THE ETHNIC IMAGINATION: A CASE HISTORY

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ABSTRACT/RESUME

Both Simon Ortiz Jr. and Leslie Silko have written short stories clearly based upon an actual murder case in New Mexico in 1952, involving a policeman and two brothers from Acoma Reservation. The author reviews both stories in terms of the known facts of the case, in an attempt to judge the value of historical accuracy as a measure of literary merit.

Simon Ortiz Jr. et Leslie Silko ont écrit quelques histoires courte clairement basées sur un cas actuel de meurtre au Nouveau-Mexique en 1952, racontant l'histoire un policier et deux frères de la réserve d'Acoma. L'auteur revise les deux histoires en terme des faits réels du cas, en attendant de juger la valeur historique à la mesure du mérite litéraire.

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On Good Friday, April 11, 1952, Nash Garcia, the first New Mexico state policeman to die in the line of duty, was ambushed and murdered in the wilderness of Black Mesa, some twenty-seven miles southeast of Grants on the Acoma Indian Reservation. Witnesses identified William Felipe, thirty-one, an Acoma World War II veteran and holder of a bronze star earned at Bougainville, as one of the Indians in a pickup truck which Garcia was seen chasing Friday afternoon. When arrested without resistance at his home in Acomita on Easter Sunday night, William readily confessed, saying "I knew they'd get me. They always get them."[1] He implicated his brother Gabriel, twenty-eight, said they had both been drinking heavily, and admitted returning to the scene Saturday night, at which time he drove Garcia's police car, with the body inside, some six miles further into the mesa, where he set fire to both car and body. Monday morning, William led police to the charred remains. There were nine bullet holes in the car; Garcia had been wounded at least twice and had been clubbed to death with rifle butts. Monday night, April 14, Gabriel Felipe was arrested on North First Street in Albuquerque; Garcia's .45 caliber service revolver was found in a suitcase in Gabriel's room at the Parenti Hotel.

On September 22, 1952, the brothers were brought to trial in Santa Fe, in Federal Court since the crime was committed on United States property - an Indian reservation. Federal Judge Carl A. Hatch presided, and the court-appointed defense attorneys were P.H. Dunleavy and A.T. Hannett, the latter a former governor of New Mexico. The prosecutor, United States Attorney Maurice Sanchez, in his summation called the murder of Garcia "one of the blackest crimes in the history of New Mexico," and said that "Every peace officer in the state is looking at this courtroom today: law enforcement itself is at stake."[2] After a brief five-day trial, the all-male jury needed only two hours to return a verdict of guilty and could find no grounds to recommend leniency. Both brothers were sentenced to die in the electric chair.[3]

The pattern is familiar - an Indian war hero returns to civilian life only to find himself alienated from his native culture and ignored by the white world which had eagerly enlisted him and lavishly praised his heroism; he becomes an alcoholic, with almost inevitably tragic results.[4] Thus, it is not surprising that the Felipe brothers have provided a source for Southwestern fiction, but what makes their case especially interesting, from a literary point of view, is that two different native American writers have based stories on it - Simon Ortiz, himself an Acoma, in *The Killing of a State Cop* (Ortiz, 1974), and Leslie Silko, from nearby Laguna, in *Tony's Story* (Silko, 1974). A comparison of these two stories provides an opportunity to study the responses of different artistic sensibilities to the same body of facts.

Ortiz's story at first seems to be the more "accurate" or "authentic" of the two. In it, the twelve year old Indian narrator, who is just about the age Ortiz would have been in 1952, remembers being told about the crime by one of the murderers himself, an Indian named Felipe, who, along with his brother Antonio, has killed the state policeman, here named Luis Baca. Felipe, like William Felipe, begins his story by admitting that he and his brother had been drinking wine, which they bought from a bootlegger, "some stupid Mexican

bartender" (Ortiz, 1974:102). William had told the police that he and Gabriel were drinking tokay, which they bought at the Los Ritos bar from a man named Sanchez.[5] Then, in the story, Felipe and Antonio are stopped on the street by Baca, whom Felipe hates because Baca had once arrested and beaten him, and, according to the news reports of the Garcia case, Gabriel Felipe harbored a "grudge" against Garcia, who had previously arrested him. When the two brothers in Ortiz's story leave town in their pickup, drinking wine as they drive, Baca follows them. They force his cruiser off the road, then double back and throw the wine bottle at the car as Baca tries to get it out of the ditch. Similarly, William Felipe, when first arrested, admitted luring Nash Garcia into the chase by speeding back and forth past his parked patrol car.[6]

