

Zorro: Everyperson's Moral Vigilante

Stephen E. Henderson*

ABSTRACT

Zorro (Amazon 2024) is hundreds of years in the making—from medieval ballads of Robin Hood; to the fiction of Alexandre Dumas, Baroness Orczy, and the legend of Mexican bandits; to the Johnston McCulley 1919 original; to comics like Daredevil and Batman; to scores of Zorro derivatives from the minds of McCulley, Walt Disney, and many others. At this point, it would be impossible to identify and duly credit the countless inspirations that together form this early-California vigilante. But such rich heritage might provide something more than literature and entertainment: if there is an everyperson's conception of a moral vigilante, Zorro might have transfigured into it by now. Perhaps it is thus possible to back into a philosophically defensible construct of moral vigilantism from this popular art, or perhaps it is that very genesis that provides its own legitimacy. Whichever the case, this article serves both to celebrate the story—both the original McCulley work and the most recent television derivative—and to begin its deconstruction. After centuries of refinement, Zorro as moral vigilante is a construct worthy of literary, philosophic, and legal attention.

* Judge Haskell A. Holloman Professor of Law, the University of Oklahoma. I would like to thank OU Research & Instructional Services Librarian Jacob Black and his student team for typically outstanding research assistance. And I thank my family for this journey just like every other. *Feo, fuerte, y formal*; we'll take two out of three on that front.

If the law does not serve justice, justice must not serve the law.
–Zorro: The Chosen One (Amazon Jan. 19, 2024)

INTRODUCTION

Vigilante. The very word is stolen. In Latin, *vigilare* is “to keep awake.”¹ In Spanish, *vigilante* is “watchman” or “guard.”² In English, the anglicization becomes a “self-appointed doer of justice.”³

Can stealing be justice? Can stealing be noble? Can stealing be *right*? As others have chronicled, it is a “curious fact that ... the same stories and myths [are] told about certain types of bandits as bringers of justice and social redistribut[ion] ... all over the globe.”⁴ One of those bandits was (perhaps) Joaquín Murrieta, who (may have) lived in nineteenth century California, and who (maybe) was an inspiration for Johnston McCulley’s 1919 creation of Zorro.⁵

¹ “Vigilante”, MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/vigilante> [<https://perma.cc/J6L4-T8QB>] (last visited May 30, 2024).

² *Id.*

³ *Id.*

⁴ Gary D. Keller, *Noble Bandits in the Context of the Humanities and Media Studies*, BOLD CABALLEROS & NOBLE BANDIDAS, <http://noblebandits.asu.edu/Intro.html> (last visited May 30, 2024) (quoting ERIC HOBSBAWM, *BANDITS* ix (1969)). See also *Remembering Regents Professor Gary Keller*, ASU NEWS, <https://news.asu.edu/20200721-remembering-regents-professor-gary-keller> [<https://perma.cc/9GRG-4T2V>] (last visited May 30, 2024) (describing Keller’s important work and legacy); Corey Robin, *Eric Hobsbawm, The Communist Who Explained History*, NEW YORKER, (May 9, 2019), <https://www.newyorker.com/books/under-review/eric-hobsbawm-the-communist-who-explained-history> [<https://perma.cc/E3B6-RUFX>] (describing Hobsbawm’s life and work).

⁵ See Keller, *supra* note 4; Joaquín Murrieta, BOLD CABALLEROS & NOBLE BANDIDAS, <http://noblebandits.asu.edu/Bio/Murrieta.html> (last visited May 30, 2024); Sandra R. Curtis, *Zorro’s California*, in *ZORRO THE COMPLETE PULP ADVENTURES (VOL. 1)* 7, 18 (2016); STEPHEN J. C. ANDES, *ZORRO’S SHADOW: HOW A MEXICAN LEGEND BECAME AMERICA’S FIRST SUPERHERO 4* (2020). And Zorro in turn became inspiration for Superman, Batman, and much else besides. See ANDES, *supra* this note, at ix–x, 208–13. In a terrific nod, Frank Miller reimagined Bruce Wayne’s (to-be-Batman’s) parents as returning from watching *The Mark of Zorro* when they are killed. *Id.* at 211–12.

We cannot untie those historical gordian knots,⁶ as *The Simpsons* has well taught.⁷ But must we untie them? It depends upon our errand. McCulley's "Señor

⁶ This is not to say people do not try. See, e.g., ANDES, *supra* note 5. Andes earns highest marks for effort—he searches high and low, both in libraries and ‘on location’—but he too ultimately leaves the history little more clear. Was the inspiration for Zorro in Freemasonry? *Id.* at 17–18. Was it in the life of a seventeenth century Irishman? *Id.* at 4–5, 7–17. Was it nineteenth and early twentieth century literature? *Id.* at 18–22. Was it the life of nineteenth century Mexican bandit Joaquín Murrieta, Andes' desired source? *Id.* at 22, 28–38, 46–63. Was it that “Murieta was clearly understood to be Captain Courtesy, and Captain Courtesy looks a lot like McCulley's *Captain Fly-by-Night*, which is, in literary terms, a dry run for Zorro”? *Id.* at 110. “[I]t's just really hard to say.” *Id.* at 45. My vote? Most of the above, as general-knowledge backgrounding; ultimately, it's hard not to think McCulley was writing the American *The Count of Monte Cristo* meets *The Scarlet Pimpernel*. Johnston McCulley was raised by grandparents who had lived in California, *id.* at 70–71, he worked both the crime beat and as culture and drama critic of newspapers, *id.* at 74–76, he lived in California, *id.* at 97–99, he surely read—or at the very least knew of—that famous literature, *id.* at 103, and he wrote about what he knew. More than that . . . would require a séance.

One thing Andes gets unfairly wrong is a bit about McCulley's past, namely a conviction for statutory rape: Andes concludes the crime was *not* statutory rape but a ‘more heinous’ variety, a conclusion not supported by the evidence he presents. See *id.* at 87–96. Having pulled the documents and knowing the law's traditional terminology and procedures, I emailed Andes to confirm my reading but received no response.

⁷ In Episode 231 of *The Simpsons*, the family heads to the movies to watch *The Poke of Zorro*, in which the masked Zorro first offs the Three Musketeers, the 1844 literary creation of Alexandre Dumas and surely one of Johnston McCulley's inspirations for Zorro. See *E-I-E-I-(Annoyed Grunt)*, SIMPSONWIKI.COM, [https://simpsonswiki.com/wiki/E-I-E-I-\(Annoyed_Grunt\)](https://simpsonswiki.com/wiki/E-I-E-I-(Annoyed_Grunt)) [<https://perma.cc/5GWL-LBX6>] (last visited May 28, 2024); *11x05 - E-I-E-I-(Annoyed Grunt)*, FOREVER DREAMING TRANSCRIPTS, <https://transcripts.foreverdreaming.org/viewtopic.php?t=22091> [<https://perma.cc/8XR5-8Y9T>] (last visited May 28, 2024) [hereinafter “Simpson's Transcript”] (all further quotes from the episode described below can be found here, or in the video clip on file with the author); ANDES, *supra* note 5, at 18. Zorro then turns to cut his trademark ‘Z’ into the shirt of the Man in the Iron Mask, another Dumas character and Zorro inspiration. (“What? ‘N’? What does ‘N’ stand for?” “No, no. It's a ‘Z.’ I am Zorro. ‘Z’ for Zorro.”) See ANDES, *supra* note 5, at 18–20; *Man in the Iron Mask*, WIKIPEDIA, https://en.wikipedia.org/wiki/Man_in_the_Iron_Mask [<https://perma.cc/723H-JWFK>] (last visited May 30, 2024). And when Zorro bizarrely claims to “have come to return King Arthur to the throne,” we get the following wonderful exchange:

Bart: It's a history lesson come to life!

