

CALIFORNIA ROOM

THE CAPTURE AND TRIAL OF TIBURCIO VASQUEZ

Karen Frayne

6588 Burnside Drive

San Jose, CA 95120

(408) 268-6844

Leland High School

Mr. Charles L. Sullivan, Advisor

March, 1983

The Ballad of Tiburcio Vasquez

1.) They hunted and they chased you from your home in Mon-te-rey
Through the cañons and the hills be-yond the Frisco Bay —
Down the Cal-i-forn-ia coast to taverns in L. A. — And you'd
ne-ver be-lieve what they'd say — they said
"Tiburcio is an honest man with pure and gentle ways —" They said
"Tiburcio is an honest man with pure and gentle ways —"
Ch: Tiburcio I know you, know how you lied — I see the
bullets — not tears that you cried I see the

Ballad of Vasquez, 2

blood You have nothing to hide ——— You were just a
bandit who killed and who died, yet de-spite knowing
just who you are ——— I call you "Ban-did-o Sin
Par ———"

2) Tiburcio, they feared you; they knew that you would kill
They talked about your murderous deeds, but then about your skill
The mothers cried; the widows mourned — and then they wished you well
Their children admire you still
They say, "Tiburcio was an honest man with a strong, determined will!" 2x

Chorus

3) The señoritas danced with you at ev'ry hall and bar
Your partners' wives would hold you tight in tents under the stars
You took the prize at rodeos — they said you would go far
And after they hanged you they said,
"Oh he was an honest man, we're sorry that he's dead!" 2x

Chorus

Table of Contents

Introduction	1
Hypothesis	2
Capture	3
Approach of Trial	7
Trial	15
First Day Proceedings.....	16
Second Day Proceedings.....	18
Third Day Proceedings.....	20
Fourth Day Proceedings.....	22
Conclusion	23
Rumors and Aftermath/Historical Interpretations.....	26
Pictures	29
Bibliography	32

INTRODUCTION

Tiburcio Vasquez: friend or foe? As a California bandit, Vasquez has been heroized and condemned by so many groups that the question is not easily answered. Newspapers and townspeople argued for and against him before his death in 1875 and historians continue the debate from there.

Perhaps everyone would be content to continue the legends of the Mexican-American sharpshooter who rode his white horse along the stage-coaching trails with no intention of murdering for any reason. Corresponding folktales about Pretty-Boy Floyd and Poncho Villa have relieved the criminals of hatefulness, indeed, even made them rather likable!

Although presenting Vasquez as a misunderstood hero would be unrealistic, so too would presenting him as a vicious cut-throat. If Vasquez had been either, the trial could never have become such a controversy. We shall examine, therefore, diverse interpretations of the capture and trial. At the same time, we shall examine the related changes in the opinion of the general public from the time Vasquez was captured in May, 1874, to the time he was sentenced to die in January, 1875.

THE HYPOTHESIS

We must keep in mind where the Vasquez trial fits into the overall picture of history. In 1849 the gold rush catalyzed a huge influx of whites to the California land. An attitude of contempt for the alien culture spread through the Mexican-American community as more and more whites came west. Some California bandits of Mexican descent in the second half of the nineteenth century claimed to be fighting for justice. By robbing stagecoaches, they said, they would take the Gringos money and use it to organize an army to drive out the foreign race.

One historian contends that Vasquez was one of the outlaws who wished to organize such an army. (1) After his capture he told reporters that he had been discouraged as whites began to come uninvited to parties in his community and even to monopolize the Mexican senoritas. (2) In any case, Vasquez must have been influenced by a growing opportunity for banditry among his people. There is little doubt that he was indeed adventurous and romantic.

In this paper we shall not attempt to determine Vasquez' motives for turning to crime. We shall examine his capture and trial, and the reaction of the people to each. As a general hypothesis, we shall say

(1) Adabell Cogswell, Tiburcio Vasquez El Bandido Sin Par, (Volcano, California, 1974), p. 16.

(2) Robert Greenwood, The California Outlaw, Tiburcio Vasquez, (Los Gatos, California, 1960), p. 22.

that, despite the public's sympathy for Vasquez after his capture, the verdict that he was guilty of murder was in fact entirely justified.

THE CAPTURE

The capture of Tiburcio Vasquez took place on May 13, 1874 in the Laurel Canon about ten miles due west of Los Angeles at the home of an Italian known as "Greek George". High Sheriff William Rowland of Los Angeles County received credit for the capture, because it was his UnderSheriff, Albert Johnston, who led the posse which brought down Vasquez. The reward the captors received was \$8,000. (3)

Where Rowland learned that Vasquez was staying remains a mystery. One historian says that he received the information from Sheriff Harry Morse of Alameda County who, trailing Vasquez, had learned his location from a former guide of Vasquez. (4) A different historian says that Rowland "worked in conjunction with" Morse. (5) The San Francisco Morning Call says that Rowland "had a little bird" who was keeping tabs on Vasquez. The San Francisco Chronicle says that Morse

(3) Sacramento See, May 15, 1874, p.2 (Microfilm); Ralph Rambo, Trailing the California Bandit Tiburcio Vasquez, (San Jose, 1968), pp. 28-29; Los Angeles Star, May 16, 1874, p. 3 (Microfilm).

(4) Rambo, pp. 28-29.

