

Interrogation of Xu Si: "What enmity did you have with Zhang Mingfu? Over what matter did you get into the argument during which you beat him to death? Testify."

He testified: "I brew wine for a living. I never had any enmity with Zhang Mingfu. Zhang Mingfu bought wine from me wholesale to sell, and he owed me 120 coppers. I tried to collect it several times, but he wouldn't pay me. On the morning of the fifth of the seventh month, I went again to collect, but he still wouldn't pay me. I spoke with him, but he cursed me back. In anger, I broke a pottery bowl from his shop, and then Zhang Mingfu butted me with his head. I hit him back just once. I didn't think that hitting him in the ribs would make him fall down. At dusk, he died."

After another summary by the judicial commissioner, the document was forwarded to Beijing as a memorial to the emperor. On the cover is his decision: to remand it to the Three Judicial Offices for their recommendation concerning the appropriate punishment, which was very likely less than strangulation, perhaps a beating and a period of exile as the next most strenuous punishment.

NOTES

Source: *Neige tiben Xingke Xingbu Xingfa* [Grand Secretariat routine memorials, Board of Punishments, Crime and Punishment] 522–113, Kangxi 41 (1702), Suzhou.

1. The Three Judicial Offices (Sanfasi), also known as the Three High Courts of Judicature, are the Court of Judicial Review, the Board of Punishments, and the Censorate—the highest capital officials.

2. Song Luo's many positions are normally held concurrently with that of provincial governor. His awards are ordinary, for regular honorable service. See Brunnert and Hagelstrom, *Present Day Political Organization*, 511. For a biographical sketch of Song Luo, see *Eminent Chinese*, 689–90.

3. Manchu names are often treated as Han names; the first syllable is used as if it were a surname. Because the last pages of the report are missing, the rest of this official's name is not obvious.

4. According to *The Great Qing Penal Code*, Article 290. "Anyone who, during an affray, strikes and kills another, regardless of whether he has struck with the hand, or the feet, or with another object, or with a metal knife, will be punished with strangulation (*with delay*)" (Jones, *Great Qing Code*, 276).

CASE 2

Li Huaiyu: The Missing Brother (Hunan, 1736)

Complications abound in this memorial, sent to the capital in the name of one of the highest imperial princes. The murder had gone undetected for several years, and when the investigation finally began, more deaths occurred: illness took the life of the magistrate who originally heard the case, and one of the suspects died in prison, ostensibly of an infection, although the care with which the next magistrate conducted the inquest suggests that he was initially unsure whether foul play was involved. In order to make a recommendation of punishment, he had to reexamine the case, and through this process, he learned far more about those involved.

The principals in this case were among the poorest in the region, at the level at which children were sold as indentured servants, and even though the victim was wealthy by comparison, he was indistinguishable in dress and appearance from a roaming beggar. It is hardly surprising that members of the elite serving in public office should have found the stories of these people hard to understand; the family ties so prized by the elite seemed to be less important than personal integrity to these poor folk.¹ Even so, the questioning as recorded here does reveal ever more complex tensions among the people involved, all of whom were related by marriage or birth. The bulk of the memorial is from the magistrates' detailed briefs.

Board of Punishments . . . , and Prince of the Blood of the First Degree, Your subject Yunli respectfully submits this MEMORIAL concerning the report of a fratricide and its investigation. The Board of Punishments' Office of Scrutiny forwards a report from Wu Yingfen, Acting Adjutant for the Huguang Governor and Junior Vice President of the Board of War, concerning a previous matter. Therein, Yuan Chenglong, Commissioner of the Huguang Judicial Commission at Wuchang, reports on his examination of one Liu Xinglong, forty-seven *sui* in age, a resident of Xiangyang District, Xiangyang: the complaint names Xinglong as an utterly lawless [*wangzhi faji*] perpetrator of murder for personal gain [*tucai haiming*]. Previously, Xinglong had lodged at the home of his younger sister's husband Li Huaiming and had maintained warm relations with the deceased Li Huaiyu. On Yongzheng 7.2.8 [March 7, 1729], Xinglong went to Huaiming's house to offer sacrifices at the death of his younger sister. On the way, he encountered Huaiyu and asked him where he was headed. Huaiyu replied that he was buying a water buffalo. Speculating that he must be carrying some silver with him, [Xinglong] determined

to obtain that money. Thereupon, he wrongfully initiated an agreement to go with Huaiyu the next day to buy it. Huaiyu believed what he said to be true and returned home. Thereupon, Xinglong went to Huaimin's house to offer sacrifices and rest for the night. Concerned that Huaiyu might back out midway, he then wrongfully went to plot with Zhou Sanming, who died in prison of illness, and invited him to go along. On the following day, secretly bringing along a hatchet from Huaiming's house, Xinglong went to meet Huaiyu. On Back Ridge, he encountered Huaiyu, and together with Sanming they walked to the area of Geng Family Ditch. The time was dusk; while Sanming fell behind, Xinglong then wrongfully struck Huaiyu on the left temporal and occipital areas, including the ear cavity, with the metal hatchet he was carrying. Huaiyu fell to the ground and expired. Sanming fled, but Xinglong searched out the money and then left.