Lisa: No, it isn't. It's totally inaccurate.

Bart: Quiet! Here come the ninjas.

Zorro next cuts the dress off a woman (and not for the first time—“What part of ‘stop cutting my dress off’ don't you understand?”), only to find “SP” already cut into her undergarments. “‘S.P.’?” asks an upset Zorro, “The Scarlet Pimpernel?” “We're just, uh, friends,” she replies, thereby referencing yet another inspiration for McCulley's work, Baroness Orczy's 1905 work complete with foppish-aristocrat by day/formidable vigilante swordsman by night. See ANDES, *supra* note 5, at 20–22. Thus, the Simpsons' Zorro goes to confront the Scarlet Pimpernel at the opera (who seems merged in character with ‘the Phantom’ thereof), and Simpsons silliness proceeds apace.

The Wikipedia entry for *Zorro* alone runs well over 10,000 words, see *Zorro*, WIKIPEDIA, <https://en.wikipedia.org/wiki/Zorro> [<https://perma.cc/CC2V-4A5M>] (last visited May 29, 2024), and, for the truly curious, there are things like a 1941 film in which a lawyer-by-day takes on the Zorro role, see *El Zorro de Jalisco*, LETTERBOXD, <https://letterboxd.com/film/el-zorro-de-jalisco/> [<https://perma.cc/E59M-JDK5>] (last visited May 30, 2024), and a 1963 mashup film entitled “Zorro

Zorro punishes those who oppress the poor and helpless, who give unjust verdicts, and who steal in the name of the law,”⁸ then “give[s] what [is] . . . stolen to the poor.”⁹ Isn’t that the fourteenth century Robin Hood?¹⁰ And if it (essentially) is—old wine in new bottles—then might it teach quite a lot about what makes for a socially moral vigilante? Which is presumably the right sort to be? Might such literature then contain more than merely good story?

This is a theme I’ve poked at before, looking to the incarnations of Daredevil, beginning with Stan Lee’s 1964 original and proceeding apace to focus on the 2015–16 television series.¹¹ Admittedly, this is partly because, like my deceased friend and mentor Andy Taslitz, I simply love a good story.¹² And I see no reason to shy away from this; good stories might be the best this life has to offer. Thus, I will share Zorro’s good story. Great writing—and I again invoke the spirit of Taslitz in asserting great pulp literature as great writing—deserves no less.

But I do not only write because it shares a great story. I cannot shake that there is something to this; that we might genuinely learn about moral vigilantism through popular culture. And having now watched Amazon’s 2024 *Zorro* reboot, and that having prodded me to read Johnston McCulley’s 1919 original and much else besides, I find Zorro might prove a helpful guide. Thus, I share his story with a genuine philosophic and legal purpose, even if much of its development will have to await further work. If there is not only (1) revolution (think 1776), (2) civil disobedience against laws themselves unjust (think Henry David Thoreau, Mahatma Gandhi, and Martin Luther King Jr.), and (3) crime, but also a fourth, separate category of moral vigilantism—acting unilaterally, or at least in non-government aspect, to mete out roughly the punishments that law ought to be giving—then what are its defining characteristics? And if there is *not* such separate category, then why do humans in generation after generation seem to yearn for it? I believe we can do worse than probe these literary yearnings for potential answers, and, given Zorro’s maturation in 2024 television, I could not resist the call.

and the Three Musketeers.” *Zorro and the Three Musketeers*, WIKIPEDIA, https://en.wikipedia.org/wiki/Zorro_and_the_Three_Musketeers [<https://perma.cc/GT56-DPAV>] (last visited May 28, 2024).

⁸ JOHNSTON McCULLEY, *THE MARK OF ZORRO* in *ZORRO THE COMPLETE PULP ADVENTURES* (VOL. 1) 23, 159 (2016).

⁹ *Id.* at 109.

¹⁰ *See Robin Hood*, BRITANNICA, <https://www.britannica.com/topic/Robin-Hood> [perma.cc/B59J-MNHU] (last visited May 29, 2024). McCulley’s friar Fray Felipe, himself a Friar Tuck sort, describes Zorro thus: “I have heard that he seeks to aid the oppressed, that he has punished those who have committed sacrilege, and that he has whipped those brutes who have beaten Indians.” McCULLEY, *supra* note 8, at 128; *see Friar Tuck*, WIKIPEDIA, https://en.wikipedia.org/wiki/Friar_Tuck [<https://perma.cc/69PS-TEDR>] (last visited May 29, 2024).

¹¹ Stephen E. Henderson, *Daredevil: Legal (and Moral?) Vigilante*, 15 OHIO ST. J. CRIM. L. 133 (2017).

¹² *See id.* at 135–36; *see also* Stephen E. Henderson, *A Dedication to Andrew E. Taslitz: “It’s All About the Egyptians,” and Maybe Tinkerbell Too*, 66 OKLA. L. REV. 693 (2014).

So, without further ado, I will introduce Johnston McCulley's 1919 original, then explain in some detail Amazon's 2024 reboot, and then ask what Zorro—transfigured for us over generations of literature and other media—might convey as everyperson's moral vigilante.

I. JOHNSTON MCCULLEY'S 1919 ORIGINAL

Johnston McCulley's 1919 *The Mark of Zorro* is an easy, enjoyable read. While it of course shows some signs of age—for example, in its era-typical genderizing—the core remains a light, happy tale of rather mild wrong being dutifully overrun by right. Published in a pulp magazine in five installments,¹³ and set in a time “When Romance and Rapiers Ruled in Old California,”¹⁴ Zorro was simultaneously Don Diego Vega, the foppish and remarkably indolent son of wealthy landowner Alejandro Vega,¹⁵ and a masked vigilante who made rather easy work of the powers that be, who were most often encapsulated in the character of the nearly lovable, if also bombastic and incompetent, Sergeant Pedro Gonzales.¹⁶ The setting was both a time that was and never was—a mishmash of first Spanish and then Mexican California of the late eighteenth and early nineteenth centuries, giving McCulley's story both an air of credibility but also allowing him plenty of literary license.¹⁷ It was a town whose very name both somehow evokes triumph and predicts tragedy, El Pueblo de Nuestra Señora la Reina de los Ángeles del Río Porciúncula (“The Town of Our Lady the Queen of the Angels of the River Porciúncula”), the pueblo that would become our modern city of (sometimes dark) angels, Los Angeles.¹⁸ And by mixing up history, McCulley had a rich tapestry: subjected native peoples working in industries and with religions not their own, multiple disputing but all-relatively-feeble entities of church and State, and cultures conflicting in government and family ideals. Together, then, he had a natural backdrop for tension, and perhaps for extra-legal justice.¹⁹ In the years following California's transfer to the United

¹³ Curtis, *supra* note 5, at 7. Originally serialized as *The Curse of Capistrano*, the work was rebranded as *The Mark of Zorro* upon the story's monograph publication in 1924, taking on the title of a successful 1920 movie adaptation. *Id.* at 7–9.

