assume no legal liability or responsibility for unintended inaccuracies, but would be pleased to rectify at the earliest opportunity any omissions or errors brought to their notice.

## ACKNOWLEDGEMENTS

This book owes its existence to my former *Age* colleague Liz Porter, whose award-winning feature on the Farah Jama case led to an approach from Wild Dingo Press, which, through a fortuitous chain of events, not least a recommendation from my dear friend and mentor Karen Kissane, led to an approach to me. I am further indebted to Liz for her generosity with documents and contacts, and her invaluable and prompt advice.

That the narrative took shape at all is thanks in no small part to the tough love and unwavering support of Michael Gawenda, the unfailing patience and intellectual rigour of my sister Klara and the masterful insight and immense talent of my editor, Katia Ariel. The sweetest gift of all came from Helen Garner, who sets the standard to which all non-fiction writers ought to aspire. Her breathtaking generosity and down-to-earth friendship not only enhanced the book but also enriched my life.

At Wild Dingo Press, Iris Breuer executed a thorough final edit, my research assistant and occasional agent-in-espionage, Jessica Carrascalão Heard never said no and neither did my warm-hearted and inspirational publisher Cathi Lewis, who kept me strong throughout. Writers Victoria provided a studio-of-one's-own at historic Glenfern, Marcella Paska assisted with baby-sitting and a first draft was born.

I'm deeply grateful to the following friends and experts for their contributions to *The Tainted Trial*: Aggie Vlahos, Zohar Berchik, Anna Davey, Dr David Dorward, Graham Reilly, Dick Gross, Jane Taupin, Professor Ross Coppel, Natalia Coppel, Peter Chadwick SC, Patrick Tehan QC, Associate Professor Jeremy Gans, Mizz De Zoysa-Lewis, Nic Pullen.

To my children Sara and Hannah and my father George, I can only say thank you, for everything. It is also all I can say to my late mother Eva, who is with me every moment of every day and whose no-nonsense endorsement of the manuscript will stand as the most affirming of all reviews.

And finally to my partner, Tony. I dedicate this book to him, and I reckon that says it all.



# CHAPTER 1

‘Pull up her pants.’

It was a female voice. And then somewhere a male voice. Maria sensed three or four people huddled round her. It was dark, she was lying on her back and her pants were down.

A blurred panic, a rush of vertigo, a sinking terror. The floor caving in beneath her. An ache in her eyes. Her head, heavy as a brick, in someone’s lap, the woman’s voice closer than before.

‘What’s your name?’

‘What time did you get here tonight?’

Now something was covering her body. A blanket? Maria felt intense pain in her armpits, her chest and over her sternum. A wave of nausea washed over her. She could smell vomit.



The scandal of Farah Jama, the Somali teenager accused of raping Maria, must start here, with the woman nearly thirty years his senior.



The week leading up to the calamitous night of 15 July 2006 had been a tough one for Maria. Work was demanding and her relationship was slowly dying. Keen to unwind, she rang her friend, Sophie, to suggest they go out on the weekend. The women decided on a mature-age nightclub that catered for people twenty-eight and over, in Doncaster in Melbourne's east. In the early evening on Saturday, Maria ate a light meal. She then dressed for the night: black stretch pants with a zip in the front, a top with spaghetti straps, a cropped cardigan with sequins, a coat with fur around the collar and cuffs, a silver handbag and no underwear.

She brushed her shoulder-length hair so that it fell in a gentle curve against one side of her face. At about 8.30 pm Sophie arrived with her partner, Alex, to pick her up. Maria climbed into the car carrying her handbag and a large, unopened bottle of the hazelnut liqueur Frangelico, the only alcoholic drink she really liked. The trio headed out to Doncaster in good spirits.

Alex turned off Williamsons Road, opposite the monolith of the Westfield shopping complex. He pulled into a spot near the entrance to the aptly-named Venue 28 nightclub, the women staying in the car while he bought tickets from the venue office. By the time he returned, Maria had nearly downed her first drink of Frangelico from tumbler-sized plastic glasses that Sophie had brought from home. Sophie preferred Southern-Comfort-and-Coke and came equipped with a bottle of her own. Maria drank another, or possibly another two, Frangelicos. The drinks inside the club were a bloody rip-off, after all, and nattering in the car was fun.

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They turned on the radio. For more than an hour, the friends drank and chatted in the car, before they finally went in.

The security footage of the entrance to Venue 28 captured the trio's arrival at 10.20 pm.

Sophie and Alex rushed to the dance floor. Maria wouldn't see the couple again for the rest of the night, and once the night was done she wouldn't want to see them at all. Finding herself suddenly alone, Maria tried to look purposeful. She checked her jacket at the cloakroom near the entrance, visited the toilet and walked the carpeted floor to the closest of the club's three bars.

'Frangelico with ice,' she told the male bartender. He poured her a single shot in a tumbler-sized glass.

Drink in hand, she ambled over to one of the chest-high standing tables, put down her glass and lit a cigarette. For a few minutes she sipped her drink and smoked, then strolled to the lounge area, where she smoked some more. At one point she went in search of Sophie and Alex, trying to find them on the expansive dance floor that scooped from one end of the club to the other in the shape of a giant grin. But the place was too packed, so she gave up.

