

“Tell Us a Story”

Ancient Rhetoric and the Power of Story-telling in Legal Fiction

“In obedience to the law I make my defence”

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13 April 2010

Introduction

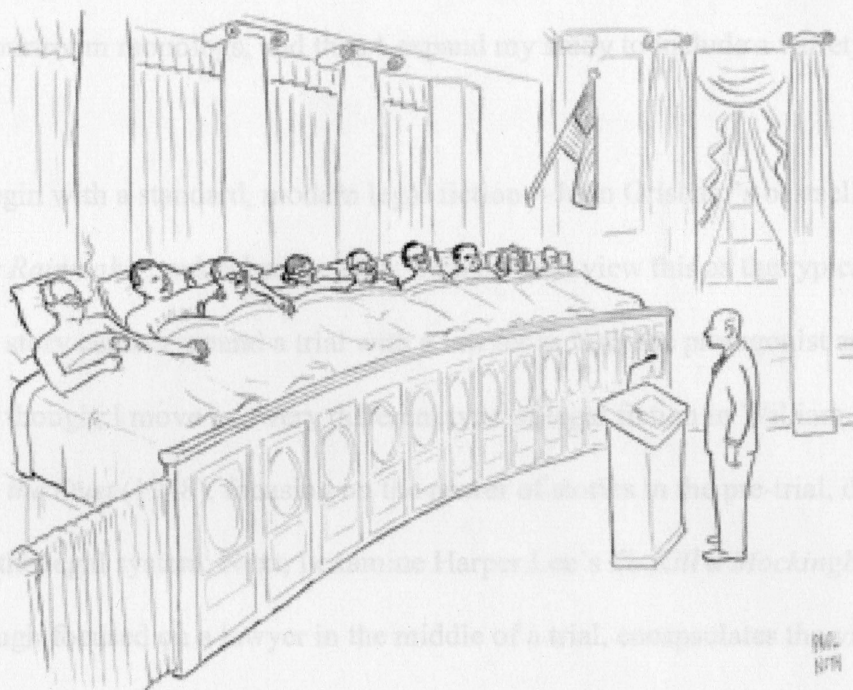
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Winning caption by Fred Orelove of Richmond Virginia in a recent
New Yorker cartoon caption contest

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Twentieth Century American legal fiction. Put simply, it's the idea that "whoever tells
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in legal practice as a way to organize complex facts into simple truths. As law has always
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win or lose their cases. In many situations, the study of law goes beyond the typified dramatic courtroom monologs, and thus I expand my study to include a variety of legal fictions.

I begin with a standard, modern legal fiction—John Grisham’s bestselling legal thriller *The Rainmaker*, published in 1995. Many would view this as the typical legal fiction: the story centers around a trial with a lawyer as both the protagonist and narrator. From here, though, I move to a very different type of legal fiction in William Faulkner’s *Intruder in the Dust* (1948), focusing on the power of stories in the pre-trial, discovery process of the legal system. Next, I examine Harper Lee’s *To Kill a Mockingbird* (1960), which, though focused on a lawyer in the middle of a trial, encapsulates the views of an entire community, thereby emphasizing the legal career as one that exists both inside and outside the courtroom. Lastly, I focus on the rhetorical powers of a lawyer-turned-politician in Robert Penn Warren’s *All the King’s Men* (1948).

While these four legal fictions take varying stances on the practice of law, they share a common thread in their settings and time periods. When first deciding which novels to study for this project, I discovered that my options were predominately from the genre of contemporary Southern fiction. These choices stemmed naturally from a long history of oral tradition in the South, evolving into the Southern lawyer-storyteller prevalent in contemporary society. As Waldo W. Braden explains in his book, *The Oral Tradition in the South*, the Southern passion for rhetoric “grew out of an oral tradition that pervaded southern living from the cabin to the statehouse and found expression in storytelling, courtroom pleading, revival preaching, and, of course, electioneering...to them, eloquence was the beau of the southern way of life” (Braden ix). Thus one tradition

of the eloquent lawyer evolved from the tradition of the Southern orator, making contemporary Southern fiction the obvious choice for a study of story-telling in the law.

The power of story-telling, however, is a rather vague notion, and one that is difficult to analyze as effective or ineffective. I therefore expand my analysis to the study of rhetoric as well, using the writings of ancient and modern rhetorical scholars in order to develop a standard by which to evaluate the rhetoric of legal fiction. After extensive research on the history of rhetoric and ancient rhetoricians, as well as an examination of rhetorical experts such as Stanley Fish and J.L Austin, I will formulate a view of rhetoric as both a method in which to discover truth as well as a means to relate it. This view becomes the basis for my analysis of the lawyers of legal fiction.

My project consequently begins with a study of the complex notion of rhetoric, examining the theories and techniques developed by Aristotle as well as modern interpretations. I then apply these theories to the lawyers of these four legal fictions in a holistic sense. That is to say, I evaluate their successful application of rhetoric not just in their speech—though that does form a large part of each analysis—but in their discovery and relation of truth in both their private lives and legal practices. Though I set out to study how lawyers use rhetoric to effectively persuade their audience, I ultimately discover that rhetoric cannot be confined purely to speech, and that a lawyer's successful conveyance of a story is inextricably linked to his own credibility. As Quintilian surmised, in order to succeed both in professional and personal life the orator must truly be "a good man skilled in speaking" (qtd. in Fish 207).

Rhetoric

"Rhetorical man is trained not to discover reality but to manipulate it. Reality is what is accepted as reality, what is useful."

-Richard Lanham

Lanham's somewhat cynical view of rhetoric illustrates the complexity of the term. Rhetoric gives us unmatched power in a tool to successfully convey our thoughts, feelings, and opinions. In the legal profession, rhetorical skills give a lawyer the added advantage of being able to persuasively convey a client's version of events to a jury of peers. These skills stem from the ability to take complex facts and organize them into simple truths, to take a series of events and weave them into a relatable story.

In today's society, the word "rhetoric" often has a negative connotation, lending itself to the definition, "speech or writing expressed in terms calculated to persuade; hence (often in depreciatory sense), language characterized by artificial or ostentatious expression" (OED). In simpler terms, we associate rhetoric with lies, while in actuality it is simply a method we use to convey our version of the truth.

The debate over the usage of rhetoric dates back to its sophist founders, figures such as Protagoras, Hippias and Gorgias, pitted against the philosophers Aristotle, Plato, and Socrates. These opponents of rhetoric supported the search for truth, and argued that rhetoricians inhibited this process by speaking with an angled perspective. The philosophers were determined to discover "objective truths" that everyone could see if they would open their eyes. In other words, they insisted on one specific version of

reality, and therefore focused on the discovery of specific “truths” in the world. If this was indeed the case, philosophers argued, then there would be no reason to persuade people to view an idea from multiple perspectives. As rhetorical scholar Stanley Fish surmised:

Each of the oppositions is attached in turn to an opposition between two kinds of language: on the one hand, language that faithfully reflects or reports on matters of fact uncolored by any personal or partisan agenda or desire; and on the other hand, language that is infected by partisan agendas and desires, and therefore colors and distorts the facts which it purports to reflect. It is use of the second kind of language that makes one a rhetorician, while adherence to the first kind makes one a seeker after truth and an objective observer of the way things are. (Fish, 205).

These seekers of objective truth consequently believed in an objective language with which to relate this truth—a language without bias, perspective, or agenda. While this description is an accurate representation of philosophers, Fish’s antithesis to them—the rhetoricians—is slightly extreme. The antithesis to seeking the truth is not necessarily distorting the truth; the idea of relating truth by way of a completely objective language begs the question, can such a language exist? Rhetoricians deny the possibility.

The friends of rhetoric—sophists, anti-foundationalists, post-structuralists—argue that rather than distorting the truth, rhetoric seeks to use language to portray a version of the truth, and it is by examining these multiple versions of truth that one can become enlightened. As Aristotle maintained, rhetoric is more than expression, it is a *method* of reasoning in itself (Posner 499). Sophists argued that there *is* no single version of truth,

only constructions of reality. It is simply impossible to create an objective language, because, as Fish explains, “whatever reports a particular language (natural or artificial) offers us will be the report on the world as it is seen from within some particular situation; there is no other aperspectival way to see and no language other than a situation-dependent language—an interested, rhetorical language—in which to report” (212). Therefore, the closest one can come to discovering “the truth” is to examine these multiple versions of the truth; that is to say, the closest one can come to an aperspectival view is to examine multiple perspectives. In this sense, the practice of rhetoric enhances rather than inhibits the pursuit of truth; it works as a method in which to *extract* the truth rather than a tool with which to circumvent or manipulate it. Truth simply put, is the selections from these multiple versions that we accept.

Aristotle, though a philosopher himself, championed this view of rhetoric, arguing that rhetoric is heuristic—something we use in a discovery process, helping us to uncover the facts by seeing many sides of the argument. He reconciled the views of rhetoricians and philosophers by presenting rhetoric as a tool needed to convey the truth: “we must be able to employ persuasion...on opposite sides of a question, not in order that we may in practice employ it in both ways (for we must not make people believe what is wrong), but in order that we may see clearly what the facts are” (qtd. in Fish 206). Aristotle stresses that though it could be abused, rhetoric itself was not a deadly art.

We can therefore see rhetoric as a concept with two integral parts. Rhetoric is both a tool with which to discover the truth and a method with which to convey this truth. With this definition, the relation of story-telling and rhetoric is even more important. As Aristotle suggested, rhetoric involves telling multiple stories in order to gain perspective

and objectively evaluate which is the most plausible. At the same time, rhetoric gives us the tools to persuasively relate these discovered truths, teaching us how to logically explain an argument and appeal to the emotions of the audience. Referring back to the opening quote from Richard Lanham, we see now that rhetorical man is in fact trained to *both* discover and manipulate reality, in the sense of taking a specific version and promoting it above others. At the same time, Lanham is not wrong in his assessment that “reality is what is accepted as reality.”

For the purposes of the forthcoming legal fiction analysis, rhetoric should thus be viewed not in its contemporary, deprecating definition, but in the sense that—according to the *Oxford English Dictionary*—Aristotle himself used the term: “the art of using language so as to persuade or influence others; the body of rules to be observed by a speaker or writer in order that he may express himself with eloquence” (OED). In this sense of the word, rhetoric neither distorts the truth, nor does it suggest the philosopher’s notion of objective truth; instead, rhetoric simply argues in favor of the most acceptable version or versions of reality. Rhetoric is as much a process as it is a device, something that can be abused, but is not in itself a negative idea. From this perspective, rhetoricians can be seen as the first proto-lawyers. As Richard Posner explains, “Rhetoricians... were frequently hired to write speeches for litigants. They thus occupied, in a society that lacked a legal profession, a role akin to that of trial and appellate lawyers in our society” (507).

Ironically, one of the first to adopt the role of the rhetorical proto-lawyer was Plato, a philosopher and opponent of rhetoric. In his *Apology of Socrates*, Plato begins by juxtaposing himself against his accusers and saying that “their persuasive words almost

made me forget who I was...yet they have hardly spoken a word of truth" (1). Despite his disclaimer, Socrates proves to be a powerful orator. Throughout the *Apology* he insists that he is avoiding the powers of rhetoric and simply speaking the truth—"In obedience to the law I make my defence"—yet he employs Aristotle's version of the tool; that is to say, he is attempting to relate to the audience his own specific version of a series of events—his version of reality from a certain perspective. If Plato's version of the truth was as simple and straightforward as philosophers contended, he would not need an eloquent speech with which to persuade the audience. *The Apology of Socrates* therefore illustrates a beautiful example of how philosophy and rhetoric can be reconciled; Plato presents a powerful and persuasive argument, thereby employing rhetoric, in order to speak his version of the truth. In simply relating his side of the story, Plato—perhaps unwittingly—illustrates just how imperative the tool of rhetoric really is, for it allows one to gain multiple perspectives before reaching a decision. Posner succinctly sums up the opposing views of Plato and Aristotle, and indirectly the basic differentiation between opponents and supporters of rhetoric:

Plato thought that scientific and ethical inquiry consisted of clearing away the mental debris that interfered with people's ability to see truth and goodness, and that the rough-and-tumble of legal and political oratory merely piled up more debris. Aristotle believed, surely correctly, that truth was often hidden, that probabilistic approximations were in many cases all that were feasible, and that these were facilitated by the rhetorical techniques that he catalogued. (513)

However, though the *Apology* provides an example of persuasively telling the truth, it assumes such truth actually exists, or that only one version of reality can be accepted, an idea denounced by many rhetoricians. In his book, *How to Do Things with Words*, J. L. Austin introduces a class of assessment, categorizing language into constatives, which are context-independent statements, and performatives, which depend on the context in which they are produced and received. Yet he later goes on to suggest that even simple statements—these constatives—cannot be judged true or false:

The truth or falsity of statements is affected by what they leave out or put in and by their being misleading, so on. Thus, for example, descriptions, which are said to be true or false or, if you like, are “statements”, are surely liable to these criticisms, since they are selective and uttered for a purpose. It is essential to realize that “true” and “false”, like “free” and “unfree”, do not stand for anything simple at all; but only for a general dimension of being a right or proper thing to say as opposed to a wrong thing, in these circumstances, to this audience, for these purposes and with these intentions (142).

Austin stresses that though attempts are made at distinguishing between stating truly and arguing soundly, there is really no airtight, concrete distinction between the two; while the soundness of an argument is obviously qualitative (there is no specific criteria for proving an argument sound or unsound), a statement of fact lacks just as much objectivity, because every statement is selected and uttered for a specific purpose. Austin focuses then more on a classification based not on whether something is true, but if it is correct to say, whether one has a right to say it, and whether it was merited or unmerited.

From this point, one can begin to see the parallels between rhetoric and the law, for, as Posner explains, procedure is not based on true or false, but on a scope of legal rules, with lawyers arguing whether a course of action is merited based on such: "one puts hypothetical cases that are within the outer semantic bounds of the rule and one asks whether these cases, which are "like" enough as a semantic matter to count as applications of the rule, fit its scope as defined by reference to the rule's purpose and to other relevant sources of policy guidance."

