

and who should be tried separately upon his apprehension with all the related people taken into custody by the prefectural *yamen*.

The remainder of the report details the review process, during which each successive level of review agreed with the findings of the magistrate's court and added repeated injunctions to speed up the review. In the portion of the report that remains, there is no indication that Rui Jiu was ever apprehended, nor is there any change to the death sentence suggested initially. Because the emperor's decision was to command the Three Judicial Offices to reexamine the case and advise him concerning the sentence, it is likely that Rui Meisheng's execution was commuted, or at least reduced, after the autumn assizes.

NOTE

Source: *Neike tiben Xingke Xingbu Xingfa* [Grand Secretariat routine memorials, Board of Punishments, Office of Scrutiny, Crime and Punishment] 522-102. Because the final pages of the memorial are missing, I am unsure of its precise date.

1. Citing Article 302 of the Qing penal code. See Jones, *Great Qing Code*, 286-87.

CASE 8

Jia Mingyuan: Accidental Homicide (Fengtian, 1796)

In this case, three generations of close neighbors got into an argument that resulted in the death of one of the oldest among them, perhaps from a stroke, although forensic medicine at that time could not make such a diagnosis. At the beginning of the case, Bolin, a Manchu and the prefect of Fengtian near the modern city of Shenyang, quotes the synopsis offered by Wen Duxun, Department Magistrate of Fuzhou.

On Qianlong 60.6.25 [August 9, 1795], local warden Sun Rong submitted a report, saying "On 6.23 [August 7], Yu Dehai, a laborer hired by the family of Song Shichen, had come to his home to report that toward evening on 6.22, after it had rained, because he was concerned that the grain crops on the marshlands would be harmed, Song Fu instructed Yu to dig a ditch across the cart path alongside our land by which to drain the water. Jia Lun and Jia Mingkui stopped him and started a dispute. Song Fu hit and injured Jia Lun and Jia Mingkui. Jia Lun struck and injured Sun Fu. Then Song Shichen, Song Shizhong, Jia Mingyuan, and others came up. Song Shichen was carrying an

iron spear that he handed over to Song Shizhong. Jia Mingyuan snatched it away, causing him to fall, and Song Shizhong was injured. Then they took Song Shizhong to Jia Wenli's house. At sundown, Song Shizhong stopped breathing and died. As appropriate, I have reported it to you for investigation."

The magistrate then proceeded to the location of the corpse to conduct an autopsy. The coroner reported that Song Shizhong was seventy-one sui in age. He had a variety of minor scrapes on his cheeks and elbows, but the only substantial injury was a bruise from a fist on the left side of his forehead. Even so, in the summer heat, blowflies had already attacked the body, which was beginning to swell. He concluded that the elder Mr. Song had died as a result of his fall. He also examined the injuries of other parties in the scuffle, all of which were healing appropriately.

At the site, the magistrate conducted his initial inquiries. The local warden had nothing new to add, but the hired farm laborer Yu Dehai clarified the cause of the dispute and provided more details on what had happened.

"... Song Fu said that our crops in the marsh field might be damaged by flooding, and that I should take a wooden shovel and an iron mattock and go with him to open a ditch across the cart path that runs along that field in order to drain the water. Then Jia Lun and Jia Mingkui walked up and said that we were cutting off their cart path. And they got into an argument with Song Fu. Jia Lun punched Song Fu in the left eye, and Song Fu hit Jia Lun in the forehead with the iron hammer he had brought along to tighten the handle of the mattock, and he started to bleed. Jia Mingkui came up and Song Fu hit him and injured him in the left ear. Jia Lun grabbed Song Fu's hammer and left with it. Song Fu and Jia Minglun started scuffling on the ground, and I tried to pull them apart. Then, one after the other, Song Shizhong, Jia Wenli, Jia Yile, and Song Shichen carrying an iron spear in his hand all came up. Song Shichen wanted to get into the fight, but Jia Wenli stopped him. All I could hear was Jia Mingyuan yelling that Song Shichen had an iron spear. By that time, Jia Yile and I had just pulled Song Fu and Jia Mingkui apart, and when I turned around to look, I saw Song Shizhong fall down on the ground. Jia Mingyuan ran off toward the west, and Song Shizhong pulled himself up and walked away. But after a few steps, he sat down on the ground. I saw that Song Shizhong had an injury on his head. I asked him about it, and he said that his head and his left elbow hurt. Together with Song Shichen, I steadied him all the way home. By the morning of the twenty-third, Song Shizhong couldn't talk anymore, and Song Fu told me to go inform the local warden

about it. When I came back with him, they had already taken Song Shizhong to Jia Wenli's house. About sundown, Song Shizhong died. And that's the truth."