She was making her way to another of the club's bars when a youthful, dark-haired man struck up a conversation. He was with some other men and gave his name as Stefan. For a few minutes Maria made small talk, half-heartedly. She then returned to the bar to order another Frangelico with ice. This was her fourth, maybe fifth, drink in less than two hours.

Again, she wandered aimlessly about, then stopped at another round standing table, alongside a pillar. She rested

her glass on the table so she could take her pack of cigarettes and lighter out of her handbag. Again, she smoked and sipped her drink.

This time two men approached and struck up a conversation. They were olive-skinned and of southern European background. One was tall, with dark, wavy brown hair. He wore a white shirt. He wasted no time telling Maria that he had a girlfriend. The other man was shorter and seemed older than his companion, mid- to late-thirties perhaps. He was dark-haired and unshaven. Again for only a few minutes, Maria chatted with the men. She chatted about the soccer, chatted about nothing in particular.

But she took an instant dislike to the shorter man. He seemed an intense, pushy type. And as she would tell police, she certainly 'wasn't there to pick up or meet anyone'. That short bloke is a bit sleazy, she thought. She began to have a bad feeling about him.

And then darkness.



On 14 July 2008, a young Somali man stood trial in the County Court of Victoria for the rape of a forty-eight year old woman while she was unconscious at a Doncaster nightclub. The man, twenty-one year old Farah Abdulkadir Jama of Preston, pleaded not guilty to the crime. The jurors saw in the dock an athletic-looking African youth with strong features. Eyebrows raised, head tilted slightly back, he appeared dismissive and defiant.

He appeared defiant even as the Crown led DNA evidence of Jama having had sex with the woman without her consent. Samples taken from the woman's body were found to contain DNA from a male, and a routine check of the police database established that male to be Jama. It was the only evidence the Crown had against the youth, but it was nevertheless devastating. In the prosecutor's words, the evidence was 'rock solid'.

Jama said he had never even seen the woman before, and raised an alibi in his defence. Witnesses called on Jama's behalf claimed the youth had spent the night in question with his family, at the bedside of his gravely ill father, reciting the Koran.

Nonetheless, the trial was regarded by the judge and the barristers as a relatively straightforward affair, save for one complication, one rather delicate problem. It arose when the jury tackled the elephant in the room and asked what the judge, in their absence, described as the 'inevitable' question. How had Jama's DNA profile come to be on the police database in the first place? In other words, why was the young man known to police at all? But the judge, constrained by the rules of evidence under which prejudicial information is withheld from the jury, gave the 'inevitable' question short shrift. The answer was irrelevant, he told the jurors, and they were 'not to speculate' about it.

After a five-day trial, which attracted media interest, the jury found the accused guilty as charged. At the sentencing hearing, held after the verdict, defence counsel asked the judge to take into account Jama's age, only nineteen at the

time of the offence; his close ties with family and community; and his traumatic childhood as a refugee from civil war. The judge weighed these factors against the youth's lack of remorse, the victim's considerable suffering and the thoroughly 'reprehensible' nature of the crime, to pronounce a gaol term of six years, with a non-parole minimum of four.



The next time Farah Jama made headlines was on Monday 7 December 2009, nearly a year and a half after his conviction. Only now, on the steps of the Court of Appeal, the microphones were tuned to catch his words, the TV cameras rolled as he posed triumphant, his arm around the shoulders of his new lawyer, a man with brown skin, high forehead and telegenic grin. Jama's light grey jacket had come off, his tie askew, lilac shirt freed from suit pants.

The lawyer hailed a momentous day for his client. After sixteen months in custody, he was cleared of all charges. The Court of Appeal had been persuaded that Jama suffered a wrongful conviction, his case a substantial miscarriage of justice, the 'rock-solid' evidence against him reduced to rubble. Photographers snapped the innocent man, euphoric in his vindication. Some shots taken that morning capture Jama weary and overwhelmed; eyelids heavy, head in an awkward twist away from his body. In another, he's staring at a point above the ground, a joyous smile cresting on his face, as if he has just grasped the unequivocal nature of his victory.

By the time I got wind of the controversy it was already yesterday's news. I read a report in *The Age* before I dressed

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for work, brain grinding into gear. My gaze lingered on the photo of Jama and his lawyer. I felt a twinge of discomfort, mingled with curiosity. A black kid. Did that have anything to do with it? I abruptly muffled the thought. It was uncharacteristic, and it made me uncomfortable. I believe in 'The System'; I'm that kind of person. I reflexively attribute errors in the dispensation of justice to cock-up rather than conspiracy. Such instances are sad and regrettable and always impart a lesson, but, alas, *these things happen*.

My drowsy reasoning was right to a degree: no cunning plan had been hatched by authorities to put a young African man behind bars for a crime he didn't commit. But I would come to realise that one of the most confounding, most chilling, aspects of the trial of Farah Jama was that most of the criminal justice professionals in his case had acted in good faith, without even the vaguest hint of malice.

Still, on that morning I already felt a tug from the story's undertow. So, when more than a year later a publisher approached me, on a colleague's recommendation, to write the Farah Jama story, I cheerfully agreed, figuring I could tell the tale from a pedestal of journalistic detachment, delivering judgment from on high.

I figured wrong. In fact, I was doomed to pass judgment on myself, with the verdict less than flattering.