This scope, then, becomes the framework for the story the lawyer can tell. A case begins as a somewhat objective, aperspectival outline of the facts; however, from such an outline it is impossible to determine the most acceptable version of the truth. It is not until the two opposing sides present their contrasting perspectives that one can begin to form an opinion. This is not, contrary to popular belief, the opportunity for lawyers to linguistically confuse, coerce, or manipulate the jury. It is not, as the philosophers insisted, a process inhibiting the search for truth. Rather, it is a process deemed necessary by our legal system for the promotion of justice. Jurors are *required* to listen to both sides of the story in their entirety, to fully grasp the perspective of each side. Lawyers are required by oath to adequately relate their clients' version of the events to the best of their abilities, for the pivotal point of our legal system is that every man on trial is given the opportunity to give his side of the story. And his version is not given as a simple statement of "objective truth;" rather, our legal system guarantees a lawyer, someone equipped with the rhetorical tools to adequately relate his client's version of the truth, so that the jury might examine multiple perspectives before ultimately determining which is "more true." As Posner explains:

One of the principal jobs of lawyers is advocacy, often derided as making the worse appear the better cause. Legal advocacy illustrates the practice of “rhetoric” in the sense of persuasive speech; and ever since Protagoras it has been understood that one use of rhetoric is, indeed, to make the weaker appear the stronger argument. (498)

While this is a somewhat cynical view, it has a degree of truth; “to make the weaker appear the stronger argument” is not necessarily a derogatory critique. Rather, this idea could be viewed as looking at an issue from multiple perspectives—first looking at one side as the stronger case, then flipping to see the issue from another point of view. Put simply, if the truth spoke for itself, we wouldn’t need lawyers.

The theory of lawyers as storytellers can be analyzed within the broad genre of legal fiction. As Marlyn Robinson, reference librarian at the Tarlton Law Library at the University of Texas School of Law, summarizes in “From Collins to Grisham: A Brief History of the Legal Thriller”:

‘Whoever tells the best story, wins the case.’ To many Americans, this modern maxim embodies the pivotal role of the lawyer: control of the narrative. Whether drafting a contract or laying out evidence in a courtroom, the lawyer’s ability to manipulate language determines the outcome of the client’s case. Many would argue that the law’s language, arcane procedures, rules and conventions are purposely made mysterious by its practitioners. What could be more natural than for lawyers and legal stories to have been instrumental in the creation of the mystery novel, and particularly, the subgenre legal thriller?

However, before the creation of the legal thriller, the genre had its roots in crime and detective fictions, from which the genre of legal fiction evolved.

Precursors to Legal Fiction: The Crime Stories of Edgar Allen Poe and Sir Arthur Conan Doyle

Legal fictions help to analyze the role of storytelling in the law, a theme reaching back to legal fiction's roots in the crime stories of Edgar Allen Poe and Sir Arthur Conan Doyle. In examining these roots, I studied Poe's *Mystery of Marie Roget* and *Murders in the Rue Morgue*. *Murders in the Rue Morgue*, one of the first detective stories, introduces The Analyst—one who disentangles the truth. This process, as the narrator points out, comes from imagination: “The analytical power should not be confounded with simple ingenuity ... It will be found, in fact, that the ingenious are always fanciful...and the *truly* imaginative never other than analytic” (Poe 150). This description fits perfectly into the established process of truth discovery, for, as the *Oxford English Dictionary* states, imagination is “the mental consideration of future or potential actions or events” (OED). Again, the process involves taking multiple *potential* truths, and from these different perspectives deducing a reasonable conclusion. Much like the beginning of a legal proceeding, Poe's construction first gives the reader the facts without a story: a mother and daughter are murdered in an inaccessible room on the fourth floor locked from the inside. From just the inarguable, objective facts, the case appears unsolvable. It is not until The Analyst, Dupin, analyzes the multiple perspectives of the witnesses whose testimonies, though contradictory, give an adequate number of perspectives for Dupin to reach an acceptable conclusion. Though each witness gives a different opinion on the

foreign accent of the attacker, the fact that all of the multiple multilingual witnesses are only certain of what the accent is *not* allows Dupin to deduce that the accent is not in fact human. From this point, he is able to use his “truly imaginative” mind to invent multiple perspectives until one fits, effectively constructing a plausible story around the case, which he can then attempt to prove or disprove. From this method, Dupin successfully tests his theory that the murders were committed by an escaped orangutan, a conjecture that proves true when a sailor comes forward, admitting to witnessing the crime. Poe’s crime fiction introduces the theme that prevails throughout the history and genre of legal fiction: the importance of constructing a good story. In detective stories, the theme works to enable the detectives to reconstruct a crime, creating and recreating a story until finding one that fits. In legal fiction, lawyers use the technique in a similar manner, constructing a plausible story within the framework of given facts, while the opposing counsel does the same, allowing the jurors the same tools that the detectives constructed on their own: multiple versions of potential reality, from which to choose the most plausible.

Sir Arthur Conan Doyle’s stories of Sherlock Holmes come one step closer to the genre of legal fiction, weaving more storytelling into the narrative. Like Poe’s Dupin, Holmes possesses superb powers of deduction, but while Dupin is simply pure reasoning—an intellectual exercise—Doyle’s characters are undeniably more real. Doyle gives his characters real personalities and actually creates a whole world, another theme to later be found in legal fiction. Perhaps the most important precursor to legal fiction is Doyle’s structure of a story within a story. From Dr. Watson, the audience receives the overall narrative of the work, yet within this story, the reader also receives a narrative

from Holmes himself. For instance, *A Scandal in Bohemia* opens with Dr. Watson describing the meeting with Holmes and the King. The next day, Watson stays at home, thus the reader receives Holmes' direct account of events. After the plot unfolds and Holmes is foiled, the reader then hears from Adler what actually happened. Doyle further emphasizes the power of stories through Holmes' elaborate setup in Adler's room. Doyle highlights the power of storytelling when Dr. Watson yells "fire!" Here, the word acts as a speech-act, further emphasizing the power of words and setting off the action of the scene. By simply yelling "fire," Dr. Watson creates a scene of panic equal to that which would be caused by a real fire. Doyle notes all the many different types of people who react to Dr. Watson's exclamation: "The word was no sooner out of my mouth than the whole crowd of spectators, well dressed and ill—gentlemen and ostlers, and servant maids—joined in the general shriek of 'Fire.'" (Doyle 22). However, Holmes' ploy fails in the end, because Adler does not buy the story, echoing the opening scene, in which the King first attempts to weave a story of himself as Count Von Kramm, but fails to deceive Holmes. Like Poe, Doyle emphasizes the importance of multiple narratives to fully comprehend a situation. Though from Watson's account the reader is perfectly aware of all the "objective" facts, it is not until hearing the story from Adler's perspective that the true version of events is revealed.

The crime fiction of Doyle and Poe paved the way for the genre of legal fiction. Their influence, along with the sociohistorical setting, set the stage for the legal thriller. As Marlyn Robinson summarizes:

By the mid-19th century, reading fiction had become a legitimate and popular form of entertainment. The middle class had increasing leisure

time and printed materials had become cheaper. Penny broadsheets and ballads, usually about crime or trials and often selling up to a million copies, had given way to the penny dreadfuls, longer stories serialized in weekly installments. Abridgments of the gothic novels were available for six pence. Up till then, only the wealthy, or subscription libraries, could afford the more expensive full-length novels, usually priced at 1 1/2 pounds for a 3-volume set. In spite of strong legislative criticism, funding was appropriated for public libraries in England and by the mid-1850's nearly half of the total books loaned were novels. Publishers countered the libraries' competition by releasing novels in monthly parts and cheaper editions. At the same time, middle-class concern about the rapid increase in crime in all major European cities and interest in the burgeoning police forces coupled with world-wide socio-legal changes provided an audience for more sophisticated forms of crime fiction. By 1850, the picaresque novel and its criminal heroes had fallen victim to the police detective hero. The time was ripe for the legal thriller.

While, as Robinson notes, the legal thriller evolved in the mid-nineteenth century, our examination of the genre focuses on the contemporary legal thrillers of John Grisham, who has arguably perfected the craft into a standard, formulaic prototype which he applies over and over. Grisham's novels seem an appropriate place to start, as his work typifies most people's interpretation of legal fiction—a courtroom drama told from the point of view of a lawyer. Though in 1850 the “time was ripe” for legal fiction, the success of Grisham's best-selling novels illustrate that the fascination with legal practice

pervades today's society as much as it did one hundred fifty years ago.

storytelling. In fact, he believes that lawyers often make the best authors of legal fiction:

Every lawyer has a good story. We lawyers get involved with people who have messed up their lives, and their mistakes make fascinating stories.

Street lawyers see the underbelly of society. Corporate lawyers see high-

stakes shenanigans. As a result, lawyers in various guises require some

measure of talent with the written word. Lawyers think they can write a best

seller and a subplot there and produce a new thriller. (Grisham 1997, 19)

Chapter One

“Hopefully Looking Quite Lawyerly”

The Façade of Ethos in John Grisham's *The Rainmaker*

Perhaps then his legal career is what makes Grisham such a compelling storyteller.

Whatever the cause, Grisham's novel *The Rainmaker* draws the reader in to a thrilling

legal drama centered around a new, young lawyer fighting a bad faith insurance claim.

However, the most compelling aspect of this novel is its ability to illustrate the power of

stories in legal fiction. Just like the precursors to legal fiction, Grisham's legal fiction

employs the technique of a “story within a story,” highlighting the parallels between

fictional storytelling and legal storytelling. For example, in a discussion of legal

fiction: “And notice the parallel between the external play and the play within the

play (for example, in *Hamlet*): both are *actio*—the speaking as audience within the

work of literature (the tribunal and spectators, as the case of *The Trial*); the players in the

internal play) to play off against the audience for the total world” (Prosser 78-79). As we

will see, the internal play in legal fiction—the *actio*—often mirrors the story-like qualities

of the work of fiction as a whole.

The Rainmaker tells the story of Rudy Baylor, a young, cynical lawyer thrust by

chance into a multimillion-dollar bad faith insurance case. While offering *pro bono* legal

A lawyer himself, it is unsurprising that John Grisham has mastered that art of storytelling. In fact, he believes that lawyers often make the best authors of legal fiction:

Every lawyer has a good story. We lawyers get involved with people who have messed up their lives, and their mistakes make fascinating stories. Street lawyers see the underbelly of society. Corporate lawyers see high-stakes shenanigans. And since law school and bar exams require some measure of talent with the written word, lawyers think they can add a twist here and a subplot there and produce a real thriller. (Radford 1)

Perhaps then his legal career is what makes Grisham such a compelling storyteller. Whatever the cause, Grisham's novel *The Rainmaker* draws the reader in to a thrilling legal drama centered around a new, young lawyer fighting a bad faith insurance claim. However, the most compelling aspect of this novel is its ability to illustrate the power of stories in legal fiction. Just like the precursors to legal fiction, Grisham's legal fiction employs the technique of a "story within a story," highlighting the parallels between fictional storytelling and legal storytelling. Posner notes this as a common theme in legal fictions: "And notice the parallel between the trial in literature and the play within the play (for example, in *Hamlet*): both are techniques for creating an audience within the work of literature (the tribunal and spectators, in the case of the trial; the playgoers in the internal play) to play off against the audience for the work itself" (Posner 78-79). As we will see, the internal play in legal fiction—the trial—often mirrors the story-like qualities in the work of fiction as a whole.

The Rainmaker tells the story of Rudy Baylor, a young, cynical lawyer thrust by chance into a multimillion-dollar bad faith insurance case. While offering *pro bono* legal

advice as part of a law school class, Rudy stumbles upon Dot and Buddy Black, whose son Donny Ray is dying of cancer because of a bone-marrow transplant their insurance company, Great Benefit, refused to pay for. The novel follows Rudy through this—Rudy's first and only trial—from the outset through to the jury's final decision. Up against both a powerful insurance company and an intimidating defense team, Rudy's is a true underdog story. Though in the end the jury awards Rudy and his poor clients a large settlement, in an ironic twist, the move bankrupts the insurance company that therefore cannot pay the settlement required. At the end of the experience, despite a favorable outcome for his clients who wanted nothing more than to seek their revenge on Great Benefit, Rudy ultimately leaves his short-lived career in the legal profession after his. As the only one of the four legal fictions to be told in the first person, the reader becomes privy to Rudy's somewhat cynical and already jaded thought process throughout the novel.

The purpose now is to analyze legal fictions from our original point of view, that “whoever tells the best story wins the case,” in other words, that stories are a powerful way to organize and relate the truth in a legal setting. By using Aristotle's Three Methods of Proof—ethos, pathos, and logos—it is possible to objectively analyze the persuasive elements found in both the story and the story within the story: the story of Grisham's *The Rainmaker* and the narrator's—Rudy Baylor's—story of his case.

One of Grisham's objectives in the novel, aside from making money—or perhaps as a means to—is to persuade the reader of the glamour and drama of the legal profession. Just as a lawyer would in a case, Grisham must establish the ethos, or credibility, of his narrator. Posner explains the importance of this persuasive power:

A speaker can influence the beliefs of his audience in two ways. One way is by supplying information, broadly understood to include false as well as true information and also deductions and inferences and other logical or inductive manipulations of "fact" that furnish evidence or proof to the rational mind, as well as the underlying data that are manipulated. The other way to influence an audience's beliefs is by using signals of one sort or another to enhance the credibility of the speaker's arguments—such signals as speaking with great self-assurance or furnishing particulars about oneself that make one seem a credible person. This way is temporally first, because the speaker must place his audience in a receptive mood before he can hope to change its beliefs through information. The creation of this receptive mood was called in classical rhetoric the "ethical appeal." (500).

Thus at the beginning of the novel, before he can tell his story, the narrator must make the audience receptive toward him. In this case, the narrator must establish himself as someone the reader wants to root for, and someone the reader can believe. Within the first ten pages of the novel, Grisham goes through several specific steps in order to insure that his readers will like and trust his narrator.

From the outset of the story, Grisham makes his narrator Rudy a relatable character. His main reason for going to law school is to annoy his father, a reason that the reader can accept. This is not an academic elite attempting an intellectually challenging path, nor is it a high-minded moralist planning to change the world. Both of these would have pitted the reader against the narrator, thus Grisham is careful to establish Rudy as an

average Joe; Rudy mentions that, "I will not graduate with honors, though somewhere in the top half of my class." From this modest phrase, the reader can acknowledge that Rudy is frank, honest, and humble.

Additionally, Grisham uses humor to increase the reader's affections for Rudy. When Rudy, volunteering in a senior center, is overlooked by a crazy old man in favor of one of his classmates, Rudy mentions, "something tells me he will not be the last prospective client to go elsewhere for legal advice" (Grisham 9). Grisham continues his narrator's theme of congenial self-deprecation by juxtaposing him against his stereotypical classmates: the pompous prefixed and suffixed prep, F. Franklin Donaldson the Fourth, the driven, masculine young woman, "who wears an enormous chip on her shoulder...many of us also suspect she wears a jockstrap" and the older, black married man, unassuming and "as scared as I am" (Grisham 8).

Lastly, Grisham establishes the narrator as a knowledgeable source, but one who is likeable rather than lecturing: "I learned the art of billing, the first rule of which is that a lawyer spends much of his waking hours in conferences. Client conferences, phone conferences, conferences with opposing lawyers and judges and partners...name the activity, and lawyers can fabricate a conference around it." These quips allow the reader to believe that this is a young lawyer who sees through the law, who treats it partly with awe and partly with scorn, and who convinces the reader that he is simply playing a role. He mentions that he is "hopefully looking quite lawyerly," exuding the persona that you and he both know that this is just a game, but invites you with him to pull the wool over everyone's eyes.