Jia Yile's version corresponded to that of the farmhand, and so the magistrate did not record it. In the following testimony, Song Shichen clarified the relationships among the principals.

Song Shichen testified: "My sons are Song Fu, Song Lian, and Song San. The deceased Song Shizhong is my older first cousin on my father's side. He was seventy-one sui this year. In the past, he adopted Song San as his son. He spends his days living with us. We've always been on good terms with Jia Mingyuan and the rest; we've never had any bad relations.

"After it rained on the afternoon of the twenty-second of the sixth month of this year, I had an iron spear and was on the slope east of the village fastening up some nets where the silkworm moths lay their eggs. Toward evening, I heard a commotion in the fields that sounded like a fight.¹ So I hurried over there, and I saw my uncle Song Shizhong standing on the edge of the irrigation ditch looking west. By then, Jia Lun had already left. Jia Mingkui and my son Song Fu were wrestling with each other on the cart path, and they fell to the ground. Yu Dehai was pulling on them, but he couldn't get them apart. I wanted to go over and join in the fight, but Jia Wenli came over and held onto me and said, 'It doesn't matter what those young fellows are fighting about. Not enough that you don't even yell at them to stop, you want to go over and join in the fight as well?' When he said that, I went over and yelled at them to stop and tried to pull them apart.

"Then I heard Jia Mingyuan shouting, 'Song Shichen has an iron spear!' I was afraid that I'd hurt them with it, so I handed the spear over to Song Shizhong. By that time, Jia Yile had already gone up to pull them apart. I saw Jia Mingyuan run up to Song Shizhong and grab onto the spear with both hands. Jia Mingyuan gave it a wrench to the right, and Song Shizhong tripped and fell over to his left onto the ground. But Song Shizhong held onto Jia Mingyuan's clothes with his right hand. Jia Mingyuan struck out behind him with his left hand, struggled free, and ran away. Song Shizhong fell over onto the ground and scraped his right cheek. Yu Dehai and Jia Yile pulled Song Fu and Jia Mingkui apart, and Song Shizhong got up himself and walked away.

"I asked and only then found out that the fight came about because Jia Mingkui stopped Song Fu from digging a ditch to drain the water. After that, Song Shizhong took a couple of steps and then sat down on the ground, say-

ing that his head and his left elbow hurt. Yu Dehai and I held him steady on his way home to rest on the kang, but by the morning of the twenty-third, Song Shizhong couldn't talk anymore. Before noon, Song Fu and Song San carried Song Shizhong over to Jia Wenli's house, and about sunset, he died. Sure enough, Song Shizhong died because Jia Mingyuan all by himself snatched away that iron spear, causing him to fall and suffer an injury. There was no other reason. And that's the truth."

Jia Wenli, the patriarch of the Jia family, testified that Jia Lun was his son and that Jia Mingkui and Jia Mingyuan were his grandnephews; they all lived together. He had been walking around his dooryard when he heard the commotion. Arriving on the scene, the first thing he noticed was his son Jia Lun, blood streaming from his head as he hurried home. Before he could shout at the combatants to desist, Song Shichen rushed up as if to join in the affray. He chided Song, as Song had already testified, and observed Jia give Song Shizhong the shove that knocked him to the ground. On the morning of the following day, members of the Song family brought the unconscious Song Shizhong to his house, and by nightfall, the old man was dead.

Song Fu described himself and his pivotal role in the fracas this way:

"Song Shichen is my father; my mother is dead. My brothers are Song Lian and Song San. The deceased Song Shizhong was my paternal uncle; he had adopted Song San as his son. After the rain on the twenty-second of the sixth month of Qianlong 60, I was afraid that our manor's crops would be drowned out by the water, so I told our hired hand Yu Dehai to bring along a wooden spade and an iron mattock; he also brought a little iron hammer so he could tighten the handle of the mattock. We walked over to the cart path beside the field and started digging a ditch across it to drain the water. We hadn't broken through yet when Jia Lun and Jia Mingkui came up and said that we had cut their cart path and wanted to know if we weren't going to let them get their cart through anymore. And they started arguing with me about it.

