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Antiphon and Andocides

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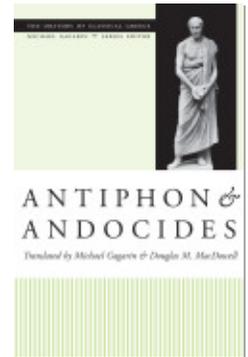
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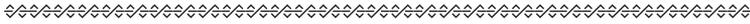
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1. AGAINST THE STEPMOTHER



This speech is delivered by a young man who is prosecuting his stepmother for poisoning his father. She is defended by her son, his half-brother. The death occurred some time ago, when the speaker was a boy (1.30); he may only recently have turned eighteen, the minimum age for bringing a legal case.

The “facts” are set forth in a vivid narrative (1.14–20), whose details must have come partly, perhaps largely, from the speaker’s imagination. There is no real evidence and little argument other than the allegation of an earlier attempt at a similar poisoning. Modern scholars have tended to accept the analysis of a similar (the same?) case in the Aristotelian treatise *Magna Moralia* (1188b29–38), where a woman accused of poisoning her husband is acquitted because her intent was to secure his love, not to kill him; but the speaker pays relatively little attention to this consideration. Rather, he emphasizes his own loyalty and his brother’s and stepmother’s corresponding disloyalty to his father, drawing parallels with the story of Clytemnestra (1.17), who treacherously killed her husband Agamemnon and was in turn killed by their son Orestes (see Aeschylus’ *Oresteia* trilogy). The appeal to stereotypical behavior of women as a continual threat to men—plotting, using drugs, concerned primarily with love—may have been more effective with the male jurors than the defense’s presumed response that she acted out of love. Even if the defense argued persuasively that the intent was not to kill, the jurors may have concluded that her behavior was nonetheless so threatening to the stability of the family that she deserved punishment.

The case was tried before the court of the Areopagus (see Series Introduction). As usual, we do not know the verdict and know noth-

ing of the defense's arguments beyond what we can surmise from this speech. The date is unknown but is usually placed in the period 420–411.

I.

[1] I am still so young and inexperienced in legal matters,¹ gentlemen, that I face a terrible dilemma in this case: either I fail in my duty to my father, who instructed me to prosecute his murderers, or, if I do prosecute, I am forced to quarrel with people who should least of all be my opponents—my own half-brothers and these brothers' mother. [2] But fortune and these opponents themselves have forced me to bring this case. It would be more reasonable for them to seek vengeance for the dead man and assist my prosecution, but they did just the opposite: they opposed my suit and are thus murderers themselves, as I and my indictment both state. [3] If I show that their mother murdered our father intentionally and with premeditation, and indeed that she was caught in the act of contriving his death not just once but many times before, then I beg you, gentlemen, take vengeance, first for your laws, which you received from the gods and your ancestors, for you convict people by these laws just as they did; second, take vengeance for the dead man, and at the same time help me who am left all alone. [4] You are now my family while they, who ought to avenge the dead man and help me, have become his murderers and my opponents. Where can one turn for help? Where can one take refuge except with you and with justice?

[5] I am amazed at my brother. What is he thinking in opposing my case? Does he think piety consists simply in not forsaking his mother? Well, I think it is much more of a sacrilege to abandon vengeance for the dead man, especially since he died as the involuntary victim of a plot, whereas she killed with full intention and foreknowl-

¹The plea of inexperience becomes a rhetorical *topos* ("commonplace"), though as P. J. Rhodes well observes (*Greece & Rome* 41 [1994]: 158), "the fact that a passage is a *topos*, that it says what is conventionally said in a particular situation, and perhaps expresses it in a conventional way, does not exclude the possibility that it is an authentic report, or that what is stated is true."

edge. [6] How can he say he is “quite certain”² that his mother did not kill our father? When he had the opportunity to gain certain knowledge through an interrogation of slaves,³ he refused, but he was eager to try methods that could not produce information. However, he should have been eager for the proposal I made in my challenge, so that the truth of the matter could be fully examined. [7] If the slaves did not agree with me, he could have eagerly defended himself against me with certainty, and his mother would be entirely free of the charge. But since he was unwilling to put the facts to a test, how can he know things he wasn’t willing to investigate? Surely then, jurors, it isn’t likely that he knows things when he didn’t accept the truth about them. [8] What defense will he make? Since he was quite certain he couldn’t save her by interrogating the slaves, he thought safety might lie in avoiding an interrogation; that way, he thought, the facts might disappear. How then can he have truly sworn an oath that he is “quite certain,” when I wanted to carry out a completely fair interrogation, but he was unwilling to obtain certain knowledge about the matter? [9] I wanted to interrogate their slaves, for they knew that on a previous occasion this woman—the mother of these men—had contrived our father’s death by poisoning, that he had caught her in the act, and that she had not denied it, except to claim she was giving the drug as a love potion, not to kill him. [10] I therefore wanted to conduct an interrogation about these facts as follows.⁴ I wrote down the accusa-

²The speaker is probably quoting directly from the defendant’s preliminary oath affirming the woman’s innocence.