¹⁴ *Id.* at 13 (reproducing the cover of first Zorro pulp-magazine installment).

¹⁵ McCULLEY, *supra* note 8, at 30, 164; *see also infra*.

¹⁶ McCULLEY, *supra* note 8, at 23; *see also infra*.

¹⁷ Curtis, *supra* note 5, at 10–19. McCulley combined aspects of Spanish California (1769–1821, “the days of the missions”) and Mexican California (1822–1848, “the days of the ranchos”). *Id.* at 10. By military conquest and the resulting Treaty of Guadalupe Hidalgo, California would transfer to the United States in 1848. *Id.* at 17.

¹⁸ *See id.*; *Los Angeles*, WIKIPEDIA, https://en.wikipedia.org/wiki/Los_Angeles [<https://perma.cc/Q6R5-TUMR>] (last visited April 28, 2024). Thus, for this reader it seems perfectly right that McCulley invented a Spanish presidio in Los Angeles (Curtis, *supra* note 5, at 10), for no other California locale could do quite so well.

¹⁹ Curtis, *supra* note 5, at 14–16.

States, there were certainly outlaws who were heroes to the non-American *Californios*, prominently including the perhaps-apocryphal Joaquin Murrieta.²⁰

Not that McCulley really focused on the particulars of such things. Indeed, his setting was sufficiently vague that one historian-critic complained that “his story might as well have taken place on Mars.”²¹ Perhaps! But the historic elements would play a larger role in later retellings, and they certainly—at least for this reader—beneficially establish an admittedly-vague-but-promising backdrop for Diego to fill.

And fill it McCulley’s Diego did. The story begins (and ends) with both Diego and his foil, Sergeant Gonzales, in a tavern off the Los Angeles plaza.²² That Sergeant “often had expressed his belief that a man should look out for his own comfort before considering others; and being of great size and strength, and having much skill with the blade, he found few who had the courage to declare that they believed otherwise.”²³ There is of course worse than bombastic self-interest in this world, and yet equally plain is that self-interest can work meaningful injustice, and such is sufficient injustice for McCulley’s tale.²⁴ McCulley likewise introduces the “frailes” (friars) of the missions²⁵—some corrupt and others devout (the latter of whom Zorro would protect from corrupt officials and who would protect him in turn)²⁶—and the “timid natives” who “kept to their adobe huts,”²⁷ who as a timepiece stereotype served as a wronged people but without character development.²⁸ And McCulley introduces Don Diego Vega, “a fair youth of excellent blood and twenty-four years, noted the length of El Camino Real for his small interest in the really important things of life,”²⁹ “the opposite of Sergeant Pedro Gonzales in all things,”³⁰

²⁰ *Id.* at 17–18.

²¹ *Id.* at 11 (quoting Abraham Hoffman).

²² McCULLEY, *supra* note 8, at 23, 259.

²³ *Id.* at 24.

²⁴ This is not to say the original Zorro does not avenge real wrong; for example, for a shopkeeper’s “beating natives and stealing from the frailes,” Zorro “frightened him thoroughly, and forced him to disgorge the [ill-gotten] money[.] . . . [a]nd then . . . lashed him with a whip taken from his own wall, and told him why I had done it.” *Id.* at 71. Physical assault and theft can be substantial crimes. But the stories are lightly told, and the book is most definitely a ‘happily ever after’ affair.

²⁵ *Id.* at 24.

²⁶ *E.g., id.* at 27 (Sergeant Gonzales angrily describing his view of that arrangement).

²⁷ *Id.* at 24.

²⁸ Still, there are gems such as this, true of the oppressed in all days: “Natives stood still wherever they happened to be . . . for it had been their dear experience that whenever there was a tumult natives paid the price.” *Id.* at 163. And certain indigenous persons are trusted by Zorro with critical roles, even as they too get no character development. *Id.* at 205, 218–19.

²⁹ *Id.* at 29.

³⁰ *Id.* at 31.

and yet that Sergeant's friend.³¹ To Gonzales, the vigilante Zorro is a "cutthroat" and "thief,"³² but, says Diego (commenting upon his own alter-ego):

I have been hearing considerable [talk] concerning his work The fellow, no doubt, is sincere in his purpose. He has robbed none except officials who have stolen from the missions and the poor and punished none except brutes who mistreat natives. He has slain no man, I understand.³³

And so McCulley's stage is set, the Sergeant boasting he will easily defeat Zorro once able to confront him;³⁴ followed by Diego's departure,³⁵ Zorro's immediate appearance ("I am the friend of the oppressed, Señor, and I have come to punish you"),³⁶ the Sergeant's besting,³⁷ and then Diego's return to feign ignorance and rib the sergeant.³⁸ So it goes.³⁹ By story's close—once again at that tavern—Diego, voluntarily unmasked, has won over the people,⁴⁰ has won the heart of the beautiful Señorita Lolita⁴¹ (despite the competing interests of Captain Ramôn, comandante of the presidio⁴²), has achieved the concession of the Governor to do better justice,⁴³ and has received pardon for himself,⁴⁴ and thus Diego explains his

³¹ *Id.* at 30.

³² *Id.* at 32.

³³ *Id.* at 32. Ultimately, Zorro kills the Presidio Comandante Ramôn, but in sword duel, with the governor as (reluctant) witness. *Id.* at 243. There was thus 'just cause' if dueling for the besmirched honor of a young woman provides just cause, and to the book's plot it did. *Id.* at 257.

³⁴ *Id.* at 32.

³⁵ *Id.* at 33.

³⁶ *Id.* at 36.

³⁷ *Id.* at 41–44.

³⁸ *Id.* at 46–47.

³⁹ Readers today can recognize this as the progenitor of Clark Kent's bumbling-reporter to Superman to bumbling-reporter transformation. See *Superman*, WIKIPEDIA, <https://en.wikipedia.org/wiki/Superman> [<https://perma.cc/R86S-3HZW>] (last visited May 28, 2024).

⁴⁰ McCULLEY, *supra* note 8, at 171–74 (spurring the young, landowning caballeros to seek justice). "We shall call ourselves the Avengers! We shall ride Camino Real and prove terrors to those who rob honest men and mistreat natives! We shall drive the thieving politicians out!" *Id.* at 173. See also *id.* at 254–58 (those same caballeros saving the day).

⁴¹ *Id.* at 262. Reflecting the main storyline, Diego wins Lolita's heart in sequences of Diego, then Zorro, then Diego-again fashion. *E.g. id.* at 59–60 (Diego), *id.* at 63–81 (Zorro), *id.* at 83–87 (Diego).