According to the detailed brief concerning this matter submitted by the former magistrate of Xiangyang, Zhang Zhongxiu (who subsequently died of illness):

From the complaint filed by Li Huaiyin on Yongzheng 12.7.30 [August 28, 1734]:

"In the past, my humble self and my elder brother, the two of us, divided our household and lived separately.² On Yongzheng 7.2.9 [March 8, 1729], Zhou Sanming and Liu Xinglong made an agreement with my brother Li Huaiyu to go to buy a water buffalo. My brother took the silver from selling land, sixteen *liang*, with him. We never heard from him again. He left behind my sister-in-law Ms. Xiong with two children less than ten *sui* in age. I have made inquiries in all directions, but until now have found no trace of him. On 4.14 of this year [May 16, 1734], Zhou Sanming told me that my brother had been killed by Liu Xinglong and buried on Geng Hongshun's land in the Willow Slope Village [Liuyanji] area. On 7.13 [August 11], Xinglong's own younger brother Liu Yongheng told me that it was his brother together with Zhou Sanming who had plotted to kill my brother. I hereby humbly submit this affidavit begging that you grant me the favor of arresting and questioning them in order to recover the corpse."

Upon receiving this, I immediately began an investigation. Li Huaiyin testified: "During the month of sacrifice [the twelfth month] of Yongzheng 6 [1729], I went into the mountains to collect firewood and returned in the fourth month of Yongzheng 7. When I asked where my elder brother had gone, my mother and sister-in-law said that on the twenty-eighth of the month of sacrifice of last year, he sold some land to Li Shishun's family for sixteen *liang* of silver. On the ninth of the second month of Yongzheng 7, he

agreed with Zhou Sanming and Liu Xinglong to go buy a water buffalo, but they never heard from him again. After that, I made inquiries in all directions for several years, but I never found any trace of him at all. Then on the fourteenth of the fourth month of this year, Zhou Sanming said to me, 'Your older brother was killed by Liu Xinglong, and he was buried on Geng Hongshun's land in the Willow Slope Village area.' As soon as I heard this, I went there to check it out. On the thirteenth of the seventh month, I saw Liu Xinglong's brother Liu Yongheng, and I asked him. He said the same thing. I came to make this report only after having checked the truth of it. I beg you to do me the favor of apprehending Zhou Sanming and Liu Yongheng in order to investigate this and right the injustice done to my brother. It will be a great act of mercy on your part."

Thereupon, I had Liu Yongheng apprehended and brought to the court for questioning. Liu Yongheng testified: "Liu Xinglong is my own older brother. When I was five, our father sold me to the Zhu family of Huanglongdang as a servant. I got back home only last year. I had heard people say that Li Huaiyu was killed by my brother. During the fifth month of last year, I went with my nephew Liu Shibang to the Cao Family Temple to watch the plays. As we were walking along, I asked him, 'Did your father kill Li Huaiyu—could such a thing have happened?' My nephew said he didn't know whether it was true or not. Then in the tenth month of last year, I don't remember what day it was, I was warming myself by the stove with my brother Liu Xinglong, and I asked him, 'Did you kill Li Huaiyu—did that happen?' Older Brother said that it did; he had killed him at Geng Family Ditch, and ever since that day, he couldn't get over his regret. This is what my older brother said to me. During the seventh month of this year, Li Huaiyin asked me about it, and I didn't dare to hide it. All of this is true."

On this basis, I commissioned constables to arrest Zhou Sanming and Liu Xinglong secretly. Thereafter, on the twenty-ninth of the eighth month [September 26], Zhou Sanming and Liu Xinglong were arrested and brought to court. Thereupon, I interrogated them.

Zhou Sanming testified: "Li Huaiyu was my wife's maternal uncle. Formerly, I had lived with them. On the ninth of the second month of Yongzheng 7, I ate my midday meal at Li Huaiyu's house and after a while went with him to Liu Xinglong's place to buy a water buffalo. We walked out behind to Pear Tree Ridge, where we ran into Liu Xinglong, and from then on, we all went together for twenty or so *li*. When we got to Geng Family Ditch, it was dark. The two of them were walking up ahead, and I was a little bit behind them. Suddenly, Liu Xinglong took out a hatchet and hacked

Li Huaiyu to death with it. I was scared and ran away. If you want to know how he killed Huaiyu, ask Liu Xinglong."

I questioned him further: "If you saw Liu Xinglong hack at Li Huaiyu with a hatchet, why didn't you cry out for someone to rescue him? And after he was hacked to death, you didn't come forward. Isn't this because you plotted with Liu Xinglong to kill him?"

He testified: "That Geng Family Ditch is a wild place, and it was dark. I didn't dare cry out. And besides, Liu Xinglong is my own uncle on my mother's side—I didn't dare come forward. But I didn't help at all in that business of killing him."

