

Visual Literacy and the Legal Culture: Reading Film As Text in the Law School Setting

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I have found that students better understand this new "language" than their book-bound teachers. While legal scholars are more adept in reading written texts than their students, we quickly find that our video sophisticated students are much better trained in "reading" films. Therefore, film helps to level the pedagogical playing field to the advantage of teacher and students alike.

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During the 1990 and 1991 academic years I taught a course in popular storytelling at the University of Connecticut School of Law. The underlying premise for the course was simple: Our popular culture is predominantly, perhaps exclusively, a narrative culture, a technologically based oral and visual story culture, a culture of "secondary orality."² "Understandings" are imagistic and story-centered. Law students and law professors are, of course, products of this culture. More important, perhaps, lawyers operate in a predominantly fact-based "narrative" legal culture — an increasingly visual (imagistic) and aural story culture — discrete from the "paradigmatic" text-bound analytic culture of the law school.³ Films provide a unique mechanism for structured critical reflection on the dynamics of legal cultural storytelling.

By avocation, I am a long-time film junkie and closet-screenwriter. By vocation, I have worked with "criminals" in the prisoners' rights office of a public defender and taught creative writing at a state psychiatric facility for criminals. I have always been fascinated by the stories of criminals. Consequently, I selected films with the theme of the outsiders' perspectives on law and society.⁴ I hoped that my work experiences would provide experiential references for meaningful discussions of the films. I also hoped the discussions might be therapeutic, for the instructor as well as for the class.

I am employed currently as a teacher of legal writing and director of a legal writing program. I teach law students how to "write like lawyers." My job is to acculturate students: I help them internalize the highly structured

analytical form necessary to succeed in law school and transfer this abstract paradigm into articulate lawyer-like prose.

Law students must effectively identify legal issues and correctly synthesize and articulate the legal rules necessary to resolve these issues. Students must learn to systematically apply these rules ("the law") to "the legally significant facts." Unfortunately, the legally significant facts embodied in law school hypotheticals, legal writing problems and examination fact patterns are simplified, desiccated and decontextualized; they are merely excuses for students to state and apply legal rules. The appellate opinions studied in law school are based on reexaminations of law; they accept the facts of the case as fixed at trial.

After graduation, however, most lawyers operate as storytellers, subjective and passionate voices advocating client stories in a predominantly narrative oral culture. Trial lawyers, for example, are "imagistic" storytellers operating in a factually indeterminate and interpretivist world far removed from the legally indeterminate world of the appellate court and the law school classroom.

I hoped participants in the seminar would rediscover and develop subjective storytelling voices in their analysis of imagistic cinematic texts. I hoped that participants could develop vocabularies for reflecting upon a complex experiential world through analysis of films. I hoped that the course might liberate the imaginations of law students exhausted after three years spent in the stultifying and exclusive study of appellate cases.

In this essay, I expand on the brief journal excerpts cited in previous articles,⁵ and share the deep thoughtfulness of several seminar participants. I present significant excerpts from four representative journals, abetted by my commentary, to identify and describe certain systematic and representative features of this new literacy.

In the first journal excerpt, illustrative of the new aural and visual literacy, one student presents a theoretical deconstruction of the stylistic elements in Orson Welles' "Touch of Evil." In the second illustrative excerpt, another seminar participant applies his visual literacy to Roman Polanski's "Chinatown" and Errol Morris' "The Thin Blue Line" and contrasts conflicting popular images of the lawyer as detective and truthfinder with the lawyer as postmodern trickster storyteller. In the third and fourth excerpts, one of which comes from my journal, participants are sensitive to mythic sub-texts and discover gender identities in Terrence Mallick's "Badlands" and James Foley's "At Close Range."

These excerpts reflect discrete class discussion themes, and they also manifest a stunning new visual literacy. In my commentary I discuss the significance of this new literacy for legal cultural storytellers.

Visual Literacy

Popular cinematic stories are generally simple linear narratives viewed from the fixed perspective of an omniscient narrator or protagonist with whom the viewer identifies. The story hooks the imagination of the audience and propels the imagination forward with a "hard" plot-line. Since the audience can not "back-loop"⁶ over the text, the sub-units of the film must simultaneously reaffirm and express the central thematic concern or vision of the story while the plot-line moves the story forward ineluctably. Consequently, sub-units may be "read" independently and used to decode and comprehend the story's thematic content. This concept of underlying "story theme" is akin to the lawyer's notion of "theory of the case" in the trial storytelling process.

In class discussion, I used freeze-frame analysis on a four-headed tape machine to deconstruct thematic content. Participants were remarkably adept at "stop action" analysis of images and deconstruction of smaller cinematic units. Many "read" visual text and "subtext" fluidly, with great sophistication, and were conversant with cinematic story-structure although none had taken a film course or studied film theory. Nevertheless, participants readily understood that images reflected deeper structures and resonated with specific meanings. Participants, sophisticated cultural consumers of stories and images, reflected systematically on these visual stories.

The journal of Alex G. illustrates this heightened visual and aural literacy in a critique and deconstruction of the multiple layers of Orson Welles' "Touch of Evil." The plot of this movie is a prototypical and simple detective story: a good Mexican cop Vargas, portrayed by Charlton Heston (plastered with curious make-up to express apparently Mexican ethnicity) and his pretty American wife (the extremely blonde Janet Leigh) witness a murder on the American side of the border. Vargas and Hank Quinlan (the bad American cop portrayed by the corpulent Welles) attempt to investigate and solve the crime. Their respective methodologies for achieving justice differ drastically. Quinlan attempts to frame an innocent Mexican youth, while Vargas adheres to "the rules" and correct investigative procedures. Eventually, Vargas perceives Quinlan's corruption and confronts him. Meanwhile, a gang of Mexican bad guys kidnaps Vargas' wife. There are progressive complications: drugs, more murders. Quinlan, in cahoots with members of the gang, attempts to frame Vargas for the murder of the gang leader. In the end, of course, good triumphs over evil: Vargas exposes Quinlan's corruption and criminality, leaving Quinlan destroyed.