⁴² *Id.* at 77–80, 87. McCulley's Ramôn is at first honest in his work, *id.*, but proves a scoundrel once he falls for the young Lolita. *Id.* at 102–106. And so it goes in McCulley's work, keeping things simple because Diego/Zorro is good and nobody else need compete. Amazon's reboot, as explained below, updates the story to more modern sensibilities, giving nobody a monopoly on goodness in order to fracture viewers' loyalties, though unfortunately not doing the same for some characters who are fully negative.

⁴³ *Id.* at 234–38 (outing the comandante's lies); *id.* at 256–57 (obtaining the governor's concession).

⁴⁴ *Id.* at 257.

full exploits using none other than Sergeant Gonzales as his storytelling aid.⁴⁵ And while much of course happens in the pages between—and a fun read it is⁴⁶—these two events anchor the story: the villain is chided, justice is done without bloodshed, and indeed the delightfully comic villain is given the novel’s very last words in concession, the Sergeant expressing his oh-so-mild curse of choice, “Meal mush and goat’s milk!”⁴⁷

McCulley would publish many more Zorro stories—sixty-five in all⁴⁸—and there would be plenty of stage and film adaptations.⁴⁹ But equipped with knowing where it all began, we are ready to tackle Amazon’s 2024 retelling.⁵⁰

II. AMAZON’S 2024 REBOOT

First, two critical points. One, you should watch the series; no summary description can do justice to good television. Two, when you watch, *please* employ the original Spanish audio; the English overdub runs roughshod over the quality of the actors and the beauty of their speech. However, as this is an English-language publication and I am, alas, solely an English speaker, I will use the English subtitles for all quotations herein.⁵¹

⁴⁵ *Id.* at 259–62.

⁴⁶ For example, Diego’s attempts at getting a bride without the “awful nuisance” of courtship are humorous (even as the female characters are hopelessly genderized as per the times), *id.* at 54–60; Zorro’s horse is as impressive as some readers will know from later tellings, *id.* at 79; people are as shallow and fickle as can be in trying to follow others through the winds of fortune, *id.* at 100; and there is good comedy, as in a soldier dutifully and serially relating to a father each family member to face arrest, *id.* at 190–92, and in angry shepherders first losing their flock to a fleeing Zorro and then as quickly again to his pursuers, *id.* at 213. In short, the book is a story that can be enjoyed by young and old, including—unlike much of the content of today—by those who dislike portrayals of genuine evil and violence. *Cf. Fallout* (Amazon 2024) (a series I love but that is routinely violent). Most out of touch in McCulley’s *Zorro*, unsurprisingly given its age, are (1) the aforementioned genderizing (“Ah, señorita, that is for a man to do,” *id.* at 252); (2) the offhand treatment of the native peoples and a ‘white savior complex’ in its story; and (3) relatedly, common talk of caballeros of “good blood” or “best blood.” *E.g.*, *id.* at 166, 173.

⁴⁷ *Id.* at 262.

⁴⁸ Curtis, *supra* note 5, at 9.

⁴⁹ *See Zorro*, WIKIPEDIA, <https://en.wikipedia.org/wiki/Zorro> [<https://perma.cc/CC2V-4A5M>] (last visited May 29, 2024) (gathering adaptations). McCulley conveniently ignored that Diego had been outed as Zorro at the end of the first book. *See, e.g., Zorro Saves a Friend*, in *ZORRO THE COMPLETE PULP ADVENTURES* (VOL. 1) 265 (2016).

⁵⁰ In a necessary attempt at brevity, I omit many details from the original that cleverly work into Amazon’s adaptation. For example, when McCulley’s Diego woos Lolita, he suggests they marry “in the little church on the [Los Angeles] plaza . . .” MCCULLEY, *supra* note 8, at 92. For how that church plays in the retelling, read on.

⁵¹ And thus, a note on all such quotations and citations: Transcripts for the first season of the series can be found at TV SHOW TRANSCRIPTS, <https://tvshowtranscripts.ourboard.org/viewforum.php?f=2131>, and are on file with the author. Page citations will be to those

Amazon's series is set in "nineteenth century" California, making use of historic ambiguity and combination just like McCulley's original.⁵² The land is claimed by Mexico, which has declared independence from Spain;⁵³ the Russians are seeking a foothold as they work their way south from Alaska;⁵⁴ the Mexican-American war that would claim the land for the United States has not occurred;⁵⁵ but the mining of gold is in full swing.⁵⁶ And villainy is afoot, as a small group of masked men make a deadly nighttime attack on the hacienda of Alejandro de la Vega.⁵⁷ Just as Alejandro is about to be killed, Zorro arrives, and the two impressively defeat and kill the attackers.⁵⁸ They presume victory, and Zorro rides away; unfortunately, when Alejandro opens his front door, there is one masked attacker left—"You," says Alejandro in recognition—and Alejandro is shot and killed.⁵⁹

Zorro (by day Po-mahn-kwakurr⁶⁰) likewise doesn't get far. He rides into an armed group of soldiers from the nearby presidio, who open fire and chase him into the pueblo, where the wounded Zorro attempts refuge in the church.⁶¹ The soldiers,

transcripts, referencing the page number of the respective printed transcript as saved in PDF format. Often enough, critical action occurs without any accompanying words, or the words are not printed there because they were spoken in English, and these transcripts derive from close captioning translations of the Spanish audio; in such case, the page citation will nonetheless be provided because it identifies the proper location within the episode.

⁵² *Zorro: The Chosen One* (Amazon Jan. 19, 2024) at 1; see *infra* note 17. Perhaps thinking it too odd a gap to resist, the gravestone of Alejandro de la Vega marks his death as 1833, meaning the action of the series would take place later in that year or in 1834 (it takes Alejandro's son Diego six months to return from Spain upon news of Alejandro's death). *Zorro: The Chosen One, supra*, at 4. However, as explained herein, the series at its opening proclaiming only the vague "California, 19th Century," makes good sense. *Id* at 1.

⁵³ *Zorro: The Chosen One, supra* note 52, at 10. Historically, this would occur in 1821. See *Independence of Mexico*, Britannica, <https://www.britannica.com/place/Mexico/Independence> [<https://perma.cc/K63E-3SFL>] (last visited Feb. 28, 2024).

⁵⁴ *Zorro: Mask Games* (Amazon Jan. 25, 2024) at 16–17. See also *Russian Colonization of North America*, WIKIPEDIA, https://en.wikipedia.org/wiki/Russian_colonization_of_North_America [<https://perma.cc/F975-3VJJ>] (last visited June 4, 2024).

⁵⁵ See *Zorro: Mask Games, supra* note 54, at 16–17. Historically, the critical date here would be February 2, 1848 and the Treaty of Guadalupe Hidalgo. *Independence of Mexico, supra* note 53. Once again, this is not to say the 2024 Zorro story is necessarily set between 1821 and 1848—or in 1833 or 1834 as designated by Alejandro's gravestone; instead, ambiguity allows the authors flexibility to invent a California history based critically yet loosely in historic reality, as did McCulley.

⁵⁶ See, e.g., *Zorro: The Chosen One, supra* note 52, at 4; *Zorro: Inheritance* (Amazon Jan. 25, 2024) at 1, 7. Gold was famously discovered near Sutter's mill in early 1848. See *California Gold Rush*, BRITANNICA, <https://www.britannica.com/topic/California-Gold-Rush> [<https://perma.cc/SY94-J6HG>] (last visited June 4, 2024).

