

## Three versions of a murder (Metellus Scipio, Cicero, Asconius)

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On January 18<sup>th</sup>, 52 BC, an unexpected event compounded the already turbulent political life in Rome: while travelling on the Appian Way, Publius Clodius Pulcher, a former tribune of the plebs, met his fate in a clash between his own gang and the gang of his enemy T. Annius Milo. The corpse of Clodius was brought to Rome, where his wife, his friends, and followers reacted with grief and anger. The next day, January 19<sup>th</sup>, the body was cremated in the Curia by a rampaging crowd. A fierce campaign against Milo to exact revenge ensued, and in early April, Milo was taken to court. He was accused *de vi*, that is, of violence against the *res publica*, and despite Cicero's defence, he was condemned.

As the title of my paper suggests, my focus will be on the first part of this story, namely the murder of Clodius.

Some preliminary information about the places associated with this event may be useful.

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The Appian Way (*via Appia*), which the poet Statius called «the queen of long roads», *longarum regina viarum* (*Silv.* 2.2.12), was the ancient road built by Clodius' ancestor, the censor Appius Claudius Caecus in 312 BC. Originally it ran from Rome southward to Capua but was successively extended to Beneventum and then to Brundisium.\*<sup>1</sup> The first *statio* (stopping place) on the Appian Way was the small town of Bovillae, about 18 Km. south of Rome;\*<sup>2</sup> further south, in the region of the Alban Lake, Clodius owned a villa: the exact location is unknown and much debated by the archaeologists, but it was probably close to the area where Castel Gandolfo is now situated.\*<sup>3</sup>

On January 18<sup>th</sup>, Clodius was travelling north on the *via Appia*: he had left his Alban villa and was returning to Rome (*Cic. Mil.* 51; 54). On the same day, Milo left Rome and was heading south (*Asc.* 31.15–17 C).<sup>4</sup> When the two met somewhere near Bovillae, Milo's men started a fight with Clodius' slaves (*Asc.* 32.2–4 C): in a private letter to his friend Atticus, Cicero referred to it as the «battle of Bovillae», *pugna Bovillana* (*Att.* 5.13.1).<sup>5</sup> During the clash, Clodius was wounded, and took refuge in an inn near Bovillae (*taberna Bovillana*), and Milo gave his men the order to storm the inn and kill Clodius (*Asc.* 32.7–13 C).

Reconstructing precisely what happened was not easy for contemporaries and is even more difficult in our time. The aim of my paper is to analyse Cicero's account by comparing it with two other accounts of the same event, that of Asconius and that of Metellus Scipio, in order to understand which facts were selected by each author, and whether, and to what extent, they distorted them to make their case. I hope that my analysis can contribute both to the reconstruction of the historical events and to a better appreciation of Cicero's reworking of the facts.

### 1 Three sources: Cicero, Asconius, Scipio

Cicero spoke on behalf of Milo on 8<sup>th</sup> April 52 BC\*<sup>6</sup> and circulated a written version of his speech some time later (*oratio pro Milone*).<sup>7</sup> Although he lost the

\*1 Cfr. Richardson (1992) 414.

\*2 On Bovillae cf. Coarelli (2014) 500–501.

\*3 The different hypotheses are discussed by Di Giacomo (2020) 62–63.

\*4 Asconius is quoted with reference to page and line in Clark (1907); translations of Asconius come from Lewis (2006), with adaptations.

\*5 «The mock-heroic expression derives its humor from the fact that Bovillae was an insignificant place», Berry (forthcoming).

\*6 On the date cf. *Asc.* 30.1 C with Keeline's remarks, (2021) 336.

\*7 On the publication of the *pro Milone* cf. Stone (1980). — Critical editions and com-

case, the speech became very famous and was often considered his finest.<sup>\*8</sup> The fight on the Appian Way is covered in the *narratio* («narrative»), the part of the speech in which the orator sets out his version of the facts (*Mil.* 24–29), but stray details are found here and there in Cicero's speech.

About a century later, Quintus Asconius Pedianus wrote a commentary on the *pro Milone*.<sup>\*9</sup> Asconius was mainly interested in historical matters, so in his *Argumentum* (a kind of introduction to the speech) he narrated the events from late 53 BC leading up to the trial of Milo.<sup>\*10</sup>

In his *Argumentum* on the *pro Milone* Asconius also provides a synopsis of a speech delivered in the senate around 18<sup>th</sup> February 52 BC (*i.e.* a month after Clodius' death) by Quintus Caecilius Metellus Scipio (*Asc.* 34.21–35.16 C).<sup>\*11</sup> (From this point forward, I will refer to him as Scipio or Metellus Scipio).

At the time, Scipio, a man of noble birth, was competing with Milo to become consul in 52 and was one of the sponsors of the gang fights that disrupted Roman life;<sup>\*12</sup> the others who organized gang violence were Scipio's rivals for the consulship, Milo and Publius Plautius Hypsaeus, and Clodius, who supported Milo's competitors (*Asc.* 30.8–16 C). Order was finally restored by Pompey, who became sole consul roughly a month after Scipio's speech, and two months after Clodius' murder (*Asc.* 36.2–5 C). In the summer of 52, Pompey caused Scipio, who was his father-in-law, to be elected as his colleague in the consulate for the remainder of the year.<sup>\*13</sup> As a result, Scipio was the only one of the three consular candidates to win the office in the end.