Like other seminar participants, Alex thinks imagistically. His analysis imaginatively reinvents the story. He literally sees ideas embedded in cinematic images; he sees far more in individual shots than I do. For example, Alex

begins his journal with the description of frames frozen on the screen:

Struggling to lift his hulking frame Hank Quinlan (Orson Welles) stands nearly erect and half sober in the living room of Tanya's (Marlene Dietrich's) brothel. As the camera angle widens, foreshadowing the future, the head of a bull, skewered with swords, looms over Quinlan. On the same wall, in a mirror surrounded by photographs of young handsome matadors, is the reflection of Miguel "Mike" Vargas (Charlton Heston), Quinlan's mortal enemy. The scene typifies not only the allegorical nature of "Touch of Evil", but also how the director, Orson Welles, uses the film as a vehicle for his storytelling.

Alex perceives depth in the "cinematic style" that belie "Touch of Evil's" gangster cliches. While the text is the "classic confrontation between good (Vargas) and evil (Quinlan)," the story is "much richer" than merely the downfall of a crooked cop acting outside the law. The film is multi-layered, allegorical. Specifically, the allegory is about characters searching through a maze: Hank Quinlan searches through the maze for a murderer; Vargas searches for "the truth"; and "on a deeper level" Quinlan searches to retrieve his past, and Vargas "in a Homeresque way" searches for home and for his wife Suzie. Alex identifies story themes, developmental narrative structure and specific architectural "turning points" in the narrative that mark the ends of three acts that build towards "the final hallucinatory scene" where "Quinlan reveals and confronts his dark past Like two parallel lines meeting at the horizon, Vargas's search for truth and Quinlan's search for his lost past converge in the climax."

Alex is sensitive to visual images and reads these images with great confidence. For example, he describes Hank Quinlan as, ". . . the corrupt Texas cop. His fat equals only the excesses of his job and his maculate face his stained career . . . fat not from the candy bars but from the excesses of his abuses."

Alex observes that the characters do not tell this story, rather the camera does:

Through light and shadow, the use of sound and space, the characters and the maze in which they search are defined. As the characters lose themselves searching in the maze of Los Robles, the viewer is similarly made to feel uneasy, disoriented and frightened. Hank Quinlan's evil is not merely heard in his words or seen in his actions, it is felt by the viewer through the violent movements of the camera; the piercing, discontinuous sounds of latin music; the asymmetrical camera shots, and the disruption of time and space. This intentionality of style . . . subverts the "balance" of the viewer. The style denies the viewer the ability to orient himself with any static point of

reference. Thus, as Quinlan acts farther outside his jurisdiction and the law, the viewer's perceptions of normality are similarly shaken by the camera. Through this style Welles effectively tells the story of corruption at the border; a story which the viewer not only sees and hears, but feels as well. Instead of "form over function," "Touch of Evil" is "form as function."

In the way that many students and academics of my generation respond to and interpret written texts, participants were sensitive to and responded to visual and oral texts with intellectual excitement and speculation. Alex, for example, is viscerally in tune with imagistic storytelling and observes that he did not so much "watch" the film as "experience" it. He describes how Welles uses light and shadow, space and sound, to shake the viewer's "sense of normalcy, equilibrium and faith in a 'linear progression,' just as Quinlan and the maze of Los Robles shakes their sense of honesty, decency and faith in the law."

Alex also understands how the confrontation between Quinlan and Vargas is framed and emphasized visually: from the first time Quinlan is seen "against a dark background, stepping out of a black car" it is "apparent" that he is "a doomed man." He is, however, blinded by light, "always squinting during the day and in his confrontations with Vargas." Whenever Quinlan appears, "either darkness or shadows pervade the scene It is almost as if Quinlan is a tumor spreading through the department and infecting 'the good.'" The conflict between Vargas and Quinlan is emphasized by "Quinlan's cancerous shadow" that stalks Vargas throughout the film. "Moreover, in every scene involving Quinlan and his henchmen, Quinlan's shadow covers their faces or interrupts the vision of the scene in some way."

Similarly, Alex responds to how Welles uses space and sound to "draw the viewer out of passivity and force him into the maze." In the first scene the camera "snakes its way through the streets of Los Robles . . . beginning with a closeup of the bomb being placed in the car, then panning back to cover the city block then closing in on Vargas and Suzie following them through the border until the car explodes." Alex observes how this technique "subverts the viewer's sense of linear progression and denies [the viewer] the sense of direction, depth perception." Alex documents the use of space and sound throughout the film:

Welles further creates a feeling of imbalance through spatial manipulation, by confusing foreground, middleground and background. In the scene after the car explodes, Quinlan and four other individuals are shown in one frame, however they are all aligned asymmetrically with no center of balance in the scene. Similarly, when Grandi loses his "rug," in one shot he and his nephews are in the middleground and in the subsequent shot they are in the foreground with the camera

remaining in deep focus. By stripping the "normal" film constructs, foreground and background, of any static balance, Welles creates the optical equivalent of moral chaos. Everything is off-center in "Touch of Evil," reflecting the lack of middle ground between good and evil, and also the imbalance of the characters; the psychotic Quinlan, the sadistic Grandi clan, the pure Suzie, the experienced Tanya and the "hubristic" Vargas.