The chase in the Ortiz story leads south into Black Mesa, just as it did in the Garcia case, and Baca is shot from ambush with a Winchester .30-30, the same make and caliber rifle used to ambush Nash Garcia. Finally, Ortiz's Felipe concludes his story by saying "They will catch me, I know. There were people who saw us being chased by the cop. Antonio went to Albuquerque and he took the pistol [Baca's police revolver]. He will get caught too" (Ortiz, 1974: 108) -- details which correspond exactly to those in the Garcia case. The young narrator's parents tell him that Felipe will probably die in the electric chair.

Ortiz's story is obviously based on the Garcia case, so closely based in fact that its major purpose seems to be to record the facts accurately. But, as Don Walker has pointed out in his discussion of the role of historical accuracy in the cowboy novel, "it is naive to suppose that a writer can take up his notebooks, go to a library, dust off the old accounts, and find that profoundly vital sense of universal man that he seeks."[7] Ortiz does not provide any more understanding of character or motivation than the newspaper accounts do, and he fails to capitalize on the opportunity to explore the impact of the story on the young narrator, who merely listens to Felipe's story but fails to react to it. Thus, Ortiz provides very little in the way of interpretation of experience, but rather urges his story's "authenticity" upon us through his use of similar names ("Felipe" and "Luis Baca" for William Felipe and Nash Garcia) and factually accurate details. Yet there are two major omissions which cast doubt on the story's right to be called authentic: Ortiz omits both the clubbing to death with rifle butts and the subsequent burning of the corpse and car. Coupled with the emphasis on Baca's hatred of Indians and his previous persecution of Felipe as motives for the killing, these omissions seem designed to make the killers more sympathetic than the real murderers were. But, in the Garcia case, the apparently senseless brutality of the crime was crucial; it was a constant theme in newspaper reports; it was the major cause of the violent public reaction; and, presumably, it was the chief reason that the jury refused to recommend leniency. Because Ortiz omits this brutality, The Killing of a State Cop must be regarded as a distorted rather than as an authentic version of history.

Silko's Tony's Story, on the other hand, is a much less literal version of the Garcia case. The first-person narrator is named Antonio Sousea, and the unnamed state policeman is given no specific ethnic identity, thus removing the native American-Hispanic conflict which was exploited in the Ortiz story

through Baca's persecution of the brothers and the reference to the stupid Mexican bartender whom the brothers hate. Silko shifts the time of the killing from April to August (shortly after San Lorenzo's Day, August 10). The setting is still in the Grants area of New Mexico, and Grants itself is named, as it is not in Ortiz's story. Although Silko has two men, Antonio and Leon, present when the murder takes place, they are not brothers and only one of them participates in the actual murder.

Leon resembles both the real William Felipe and Ortiz's fictional Felipe in that he is the older of the two and has recently returned from the army. Because he has been drinking wine, Leon is beaten and arrested by the state policeman, thus following the Ortiz story with respect to the element of previous persecution. The policeman is portrayed as an Indian hater, and he tells Leon and Antonio that "It's because of you bastards that I'm here. They transferred me here because of Indians. They thought there wouldn't be as many for me here. But I find them."[8]

After the beating, Leon is embittered and says "I'll kill the big bastard if he comes around here again." Antonio urges him to forget the incident and wonders "why men who came back from the army were troublemakers on the reservation" (Silko, 1974:72). Thus, it comes as something of a surprise when it is Antonio, rather than Leon, who shoots the policeman with a .30-30. However, Silko very effectively provides motivation for this reversal by means of her contrasting characterizations of Leon, whose experiences in the army have "rationalized" and "Americanized" him, and the much more "traditional," "superstitious" Antonio, who firmly believes in the old ways and especially in witchcraft. After the policeman beats Leon on San Lorenzo's Day, Antonio says that "I wanted to run from the feeling behind me in the dark; the stories about witches ran with me. That night I had a dream - the big cop was pointing a long bone at me - they always use human bones . . . " (Ibid).