³In theory, the interrogation of slaves under torture (*basanos*) was the only means of introducing the testimony of slaves in court. The interrogation is regularly proposed in a challenge, issued by one litigant to the other. We know of no cases, however, where a challenge actually resulted in an interrogation. In practice, the challenge is rejected by the other litigant, providing the challenger with the rhetorical opportunity (as here) to tell the jurors what the slaves would have said had they been interrogated (see M. Gagarin, “The Torture of Slaves in Athenian Law,” *Classical Philology* 91 [1996]: 1–18). In criminal investigations an interrogation could take place without a challenge (see Ant. 5.29–42).

⁴The speaker’s conduct, as he presents it, conforms to the proper rules of the challenge: the challenger determines (and here writes down) the questions to be asked, which generally require simple, yes-or-no answers.

tion I was making against the woman and asked these men to conduct the interrogation in my presence; this way the slaves would not be forced to say what I asked them, for I was satisfied if they used the written questions. I think I am justified in taking this as evidence that I was prosecuting my father's murderer justly and correctly. If the slaves should deny or disagree with my assertions, the interrogation would force the accusation to conform to the facts, for it forces even those who are prepared to lie to make true accusations. [11] Now I am quite certain that if they had approached me⁵ the moment they heard the news that I was going to prosecute my father's murderer and had offered to hand over their slaves for interrogation and I had refused to accept them, they would be presenting this as the strongest possible evidence that they were innocent of the murder. So since I am the one who wanted to conduct the interrogation myself, at first, and then asked them to conduct it instead, it is only reasonable that these same considerations should be evidence for my side that they are guilty. [12] If they were willing to hand over slaves for interrogation and I had refused them, this would be evidence for their side. In the same way, then, consider it evidence for my side that they refused to hand over their slaves when I wanted to put the matter to the test. It seems to me a terrible thing if they are trying to persuade you not to convict them, when they did not see fit to become jurors in their own case by handing over their own slaves for interrogation. [13] In this matter, then, it is clear that they were trying to avoid a clear investigation of the facts; they knew that their own wickedness would become apparent, and so they wanted to let the matter rest in silence without an interrogation. But not you, gentlemen; I am quite certain you will make things clear. But enough about that. I will now try to give you a true account of what happened, and may justice be my guide.

[14] Our house had an upstairs room where Philoneus, a true gentleman and a friend of our father, used to stay when he was in Athens. Now, Philoneus had a mistress⁶ whom he was going to set up as a prostitute. Learning of this, my brother's mother became friends with her. [15] She realized that Philoneus was treating the woman wrongly,

⁵This "hypothetical role-reversal" is common in Antiphon (5.38, 5.74, 5.84, 6.27, 6.28).

⁶The status of this woman is disputed, but she is probably a slave.

and so she summoned her and, when she arrived, said she too was being treated wrongly by our father. If the woman followed her instructions, she said, she was capable of renewing Philoneus' love for her and my father's love for herself. She added that her job was to contrive the plan, the woman's was to carry it out. [16] She asked the woman if she was willing to help, and she agreed—without hesitation, I think. Some time later it was time for Philoneus to attend to the sacrificial rites of Zeus Ctesius in Piraeus,⁷ and since my father was about to sail for Naxos, Philoneus thought it would be an excellent idea to accompany his good friend, my father, to Piraeus and on the same trip entertain him after celebrating the rites. [17] Philoneus' mistress accompanied them to help with the sacrifice. When they reached Piraeus, Philoneus carried out the sacrifice in the proper manner. When he had finished, the woman began planning how she should give them the drug: should it be before or after dinner? Finally following the advice of Clytemnestra—this man's mother—she decided it would be better to give it after dinner. [18] It would take too long for me to tell and for you to hear the details of the dinner, but I will try to relate the rest of the story about the giving of the drug as briefly as possible. When they had finished dinner, seeing as one of them was celebrating a sacrifice to Zeus Ctesius and entertaining his guest while the other was preparing to sail and was dining with his friend, they naturally began pouring libations and adding frankincense to them. [19] But while Philoneus' mistress was pouring the libations, and the men were uttering prayers that would never be fulfilled, at the same time, gentlemen, she was pouring in the drug. And she also thought she would be clever and put more into Philoneus' cup, on the theory that if she gave him more, he would love her more. She didn't realize she had been deceived by my stepmother until the evil was already done. She gave my father a smaller amount. [20] When the men had poured out the libations, each took hold of his own murderer and drank it down—his last drink. Philoneus died immediately, and our father became sick and died from the illness twenty days later. For this deed the woman who assisted with it has the reward she deserves, even

⁷Zeus Ctesius (“god of property”) was naturally honored by the wealthy. Philoneus is apparently a merchant residing in Piraeus, the port of Athens; he stays with the speaker's father when he is in the city.

though she was not to blame: she was tortured on the wheel and then handed over to the executioner.⁸ And the woman who was really responsible and who thought up the plan and carried it out,⁹ she will have her reward too, if you and the gods are willing.