Alex describes how "the optical moral hysteria of the maze is reinforced by the use of the distorted camera angles." He meticulously documents how the director visually composes the scenes to "manipulate and disorient the viewer's powers of concentration, visual perception and spatial organization. While Vargas and Quinlan's worlds are being turned upside down by their own driving pursuits, so is the viewer's world by Welles' direction."

In one excerpt, he describes and illustrates how sound dislocates the "viewer's perceptive world":

. . . Sound defines space In "Touch of Evil" the aural and visuals do not fit. An example of this are the "disembodied" voices after the explosion. The voices sound as if they are confined to a small room. In reality, however, the scene is in an open field. This combined with the voices competing and overlapping with each other within the frame builds tension as well as shaking the viewer's perceptions of how people talking should sound.

Another way in which Welles achieves this is by separating sound from its source and confusing it with reflections and shadows. For example, when the Grandi clan races to the Mirador Motel, the sound of their engines is heard as if they were six feet away, yet the camera shows them off in the distance. And when Suzie calls to her husband from the fire escape, the viewer hears her as if she were in the next room, while Vargas on the street below is oblivious. Similarly, when Menzies [Quinlan's deputy] and Quinlan "find" the planted evidence, the camera is focused on Vargas yet the sound is only of Quinlan and Menzies off-screen. By the end of the film the viewer has lost all sense of distance and direction as well as the source itself. The most vivid illustration of this is the finale in which the "listener" hears Menzies' and Quinlan's voices (separated from their bodies) on the tape recorder in closeup, while seeing the two men walk across the bridge at a distance. When Menzies is shot, the viewer never sees the actual shooting, but hears only a closeup of the shots fired.

Alex proves his case by systematically compiling the cinematic evidence. As for time sequence he observes that although the narrative is "consolidated" and the movie takes place in only a day and a half, "the viewer has no conception of

this." The distortion of time and space is not accomplished through manipulation of narrative structure, "but rather by the fragmentation of the viewer's perceptions and the manipulation of his senses." It is through the stylistic elements of "Touch of Evil" that Welles "not only visualizes the conflict between good and evil, but imposes it upon the viewer."

Initially, like other seminar participants, Alex enjoyed the class' covert analytical enterprise but questioned the utility of this work in the context of law school or doing lawyer-work. Perhaps the class was simply a pleasant way to spend Thursday evenings and avoid another three-credit "overdose" of appellate cases before having to face the pressure of graduation, loan-debt, jobs and the rigor of the bar exam. By the end of the semester, however, the class took on deeper significance for many seminar participants. The meaning for each participant was different. For Alex, the class affirmed the importance of his intuitive responses and aesthetic sensibility to his prospective work as a legal cultural storyteller. Furthermore, in classroom discussion and in his paper, he imbedded his creative analysis in a tightly organized, passionate yet lawyer-like presentation and proof. In doing so, he reaffirmed my sense that filmic text can provide a laboratory for sensitizing students to, and for the analysis of, oral and visual storytelling techniques in a legal culture that is, in significant part, a subset of larger popular storytelling culture.

Skepticism

I proposed hypothetical questions to contextualize our viewing of several films: Do trials ever reveal the "truth" of the past? Is this their primary function? Or are lawyers merely narrativist tricksters? Is it, as one seminar participant observed, only "God who really knows what happened?" Does the trial serve primarily other functions, ". . . such as resolving the controversy, releasing emotions, . . . providing a sense of coherence — not necessarily between the event and the outcome, but between the outcome and what happened at the trial itself[?]"

Alternatively, as the cognitive theorist Jerome Bruner has argued persuasively,⁸ is the storytelling (narrative) mode discrete from the empirical (paradigmatic) mode of proof? Are stories formed by clever and devious aesthetic arrangements connected by the aesthetic tissue of verisimilitude? Although events may "happen" are the causes (the hows and whys of events) ever "knowable"? Can we, for example, ever look inside someone's mind to determine "intent" or "state of mind"? Do rules of procedure and evidence unduly circumscribe and artificially constrain trial narratives? Are lawyers an ethnocentric sub-culture of popular storytellers particularly subject to the professional self-delusion that cognitive theorists have termed "the original attribution error."

In exploring this constellation of discussion questions and themes, thoughtful participants reveal in their journals additional features of visual literacy. Doug C. titles his exploration of the storytelling role of the lawyer "Truth in and Out of Chinatown." The journal compares "Chinatown" and Errol Morris' "The Thin Blue Line" as presenting visual metaphors for the lawyer's role in the storytelling process. "Chinatown" is the title of Roman Polanski's movie; it is also Doug's elliptical reference and response to conflicting images of the lawyer's storytelling role.

Initially, Doug's introduction states, somewhat apologetically, that his paper reflects a "familiar" seminar discussion theme:

. . . [C]an the truth of a past event be known? Is an "objective" reality possible, or is every past occurrence only possible of interpretation within the context of the observer's unique unrepeatable perspective of the event?

Doug discusses this theme with a certain detachment and indignation, reflective of the attitudes of many bright seminar participants. That is, Doug's answer to this question is, implicitly, obvious. Stories, especially aural and visual stories, can not and do not reveal truth. We live in an imagistic, fragmentary and subjective world and our "stories" are intrinsically imaginative reconstructions.

. . . since there is no recount[ing] of events that we can accept as absolutely true . . . we are forced to create systems of "truth substitutes" as alternatives and thus "truth" becomes definable only within the systems that we create. . . .

"Truth" is literally dependent upon the placement and angle of the camera:

A popular example: last spring Tate George propelled the UCONN Huskies basketball team into the NCAA Final Eight by a "buzzer beating" last second shot. But was the shot "good"? The best view provided by CBS cameras "Super Slo Mo" replays appears to indicate that Tate's hand touching the ball when the shot clock on the same screen indicated no time was remaining . . . this replay became the "truth substitute" to which the announcers latched onto and their pronouncement was that UCONN stole a victory.