After this dream, Antonio knows "why the drought had come that summer." He doesn't tell us why immediately, but it soon becomes clear that the drought is the result of the policeman's witchcraft - or so Antonio thinks. Leon, on the other hand, "didn't seem to understand; he couldn't remember the stories that old Teofilo told" (Ibid:74). Instead, Leon has become acculturated and talks about "rights." He takes his grievances against the policeman to a pueblo meeting and to the governor of the pueblo, treating the matter according to standard bureaucratic procedures. Antonio notices from his handshake that Leon has become Americanized: "He grabbed my hand and held it tight like a white man" (Ibid:69). The difference between the acculturated Leon and the much more traditional Antonio is further emphasized when Antonio offers Leon an arrowhead on a piece of string to wear around his neck for protection from the witch, and Leon scornfully replies, "You don't believe in that, do you?" (Ibid:75).

When the policeman chases the two friends into the reservation, Antonio says, "We've got to kill it, Leon. We must burn the body to be sure" (Ibid:76). After the policeman stops them, Antonio describes the scene:

> He raised the billy club slowly. "I like to beat Indians with this." He moved toward Leon with the stick raised high, and it was like the long bone in my dream when he pointed it at me - a human bone painted brown to look like wood, to hide what it really was; they'll do that, you know - carve the bone into a spoon and use it around the house until the victim comes within range (Ibid:77).

Antonio, without really knowing what he is doing, shoots the policeman: "he was motionless on the ground and the bone wand lay near his feet . . . . He was on his back, and the sand between his legs and along his left side was soaking up the dark, heavy blood - it had not rained for a long time, and even the tumbleweeds were dying" (Ibid).

Antonio then pushes the body into the car and sets fire to it. He tells Leon not to worry, that "It's killed. They sometimes take on strange forms." And, with the policeman/witch dead, Antonio, watching the car burn, notices that the heatwaves from the fire "shimmered up toward the sky; in the west, rain clouds were gathering" (Ibid:78). With this last, the story ends.

The differences between these two stories illustrate quite well, I think, Walker's observation that "what makes a subject worthwhile is after all not its historical, economic, or sociological importance, but its capacity to be invested by the imagination with significance" (Walker, 1977:275). In contrast to Ortiz's story, Silko's embodies, especially in its handling of the witchcraft theme and the attendant metaphysical implications, what Walker calls "mythic vision," an artistic vision which, though it does not necessarily make a subject "rationally acceptable," does render it "imaginatively compelling" (Ibid:296). Yet Silko's use of the witchcraft theme - a theme which she develops more extensively in her novel Ceremony - cannot be regarded as a purely imaginative addition to the story and, thus, as a departure from historical accuracy. Although no mention of witchcraft was made during the trial or in the newspaper accounts of the crime, both William and Gabriel did, after their conviction, discuss their belief in witches under psychiatric questioning by the well-known clinical psychiatrist and anthropologist, Dr. George Devereux of the Menninger Foundation School of Psychiatry.[9]

William told Devereux that witches had caused the deaths of all four of his children, and, transformed into foxes, had torn out the throats of several of his sheep. He also reported that his uncle had trouble with three witches disguised as deer and that his father appeared to William's maternal aunt with the top of his body transformed into the head and torso of a mountain lion, causing her to kill his father by supernatural means. Devereux judged that "the intensity of [William's] belief in his being persecuted by witches [was] far greater than is normal for an Indian," that it was "of psychotic degree."[10] Gabriel, too, when examined by Devereux, reported that he had been persecuted by witches for some time before the crime, and that, on the morning of the crime, during the deer hunt on Mt. Taylor, he "saw at 30 yards a large antlered deer - shot at it - thought he had hit it but the deer disappeared and when he went to the spot he saw no tracks, although he is a good tracker. This suggested to him