Interrogation of Liu Xinglong. He testified: "Normally, Li Huaiyu and I didn't have any bad feelings between us because my younger sister is Li Huaiming's wife. On the eighth of the second month of Yongzheng 7, my sister passed away, and so I went to burn [sacrificial] paper [money in her memory]. When I got to the ridge behind Li Huaiyu's, I ran into him. I asked him where he was going, and he said he wanted to buy a water buffalo. All at once, I realized that if he was going to buy a water buffalo, he must be carrying some silver at his waist. So I tricked him, saying, 'I've got a water buffalo over at my place. Why don't you come over tomorrow and buy mine?' Then I went to my younger sister's house to burn paper. I stayed the night at her place. The next day, after we ate the midday meal and as I was leaving, I noticed a hatchet there at my sister's house. So I stole it and brought it along with me. When I got up Back Ridge, I ran into Li Huaiyu and his wife's nephew Zhou Sanming. I pretended and asked him, 'Where are you headed?' He said he was headed for my place to buy my water buffalo. So I walked along with them. By the time we got to Geng Family Ditch, it was dark, and he was walking in front. From behind, I hit him in the back of the head with the hatchet, and he fell over. When I hit him again, he died. I gathered up his thirteen hundred coppers. That day, Li Huaiyu was wearing a plain felt hat on his head and a worn-out blue padded cotton jacket and a pair of old worn-out plain short cotton socks.

"Then I turned around and took the hatchet back to my sister's house. Zhou Sanming never planned it with me. Now I've confessed that I plotted to kill Li Huaiyu. If I had been able to find his silver, wouldn't I admit that too? The fact is, I never saw any of his silver."

Interrogation of Li Huaiming. He testified: "Li Huaiyu was my older clan brother; Liu Xinglong is my wife's brother. He stayed overnight in my house, but whether he took my family's hatchet and killed Li Huaiyu with it, I have

no idea. Do me the favor of questioning Liu Xinglong and then you'll know for sure."

Interrogation of Geng Hongshun. He testified: "During the second month of Yongzheng 7, I don't remember what day it was, the constable [paitou] Geng Hongyu came to my house and said that somebody had died on the edge of our ditch. I went with him to have a look. The local warden [paijia] Zhang Mingjin came to look, and they said it must be some beggar fleeing from a famine. Sergeant Geng Hongyu summoned several men to cover him up with dirt. Those people said the dead man's face was dark and bloated, and they saw two ravens that were pecking at a not very long hole in it. I'm just a foolish sort, but I was afraid to go there to look. I beg you to release me."

Interrogation of Geng Hongyu. He testified: "Geng Hongshun is my older clan brother who lives on the ridge. When I went there to look, all I could see was that the dead man's face was bloated and that there was a place where ravens were pecking it. At that time, snow was falling heavily, and the body was covered with snow. I didn't really look at it closely; I just took it to be some beggar who had died there. That's why we just buried him. I beg you to release me."

Interrogation of Ms. Xiong. She testified: "On the ninth of the second month of Yongzheng 7, when my husband went out with Zhou Sanming, the husband of my sister's child [waisheng nüxu], he was wearing a plain felt hat on his head, a blue cotton padded jacket, and a pair of plain cotton socks. Of the sixteen liang of silver he had gotten from selling the field, he had with him everything but what he had spent on five pecks of rice. But I don't have any idea who he had paid off. He went out the door and never came back. Even now, I don't know whether my husband is alive or dead. That's the truth."

On the basis of this, I ordered each of the culprits to be held separately in custody and a search to be conducted for the murder weapon. This was a serious case of premeditated homicide, but because years had passed since the incident, the case would be hard to settle, and a punishment in accordance with the appropriate statute would be hard to determine without a detailed examination of the exhumed remains for the purpose of detecting the traces of wounds on the corpse. Upon receipt of authorization from the two commissions, I sought permission for the examination of the corpse from the relevant prefecture in accordance with the statute on ascertaining the facts in a premeditated homicide, with the instruction that the magistrate's detailed brief should be delayed until it was completed.

Further according to the former magistrate Zhang Zhongxiu's detailed brief: On Yongzheng 12.10.24 [November 19, 1734], I dutifully took clerk and coroner and went in person to that place, where I ordered the culprits, the next of kin of the deceased, and the landowner and others to exhume the remains of the deceased Li Huaiyu. In accordance with the law, Coroner Han Mingcheng examined the remains of the deceased Li Huaiyu and reported that they were 4 *chi* and 5 *cun* long and 7.5 *cun* high at the chest. [He reported] a lethal injury on the left temporal to left occipital area, including the left ear cavity, 2.7 *cun* long and 1.8 *cun* wide, with shattered bone, an injury from a metal instrument. A nonlethal injury 9 *fen* long and 6 *fen* wide on the left side of the jaw, the bone broken, an injury from a metal instrument. Further, the murder weapon was recovered from the home of Li Huaiming; when compared [with the remains], it corresponded with the injuries to the bones. A careful inspection of the entire remains revealed no other causes of death. His examination complete, the next of kin were allowed to examine the remains, and there was no disagreement. Thereupon, the remains were enshrouded and encoffined and entrusted to the local warden for safekeeping. Then interrogations were held at the scene.

The coroner Han Mingcheng testified: "As to the injury to the left side of his head, the left occiput up to the ear cavity, I have made comparisons: it was made by a glancing blow from the side of the hatchet; it was 2.7 *cun* long and 1.8 *cun* wide. That injury on the left jaw was made by the head of the hatchet; it was 9 *fen* long and 6 *fen* wide."

Then Liu Xinglong testified: "At first, I was walking behind. After we crossed the ditch, I was walking ahead of him. I took the hatchet in my right hand and struck sideways with the side of the hatchet to the left side of his head. Then he fell down. Then I used the back of the hatchet to hit him once in the jaw, and that's when he died. It was I who gave him those two injuries."