(5) M. F. Hoyle, Crimes and Career of Tiburcio Vasquez, (Hollister, 1927), p. 17.

lost the trail of Vasquez when an incorrect source said that Vasquez had fled to Merced County. At any rate, on May 13 Rowland "received positive information" that Vasquez was staying at Creek George's. Ironically, perhaps, May 13 was the very day that Morse arrived home from his search for Vasquez which had kept him 71 days in the saddle. For all his efforts, all sources agree that Morse received nothing.

(6)

Rowland's eight-man posse left Los Angeles at about 1:30 am on May 13, 1874. At about 4 am they stopped at a ranch to eat breakfast and discuss plans. From there they proceeded to the vicinity of Creek George's where they hid themselves and waited. (7)

At about noon, two Mexicans came by with a wood wagon which the posse stopped. Rowland's men concealed themselves in the high box, leveled their guns at the Mexican drivers, and promised instant death should either try to alarm the bandit. By order of the posse, the Mexican temsters drove up to within a few feet of Creek George's home. There the posse leapt out and in an instant had the house surrounded.

(8)

(6) San Francisco Morning Call, May 15, 1874, p.3 (Microfilm); San Francisco Chronicle, May 13, 1874, p. 1, and May 15, 1874, p. 2 (Microfilm); Rambo, p. 29; Star, May 16, 1874, p. 3 (Microfilm).

(7) Star, May 16, 1874, p. 3 (Microfilm); San Diego Daily Union, May 15, 1874, p. 2 (Microfilm).

(8) Morning Call, May 15, 1874, p. 3 (Microfilm); Star, May 16, 1874, p. 3 (Microfilm); Daily Union, May 15, 1874, p. 2 (Microfilm).

As W.E. Rogers approached the door, a woman sprang from inside to stop him, but he forced the door open before she could bar it. Vasquez, who had been eating (some sources say sleeping, but newspapers of the time generally agree that he was having dinner), suddenly lept up and ran to the back of the house. There he dove through a window, or rather (as the Star editor put it) the "opening which admitted light." Edmond Harris fired after him yelling "There he goes through the window!" The window was no more than eighteen inches square, but Vasquez got through and ran for his horse. (9)

Frank Hartley intercepted Vasquez outside, shooting at the bandit with a double-barreled shotgun. Vasquez fell to the ground, wounded, but sprang up in an instant and tried again to run. George Beers (correspondent from the Chronicle who was willing to risk his life for the story) was ready for Vasquez and gave him another wound, this one in the shoulder, with a Henry rifle. Whirling around once again, Vasquez faced Hartley who had put his gun down and now covered the outlaw with his revolver. Vasquez saw that to run would be futile. He threw up his hands and said in English, "Don't shoot!" just as another shot rang out. His captors rushed to him to see how badly he was wounded. Vasquez turned to Hartley and asked his name. When asked why he wanted to know, Vasquez responded, "I wanted to know the

(9) Morning Call, May 15, 1874, p. 3 (Microfilm); San Jose Mercury, May 21, 1874, p. 2 (Microfilm); Star, May 16, 1874, p. 3 (Microfilm).

name of a brave man. I'm not a coward myself and I like to know another brave man." (10)

The posse returned Vasquez to jail in Los Angeles where his wounds were dressed. A large crowd had gathered already, curious to see the notorious bandit who had become so famous throughout California. According to the Star, "No attempt was made to interfere with the law by the crowd which surrounded the jail. A feeling more of relief than of revenge or exultation seemed to be uppermost in the minds of all." (11)

(10) Morning Call, May 15, 1874, p. 3 (Microfilm); Mercury, May 21, 1874, p. 2 (Microfilm); Star, May 16, 1874, p. 3 (Microfilm); Daily Union, May 15, 1874, p. 2 (Microfilm).

(11) Star, May 16, 1874, p. 3 (Microfilm).

APPROACH OF THE TRIAL

The San Diego Daily Union of May 15, 1874, reads:

The capture of this famous robber is one of the best things that could happen for this section and popular rejoicing runs high. (12)

The San Francisco Morning Call of May 15 says:

... unless the jury should be composed of weak admirers of Senator Perkins' discretionary punishment law... (Vasquez will) soon be instructed in the mysteries of a tight-rope performance.... (13)

According to the San Francisco Chronicle of May 15:

The capture of Vasquez will be very great relief to the minds of the people of Southern California. (14)

And the San Jose Weekly Mercury of May 21 reads:

The news of his (Vasquez') capture will be hailed with delight throughout the State. (15)

(12) Daily Union, May 15, 1874, p. 2 (Microfilm).

(13) Morning Call, May 15, 1874, p. 3 (Microfilm).

(14) Chronicle, May 15, 1874, p. 2 (Microfilm).

(15) Mercury, May 21, 1874, p. 2 (Microfilm).

If only history were so simple! Despite the press, almost immediately after the capture of Vasquez, admirers began to sympathize with him. Even on May 18 the Chronicle's L.A. dispatches contained news that the rush of visitors to see Vasquez was so great that it was difficult to find a chance to take the outlaw's picture. First-class ladies were reported to "present him rare bouquets and shower upon him their sweetest smiles." Already Vasquez was winning friends with his "excessive politeness and lamb-like expression of countenance." (16)

The "First class ladies" are often referred to in articles about Vasquez. They were the entourage of Vasquez and thus victims of the press. The Hollister Enterprise, May 23, reports, "... many of our people... will scarcely find it consistent with their feelings... to imitate those 'First class ladies' of Los Angeles by bedecking his (Vasquez's) noble brow with garlands of May flowers...." (17)

Generally newspapers were forced to acknowledge Vasquez' increasing popularity and the attention he received. The Alta California says, "The news in Los Angeles (of Vasquez' capture) ...