Just as the author must establish his narrator as a credible source for his readers, the trial lawyer must establish himself as a credible source to the jury. Rudy Baylor functions as a storyteller in two distinct roles: Rudy the narrator, telling his story to the reader, and Rudy the lawyer, telling the story of the evils of Great Benefit Life Insurance to the jury. Here, the ethos is just as important—if not more—than it is in the story as a whole. Rudy must establish himself as likeable and trustworthy in order for the jury to believe his story. Posner elaborates on the importance of ethos, explaining that oftentimes, the subject matter of a persuasive argument might be beyond the realm of the listeners' comprehension, at which point we rely on the credibility of the speaker himself:

Gorgias concedes that, when used in law courts, rhetoric is the kind of persuasion that produces belief about justice and injustice without instilling knowledge of these things, rather than belief with knowledge, because the rhetorician "could never instruct too large a gathering on such weighty matters in a short time." (qtd in Posner 507)

Thus, Posner's theory works similarly in a trial. A lawyer must establish his ethos first to make his audience (the jury) receptive to his argument, and secondly as a subconscious signal to the jury that because he, the lawyer is credible, his case is also.

As a storyteller, Grisham must also appeal to pathos—the emotions of the audience, who, in this case, are the readers. Grisham appeals to three distinct groups of readers: aspiring lawyers, the average, blue-collar family, and small lawyers or business owners.

To appeal to aspiring lawyers or law students, Grisham incites the excitement of hitting a big case right away. Beginning with Rudy in school gives an added appeal to

this group. He inspires dreams of making it big on one's own, rather than going through the drudgery and mundane tasks of the first-year associate. His pivotal speech reflecting on the legal profession brings in ideas to which this group could relate:

I started law school less than three years ago with typical noble aspirations of one day using my license to better society in some small way, to engage in an honorable profession governed by ethical canons I thought all lawyers would strive to uphold. I really believed this. I knew I couldn't change the world, but I dreamed of working in a high-pressure environment filled with sharp-witted people who adhered to a set of lofty standards. I wanted to work hard and grow in my profession, and in doing so attract clients not by slick advertising but by reputation (Grisham 191).

Here Grisham encapsulates the vast majority of law students, future law students, and people who considered and perhaps regret not choosing law school—those who are realistic enough not to believe they will change the world, but who hope to “better society in some small way.”

Grisham's second appeal to is to the average family, who could relate to the struggle of Dot, the mother, and of Donny Ray, the son dying of cancer. Grisham appeals to the readers' anger at the thought of being wronged by a big, faceless company, as well as sympathy for Donny Ray. Grisham pinpoints an emotional moment in order to elicit his readers' response as Rudy describes Donny Ray slowly dying: “He catches his breath finally...it is precisely at this moment that I begin to hate Great Benefit Life Insurance Company” (Grisham 143).

Thirdly, Grisham appeals to the small lawyers and small businesses, who could resent the powerful firms and companies attempting to crush Rudy, and can also relish in their defeat. As Rudy points out of the powerful law firm, "Trent and Brent" that he is up against: "They don't really care if they win or lose them, they're making money regardless" (Grisham 241).

Just as Grisham must appeal to the emotions of his readers, the lawyer must appeal to the emotions of the jury. Rudy elicits three specific emotional appeals from the jury. First, he appeals to anger: Great Benefit killed someone and they should be punished. Rudy establishes this with a string of sleazy executives who attempt to conceal evidence, lie under oath, and deny wrongdoing. Secondly, he appeals to sympathy for Donny Ray and his family, and lastly, he plays into the jury's fear that they could be Great Benefit's next victims. Though opponents of rhetoric often deride the importance of emotional appeals, or accuse them of clouding logical appeals, Posner defends the credibility of the emotional appeal:

Emotion can clarify as well as fog the understanding. If for example an advocate's appeal to the emotions induces in the judge or juror an emphatic understanding of a victim's or an accused wrongdoer's motives, drives, and beliefs, the appeal may enable the tribunal to form a more accurate impression of essential facts and so render a more just judgment. Rhetoric can be a "means for making truth sound like truth—the only means, on many occasions, that are available. (511)

Thus, rather than clouding judgment, Rudy uses pathos to further emphasize the wrongdoing of the defendant.

Grisham uses the last of Aristotle's three methods, logos, to establish the argument for his book. The logos is sometimes more difficult to determine, because, as Posner explains, it relies on the unspoken thesis of the argument: Here Aristotle emphasizes the enthymeme, which in modern logic is a syllogism in which one of the premises is unstated because it is a matter of common knowledge" (509). Though unspoken, Grisham clearly writes under the enthymeme that a legal career is dramatic and glamorous.

Grisham's use of Aristotle's three methods of proof, both in the plot and the trial, is most clearly illustrated in the scene of jury selection. This is a scene in which Rudy, both the narrator and the lawyer trying his first case, describes jury selection at the beginning of a trial:

First impressions are crucial. The jurors arrive between eight-thirty and nine. They walk through the double wooden doors nervously, then shuffle down the aisle, staring, almost gawking at the surroundings. For many, it's their first visit to a courtroom. Dot and I sit together and alone at the end of our table, facing the rows of padded pews being filled with jurors. Our backs are to the bench. A single legal pad is on our table, nothing else. Deck is in a chair near the jury box, away from us. Dot and I whisper and try to smile. My stomach is cramped with frenzied butterflies. In sharp contrast, across the aisle the defense table is surrounded by five unsmiling men in black suits, all of whom are poring over piles of paper which completely cover the desk. My theme of David versus Goliath is decisive, and it begins now. The first thing the jurors see is that I'm out-manned,

outgunned and obviously underfunded. My poor little client is frail and weak. We're no match for those rich folks over there. (Grisham 188)

Ethos refers to the speaker's credibility. When the narrator says "first impressions are crucial" he is establishing his credibility with us, the readers. He illustrates that he knows what's going on, and puts us "in the know" with him. Pathos is the emotional appeal to the audience, in this case, the reader. The narrator makes us feel as if we are right there in the courtroom, feeling his nervousness, appealing to both young aspiring lawyers, and older people who dream of a more exciting, dramatic job. At the same time, his second paragraph appeals to small-time lawyers and businesses, to the average guy who screwed over and buried in paperwork by powerful corporate entities and law firms. Lastly, logos refers to the logic of the argument, in this case, the plot. Do we really believe Rudy Baylor's story? Though it is not evident in this passage, Grisham establishes his logic at the end of the novel, where Rudy, after winning the case, ends up bankrupting the company and thereby getting no money, and decides to leave the legal profession, a logic which we can accept and makes the story more believable. It also fits with what Grisham himself has said is a standard formula in his writing: "You throw an innocent person in there, get 'em caught up in a conspiracy and you get 'em out" (qtd. in Robinson 1).

At the same time that the narrator persuades the reader in his storytelling, Rudy Baylor, the lawyer, is telling another story. We see that Aristotle's three methods of proof can be applied just as easily to the legal case at hand. In this sense, ethos is not the narrator's credibility, but the lawyer's. As a lawyer, Rudy Baylor establishes his credibility to the jury by portraying himself as a friendly contrast to the defense team. He attempts to smile at them, while the "unsmiling men in black suits" completely ignore

them. This clearly illustrates one of Posner's points previously stated, that one of the pivotal ways to influence an audience's beliefs is to "place his audience in a receptive mood before he can hope to change its beliefs through information" (500). By appearing distant and "unsmiling," the defense fails to put the audience in a receptive mood, thus detracting from their case before even presenting information.

The pathos this time is not the appeal to the reader, but to the jury. Rudy appeals to their sympathy for the "out-manned, outgunned and obviously underfunded" plaintiff team, justice of his "poor frail client," and anger for the impersonal suits and "rich folks over there." Whereas the *logos* of the novel was Grisham's glamour and drama of the legal profession, Rudy's *logos* is his "theme" of David and Goliath. The third paragraph most thoroughly establishes the case as a story, with the lawyer as a storyteller.

The purpose of this analysis is to see how these two stories echo each other. The persuasive techniques used to relate the work of fiction work just as effectively to portray the lawyer's case. One can see that law is simply story-telling, with rhetoric as a lawyer's tool to organize and relate the story of a case.

On the surface, Rudy's story appears to be one of success: he wins his case and satisfies his client, the good are redeemed and the bad are punished. This fits Grisham's standard legal fiction formula; however, he throws in a twist at the end, causing the reader to rethink Rudy's success. Rudy manages to persuade both the reader and the jury of his credibility, yet in the end, we discover that it is undeserved.

Rudy convinces the jury that, like his client and the case he represents, he is a moral, upstanding young lawyer. He receives sympathy for being the obvious underdog, "outmanned, outgunned, and underfunded." On the same token, Rudy the narrator

convinces the reader of his moral ambitions: "I started law school less than three years ago with typical noble aspirations of one day using my license to better society in some small way, to engage in an honorable profession governed by ethical canons I thought all lawyers would strive to uphold. I really believed this." Perhaps Rudy did believe it.

Nevertheless, at the end of the novel he beats his girlfriend's ex-husband to death, then proceeds to cover up the crime and run away, thereby destroying his previous credibility. He convinces the jury that he is David of David and Goliath, the little man on a mission to bring down evil corporations. Yet he quits after his very first case. After playing the part of the eager young lawyer, he runs away from the profession.

Thus one can conclude that the ultimate, if not immediate, success depends on more than persuasive speech or arguments. The lawyer's credibility plays an integral role; but more importantly, a lawyer will ultimately fail if his ethos is nothing but a facetious act of credibility.

Chapter Two

“Too Busy with Facts”

Rhetoric as a Discovery Process in Faulkner’s *Intruder in the Dust*

William O'Connor writes that "Faulkner's rhetoric has several sources: it is indebted to Tennyson and to Swinburne, to the elegance of *le fin de siècle*, to the Ciceronian periods of Southern oratory, and to a Southern folk tradition that is anti-grammatical and colorful." (O'Connor 10) In *Intruder in the Dust*, Faulkner presents us with an illustrative example of this rhetorical tradition. Yet, unlike Warren's Willie Stark or Graham's Rudy Hopper, Faulkner does not present us with the lawyer's ineffectual treatment of stories that Faulkner posits for justice. Upon analysis of *Intruder in the Dust*, the lawyer Gavin Stevens typifies what Faulkner sees as the archetypal man: one who cannot see past his own version of the facts to realize alternative possibilities. In analyzing Faulkner's *Intruder in the Dust* from a rhetorical standpoint, one can see a correlation to Aristotle's definition of rhetoric as a *method of reasoning*, that by examining multiple versions of the truth we become enlightened. By contrasting his lawyer, Gavin Stevens, to the young narrator, Chick Mallison, Faulkner illustrates that an emphasis on facts is not necessarily the best way to reach the truth, for one must remain open to multiple versions of reality. This idea echoes back to the foundations of rhetoric, to the Sophists who argued that there is no single version of truth, only constructions of reality. While rhetoric is both the process of how we discover truth and also how we present it, the focus in this novel is clearly on the former part. As Olga Vickery explains in *The Novels of William Faulkner: A Critical Interpretation*, "Ultimately, it is through the word that man becomes aware of his knowledge, for in language he projects his wisdom beyond his own mind. And it is precisely this task that Faulkner has been fulfilling consciously and deliberately in all his novels." In *Intruder in*

William O'Connor writes that "Faulkner's rhetoric has several sources: it is indebted to Tennyson and to Swinburne, to the elegance of *le fin de siècle*, to the Ciceronian periods of Southern oratory, and to a Southern folk tradition that is anti-grammatical and colorful." (O'Connor 83). Thus it is unsurprising that William Faulkner presents us with an illustrative example of the power of story-telling. Yet, unlike Warren's Willie Stark or Grisham's Rudy Baylor, Faulkner does not present us with the same typical example of an influential orator in Gavin Stevens. Rather, it is through his lawyer's ineffectual treatment of stories that Faulkner proves his point. Upon analysis of *Intruder in the Dust*, the lawyer Gavin Stevens typifies what Faulkner sees as the archetypal man: one who cannot see past his own version of the facts to realize alternative possibilities. In analyzing Faulkner's *Intruder in the Dust* from a rhetorical standpoint, one can see a correlation to Aristotle's definition of rhetoric as a *method* of reasoning, that by examining multiple versions of the truth we become enlightened. By contrasting his lawyer, Gavin Stevens, to the young narrator, Chick Malliston, Faulkner illustrates that an emphasis on facts is not necessarily the best way to reach the truth, for one must remain open to multiple versions of reality. This idea echoes back to the foundations of rhetoric, to the Sophists who argued that there is no single version of truth, only constructions of reality. While rhetoric is both the process of how we discover truth and also how we present it, the focus in this novel is clearly on the former part. As Olga Vickery explains in *The Novels of William Faulkner: A Critical Interpretation*, "Ultimately, it is through the word that man becomes aware of his knowledge, for in language he projects his wisdom beyond his own mind. And it is precisely this task that Faulkner has been fulfilling consciously and deliberately in all his novels." In *Intruder in*

the Dust, Faulkner shows us a lawyer who, through his close-mindedness is unable to recognize the possibility of multiple versions of reality that are necessary to discover the truth.

Intruder in the Dust tells the story of an old black man, Lucas Beauchamp, who is accused of murdering a white man, as seen through the eyes of a white adolescent male, Chick Mallison. Chick's uncle Gavin Stevens is hired by Lucas ostensibly as his defense attorney, but in reality Lucas hopes to clear his name before the case comes to trial, and more importantly, before a mob can come to lynch him. However, at the last minute, Lucas puts his trust in young Chick instead, who, with the help of his black servant Aleck Sander and an old woman named Miss Habersham, discovers that Lucas is innocent and exonerates him. The lawyer's role in this novel proves mainly to be a foil to the adolescent narrator, stressing the need to occasionally view a legal problem outside the realm of the standard framework of the law.

Gavin Stevens' ineffectiveness as a lawyer in this story stems from a problem which Faulkner attributes to all men: a focus on facts which they see as undeniably true.