Interrogation of Zhou Sanming. He testified: "On that day, Liu Xinglong and Li Huaiyu were walking ahead of me, and I was walking behind them. It was already dark by then. All I could see was that Liu Xinglong hit Li Huaiyu with a hatchet. I was scared and ran away. I don't know anything about how many times Liu Xinglong hit him. I really didn't help him in this business of hitting Li Huaiyu."

On the basis of this examination of the remains and the interrogations at that time, in addition to the [initial] report on the facts concerning this case of premeditated murder, I thereby filled in and annotated the list [of injuries] and the [forensic] chart and prepared a report and affixed my seal, to be forwarded as appropriate, and so on. Having received the authorization [from

my superiors] to do so, I investigated the facts of the case thoroughly in order to settle on the appropriate sentence to be forwarded for further review.

Subsequently, the next magistrate of Xiangyang District, Shen Mengjian, records that on Yongzheng 13.2.26 [March 20, 1735], the prison warden Li Wenzhu and the guard Long Zepu reported that the imprisoned criminal Zhou Sanming had on 1.9 [February 1] of this year fallen ill with an infection. Thereupon, they reported that a physician had been summoned to treat him, but he did not recover. In the early afternoon of this day, he expired. As appropriate, they thereby reported the matter to their superiors. Consequently, this humble magistrate [Shen] went at once in person with the clerk and the coroner to the jail. There, the corpse was placed on level ground and examined. The deceased Zhou Sanming was a little over thirty *sui* in age. Coroner Han Mingcheng examined him at that site, determining that Zhou Sanming's two hands were lightly clutching his stomach, which was flat, and that his whole body was sallow and lean. Beyond this, there were no visible causes of death. He concluded that death was the result of illness. His examination complete, I made my personal inspection and found no discrepancy. At that time, I donated a coffin and had the body shrouded for burial.

Interrogation of the jail warden Li Wenzhu. He testified: "This Zhou Sanming fell ill on the ninth of the first month. The guard submitted a request, and the physician Zhou Anlin was summoned to treat him. He administered a number of medicines, but to no visible effect. This afternoon, he died of that illness. The guards attending him inflicted no mistreatment whatsoever." I interrogated the guard Long Zepu, whose testimony was the same.

Interrogation of the person jailed next to him, Jin Mingqing. He testified: "In jail, Zhou Sanming fell ill on the ninth of the first month. The physician assigned to us came to treat him. He administered medicines, but none of them had any effect. This afternoon, Zhou Sanming died. There was no mistreatment by the guards. I would not dare give false testimony."

Interrogation of the physician Zou Anlin. He testified: "It was on the ninth of the first month that Zhou Sanming fell ill. I was the physician assigned to treat him; the physician is to go at once to the prison to examine the patient. It was a consumptive illness, on which my medicines had no effect. He died of the disease. This is the truth."

On this basis then, I filled out and annotated the [forensic] chart of the body and prepared a report and affixed my seal. Thereafter, I received the authorization to conduct an investigation to ensure that mistreatment had not been a cause of the prisoner's death and to expedite a judicial examination and penalty to be forwarded for review.

The following was recorded by Shen Mengjian, the acting magistrate of Zaoyang District in charge of Xiangyang Prefecture matters:³ Magistrate Qiu Yunheng of Xiangyang District, who took office on 4.2 [April 24] of this year, reported: When I had reviewed all of the original documents, I summoned the prison guards and others for a reexamination; I found no evidence of mistreatment in the death of Zhou Sanming. I further summoned all the criminals to court and, at the bench, questioned the landowners Geng Hongshun and Geng Hongyu; their testimony was no different from the first time. I did not question them on other matters.

Li Shishun testified: "Li Huaiyu's land had previously been pawned to me; I gave him twelve *liang* of silver for it. On the twenty-eighth of the month of sacrifice of Yongzheng 6, he sold it to me through Liu Shichao. I gave him four more *liang* of silver as the purchase price. That's the truth."

Li Shichao testified: "It was I who, as middleman, wrote the contract for Li Huaiyu to sell his land to Li Shishun on the twenty-eighth of the twelfth month of Yongzheng 6. His land had been previously pawned and later redeemed. Li Shishun paid Li Huaiyu four more *liang* of silver for it. That's the truth."

Li Huaiyin testified: "My older brother Li Huaiyu sold his own field to Li Shishun during the month of sacrifice of Yongzheng 6. I haven't lived with my brother since childhood. Because he saw that I had no capital, in the first month of the seventh year, he gave me two hundred coppers to go out and buy firewood to sell. When I got back in the fourth month, my sister-in-law Ms. Xiong said that my brother had agreed to go with Zhou Sanming and Liu Xinglong to buy a water buffalo on the ninth of the second month [March 8]. But he still hadn't come back, so she told me to go out to look for him. So I asked Zhou Sanming. Zhou Sanming said that my brother hadn't been able to buy a water buffalo, and he didn't know where he had gone to buy one. I also went to ask Liu Xinglong, but he said the same thing. I went everywhere looking, but I couldn't find him. I thought that my brother always likes to drink, and there's that Black Water River. I was afraid that he had gotten drunk and fallen into the river. But there was no way to tell. I'm just a poor man. All I could do is keep it in mind, and whenever I ran into somebody, I'd ask. But there was no place to go to look for him.