(16) Mercury, May 21, 1874, p. 2 (Microfilm).

(17) Hollister Enterprise, May 23, 1874, p. 2 (Microfilm).

created intense excitement, and crowds swarmed around the jail...." Even the Mercury published a letter from Salinas admitting that Vasquez' life in Monterey was not that of the "hardened criminal that many supposed..." and noted also that Vasquez came from a respectable family. (18)

Near the end of May, Vasquez was brought to Monterey on the steamboat "Senator." When the steamer touched at Monterey, Rowland feared that a mob would board the boat and attack Vasquez. In fact, Rowland actually gave Vasquez a six-shooter to use to defend himself in case he should be attacked! The wharf was crowded; attempts to rescue Vasquez may have been underway, but none was successful. According to Charles Outland, large crowds who came down to the wharf at San Buenaventura wanted only "to catch a glimpse of the famous highwayman." (19)

From Monterey, Vasquez was brought to jail in Salinas. By May 31, according to the Mercury, he had received more attention than "any person had ever attracted in this country." A Mexican restaurant sent fine Mexican cuisine to Vasquez' sheet iron cell, until May 30 when Rowland insisted that this procedure stop and Vasquez begin to eat the

(18) Alta California, May 15, 1874, p. 1 (Microfilm); Mercury, May 28, 1874, p. 1 (Microfilm).

(19) Mercury, June 4, 1874, pp. 2-3 (Microfilm); Charles Outland, Stagecoaching on El Camino Real, (Glendale, 1973), pp. 224-225.

usual jail rations. Native Californians and Mexicans alike visited him in his cell. (20)

Several newspapers mentioned that Vasquez' race had been an asset to him. According to the Chronicle:

He (Vasquez) has been greatly aided by the sympathy of the Mexican people.... Many of them have looked upon him as a hero, the representation of whatever their nature contains of bravery and generalship.... (21)

Although many sources report Vasquez' dependance upon Mexican-American support, San Francisco's La Cronica of May 16, 1874 calls Vasquez (translated) "the man who has kept us in continuous alarm for a long time, who has ridiculed the efforts of our police, and who has forced our State to offer 8,000 dollars as a reward for his capture." None too warm a description for a man the Mexicans were supposed to have heroized. Although much of Vasquez' support no doubt was from the Mexican community, he was not loved by all of them, most likely not even by many of them. (22)

On the other hand, another California newspaper printed in Spanish told its readers that the friends and admirers of the bandit were trying to raise money to pay a good lawyer for Vasquez. The paper

(20) Mercury, June 4, 1874, p. 2 (Microfilm).

(21) Chronicle, May 15, 1874, p. 2 (Microfilm).

(22) La Cronica (San Francisco), May 16, 1874, p. 2 (Microfilm).
Translated by the author. ~~AM~~

then mentions that the subscribers for paying the lawyer would be listed anonymously. Readers, therefore, may have considered subscribing for a good lawyer for Vasquez. (23)

The idea that Vasquez may have been racially discriminated against arose also. The Sacramento Record contains:

Perhaps ... the fact that Vasquez is a Mexican had something to do with (his not getting another lease of life). We doubt whether a white man in his place would have been disposed of so easily ... Race prejudice... is nearly always stronger than reason....

This article is somewhat enigmatic. The first lines, as written, seem to sympathise with Vasquez. But later in the article the editor writes:

It is a good thing to have men of the Vasquez breed hanged and we trust that a new trial will not be granted the robber, nor his exit be delayed by any tenderness on the part of the Executive... (24)

Certainly in the 1870's discrimination for race and appearance was prevalent. Describing Vasquez, the San Francisco Morning Call says:

(23) La Voz Del Nuevo Mundo (San Francisco), May 22, 1874, p. 1 (Microfilm).

(24) Sacramento Record, January 16, 1875, p. 2 (Microfilm).

A low forehead and a head of coarse, black hair are little indications of intelligence, and from beneath a coarse, overhanging brow gleam two deep-set treacherous, cunning eyes... The whole contour of his face suggests Indian blood...his mouth (is) large and coarse, his beard and moustache... are of straight, black hair and ... only serve to rend more repulsive his ugly countenance...

The description ends:

Like all of his class, he (Vasquez) is fond of finery and ostentatious display; vain to an extreme, and a thorough bully. (25)

On July 17, 1874, Vasquez was transferred to San Jose "for safe keeping." Here many old friends came to visit him, and the Mercury depicted him as less villainous in describing his visits with friends. Apparently, a group of newspaper men came by the jail, "all of whom he (Vasquez) received courteously but declined to speak of his approaching trial...." After meeting Vasquez, the Mercury's men began to write of him less harshly, though one reporter still testified that the public would "breathe easier upon the reception of the news of Judge Belden's summary order and its prompt execution." Although this quotation seems to imply that the reporter predicts that Vasquez will receive the death penalty, by July 31, the public began to show some doubts. At a meeting of the District Court on that day, Vasquez was granted a change of venue for arraignment from Hollister to Santa Clara County. The citizens of Hollister became angry, believing that the change of venue would mean eventual acquittal of the bandit.

