

Kin-Killing and the Construction of Kinship in Isaeus 9, *On the Estate of Astyphilus*
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Parker (1983, p. 109) calls kin-killing in Athens “a violation of the order of the family.” The consequences of kin-killing for a family and its descendants are illustrated in Isaeus 9, *On the Estate of Astyphilus*, a speech challenging the validity of a will in an Athenian inheritance case. In the disputed will, Astyphilus allegedly adopted the son of his cousin Cleon before his death and named him heir to his estate. Cleon himself produced the will shortly after news of Astyphilus’s death while fighting abroad had reached Athens. In other cases challenging a testamentary adoption, speakers often dispute wills by citing their closer blood ties to the deceased. The speaker of Isaeus 9, however, has weaker blood ties to Astyphilus than the boy named in the will, and thus must construct an argument that supersedes both blood ties *and* the will’s authority to win his case. To do this he structures his speech around a kin-killing in the family’s past, claiming that Astyphilus’s father Euthykrates had been murdered by his brother (and Cleon’s father) Thudippus. He depicts the consequences of this kin-killing as far-reaching and multi-generational, and through elucidation of these consequences he both strengthens his own claims to Astyphilus’s estate and impugns the claims of Cleon and his son as morally and legally invalid. The speech illustrates the interest in constructing and manipulating kinship commonly found in Athenian inheritance cases, as discussed by Cohen (1995) and others, but does so to an unparalleled degree. The kin-killing, and the violation of the familial order it represents, overrides the stronger blood ties of the adoptee (the grandson of Thudippus) by destroying them. Moreover, in the aftermath of the murder a new family, containing both the speaker and Astyphilus, is created. The ties of this family, which come as a direct result of the murder, are used as an argument against the alleged will in a manner similar to how claims based on stronger blood ties are used in other speeches. The speaker thus uses the destruction and construction of kinship relations resulting from a kin-killing to trump both the validity of the will and, more importantly, the adoptee’s closer blood ties, which are usually the most important factor in deciding Athenian inheritance cases.

The dearth of kinship terms in the speech to describe Thudippus and his descendants illustrates how the murder is portrayed as destroying the order of the family. Importantly, the fact that the murder was between kin is not expressly stated. The speaker claims that Thudippus is liable (*aitios*, §17) for the death of Euthykrates, but at no point mentions that the two were brothers. Moreover, the stigma of the kin-killer is passed onto Thudippus’s descendants, a fact the speaker illustrates by producing witnesses that Euthykrates on his death bed charged his family never to allow any of Thudippus’s relatives to come near his tomb (§20). Indeed Cleon is repeatedly described as *echthistos* (§16, 23, 36) to Astyphilus, and of the three references to him as Astyphilus’s cousin (§2, 21, 32), two are immediately answered by the charge that Thudippus had been previously adopted into another *oikos*, by which the speaker finds a second, more technical way to excise Thudippus and his descendants from the family tree.

The murder results in the creation of a new family by leading directly to the re-marriage of Astyphilus’s mother to the speaker’s father. The warm relations between the speaker, his father, and Astyphilus that result from this re-marriage are constructed carefully by the speaker as a clear contrast to Astyphilus’s lack of a relationship with Cleon. Moreover, just as he leaves out or disregards kinship terms for Thudippus and Cleon, the speaker invents one for himself. Though merely the uterine half-brother of Astyphilus, the speaker repeatedly refers to himself as Astyphilus’s *adelphos* (§3, 4, 7, 24, 29, 30, 31, 34) while using the term *homomētrios* only once, in the first sentence of the speech, before disregarding it entirely. He even asserts near the end of the speech that Astyphilus’s property rightly belongs to him specifically because he is Astyphilus’s brother (*adelphos ὄν εκεῖνου*, §34). Via the selective use of the term *adelphos*, the destruction of one fraternal relationship creates another.

The importance of this speech lies in how it provides a view of the impact of kin-killing on familial relationships in Athens outside the confines of tragedy or philosophy. In stating this I follow the argument of Humphreys (1993, p. 5) that Athens’ law courts were a “theatre for the expression of...the ideology of the *oikos*,” as well as recent work detailing the wide discretionary role of Athenian juries (e.g. Allen (2000), Lanni (2006)). However much veracity one wants to attribute to the speaker’s narrative, its series of destroyed and constructed kinship relationships stemming from a murder between brothers must have reflected the feelings, sensibilities and expectations of the jurors who heard it, and thus must be a reasonably accurate portrayal of how kin-killing affected Athenian kinship bonds. Parker (1983, p. 123) laments that “about the fate of actual kin-killers in Athens there seems to be no scrap of evidence.” The narrative of Isaeus 9 may be an example of just such evidence.