"Then in the fourth month of last year, when I was plowing, Zhou Sanming came up, mad as he could be, and said to me, 'There's a bit of clan business you ought to get in on.' I said, 'If there's some way to make a little money, let me in on it.' He said, 'Your older brother was beaten to death by Liu Xinglong in Geng Family Ditch.' And he told me to go ask him about it,

and Liu Xinglong would have to give me some money. He also told me to give him some of it. So I said, 'How would I dare ask him for money?' I just wondered if it was true. So I was even more careful making inquiries. One day, I ran into Liu Xinglong's brother Liu Yongheng. I chatted with him a while, and then I brought up the business of my older brother. He put me off, so I asked him about it again. Then he told me that my brother Huaiyu had in fact been beaten to death by his older brother Liu Xinglong. Seeing that what the two of them said corresponded, only then did I file the complaint. I only beg for justice for my older brother."

Question: "You say that only after Zhou Sanming and Liu Yongheng told you did you believe it and file the complaint. But Zhou Sanming is Liu Xinglong's niece's husband, and Liu Yongheng is his own brother. Why would the two of them be willing to tell you the truth?"

He testified: "It was only when both of them told me that I understood. Even though Zhou Sanxing is Liu Xinglong's niece's husband, I had heard that he had had words with Liu Xinglong for the last several days. But as for Liu Yongheng, it was because my asking him again and again pained him. He's an honest man, and he couldn't help being moved to tell me the truth."

Hoping for more facts, I asked: "That day when your older brother set out, just how much money was he carrying with him?"

He testified: "Because I was not in the house when my brother set out, I don't know how much money he was carrying with him."

Question: "Upon examination, your complaint says that your brother took the sixteen *liang* of silver from the sale of the land with him. Why do you say you don't know how much money he was carrying?"

He testified: "I hadn't seen those sixteen *liang* with my own eyes; that's what my sister-in-law told me. That's why I reported that amount in my complaint."

Interrogation of Liu Yonghong. He testified: "I'm a resident of Xiangyang District, and this year I'm thirty-two *sui* in age. This Liu Xinglong is my own brother. When I was five, I was sold to the Zhu family of Huanglongdang to be a servant. In Yongzheng 11, I finally redeemed myself and went home. While he was plotting to kill Li Huaiyu, I didn't know anything about it. It was only afterward that I heard people say that Li Huaiyu was killed by my brother. Then in the fifth month of Yongzheng 11, when I was on my way to the Cao Family Temple with my nephew Liu Shibang to watch the plays, I asked my nephew, 'Did your father kill Li Huaiyu—did that happen?' My nephew said, 'I have heard that, too, but I don't know whether that's true or false.' During the tenth month, I don't remember the date, I was warming

myself at the stove with my older brother Liu Xinglong, and I asked him about it. My brother said that when Li Huaiyu had gone to buy the water buffalo, he had killed him at Geng Family Ditch. Last year in the seventh month, Li Huaiyin asked me about it, saying that his mother had also died and his sister-in-law and his nephew didn't have anything to eat, and he himself was desperate. Nobody knew the whereabouts of his brother. 'I've heard tell that your brother did him in, but I don't know whether it's real or false.' What he said really touched me. So I told him. This is the truth."

Question: "If your brother had beaten Li Huaiyu to death, and suppose that he told you about it, how could you bring yourself to tell his brother Li Huaiyin about it?"

He testified: "There's just the two of us brothers. So at first I didn't want to tell anybody about it. It was only because Li Huaiyin was Li Huaiyu's own brother and he already knew that he'd been killed by my brother. At that time, I was thinking about how my brother really should not have done that. It's hard to ignore your conscience [*liangxin nanmei*]. So I told him the whole truth about the matter."

Question: "You heard somebody say that your brother had killed Li Huaiyu—what was that person's name?"

He testified: "That my brother did it, now that I think of it, it was Zhou Sanming who first brought it up. But everybody knows about it."

Interrogation of Ms. Xiong. She testified: "On the ninth of the twelfth month of Yongzheng 7, Zhou Sanming came to my house to get my husband to go out with him to buy a water buffalo. On the next day, he came again for him. I said, 'He still hasn't come home from that trip out with you yesterday.' Zhou Sanming said that the deal had not gone through with the Liu family buffalo, but he should have come home by now. Then he left. Later, my younger brother-in-law Li Huaiyin came back and searched everywhere for him, but there was never any trace of him. Brother-in-law also went and asked Zhou Sanming and the others. They all said that when the deal fell through with the water buffalo, he'd surely gone somewhere else. I don't have any idea what enmity there was between Liu Xinglong and my husband that he would plot to kill him. I only beg that you question Liu Xinglong and right the wrong done my husband."

Question: "In examining your previous testimony, you said that your husband had sixteen *liang* of silver from selling a field. Could that be true?"

She testified: "I only heard my husband say that he had sold the field for sixteen *liang*; I never saw it with my own eyes. I just know that when we

didn't have anything to eat at New Year's, he bought five pecks of rice, half a bundle of salt, and half a piece of paper.⁴ Beyond this, I don't know whether or not he had any silver. This is the truth."