For the sake of completeness, I must add that other accounts of the death of Clodius come from the Greek historians of the imperial age, Appian and Cassius Dio, but their accounts, to which I shall refer when appropriate, are less extensive

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mentaries: Clark (1895), Clark (1918), Klotz (1918), Fedeli (1990), Keeline (2021). Unless otherwise stated, translations of the *pro Milone* come from Berry (2000), with adaptations.

\*8 Cf. *Asc.* 42.3–4 C *scripsit vero hanc quam legimus ita perfecte ut iure prima haberi possit* («the speech we are reading [= the *pro Milone*] is what he [= Cicero] composed in writing, and with such consummate skill that it may rightly be reckoned his finest»).

\*9 On Asconius' life and works cf. Keeline (2023) 42–49. Critical editions and commentaries: Clark (1907), Stangl (1912), Lewis (2006), Santalucia (2022), Ramsey (forthcoming).

\*10 On the *Argumentum* on the *pro Milone* cfr. Galli (2023).

\*11 Manuwald (2019), n. 154 F2.

\*12 On Scipio cf. Marshall (1985) 160–161.

\*13 Cf. Ramsey (2016), 318.

and detailed.\*<sup>14</sup>

In their versions of what transpired on January 18<sup>th</sup> Metellus Scipio, Cicero, and Asconius (in chronological order) take different approaches and have distinct goals, making them mutually complementary: Scipio and Cicero were contemporaries of the event but were also biased, because Cicero sought to exonerate Milo of blame while Scipio wanted to point him as guilty of the murder; Asconius was more objective, but lived about a century after the events.

### 1.1 Cicero's reliability

Scholars assess the reliability of these three sources differently, but generally agree that Cicero's account deserves little credence. Andrew Lintott, for example, wrote in his seminal analysis of the historical value of Cicero's works:

«The best-attested example of falsehood in a forensic speech is Cicero's account in his defence of Milo of the death of Clodius at Bovillae».\*<sup>15</sup>

To be fair, the *pro Milone* is not a historical work, and Cicero does not claim to be an objective reporter of the events. Like any other defence speech, the purpose of the *pro Milone* is to persuade the jury to acquit Milo of the murder, not to give an unbiased account of the facts:

«The advocate's goal being to secure his client's acquittal, sincerity comes into his work to the degree that he must avoid the appearance of insincerity».\*<sup>16</sup>

However, this legitimate scepticism about Ciceronian testimony should not be carried to the point of dismissing everything in a speech as false:

Cicero «could rely on the shortness of men's recollections even of events not very remote in time and probably on vast ignorance of the most distant past. He could twist what counsel or witnesses had said, at least if his opponent had no right of reply. But *patent* mendacity could only damage his own cause».\*<sup>17</sup>

Indeed, it is not possible to convince anyone of the legitimacy of a cause by spinning a patently false story; for it to be convincing, a story must be plausible

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\*<sup>14</sup> Cf. Appian. *B. C.* 2.21.75–76; Cass. Dio 40.48.2.

\*<sup>15</sup> Lintott (2008) 33.

\*<sup>16</sup> Dyck (1998) 221.

\*<sup>17</sup> Brunt (1982) 146.

and adhere as closely as possible to the truth:

«The drafting of parts of Cicero's lawcourt speeches shows that, while he is always ready to put a rhetorical construction on the facts that is favourable to his own case, he is quite careful not to tamper with the facts themselves».<sup>\*18</sup>

## 1.2 Asconius' reliability

By contrast, Asconius is customarily considered a very reliable writer because he drew upon authoritative sources that are no longer extant, such as the *Acta diurna*, a daily chronicle of the main events in Roman political life published since 59 BC.: Clark, for instance, describes Asconius as

«not a scholiast but a *vir historicus*».<sup>\*19</sup>

However Asconius' reliability was vigorously challenged by Bruce Marshall who collected a number of

«errors or possible errors, loose writing, and over-simplification which, it is suggested, should be lead us to lower our estimation of the worth of Asconius».<sup>\*20</sup>

Recently, Thomas Keeline also gave a rather reserved, though not negative, assessment of Asconius:

«Asconius was a curious and diligent amateur scholar».<sup>\*21</sup>

In the Introduction to his forthcoming edition of Asconius, John Ramsey devotes a discussion to the question of Asconius' (un)reliability, and writes:

«Such due diligence in conducting research, such transparency in revealing his sources, and such forthrightness in admitting an occasional lack of success in finding what he was looking for are trademarks of Asconius and rarely to be observed in other Roman writers of history».<sup>\*22</sup>

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<sup>\*18</sup> Powell and Paterson (2004) 26.

<sup>\*19</sup> Clark (1913) 169.

<sup>\*20</sup> Marshall (1985) 75. It must be pointed out that many of Marshall's alleged errors in Asconius are not really such: see Ramsey (forthcoming).

<sup>\*21</sup> Keeline (2023) 66.

<sup>\*22</sup> Ramsey (forthcoming). Cf. also Santalucia (2022) 15–16: «Indagatore scrupoloso,

### 1.3 Metellus Scipio's reliability

As far as Scipio is concerned, some scholars have emphasised the similarities with the account of Asconius himself;<sup>\*23</sup> others have gone too far in placing absolute trust in Scipio, as opposed to Cicero's partisan narrative, as if Scipio's speech were not a biased account on a par with Cicero's. This is what Christoff Neumeister, for example, wrote in the 1960s:

«Er wies im Senat auf den wahren Sachverhalt hin» («Scipio pointed out the true facts in the Senate»);<sup>\*24</sup>

But in his 2006 edition Lewis rightly warned against

the «patently emotive and sensationalist content» of Scipio's speech.<sup>\*25</sup>

In this paper, I will compare these three sources, noting convergences and divergences, in an attempt to understand the ways in which the three authors selected and manipulated facts, and to provide a more circumstantial assessment of the information they present.