. . . But in the case of Tate's shot, accepting a camera replay as the best "truth substitute" probably doesn't get us any closer to the absolute truth than the version espoused by any random ticketholder. Perhaps if God were a Husky fan, He might inform us that two molecules that connected Tate's hand to the basketball ceased to "touch" one another (in some atomic sense) with a nanosecond of time remaining

in the game. However, anything short of such a divine vision will contain all the inherent defects that "truth substitute" systems suffer from. That is, belief in the truth becomes synonymous with belief in the system.

Doug's observations reflect a knowing cynicism that he shares with many seminar participants about the nature of their chosen profession and the limited possibilities of such a narrative-based system's providing "justice" that is ultimately any more than narrative resolution or denouement:

. . . As a general rule, the justice system seems to favor the "knowable" version of the truth. Lawyers tend to believe the opposite. By their behavior and their beliefs, lawyers view the truth as "unknowable" and as an unapproachable ideal. Thus a lawyer might say that the judicial system is not a search for truth but a forum for the exposition of competing versions of what-the-hell happened in a given event.

Doug states his belief that — "leaving aside examples where it is so clear that an account of an event is 'true' or at least so clear that no one wants to bother arguing about it" — "the truth" is "unknowable." "Since there is no way 'truth' can be definitively proven, the role of the lawyer is not to aid in the search for truth, which according to him is an oxymoronic phrase anyway, but to arrange any and all facts available to produce the story that best suits his client's needs." Errol Morris's "The Thin Blue Line" is a "persuasive illustration" of how easily stories are manipulated and how readily we succumb to the call of our own stories:

. . . In the movie, truth is not static or fixed, but is malleable enough to bend according to the teller of the story The movie's premise achieves the effect of creating horrible unease in the hearts of viewers.

Detective mysteries, particularly cinematic detective stories, provide an effective visual metaphor for a contrasting idealization of how the "justice" system (a "truth-substitute" system) supposedly works.

How do detectives fit into this scheme? . . . Each is faced with a past event that is open to dispute; a crime, mystery, or confusing or unexplained incident. Both must "reconstruct" the event for an audience. But here the detective and lawyer part company. The lawyer's motivation is not necessarily to find the truth; instead he is motivated to come up with a reasonable version of a story, consonant with the facts, that best serves his client's needs and in turn his own. In contrast, the . . . detective traditionally wishes to find the truth, or the least distorted version of truth available.

Detectives can be "roughly categorized into two groups; those that primarily ponder on the past and those that act within the present." In the

first "genre" — akin to the way truth is uncovered in the judicial system — passive truth-finders "parse through all available information and establish not the best but the only explanation":

. . . an event leaves behind facts that are indelible and unique as a fingerprint. The mere inspection of existing clues would expose a wolfhound, a poisonous snake climbing a rope bellringer, or a murderous orangutan. Though cloaked in enticing packaging, this view of the way the world operates is mostly stage theatrics and . . . borders on campiness.

A second type of truth finder is an "active participant" in the process. Jake Gittes in Polanski's "Chinatown" is an example of a detective in this genre:

Gittes is quick-witted and bright but not of [Sherlock] Holmesian intellect. Instead, Gittes' genius appears to be not in finding out what the hell happened but in making things happen. Since the case before him is not laid out like an intricate puzzle, Gittes must resort to old-fashioned investigative work and during his meddling, dames scream, punches are thrown, and guns blaze in the night. Gittes is a human monkey wrench and despite being confused as to what his role should be, since he isn't sure of anything including why he was initially hired, he throws himself into a vague conspiracy hidden against the gauzy southern California landscape Jake seems to be aware that he will not always find clues merely by obtaining a superior vantage point but that clues must be dislodged by his very presence In "Chinatown" Jake is as much a part of the overall plot as the crime itself.

As much as "Chinatown" tends to resemble how truth is actually unearthed, the movie is still faithful to, and thus somewhat limited by its adherence to the notion that truth is "knowable." This commitment to a clean, tidy universe is understandable in a commercial sense, since moviegoers are unlikely to flock to see a movie with no resolution, or worse, one whose conclusion is that truth is unknowable. Although "Chinatown" challenges commercial orthodoxy in certain ways, its iconoclasm is limited to sending the message that the search for truth and justice is not rewarded (can it be its own reward?) and the act of doing good will only result in getting your new girlfriend killed in the end.

Errol Morris's "The Thin Blue Line" presents a contrasting metaphor about the "nature of truth" although, Doug observes, the movie's ending is "at odds with the overall message":

Morris sets out to show that all stories are hopelessly subjective, and that truth cannot be found, except in the ending of the movie Morris betrays his own thesis. By concluding his film with David Harris's vague, ambiguous "confession," Morris has arranged the facts and interviews to produce the inevitable conclusion that Randall Adams is innocent and Harris is guilty. While I do not argue with the merits of this conclusion (any one who saw the movie would have to agree that Harris is guilty as sin), the overall point of the movie is lost. Morris sets out to establish that all interpreters of events rely on their particular perspective; this is why no two accounts of an event can be absolutely similar and why the past only exists according to the storyteller's will. But by choosing to place Harris's confession at the end, Morris has made a conscious decision to have the story come to a conclusion that points to an obvious "truth"; that Harris is guilty . . .

The theme of storyteller as creator of truth becomes an incestuous one, as Morris appears to fall prey to the same folly as those that he tries to expose.