Interrogation of Zhang Mingjin. He testified: "During Yongzheng 7, I don't remember the date, Geng Hongyu and Gong Hongshun came over to my house and said that somebody had died on the bank of their ditch. So I went there with them to have a look. That dead man's face was dark and bloated, and there were crows pecking at a hole in it. It was snowing heavily just then, and so I never took a close look at him. I just thought he was a beggar who had died there. That's why we just buried him without making any report. This was my mistake, but I beg you to overlook it."

Interrogation of Li Huaiming. He testified: "I am a resident of this district, and I'm forty-five *sui* old. That Li Huaiyu, now deceased, is my older clan brother. Liu Xinglong is my wife's brother. Whether there were bad feelings between Li Huaiyu and Liu Xinglong, I don't have any idea. As to who might have plotted with him, you already have Liu Xinglong here; do me the favor of asking him."

Question: "The hatchet that Liu Xinglong used to kill Li Huaiyu came from your house. If you weren't in on the plot, why would you be willing to give it to him to kill somebody with? Furthermore, why did he come only to your house to get a hatchet? Why don't you tell the truth?"

He testified: "My wife was Liu Xinglong's younger sister. On the eighth of the second month of Yongzheng 7, Liu Xinglong came to burn paper for my wife. He spent the night there, and on the next day, he left. I don't have any idea whether he took the hatchet with him."

Seeking further facts, I asked: "You say you don't know whether Liu Xinglong took the hatchet. How could it be that nobody in your family saw him do it and asked what he wanted a hatchet for? And afterward, none of you knew about it when he brought the hatchet back? Surely you know more than you're letting on. Tell the whole truth."

He testified: "But in fact no one saw Liu Xinglong either take the hatchet or bring the hatchet back. If he was plotting to kill someone, why would he be willing to wait around for someone to catch him at it? Naturally, he concealed the hatchet on his body both times. And besides, he is my wife's brother—inside or outside, he could go anywhere he wanted to. Who would stop him? Li Huaiyu was my clan brother. If I had known that he had been murdered by Liu Xinglong, why would I have hidden it and not come forward? Do me the favor of examining Liu Xinglong and then you'll find out."

Interrogation of Liu Xinglong: "Where are you from, and how old are you? What was the date and because of what grudge against him did you plot with those two to kill Li Huaiyu? Tell the truth."

He testified: "I am a resident of this district, and this year I am forty-seven *sui* old. This Li Huaiming was the husband of my younger sister. In the past, I stayed at Huaiming's house and then afterward moved back home. That Li Huaiyu is Huaiming's clan brother. I knew him well. On the eighth of the second month of Yongzheng 7, my sister died. It was while I was going to Li Huaiming's house to burn paper that I ran into Li Huaiyu on Pear Tree Ridge behind Li Huaiyu's house. I asked him where he was going, and he said he was on his way to buy a water buffalo. I've always been desperately poor [*qiongzhe de ji de*], and I thought that if he was going to buy a water buffalo, he must be carrying some silver. So I tricked him by saying, 'Tomorrow you should go over to my place; I have a water buffalo to sell you.' Then he stopped and said a few words and then went back home.

"When I got to my sister's house to burn paper, it was dark, so I stayed the night there. But I was afraid that he wouldn't want to go buy it. Zhou Sanming is my wife's nephew, and that night he was at Li Huaiming's house, too. So I said to Zhou Sanming, 'Today, I ran into Li Huaiyu, and when I asked him, he said he wanted to buy a water buffalo. I told him to come to my place tomorrow and buy my water buffalo. After all, if he wants to buy a buffalo, he must have some money that we can get out of him. But I'm afraid that he'll go off by himself to buy one and won't want to come. You're a relative of his. How about you go get him to agree to it?' Zhou Sanming said, 'How are you going to get it out of him?' And I said, 'When the time comes, I'll have a plan.' When Zhou Sanming heard me talk about getting some money for us to spend, he said, 'Sure, I'll get him to agree to it.'

"So the next day, I had already hidden the hatchet from my sister's house on my body, and when I walked up Pear Tree Ridge, I ran into Liu Huaiyu and Zhou Sanming. So I made a point of asking him again where he was going, and he said he was going to my place to buy a water buffalo. So we went along together, but by the time we got to Geng Family Ditch, it was dark. At first, he was ahead and I was behind him. After we crossed the ditch, I was in front of him. Zhou Sanming had fallen behind. I took the hatchet in my right hand and hit him a sidewise blow with it on the left side of the head, his temple, and his ear. Then he fell down. I also hit him with the back of the hatchet on the left side of the jaw, and then he died. By then, Zhou Sanming was so scared that he ran away. He didn't take any part in it. Both of his [Liu Huaiyu's] injuries were my work."

Question: "You first testified that Li Huaiyu was walking ahead, and from behind you took the hatchet and hit him in the back of the head, and then he fell down. Why are you now saying that you were walking ahead of him and hit him on the left side of the head? If you were secretly plotting to attack him, naturally you would hit him from behind. Hurry up and testify."