⁵⁷ *Zorro: The Chosen One, supra* note 52, at 1.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Zorro: Revenge* (Amazon Jan. 25, 2024), at 2.

⁶¹ *Zorro: The Chosen One, supra* note 52, at 2.

led by Captain Enrique Sanchez de Monasterio, follow.⁶² Zorro is besting them in combat, but then the Captain downs the chandelier, causing fire, and now a greater villain has arrived on scene.⁶³ The Governor chillingly orders that the doors be locked from the outside, overriding the protests of the Catholic priest.⁶⁴ Zorro, shot repeatedly through the church windows, climbs the bell tower and from there willingly falls to his death.⁶⁵

Military authority, civil law, and social morality have all broken down, it seems, which sets the stage for all that will follow: Diego, Alejandro's son, has been engaged in military training in Spain, but he returns to California when he receives word from loyal servant Bernardo.⁶⁶ Diego and the mute Bernardo begin looking into Alejandro's killing, and rather quickly dismiss the notion that the killer was Zorro as witnesses claim, but Diego decides he will act as the landed gentry expect in order to better investigate.⁶⁷ And that investigation will be aided by several things. One, Diego's father had a secret refuge, which is accessed (of course!) by pulling on a wall candelabra.⁶⁸ Two, Diego has a new role: Night Crow, the priest of a native tribe,⁶⁹ consults the spirits and declares that Diego is to be the next Zorro, "defender of these lands."⁷⁰ That declaration puts the indigenous people in a much more central role than the McCulley original, including that it greatly upsets Nah-Lin, the sister of the previous Zorro; this ought to be her role, not that of "a white man who doesn't ... respect the traditions"⁷¹—besides, "a rich man cannot defend the poor."⁷² A third aid to Diego is that two journalists, Janus Carter and Harriet Jones, print the local newspaper, *The Californian*.⁷³ And a fourth is that Captain Monasterio, while a stern

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Zorro: The Chosen One*, *supra* note 52, at 3.

⁶⁶ *Id.* at 3–4. Bernardo exists in McCulley's original as a servant who is both hearing and speaking impaired, but one in whom Diego confides precisely because he is incapable of understanding and communicating, permitting Diego open—if ineffectual—conversation. MCCULLEY, *THE MARK OF ZORRO*, *supra* note 8, at 148–49. In other words, that Bernardo is nothing like the extremely able (and humorous) confidant of the Amazon series.

⁶⁷ *Zorro: The Chosen One*, *supra* note 52, at 14.

⁶⁸ *Id.* at 5.

⁶⁹ For simplicity, only one tribe is included in the series, despite there having been many different native populations in early California. *See Andes*, *supra* note 5, at 42 ("Some one hundred different languages and distinct ethnic groups inhabited Alta California; almost 70 percent of those languages were mutually unintelligible between groups.").

⁷⁰ *Zorro: The Chosen One*, *supra* note 52, at 8.

⁷¹ *Id.* at 8.

⁷² *Id.* at 9.

⁷³ *Id.* at 12–13.

man, believes strongly in the law—a Javert sort of fellow, for those who enjoy their *Les Misérables*.⁷⁴

By day, Diego thus plays the part of rich landowner, including his resumption of a romantic interest in Lolita Marquez, daughter of Tadeo (Alejandro's best friend) and Lucia.⁷⁵ And by night, he becomes Zorro, who is soon needed: the Governor and representatives of the Russo-American company (Ferdinand Andreyevich and Irinia Ivanova) frame Night Crow for an explosion in order to steal the native people's right to the otter fur trade, claiming it as "compensation" for damage done thereby.⁷⁶ Zorro rescues Night Crow with impressive martial artistry, and en route he pauses so the viewer can appreciate him in full masked regalia, sword drawn, on rearing horseback before a full moon, in homage to a classic image of the Zorro genre.⁷⁷

But Zorro is unable to help when a bank is robbed, for Diego and Lolita are two of the hostages therein.⁷⁸ And while most of the robbers were naturally after the bank's loot, one stays behind on a very different mission: revenge.⁷⁹ Years ago, when he was a child of ten, Zorro's predecessor killed his father in this very bank.⁸⁰ Through a flashback, the viewer knows that previous Zorro did not wish to kill—he did so in self-defense.⁸¹ Still, those particulars understandably meant nothing to the young child who lost a father, and he has come this day to settle that grievance: he kills an innocent to get the townsfolk's attention, and through a hostage he relays that he will kill everyone inside unless Zorro comes.⁸² The Governor continues to play the rogue—ordering that there be no rescue because he so values the chance to

⁷⁴ *Id.* at 15. When Diego first visits the Captain at the prison to inquire after Night Crow, the Captain explains the situation, including Night Crow's impending capital punishment, matter-of-factly: "It's the law, Don Diego. One complies with the law here or one pays the price." *Id.*; cf. *Les Misérables, Stars*, available at <https://www.allmusicals.com/lyrics/lesmiserables/stars.htm> ("And so it has been and so it is written, On the doorway to paradise, That those who falter and those who fall, Must pay the price!").

⁷⁵ *Id.* at 5–7. Unfortunately for Diego, during his time in Spain, Lolita has become engaged to a captain of the Mexican military, none other than Monasterio. *Id.* at 10–11. Thus, Diego and Lolita's relationship will predictably ebb and flow, but since that will not further our interest in vigilantism, I will leave such matters to the interested viewer.

⁷⁶ *Id.* at 12–14. That right passed to the native people upon the death of Alejandro. *Id.* at 13–14.

⁷⁷ *Id.* at 16.

⁷⁸ *Zorro: Inheritance*, *supra* note 56, at 6.

⁷⁹ *Id.* at 10.

⁸⁰ *Id.* 10–11.

⁸¹ *Id.* at 2. The boy's father was a soldier there on the unjust business of robbing local gold miners, having been bribed by the banker to routinely play that role. *Id.* at 1–2, 11. Nonetheless, as that Zorro entered the bank, he assured the soldiers, "Stay right there. Nothing will happen to you." *Id.* at 2.

⁸² *Id.* at 8.

kill Zorro,⁸³ the Captain continues to play the increasingly-reluctant rule follower,⁸⁴ and this time Nah-Lin gets to play Zorro, saving the day.⁸⁵ And then, once released, Diego is able to serve as the rightful Zorro, tracking down the remaining robbers, reuniting their final hostage with her daughter, and distributing the stolen money to the people of the pueblo.⁸⁶

At this point, several new characters emerge. There is Tchang, who enjoys a position of some authority among the Chinese (he runs a gaming house and frequently quotes Confucius), but who remains entirely subservient to the Spanish/Mexican landed class.⁸⁷ Next there is Francisco Ramirez, who operates a mine by exploiting unpaid labor of both the Chinese and Native Americans,⁸⁸ despite slavery having been abolished when Mexico claimed the land from Spain.⁸⁹ And there is Mei, a servant of Tchang who thus is ‘wagered’ and ‘lost’ to Ramirez in a card game.⁹⁰ With Mei missing, Mei’s younger sister summons Zorro by writing a “Z” on a neighborhood wall,⁹¹ and—thanks to the translation skills of Bernardo—Zorro vows to find and return the lost sister.⁹² Which is precisely what he does, first carving through Tchang’s men with martial artistry and hubris that would make Daredevil proud,⁹³ and then similarly rescuing Mei from the estate of Ramirez.⁹⁴

And now, with all the characters introduced, I will be as brief as possible. Mei becomes friend, confidant, and housekeeper for Diego and Bernardo,⁹⁵ and Diego as Zorro learns that Ramirez was there on the night Alejandro was killed.⁹⁶ Nah-Lin, still wishing and claiming to be Zorro, begins to enact deadly vengeance, including

⁸³ *Id.* at 9.