As the old black man Ephraim explains to Chick:

Young folks and womens, they aint cluttered. They can listen. But a middle-year man like your paw and your uncle, they cant listen. They aint got time. They're too busy with facks. In fact, you mought bear this in yo mind; someday you mought need it. If you ever needs to get anything done outside the common run, don't waste your time on the menfolks; get the womens and children to working at it.' (Faulkner 71-72)

It is this close-minded view of the facts that prevents Gavin from doing his job as an attorney, for he goes to visit Lucas for the first time without a shadow of a doubt that he is guilty. His first words to Lucas are "I don't defend murderers who shoot people in the back" (Faulkner 60), and even when he asks Lucas to explain to him what happened, he cannot help but to create a story as Lucas unfolds the truth. His constant interruptions to Lucas' story, as he weaves his own version of the facts, suggests that he is already attempting to relate the story to a jury. He suggests "maybe he even knocked you down and walked on and you shot him in the back," and when Lucas denies being knocked down, Gavin's response is that it is "so much the worse for you. It's not even self-defense. You just shot him in the back" (Faulkner 64). Though Gavin employs the rhetorical technique of turning the events into a story, making alterations as more facts come to light, his ending always remains the same: "you just shot him in the back." Though Gavin is able to alter the story somewhat, he is unable to open his mind to another possible ending, convinced from the start that Lucas is guilty. Before even allowing Lucas to finish presenting the facts, Gavin has reached his decision: "You'll go before the grand jury tomorrow. They'll indict you... Then you'll plead guilty; I'll persuade the District Attorney to let you do that because you're an old man and you never were in trouble before..." (Faulkner 64-65). Before Lucas has even admitted his guilt, Gavin decides that he must plead guilty. Gavin attempts to utilize rhetoric and the legal system to help Lucas insofar as he can help a guilty man. As Olga Vickery explains:

The sheriff takes Lucas into custody and Will Legate guards him because the forms of legal justice must be maintained. Similarly, Gavin Stevens, more than half-expecting to lose his client at any moment, is present

strictly as “the lawyer for the defense.” He views Lucas’ problems in legal terms so that even before he asks Lucas what happened, he is plotting his course of action—the plea of guilty of manslaughter, the request for clemency, and even the possibility of parole for good behavior providing Lucas survives that long. Although probably futile, these are no idle gestures calculated merely to satisfy appearances. The three men occupy a position midway between Chick’s moral and the mob’s social compulsiveness, just as the legal framework through which they operate is midway between the two different kinds of disregard for law exhibited by Chick and the mob. (Vickery 137)

However, Gavin could have broadened the legal framework to include the possibility that Lucas was not in fact guilty at all. While Vickery is accurate in her analysis of Gavin’s position as a parallel of the legal system, operating between moral and social compulsiveness, Faulkner is also clearly commenting on the shortcomings of Gavin’s legal technique, stemming from his inability to open his mind to the idea of Lucas’ innocence. In a true utilization of the legal system, as Stanley Fish’s analysis of rhetoric illustrates, one goes into the courtroom with no established truths (because in rhetoric, no such thing exists). Rather, one goes in with competing stories. By accepting Lucas’ guilt as an established truth, Gavin encompasses Faulkner’s classic characterization of a Southern male: small-minded and prejudiced.

Gavin’s prejudice derives from what Faulkner implies is a common failing in Southern rhetoric: the use of stock phrases to determine an entire community’s views, what Vickery calls “the stock rationalizations of the community” (Vickery 140). When a

neighbor comments that it is Lucas' own fault for killing a man on a Saturday—"It aint [the lynchers'] fault it's Sunday. That sonofabitch ought to thought of that before he taken to killing white men on a Saturday afternoon" (Faulkner 48)—he echoes a sentiment expressed earlier by another man—"Is that the Gowries' fault? Lucas ought to thought of that before he picked out Saturday to kill Vinson on" (Faulkner, 40). Through the narrator, Faulkner comments on this reiteration:

"...and he remembered his uncle saying once how little of vocabulary man really needed to get comfortably and even efficiently through his life, how not only in the individual but within his whole type and race and kind a few simple clichés served his few simple passions and needs and lusts..." (Faulkner 47-48)

These "simple clichés" not only sum up the community's views, but also serve to box them in. By relying on these standard phrases, the phrases become the standard viewpoint of a community; the stock thoughts are so easy to adopt that it becomes difficult to think outside of them. As Vickery notes, "The act or event becomes permanent in language, for, in a sense, the word *is* the act existing in a verbal universe" (Vickery 280). Chick realizes this as he tries to convince Gavin to believe Lucas' story, at least open his mind to the possibility of Lucas' story so that they can investigate:

But [Chick] still tried. 'But just suppose—' he said again and now he heard for the third time almost exactly what he had heard twice in twelve hours, and he marveled again at the paucity, the really almost standardized meagerness not of individual vocabularies but of Vocabulary itself, by

means of which even man can live in vast droves and herds even in concrete warrens in comparative amity. (Faulkner 80)

Here, the society's individual vocabularies have been melded into one single "Vocabulary," reduced to simple thoughts and phrases embraced by the community. Faulkner implies that the danger here lies in the easy transmission of thought to fact. Standardized phrases allow a society to adopt a single mindset, which allows those opinions to easily be viewed as fact. Faulkner cuts Chick's phrase off at "suppose," because the young narrator realizes that that is exactly what his uncle—and his whole community—will refuse to do. Once they have come to see certain things as fact, they will not suppose them to be false. As Vickery notes:

Fact, history, and legend are regarded as synonymous with the universal truth prized by Faulkner, whereas in reality they are but limited modes of commenting on it, modes which when employed as self-sufficient and mutually exclusive lead to human disaster by encouraging distorted and insensitive attitudes (242).

Vickery's reference to Faulkner's "universal truth" stems from Faulkner's apparent fixation on categorical solutions for complex problems (242). We can see here a parallel between Faulkner's emphasis on standardized solutions and Faulkner's characters' fixation on standardized phrases, both attempting to box in truth, fact, or reality, none of which, as Vickery points out, can be proven through stock phrases. The standardization of language results in the distortion rather than the discovery of truth. Vickery goes on to explain:

It is man who imposes an order on sense data and shapes the chaotic world into an intelligible form. Exercising his reason, he assimilates events by translating them into facts, massive, solid, and immutable, impervious to time because they have been lifted out of time.... Some facts are automatically accepted by all people, some are entirely unacceptable, but the majority are accepted by at least some individuals. In the first case, we have public facts, in the last, private conviction.

As Vickery notes, when facts are accepted by only some people, they are nothing more than private conviction; however, standardized language allows private conviction to be viewed as fact.

Vickery's explanation of fact also applies back to Gavin's ineptitude in his first conference with Lucas. As previously discussed, when Lucas recalled events, Gavin would immediately translate them into, as Vickery would say "facts, massive, solid, and immutable," and once these ideas are set as fact in his head, Gavin refuses to "suppose" any other explanation. One could argue in this opening conference Gavin is simply "thinking like a lawyer,"—that is to say, trying to imagine the story from a jurist's point-of-view, weaving the most viable story as he is presented with the events; however, Faulkner is undoubtedly commenting on the racial prejudices that were an undercurrent to the novel's society. Gavin reaches his self-determined conclusive facts partially because he is a man, and Faulkner implies that all men are "too busy with facts," but partially because he is a white man who cannot conceive of the black man being innocent of murdering Vinson Gowrie.

J.L. Austin's theory of performative language provides support for this idea that Gavin's conclusions are in part racially biased. As previously discussed, Austin believed that every statement is uttered for a specific purpose; thus, it is impossible for a truth to be "objective." While Gavin might attempt to look at the situation objectively, Austin points out to us that it is impossible for him to do so. Instead he is simply replacing Lucas' perspective with his own equally-biased one. Lucas appears to understand the subjectivity of truth, for at the end of the meeting he chooses not to reveal to Gavin what actually occurred.

While Lucas might realize that for whatever reason he should not reveal the truth to Gavin, it is Miss Habersham—someone who remains unbiased because of her close ties to Lucas' wife—who makes the succinct connection: 'Of course. Naturally he wouldn't tell your uncle. He's a Negro and your uncle's a man:' (89). Miss Habersham's response falls into the category of a stock phrase, one that Chick hears repeatedly throughout the story. However, Faulkner differentiates this one from the earlier crass comments about Lucas' lynching, and it is in this explanation that we see Faulkner's propensity for universal truth:

'Yes,' Miss Habersham said. 'Of course. Naturally he wouldn't tell your uncle. He's a Negro and your uncle's a man:' and now Miss Habersham in her turn repeating and paraphrasing and he thought how it was not really a paucity a meagerness of vocabulary, it was in the first place because the deliberate violent blotting out obliteration of a human life was itself so simple and so final that the verbiage which surrounded it enclosed it insulated it intact into the chronicle of man had of necessity to be simple

and uncomplex too, repetitive, almost monotonous even; and in the second place, vaster than that, adumbrating that, because what Miss Habersham paraphrased was simple truth, not even fact and so there was not needed a great deal of diversification and originality to express it because truth was universal, it had to be truth and so there didn't need to be a great deal of it just to keep running something no bigger than one earth and so anybody could know truth; all they had to do was just to pause, just to stop, just to wait: 'Lucas knew it would take a child—or an old woman like me: someone not concerned with probability, with evidence. Men like your uncle and Mr. Hampton have had to be men too long, busy too long.' (89-90)

Here, despite what the rhetorician's tools tell us, Faulkner attempts to encompass a simple truth, one that is universally true rather than simply the best argument or most viable option; however, Faulkner makes the important distinction between "truth" and "fact," leading us to believe that his insertion of "simple truth" is not necessarily a contradiction to the practice of rhetoric. Rather, Faulkner divides the world into facts, which, like the rhetoricians, he agrees cannot be viewed as undeniably true, and truths, which are not facts proved to be true, but rather the essence of human nature.

In this sense, we see a slight redemption for Gavin Stevens as a lawyer. Though he is impeded by his reliance on facts, he at the same time gains an advantage through an understanding of Faulkner's universal truth. While, as previously discussed, this version of truth does not fit our rhetorical definition, it remains an important tool in the power of story-telling. Chick describes his uncle as one "who had for everything an explanation

not in facts but long since beyond dry statistics into something for more moving because it was truth: which moved the heart and had nothing whatever to do with what mere provable information said..." (50). Gavin clearly possesses a talent for a lawyer's storytelling. In this instance, he takes the evidence of a young girl's name scratched into a window pane and weaves a story around the fact in order to illustrate to Chick one of Faulkner's universal truths: "the eternality, the deathlessness and changelessness of youth."

However, this specific universal truth of Faulkner's proves a detriment to Gavin. Though he might realize the "changelessness of youth," not until later does he realize that it is this very quality that allows Chick to believe Lucas when Gavin cannot. Gavin, as an experienced lawyer, has heard too many typical stories to believe that Lucas' story might be true, telling Chick, "And he told you a tale. I hope it was a good one" (78). When Chick tries to suggest that perhaps it was not Lucas' pistol that killed Vinson Gowrie, Gavin cannot look past his experience as a lawyer: "That's exactly what I would claim myself if I were Lucas—or any other Negro murdered for that matter or any ignorant white murdered either for the matter of that" (79). It takes a child in the "deathlessness and changelessness of youth," uninhibited and not jaded by previous experience to accept Lucas' story. Chick realizes now that "he should never have stopped on his way through the hall...Lucas had told him that thirty minutes ago in the jail when even he had come almost to the point and even under the very shadow of the Gowries had in the end known better than to tell his uncle or any other white man" (78). It is not until after Miss Habersham, Aleck Sander, and Chick return with the news that Vinson Gowrie was not in the grave that Gavin comes to the realization that his jaded experiences, close-mindedness, and

prejudice prevented him from seeing the true facts. When Chick's father demands to know why Chick did not tell him the truth before setting out to the graveyard, Gavin explains:

'Because you wouldn't have believed him either,' his uncle said coming in from the hall. 'You wouldn't have listened either. It took an old woman and two children for that, to believe the truth for no other reason than it was the truth, told by an old man in a fix deserving pity and belief, to someone capable of the pity even when none of them really believed him.'

(127)

As Gavin explains, Faulkner places less importance on whether the characters actually believe Lucas, though Miss Habersham does believe him right away: "'So he didn't do it,' she said, rapid still and with something even more than urgency in her voice now" (87). Chick and Aleck Sander lack Miss Habersham's conviction, but Faulkner illustrates the pivotal fact that, while dubious, they still listen to Lucas. By simply listening to him, they question the established facts and explore other possibilities that Gavin and the rest of the men have ruled out before even considering them. Women and children rely instead on a different type of experience: experience garnered by the present circumstances, uninhibited by the past. As Faulkner reiterates through Chick's memory of Old Ephraim: "*If you got something outside the common run that's got to be done and cant wait, don't waste your time on the menfolks; they works on what your uncle calls the rules and the cases. Get the womens and the children at it; they works on the circumstances*" (112). While men rely on the experience of the past, according to Faulkner, women and children rely on the experience of the present. Vickery offers a similar viewpoint:

Women, children, and Negroes are not necessarily more limited in mental capacity than other people, but they are more interested, according to Faulkner, in practical affairs and in the non-verbal world of experience. In contrast to the intellectual sophistication and verbal sophistry of the man, they possess an intuitive knowledge of truth as it is manifested in the act (273).

However, I disagree with Vickery's assumption of the "intuitive knowledge" of women, children, and Negroes. Their world is not non-verbal; they simply employ a different use of language than do men, echoing back to the original debate about rhetoric. According to Vickery, men engage in "verbal sophistry," which can be seen as rhetoric in its derogatory sense; the formal definition of sophistry is "specious but fallacious reasoning; employment of arguments which are intentionally deceptive" (OED), which hearkens back to rhetoric's most unflattering definition as speech or writing expressed in terms calculated to persuade; hence (often in depreciatory sense), language characterized by artificial or ostentatious expression" (OED). In contrast, women, children and Negroes employ Aristotle's notion of rhetoric as heuristic—a discovery process used to see multiple sides of an argument. Even without fully believing Lucas, Chick nevertheless attempts to argue the possibility of his innocence to his uncle. At this moment, the truth is unimportant; instead, the focus must be the *discovery* of truth, a process which, according to Aristotle, involves voicing multiple versions of an event.

Thus, Chick effectively employs the first component of rhetoric—as a method to *discover* truth, but fails, at least primarily, at utilizing the second aspect—rhetoric as a method of persuasively conveying that version of truth. Chick believes in the possibility

of the event in which Lucas is innocent, but lacks the ability to present the possibility as a “fact,” which, as Faulkner emphasizes, is what men need to understand a situation.