"Jia Lun ran up and slugged me in the left eye. I was upset, and I picked up my hammer and hit Jia Lun over the head with it. Jia Mingkui also came up to help him, and I hit Jia Mingkui over the left ear. Jia Lun grabbed away my hammer and ran off with it. I wrestled with Jia Mingkui, and we both fell over onto the ground. After that, Yu Dehai and Jia Yile pulled us apart. When we stood up, I saw my father Song Shichen and Jia Wenli standing in front of us. Uncle Song Shizhong had fallen down on the ground, and Jia Mingyuan was running away toward the west. Song Shizhong got up by himself, but he

had injuries on his head and on his right cheek. He took a couple of steps, and then he sat down on the ground and said that his head and his left elbow hurt.

Although the rest of Song Fu's testimony matches that of the other deponents nearly word for word, Jia Lun's deposition offers a few more details.

Jia Lun testified: "Jia Wenli is my father; Jia Mingkui and Jia Mingyuan are my nephews. Toward evening on the twenty-second of the sixth month of Qianlong 60, I was returning home from another village with my nephew Jia Mingkui, and when we got to the edge of Song Shichen family's fields, we saw Song Fu along with Yu Dehai digging a ditch across the cart path to let out the water. We told him that they were cutting off our cart path, and asked, 'Won't you let us get our cart across it?' Song Fu said, 'Why don't you mind your own business?' and so I got into an argument with Song Fu. I slugged him in the left eye, and he hit me over the head with his hammer and drew blood. Jia Mingkui came up, and Song Fu hit him and hurt him, too. I grabbed Song Fu's hammer away from him. Jia Mingkui and Song Fu were wrestling when Song Shizhong and Jia Yile came up. My head hurt, so I ran home. The next day, Song Fu and the others carried Song Shizhong over to our house. They said that yesterday my nephew Jia Mingyuan had grabbed the spear away from him, and he stumbled and fell and got hurt. That day about sundown, Song Shizhong died. We reported it to the warden. And that's the truth."

Jia Mingkui's testimony was virtually the same, but when formally interrogated at court, the defendant Jia Mingyuan added details about the families.

Testimony of Jia Mingyuan: "I am a subject of Your Honor. I am twenty-two *sui* in age, and I live in Jia Family Village. My father has passed away, and my mother has remarried. I have an older brother, Jia Mingkui. I have neither sons nor daughters with my wife, Ms. Liu. Jia Wenli is my great-uncle. Jia Lun is my uncle. They all live with me, and we farm for a living. I've always been on good terms with the deceased Song Shizhong, and we've never had any bad relations.

"Toward evening on the twenty-second of the sixth month of Qianlong 60, I was sweeping my courtyard when I heard the sounds of fighting from east of the village. I hurried over and saw that my uncle Jia Lun was running home, bleeding from a wound to his head. I hurried over and saw Song

Shizhong standing on one side and my brother Jia Mingkui wrestling with Sun Fu on the ground. Yu Dehai and Jia Yile had gone up to separate them. Song Shichen had a spear in his hand and seemed like he wanted to join in, but he was stopped by my great-uncle Jia Wenli. I called out, 'Song Shichen is carrying a spear,' but then Song Shichen quickly handed it over to Song Shizhong. I was afraid that he'd use it to help hurt us, so I hurried up and grabbed hold of it. Song Shizhong held onto it with both hands and wouldn't let go, so I grabbed and gave it a twist to the right. Song Shizhong stumbled to his left and sat down on the ground and latched onto my clothes. I gave a shove behind me with my left hand, not thinking that I would hurt him on the head. He fell down again, and I snatched away the spear and ran home with it. Later, when Jia Wenli and Jia Mingkui came home, they told me, and that was the first I knew that the fight was about the trouble Song Fu had caused by digging a ditch across the cart path to drain his field. I didn't think that Song Shizhong would die around sunset on the twenty-third. I didn't intentionally knock him down, and nobody else was involved. And that's the truth."

This ends the testimony in this report. The prefect Bolin summarizes the case at this point, and finds, as had the magistrate, that two laws were relevant to this case.