He testified; "The reason that I first testified that I hit him with the hatchet from behind was that, after so many years, I just made a mistake. Now, sitting in jail, I remembered. At first, Li Huaiyu was walking in front and I was behind him. But that was during the daytime. By the time, we got to Geng Family Ditch and took off our shoes to cross the water, it was already dark. Li Huaiyu was slow in taking off his shoes, so after we crossed the ditch, I was walking in front. At first, I took the hatchet in my right hand, and when he caught up with me, I turned around and hit him a blow across the head. That's why I hit him on the left side of the head, the temple, and the ear as well. If I had hit him from behind, it would still be a crime, so why wouldn't I tell it to you straight?"

Seeking more facts, I asked: "That Zhou Sanming was a relative of his. How could it be that you could tell him you wanted to murder Li Huaiyu—weren't you afraid that he would let Li Huaiyu know about it?"

He testified: "Even though Zhou Sanming was the husband of Li Huaiyu's niece, they never got along very well with each other. When Zhou Sanming heard about getting a little money, all he could think about was money. That's why he went to get [Li Huaiyu] to go along."

Question: "If Zhou Sanming had agreed to go along with you on it, how could it be that he didn't help you hit him? Tell me that."

He testified: "When Zhou Sanming saw that I had knocked Li Huaiyu down, he went a few steps along the stream and then was so scared that he ran away. If he had helped me hit him, why would I confess that I did it alone?"

Question: "Where did Zhou Sanming run to?"

He testified: "First he ran to my place."

Question: "So how much money did you actually find on him?"

He testified: "Actually, all I found was thirteen hundred coppers. I gave five hundred of them to Zhou Sanming, so all I had was eight hundred for myself. That's the truth."

Question: "According to Woman Xiong, her husband took the sixteen *liang* of silver he got from selling the land with him to buy the water buffalo. Why do you say that you only found thirteen hundred coppers? Are you still not telling the truth?"

He testified: "I really found only thirteen hundred coppers on him; I didn't get any silver at all. That Li Shishun who bought the land said that Li Huaiyu's land was first pawned and later redeemed and that all he gave him was the balance of four *liang* of silver. And it was New Year's—how would he not have spent some of it? If I'd gotten some silver from him, it would still be the same crime. Why would I not confess to it?"

Seeking further details, I asked: "Since you discussed with Zhou Sanming getting Li Huaiyu to agree to go and buy your water buffalo so that you could kill him, why did you first and last testify that you had never discussed it with him? Clearly, you see Zhou Sanming's death as a chance to implicate him by dividing the spoils with him."

He testified: "Zhou Sanming was my wife's nephew. He only went to get Li Huaiyu to agree to go along because I asked him to. That's why when I first came to court, I didn't want to drag him into it. This is the truth. But now because Your Honor has examined me so strenuously, I can only tell the whole truth.⁵ He was always in on it to share the spoils. I wouldn't dare lie about this."

Question: "If that Zhou Sanming had in fact plotted with you to share the spoils, how could it be that he would tell Li Huaiyin that you had beaten his older brother Li Huaiyu to death so that he could file a complaint against you?"

He testified: "Even though Zhou Sanming is my wife's nephew, he is also Li Huaiyu's niece's husband. If he hadn't been in on it for a share of the loot, not only would he not have been willing to go to Li Huaiyu's house to get him to agree to go so that I could beat Huaiyu to death, but why would he never come forward about it? As for his telling Li Huaiyin, it was all because Sanming was never any too careful about what he said. Ever since he got a little money from plotting a murder, whenever he got drunk, he'd say a couple of words about it, and people came to know about it. Besides, for the last few days, he couldn't take his aunt's scolding, and he was mad because it wasn't fair, so he told Li Huaiyin to scare me into bribing him. But now he's dead. What would be the use of implicating him? What I'm telling you is the truth."

Question: "You took the hatchet from Li Huaiming's house for your plot to kill Li Huaiyu. Was Li Huaiming in on the plot?"

He testified: "It was on the sly that I took his hatchet, and I hid it in my clothes. He never knew. It's a fact that he knew nothing about it and was not in on the plot."

Question: "If you made it so that he didn't see you, when you took the

hatchet back, how could it be that not a single person in his family saw you? plainly, your testimony is an attempt to clear him. Now tell the truth."

He testified: "I waited until I saw that there was no one in the house before I took the hatchet and hid it at my waist. Afterward, when I took it back, I again hid it in my clothes. I was his brother-in-law; I could go anywhere I wanted. That's why no one in his family saw me. It's really not that I'm giving false testimony, so release him."

On the basis of this evidence, I, Qiu Yunheng, Magistrate of Xiangyang District, examined Liu Xinglong for the premeditated murder of Li Huaiyin. To wit:

After the magistrate lays out his summary of the facts of the case, he gives his recommendations for punishment:

Except for Zhou Sanming, who has already expired, thus for whom we need not recommend, we recommend that Liu Xinglong be sentenced to beheading in accordance with the penalty for premeditated homicide for the sake of personal gain, which is the same as for robbers, with no distinction between leaders and followers.⁶ I recommend beheading without delay.