Faulkner, through Chick’s inadequacy, implies what J.L. Austin preached: there is no difference between stating truly and arguing soundly, for a statement of facts lacks just as much objectivity as a qualitative argument. Vickery heavily echoes this rhetorical view when she explains, referring to Faulkner’s works:

Facts do not exist; they are created by the reasoning mind which interprets what it sees and hears, and on this basis deduces other facts, the accuracy of which frequently cannot be tested. In other words, events are a part of immediate experience while facts are related to the world of thought or language. Since immediate verification is impossible, for all practical purposes facts are determined by their ability to compel belief and initiate action. (242-243)

Chick lacks the rhetorical ability to translate the event into a fact thereby gaining “the ability to compel belief and initiate action.” However, Chick’s propensity to act rather than simply talk allows him to exonerate Lucas without his uncle’s help. Jean Graham explores this idea in his article “Gavin Steven in Faulkner’s *Intruder in the Dust*: Only Too Rhetorical Rhetoric?,” suggesting that in addition to the contrast in open mindsets between men and children, children possess the ability to act more than do men. Graham concludes that “thus, while Gavin’s speechifying is the major influence on Chick’s decisions, behavior, and growth, it is ultimately opposed to them. Gavin, like all other adult males, is an idealist and a rhetor; Chick, a realist and an actor” (Graham, 83). Just as Vickery’s observations support the rhetorical analysis of Gavin’s ineffectiveness as a

lawyer, Graham too draws conclusions that can be related back to the rhetorical analysis. Gavin's idealism refers not to the optimistic "aspiration to an ideal" (OED), but rather to the "habit of representing things in an ideal form" (OED). That is to say, Gavin cannot look at the actual series of events, for he is too focused on the idea of a black man shooting a white man. In contrast, Chick, as a realist, can look past the idea to see the actual facts, fitting the OED's definition of a "theory that the world has a reality that transcends the mind's analytical capacity, and hence that propositions are to be assessed in terms of their truth to reality, rather than in terms of their verifiability" (OED). Chick looks at the reality of the situation, whereas Gavin looks only at his idea of the situation.

Thus, though Faulkner presents the reader with neither a typical courtroom drama nor a typical rhetorical lawyer, one can still apply our rhetorical theories to this legal fiction. Instead of creating a model lawyer whose rhetorical prowess leaves us with a plethora of speeches to analyze, in *Intruder in the Dust* Faulkner presents us with a cautionary tale to lawyers. The study of rhetoric illustrates that while rhetoric itself is not evil or derogatory, it is a tool that can be both used and abused. In this novel, we see the ways in which rhetoric can be used successfully as well as times when it acts as an impediment instead of an accessory. Rather than throwing the reader into a courtroom to analyze a heated rhetorical battle, Faulkner takes us a step backward in the process, reminding us that rhetoric has not one, but *two* integral components. Rhetoric is clearly a tool in which we can persuasively convey our version of the truth; however, by starting the action as if leading toward a trial but then pulling us back to the investigation stage of the plot, Faulkner reminds us of the equally important component of rhetoric as a tool to

discover truth. Going beyond this simple fact, Faulkner illustrates how integral this second component of rhetoric proves to be in legal practice.

Chapter Three

"The Same in the House as He Is in the Public Streets"

Atticus Finch's Redemption for the Legal Practice in *To*

Kill a Mockingbird

Many similarities exist between Faulkner's *Intruder in the Dust* and Harper Lee's *To Kill a Mockingbird*: both stories take place in a small Southern town, saturated with prejudice and racism, both protagonists defend wrongly-accused black defendants, and, perhaps most importantly, both novels allow the reader to view the action through the eyes of an innocent rather than the lawyer himself. However, these two

Chapter Three

no “The Same in the House as He Is in the Public Streets”

we see Gavin's short, cynical, close-minded, jailed view grows into

Atticus Finch's Redemption for the Legal Practice in *To*

Mockingbird highlights the cynical view of the law; like *Intruder in the Dust*, many legal fictions take a cynical view of lawyers. Crisahan's Rudy Baylor, with his obscure reasons for entering the legal profession and dreams of monetary success, is supremely cynical; Warren's Willie Stark begins with pure idealism, but, failing to push his agenda evolves into a pure pragmatist. Only Atticus Finch, easily the most honorable and likeable of the four lawyers, manages to encapsulate both idealism and pragmatism into his position of law. Lee's depiction of Atticus Finch through the eyes of his young daughter captures the subtleties of the ancient rhetoricians: in order to succeed, one must be well-versed and skilled. A lawyer cannot fully separate his ideals from the demands of practicing; rather, he must be so sure in his ideals that he can effectively use rhetoric to convey them.

The classic legal fiction *To Kill a Mockingbird* tells the story of Jean Louise (Scout) Finch, growing up in the small town of Maycomb, Alabama in the 1930s. The plot centers around the trial of Tom Robinson, a young black man falsely accused of raping a white woman. Unlike *Intruder in the Dust*, which used rhetoric mainly as a tool

Many similarities exist between Faulkner's *Intruder in the Dust* and Harper Lee's *To Kill a Mockingbird*: both stories take place in a small Southern town, saturated with prejudice and racism, both protagonist lawyers defend wrongly-accused black defendants, and, perhaps most importantly, both stories allow the reader to view the action through the eyes of an innocent rather than the lawyer himself. However, these two novels use their innocent narrators in very different ways. Through Chick's innocence, we see Gavin's shortcomings; his close-minded, jaded view prevents him from considering the innocence of his client. Conversely, Scout's innocence in *To Kill a Mockingbird* highlights the inherent goodness of her father. Faulkner is not alone in his cynical view of the law; like *Intruder in the Dust*, many legal fictions take a critical view of lawyers. Grisham's Rudy Baylor, with his obscure reasons for entering the legal profession and dreams of monetary success, is supremely cynical; Warren's Willie Stark begins with pure idealism, but, failing to push his agenda evolves into a pure pragmatist. Only Atticus Finch, easily the most honorable and likeable of the four lawyers, manages to encapsulate both idealism and pragmatism into his practice of law. Lee's depiction of Atticus Finch through the eyes of his young daughter supports the arguments of the ancient rhetoricians: in order to succeed, one must be both good *and* skillful. A lawyer cannot fully separate his ideals from his course of action, but rather must be so sure in his ideals that he can effectively use rhetoric to convey them.

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of discovery, *To Kill a Mockingbird* with its courtroom setting focuses on the conveyance rather than the discovery of truth. Though the trial concludes with a loss for Atticus Finch and the black man he was defending, Lee's novel reminds us again that whatever the outcome, the law gives a person a chance to tell his story, and gives the lawyer the integral role of the storyteller.

Despite Atticus's loss in the courtroom, Lee nevertheless wishes the reader to view him as a success. By including so many anecdotes, character descriptions, and nondescript everyday occurrences, Lee successfully weaves in a clear depiction of the town's character. In one such aside, Scout comments that, "in Maycomb County, hunting out of season was a misdemeanor at law, a capital felony in the eyes of the populace (Lee, 37). Thus from the outset, Lee plants the seed that Maycomb has two types of justice: that which is written by law and upheld by the legal system, as well as strict rules and social codes judged by Maycomb society. Just as the crime of hunting out of season has one definition in court and another in town, Lee suggests that a trial with a guilty verdict can nevertheless be seen differently by the jury of Maycomb's front porches. Consequently, when the Ewells win their trial they still feel the need to punish Atticus because, as he explains, "It might be because he knows in his heart that very few people in Maycomb really believed his and Mayella's yarns. He thought he'd be a hero, but all he got for his pain was...was, okay, we'll convict this Negro but get back to your dump" (263). Thus, knowing from the start that he will not be able to overcome the racial barriers of his society, Atticus still takes the case, sensing the moral importance of telling Tom's story.

Lee depicts Atticus as an almost omniscient character. Atticus realizes before the trial even begins that he has no chance of winning, a sentiment that he does not shelter from Scout when she asks, responding “No honey...simply because we were licked a hundred years before we started is no reason for us not to try to win” (Lee 84). While this alone is not a difficult outcome to predict, Atticus appears to be one of the only people who realizes the importance of taking the case to trial, despite the fact that, “in the secret courts of men’s hearts Atticus had no case. Tom was a dead man the minute Mayella Ewell opened her mouth and screamed” (Lee 254). While many of his fellow townspeople believe Tom’s story, Atticus alone understands his power as a storyteller. Lee emphasizes the idea that one always deserves the chance to have his story told; as Atticus explains to one of Tom’s supporters, “Link that boy might go to the chair, but he’s not going till the truth’s told...and you know what the truth is” (Lee 156).

In addition to his determination to tell Tom’s story, Atticus also seems to realize that despite a guilty verdict other victories can be gained. Atticus’s omniscience allows him to look beyond the immediate outcome of the trial. Before the trial begins, he explains his reasoning to his brother:

It couldn’t be worse, Jack. The only thing we’ve got is a black man’s word against the Ewells’. The evidence boils down to you-did—I-didn’t. The jury couldn’t possibly be expected to take Tom Robinson’s word against the Ewells’...before I’m through I intend to jar the jury a bit—I think we’ll have a reasonable chance on appeal, though. (Lee 96)

Though sure that he will lose the case, Atticus realizes that by “jarring the jury a bit” he will force the town to rethink its prejudice, if only for a moment. Atticus proves his point

by forcing the jury to deliberate for hours: “that was the one thing that made me think, well, this may be the shadow of a beginning. That jury took a few hours. An inevitable verdict, maybe, but usually it takes ‘em just a few minutes” (Lee 235). Thus, both before and after the trial, Lee emphasizes that Atticus’s success or failure does not rest on the jury’s decision. She reiterates Atticus’s views through the voice of Miss Maudie, one of the few adults besides Atticus himself who has earned the respect of Scout:

I was sittin’ there on the porch last night, waiting. I waited and waited to see you all come down the sidewalk, and as I waited I thought, Atticus Finch won’t win, he can’t win, but he’s the only man in these parts who can keep a jury out so long in a case like that. And I thought to myself, well, we’re making a step, it’s just a baby-step, but it’s a step. (Lee 228)

Through Miss Maudie, Lee illustrates that Atticus’s small victory is more than simply his own opinion; it is shared by others in the town as well.

This analysis of the various ways in which Tom Robinson’s case can be seen as a victory is important as Lee unfolds her depiction of Atticus as the ideal lawyer. In *Intruder in the Dust*, Chick, as an actor, is able to produce physical proof of Lucas Beachamp’s innocence. Atticus, as a rhetor, has nothing to aid him but his power to persuasively tell Tom’s story, the effectiveness of which cannot be judged purely by the outcome of the trial.

As previously stated, Atticus’s success as an attorney stems not simply from his powerful rhetorical skills, but because he does not sacrifice his own ideals or morals to push an agenda. As Miss Maudie describes him: “Atticus Finch is the same in his house as he is on the public streets” (Lee 52). Atticus’s strict ethical code stems partially from

his own conscience. Several times Atticus repeats that he could not live with himself if he rejected the case: "This case, Tom Robinson's case, is something that goes to the essence of a man's conscience—Scout, I couldn't go to church and worship God if I didn't try to help that man" (Lee 113). Additionally, he emphasizes the importance of his own opinion of himself over others' opinions. When Scout questions why Atticus is defending Tom when so many people seem to think it's the wrong thing to do, he replies, "they're certainly entitled to think that, and they're entitled to full respect for their opinions...but before I can live with other folks I've got to live with myself. The one thing that doesn't abide by majority rule is a person's conscience" (Lee 113).

However, Lee strongly insinuates that even more than his conscience, Atticus's strict ethical code stems from the fact that he is his children's sole role model. By allowing the reader to view the world through Scout's eyes, Lee emphasizes the pivotal role that children play in this story. Just as Chick serves as an example for Gavin, Scout and her brother Jem force Atticus to practice what he preaches. He briefly touches on this when explaining to Scout the reasons why he must take Tom's case: "The main [reason] is, if I didn't I couldn't hold my head up in town, I couldn't represent this county in the legislature, I couldn't even tell you or Jem not to do something again...Because I could never ask you to mind me again" (Lee 83). At this point, his answer seems vague to both reader and narrator, and it is not until one of his last speeches in the novel that Atticus fully fleshes out his answer, when he believes the sheriff is trying to cover up Jem's part in Bob Ewell's death:

If this [death's] hushed up it'll be a simple denial to Jem of the way I've tried to raise him. Sometimes I think I'm a total failure as a parent, but I'm

all they've got. Before Jem looks at anyone else he looks at me, and I've tried to live so I can look squarely back at him...if I connived at something like this, frankly I couldn't meet his eye, and the day I can't do that I'll know I've lost him. I don't want to lose him and Scout, because they're all I've got. (288)

Atticus' speech illustrates one of the pivotal reasons for the child-narrator, for by telling the story through Scout, Lee emphasizes the strong influence Atticus has on his children. Through Scout's eyes, the reader can observe the profound affect Atticus's actions have on Scout's own view of the world. Atticus acts as a moral compass for his children, leading Scout to finally grasp a concept of true good and evil; when Atticus asks her if she understands the importance of believing that Mr. Ewell simply fell on his knife, she responds "well it'd sort of be like shootin' a mockingbird, wouldn't it?" illustrating her grasp on the values which Atticus has always instilled. Scout finally understands the sin of punishing someone purely innocent, from Tom Robinson, to Boo Radley, to mockingbirds "who don't do one thing but sing their hearts out for us" (Lee 94). As Rob Atkinson explains in his article "Liberating Lawyers: Divergent Parallels in *Intruder in the Dust* and *To Kill a Mockingbird*":

Scout's story sees her coming to appreciate, and revealing to us in the process, the fundamental virtue of her father and the essential rightness of his view—indeed, of his life. At the beginning, she thinks he is embarrassingly boring and not worth much; by the end, he is the bravest man that ever was. Atticus, it turns out, is right not only about Tom Robinson, Mayella Ewell's mischosen Lancelot, but also about Boo

Radley, Scout and Jem's unlikely guardian angel. His unorthodox child-rearing practices are implicitly vindicated in the very lives of his children, as his litigation strategy would have been, we are led to believe, if only Tom Robinson and listened and waited. (691)

By choosing Scout as the narrator, Lee ensures that we the readers take this journey with Scout, gradually increasing our respect for Atticus until we realize, perhaps not until Scout does at the end, just how the stories of destroying innocence intertwine.

Much like Faulkner in *Intruder in the Dust*, Lee uses the innocent narrator to emphasize the curiously powerful role of children in humanizing society, focusing on their ability to transcend common prejudices. As discussed in *Intruder in the Dust*, language can serve to box in a society's views, narrowed down to several succinct, constantly-repeated phrases. Lee provides a similar example when Atticus is forced to describe the term "nigger-lover" to Scout as "just one of those terms that don't mean anything—like snot-nose. It's hard to explain—ignorant, trashy people use it when they think somebody's favoring Negroes over and above themselves. It's slipped into usage with some people like ourselves, when they want a common, ugly term to label somebody" (Lee 117). In other words, the term works as a stock phrase, so easily repeated that people eventually begin to slip into the mentality behind it, just as the word slips into usage. In *Intruder in the Dust*, it is Chick's innocent open-mindedness that allows him to look past these stock phrases; in *To Kill a Mockingbird*, Scout's innocent questioning of these terms forces Atticus to come to terms with them as well.

Thus Lee's child narrator allows us to see the ways in which Atticus's children influence his own code of ethics. As the sole example to his children, Atticus feels

compelled to follow the guidelines he himself set forth, not only in order to raise his children correctly, but also from a fear of losing their respect. These strong morals allow Atticus to encapsulate not just one but both the criteria for successful rhetoric: to be good as well as skillful.