[and to William] - quite frighteningly - that he had had an encounter with a witch-deer. This is a frightening experience for so primitive a man as Gabriel Felipe." [11]

Even more specifically relevant to Silko's story are two details mentioned in the psychiatric report on William. Evidently William, at some time prior to the crime, had experienced a troubling hallucination involving a black car. When Nash Garcia began chasing the brothers in his black patrol car, William, in the words of Devereux, related it "to the ominous black car which he hallucinated some time earlier . . . . At this time [during the chase] the patient [William] was in a state of *insane fear,* to such an extent that he is convinced that the black car was *flying* after him. (I carefully ascertained that he meant *'flying' literally,* and not in the sense of 'going fast.') To the inmate [William] this pursuit was a witch experience, triggering off a temporary insanity."[12] After studying Devereux's report, the neuropsychiatric staff of the Medical Center for Federal Prisoners in Springfield, Missouri, in a report dated December 26, 1952, concluded that William suffered from "delusions of witchcraft in which [he] believed that 'witches' influenced him to shoot at the black patrol car, bewitching him into believing that the black patrol car was a witch" so that "at the time the patient committed the crime he was under the influence of a delusion in which he believed that the state patrol car was a black demon flying through the air to attack him."[13]

A second point of contact with Silko's story is William's description to Devereux of the appearance of the three witch-deer his maternal uncle had seen. William said that " 'They had a sharp stick tied to their wrists' . . . and [he] described the appearance of the witches, after they appeared again as human, in terms of ancient Acoma ritual dress, reminiscent of the dresses of Acoma Katchinas (Ritual Dolls)."[14] This corresponds closely to Silko's description of the cop as he appears in Antonio's dream: "He didn't have a human face - only little, round, white-rimmed eyes on a black ceremonial mask" (Silko, 1974:72). Even the dream itself, it might be noted, parallels William Felipe's report to Devereux that "the night before the offense he had a terrible dream of being pushed off a cliff - and we must remember that his father was found dead in a cleft rock, after having fallen from a cliff. He considered this dream as an omen of something terrible to happen."[15]

However, like Ortiz, Silko distorts the facts of the Garcia case to suit her own purposes. Perhaps the most important change that she makes is that, in her story, Antonio kills the cop-witch partly because he attributes the drought to the cop's witchcraft. Thus, Antonio's crime is motivated to some extent by a desire to help the entire pueblo by ending the drought - a desire which, Silko leads us to believe, is to be fulfilled since the rain clouds begin to gather once the witch is dead. Silko, like Ortiz, lessens the brutality of the murder by omitting the fatal beating with rifle butts, and though, unlike Ortiz, she does include the burning of the car and body, she does so in a way that makes it sympathetic and understandable since, as Antonio believes, a witch's body must be burned to make sure it is really dead. [16]

Thus, paradoxically, both stories are in one sense authentic - they make

considerable use of historically accurate material. But both also give distorted versions of the events and characters on which they are based and must, therefore, be regarded as inauthentic. This only points up the futility of trying to judge literary merit on the basis of historical accuracy. Max Westbrook is surely right when he says that "no literature should be judged on the rack of authenticity" (1978:214). The deeper interpretation of experience which Silko's story provides through its development of the conflict between tradition and acculturation, its greater attention to motivation, and its exploration of the mythic dimensions of the story, is a truer measure of its success than is her use of historically accurate details.

NOTES

1. Neil Addington, "Indian Describes Slaying," *Albuquerque Journal,* 15 April 1952, P. 1.

2. Albuquerque Journal, 27 Sept. 1952, p. 1.

3. There was an immediate appeal; the brothers changed their pleas to guilty, and on March 3, 1953, Judge Hatch re-sentenced them to life imprisonment.