Other participants, like Doug, revealed similar attitudes about stories, particularly visual and aural stories. Participants were deeply skeptical about the possibilities of such stories' revealing "truth" especially when these stories were embedded in the formulaic procedural maze and evidentiary constraints of the judicial process. This cynicism is, perhaps, partially a product of three years of immersion in the exclusively paradigmatic culture of law school that devalues and deemphasizes narratives. Simultaneously, participants — subjected to a continual barrage of visual and aural stories in a popular culture filled with advertising, television, radio, politics, sound-byte news — often felt deceived by stories and popular storytellers. Although extremely thoughtful and perceptive, they were sensitive to manipulation and tended to disbelieve their eyes and ears. The heightened awareness and critical acuity of many students was often accompanied by a hardened detachment, cynicism and refusal to suspend disbelief. Many participants, like Doug, are truly suspicious of all visual narratives including "actual" video shots of such events as the Tate George shot or the Rodney King beating. These images, often edited into fragments and sound bytes that are deceptive and decontextualized from the events themselves, are perceived as "truth substitutes" that do not capture or reflect externalities or totalities. Many upper-level law students no longer trust narrative explanations; they are frozen into narrative disbelief. The filmic texts provided an opportunity to reflect systematically on this deep skepticism.

Passivity, detachment, cynicism and, I fear, resentment and anger, are also deeply ingrained features of the new visual literacy.

Hollywood Myths

The myths of our popular culture are revealed clearly in popular films. Several thoughtful film-makers have, often self-consciously, transmuted myth into film. These are explicitly Americanized "Hollywood" versions of classical imaginal landscapes. The characters are archetypes; the plots provide contemporary spins on classical thematic patterns. These filmic texts provided a mechanism for systematic and self-reflective analysis of architectonic story structures.

Some readers of this article might, initially, question the relevance of this observation for prospective lawyers. Trial storytelling, however, is a deeply mythic enterprise: "stock" trial lawyer stories are obvious compilations and transliterations of popular mythology. Fact-finders identify with and respond to these collective aural story-structures as the mechanisms for organizing complex stories into coherent meanings.¹⁰ Professors Anthony G. Amsterdam and Randy Herz have documented brilliantly the mythic story-structures underlying closing arguments presented at a criminal trial.¹¹ The authors' textual "micro-analysis" of a transcript from a representative successful closing argument in a murder case, for example, revealed the structure of a deeply mythic subtext imbedded in the literal text. The audience, the jury, was engaged imaginatively in the heroic myth of the search for the grail of justice. The sources of this infra-structure were, in the authors' estimation, classical.¹² The imagery and structural sub-text was, however, a "Hollywood" version of classical themes, part of a "popularized" mythology. Professors Amsterdam and Herz subsequently used three segments from Hollywood movies¹³ to identify and illustrate three discrete lawyers' roles as *dramatis personae* within different versions of a standardized popular mythology.

I sought to explore further this popular mythology. I selected two pictures — Terrence Mallick's "Badlands" and James Foley's "At Close Range" — that I believe reflect intentionally mythic internal landscapes through cinematic imaginings. Both "Badlands" and "At Close Range" are based on "actual" stories. Both pictures possess a heightened visuality, often stunning, yet different from the psychoanalytic internalities of film noir¹⁴ or Orson Welles's parody/exaggeration of noir elements in "Touch of Evil." The visual statements in "Badlands" and "At Close Range" often overshadow plot. The imagery calls the viewer's attention away from the plot to the director's self-conscious effort to create a deeper resonance for referential images.

"Badlands" is a beautiful yet curious movie about a Charles Starkweather-like couple (Kit played by a youthful Martin Sheen and Holly by an equally youthful Sissy Spacek). Kit murders Holly's father, and burns Holly's home to cover up the crime. Holly joins Kit and the two outlaws embark on

a romp of murder and mayhem across the plains. Holly's internal monologue is lyrical and romantic, filled with stock excerpts from the pulp magazines, romantic songs, and adolescent fantasies of the day — she is a travelling sidekick on the journey through an imaginal landscape. The imagery is verdant and the photography exquisite. Holly's monologue, an aural montage, provides counterpoint to the imagery. Holly's romantic musings and justifications of Kit's activities are, however, different from the audience's reactions. These characters are not Hollywood's usual sympathetic variety. The audience is distanced further from the story as Holly's self-reflective and self-consciously romanticized thoughts and the events of the plot are subsumed by the intensity of the film's cinematic beauty. (For example, Mallick presents the fire that Kit ignites to burn down Holly's house to conceal the murder of Holly's father as epiphany scored to classical music.)

In referring to the "exquisite beauty" of the images in another Terrence Mallick film, "Days of Heaven," Stanley Cavell notes that Mallick, a former professor of philosophy at MIT before going Hollywood, translated Heidegger's work including *The Essence of Reasons*.¹⁵ Cavell cites Heidegger compellingly in his aesthetic contemplation of the startling beauty of the imagery on the screen (" . . . the face whereby a given something shows its form, looks at us, and thus appears . . ."). Initially, it was not apparent to me what the "face on the screen" revealed or even why I had intuitively chosen Mallick's movie. My confusion abated, however, when I read the participants' journals. I realized that "Badlands" was a shared imaginal landscape rather than a literal representation of the plains of Nebraska.

James Foley's "At Close Range" is an idiosyncratic film with an exaggerated visuality that makes the viewer aware that this story is intended to be about much more than merely small-time, small-town hoods in rural Pennsylvania. Brad Whitewood, Sr., operates a gang of professional Pennsylvania thieves. (Brad Sr. is portrayed by a silent, sinister and archetypal Christopher Walken who is literally evil beyond words — so evil that he is afflicted by a "Pennsylvania" accent that twists and distorts his speech and often prevents the viewer from understanding what he is saying.) Whitewood's son, Brad Jr. falls in love with sixteen-year-old Terry. (Sean Penn portrays the emotionally seething and confused Brad Jr., who — like his father — operates in an imaginal landscape beyond language, trapped by his father's spirit and a slow-cooked Oedipal rage.)