(25) Morning Call, May 15, 1874, p. 3 (Microfilm).

Despite all of the public sympathy in Vasquez' name, we can infer that no one wanted him back on the trails and roads to begin his robbing escapades again. (26)

During Vasquez' stay in jail, quite a few reporters interviewed him. In researching, one finds that sometimes accounts contain contradictions, but usually these are because of interpretation or lack of sufficient data. In the case of Vasquez' interviews, however, three sources disagree on the date of Vasquez' birth.

According to one source, Vasquez said, "I was born in Monterey County... August 11, 1835." (27) According to another he said, "I was born in Monterey County...in the year 1837. (28) And, to the interviewer for La Cronica, he said (translated), "I was born in Monterey, 1835 on August 14 if I don't remember wrong. Therefore, I am 39 years old." (29) There is no telling why three different dates were recorded. The reporters could have written incorrect or sloppy notes as they sat in the jail cell across from the feared bandit. Another answer is that Tiburcio Vasquez wanted to fool someone about his age. Historians have a wide variety of possible birthdates in their different works.

The interviews are historically valuable in other ways. The tone

(26) Mercury, July 23, 1874, p. 3 (Microfilm); Mercury, August 6, 1874, p. 3 (Microfilm).

(27) Greenwood, p. 22.

(28) Ben C. Truman, Life, Adventures, and Capture of Tiburcio Vasquez, (Los Angeles, 1874), p. 40. (Signed by Rowland with his word that the information is correct.)

(29) La Cronica, May 16, 1874, p. 2 (Microfilm). Translated by the author. **AM3**

of Vasquez' answers gives us a feeling for his charm and politeness. One interview was interrupted by a group of visiting ladies who could not be restrained. One burst into the room where the interviewers were and said she was "sincerely sorry to hear of his capture." Before she left, Vasquez lifted his bandaged hands to bless her:

"Que las bendiciones de Dios sea siempre contigo." (30)

That the blessings of God may be with you always. Vasquez' religious convictions are unclear (most believe him to have been an agnostic). Perhaps he was in fact obliged to his visitors and received and blessed them with sincerity. They were a hope for his future and for his life.

During his interview with reporters from La Cronica, Vasquez (translated) "expressed his wish that nothing will occur to cool the relations between Mexico and this country." Vasquez also told a tear jerking life story. He said that he first worked at Felix's ranch and then went to see his mother to tell her that he would leave. "My mother cried a lot," Vasquez emoted, "but in the end she gave me her blessing. Since then, I have robbed all I could." Later we will discuss why perhaps the most important sentence, in the entire Spanish interview is Vasquez' declaration, "Senores, mi nombre es Vasquez y me llamo Tiburcio" : "My name is Vasquez, and I am called Tiburcio." (31)

(30) Truman, p. 30.

(31) La Cronica, May 16, 1874, p. 2 (Microfilm). Translated by the author.

THE TRIAL

(The trial of Vasquez was covered by many California newspapers of the time. Since most of the information is duplicated from one newspaper to the next, I will not include footnotes in my story of the trial except for sources other than newspapers. Therefore, all information that is not documented is included in California newspapers of January, 1875.)

After many delays, the Vasquez trial began on Tuesday, January 5, 1875, in the District Court with Judge David Belden presiding. A plea for yet another extension fell through. According to Eugene Sawyer, "This was the most celebrated trial ever held in San Jose." (32)

Judge Belden called for the case, "People vs. Tiburcio Vasquez." Suddenly Mr. P.E. Tully, lawyer for the defense, rose and stated that Judge Darwin had suddenly withdrawn from the case, which left Mr. Tully alone to defend Vasquez. Tully further admitted that Darwin much earlier had felt apprehensive about some act of Vasquez and had announced a determination to throw out the case all together, but was persuaded to remain. Tully himself was surprised to learn that Darwin

(32) Eugene T. Sawyer, History of Santa Clara County, (Los Angeles, 1922), p. 163.

had backed out at the last minute. According to Tully, Darwin had exclusive control over some papers important to the case and therefore a continuance on the trial was appropriate and necessary. Belden replied that such an excuse would come up every time the case was brought up for trial and denied the continuance. Tully seemed well qualified to handle the case alone, for only a year earlier Tully singlehandedly defended Moreno who was charged with complicity to the crime now charged against Vasquez: three murders committed at Davidson's Hotel at Tres Pinos, south of Hollister. (33) The courtroom was packed with relatives, admirers, and enemies of Tiburcio Vasquez. Actually, according to the Chronicle, relative to the number of people in the courtroom, "only a few Mexicans attended the trial."

Court was adjourned until Wednesday, January 6.

FIRST DAY PROCEEDINGS

On January 6, at 2:00 pm, Judge David Belden ascended the rostrum and the Clerk called the roll. The counsel for the defense asked that all witnesses be excluded from the room, which was ordered.

The first witness sworn was Abdon Leiva, one of Vasquez' gang that robbed Snyder's store at Tres Pinos. J.H.Scully was sworn as an interpreter for the Chilean witness.