We might a priori expect Scipio's and Cicero's versions to be at opposite ends of the spectrum, with Asconius' somewhere in the middle. As we shall see, however, this is not always the case.

## 2 Comparison of the three versions of the facts

My comparison will be limited to the first part of the clash, which is attested by all three sources (Scipio, Cicero, Asconius) and will cover the following points: the purpose of Clodius' and Milo's journey, their respective retinues, the place and the time of the meeting, the dynamics of the events, and finally the death of Clodius.

### 2.1 The purpose of Clodius' and Milo's journey

Why were Clodius and Milo travelling on the Appian Way on 18<sup>th</sup> January

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Asconio sottopone a vaglio accurato le proprie fonti, spesso aggiungendo alle notizie da esse fornite particolari inediti, frutto di personali ricerche. Riesamina con acutezza i fatti storici richiamati nelle orazioni, non trascurando di ricercare le cause degli avvenimenti e di metterne in luce gli aspetti controversi.

\*23 Cf. Berry (forthcoming).

\*24 Neumeister (1964) 84.

\*25 Lewis (2006) 241. Cf. Berry (forthcoming): «This [= Scipio's speech] is less trustworthy because it was delivered by one of Milo's enemies».

when they met? Here is what the three sources say about it.

Metellus Scipio (Asc. 34.25–35.3 C): *Clodium Aricinos decuriones alloquendi gratia abisse profectum cum sex ac XX servis; Milonem subito post horam quartam, senatu misso, cum servis amplius CCC armatis obviam ei contendisse et supra Bovillas inopinantem (in) itinere aggressum.*

(Scipio said that) «Clodius had set out [from Rome] in order to address the local councillors of Aricia with twenty-six slaves; whereas Milo, suddenly, after the fourth hour, after the senate had adjourned, had hastened to confront him with more than three hundred slaves under arms, and beyond Bovillae had attacked him unawares on his journey».

Cicero, *Mil.* 27: *Interim cum sciret Clodius [...] iter sollemne, legitimum, necessarium ante diem XIII Kalendas Februarias Miloni esse Lanuvium ad flaminem prodendum, quod erat dictator Lanuvi Milo, Roma subito ipse profectus pridie est, ut ante suum fundum, quod re intellectum est, Miloni insidias conlocaret.*

«Meanwhile Clodius knew ... that Milo, being dictator at Lanuvium, was required by both ritual and law to travel to Lanuvium on 18 January to nominate a priest. So he suddenly set out from Rome the day before in order (as the sequel showed) to set a trap for Milo in a spot opposite his own estate».

Asconius 31.15–20 C: *Milo Lanuvium, ex quo erat municipio et ubi tum dictator, profectus est ad flaminem prodendum postera die. Occurrit ei circa horam nonam Clodius paulo ultra Bovillas, rediens ab Aricia, prope eum locum in quo Bonae Deae sacellum est; erat autem allocutus decuriones Aricinorum.*

«Milo set out for Lanuvium, his native town, where at the time he was dictator, in order to appoint a priest the next day. At about the ninth hour Clodius, who was returning from Aricia, encountered him a little beyond Bovillae, near the site of the shrine to the Bona Dea: he had been addressing the local councillors of Aricia».

Both Scipio and Cicero provide an honourable justification for the journey of their respective heroes: according to Scipio, Clodius was due to address the town council of Aricia, a town located about 27 km to the south of Rome on the Appian Way;<sup>\*26</sup> according to Cicero, Milo was *dictator* in Lanuvium (about 30 km from

<sup>\*26</sup> On Aricia cf. Coarelli (2014) 509.

Rome) and obliged to appoint a priest there.<sup>\*27</sup>

Conversely, they ascribe evil intentions to their respective opponents: Scipio says that Milo had planned an attack on Clodius, while Cicero says that it was Clodius who had planned an attack on Milo.<sup>\*28</sup> In Asconius' narrative, both Milo and Clodius are given an official mission, and neither of them is suspected of plotting evil.

Therefore, assuming that Asconius' version is the correct one, both Scipio and Cicero relate the truth about their protégé, but when it comes to their enemies, the fact that they had a legitimate reason for their journey is omitted,<sup>\*29</sup> and a criminal intent is added. So, in the two versions something is true, something is missing, something is added: but even what is added is not a downright fantasy, since it is based on the hatred that existed between Milo and Clodius and on the threats that each of them had directed at the other:

*Notum tamen erat utrumque mortem alteri saepe minatum esse* (Asc. 41.21–22 C).

«It was well known that both had often threatened the other with death».

An orator aimed to persuade his audience, and he felt free to depart from the truth if it suited his case: but even misrepresentations had to be believable, and the narrative had to have at least some connection with reality.

## 2.2 Clodius' and Milo's retinues

Now, to the second point, Clodius' and Milo's retinues. We can expect each of the two orators to describe the travelling party of their respective hero as being harmless and peaceful, and that of their enemy as being dangerous and aggressive. This is, in fact, what the two orators did:

a) according to Scipio, Clodius travelled with 26 slaves, and Milo with over 300 armed slaves (Asc. 34.25–35.3 C); no travelling companions are recorded for either Clodius or Milo;

b) Cicero does not specify the number of slaves of either Clodius or Milo but describes the two groups differently: Clodius' slaves were armed and had been se-

<sup>\*27</sup> Milo's origin from Lanuvium is confirmed by Appian. *B. C.* 2.20.74. On Lanuvium cf. Marshall (1985) 163–164; Keeline (2021) 162.