As discussed thoroughly in the *Intruder in the Dust* chapter, rhetoric has two primary purposes: as a means of discovering truth and a tool to portray truth. As Stanley Fish explains:

Two of these defenses are offered by Aristotle in the *Rhetoric*. First, he defines rhetoric as a faculty or art whose practice will help us to observe “in any given case the available means of persuasion” (1355b) and points out that as a faculty it is not in and of itself inclined away from truth. Of course, bad men may abuse it, but that, after all “is a charge which may be made in common against all good things.” “What makes a man a ‘sophist’” he declares, “is not his faculty, but his moral purpose.” (Fish 206)

Intruder in the Dust dealt almost exclusively with the former contingent, taking the “available means of persuasion”—the possible versions of events—to discover the truth. *To Kill a Mockingbird*, in its continuous contrast to Faulkner’s seemingly so similar novel, deals primarily with the latter. From the beginning, Lee presents no doubt that Tom Robinson is indeed innocent. While *Intruder* took place right after the supposed crime and well before the trial, Lee drops her readers down well after the discovery process has taken place, directly before the trial is about to begin. Atticus’s job is

convinced of Atticus’s “practical wisdom, virtue, and good will.” Grisham, with his

therefore to take Tom Robinson's version of the facts and present them as persuasively as possible to the jury, which is where his application of the rhetorician's tools begins.

As discussed in the analysis of Grisham's *The Rainmaker*, Aristotle presented three methods of proof as a means of persuasion: ethos, pathos, and logos. As Atticus's success stems from, as the ancient rhetoricians would say, being both good and skillful, his ethos is his strongest tool, for in Atticus it requires no manipulation. As Aristotle elaborated:

There are three reasons why speakers themselves are persuasive; for there are three things we trust other than logical demonstration. There are practical wisdom and virtue and good will; for speakers make mistakes in what they say through [failure to exhibit] either all or one of these; for either through lack of practical sense they do not form opinions rightly, or though forming opinions rightly they do not say what they think because of a bad character; or they are prudent and fair-minded but lack good will, so that it is possible for people not to give the best advice although they know [what] it [is]. There are the only possibilities. Therefore, a person seeming to have all these qualities is necessarily persuasive to the hearers.

(Aristotle 114)

Rudy, the young, green lawyer, obsesses over how he appears to the jury—an attitude which ultimately leads to his cynicism with the law. Lee, however, spends the better part of the novel describing Atticus not as a lawyer but simply as an ethical citizen, so that by the time the reader reaches the courtroom, he, like the townspeople and jury, are already convinced of Atticus's "practical wisdom, virtue, and good will." Grisham, with his

cynical view of law almost as a con game, takes the reader directly to the courtroom, seen through the eyes of a new lawyer who, though likeable, earns little respect from his reader. In contrast, Lee allows the reader to see for himself that Atticus is indeed “the same in the courtroom as he is in the public streets” (Lee 212).

Atticus is characterized by what Richard Lanham would call *homo serious* rather than *homo rhetorus*:

Homo serious or serious man “possesses a central self, an irreducible identity. These selves combine into a single, homogeneously real society which constitutes a referent reality for the men living in it. This referent society is in turn contained in a physical nature itself referential, standing “out there” independent of man. *Homo rhetoricus* or rhetorical man, on the other hand, “is an actor; his reality public, dramatic. His sense of identity depends on the reassurance of daily histrionic reenactment...The lowest common denominator of his life is a social situation...He is thus committed to no single construction of the world; much rather, to prevailing in the game at hand...Rhetorical man is trained not to discover reality but to manipulate it. Reality is what is accepted as reality, what is useful.” (qtd. in Fish 208)

However, here I see Lanham’s approach to rhetoric as too cynical. While it is true that Atticus fits the description of “serious man,” that is not to say that he therefore rejects all the practices of “rhetorical man.” Just because one’s reality is public and dramatic, as a courtroom setting often is, does not inherently presuppose manipulation and “prevailing in the game at hand.” Scout remarks her father’s distinct lack of drama in the courtroom

early on: "Atticus was proceeding amiably, as if he were involved in a title dispute. With his infinite capacity for calming turbulent seas, he could make a rape case as dry as a sermon" (Lee 180). Additionally, Atticus noticeably does *not* change his course of action. When Scout explains to Dill why the prosecuting attorney was so harsh with Tom, she says, "That's just Mr. Gilmer's way, Dill, he does 'em all that way. You've never seen him get good'n down on one yet. Why, when—well, today Mr. Gilmer seemed to me like he wasn't half trying. They do 'em all that way, most lawyers, I mean," and when Dill points out that Atticus does *not*, Scout responds, "'He's not an example, Dill, he's—I was trying to grope in my memory for a sharp phrase of Miss Maudie Atkinson's. I had it: 'He's the same in the courtroom as he is on the public streets'" (211-212). This description of Atticus is much more fitting with Aristotle's more forgiving view of rhetoric. Though rhetoric can obviously be abused by bad men, rhetoric in itself is not inherently evil, and when used by Atticus Finch, it is seen to be not only morally correct, but extremely effective.

As Atticus cross-examines Mayella Ewell, the young woman accusing Tom Robinson of rape, he employs the powerful technique of story-telling, allowing Mayella to unwittingly create the exact story he wanted for the jury: "Slowly but surely I began to see the pattern of Atticus's questions: from questions that Mr. Gilmer did not deem sufficiently irrelevant or immaterial to object to, Atticus was quietly building up before the jury a picture of the Ewell's home life" (Lee 194). Throughout the examination, Scout takes note of Atticus's passive stance in questioning: "Mayella jumped slightly at the question. Atticus was making his slow pilgrimage to the windows, as he had been doing: he would ask a question, then look out, waiting for an answer" (Lee 196). Atticus's lack

of aggression with the witness persuades her to be more open with him than she should. When Atticus pries into her relationship with her father, asking whether he ever abused her, Scout observes that he asks “so gently that Mayella nodded” (Lee 195). Again, though it is possible that Atticus’s stance is simply a rhetorical ploy, the reader is inclined to believe that it is simply his nature. In fact, he is so courteous to Mayella that she believes he is making fun of her, stating, “Long’s he keeps callin’ me ma’am an sayin’ Miss Mayella. I don’t hafta take his sass, I ain’t called upon to take it,” to which Judge Taylor responds, “That’s just Mr. Finch’s way... We’ve done business in this court for years and years, and Mr. Finch is always courteous to everybody. He’s not trying to mock you, he’s trying to be polite. That’s just his way” (Lee 193). Judge Taylor’s response highlights that this is Atticus’ typical rhetorical stance rather than one adopted specifically for the situation.

Despite these small rhetorical methods throughout his examination, Atticus’s strongest rhetorical stance is undoubtedly in his closing argument, as seen through the eyes of his children:

We looked down again. Atticus was speaking easily, with the kind of detachment he used when he dictated a letter. He walked up and down in front of the jury, and the jury seemed to be attentive: their heads were up, and they followed Atticus’s route with what seemed to be appreciation. I guess it was because Atticus wasn’t a thunderer.

Atticus paused, then he did something he didn’t ordinarily do. He unhitched his watch and chain and placed them on the table, and saying, “With the court’s permission—“

Judge Taylor nodded, and then Atticus did something I never saw him do before or since, in public or in private: he unbuttoned his vest, unbuttoned his collar, loosened his tie, and took off his coat. He never loosened a scrap of his clothing until he undressed at bedtime, and to Jem and me, this was the equivalent of him standing before us stark naked. We exchanged horrified glances..."Gentlemen," he said. Jem and I looked at each other: Atticus might have said, "Scout." His voice had lost its aridity, its detachment, and he was talking to the jury as if they were folks on the post office corner. (218)

In this description, Lee gives the reader the clearest evidence that Atticus is relying on his own ethos, as a moral citizen rather than a lawyer. Though Atticus "never loosened a scrap of his clothing," here he loses his lawyerly garb. In direct contrast to Grisham's Rudy Baylor, so intent on "looking lawyerly," Atticus speaks to the jury simply as a man, not only in dress but in diction, "talking to the jury as if they were folks on the post office corner." This supposedly simple gesture encapsulates one of Aristotle's rhetorical stances:

Since rhetoric is concerned with making a judgment (people judge what is said in deliberation, and judicial proceedings are also a judgment), it is necessary not only to look to the argument, that it may be demonstrative and persuasive but also [for the speaker] to construct a view of himself as a certain kind of person and to prepare the judge; for it makes much difference in regard to persuasion (especially in deliberations but also in trials) that the speaker seem to be a certain kind of person and this his

hearers suppose him to be disposed toward them in a certain way and in addition if they, too, happen to be disposed in a certain way [favorably or unfavorably to him]. (Aristotle 112)

After displaying himself to the jury as a simple man rather than a lawyer, Atticus goes about humanizing the jury, paralleling the mob scene outside the jail earlier in the novel. There, Scout broke up the mob, her childhood innocence allowing her to see the mob as a group of men, including the father of one of her classmates, rather than a mass. At the time, Atticus took note of the power:

A mob's always made up of people, no matter what. Mr. Cunningham was part of a mob last night, but he was still a man. Every mob in every little Southern town is always made up of people you know—doesn't say much for them does it?...So it took an eight-year-old child to bring 'em to their senses, didn't it?...That proves something—that a gang of wild animals *can* be stopped, simply because they're still human. (168)

Atticus acknowledges the simple power in separating man from the mob. From Scout's action, he observed that even a small child can remind a mob of grown men that they are still human beings. In his closing statement, he uses a similar technique:

I'm no idealist to believe firmly in the integrity of our courts and in the jury system—that is no ideal to me, it is a living, working, reality. Gentlemen, a court is no better than each man of you sitting before me on this jury. A court is only as sound as its jury, and a jury is only as sound as the men who make it up. I am confident that you gentlemen will review without passion the evidence you have heard, come to a decision, and

restore this defendant to his family. In the name of God, do your duty.

(218)

Again, Lee relates the morality promoted by Atticus's children and his own success in the courtroom, emphasizing again that one must not abandon his or her own beliefs and morals in rhetorical practice. Though he loses his case, Atticus undoubtedly gives us the most brilliant courtroom performance of any of the legal fictions analyzed here.

Through Atticus, Lee provides redemption for the legal practice, depicted so cynically in other works. Though truly a rhetorician, Atticus nevertheless displays the attributes prized by the ancient philosophers, encapsulating the definition of what Johnson describes as the "philosopher-orator" in "Ethos and the Aim of Rhetoric:" "The Platonic view defines rhetoric as an art that expedites the beholding of first principles; the orator bears witness to the ideal Good by being an incarnation of virtue. Plato's philosopher-orator reveals the absolute and universal through his intrinsic state" (Johnson 103). Atticus' intrinsic morality emanates throughout his legal practice, allowing him to truly be both good and skillful. The child narrator allows us to see the way in which Atticus's personal and professional worlds collide; however, unlike the other lawyers studied, Atticus is able to take this collision in stride, because he alone has the same ethics both personally and professionally. In a rarity for legal fiction, Lee actually presents a lawyer that one would *want* to emulate and respect, stemming from the simple nature to be "the same in his house as he is on the public streets."

"Yeah, I'm Governor, Jack, and the trouble with Governors is they think they got to keep their dignity. But listen here, there ain't anything worth doing a man can do and keep his dignity. Can you figure out a single thing you really please God like to do you can do and keep your dignity? The human frame just ain't built that way."

Chapter Four

In his novel *All the King's Men*, John Ford Warren illustrates the close connection between law and politics. "His old voice, his own voice"

The Dangers of Pragmatism in *All the King's Men*

discovering truth and personal responsibility is perhaps more than any other legal character studied. Willie is truly an expert at both aspects. However, in contrast to Atticus Finch, Willie illustrates that in the end it pays to be the same in your house as on the public streets. Over the course of the novel, Willie evolves from an idealist to a pragmatist, and as he does so, his rhetorical abilities improve drastically. As a pure pragmatist, Willie is wildly successful in achieving results, making vast social reforms across the state of Louisiana. However, in doing so, Willie routinely disregards the feelings of everyone around him, equality that eventually results in his own murder at the hands of two men who as do not overlook their loyalty for him: the Doctor Adam Stanton who had openly opposed Willie's views, and the Governor's Deputy, Willie's own deputy governor. Thus, despite his powerful rhetorical skills, Willie causes his own downfall by completely enveloping himself in his work, to the point where he loses all personal ideals to his political pragmatism. As R. Glenn Martin explains in his article, "Diction in Warren's *All the King's Men*."

"Yeah, I'm Governor, Jack, and the trouble with Governors is they think they got to keep their dignity. But listen here, there ain't anything worth doing a man can do and keep his dignity. Can you figure out a single thing you really please-God like to do you can do and keep your dignity? The human frame just ain't built that way."

In his novel *All the King's Men*, Robert Penn Warren illustrates the close connection between law and politics, for though Willie gets his start in law, it is in politics that he uses the two segments of rhetoric most efficiently, both ruthlessly discovering truth and persuasively conveying it. Perhaps more than any other legal character studied, Willie is truly an expert at both aspects of rhetoric. However, in contrast to Atticus Finch, Willie illustrates that in the end it pays to be the same in your house as on the public streets. Over the course of the novel, Willie evolves from an idealist to a pragmatist, and as he does so, his rhetorical abilities improve drastically. As a pure pragmatist, Willie is wildly successful in achieving results, making vast social reforms across the state of Louisiana. However, in doing so, Willie ruthlessly disregards the feelings of everyone around him, a quality that eventually results in his own murder at the hands of two men who could not overlook their hatred for him: the doctor Adam Stanton who had openly opposed Willie's views, as well as Tiny Duffy, Willie's own deputy governor. Thus, despite his powerful rhetorical skills, Willie causes his own downfall by completely enveloping himself in his work, to the point where he loses all personal ideals to his political pragmatism. As R. Glenn Martin explains in his article, "Diction in Warren's *All the King's Men*:"

The intricate web of circumstance which has killed Willie at the height of his success is not fortuitous. Willie's "crime" in his handling of people (which, through another henchman, Tiny Duffy, has directly set off the assassination events) is a "function of his virtue" (437); and Willie's life, all of a piece, has generated his own death. Warren thus poses, pessimistically, a deep question about the "American virtues": are they self-contradictory and self-defeating? (Martin 1170)

While I make no such broad claims about American virtues as a whole, it is quite apparent that Willie's pragmatic virtues led to his downfall. Thus Willie's progression from a man of idea to a man of action emphasizes the downfalls of relying purely on rhetorical abilities.