⁸⁴ *Id.* at 10.

⁸⁵ *Id.* at 11–12.

⁸⁶ *Id.* at 15–16.

⁸⁷ *Zorro: The Bet* (Amazon Jan. 25, 2024) at 1–2, 11. As in McCulley’s original, it is never quite clear whether the landed gentry hale from Spain or from Mexico; what is important (alas!) is that they are the most “white” folk around. See ANDES, ZORRO’S SHADOW, *supra* note 5, at 77–79.

⁸⁸ *Zorro: The Bet*, *supra* note 87, at 9, 12. The viewer was briefly introduced to Ramirez as a rogue in the previous episode, e.g., *Zorro: Inheritance*, *supra* note 56, at 4, 8–9, but in Episode 3 he takes center stage.

⁸⁹ See *Zorro: The Bet*, *supra* note 87, at 15 (“Slavery has been abolished in Mexico since independence from Spain and should not exist in California; but reality is something else.”).

⁹⁰ *Id.* at 1–2.

⁹¹ *Id.* at 2, 6–7.

⁹² *Id.* at 9.

⁹³ *Id.* at 10.

⁹⁴ *Id.* at 13.

⁹⁵ *Zorro: Revenge*, *supra* note 60, at 2, 8.

⁹⁶ *Zorro: The Bet*, *supra* note 87, at 16. Fans of the genre will appreciate that Zorro only learns this because Ramirez is a hopeless ‘monologuer.’ See THE INCREDIBLES (Walt Disney Pictures 2004) (“He starts monologuing! He starts like, this prepared speech about how *feeble* I am compared to him, how *inevitable* my defeat is, how *-the world- -will soon- -be his-*, yadda yadda yadda.”).

killing Ramirez and his men.⁹⁷ That bloodshed enrages the Governor,⁹⁸ and he summarily ‘punishes’ the native village by burning their homes and crops;⁹⁹ this in turn of course further enrages Nah-Lin, causing increasing tit-for-tat escalation in violence,¹⁰⁰ some of which will be analyzed below in discussing the series’ vigilantism. ‘His way’ having failed to bring either justice or peace, Zorro agrees to team up with Nah-Lin in order to save her imprisoned soldiers, and he agrees to permit her tactics—meaning soldiers will die.¹⁰¹ And during that rescue the Captain disobeys a direct order to kill Zorro when he has a clean shot, opting instead to intentionally miss and thereby enable Zorro’s escape.¹⁰² Vigilantism in Los Angeles is in full swing.

Meanwhile, in Zorro’s ‘day job’ as Diego, he and *The Californian* newspaper finagle the Governor into holding a public auction for Ramirez’s properties,¹⁰³ and then Tchang manages a disturbance guaranteeing Andreyevich cannot even show,¹⁰⁴ so that Diego makes the purchase and thereafter pays its Chinese and native laborers, including them in a share of the profits and giving them time off.¹⁰⁵ And Diego also makes progress on his personal investigation into his father’s murder, managing to be initiated into the secretive Clan of the Bear,¹⁰⁶ which turns out to be an organization dedicated to Californian independence.¹⁰⁷ And in a rather terrible episode full of absurd plot twists with which we need not concern ourselves, Andreyevich tires of the Governor’s greed and so kills him, staging the death to pin the blame on Zorro.¹⁰⁸ As the “highest military authority in the region,” Captain Monasterio therefore takes charge¹⁰⁹ and serves as temporary Governor.¹¹⁰

⁹⁷ *Zorro: The Bet*, *supra* note 87, at 16–17; *Zorro: Revenge*, *supra* note 60, at 1. Not only is Ramirez a monologuer, but he is the incompetent type that runs away without first shooting Diego. *Zorro: The Bet*, *supra* note 87, at 16–17. For her part, Nah-Lin arranges to have Diego/Zorro die there, but Mei is hiding and foils that plan. *Zorro: Revenge*, *supra* note 60, at 1–2.

⁹⁸ *Zorro: Revenge*, *supra* note 60, at 3 (“All those who defy the law in California are enemies of the Republic of Mexico, and as such will be hunted down and executed. You may be sure that I will not stop until he and anyone who gives him aid, man or woman, old or young, ends up at the end of a rope. You have been warned.”).

⁹⁹ *Id.* at 3–4. Monasterio objects (“[w]ith all due respect, this is inappropriate punishment; there’s no evidence . . .”), but he does not back up his objection with insubordination: he gives the order to “[b]urn it all down.” *Id.*

¹⁰⁰ *Id.* at 5; *Zorro: The Execution* (Amazon Jan. 25, 2024) at 2–3.

¹⁰¹ *Zorro: The Execution*, *supra* note 100 at 11.

¹⁰² *Id.* at 16.

¹⁰³ *Zorro: Mask Games*, *supra* note 54, at 1–2.

¹⁰⁴ *Id.* at 11–12, 13–14.

¹⁰⁵ *Id.* at 11, 16.

¹⁰⁶ *Id.* at 6.

¹⁰⁷ *Id.* at 14–15.

¹⁰⁸ *Zorro: The Myth* (Amazon Jan. 25, 2024) at 15.

¹⁰⁹ *Id.* at 17.

¹¹⁰ *Zorro: Unmasked* (Amazon Jan. 25, 2024) at 16–17.

The Captain marries Lolita¹¹¹ (she has learned Diego's secret and thus joins Diego/Zorro in investigating the Clan),¹¹² and Diego is finally able to make peace with Nah-Lin.¹¹³ As for that Clan, particular members are dispatched by Zorro,¹¹⁴ who learns that Lolita's mother Lucia is their lead.¹¹⁵ And that sets the stage for the final episode of the first season, in which Diego and the acting Governor team up to out Lucia and take down the Clan.¹¹⁶ I will leave the theatrics to viewing¹¹⁷; the upshot is that Lucia escapes thanks to the help of Ivanova,¹¹⁸ Nah-Lin accepts Zorro's invitation to become *Red Snake*,¹¹⁹ and Diego heads to New York to meet railroad tycoon Vanderveen, whom he has learned had business dealings with his father.¹²⁰ (Vanderveen has been involved in a sinister subplot for much of this first season, but I have left that out because it is not necessary to understanding Zorro as vigilante.)

The season's final moments take place in New York City.¹²¹ Vanderveen orders the murder of untold innocents, with Zorro standing on the roof watching . . . and nearby is a water tower that is an unmistakable reference for fans of Daredevil.¹²² Zorro has come to the land of Hell's Kitchen to serve as vigilante predecessor.