Brad Jr. desperately seeks his father's love and escape from the nothingness of life with his mother and an abusive stepfather. He wants to join his father's gang and live with the alabaster-skinned Terry (a child-like yet strong willed tomboy portrayed by Mary Stuart Masterson). Brad Jr. forms a children's gang of outlaws — Whitewood Sr. names them the "kiddee" gang — to

emulate his father's gang. Brad Jr. proves his manhood to his father in a robbery and moves up to Whitewood Sr.'s gang. There is a plot reversal, however, when Brad Jr. realizes that his father is evil, after he witnesses his father murder an informant. He wants to escape his father's grip. But it is too late. When Brad Jr. commits a crime to get money to escape with Terry, he is arrested and jailed. His father rapes Terry as a warning to his son about the consequences of what happens to squealers. When Brad Jr. learns of the rape, he comes clean to the authorities in exchange for his release from custody. Brad Sr. systematically slaughters the members of the kiddees' gang, including Brad Jr.'s half-brother.

Finally, Brad Sr. orders the gang to murder his son. Brad Sr. salaciously watches a stripper at a netherworld bar while the Whitewood gang carries out the order. Terry is murdered and Brad Jr. is badly wounded. Scored to Madonna and synthesizers, Brad Jr. rises from the dead and cleanses the blood off his body with water from a garden hose. He then confronts Brad Sr.

In reviews, critics were ambivalent towards Foley's aestheticizing of violence, gesture and imagery, cinematically employed release the mythic elements in the story. For example, Richard Corliss observed that, "Every overwrought gesture, every pregnant banality, every brutal killing is elongated to impress upon us the moment's importance and sick beauty. This fetishized attention to detail . . . makes 'At Close Range' a sort of Atrocity Olympics captured in Super Slo Mo."¹⁶

Nevertheless, "At Close Range" and "Badlands" encouraged a type of analysis that seemed prevalent in the course journals. In these journals, including my own, the images of the characters were clearly identified as representative of archetypes drawn from stock "mythic" stories. Journals attempted to trace the structure of these stories.

In one representative journal, Christine S. uses these two films as a mechanism for exploring a male director's exploration of (and exploitation of) archetypes drawn from a purportedly female psyche, or at least the director's version of this mythology, and her subjective responses to this vision.

Like Alex (and like other visually literate students) Christine herself uses the hook of an image to capture the imagination of the reader. It is as if participants are writing movies; they are thinking imagistically and describing images as embodying ideas. What they see is what they think. Christine's "hook" is taken from personal experience, rather than the film's cinematic text:

I went to school with a murderer. Two weeks before graduation, the police discovered the mother's body in the trunk of the family car, where it rested while my schoolmate commuted to class each day. I attended a private Catholic girls' high school. The student was con-

victed and sentenced to Niantic prison for Women, from whence presumably she received a high school diploma. My story has a point — the only murderer I ever knew personally was female, and very much like me, yet in the literature of criminality women infrequently appear as direct or deliberate, as so-called cold blooded murderers. Those that are portrayed directly are often queens or warriors, pseudo-males, operating in their stead. The others fall into two general categories, both images of women from childhood which persist in fiction about female outlaws. The evil stepmother of infamous fairy tales, grasping and jealous, dominates the night psyche of many a child. Eve, the primal temptress, continues hold over the imagination of adults. Both recur too often in fiction to be dismissed as childish remnants. This tendency is certainly not an issue NOW will take up any time soon, but it raises an interesting question about the literary/cinematic treatment of women involved in serious crime. In both "Badlands" and "At Close Range" females were co-conspirators with their male counterparts, yet the cinematic treatment of each reflects uncertainty about their real roles.

Like other participants, reminiscent of Hemingway's focus on sentences as the relevant analytical sub-unit for analysis of fiction, Christine interprets shots as emblematic of story structure, theme and character. She decodes readily the meanings of these shots in "Badlands":

An innocent high school baton twirler in the opening shot, Holly views life as that baton, spinning and tumbling end-over-end, but, at base, under her control. Originally, she seems an unwitting victim, the object of Kit's obsession. This facade fades at her almost stoic acceptance of her father's murder and connivance in the destruction of her home. Her narrated commentary shows her to be aware of both the intentionality of her actions and a presentiment of the end of her romantic adventure. She remains an elusive character in spite of her diary-like recollections — somewhat unattached from Kit, his aberrant behavior and her own fate. Even her protestations of love fall short of real commitment. . . . This spree had little connection with her real life or aspirations, but was a careless moment out of the short life of the young girl from Texas whose father was a sign painter.

Excerpts from the journal illustrate Christine's analysis:

. . . As their odyssey continues, Holly becomes increasingly less communicative with Kit and more with the audience. As an observer to the events of the story, she uses emotionally florid language that is sophisticated and lyrical, while her character responds to Kit in vague, abbreviated comments. Revealing little of herself to Kit, the persona she presents to the audience is illusory and other-worldly. For those

given to finding symbols in people, she becomes Kit's muse of evil, ever quiescent but stirring violence in him. Her report of his vision of her in beautiful white robes, but with a forehead cold to his touch, is delivered in her childlike voice with pride.

. . . She parts from Kit, not because she suffers any great moral angst, but because she has tired of the game. Perhaps she sensed his willingness to kill had waned as he let a solitary oilman escape.

. . . The early interval in Eden, with the whispering forest around them, forecast Holly's role as Eve, leading Kit to the tree of evil, at once temptress and serpent, virgin and victim. The image is repeated in Terry, the female companion in "At Close Range."