<sup>\*28</sup> Scipio's version «is the perfect reverse of the picture painted later by Cicero» according to Stone (1980) 93.

<sup>\*29</sup> Cf. Fedeli (1990) 166; Dyck (1998) 225.



lected for fighting;<sup>\*30</sup> Milo travelled with a large number of maids and valets, that is, domestic and harmless slaves.<sup>\*31</sup> As for their respective travelling companions, Cicero emphasises the absence of Clodius' wife,<sup>\*32</sup> while reporting that Milo travelled with his wife in a coach (in a *raeda*, a comfortable four-wheeled carriage);<sup>\*33</sup> Cicero does not name Milo's wife, but we know from Asconius and other sources that he was married to Fausta, Sulla's daughter.<sup>\*34</sup>

Again, Asconius can help us evaluate the other two sources:

c) according to him, Clodius travelled with about 30 armed slaves (31.20–22 C), and Milo with a large entourage of slaves, including armed gladiators (32.1–2 C);<sup>\*35</sup> Clodius was accompanied by three friends (31.22–24 C), Milo travelled in a coach (*raeda*) with his wife and a friend (31.25–26 C).

If we focus on the way in which the two orators relate the facts, it is worth noting that Scipio was intent on providing figures while Cicero was not. This suggests that the figures lent credibility to Scipio's presentation as against Cicero's. We can conclude with reasonable confidence that Milo's slaves outnumbered those of Clodius.

However, caution is needed in assessing the difference in size between the two groups: as for Clodius' slaves, Scipio and Asconius give a similar number (26 vs

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\*30 *Mil. 55 neminem nisi ut virum a viro lectum esse diceret*, «no one except men who you would have said were hand-picked by a fellow man» i.e. a crack band of fighters», Keeline (2021) 247–248. Weapons are mentioned in *Mil. 29 (complures cum telis; gladiis eductis)*.

\*31 *Mil. 28 magno et impedito et muliebri ac delicato ancillarum puerorumque comitatu*, «accompanied by a large, cumbersome, ladylike, and unmilitary array of serving-girls and young boys».

\*32 *Mil. 28 sine uxore, quod numquam fere*, «without his wife, who almost invariably went with him»; *55 semper ille antea cum uxore, tum sine ea*, «normally Clodius always travelled with his wife, but this time he was without her». This is a tendentious claim according to Dyck (1998) 225.

\*33 *Mil. 28 cum uxore veheretur in raeda*, (Milo) «was riding in a coach with his wife»; *54 veheretur in raeda paenulatus, una sederet uxor*, (Milo) «was riding in a coach, wrapped in a heavy coat, and had his wife sitting beside him». On the *raeda* cf. Laurence (1999) 136–137.

\*34 *Asc. 31.25 C*; *Cic. Att. 4.13.1*.

\*35 *35 Magnum servorum agmen, inter quos gladiatores quoque erant, ex quibus duo noti, Eudamus et Birria*, «a large train of slaves, also including gladiators, two of them well-known ones, Eudamus and Birria». Birria is equipped with a *rumpia* (32.5), a Thracian weapon characterised by its length (*Liv. 31.39.5*; *Gell. N. A. 10.25.4*).

about 30 slaves), and we can assume that it is not far from the truth, but as for Milo, the number of more than 300 armed slaves is undoubtedly exaggerated.<sup>\*36</sup> In fact, if the ratio between the two groups had really been 1:10, it is unlikely that Clodius would have been able to escape as he did in the first confrontation.

Unlike Asconius, Metellus Scipio contrasts the defined number of Clodians (twenty-six) with an undefined number of Milonians (more than three hundred), with the result that the impression of an imbalance in the ratio of forces between the two sides is reinforced: Clodius' 26 men are in fact opposed by the large number of armed men at Milo's disposal, so many that they cannot even be counted accurately.

Even Cicero does not deny the imbalance between the two groups, though he cleverly disguises it by emphasising other features: Milo's entourage is described as great (*magnus comitatus*), yet includes a number of ornamental and frivolous slaves, such as serving-girls and musicians (*symphoniaci*).<sup>\*37</sup> The *symphoniaci* were luxurious slaves, the sort that the wealthy elite loved to have attend them, although the presence of these slaves in Milo's retinue did not conform to the sober and austere ideal of the *mos maiorum*, the traditional Roman behaviour:<sup>\*38</sup> nor did they conform to the portrait of Milo in the speech as a dignified and respectable man. But in the circumstances, Cicero was forced to choose the lesser of two evils: it was better for Milo to be subject to criticism for indulging in luxury than to stand out for the fact that he had gladiators with him.<sup>\*39</sup>

However, in order to gain the sympathy of his audience for his client, Cicero explains that this retinue was exceptional and that these frivolous slaves did not belong to Milo, but to his wife Fausta who accompanied him on his journey.

*Milo, qui numquam, tum casu pueros symphonicos uxoris ducebat et ancillarum greges* (Mil. 55)

«Milo, **who normally never travelled** with such people, happened on this occasion to have some of **his wife's** music boys, and bevvies of slave girls»<sup>\*40</sup>.