¹¹¹ *Zorro: The Wedding* (Amazon Jan. 25, 2024) at 17–18.

¹¹² *Zorro: Unmasked*, *supra* note 110, at 3–4.

¹¹³ *Zorro: The Wedding*, *supra* note 111, at 14–16.

¹¹⁴ Francisco Diaz de la Madrid is killed; his sister Carmen is given the trademark 'Z' on her cheek. *Zorro: Unmasked*, *supra* note 110, at 8–10.

¹¹⁵ *Id.* at 17–18.

¹¹⁶ *Zorro: The Three Funeral Mask Dance* (Amazon Jan. 25, 2024) at 8–9.

¹¹⁷ Think Clark Kent showing up to a party *in a Superman costume* and proceeding to demonstrate his amazing strength in a duel. Or ditto for Bruce Wayne dressed as Batman, only unmasking himself. *See id.* at 5–6. Yup, yup they did. But don't worry, "[Diego's] secret is safe." *Id.* at 9.

¹¹⁸ *Id.* at 9, 12.

¹¹⁹ *Id.* at 11.

¹²⁰ *Id.* at 10.

¹²¹ *Id.* at 12–13. (The transcript does not carry the English subtitles because this is one of those instances in which the dialogue is in English.)

¹²² *Id.*; *see, e.g., Daredevil #24*, <https://www.manwithoutfear.com/daredevil-volume-6/issue/24> (image shown at https://www.reddit.com/r/Daredevil/comments/k175cr/i_loved_this_page_from_24_it_looks_like_the_final/); *see also* Mark Chilcott, *Daredevil Water Tower* (illustration), BOTTLE NECK GALLERY <https://bottleneckgallery.com/products/mark-chilcott-daredevil-water-tower> [<https://perma.cc/QEF8-5S6J>] (last visited Jan. 28, 2025). There are many parallels between Daredevil and even McCulley's Zorro, including an uncanny ability of the latter to fight in the darkness, "listening for the deep breathing that would tell him the exact location of his various foes." McCULLEY, *supra* note 8, at 120.

III. ZORRO'S VIGILANTISM

Vigilantism, said Richard Maxwell Brown in his classic work, is “traditionally defined as taking the law into one’s own hands.”¹²³ That not only leaves a great deal for exposition,¹²⁴ but certainly means that not all vigilantes will be moral or ‘good.’ Many—perhaps even all—will be of the immoral sort, simply resorting to personal force when they ought to patiently rely upon the State. Sussing all of that out—under what conditions can there be a moral vigilante, and under what restraints must she act in those conditions—is a tall order.¹²⁵ Indeed, perhaps it is an impossible task, for even if we can agree on why we have positive law,¹²⁶ and even if we can agree on what given positive law requires, there might always be disagreements as to what that law *ought* to require, and perhaps it would logically follow there will be disagreements as to when the imperfections in that law or its application render moral its violation. The ultimate right or wrong of extralegal actions might definitionally be for gods to decide.

Whatever the case, I will not attempt such affirmative exposition here. Instead, we can try to let the contemporary Zorro ‘speak for himself,’ a screenwriters’ and actors’ sense of a ‘good guy’ vigilante that, as developed above, has undergone hundreds of years of literary development. Thus, let us turn first to the background need for extralegal action in the Amazon series (an almost comically easy instance) and then develop what seem to be core characteristics of Zorro, including looking to both Nah-Lin and Captain Monasterio as foils thereto.

¹²³ Richard Maxwell Brown, *The History of Vigilantism in America*, in VIGILANTE POL. 79, 79 (H. Jon Rosenbaum & Peter C. Sederberg eds., 1976).

¹²⁴ See, e.g., Ric Simmons, *Legal Vigilantes*, 61 AM. CRIM. L. REV. 157, 158 (2024) (recognizing that “‘vigilante justice’ is difficult to define,” but making the attempt).

¹²⁵ For some previous work on the subject see *see id.* (also providing a helpful history of private policing in America, building from David A. Sklansky, *The Private Police*, 46 UCLA L. REV. 1165 (1999)); Henderson, *supra* note 11 (working with formulations of Paul and Sarah Robinson, Les Johnston, and Travis Dumsday); Safiyya Ahmad, *Vigilantism in Moral Philosophy* iii (2017) (Master’s Thesis, McMaster University), available at <https://macsphere.mcmaster.ca/handle/11375/22213> (finding vigilantism “underdeveloped” and arguing that vigilantism “can be morally justified” when there is “a breakdown of the legal system, protection of vulnerable individuals, proportional punishments, due process, attempts to mend the larger social issues, and the advancement of justice”); Regina Bateson, *The Politics of Vigilantism*, 54 COMP. POL. STUD. 923, 924 (2021) (arguing that “vigilantism should have a central place in the political science literature” but that scholars have “largely ceded the study of vigilantism” to other fields); Travis Dumsday, *Alexander of Hales on the Ethics of Vigilantism*, 48 PHILOSOPHIA 535, 535 (2020) (arguing that vigilantism has “received surprisingly little attention in the recent applied ethics literature” but that there is underappreciated work in early philosophy); Eduardo Moncada, *Varieties of Vigilantism: Conceptual Discord, Meaning and Strategies*, 18 GLOB. CRIME 1, 2 (2017) (applying an “essentially contested concept (ECC) framework” to better develop a conception of vigilantism).

¹²⁶ For example, one might rely upon some notion of social contract. See Fred D’Agostino et al., *Contemporary Approaches to the Social Contract*, in THE STANFORD ENCYCLOPEDIA OF PHIL. (Edward N. Zalta & Uri Nodelman, Spring 2024 ed.), <https://plato.stanford.edu/archives/spr2024/entries/contractarianism-contemporary> [<https://perma.cc/X869-YHMG>].

As for potential vigilante need, it is rather a cartoon example: the Governor absolutely controls the military, the military is the only law to speak of, and the Governor is hopelessly corrupt. Indeed, this would be my strongest criticism of the series: by making such an extreme, easy case, the story lacks nuance that makes for richer questions in, for example, Netflix's 2015 *Daredevil*.¹²⁷ In any event, easy backgrounding it is, for the Governor is simply no believer in the rule of law, as he confides to his Captain:

Governor: Do you know what great power such as mine entails?

Captain: [Invoking his best Spider Man¹²⁸] Great responsibility?

Governor: Nonsense. The courage to do whatever is needed. I have it. Do you?

Captain: And the people?

