

Amerino

In his first criminal defense, that of Sextus Roscius of Ameria, Cicero lambastes the prosecutor, C. Erucius, for presenting a weak case and hints that the prosecution's weakness makes it hard for him to organize a refutation (§42). In fact, Cicero himself did not have much material: the only evidence he adduces is a decree of Ameria's decurions criticizing the elder Roscius' proscription and asking for the return of his son's property (§25). He holds no witnesses in prospect, merely trying to intimidate a prosecution witness (§§100-1) and excoriating Chrysogonus, the current owner, for refusing to present the slaves who were with the elder Roscius the night of the murder for testimony under torture (§§77-8, 119-23). Though Cicero's general narrative strategies in the speech have been studied (by Berger, 1978), it remains to be shown that Cicero's lengthy defense speech is the product of his imagination, deployed to derive maximum advantage from scanty materials

Treating the same material from different viewpoints can add weight and persuasiveness. Thus at §24 the just narrated facts of the elder Roscius' death and his son's dispossession are reviewed from the point of view of the ordinary citizens of Ameria, the outrage of these third-party observers reinforcing the jurors' feelings. A little later, at §§29b-31, Cicero goes over the facts that have just been disclosed in the narratio but this time from his own point of view as defense counsel: the situation is fraught with peril, but he will screw up his courage to plead the case freely. Then to intensify still further the appeal for pity, Cicero adds a restatement of the position from his client's point of view, giving him a fictive speech (sermocinatio: §32); similarly, toward the end of the speech Cicero adds a fresh infusion of pity with another sermocinatio by his client (§145).

Cicero differentiates his own viewpoint from that of Roscius jr. at §§130 and 143: the intervening criticism of Chrysogonus is purely his own, not his client's. He similarly steps out of the narratio to add editorial comment exculpating Sulla from the proscription of the elder Sex. Roscius at §21-2. Elsewhere he likes to assume the role of the omniscient narrator, reporting as facts what are merely inferences. Thus he infers that the partnership (societas) for sharing the elder Roscius' goods was formed as soon as word of the murder was brought to Chrysogonus and even imagines the reasoning that lay behind the plan (§20), although it becomes clear in the course of the speech that one of the principals, T. Roscius Capito, only managed to extract his share under pressure of the embassy of the ten leading men of Ameria, who were later sent to complain to Sulla (§110). Cicero imagines another conversation among the members of the societas at §28 leading up to the decision to prosecute. Then at §110 he imagines the negotiations between Capito and Chrysogonus. All of these are constructed with great verisimilitude if one accepts Cicero's premises; but to the skeptic they are plausible ways of painting the opposing side as pursuing the base goals of covering up murder (Capito) and victimizing a helpless heir (the younger Roscius).

Cicero's problem is that an alternative suspect was a virtual requirement in a successful murder defense (Stroh, 1975, 59; Riggsby, 1999, 38 and ch. 3), and the alternative suspect to his own client, namely Capito, was not at Rome on the day of the murder; moreover, Cicero has sought to exculpate his client precisely on the grounds that he was not at Rome and lacked city connections (§§18, 74). The only connection he can construe between Capito and the murder is the fact that Mallius Glaucia, who brought word of the murder to Ameria, first stopped at Capito's house (§19); but *potissimum* and *primo* at §96 suggest that Capito was merely the first in a series of stops (cf. Kinsey, 1980, 176); the fact that he was first may have been a contingent fact without the deeper significance with which Cicero seeks to invest it.

What Cicero is concealing is the nexus between Mallius Glaucia's patron, T. Roscius Magnus, and Chrysogonus (cf. Fuhrmann, 1997). Magnus, unlike Capito, was in Rome at the time of the murder. His prior connection with Chrysogonus is suggested by the fact that within ca. 9 days of the death Magnus, acting as agent for the new owner, Chrysogonus, stepped in to take possession of the younger Roscius' property (§23); the speed suggests a preconcerted plan. Moreover, the anxiety that plagues Chrysogonus and that (according to Cicero) led him to organize the prosecution (§6) fits the murderer rather than merely the man who profited from the murder after the fact. While ostensibly speaking boldly, Cicero has, in fact, been careful to avoid giving serious offense to the *adulescens uel potentissimus* Chrysogonus (§6) by shielding him from the charge of murder (§§35, 122).