

The Agonis Affair

In 70 BCE Cicero's successful prosecution of the former governor of Sicily, Gaius Verres, on charges of extortion and maladministration would signal his primacy at the Roman bar. Over the seven years after this landmark case, Cicero would be elected to a series of political positions that would culminate with his successful candidacy for the highest office in the Roman Republic, the consulship. Yet this famous denunciation that launched Cicero's career almost never happened. Another young senator, named Quintus Caecilius, had already filed suit to prosecute Verres. Since Roman law protected against double jeopardy for this charge, when Cicero also came forward to make his claim, a special pre-trial hearing, called a *divinatio*, had to be convened to determine who should lead the prosecution. Cicero's position was weak. He had no personal relationship with Verres, and he never sustained any loss or injury at Verres' hands. Caecilius, on the other hand, had long-standing connections with the island of Sicily, claimed that Verres had acted illegally toward him, and most importantly, had first-hand, inside knowledge of Verres' outrages: Caecilius had served as Verres' quaestor.

So how did Cicero manage to supplant the obvious choice for prosecutor? Rather than simply make a *prima facie* case against Verres (as was customary), Cicero reimagined this pre-trial hearing as an oratorical contest. He dazzled his audience and bemused his opponent with an expansive array of rhetorical manipulation, legal knowledge, and deft handling of political tensions. Mastery of oratory, Cicero maintained, was more important than fervor or personal grievance. And in that fight, Caecilius was outgunned.

Even though Cicero had changed the focus of the proceeding, he still pre-emptively addressed the typical arguments that a would-be prosecutor would make in his bid during a

divinatio: motive and injury inflicted by the accused. In this paper, I wish to address only a small section of Cicero's critique of Caecilius' motives: the narrative of the so-called 'Agonis Affair.'

"What could you possibly give as your reason [for wanting to prosecute Verres]?" Cicero asks. "Perhaps you're going to say what you keep harping on about? that Verres committed a crime against you?... I think it's relevant to this court that we know exactly what sort of crime you're talking about. Well, members of the jury, you're going to have to hear it from me, because unless he is a complete imbecile, he would never admit it. You see, there was once a woman from Lilybaeum, named Agonis, a freedwoman of Venus, who, before Caecilius quaestorship at least, was an affluent woman of means..."

(*Div. Caec.* 52, 55)

Cicero goes on to say that Agonis attempted to prevent her property from being requisitioned by the Roman navy by claiming her connection to the goddess, Venus of Eryx. When word of this got to Caecilius, he conducted a sham legal proceeding in order to have her property confiscated for his personal use and Agonis returned to temple slavery. It was only when Verres visited the town of Lilybaeum that he reversed Caecilius' judgment and forced him to handover the proceeds from the sale of Agonis' goods. This, according to Cicero, is Caecilius' grievance, and so in this version, Caecilius is deprived of his just motives and is made to look very much like the opportunistic politician that he is seeking to prosecute.

But what Cicero depicts as a simple abuse of power was actually a complex legal issue. Caecilius was faced with a clash of legal systems and, I will argue, was conducting an inquiry into the legal status of a 'the freedperson of a goddess' at Roman law. Only seven instances of this status are known from antiquity—besides this one, the rest are epigraphic (Caneva and Pizzi 2015; Riel 2001, 2003). It has also wrongly been assumed to be an application of the Rupilian

Law when in fact, this judicial inquiry was set up to determine how the Rupilian Law should be applied (Kantor 2010). This paper will discuss what really happened at Lilybaeum and these thorny legal issues, and it will situate this episode into the overall strategy and unique approach of Cicero's *Divinatio in Caecilium*.

Bibliography

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