All the King's Men tells the story of Willie Stark, a Southern lawyer-turned-politician in the 1930's. The reader observes his rise from county treasurer to the governor of the state, as seen through the eyes of his cynical right hand man, Jack Burden. Jack Burden begins the novel as a political reporter who observes Willie's first unsuccessful campaign for governor, where he is used by a political machine to split the vote. However, after discovering the plot, Willie resigns as a candidate, but vows to run later, becoming a successful rhetorician and staunch pragmatist along the way. However, Willie's ruthless drive to succeed, coupled with his pragmatic view of right and wrong, results in his murder, set up by his own lieutenant governor, Tiny Duffy. The story mirrors the life of Huey P. Long, the former governor and senator of Louisiana in the mid-1930s.

Like *Intruder in the Dust* and *To Kill a Mockingbird*, Warren's novel allows the reader to observe the legal figure through the eyes of a narrator rather than the lawyer himself. However, unlike these other works, *All the King's Men* does not employ an innocent narrator such as Scout or Chick. While Faulkner's narrator highlights his lawyer's ineptitude and Lee's highlights her lawyer's morality, Warren's cynical narrator Jack Burden emphasizes his lawyer's pragmatism. Though Willie tells powerful stories, Jack serves to take the magic out of them, leaving the reader with a cynical view of Willie not shared by his constituents. The common people in the novel see only the story that Willie weaves for them; through Jack Burden, the reader sees Willie's efforts at telling this story. At one point in the novel, after Willie fights a winning battle against impeachment, Jack observes Willie's speech to a crowd:

I was almost sorry, the next day as I looked out the high window at the mass of people filling the streets and the wide sweep of lawn beyond the statues in front of the Capitol, that I knew what I knew. If I hadn't known, I could have stood there in the full excitement of the possibilities of the moment. But I knew how the play would come out. This was like a dress rehearsal after the show had closed down. I stood there and felt like God-Almighty brooding on history. (Warren 150)

For Jack, and consequently for the reader, no anticipation or excitement remains behind Willie's public life; both are privy to the dirty underside of Willie's political career. This interesting vantage point serves to emphasize Willie's disassociation from his public image. Through Jack, the reader sees that Willie is definitively not the same in his house as he is in the public streets.

Warren emphasizes the importance of rhetoric through his first description of rhetoric. Before jumping back to the beginning of Willie's political career, Warren drops the reader into the midst of his gubernatorial career, where he is giving a speech in Mason City. He uses this speech to illustrate the metamorphosis that Willie undergoes before a speech:

You saw the eyes bulge suddenly like that, as though something had happened inside him, and there was that glitter. You knew something had happened inside him, and thought: *It's coming*. It was always that way. There was the bulge and the glitter, and there was the cold grip way down in the stomach as though somebody had laid hold of something in there, in the dark which is you, with a cold hand in a cold rubber glove. (Warren 9)

The physical description of Willie's change during his speech suggests that Willie the orator and Willie the person are two separate entities, giving the impression that his speeches are not genuine.

Jack continues to emphasize the discrepancy between Willie the person and Willie the rhetorician as he describes him speaking, "In his old voice, his own voice. Or was that his voice? Which was his true voice, which one of all the voices, you would wonder" (Warren 10). Thus from the very beginning, Warren establishes Willie's lack of self in his speechmaking. This effect works well with Willie's speech, allowing him to adopt multiple personalities and therefore appeal to multiple people. When he wants to fire up his voters, he has one voice, but when appealing to their sense of community and down-home roots, he employs yet another voice. As he begins to talk about going home to his farm to see his Pappy, he insists, "'No,' he said, and it was another voice, quiet and

easy and coming slow and from a distance, 'I'm not here to ask for anything today'" (Warren 11). Though his speeches are no doubt effective, his lack of voice, pointed out by the narrator so early on, suggests that Willie's speeches are simply an act. Jack's reference to "his old voice, his own voice," implies that Willie had once been genuine, but had lost his true voice over the course of his political career.

The remainder of Jack's description highlights the brilliant oratory skills of Willie Stark. Perhaps more than any other speech analyzed thus far, Willie's opening speech employs a wide array of classic rhetorical devices. For instance, he begins his speech stating, "I'm not going to make any speech, the Boss said, and grinned. But the eyes were still big and the glitter was in them. 'I didn't come here to make any speech. I came up here to go out and see my pappy, and see if he's got anything left in the smokehouse fit to eat'" (Warren 9). By denying that he is making a speech while concurrently doing so, Willie employs apophasis, a rhetorical technique "whereby we really say or advise a thing under a feigned show of passing over, or dissuading it" (OED). In this sense, Willie's speech mirrors that of Plato's *Apology*, previously analyzed as one of the first examples of rhetoric. Socrates continuously denies his use of rhetoric, while at the same time consistently using it throughout his speech. In *All the King's Men*, apophasis serves a similar purpose for Willie Stark. By claiming not to make a speech, he sets himself apart from other politicians pandering for votes, while really doing just that. Again, with Jack as the cynical narrator, the reader is privy to Willie's subtle manipulation of the crowd, for as soon as Willie denies making a speech, he grins and Jack notes that, "the eyes were still big and the glitter was in them," implying that Willie knows exactly what he is doing.

In the same phrase, Willie also establishes pathos and ethos, previously discussed as two of Aristotle's three methods of proof. By following his denial with the explanation that he is going to visit his father, Willie appeals to the emotions of the crowd and establishes himself as a human being, a son, rather than a politician. He emphasizes this by claiming to take the day off from politics: "I'm taking the day off, and I've come home" (Warren 11). Willie continues to establish his ethos in yet another of his many voices. When heckled by a member of the crowd, Jack describes Willie's reaction:

He stopped, and looked all around, right down at them, moving his head slow, so that he seemed to look right in a face here and stop for just a split second, and then to move on to another one a little farther. Then he grinned, and his eyes blinked, and he said, 'Huh? What's the matter? Cat got yore tongue?'"(Warren 10).

Willie's dramatic spanning of the crowd heightens the tension before he relieves it with a joke, following up the statement with, "Dammit...lie on yore stummick and go to sleep!" Warren's colloquial spellings stress Willie's common vernacular—one of his many voices, and a key way in which he ingratiates himself to his audience.

Warren creates an initial image of Willie as a powerful orator in the height of his political career. By emphasizing Willie's power through a brilliant speech ripe with rhetorical devices, Warren presents a powerful image with which to juxtapose Willie's humble beginnings as a man of idea rather than a man of action. After painting this vivid picture of the governor, Warren transports his reader back to the beginning of Willie's political career, thus highlighting the distinct difference in his rhetorical abilities and subsequent political success. Warren uses Willie's rhetorical abilities as a gauge of his

pragmatism; as Willie's pragmatism increases, evolving from his original idealism, so does his rhetoric. Through Jack's cynical memory, the reader becomes even more exposed to the vast transformation that Willie undergoes, jumping from this initial speech back to his stumbling political start as a dummy set up by a political machine to split an opponent's votes.

However, before Willie foray into politics, he began as a lawyer, which is, of course, the primary focus of this paper. After a brief stint as County Treasurer, Willie returns to his father's farm, "helping with chores...and at night he was plugging away at his books, getting ready for the bar examination" (Warren, 61). Warren stresses the long, hard, task of working during the day and studying law at night in order to give the reader a picture of a completely different Willie Stark: a young idealist determined to learn the law thoroughly, to honestly earn his law degree. However, after his long years of studying, Willie comes to find that only a fraction of his knowledge is useful for the bar exam. Thus, Willie receives his first lesson in the apparent power of pragmatism over idealism:

He was a lawyer now and it had taken him a long time. It had taken him a long time because he had had to be a lawyer on his terms and in his own way. But that was over. But maybe it had taken him too long. If something takes too long, something happens to you. You become all and only the thing you want and nothing else, for you have paid too much for it, too much in wanting and too much in waiting and too much in getting. In the end they just ask you those crappy little questions (Warren, 68).

Warren uses Willie's bar exam experience as a metaphor for his future political ideals.

From this experience, Willie begins to see the difficulty in holding to his idealism, in becoming "all and only the thing you want and nothing else." The image of encompassing what you want represents a particularly important facet of Willie's transformation, for after his early experiences Willie is careful to separate himself from all of his actions; he adopts different political voices, without ever using his own, and even appears to shunt his contrasting qualities and morals into those around him, with Tiny Duffy representing his political pragmatism and Adam Stanton, an idealistic doctor, representing his high-minded ideals, rather than attempting to encapsulate them all in himself.

Though the law begins to teach Willie the power of pragmatism as well as the complexity of human nature, he harbors ambitions that allow him to be blinded by the thought of success. Thus, when approached to run for governor, Willie eagerly reverts back to his original idealism, determined to illustrate the good he could do for his state. However, in his idealistic mindset, Willie is unable to successfully convey his plans to his audiences. As Jack explains, Willie ignores what the law has taught him:

He knew something about human nature, all right. He'd sat around the county courthouse long enough to find out something...he knew something about human nature, but something now came between him and that knowledge. In a way, he flattered human nature. He assumed that other people were as bemused by the grandeur and as blinded by the light of the post to which he aspired, and that they would only listen to argument and language that was grand and bright. So his speeches were cut to that measure. It was a weird mixture of facts and figures on one

hand (his tax program, his road program) and of fine sentiments on the other hand (a faint echo, somewhat dulled by time, of the quotations copied out in the ragged, boyish hand in the big ledger) (Warren, 69).

After describing the pragmatic Willie's persuasive and engaging speech in the first few pages, Warren now reverts back to Willie's first idealistic speeches. Warren highlights Willie's idealism with his bright imagery: "blinded by the light," using "language that was grand and bright," but contrasts the imagery against the actuality of his speeches: a "weird mixture of facts and figures," ideas that were "dulled by time." Warren thus emphasizes the discrepancy between Willie's ideas and his conveyance of them.

After jumping back to the beginning of Willie's political career, Jack narrates the failure of his first campaign, not from the point of view of an insider, but from the objective vantage point of a political reporter assigned to cover the campaign. After carefully detailing the nuances of Willie's rhetorical abilities at the outset of the novel, Jack proceeds by doing justice to Willie's earlier, failed attempts at public speaking:

Nobody would listen to the speeches, including me. They were awful.

They were full of facts and figures he had dug up about running the state.

He would say, "Now friends, if you will bear patiently with me for a few

minutes, I will give you the figures," and he would clear his throat and

fumble with a sheet of paper and backbones would sag lower in the seats

and folks would start cleaning their fingernails with their pocket knives. If

Willie had ever thought of talking to folks up on the platform just the way

he could talk to you face to face when he got heated about something,

leaning at you as if he meant every damned word he said and his eyes

bugging out and shining, he might have swayed the constituency. But no, he was trying to live up to his notion of a high destiny (Warren 71).

In stark contrast to Willie's later speeches, here Willie's earnest idealism makes him boring and unsuccessful. Warren subtly presents this speech as juxtaposition to Willie's Mason City speech at the beginning of the novel. By comparing the opening lines of each, we can see the nuanced differences between the two. In his Mason City speech, Willie begins by denying that he is making a speech at all, thereby intriguing the audience with his use of apophasis: "'I'm not going to make any speech,' the Boss said, and grinned. But the eyes were still big and the glitter was in them" (Warren 9). In contrast, Willie begins this speech with, "Now friends, if you will bear patiently with me for a few minutes, I will give you the figures" (Warren 71). Here, the sincere, idealistic Willie is too concerned with expressing his ideas to the audience, with ensuring that they understand his platform. By spelling out exactly what he will be talking about, Willie believes he can win the crowd over with his ideas; however, his speech then lacks the drama and entertainment of his Mason City speech. Jack continues the comparison by specifically pointing out specifically the absence of Willie's "eyes bugging out and shining" that later signify the coming of a speech: "You saw the eyes bulge suddenly like that, as though something had happened inside him, and there was that glitter. You knew something had happened inside him, and thought: *It's coming*" (Warren 9). The similar language in both of Jack's narrations highlights the complete transformation of Willie from idealist to pragmatist via his rhetorical skills.

Warren adds further emphasis to the importance of rhetoric in Willie's evolution by using it as the link between Willie and Jack, the element that finally brings them

closer than simply reporter and politician. Jack serves as the wake up call to Willie, the person who tells him the problem with his speeches:

I heard the speech. But they don't give a damn about that. Hell, make 'em cry, make 'em laugh, make 'em think you're their weak erring pal, or make 'em think you're God-Almighty. Or make 'em mad. Even mad at you. Just stir 'em up, it doesn't matter how or why, and they'll love you and come back for more. (Warren 72)

Perhaps unknowingly, Jack serves as the catalyst in Willie's political career; in this explanation, he bluntly tells Willie to completely abandon ethos and logos—his own credibility and logical arguments—in favor of pathos. At first Willie resists, attempting to explain to Jack why his platform is so important: “‘Look here—’ and he leaned in at me—‘what this state needs is a new tax program. And the rate ought to be raised on the coal lands the state’s got leased out...’” (Warren 78). Jack, however, again points out the pitfalls of Willie's idealism: “I had heard it all before. On the platform when he stood up there high and pure in the face and nobody gave a damn” (Warren 78). This moment, coupled with Willie's realization that he has been nothing more than a pawn used by a political machine to split votes, signals the turning point in Willie's evolution from idealist to pragmatist. Jack witnesses Willie's terrible, idealistic speech, followed by his first successful speech only hours after Jack points out his shortcomings.

The day after discovering he has been played for a fool, Willie gives his first pragmatic speech. Again, in contrast to his previous speech, this time Willie begins with apophasis, denying that he is giving a speech at all: “I'm not going to read you any speech. You know what you need better'n I could tell you. But I'm going to tell you a

story" (Warren 90). As discussed thoroughly throughout this study, one of the most important rhetorical tools utilized by legal figures is the power of storytelling, thereby engaging the audience. The use of the tool seems to mark the turn from idealist to rhetorician. In style, too, this speech contrasts Willie "facts and figures" speech. From the lecture-like, "now friends, if you will bear patiently with me for a few minutes I will give you the figures," evolves "you know what you need better'n I could tell you." Rather than talking down to them, Willie immediately engages the audience's pathos, and in altering his style of speech, he immediately establishes his credibility as a man of the people. He continues his story-telling technique:

It's about a hick. It's about a red-neck, like you all, if you please. Yeah like you...oh, he knew what it was to be a hick, summer and winter. He figured if he wanted to do anything he had to do it himself. So he sat up nights and studied books and studied law so maybe he could do something about changing things. He didn't study that law in any man's school or college. He studied it nights after a hard day's work in the field. So he could change things some (Warren 91).

In this speech, Willie takes control by becoming his own narrator, speaking in the third person in order to tell his own story. He increases his ethos by likening himself to the audience, "a red-neck, like you all...yeah, like you." He establishes himself as one knowledgeable of the law, but not in a way that places him superior to his audience. Though Willie's speech is wildly successful, he resigns his campaign, determined to run on his own merit rather than as someone's pawn.