Leiva's story: Leiva said that he had worked as a

(33) Sawyer, Life and Career of Tiburcio Vasquez, California Stage Robber, (Oakland, 1944), p. 56.

cattle-herder, was 29 years old, married, and had three children. He had known Vasquez for eleven years, at the Enriquita mine and around New Idria. Vasquez, Chavez, Gonzales, and Moreno came to his house once or twice a week during the month of August, 1873, and talked about robbing Snyder's store, which was about 80 or 90 miles from Leiva's home. Vasquez, "the chief," proposed that since it was the time of year for Leiva to leave the country, the gang should go rob the New Idria stage and Snyder's store and another store, and take everything they could and shoot anybody who "made trouble" for the gang, to which all gang members agreed. Leiva left Cantua on August 24, 1873, and met the others at a place appointed by Vasquez, who had horses, but soon left to buy whisky from an American who kept a saloon on the road to Hollister. The gang next went up to the place of rendezvous selected by Vasquez where they remained till evening. At about 5:30 pm they began to clean their arms, fix the horses, and change clothes. Gonzales, Moreno, and Leiva were told to go see what was at the store. As they left, Vasquez said, "When we come we will do the business" and added that if anybody resisted the bandits, "to shoot them." (Here a sketch of Snyder's store was brought before the court and Leiva showed the route by which he and Gonzales approached the store.) The two bandits entered the store and ordered drinks. When Moreno arrived, the outlaws drew their pistols and made the five or six people in the store lie down. Moreno tied them, but before he finished the job, Vasquez came to the door and called that if his men were finished, one should come out. Gonzales went out. As Moreno and Gonzales covered the heads of the prisoners with blankets, they heard shots at the back of the store. Gonzales followed a man to a fence and shot him as he tried to jump over. Moreno also shot at the stranger, who fell on his back. Two men came by and Leiva made them go into the hotel. Next Leiva saw Vasquez pull up his rifle and shoot through the door. Leiva chased a boy who was trying to run for

help, caught him, and brought him back to the store. Vasquez called Leiva and had him receive money from Snyder. The bandits stole clothes, saddles, horses, and provisions. Vasquez took one watch and another was taken by a different outlaw. The bandits went up to Lorenzo and had breakfast at Vasquez' home there, about 50 miles from the store. They then camped about 100 yards from the house.

At 5:00 the court adjourned until Thursday, January 7, at 10:00.

SECOND DAY PROCEEDINGS

Leiva's story continues.

Leiva said that Vasquez took the gold watch with the reason that he had done more than anyone else because he had shot two men.

Next a map was produced and there was some argument as to how anyone could assess its accuracy. Sheriff Adams relied on his memory for the southern geography and pronounced it accurate enough, so the map was admitted as a document and Leiva traced the path next taken by the bandits.

Leiva "could not remember" in the presence of his wife whether or not it was she who first advised him to join the gang, but finally admitted that he had testified before a different judge that she did persuade him to join the Vasquez party.

Later, Leiva had caught his wife sleeping with Vasquez. Leiva drew his pistol and pointed it at Vasquez, but Chavez kept him from shooting: "If you shoot Vasquez, I will blow your brains out." So Leiva had to be content to say, "Be sure, I will kill you (Vasquez) if I get a chance." Vasquez answered, "You have a right, I have been a traitor to you."

Mrs. Leiva, Rosario Feliz, was sworn next, but her testimony proved fruitless. She could remember little about anything which happened. She was asked no delicate questions about her association with Vasquez.

Next, Sheriff Adams was sworn. He showed the trail he had followed while trying to catch Vasquez.

Finally, Snyder himself was sworn in to testify on what had happened on August 23, 1873 in his store.

Snyder's story: Two men, one of whom was Leiva, rode up to the store just as Snyder went outside to give someone some money. Two more men showed up in the meantime and one approached Snyder, put a hand on the store-owner's shoulder, and asked for a letter for some name which Snyder could not remember. As Snyder searched for the letter, the first two men came by -- one, wearing a soldier overcoat, was dark-complected; the other, large and heavy, was "rather copper-colored." Someone suddenly demanded, "Lie down!" and someone asked who was boss. The clerk pointed out Snyder, who was soon tied. He heard a few shots -- first one in back of the hotel, then one in front, then another in front. After hearing his name called two or three times, someone took him to his wife and commanded him to tell her to bring out the money. Snyder complied and the bandits took the money, then took Snyder back to the store and covered his head. On the way back to the store, Snyder saw a man covered with blood.

A boy had been brought into the store -- the boy had been running off and a bandit had been sent after the boy and had caught the boy.

Next Snyder described the men who had arrived after the first two. One was a very large man. The other was a medium sized man with a beard, wearing a dark cloak with red lining. This man the witness identified as Vasquez. The three shots he had heard while tied up had occurred within a three minute interval when all the bandits had arrived.

Court adjourned until Friday, January 8.

THIRD DAY PROCEEDINGS

Snyder's story continues: Vasquez and another man took Snyder to his family. Vasquez said to tell his wife to get any money from their house and added that he, Vasquez, did not want to kill Snyder, but that if Snyder did not give up the money, Vasquez would kill him. After taking the money, the bandits led Snyder back to the store and covered his head once again.

Snyder said that he knew and recognized Vasquez, had seen the bandit several times only months before the robbery, and had heard that Vasquez was a bad man and someone to look out for, but was thoroughly unsure who had fired any of the shots that evening.

John Utzerath, clerk of Snyder's store at the time of the robbery, told about the same story as Snyder, except he thought the shots had been fired before the boy was brought in. Utzerath's face was covered, however, and his hands tied -- he saw nothing.