First, Article 290 of the Qing penal code on homicide committed without premeditation during an affray stipulates that the person causing the death should be sentenced to strangulation with delay for further review of sentencing. Thus, the fate of Jia Mingyuan would seem to have been sealed by this regulation. He and the judicial officials who reviewed the case on its way to the emperor, however, all agreed that circumstances mitigated the case: that Jia Mingyuan snatched away the tool in an effort to preclude further violence rather than to cause injury. His act had involved "neither premeditation, nor intention, nor were there any accomplices who aided him in the deed." Moreover, the injury Jia caused to Song Shizhong was minor, not even breaking the skin. Certainly, the younger man did not deal Song Shizhong a lethal blow; death was presumably caused from the fall the old man took as Jia Mingyuan wrenched the spear from his hands. Since the death did occur during an affray, however, it was clear which law was relevant.

Second, the others involved in fighting—Song Fu, Jia Lun, and Jia Mingkui—would seem to be covered by Article 302, on injuries caused by blows during an affray: all should be caned thirty strokes.² However, given the fact that all caused injuries and instigated the fight, the judges agreed that they should be beaten a nominal eighty strokes each, or an obligatory thirty. The provincial governor released all other parties to the case and decreed that the family should be allowed to bury Song

Shizhong's coffined body. Furthermore, Song Shichen was ordered to provide planks as a means for carts to cross over the ditch he had dug to drain water from his field and thereby put an end to the dispute.

The case then went in the form of a memorial to the emperor, who relayed it on to the Three Judicial Offices for their consideration of the sentencing, as usual. Officials from the Three Judicial Offices summarized the case yet more tersely, in relatively elegant language, noting how "regrettable" it was that Song Shizhong had died from a fall caused by accident. At this level, too, mitigating circumstances were duly recorded, but because these events had occurred just before the coronation of a new emperor, the perpetrator would be covered by the imperial amnesty announced in celebration. Jia Mingyuan would go free, upon payment of twenty liang of silver to cover burial expenses for the victim.³ Should Jia ever become involved in this sort of criminal activity again, however, his punishment would be increased by one degree, probably execution with no chance of mitigation. The Board of Punishments judges agreed that thirty strokes of the cane would be insufficient for the crime of instigating violence and causing injury and that Song Fu, Jia Lun, and Jia Mingkui deserved thirty strokes of the heavy bamboo staff for their roles in the affray. Even so, they, too, were covered by the amnesty and their crimes could be forgiven. This concluded the case, and the final memorial was submitted in the names of twenty-four court officials. As indicated on its cover, the new Jiaqing emperor accepted their findings, and all of the convicts went free.⁴

NOTES

Source: *Neige Xingke tiben Xing* [Grand Secretariat routine memorials, Punishments] 9, dated Jiaqing 1.5.6 (June 10, 1796), submitted by Agui.

1. The term for "fields" here is *tun*, referring to the "military-agricultural colonies" (*tuntian*) established in Manchuria late in the seventeenth century. See Reardon-Anderson, *Reluctant Pioneers*, 24–26.

2. For these two articles, see Jones, *Great Qing Code*, 276, 285. Caning was done with a light bamboo rod and was extremely painful; blows from the heavy bamboo staff caused very serious injury.

3. This monetary repayment to the family who suffered the loss is in accordance with the law on unintentional killing in the Qing penal code, Article 292. See Jones, *Great Qing Code*, 278.

4. Not every criminal penalty could be reduced just because a new ruler came to the throne, as specified in Article 16 of the Qing penal code. For a list of the Great Wrongs and other crimes that could not be pardoned in any way, see Jones, *Great Qing Code*, 34–36, 46–47. Case 6 in this volume falls into this category.

PART III

INTENT AND PREMEDITATED VIOLENCE

In the cases presented in this section, magistrates probe their deponents' testimony for the reasons behind the violence. The inept kidnappers in case 9 are clearly guilty, but the testimony as recorded here seems to open further questions about the relationship between them and the father of the murdered boy. And in order to assign punishment appropriately, the motivation of each participant in the crime must be identified with great precision; even the child of one of the killers is questioned closely about his role in the case. By coincidence, both case 9 and case 10 are from Guangdong, although the crimes took place fifty years apart; they are alike in that the perpetrators of violence in both cases are presented as the victims of grinding poverty.

CASE 9

Luo Zhongyi: Kidnapping (Guangdong, 1728)

The exceptional length of the various oral depositions recorded in this case may reflect the efforts of one or more judicial officials to influence the final reviewers, including the Throne. There can be no misunderstanding, given all of this redundant testimony, about the cold-blooded, self-serving murder at the center of the case. Likewise, several of the judicial officials involved were serving in an acting or temporary