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\*36 «Metello Scipione esagera. Se, come egli stesso afferma in seguito, Milone al suo ritorno a Roma diede la libertà solo a dodici dei suoi schiavi, è difficile credere che al momento dello scontro ne avesse con sé trecento», Santalucia (2022) 171.

\*37 Mil. 28; 55.

\*38 Cf. Morgan (2019) 261–262.

\*39 Cfr. Morgan (2019) 264.

\*40 Keeline (2021) deletes *uxoris* (cf. p. 247); *contra* cf. Galli (forthcoming).

Cicero avoids any reference to the presence of gladiators in Milo's entourage throughout his speech.<sup>\*41</sup> Indeed, he avoids any reference to weapons and physical prowess when speaking of Milo's men even in contexts where it might be expected. This is evident in the narrative of the clash; so now it is time to move on to the next point.

### 2.3 The location of the meeting

As for the location of the meeting, both Scipio and Asconius place it a little south of Bovillae (Asc. 35.2 *C supra Bovillas*; 31.16–17 *C paulo ultra Bovillas*),<sup>\*42</sup> while Cicero sets it in front of the villa of Clodius (*Mil. 29 ante fundum eius*), that is, a few kilometres further south of Bovillae.<sup>\*43</sup> What is striking is that there is not a single mention of Bovillae in Cicero's speech on behalf of Milo:<sup>\*44</sup> and yet, as I have already stated, Cicero privately acknowledged Bovillae as the location of the fight, which he called the *pugna Bovillana* (*Att. 5.13.1*).<sup>\*45</sup>

The point is that by placing the meeting near Clodius' villa Cicero gained two advantages for his case:

1) it was easier to allege an ambush on the part of Clodius, who would have positioned his men on the side of the Appian Way, ready to attack Milo:<sup>\*46</sup>

*Ante fundum Clodi, quo in fundo propter insanas illas substructiones facile hominum mille versabatur valentium, edito adversarii atque excelso loco, superiorem se fore putabat Milo, et ob eam rem eum locum ad pugnam potissimum elegerat, an in eo loco est potius exspectatus ab eo qui ipsius loci spe facere impetum cogitarat?* (Cic. *Mil. 53*)

<sup>\*41</sup> In Cicero's works, Milo's ownership of gladiators is acknowledged only in *Vat. 40* (but quoting a statement made by Vatinius and refuted by Cicero) and, many years later, in *off. 2.58*.

<sup>\*42</sup> South-east of Bovillae: cf. Berry (forthcoming).

<sup>\*43</sup> «The fact that, when wounded, he [= Clodius] was not taken to his own villa implies that Milo's column was between him and the villa when the battle took place, and that he got no support from the villa», Lintott (1974), 69.

<sup>\*44</sup> Instead, Bovillae was certainly mentioned in the prosecutor's speech, cf. Quint. *inst. or. 6.3.49*.

<sup>\*45</sup> «This admission shows that he himself recognised that the site of Clodius' death was not where he had located it in his speech», Berry (forthcoming).

<sup>\*46</sup> «In Cicero's speech, the assertion that Clodius was killed in front of his villa is used to argue that Clodius set a trap for Milo rather than *vice versa*», Berry (forthcoming).

«The incident took place in front of Clodius' house, where at least a thousand strong men were occupied in excavating a basement, a megalomaniac scheme. In this location, and with his enemy occupying a commanding position on the higher ground, did Milo really imagine that his own situation was superior, and therefore make this spot his particular choice for the battle that ensued? Is it not more likely that someone who knew that the situation was favourable to himself was lying in wait for him here and planning an attack?»

2) it made it possible to avoid any mention of what had happened at the inn in Bovillae which was incompatible with Cicero's thesis of a murder in self-defence. So, in Cicero's account, there is no mention of Bovillae, no mention of the inn: the killing of Clodius took place elsewhere.

#### 2.4 The time of the meeting

Regarding the time of the meeting, the difference between the narratives of Scipio and Cicero is easy to explain: if Milo was planning an ambush, he had every incentive to leave Rome as soon as possible, so as not to miss Clodius; by contrast, if Milo's departure from Rome was at a late hour, it means that he did not have an ambush in mind. Therefore, Scipio says that Milo departed in a hurry, early in the morning (Asc. 34.26–35.1 *C subito post horam quartam*, «suddenly, after the fourth hour», i.e. after 10:30 a.m.),<sup>\*47</sup> while Cicero insists on the lateness of his departure, on his lingering before leaving Rome, so that he arrived in front of Clodius' villa between 3:00 p.m. and 4:00 p.m.,<sup>\*48</sup> that is, not long before sunset (at 4:42 p.m. on that day), too late for staging an ambush.<sup>\*49</sup>

One of the rare references to the prosecution's arguments in our sources confirms that this point was crucial:

*Cum obiceret Miloni accusator, in argumentum factarum Clodio insidiarum, quod Bovillas ante horam nonam devertisset, ut exspectaret dum Clodius a villa sua exiret, et identidem interrogaret quo tempore Clodius occisus esset, respondit "Sero"* (Quint. inst. or. 6.3.49).

<sup>\*47</sup> For the calculation of the equivalents of Roman hours I rely on Ramsey (forthcoming), especially Appendix III. *Timeline for 16–23 January 52 BC*. Cfr. also Keeline (2021) 168–169.

<sup>\*48</sup> *Mil. 29 hora fere undecima*, «around the eleventh hour». Cf. Keeline (2021) 168.