L.C. Smith and D. T. McPhail each testified that they had seen the bandits approaching the Tres Pinos store.

Lois Sherrer, the Tres Pinos saddler, said that he was in the room with Davidson when Davidson was shot through the door and could "recognise Vasquez as the man who fired the shot and killed Davidson." E.L. Burton, brother of Davidson's wife, said he too had been in the room and that Vasquez resembled the murderer in size and shape.

Mrs. Snyder told how she gave the bandits money at her husband's request pleading with the outlaws that she "would give them all we had if they would hurt no one." Her sister-in-law was with her the whole time.

Lizzie Moore repeated what Mrs. Snyder said, adding that she heard two shots fired after Vasquez showed up, that she had seen Vasquez go into the store, and that she had heard the shot fired through the door.

Laiva was called back onto the stand. In a previous conversation

with Adams, he said, he could not remember if he had mentioned that Vasquez killed Davidson. In a later conversation, Leiva claimed that he told Adams that he saw Vasquez shoot through the door and heard that it was Davidson who was killed.

Finally the great bandit himself was called to the stand and Tiburcio Vasquez was sworn.

Vasquez's story: Vasquez knew Leiva, and was at Cantua Creek August 23-24, 1873. It was Leiva's idea to go rob the store and Leiva was referred to as captain. No blood was to be shed and no women were to be violated.

Upon arriving at Snyder's, Vasquez left his rifle outside and went into the store. Some men there were tied. Vasquez next was headed for the well when he heard a shot fired near the stables, then saw one fired at the corner of the store, went up to the store, and saw Leiva throwing a man to the ground. Vasquez said, "That is not right."

After hearing Gonzales shooting near the stable, where a boy was, Vasquez saw Leiva mount his horse and say he would go after the boy and bring him back dead or alive. Next Vasquez heard someone yell in Spanish "Stay there!" and a shot from the stable. Chavez, meanwhile, was by the door where Snyder was taken. Vasquez shouted that people were coming and Gonzales rushed over and stood by his side. Someone opened the door of the hotel and Gonzales told him to stand. He tried to shut the door, but Gonzales shot through the door. Vasquez took Gonzales' gun, ordering him to shoot no more.

When Leiva returned, Vasquez "told them (Leiva, Gonzales, and Moreno) they had done very wrong" and that the bandits "were all in for it." Vasquez had "killed no one." He told the interpreter, "I am as innocent of killing anyone as you are."

Then Sheriff Adams was again sworn, surprisingly taking the side of the defense this time! He said that he heard Leiva's testimony, and argued:

He never told me he saw Vasquez shoot Davidson. He never told me he saw Vasquez shoot on the occasion of the robbery. We never conversed particularly about the killing. He always stated that Vasquez killed (at least one) of the party.

Court adjourned until Saturday, January 9, 1875.

FOURTH DAY PROCEEDINGS

After a series of debates between District Attorney Briggs (representing the people) and Mr. Tully (for the defense), Judge Belden made his famous charge to the jury.

In his speech, Belden defines murder as "unlawful killing of a human being with malice aforethought." Belden felt that "such malice may be expressed or implied." According to Belden, all murder which perpetrates or tries to perpetrate serious crime is murder in the first degree.

Since all involved in the crime had been agreed that they would overcome resistance as was required, Belden believed that each of the robbers was guilty of murder in the first degree, not just the man who fired the fatal shot.

The jury retired from 4:45 pm to 8:00 pm. When the bailiff returned to the courtroom, he announced that the jury had made their decision. The verdict was read:

We, the jury, find the defendant guilty of murder in the first degree and affix the death penalty.

It had taken the jury less than four hours to reach their decision.

CONCLUSION

Why did Vasquez receive the death penalty? It was probably not for Leiva's testimony. Leiva had been one of the gang himself -- not a respectable man -- and seemed confused about some of the information he offered. The press tended to disapprove of him; the Alta California said of the Chilean, "He ... speaks ... with a strong sort of barbarous quasi-Frenchy accent" (34) None too flattering. Leiva was not well-liked, and he was the only witness who could outline Vasquez' actions.

It seems likely that Judge Belden's charge to the jury was the main reason that Vasquez was sentenced to death. He was guilty by close association with the criminals. Also, his claim that he was not the leader probably was not taken so seriously, since it was known that Vasquez had led hold-ups and raids all over California. A better reason for believing Vasquez lied when he claimed he had not been captain is that he said earlier in an interview that at the Tres Pinos incident (translated), "I ... was the boss of the gang," (35) and in a different interview called himself, "El Capitan Vasquez" (36). Another source maintains that Vasquez "said that the murders at Tres Pinos were due to Chavez's disobedience of orders." (37) In that

(34) Alta California, January 8, 1875, p.1 (Microfilm).

(35) La Cronica, May 16, 1874, p.2 (Microfilm).

(36) Truman, p. 17. (This was a reprint of an article published in the Star, May 16, 1874. The article was certified by Rowland true.)

(37) Harris Newmark, Sixty Years in Southern California, L.A., 1970), p. 457.

context we might think Vasquez was the one giving the orders. Vasquez and Chavez had raided before as leader with lieutenant. They had committed violent crimes before, too. One such raid is described:

Vasquez and one companion, Chavez, announced their arrival at the lonely stage station at Coyote Holes, Kern County, February 25, 1874, by firing fifteen shots through the walls of the house. The six persons inside had no arms except a rifle without cartridges and an empty shotgun ... (38)

There was little doubt that at some time in Vasquez' criminal life he had participated in crimes involving murder. And yet, the jury's verdict started a new wave of sympathy for the bandit.