Warren emphasizes the interplay between politics and law by taking Willie out of the world of politics and once more placing him in the role of attorney. However, he suggests that this period as a lawyer completes Willie's transformation into a pragmatist. Warren uses his narrator as a tool in this evolution. Because the reader only sees the story through the eyes of a political reporter, Willie's years as a lawyer become important but undocumented; one sees only the beginning of the transformation in his story speech, and then, years later during the Democratic primary, Willie as a fully-evolved pragmatist: "there wasn't any Democratic party. There was just Willie, with his hair in his eyes and his shirt sticking to his stomach with sweat. And he had a meat ax in his hand and was screaming for blood" (Warren 97).

However, though Willie abandons his legal career in favor of politics, his pragmatic interpretation of the law serves to guide his political pragmatism as well, used to justify his role as a man of action:

No...I'm not a lawyer. I know some law. In fact, I know a lot of law. And I made me some money out of law. But I'm not a lawyer. That's why I can see what the law is like. It's like a single-bed blanket on a double bed and three folks in the bed and a cold night. There ain't ever enough blanket to cover the case, no matter how much pulling and hauling, and somebody us always going to nigh catch pneumonia. Hell, the law is like the pants you bought last year for a growing boy, but it is always this year and the seams are popped and the shankbone's to the breeze. The law is always too short and too tight for growing mankind. The best you can do is do something then make up some law to fit and by the time that law gets on the books

you would have done something different. Do you think half the things I've done were clear, distinct, and simple in the constitution of this state? (Warren 136).

In this pivotal speech, Willie encapsulates his political outlook. He is explaining to his Attorney General his justifications for bailing out one of his henchmen accused of bribery. The speech epitomizes Willie's pragmatic viewpoint: it is unimportant to do things the honorable way, as long as they get done. We can see here a direct contrast to Atticus Finch's philosophy of doing what is right, even if you are unsuccessful, a theory that will eventually cause Willie's downfall. His metaphor of the law as a blanket that can never quite stretch to cover the whole case echoes the rhetorical idea of no objective truth—what is “correct” or “right” changes so frequently that it is pointless to attempt to pin it down—but more importantly, Willie's theory embodies Richard Posner's more recent definition of legal pragmatism:

The pragmatist's real interest is not in truth at all, but in the social grounds of belief (“warranted assertability”). This change in direction does not necessarily make the pragmatist unfriendly to science (there is a deep division within pragmatism over what attitude to take toward science), but it shifts the emphasis in thinking about science from the discovery of nature's eternal laws to the formulation of theories motivated by the desire of human beings to predict and control their natural and social environment. (Posner 390)

Thus, one could say that the pragmatist takes a more aggressive approach to rhetoric. The pragmatist Willie Stark is less concerned with discovering truth for the sake of

knowledge and more concerned with how that knowledge can further his own agenda. As the legal pragmatist defines it, "truth is what is fated to be believed, or what is good to believe, or what survives in the competition among ideas, or what the relevant community agrees on" (Poser 390). Willie's search for truth stems from this theory; he sends Jack in search of "truth," in the form of dirt on his political opponents, in order to blackmail and control them. Coupled with his persuasive rhetorical ability to convey the truth that he wants to impress on his audience, one can see Willie Start as the epitome of the rhetorician condemned by ancient philosophers. More than any other legal figure studied, Willie uses rhetoric as "language that is infected by partisan agendas and desires, and therefore colors and distorts the facts which it purports to reflect" (Fish 205).

Warren therefore paints a picture of a pragmatic and manipulative politician's effective use of rhetoric. One cannot argue against the effectiveness of Willie's brilliant rhetorical abilities, yet this does not mean that Warren is condemning the practice of rhetoric. Rather, we again must look back to Stanley Fish's interpretation of Aristotle's theory: "Rhetoric...as a faculty is not in and of itself inclined away from the truth. Of course, bad men may abuse it, but that, after all "is a charge which may be made in common against all good things." 'What makes a man a sophist' [Aristotle] declares, 'is not his faculty, but his moral purpose'" (Fish 206).

Willie's rhetorical success has a bad the "moral purpose" that Fish associates with rhetoricians. Warren illustrates this idea with Willie's ultimate downfall at the hands of both his own henchman Tiny Duffy, as well as Adam Stanton, the man of idea who condemns all that Willie stands for. For a majority of the novel, it appears that Willie will succeed in his abuse of rhetorical tools, but in the end, his lack of true ethos, his lack of a

true voice brings his downfall. Through the narrator's attempt to stay loyal to both the man of fact and the man of idea, Warren illustrates that one can succeed with neither pure pragmatism nor with pure idealism:

As a student of history, Jack Burden could see that Adam Stanton, whom he came to call the man of idea, and Willie Stark, whom he came to call the man of fact, were doomed to destroy each other, just as each was doomed to try to use the other and to yearn toward and try to become the other, because each was incomplete with the terrible division of their age.

(Warren 436)

From Willie Stark, therefore, we learn both the danger and awesome power that stems from the abuse of rhetorical tools. But more importantly, we see the importance of ethos in rhetoric as more than a tool to convince your audience of your credibility. Willie's downfall did not result from his lack of rhetorical ethos, but from his actual lack of credibility, his belief that "there ain't anything worth doing a man can do and keep his dignity" (Warren 49). In Willie, we see that one must utilize rhetorical tools without losing "his old voice, his own voice."

The primary goal of this study has been to determine the importance of rhetorical devices in becoming an effective lawyer. In order to be successful, a lawyer must be able to convey his or her version of the truth to a jury. We have seen that stories are an important tool with which to do so, but an equally important aspect to examine is the utilization of those stories. How can a lawyer's story—the

Conclusion

“A good man skilled in speaking”

Quintilian's Orator as the Ideal Lawyer

—for the purpose of creating an ethos—can be woven into a story? Does a lawyer's ethos support his story, or must he tell a story to create his ethos?

Referring back to the history of rhetoric, one can see a parallel to the philosopher/rhetorician debate—how much depends on the speaker's actual credibility, and how much depends simply on what the speaker convinces you of his credibility? After studying these four texts, I have encountered four distinctly different lawyers: Rudy Baylor in *The Rainmaker*, Gavin Stevens in *Journeys in the Dust*, Willie Stark in *All the King's Men*, and Atticus Finch in *To Kill a Mockingbird*. Each of these four lawyers epitomizes a different philosophy on a lawyer's role. Rudy's disregard for ethics and concern for monetary success make him especially cynical. Willie Stark, a politician, is a poor idealist, but, failing to push his agenda, evolves into a pragmatist. Gavin Stevens, with his jaded experience, has a close-minded outlook on the world. Only Atticus Finch, easily the most honorable and likable of the four, successfully incorporates both idealism and pragmatism into his practice of law.

The primary goal of this study has been to determine the importance of rhetorical devices in becoming an effective lawyer. In order to be successful, a lawyer must be able to convey his or her version of the truth in an effective manner. We have seen that stories are an important tool with which to do so, but an equally important aspect to examine is the utilization of those stories. The lawyer has the job of telling his or her story—the *logos*—for the purpose of persuading an audience—the *pathos*—but how much of the lawyer's credibility—or *ethos*—can be woven into a story? Does a lawyer's *ethos* support his story, or must he tell a story to create his *ethos*?

Referring back to the history of rhetoric, one can see a parallel to the philosopher/rhetorician debate—how much depends on the speaker's actual credibility, and how much depends simply on what the speaker convinces you of his credibility? After studying these four texts, I have encountered four distinctly different lawyers: Rudy Baylor in *The Rainmaker*, Gavin Steven in *Intruder in the Dust*, Willie Stark in *All the King's Men*, and Atticus Finch in *To Kill a Mockingbird*. Each of these four lawyers epitomizes one or more philosophies on a means to an end. Rudy's obscure reasons for entering the legal profession and dreams of monetary success make him supremely cynical. Willie Stark begins with pure idealism, but, failing to push his agenda, evolves into pure pragmatism. Gavin Stevens, with his jaded experience, has a close-minded outlook bordering on empiricism. Only Atticus Finch, easily the most honorable and likeable of the four lawyers, manages to encapsulate both idealism and pragmatism into his practice of law.

Rudy Baylor's cynicism and self-deprecation make him a humorous and likeable character, but not necessarily a respectable one. Both in content and in tone, Grisham succeeds with Rudy by creating a relatable character, not the epitome of an ideal lawyer.

The content of the novel clearly highlights Rudy's cynicism for his chosen vocation. Rudy is not particularly moral, nor does he have incredibly honorable intentions for his law career. Rudy picks his law career to anger his father, who hates lawyers. He begins his law career by chasing ambulances for his shady boss, Bruiser, before stumbling upon the Great Benefit Case. Though Rudy eventually takes up the cause wholeheartedly, he first takes the case simply to peddle to various law firms that might offer him a job. Rudy seems to believe that honor and integrity are impossible standards to uphold, and when, for example, he discovers that opposing counsel has tapped his phone lines, he uses the information to his advantage to manipulate the other lawyers. Perhaps the most telling illustrations of Rudy's cynicism occur outside of the courtroom, and indeed outside of his law career. After accidentally beating a man to death, Rudy is content to obstruct justice, knowing that the woman who takes the fall for him will not be charged. Rudy then proceeds to renounce his law career entirely, and sets off to start a new life as a history teacher. The facts of the novel alone present an incredibly cynical character, who sees the law simply as a job, separate from his personal life, morals, and values.

While Rudy's actions alone are enough to demonstrate his cynicism, the tone of his narration also helps to highlight his disregard for the honor and nobility of the legal profession. Grisham's efforts to create a down-to-earth, run-of-the-mill character results in a lawyer to whom many can relate, but whom few would respect. As a narrator, Rudy

creates ironic distance between himself and the other characters with his biting sarcasm and ridicule of everyone around him. Rudy makes references to “looking quite lawyerly” and “putting on a sympathetic face,” suggesting that his lawyer persona is simply a façade, in no way connected to his actual being. In Rudy, Grisham creates the epitome of the cynical lawyer: one who completely separates his own views and values from those of his profession. He is motivated by self-interest above all else.

Faulkner’s lawyer Gavin Stevens faces arguably the opposite problem in *Intruder in the Dust*. While Rudy completely separates himself from his profession, Gavin completely envelops his own views and values into his profession, refusing to see any other possibilities. Unlike Rudy, Gavin operates on years of experience allowing him to believe he has heard all the stories the law has to tell. He is unable to accept what the study of rhetoric emphasizes—the concept of multiple versions of reality. Gavin attempts to prove his ethos to Lucas, insisting that he is there to defend him. However, Gavin destroys his own credibility as a competent lawyer when he refuses to listen to Lucas’s story. Instead, he constantly interrupts him, altering the story constantly, but to the same end: Lucas is guilty of shooting a man in the back.

We learn from rhetoric that Gavin, as a lawyer, should be able to enter the courtroom (though in this case the story never even gets that far) with no established truths, only competing stories. However, Gavin ultimately fails to live up to the expectations of his profession. Unlike Rudy, who fails after the courtroom drama is resolved, Gavin fails before even reaching the courtroom to begin with, because, as previously concluded, rhetoric is a two part process. One must first use rhetoric to discover the truth before one can use rhetoric to relate that truth.

In contrast, Willie Stark of Robert Penn Warren's *All the King's Men* evolves from a pure idealist to a pure pragmatist with little compromise. Warren presents the idea in his theme of "the man of action versus the man of idea." Willie starts as a man of idea, a complete idealist; however, Willie soon learned that his idealism got him nowhere. As Jack the narrator described Willie during his first unsuccessful campaign for governor, when Willie was trying once again to convince Jack on the necessity of his new tax program, "I had heard it all before. On the platform when he stood up there high and pure in the face and nobody gave a damn" (Warren 78). Warren presents Willie's idealism as an inverse relation to his awesome rhetorical abilities. In the first part of the novel, when Willie harbors his idealism, his speeches are awful; as his pragmatism increases, so do his rhetorical abilities. When his high-browed idealism fails to create results, Willie becomes a pragmatist, focusing solely on the end means rather than an honorable method of reaching them.

Similarly to Grisham, Warren uses the plot of the novel to illustrate the downfalls of his characters' philosophies. Warren demonstrates that neither pure idealism nor pure pragmatism create a successful lawyer—or in Willie's case, a lawyer-turned-politician. As an idealist, Willie accomplishes nothing, for his idealism does not allow him the power to successfully persuade others to follow his course of action. As a pragmatist, Willie is wildly successful in achieving results, making vast social reforms across the state of Louisiana. However, in doing so, Willie ruthlessly disregards the feelings of everyone around him, a quality that eventually results in his own murder at the hands of two men who could not overlook their hatred for Willie: the doctor Adam Stanton who had openly opposed Willie's views, as well as Tiny Duffy, Willie's own deputy governor.

Grisham's cynic, Rudy Baylor, failed by keeping himself completely separated from his profession when his ideals conflicted with his job. In contrast, Willie Stark causes his own downfall by completely enveloping himself in work, to the point where he lost all personal ideals to his political pragmatism. Thus in the end, Willie died at the hand of Adam Stanton for having an affair with his sister Anne—a secret told to Adam by Willie's own deputy governor who had always resented Willie's treatment of him.

While Rudy, Gavin, and Willie fail in their uncompromising philosophies, hope for the legal profession remains in the form of Harper Lee's Atticus Finch, who manages to encapsulate both idealism and pragmatism simultaneously, creating a balance between the two. Rather than separating himself completely from his work as Rudy does, or enveloping himself completely as Willie does, Atticus manages to maintain a set of honorable ideals that can easily translate between his profession and his personal life. As his neighbor Miss Maudie describes him, "Atticus Finch is the same in his house as he is on the public streets" (Lee 53). Throughout the novel, Atticus never forgoes his personal ideals for the sake of his profession, managing instead to convince others of the practicality of his ideals. In his defense of Tom Robinson, Atticus illustrates to the jury that the practical issues of the case—the Ewell's refusal to call a doctor, Tom's testimony, the fact that Mayella was beaten by someone left-handed—must lead one to the conclusion which every honorable person must have known from the beginning. Through his practicality, Atticus forces many small-minded people to question their racist assumptions.

The conclusions drawn from the comparison of these four lawyers support the arguments of the ancient rhetoricians previously discussed. While persuasion truly relates

back to Aristotle's three methods of proof, we can see that pathos and logos pale in comparison to the importance of ethos. While a lawyer might be able to successfully persuade an audience with a logical argument and emotional appeal, he must first identify himself as a credible source. But more importantly, to ultimately avoid failure outside the courtroom or off the campaign platform, a lawyer must personally live up to the credibility that he is exuding. One must conclude, as Aristotle believed, that the rhetoricians were right: in order to have a positive effect in the world, a lawyer needs to be both good *and* skillful. If he is not both, he may do serious harm, not only to himself but to his defendant, to others, and to society as a whole. From these legal fictions we learn that a lawyer cannot fully separate his ideals from his course of action, but rather must be so sure in his ideals that he can effectively use rhetoric to convey them.

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