<sup>\*49</sup> «Cicero wants... to dispel the suspicion against Milo that he had lingered on the road, perhaps to ambush Clodius», Ruebel (1979) 233.

«When Milo's accuser, in order to prove that he had set an ambush for Clodius, alleged that he had stopped at Bovillae before the ninth hour,<sup>\*50</sup> so as to wait for Clodius to leave his villa, and repeatedly asked at what time Clodius was killed, Cicero replied: 'Late!'.<sup>\*51</sup>

For his part, Asconius gives the time of the meeting as about 2:00 p.m.:<sup>\*52</sup> and that timing is indeed plausible because Milo could hardly have expected to reach Lanuvium before sunset, if he was proceeding in the vicinity of Clodius' villa between 3:00 p.m. and 4:00 p.m.<sup>\*53</sup>

## 2.5 The dynamics of the events

Starting from such different presentations of motives and chronologies, it is not surprising that the three versions also diverge in their accounts of the dynamics of the events.

Here is Asconius' version:

*It in ultimo agmine tardius euntes cum servis P. Clodi rixam commiserunt. Ad quem tumultum cum respexisset Clodius minitabundus, umerum eius Birria rumpia traiecit. Inde cum orta esset pugna, plures Miloniani accurrerunt* (Asc. 32.2–6 C)

(Eudamus and Birria, Milo's gladiators,) «making rather slow progress at the back of the column, started a scrap with Clodius' slaves. Clodius had turned to direct his menacing eye upon this brawl, when Birria pierced his shoulder with a spear. Then, as a battle developed, more of Milo's men arrived on the scene».

According to Asconius, the brawl was initiated by Milo's gladiators, who were at the back of the column (*in ultimo agmine*), and Clodius looked back to them (*respexisset*):<sup>\*54</sup> this means that Clodius and Milo had already passed each other without incident. This reconstruction is similar to the one adopted by the Greek

<sup>\*50</sup> The *hora nona* (ninth hour) was from 1:37 p.m to 2:23 p.m.

<sup>\*51</sup> The translation is from Russell (2001), modified.

<sup>\*52</sup> Asc. 31.17 C *circa horam nonam*, «at about the ninth hour».

<sup>\*53</sup> Lintott (1974) 69: «Milo would surely have had to appoint the priest at Lanuvium before sundown and he would have left things too late, if he only had reached Bovillae at the eleventh hour» (= the time adopted by Cicero).

<sup>\*54</sup> Cf. OLD, *s.v. respicio* 1 «to look away from what one is doing, etc., to look round, look back».

historian Appian:<sup>\*55</sup>

Κλωδίου δ' ἐξ ἰδίων χωρίων ἐπανόντος ἐπὶ ἵππου καὶ περὶ Βούλλας ἀπαντήσαντος αὐτῷ, οἱ μὲν κατὰ τὴν ἔχθραν ὑπείδοντο μόνον ἀλλήλους καὶ παρώδευσαν, θεράπων δὲ τοῦ Μίλωνος ἐπιδραμὼν τῷ Κλωδίῳ, εἴτε κεκελευσμένος εἴθ' ὡς ἐχθρὸν δεσπότου κτείνων, ἐπάταξεν ἐς τὸ μετὰφρονον ξιφιδίῳ (Appian. B. C. 2.21.75).

«While returning by horse from his own estates Clodius bumped into Milo at Bovillae. **Although they merely exchanged suspicious looks, consistent with their hostile relationship, and passed along,** one of Milo's servants attacked Clodius, either because he was ordered to or because he wanted to kill his master's enemy, and stabbed him in the back with a dagger».<sup>\*56</sup>

So this time it is Asconius who passes over a detail that is relevant for understanding the course of events: Clodius and Milo crossed paths without incident.

Why did they avoid attacking each other? In the case of Clodius, it is conceivable that he did not want to face unequal forces; as for Milo, he may not have wanted to put his candidature for the consulate at risk. There may be a grain of truth in Cicero's words:

*Hunc igitur diem Campi speratum atque exoptatum sibi proponens Milo, cruentis manibus scelus et facinus prae se ferens et confitens, ad illa augusta centuriarum auspicia veniebat?* (Mil. 43)

«So here was Milo, with the prospect of the election day before him, on which he had placed all his hopes. Did he really intend to present himself at the solemn taking of the auspices before the centuriate assembly with bloody hands that proclaimed and confessed the wicked crime he had committed?»<sup>\*57</sup>

The idea that Clodius and Milo initially abstained from fighting, which is only hinted at by Asconius, is completely absent from Scipio's and Cicero's versions, and the reason for this is easy to guess, since this idea is hard to reconcile with the

<sup>\*55</sup> On Appian's account of 53–52 BC cf. Lintott (1974) 68 n. 73.

<sup>\*56</sup> The translation is from McGing (2020).

<sup>\*57</sup> The *dies Campi* is the election day, as the consuls were elected by the *comitia centuriata* held in the Campus Martius; before elections, auspices (*auspicia*) were taken by the presiding consul. Cf. Keeline (2021) 220.

theory of deliberate aggression on the part of one side or the other.