Christine compares Terry and Holly. Although Terry's role in the triangle between Brad Jr. and Brad Sr. is somewhat different, their mythic roles are analogous. Again, Christine analyzes thoughtfully the opening shot of "At Close Range" as it captures and explicates the underlying mythic implications of the filmic text:

Terry first appears offering herself for appraisal on the town green. In her early responses to Brad's advances, she resembles Holly — tentative and virginal. Brad is the initial pursuer, but Terry quickly rejects her safe middle class surroundings to join her fortunes with him. In desertion and realliance, she encourages Brad's growing association with his father, flirting with the evil in the character portrayed by Christopher Walken. The director's heavy-handed use of religious/cultural symbols throughout the movie emphasizes Terry's unique position in the father-son conflict. It is Terry who whispers the ultimate temptation in Brad Jr.'s ear, the suggestion which lures him into criminality and the inescapable confrontation with his father. . . .

The Eve image preserves women's roles as both helpmate and temptress. It accounts for female evilness while maintaining her dual status as desirable and subservient. How people respond to the Eve figure in outlaw literature and film is symptomatic of how they feel towards criminality in general. Eves evoke the ambivalence that marks the field, at once attractive and repugnant, compelling a response to our very nature.

I saw the same movies as Christine. And yet, when I review my journal, it reveals an entirely different mythology. In fact, when I recall and describe these movies, I describe entirely different films that fit with my interior stories, I literally see a different story. For example, like Christine, I begin

my analysis of "At Close Range" with the hook of an image. My journal, however, recalls specifically a different "opening" image that evokes a different mythology shot on a different interpretive landscape:

The opening shot of "At Close Range" is Gatsby-esque, a deeply romantic version of this same visual image: a teenage boy driving a car into the center of a dream-like town, while the lights around him spin as if a projection from inside his imagination. These lights are softly-muted, distant. At the center of town, at the base of a monument, there is a lovely innocent-faced barely post-pubescent girl. The boy cruises slowly around the square. The music plays lyrical synthesizer figures. The boy watches the girl intensely and, in slow motion, the girl looks back. A deeply emotional cathexis is established between the boy and the object of his desire As the title suggests the world is viewed "At Close Range" from the perspective of the adolescent outlaw anti-hero, Brad Whitewood Jr. Romantic possibilities and inter-connections are imbedded beneath language, located in the mysteries of silence and experience.

The visual style is not a gloss over the story. Instead, the style enables the storyteller to open up his material to deeply and darkly resonant mythic themes (e.g., the power of good and evil, the sins of the father visited upon the son, and search for the lost father and the ultimate desire for atonement with the father).

These are, of course, the themes of my story — not necessarily the one that James Foley's tells — just as Christine tells her story when she describes the film in her journal. When we replay filmic text on the screen of our imagination, we imaginatively reinvent the text, grafting the images onto internalized story-structures that make the story our own on subsequent interior viewing.

In my journal I develop several themes. The first compares the stylistic perspective of the storytellers in "At Close Range" and "Badlands."

In "At Close Range" the filmmaker's technique closely interconnects his vision to the adolescent world of his anti-hero/outlaw . . . The "eye" of the camera becomes the "I" of the criminal outsider In "Badlands" the perspective is brought even farther inside the internal world of the adolescent anti-heroine: the story is revealed through internal monologue

The second develops the mythic themes of the search (specifically, the quest for the departed father) and the dangerous "heroic" journey. These are the themes that I uncovered in the movie. These are, of course, themes from a traditional male mythology reflected in male journals, regardless of

the cinematic "text." For example, Alex specifically perceives and analyzes this theme in his visual analysis of a different movie, "Touch of Evil." Similarly, Doug — despite his skepticism — specifically identifies the heroic "search" for truth as the core story in his analysis of "Chinatown." Doug identifies a twisted anti-theme version of this search as the core story in "The Thin Blue Line." Likewise, Amsterdam and Herz deconstruct the macro-structure and the micro-text of a male defense attorney's closing argument in a murder case to reveal the identical "heroic" mythological infra-structure.¹⁷ The characters in these mythological stories are invariably archetypal.¹⁸

Participant journals simultaneously reveal personal psychobiography interwoven with these deeper patterns. For example, my journal and the interpretation of "At Close Range" reveals my psychobiography: it captures my autobiographical stories about the early death of my father and my search for (as Doug might say) "father-substitutes" rather than "truth substitutes." And, as I explained in a previous article,¹⁹ many of the course journals were deeply personal.

Generally, journals cross-referenced other popular aural and visual stories: popular music, television programs, news and sports events. There was a new visual textual field of sources and references.

For example, my journal compares "At Close Range" to the most popular intentionally "mythic" movies of the day, "The Star Wars Trilogy":

Like Luke Skywalker, Brad Whitewood Jr. embarks on a dangerous journey to prove his manhood and fulfill his romantic longing for sensual love, heroism and, ultimately, the possibility of transcendence. Unlike Luke, however, Brad soon discovers that he is not protected by the power of "The Force." The narrative possibilities are dark and sinister. There is evil beneath the danger and risk-taking rather than heroism, romance or transcendence.

Later I note the plot point of the major dramatic reversal after Brad Jr. witnesses the murder of Lester the informant. "Brad Sr. puts his fingers to his lips and signals to his son, signifying silence and complicity . . . at that moment Brad Jr. realizes that his father is evil." Brad Jr. tries to extricate himself from his father's grip. It is too late, however.

