

A New *Clementia* in Cicero's *Pro Marcello*

Cicero's *Pro Marcello*, delivered spontaneously in 46 BCE after Caesar had agreed to show clemency to his defeated opponent Marcellus, seems to be a speech in praise of Caesar's clemency. Scholars are divided as to how Caesar's clemency would have been perceived, with some arguing that clemency was always considered a humane and positive virtue (e.g., Konstan 2001, 2005), and others suggesting that Caesar's clemency problematically established his superiority in the eyes of other elite Romans (e.g., Dyer 1990 and Zarecki 2014). I argue that in his *Pro Marcello*, Cicero portrays Caesar as exercising a new form of clemency that usurps the functions of the public law courts and the military, thus consolidating judicial and martial powers into the hands of one man and removing any possibility for elite competition. In this way, the speech subtly condemns Caesar's clemency—not solely because it created a hierarchy between formerly equal individuals but also because it upset the typical functions of elite competition within the republic.

Traditionally, clemency had been particularly associated with the military and legal spheres (Dowling 2006), with clemency not determining the victor or deciding guilt and innocence, but rather exercised after a military victory or judicial decision (Konstan 2001, 2005; Dowling 2006). For example, Cicero once criticized a prosecutor who conflated clemency with acquittal and cruelty with punishment (*Verr.* 2.5.19). He now offers a new definition for clemency. The way that Cicero handles Caesar's military success over an internal enemy of Roman citizens illustrates how Cicero must downplay this victory to avoid an overt challenge to Caesar; instead, he elevates Caesar's clemency as the true victory by dismissing not only Caesar's victory in the civil war, but also all of his external military conquests (*Pro Marc.* 6). Whereas many people can take credit for all aspects of a military victory, Caesar's act of

clemency toward Marcellus, according to Cicero, is entirely Caesar's (*Pro Marc.* 7). In the end, Caesar's clemency becomes a symbol of the insignificance of all military operations, disrupting the way that elites could compete for power through military victory.

In addition to devaluing military conquest, Caesar's clemency also coopts the contests of the law courts. When describing how Caesar has offered clemency to himself and the senators (*Pro Marc.* 13), Cicero addresses the senators directly, instructing them to look at how far-reaching the judgment (*iudicium*) of Caesar is and then detailing exactly what that judgment entails: acquittal from a crime despite guilt. In this respect, Caesar's new clemency replaces judgment and Caesar becomes the sole judge of all guilt and innocence. Yet Cicero also describes how future generations will in turn judge Caesar, which presupposes a future Rome in which the republican system of justice is restored (*Pro Marc.* 29). Thus, in the guise of a speech that praises Caesar's clemency, Cicero downplays the importance of Caesar's military victories and casts Caesar not just as judge but as one who will be judged himself, all the while reasserting the power of the *res publica* and attempting to preserve the competitive arena in which he himself excels—the public law courts.

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