4. The plight of the Indian veteran was epitomized and brought forcefully to public attention in January, 1955, when the Pima Indian hero of the Iwo Jima flag-raising, Ira Hayes, was found dead from exposure, his post-war life having consisted of little more than one arrest for drunkenness after another - a total of fifty-one arrests in the thirteen years following his discharge from the Marines. Tony Curtis played Ira Hayes in the 1961 Universal movie The Outsiders. And it is this same pattern which underlines such well-known works of Southwestern fiction as N. Scott Momaday's *House Made of Dawn* and Leslie Silko's *Ceremony.*

5. This, and other information not attributed in my notes to the newspaper accounts, is taken from testimony given during the trial and available in the transcript of that trial: *United States of America, v. William R. Felipe and Gabriel Felipe: Transcript of all Open Court Proceedings,* District Court of the United States for the District of New Mexico, No. 16,902 (Criminal), Vol. II, pp. 542-43.

6. *Albuquerque Journal,* 27 Sept. 1952, p. 1. In testimony during the trial, the brothers denied harboring any grudge over Garcia's arrest of Gabriel for drunken driving and likewise denied any intention to lure Garcia into a chase, claiming rather that they were only trying to escape from him because a deer which they had shot out of season was hidden in the pickup and they were afraid Garcia would find it if he stopped them. *Transcript,* Vol. II, pp. 567-71.

7. See Walker, 1977. By this, I do not mean to imply that Ortiz searched the archives for his information. Whether he did or not I don't know. It is certainly likely that the details of the crime were well-known in both the Acoma and nearby Laguna communities in which he and Silko lived.

8. Interestingly, Nash Garcia had been demoted from Captain to Patrolman and transferred from Albuquerque to Grants about three years before his death. According to the newspaper reports, however, "Garcia had a good reputation as an officer," and after his demotion charges of "politics" were heard. "State Policeman Missing Since Friday at Grants; Big Search Is Launched," *Albuquerque Journal,* 14 April 1952, p. 1.

9. Devereux examined William and Gabriel on December 20 and 21, 1952, at the Medical Center for Federal Prisoners, Springfield, Missouri. The results of the examinations were reported as "Exhibit A" in the appeal proceedings and are so cited herein. Devereux declared that both brothers were temporarily insane at the time of the crime and therefore incapable of premeditation. Judge Hatch, although he refused to accept Devereux's diagnosis as meeting the requirements of the legal definition of insanity, did find a sufficient number of extenuating circumstances to change the sentence from death to life imprisonment. Devereux had published his pioneering study (1951)just a few months before he examined the Felipe brothers, and it is remarkable how closely his analysis of them corresponds to his analysis of the Plains Indian patient who is the book's subject and how usefully it supports the theories presented in the book. The book was reprinted in paperback in 1969 by Doubleday.

   Prior to the appeal, the government asked Dr. A.B. Stewart, a psychiatrist in private practice in Albuquerque who had examined the Felipe brothers before the first trial and who had then found them sane, to re-examine them in the light of Dr. Devereux's findings. Dr. Stewart reiterated his former testimony and stated positively that in his opinion both defendants were sane and competent.

10. Exhibit A, p. 11 (as numbered by hand at bottom of page).

11. Exhibit A, p. 9.

12. Exhibit A, p. 16.

13. Exhibit A. pp. 3-4.

14. Exhibit A, p. 12.

15. Exhibit A, p. 13.

16. There is nothing in the court records to indicate that William's motive for burning Garcia's body and the demon/car was a belief that fire was the only way to kill a witch, but it does seem to be a reasonable possibility, at least as reasonable as the motive assumed by the judge and the attorneys for both sides during the trial - that William was trying to destroy the evidence of his crime. Of course, he did almost succeed in destroying Garcia's body - only the ribs, some backbone, and part of the skull were found, along with a large pile of ashes, in the car after the fire. But William could not have hoped to destroy the car itself.

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