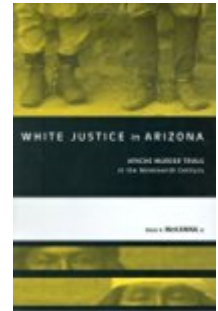


Clare V. McKanna, Jr. *White Justice in Arizona: Apache Murder Trials in the Nineteenth Century*. Lubbock: Texas Tech University Press, 2005. x + 223 pp. \$27.95, cloth, ISBN 978-0-89672-554-6.



Reviewed by Paul Hietter

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In *White Justice* Clare V. McKanna has provided an interesting and useful addition to his impressive list of publications that focus on crime, race and justice in the American West.

White Justice is organized around four case studies detailing the experiences of Apaches accused of murder during Arizona's territorial era. Collectively, the cases involve prosecutions that occurred between the mid-1880s and 1890--a period when the Apache wars were still fresh in the minds of Anglo residents and Apaches were struggling to adapt to reservation life. All four cases were eventually appealed to the Arizona Supreme Court. As a result, McKanna was able to access complete transcripts and other trial records not usually available when cases were not appealed. McKanna mines these records to assemble fascinating narratives that detail the murders the Apaches were accused of and the prosecutions that followed.

Before launching into the narratives, the author provides a brief background of Indian-white relations in North American history and summarizes earlier attempts to incorporate Native

groups into the dominant legal system. Most notably, he touches on the infamous "legal" mass executions that followed the Dakota war in 1862 Minnesota. The rapid prosecutions and verdicts that prefaced the executions would be echoed in territorial Arizona 25 years later.

McKanna follows this overview with a more detailed analysis of the circumstances surrounding the Apache experience in Arizona. The first case focuses on Apache legal culture and its role in the trial of Captain Jack--who was accused of the revenge killing of another Apache band leader in 1888. The second case focuses on the impact of Apache traditions of raiding and warfare. Two white settlers were killed during an 1887 raid led by Goshayee. The third case describes the background and trial of Nahdeizaz, otherwise known as the "Carlisle Kid" because he had attended the Carlisle Indian School in Pennsylvania. Here, McKanna focuses on the dilemmas and frustrations faced by Indians caught between the white and Apache worlds--and accepted by neither. In this case, the Apache shot and killed Lieutenant Seward Mott at the San Carlos Agency on March

10, 1887. The last case involved an Apache scout named Batdish who was one of four men accused of killing a white settler in July 1890. This was perhaps the most outrageous example of injustice. Whereas in the first three cases the accused were likely guilty of the crimes charged, in this last case even a local newspaper commented that the evidence against Batdish was weak.

Throughout the narratives, McKanna argues that it was virtually impossible for Apache defendants to receive a fair trial because there were simply too many factors stacked against them. Lackluster defense efforts, the complications of translating testimony--with Spanish sometimes used to get back and forth from Apache to English--and the lingering effects of racial animosity stemming from the recent Apache wars all contributed to abnormally high conviction rates for Apaches accused of murder. To make matters worse, Apaches were forced to adapt to a legal system and social code that was considerably different than their own. As McKanna writes, "Instead of being held to the social behavior standards of their peers, now they would be judged by an alien system that seemed incomprehensible" (p.19).

McKanna's overall argument is sound, however, the author seems to struggle with his analysis of Apache attempts to continue living under their own legal culture. For example, during the Gonschayee narrative McKanna notes that "These Native Americans committed acts that were considered normal behavior by Apache standards, but those same acts were perceived differently by white society" (p. 88). This contention might fit better within the context of a blood feud played out between two Apache bands. Instead, it appears while describing the aftermath of the murders of two white settlers. Based on the information provided, these poor souls were simply in the wrong place at the wrong time. Is the author attempting to convince the reader that Apaches ought to have been allowed to do such things be-

cause they were culturally acceptable? While it is doubtful that this is McKanna's intention, this is the impression that could be left on some readers.

The author also argues that defense efforts were weak and ineffective, and that this was mainly due to the fact that "experienced criminal lawyers were not interested in such cases" (p. 168). However, a review of Arizona's court records reveals that many of the attorneys cited in the four narratives were indeed experienced defense lawyers. H.N. Alexander and L.H. Chalmers, who defended in the Captain Jack and Gonschayee trials, also appeared in numerous other Maricopa County Territorial Court criminal prosecutions during 1888. Similarly, W.H. Griffin and P.B. McCabe, who defended Batdish, also appeared for other clients in Gila County during 1890. While the author effectively picks apart some of the questionable defense strategies of the defense attorneys, it is pretty clear that these men possessed criminal law experience and were not simply low-level attorneys looking for some extra income. Moreover, one might argue that the lawyers involved with these cases actually provided a decent defense under the circumstances. Like most attorneys faced with long odds, they tried to win the case on legal technicalities--which in these cases involved the unresolved issue of whether or not the crimes fell under territorial or federal jurisdiction. This strategy almost always proved successful and resulted in an overturned conviction. Unfortunately for the Indian defendants, however, they were almost always reconvicted under territorial jurisdiction. It is here where the author is on most solid ground regarding the inability of Apaches to gain fair trials.

Despite the issues noted above, this book succeeds in its stated goal of "beginning a dialogue on the handling of America's indigenous population under the control of federal, state and county criminal justice systems" (p. 4). Moreover, it is simply a good read, and is therefore recommended.

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