[21] Consider now how much more just my request is than my brother's. I am asking you to avenge this man's wrongful death for all time; he asks for nothing for the dead man, though he deserves your pity and help and revenge for the impious and infamous way he departed this life before his appointed time, victim of those who should least of all have done this. [22] Instead, he will make requests for the killer that are immoral, unholy, impossible, and unworthy of consideration by you or the gods; for he asks you not to punish her for a crime she could not persuade herself to avoid. You are here not to assist murderers but their victims who have been intentionally killed—killed by those who should least of all have killed them. So now it is in your hands to decide this case correctly. Be sure to do so. [23] My opponent will plead for his mother, who is still living despite her thoughtless and godless act of murder, and will try to persuade you that she should not pay the penalty for her crime. But I plead for my father, who is dead, that she should pay the penalty to the fullest. And your task, the reason you are jurors and have that name,¹⁰ is to bring criminals to justice. [24] I am prosecuting her with this speech so that she will pay the penalty for her crime and I will gain revenge for our father and for your laws, and I deserve help from all of you if I speak the truth. He is doing just the opposite, helping her escape punishment for her crime, even though she disregarded the laws. [25] Does justice require punishment for a person who kills intentionally or not? Who should we pity more, the dead man or the killer?

⁸The torture was probably punitive, since if the woman had also been interrogated under torture, the speaker would probably report what she said. Her involvement in the death was great enough to justify her punishment even if she was not the main instigator.

⁹Strictly speaking, the servant carried out the crime, and many editors move the words "and carried it out" to the preceding sentence. But since the speaker's strategy is to shift all the responsibility to the stepmother, he would want to exaggerate her role.

¹⁰"Juror" (*dikastēs*) is derived from "justice" (*dikē*).

The dead man, in my view, since that would be in accord with justice and righteousness, both human and divine. So again I ask you: just as she showed no pity and no mercy in killing him, so she should herself be put to death by you and by justice. [26] She killed him willingly and with premeditation; he died unwillingly and violently. Surely, gentlemen, he did die violently.¹¹ He was about to sail abroad and was being entertained by one of his friends; she sent the poison and gave orders that it be given to him to drink, thus killing our father. How could she deserve any pity or respect from you or anyone else, when she herself didn't think to show pity for her own husband but destroyed him without shame or respect? [27] You know it's right to show pity for involuntary suffering rather than for willing and intentional crimes and errors. Just as she destroyed him, with no respect and no fear for gods or heroes or humans, so she would receive the just punishment she most deserves if she is put to death by you and by justice, without respect or pity or sympathy.

[28] I am amazed at my brother's audacity. He swears he is "quite certain" that his mother did not do these things; but how could someone be quite certain of something that happened when he wasn't there himself? Surely those who plot the murder of their close friends and relatives do not contrive their schemes and make their preparations in front of witnesses but in the greatest possible secrecy so that no one else will know. [29] The victims of plots know nothing until the evil is already done and they understand the destruction that has come on them. Then, if they can and have enough time before their death, they summon their friends or relatives as witnesses, tell them who is causing their death, and direct them to take vengeance for the wrongs they are suffering. [30] This is just how my father directed me, though I was just a boy, when he was suffering his terrible last illness. If victims lack

¹¹The prosecution may have a problem because the law on homicide (see Dem. 23.22) treats poisoning as murder "if one gives the poison oneself," implying perhaps that someone who only supplied the poison is not guilty of homicide. By asserting that his father died a "violent death" (though nothing indicates that it actually was violent), the speaker may be trying to present this as an ordinary case of murder, and not just a poisoning. In ordinary homicide, an accomplice (the "planner") was considered just as responsible as the actual killer (see Introduction to Ant. 6).

these means, they write things down, and they summon their own servants as witnesses and reveal to them who is causing their death. Young as I was at the time, my father revealed these matters to me and gave instructions to me, not his slaves.

[31] I have told my story and have come to the help of the dead man and the law. It is up to you by yourselves to consider what remains to be done and decide in accordance with justice. The gods below, I think, are concerned about the victims of crime.