So, according to Scipio, Clodius was on an innocent journey with 26 slaves when he was unexpectedly attacked by Milo accompanied by more than 300 armed slaves and received three wounds.\*58

*Milonem subito post horam quartam, senatu misso, cum servis amplius CCC armatis obviam ei contendisse et supra Bovillas inopinantem (in) itinere aggressum. Ibi P. Clodium tribus vulneribus acceptis Bovillas perlatum (Asc. 34.26–35.4 C).*

(Scipio said that) «Milo, suddenly, after the fourth hour, after the senate had adjourned, had hastened to confront him with more than three hundred slaves under arms, and beyond Bovillae had attacked him unawares on his journey. There Clodius, after having received three wounds, had been carried off to Bovillae».

In Scipio's version of the fight, Milo is the only one to play an active role; Clodius is merely the victim and is not even said to have tried to defend himself. It is worth noting the verbs used in Asconius' synopsis of Scipio's version of events:

- active forms for Milo: *obviam ei contendisse; aggressum (esse)*
- passive forms for Clodius: *acceptis, perlatum (esse)*.

Instead, here is how Cicero recounts the same story:

*Fit obviam Clodio ante fundum eius hora fere undecima aut non multo secus. Statim complures cum telis in hunc faciunt de loco superiore impetum; adversi raedarium occidunt. Cum autem hic de raeda reiecta paenula desiluisset seque acri animo defenderet, illi qui erant cum Clodio, gladiis eductis, partim recurrere ad raedam, ut a tergo Milonem adorirentur; partim, quod hunc iam interfectum putarent, caedere incipiunt eius servos qui post erant (Mil. 29).*

«Milo came across Clodius opposite Clodius' estate at around 3 p.m. or thereabouts. Immediately a number of armed men launched an attack on him from the higher ground; others standing in front of the coach killed the coachman. But Milo threw off his cloak, jumped down from the coach, and defended himself bravely. The men who were with Clodius had all

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\*58 According to Berry (forthcoming) «it is quite possible that the other details in Scipio's speech are true, particularly in view of their specificity (twenty-six slaves rather than Asconius' figure of about thirty, more than 300 slaves of Milo's)». On the other hand, one may wonder how 300 armed men fighting against 26 could only manage to wound Clodius three times and then let him get away.

drawn their swords. Some of them ran over to the coach to attack Milo from behind, while others, thinking that he had already been murdered, began cutting down his slaves who were following in the rear».

This time, the roles are reversed: Milo is an unsuspecting traveller in a carriage with his wife, Clodius is a bandit who attacks him by surprise, or, in Cicero's words, Milo is a *viator* («a traveller»), Clodius is a *latro* («a highwayman», *Mil.* 55).<sup>\*59</sup> Unlike Clodius, however, Milo is not a helpless victim<sup>\*60</sup> because he bravely defends himself, and his men do the same.

Like Scipio, Cicero carefully contrasts the role of Milo and Milo's men, on the one hand, and of Clodius and Clodius' men on the other; weapons are only mentioned in relation to Clodius' men, never Milo's:

Clodius' men: *complures cum telis; illi qui erant cum Clodio, gladiis eductis*

Milo: *seque acri animo defenderet*

As in the case of Scipio's version, it may be instructive to compare the verbs used when speaking of Clodius' and Milo's men:

Clodius' men: *faciunt... impetum; occidunt; adorirentur; caedere incipiunt*

Milo: *desiluisse; defenderet*.<sup>\*61</sup>

Another difference from Scipio's version is the part played by the *raeda*: Clodius' men launched an attack on Milo, who was in the *raeda* with his wife, and some of them blocked the *raeda* and killed the coachman (*raedarius*); Milo jumped down from the *raeda*; Clodius' men ran over to the *raeda*.

Comparing Cicero's and Asconius' versions, there are two major differences: in Asconius neither the carriage (*raeda*) nor Milo are involved in the first confrontation. In the light of Cicero's version, Milo's absence, in particular, may come as a surprise: one would expect Cicero to have gone out of his way to emphasize that Milo was not involved in the fight and that the murder of Clodius had been committed in his absence and without his knowledge.

And yet, there are at least three possible reasons why Cicero chose to portray

<sup>\*59</sup> On the opposition *viator/latro* cf. Berger (1978) 44; Fedeli (1990) 166; on Cicero's usage of *latro* cf. Dyck (1998) 223; Keeline (2021) 133.

<sup>\*60</sup> «Milo appears as the primary target of the attack», Dyck (1998) 226.

<sup>\*61</sup> «La voce verbale usata (*defendere*) è il fulcro dell'arringa ciceroniana e ben si presta a dare forza alla tesi della legittima difesa quale movente dell'assassinio di Clodio», Fedeli (1990) 167.



Milo as directly involved in the initial confrontation:

a) That version helps support the theory of an ambush by Clodius: if Clodius had attacked the rear of Milo's travelling party rather than Milo's carriage, it would be harder to argue that he intended to attack Milo himself;

b) It helps to justify the behaviour of Milo's slaves: only if Milo had been attacked and forced to defend himself could it be argued that the slaves were avenging their master's presumed death;

3) Milo's reaction emphasises his courage and readiness, contributing to the portrayal of him as a bulwark of the *res publica Romana* against Clodius' subversive intentions.<sup>\*62</sup>

The highlighting of the coach (*raeda*) contributes to the image of Milo as a quiet traveller who is only forced to react in self-defence.

## 2.6 The outcome of the first confrontation

Scipio and Asconius tell a similar story about the outcome of the first confrontation: Clodius was wounded and taken to a tavern in Bovillae, but Milo's men raided it, dragged Clodius out and killed him.

Asconius 32.12–13: *Atque ita Clodius latens extractus est multisque vulneribus confectus.*

«And so Clodius was dragged out from hiding and killed with many wounds».