Like Luke Skywalker's inevitable confrontation with Darth Vader, the denouement comes in Brad Jr.'s final face-off "at close range" against his father, evil personified, remarkably portrayed in mythic shadings by Christopher Walken (who does not need to wear a Darth Vader mask). There are deeply resonant lines here, beautifully delivered with an edge of self-awareness bordering on parody. For example, Brad Jr. retrieves the weapon that was presumably used to slaughter the

kiddee gang, his half-brother, and his lover Terry. He demands to know, "Is this the family gun Dad?" This father-son confrontation is charged with realized emotional potentialities and the intentionally sparse dialogue is energized by the punctuation of gunfire

Classroom discussion of these conflicting mythologies, sources and cross-references underlying our interpretations and understandings of cinematic text was fascinating. Conversation was tinged with elements of personal confession. Nevertheless, participants imaginatively incorporated a collective or shared repertoire of popular images, events and symbols. Although we recognized the subjectivity of our interpretations, we shared the discovery that we imaginatively reinvented the visual texts of the story along several common axis.

We noted the sexual bases to the interpretive mythologies that underlay and organized our biased viewings of filmic texts. For example, Alex, Doug and I interpreted and organized three different movies along the same psychic axis of the heroic search. Christine and other women in the class, however, organized stories along a different shared axis that charted discrete and different psychic terrain. We literally saw different movies. "Badlands" and "At Close Range" provided imagistic keys to unlock and unpack competing mythologies. These discussions have profound implications for popular storytellers' trying to understand how we think today, and particularly for law students trying to systematically reflect on their roles as popular storytellers discovering how to use stories effectively as tools for communication and rhetorical persuasion in an aural and visual popular storytelling culture. These mythologies underlie and inform our understandings of lawyers' roles inside and outside of the courtroom.

Conclusion

The course in Law and Popular Storytelling scratched the surface of a simple idea: lawyers are popular storytellers who operate in an aural and visual storytelling culture. Lawyers tell imagistic narratives constructed upon aesthetic principles that are closely akin to the structural principles that control the formulation of plot-structure in commercial cinema. We tell stories with hard driving plot-lines and clear themes that are readily distilled. We shoot our films from the fixed perspective of protagonist-clients. We are simple realists who construct our stories to hook the sympathy and capture the imagination of audiences who think in pictures. We sequence shots on imaginal storyboards until we establish the patterns that ultimately suit our purposes. We speak and think filmically. We have much to learn from visual storytellers working the same popular cultural turf.

The course was also deeply personal. I selected films about convicts, criminals, prisoners and outlaws — protagonists on the margins of society — as visual texts. Because of my own work experiences, I found these visual texts especially interesting. I also believed that my work experiences would provide experiential references for meaningful discussions of these films.

Although I felt intuitively that the students would respond to films, I was unprepared for what transpired. The films about protagonists on the margins of society struck a deeply resonant chord in third-year law students. Participants revealed a heightened and stunning visual sophistication and acuity that I had not anticipated. Journals were passionate and eloquent, more so than my often obscure pedagogic reasons for initially selecting the movies. Likewise, discussions often came to life with passion, humor and profound understanding. Many students perceived far more in the films than I did. These bright students were, apparently, versed in a new type of visual literacy. They were on the far side of a dramatic and seismic shift in our culture.

Notes

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1. John Denvir, "Introduction to Special Issue on 'Legal Reelism,'" 15 *Legal Studies Forum* 3 (1991).
2. Walter J. Ong, *Orality & Literacy: The Technologizing of the Word* 136 (1988).
3. See generally Jerome Bruner, *Actual Minds, Possible World* 11-13 (1986).
4. The syllabus included the following movies: "In Cold Blood," "The Thin Blue Line," "Chinatown," "Straight Time," "Badlands," "The Grifters," "Touch of Evil," "The River's Edge," and "Twelve Angry Men."
5. Philip Meyer, "Convicts, Criminals, Prisoners & Outlaws," 42 *Journal of Legal Education* 129 (1992) and "Law Students Go to the Movies," 24 *Connecticut Law Review* 893 (1992).
6. See Ong, *supra* note 2 at 39-40.
7. Gary Bellow and Bea Moulton, *The Lawyering Process: Preparing and Presenting the Case* 198-199 (1981).
8. See Bruner, *supra* note 3.
9. The terminology is taken from lecture notes from J. Bruner, "Lawyering Theory Colloquium," New York University School of Law (Spring 1992).
10. See, for examples, Reid Hastie, Steven D. Penrod, Nancy Pennington, *Inside the Jury* (1983); W. Lance Bennett and Martha S. Feldman, *Reconstructing Reality in the Courtroom: Justice and Judgment in American Culture* (1984).
11. Professors Amsterdam and Herz presented this microanalysis of closing arguments in a murder trial in an untitled working paper and discussion at the "Lawyering Theory Colloquium," New York University School of Law, April 7, 1992. A formal version of this paper is

forthcoming in volume 37 of the *New York Law Review*.

12. The authors identify the "classic narrative theme" of "the quest of the hero" as "unmistakable" in the closing argument and cite sources including Propp, *Morphology of the Folk Tale* 92-96 (Scott, trans. 1968); Joseph Campbell, *The Hero With A Thousand Faces* (1968); Henderson, "Ancient Myths and Modern Man," in Carl Jung, ed., *Man and His Symbols* 101-119 (Laurel ed. 1968) to trace the origins of this oral narrative theme. See Amsterdam and Herz, note 11, supra.
13. "The Jagged Edge," "Anatomy of A Murder," and "True Believer."
14. See, generally, Frank Krutnik, *In a Lonely Street: Film Noir, Genre, Masculinity* (1991).
15. Stanley Cavell, *The World Viewed: Reflections on the Ontology of Film* xv (1971).
16. Richard Corliss, *Time*, April 28, 1986, 70.
17. See Amsterdam and Herz, supra note 11.
18. See sources, supra note 12.
19. See Meyer, supra note 5.