This time the press stuck by their guns; an angry Mercury editor wrote of Vasquez:

The record of Vasquez' crimes would fill a volume ... surely it would seem that if society can dispense with any of its members, she could afford to spare him. (39)

The Hollister Enterprise printed an article saying:

The verdict of the jury, although not unexpected, seems to be unanimously endorsed by all whose horror it was to be acquainted with the bloody and villainous career of the doomed prisoner. (40)

On Saturday, January 23, the Court house was packed with curious spectators waiting to hear the sentence of Vasquez. Judge Collins moved for a new trial, which was denied.

Judge Belden then commanded, "Vasquez, stand up," and proceeded to

(38) W.A. Chalfant, Outposts of Civilization, (Boston, 1928), p.155

(39) Mercury, January 14, 1875, p. 2 (Microfilm).

(40) Enterprise, January 16, 1875, p. 2 (Microfilm).

give a long-winded speech about the horrors of Vasquez' career and about the omnipotence of law. The speech concluded:

The judgment is -- Death ... That (upon March 19, 1875) between the hours of nine o'clock in the morning and four in the afternoon ... you be hanged by the neck until you are dead. And may God have mercy on your soul. (41)

All sources agree that Vasquez listened to the sentence without a flinch, without a cry, but appeared calm and sure, almost as though he were not perturbed, almost as though he did not care that he was going to die in less than four months.

Vasquez never lost his composure. On the morning of his death he ate a big breakfast and approached the scaffold in a confident manner. Although Vasquez is usually believed to have been agnostic, he did receive the last rites of the Catholic Church before he was hanged. His last words were in Spanish. With the noose around his neck, he turned to Deputy Sherriff Winchell and told him in Spanish to hurry up. An instant later he was dead. His neck had snapped clean with the fall. Vasquez' body was taken down and buried soon thereafter in the Santa Clara Catholic Cemetary. (42)

(41) Star, January 16, 1875, p.2 (Microfilm).

(42) Eeers, as cited by Robert Kirsrh in West of the West (a Dutton publication); Dominga L. Cervantes Hoffer, Tiburcio Vasquez Bandit, (Puyallup, Washington, 1964), p.80.

RUMORS AND AFTERMATH, HISTORICAL INTERPRETATIONS

After Vasquez had been dead for a few months, a rumor started that his corpse had been stolen. His grave was opened to prove this rumor wrong; then Vasquez was reburied. Little has been written about the other gang members from the Tres Pinos robbery. Leiva remarried and became a prosperous contractor. (43)

More important historically is what happened to Chavez. One common myth is that Vasquez may not have been the bandit who was hanged that fateful March 19. This argument was based upon the idea that Vasquez escaped from the home of "Greek George" at the time of the capture and his partner, Chavez, was taken in his place. According to historian Adabelle Cogswell, Chavez looked so much like Vasquez that everyone was fooled. A romantic idea, but highly unlikely. Too many friends and relatives visited Vasquez in jail; someone would have realized that it was not Vasquez and let out the secret. Also, although historians agree that Chavez and Leiva were enemies, Leiva had no motive to testify so brutally against Chavez. Vasquez was the one Leiva caught with his wife. There was nothing for Leiva to gain by pretending Chavez was Vasquez. By admitting the defendant to be Chavez, Leiva would start more searches for Vasquez -- Chavez would have earned a very serious sentence himself, perhaps even a death sentence. More evidence that the man tried and hanged was Vasquez is that witnesses who recognized Vasquez also distinguished between Vasquez and Chavez.

It also seems doubtful that Chavez, an outlaw who had made a

(43) Cervantes Hoffer, p. 81.

career of armed robbery, would be quite so valient and ethical as to die for his captain.

Austen Warburton, grandson of Vasquez' family doctor, said that his father accompanied his grandfather to the Vasquez home after the hanging. The Vasquez family had hoped that perhaps Tiburcio could be revived. Doctor Warburton knew he could not revive the bandit, but went to console the family. Doctor Warburton always told his own family that it was indeed Vasquez that he had examined. (44)

There are several stories about what happened to Chavez. One source says, "Chavez was killed by a citizen of Monterey County, and a (reward) which had grown to 5,000 dollars was collected for him." (45) Another says:

A large reward was out for Chavez and his head was cut off and brought to Hollister for identification. Later the head was exhibited in San Francisco, and if we remember correctly was one of the grewsome objects in Doctor Jordan's Museum of Anatomy, destroyed in the great fire of April 18, 1906. (46)

Another source reads:

The man who killed (Chavez) cut off his head, which he carried to San Francisco ... So far as I know, no one has collected the reward offered. He took this head about with him for some time. If he had exhibited it, without doubt he would have collected some money. (47)

(44) Informal telephone interview with Austen Warburton, October 30, 1982.

(45) Chalfant, The Story of Inyo, (Chicago, 1922), p. 244.

(46) Hoyle, p. 21.

(47) California Historical Society Quarterly: "Bandits, Borax and Bears" translated from the French of Edmond Leuba by Allen L. Chickering, (San Francisco, 1938), p. 110.