Metellus Scipio (Asc. 35.4–6 C): *tabernam in quam perfugerat expugnatam a Milone; semianimen Clodium extractum . . . . . in via Appia occisum esse anulumque eius ei morienti extractum.*

«The tavern in which he had taken refuge had been stormed by Milo; Clodius had been dragged out half-alive . . . . . killed on the very via Appia, and his ring pulled off his finger as he expired».

Obviously, such an account conflicted with Cicero's portrayal of the murder as an act of self-defence. Therefore, Cicero chose not even to hint at this second phase of the fight, but to bring down the curtain at the end of the first phase of the melee without going into detail.<sup>\*63</sup> Here, as elsewhere in the speech (with few

<sup>\*62</sup> On Milo as bulwark of the *res publica* against Clodius cf. e.g. 88 *Obstabat eius cogitationibus nemo praeter Milonem*, «His schemes were opposed by no one except Milo».

<sup>\*63</sup> Dyck (1998) 227 notes that these omissions «point to a weakness of the cause it-

exceptions),<sup>\*64</sup> Cicero avoids explicitly saying that Clodius was killed by Milo's men, and creates a brilliant conclusion to his narrative: <sup>\*65</sup>

*caedere incipiunt eius servos qui post erant; ex quibus qui animo fideli in dominum et praesenti fuerunt, partim occisi sunt, partim, cum ad raedam pugnari viderent, domino succurrere prohiberentur, Milonem occisum et ex ipso Clodio audirent et re vera putarent, fecerunt id servi Milonis — dicam enim aperte, non derivandi criminis causa, sed ut factum est — nec imperante nec sciente nec praesente domino, quod suos quisque servos in tali re facere voluisset (Mil. 29).*

Clodius' men «began cutting down Milo's slaves who were following in the rear. Of the ones who kept their heads and showed themselves loyal to their master, some were killed, while others, seeing that a fight was taking place at the coach, but prevented from going to their master's aid, and hearing from Clodius' own lips that Milo had been killed and accepting it as true—these slaves of Milo's (and I shall state this openly, not in order to deny the charge, but because this is how it happened), **without their master's command, knowledge, or even his presence, did what every man would have wanted his own slaves to do in such a situation**».

Cicero does not affirm, but merely suggests, leaving it to his audience (*quisque*, «every man»)<sup>\*66</sup> to draw the inevitable conclusions: Milo's slaves did what was right, namely they killed Clodius because they believed their master to be dead and sought to avenge him.

## Conclusions

To conclude, let us return to my initial hypothesis: the versions of Scipio and Cicero are expected to be at the two extremes of the spectrum, with that of Asconius somewhere in the middle.

As usual, the reality is more complex: there are some basic elements of agree-

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self»: indeed «this version of events was apt to persuade only those unfamiliar with the account making the rounds according to which Clodius was wounded in the encounter, then carried... to a nearby tavern».

<sup>\*64</sup> Cf. Keeline (2021) 173. A few exceptions are discussed by Galli (forthcoming).

<sup>\*65</sup> «Ein brillanter Euphemismus», as Berger (1978) 46 puts it. Cf. Dyck (1998) 226.

<sup>\*66</sup> «The phrase likewise contains a discreet appeal to the audience, since what was done was what any right-thinking man would have wanted his slaves to do», Keeline (2021) 173.

ment between the three sources;<sup>\*67</sup> on other points Asconius is in agreement with Scipio<sup>\*68</sup> or Cicero;<sup>\*69</sup> but there are also points on which the two more polarised versions<sup>\*70</sup> converge against the more neutral version of Asconius.<sup>\*71</sup>

The overlaps in the latter case are particularly worth noting because they show how polarisation can sometimes steer the manipulation of data in the same direction, even if these same data are intended to make different points.

After all, as Cicero himself recognised in the *de oratore*, oratory

«is a subject which is founded upon falsehood, which seldom attains to demonstration, which is in pursuit of the fancies and often of the errors of mankind» (*quae mendacio nixa sit, quae ad scientiam non saepe perveniat, quae opinioniones hominum et saepe errores aucupetur*).<sup>\*72</sup>

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\*67 The following data are agreed upon by all three sources: Clodius was on the Appian Way on his way to Rome; Milo was on the Appian Way on his way from Rome; Clodius was accompanied by a limited number of slaves; Milo was accompanied by a large number of slaves; Clodius and Milo met somewhere on the Appian Way on the afternoon of 18 January; there was a fight; Clodius was killed.

\*68 The following data are agreed upon only by Asconius and Scipio: Clodius had addressed the town council of Aricia; Clodius was escorted by about 30 slaves; Milo's slaves had weapons; Clodius and Milo met in the vicinity of Bovillae; Clodius was wounded; Clodius was transported to an inn in Bovillae, but was dragged off and killed.

\*69 The following data are agreed upon only by Asconius and Cicero: Milo was on his way to Lanuvium to appoint a priest; Clodius was accompanied by C. Causinius Schola and C. Clodius; Milo was accompanied by his wife; Milo travelled in a coach (*raeda*); Clodius was attacked by Milo's slaves in the rear.

\*70 «The melodramatic fictions concocted by both sides», as Stone (1980) 93 puts it.

\*71 The following data are agreed upon only by Scipio and Cicero: there was an ambush; Milo was involved in the fight; Clodius was involved in the fight from the start.

\*72 Cic. *de or.* 2.30. The translation is from Sutton/Rackham (1967), with adaptations.

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