The magistrate also suggested penalties for all involved. Even though he did not come forward of his own accord, the murderer's brother Liu Yongheng testified fully and truthfully despite their family relationship; for this reason, he should be cleared of the penalty for being an accessory after the fact, which, for the robbery, would be execution. Instead, as penalty for abetting a murder, his recommended punishment should be a nominal beating of one hundred strokes, reduced to forty. For allowing Liu to steal the murder weapon from his house, Li Huaiming, along with the men who failed to report to the local authorities when they discovered a body, were to be beaten a nominal eighty strokes, reduced to thirty. The others, he concluded, could be released. The eight hundred copper coins Liu Xinglong had taken from his victim should be entrusted to Li Huaiyin. The five hundred copper coins that had been shared with Zhou Sanming were considered lost.

Both the prefect and the provincial judicial commissioner in turn agreed with the magistrate's report and his recommendations. The memorial concludes with another summary of the facts of the case—using virtually the same wording as the magistrate's—which initially reaches the same recommendations for punishment. While the judicial review process was going on, however, a new emperor had ascended the throne. Consequently, a celebratory amnesty was proclaimed, and the final sections of the document debate which principals of the case should be covered by it. All were

pardoned except for the murderer Liu Xinglong. The Three Judicial Offices at the capital recommended that he be held in custody awaiting execution, but the decision of the youthful Qianlong emperor was unequivocal: he decreed that Liu be taken to the place of execution and that the sentence of beheading be carried out immediately. The others, he ruled, should receive the reduced sentences as recommended by the lower courts.

NOTES

Source: *Neige tiben Xing* [Grand Secretariat routine memorials, (Bureau of) Punishments] 164, Qianlong 1 (1736).

1. For additional evidence suggesting such class distinctions in values in late imperial China, see Hegel, "Distinguishing Levels."
2. In this initial complaint, Li Huaiyin refers to himself with the unusual pronoun *yi* (lit., "ant[like in insignificance]"). As in other cases, all other male deponents use the more standard deferential first-person pronoun *xiaode* ([my] humble [self]) in their testimony.
3. By law, investigations of possible malfeasance of duty were assigned to a magistrate from another district in order to ensure objectivity.
4. Presumably this was red paper, for making conventional New Year's decorations and wishes for good fortune during the coming year.
5. This most likely means that torture was inflicted during interrogation.
6. This refers to Articles 282 (of which the fifth section refers to obtaining property as a result of premeditated murder) and 266 (theft with the use of force) of the Qing penal code. See Jones, *Great Qing Code*, 268, 246.

CASE 3

Ms. Guo: Accidental Homicide Concealed (Zhili, 1795)

TRANSLATED BY MARAM EPSTEIN

This case is of interest because it implies that a newly married wife did have some power to resist her husband—at least among the lower gentry. As in other cases, the deposition of the party of highest status sets the tone and the rhetoric for the entire case. Note the details that suggest the shrewish potential of the victim: her angry response to her husband, to the point of hitting him, the mess she leaves on the kang, and the odd detail that she was naked when their final struggle took place. Atypical

is the number of depositions taken in a minor homicide case; this is likely because of the elite status of both families.

The preceding officials of the Board of Punishments' Office of Scrutiny respectfully copy here the case forwarded by Liang Kentang, the governor-general of Zhili, based on the memorial of the judicial commissioner, Suo-nuomu Zhamuchu, concerning the report forwarded by Yang Junwen, Prefect of Zhengding.

The detailed brief submitted by Xia Wenjiong, Magistrate of Huolu District, states:

On Qianlong 59.4.22 [May 20, 1794], the local warden Zhang Sanzhong reported that on the same day, in Yangling Village east of the Zhengding District seat, *zhiyuan*, Guo Tingyi, personally informed him that his niece, Ms. Guo, had on 4.9 married Zuo Qingxuan, the son of Zuo Yuanrang, of the same village, as a second [primary] wife.¹ On 4.21, he heard that his niece, Ms. Guo, had hanged herself, and he hurried over. He discovered that there was a wound on his niece's chest. Suspicious, he and Zuo Yuanrang subsequently questioned Zuo Qingxuan. He said that he had quarreled with his wife, Ms. Guo, and had stabbed her with a knife, that she had died soon after, and that he had disguised the death as suicide by hanging. [Zhang Sanzhong] personally went to see and had Zuo Qingxuan bound and transported to the court to request an interrogation as appropriate. On this same day, the uncle of the deceased Guo Tingyi filed his complaint by bringing it to the *yamen*.

This humble magistrate [Xia Wenjiong] accordingly proceeded to the place where the corpse lay, accompanied by a clerk and the coroner. In accordance with the law, I conducted an investigation.

In his oral report, the coroner declared: "The deceased, Mrs. Zuo née Guo, was twenty-five *sui* in age. From the front view, her facial color has begun to change. Her eyes are swollen, and her mouth is slightly open; her tongue is pressed against her lower teeth. A lethal wound is beneath her throat; the mark is slightly raised in front, and it extends around to the nape of her neck; the encircling mark is 4 *fen* wide and not quite 1 *fen* deep, of white color. Her two hands are slightly clasped. A lethal wound from a knife lies to the right of her heart, 5 *fen* long and 3 *fen* deep, slightly bloody. There are no other indications. I conclude that she died after being stabbed by a knife. Her death was then disguised as suicide by hanging."

This humble magistrate [Xia] then examined the body to verify that there were no discrepancies. The register of wounds was filled out and annotated.