According to the only book referenced in Ms. Cogswell's book, a man who met Vasquez after the bandit was supposed to have been hanged said that Vasquez had dark grey eyes. The San Jose jail records say that Vasquez had dark brown eyes.(48) Most of Ms. Cogswell's book is undocumented. (49)

Therefore, for all historical purposes, we shall conclude that Tiburcio Vasquez, not a partner or friend, was hanged in San Jose, 1875.

In the spirit of folklore, however, we shall recognize Vasquez as a romantic, adventurous bandit, loved for his charming and dangerous ways, though hated for his criminal actions. Vasquez will long be remembered for his daring escapades and climactic trial.

Because of the public interest and vehement debates concerning Vasquez' capture, trial, and hanging, May, 1874 - March, 1875, records of the final stages of the infamous bandit's life may be considered historically valuable. Vasquez' life ended more than a century ago in San Jose, but mention of his name in articles and songs still can be heard around California. Such will be the legacy of the notorious California bandit Tiburcio Vasquez.

(48) San Jose Jail Records, #285 (Tiburcio Vasquez) as cited by Cervantes Hoffer, p. 80.

(49) In a telephone interview with Adabelle Cogswell (November, 1982) I asked where she learned specific information regarding Vasquez' capture, trial, and identity. She could not tell me even one of the sources I wanted. She told me that she did not keep her notes from writing the book.



ABDON LEIVA

Abdon Leiva

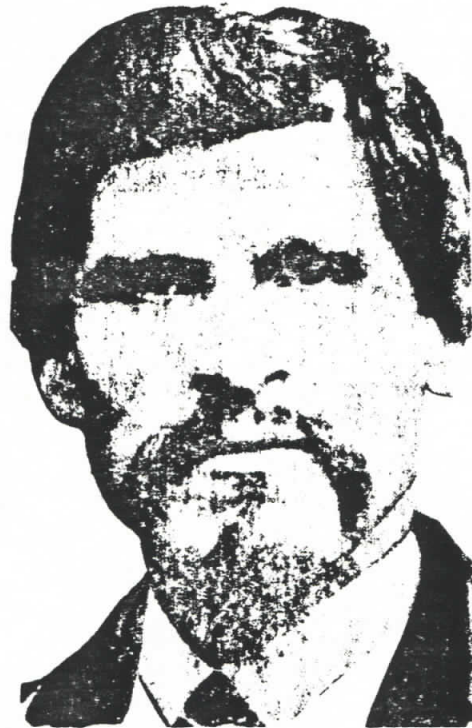
"He became a prosperous contractor ..." (51)

(51) Picture from Cervantes Hoffer, p. 44.

Vasquez' gravestone. One legend says that the reason Vasquez' gravestone is not parallel to the other gravestones is that "Vasquez was askew with mankind in life and will be askew with mankind in death, as well." (50)



(50) Informal interview with historian Clyde Arbuckle, San Jose, California, October 30, 1982.



One of the photos of TIBURCIO VASQUEZ.

Tiburcio Vasquez -- "el bandido sin par" (52)

(52) Picture from Cervantes Hoffer, p. 34.

BIBLIOGRAPHY

Single Volume References

1. Chalfant, W.A. Outposts of Civilization. Boston, 1928, 193 pp.
2. Chalfant, W.A. The Story of Inyo. Chicago, 1922, 358 pp.
3. Cogswell, Adabelle. Tiburcio Vasquez El Bandido Sin Par. Volcano, 1974, 113 pp.
4. Greenwood, Robert. The California Outlaw Tiburcio Vasquez. Los Gatos, 1960, 296 pp.
5. Hoffer, Dominga L. Cevantes. Tiburcio Vasquez Bandit. Puyallup, 1964, 107 pp.
6. Hoyle, M.F. Crimes and Career of Tiburcio Vasquez. Hollister, 1927, 26 pp.
7. Newmark, Harris. Sixty Years in Southern California. Los Angeles, 1970, 744 pp.
8. Outland, Charles. Stagecoaching on El Camino Real. Glendale, 1973, 339 pp.
9. Rambo, Ralph. Trailing the California Bandit Tiburcio Vasquez. San Jose, 1968, 40 pp.
10. Sawyer, Eugene T. History of Santa Clara County. Los Angeles, 1922,
11. Sawyer, Eugene T. Life and Career of Tiburcio Vasquez, California Stage Robber. Oakland, 1944, 92 pp.
12. Truman, Ben C. Life, Adventures, and Capture. Los Angeles, 1874, 44 pp.

Newspapers

Microfilm May, 1874 - March, 1875

1. (San Francisco) Alta California
2. Sacramento Bee
3. San Francisco Chronicle
4. San Diego Daily Union
5. Hollister Enterprise
6. (San Francisco) La Cronica
7. (San Francisco) La Vox Del Nuevo Mundo
8. San Francisco Morning Call
9. Sacramento Record
10. Los Angeles Star
11. San Jose Weekly Mercury

Other Sources

1. California Historical Society Quarterly: "Bandits, Borox and Bears," Leuba, Edmond (translated by Allen Chickering). San Francisco, 1938, p.110.
2. Informal interview with Clyde Arbuckle, San Jose, California, October 30, 1982.
3. Telephone interview with Adabelle Cogswell from San Jose, California, December, 1982.
4. Informal telephone interview with Austen Warburton, October 30, 1982.