Governor: The people need order.¹²⁹

As a result, the State does an incompetent job at most everything relating to criminal justice. When there is crime, such as the murder of Alejandro that opens the series, authorities get the wrong guy: killing Po-mahn-kwakurr (Zorro), and burning a church to do it, rather than investigating to learn of the responsible Clan.¹³⁰ What is worse, the State itself is a killer. It frames the innocent Night Crow, sentencing him to death, in order to steal the native peoples' right to the otter trade.¹³¹ And the Governor personally smothers a man to death so that Ramirez's mine will

¹²⁷ See Henderson, *supra* note 11, at 148–50. As I explain therein, in *Daredevil* all the characters are true to the humanity that nobody is as bad (or good) as the worst (or best) thing she has done. In *Zorro*, by contrast, all nuance can be lost. For example, the defining trait of the two members of the Russo-American company seems a complete lack of loyalty: they needlessly turn on each other, albeit she more effectively, so she thereby 'wins.' Cf. *Zorro: The Myth*, *supra* note 108, at 16 (Ivanova wounding and incapacitating Andreyevich); Henderson, *supra* note 11, at 149 (explaining the filial devotion of the Ranskahov brothers in *Daredevil*). And then there is the Vanderveen gang, who are setting up a *Zorro* Season Two. Their senseless story is not worth developing in any detail, but it revolves around a woman deciding to rob her dead soulmate's son of his inheritance, *Zorro: Unmasked*, *supra* note 110, at 2, 11, and via a killer who exults in killing people who could simply have been left alone. E.g., *Zorro: Mask Games*, *supra* note 54, at 1 (killing five persons in a bar merely to test out a new weapon, and stopping there only because it was a five-shot revolver); *Zorro: The Wedding*, *supra* note 111, at 5-7 (killing three women who happen to show up for a mass).

¹²⁸ See *With Great Power Comes Great Responsibility*, WIKIPEDIA, https://en.wikipedia.org/wiki/With_great_power_comes_great_responsibility [<https://perma.cc/3CHX-PM7S>] (last visited June 4, 2024).

¹²⁹ *Zorro: Revenge*, *supra* note 60, at 4–5.

¹³⁰ See *supra* Part II.

¹³¹ Night Crow had successfully appealed to the state capitol for just that right and won but, explains the editor of The Californian newspaper, "the capitol is very far away." *Zorro: The Chosen One*, *supra* note 52, at 13. This egregious injustice gives rise to the first vigilante action of Diego-as-Zorro (Night Crow's rescue), and Zorro's self-justification thereof: "If the law does not serve justice, justice must not serve the law." *Id.* at 16.

escheat to the state and the Governor can earn a kickback thereby.¹³² So, while his social and economic policies are also terrible,¹³³ there could hardly be a simpler case for breakdown in government function, meaning Amazon's *Zorro* will probably not have a lot to offer in this sense among more realistic settings.

Turning then to Zorro's means, his vigilante response might be categorized by restraint, lack of self-interest, and self-doubt. As for restraint, Zorro tries to avoid killing, as he (successfully) urges to the bank robber/kidnapper: "I don't want to kill you. . . . Your boss died in vain. Don't make the same mistake."¹³⁴ It is not that Zorro absolutely will not kill, but that—as he explains himself to the Governor—"I only kill if it is necessary."¹³⁵ Nor is extralegal action of the non-homicide sort Zorro's first impulse. When an explosion in the Ramirez mine kills and injures its Chinese and Native American workers, Zorro sensibly summons medical assistance and then attends to the rescue.¹³⁶ He will fight, of course, and with relish when he does (the origin story of McCulley demands no less), but he does not go about seeing every problem through that martial lens, as if everything is nail because he has only hammer. Instead, he also attempts good by Diego's purse,¹³⁷ and he accepts—if grudgingly—that sometimes lesser injustice is all that can be had.¹³⁸ For Zorro realizes the moral and social costs that *vigilantism* may have, especially in its martial aspect, and therefore follows discretion as better course where available. Thus, when Lolita has the chance to kill then-warring Nah-Lin, it is Zorro that stays her hand:

Lolita: "You stole from me and tried to kill me. You thought I wouldn't respond. You were wrong about me."

Zorro: "Let her go."

Lolita: "Or what?"

¹³² See *Zorro: The Execution*, *supra* note 100 at 3–4, 8. In the interests of brevity, I omitted this detail from the above plot summary. The Governor also summarily kills one imprisoned native American without trial and plans the same for his comrades. *Id.* at 1–2.

¹³³ See *id.* at 10. As the editor of *The Californian* explains to Diego, "Thanks to the Governor, the ranchers are increasingly richer. The peasants and natives, poorer. If they lose everything, they'll also lose fear. And if they lose fear, blood will flow."

¹³⁴ *Zorro: Inheritance*, *supra* note 56, at 16. To be clear, Zorro did not kill that boss either; he blew up via his own dynamite when fired upon by soldiers. *Id.* at 12.

¹³⁵ *Zorro: Revenge*, *supra* note 60, at 12.

¹³⁶ *Zorro: The Bet*, *supra* note 87, at 7, 9.

¹³⁷ For example, Diego goes to rather great lengths to purchase the Ramirez mine so that it will continue to employ its workers, *Zorro: Mask Games*, *supra* note 54, at 1–2, and he generously gives to the church so that it might reach the poor, *Zorro: The Bet*, *supra* note 87, at 14–15. "You're a model Christian, Diego," says the priest; "No father; I just have more money than I need. Can you get some to the Chinese families? . . . I've heard they live in appalling conditions, bordering on slavery." *Id.*

¹³⁸ For example, Diego is willing to work with Tchang, who discounts any wrong he did in 'gambling' Mei given the racial realities in which he operates. See *Zorro: The Bet*, *supra* note 87, at 11. And as Zorro, he successfully scares Ivanova of the Russo-American company into hiring indigenous peoples so that they will benefit from the fur trade. See *Zorro: The Wedding*, *supra* note 111, at 2.

Zorro: “Or you’ll turn into someone like her.”¹³⁹

Consistent with that restraint and recognition, Diego is skeptical of his vigilante alter ego, both in consequence and motive. In confronting the bank robbery, Diego faces the consequences of an undesired killing many years ago by his Zorro predecessor (killing the robber’s father which set the then-youth on this destructive path), and Diego witnesses the contemporary death of four men and a kidnapping that will undoubtedly scar a young girl.¹⁴⁰ “Wearing the Zorro outfit is harder than I thought,” he confesses to Bernardo, thinking to give it up.¹⁴¹ But Night Crow, his adopted spiritual adviser (like Father Lantom for Daredevil¹⁴²), has ready wisdom:

Night Crow: Acting justly doesn’t always have a just result. Animals kill other animals to feed their young.

Diego: Animals don’t have to worry about the orphans they leave.

Night Crow: Conscience is the difference between a hero and a killer.¹⁴³

For Zorro, like for us all, doing the ‘right thing’—and thus definitionally *trying* to do the ‘right thing’—does not guarantee good outcomes; this life gives no guarantees and no easy passes, potential ‘good guy’ or no. And Zorro realizes that he risks not only undesired consequences, but also false motives: “I don’t know if I’m doing the right thing,” he confides to Bernardo.¹⁴⁴ “I put on the mask and tell everyone to not seek revenge, but justice. When I take it off, I seek [revenge] for the death of my father. Where’s the sense in that? ... Zorro gives people hope, yes. I don’t know if he’ll give it to me.”¹⁴⁵

Yet it is that lack of self-interest—doubted or no—that makes Night Crow think Diego the right person for the vigilante job: “[B]ecause you can come to understand everyone. . . . Revenge is personal. Justice is for everyone.”¹⁴⁶ Just as Justicia is meant to be no respecter of persons, and thus is sometimes blindfolded in iconography,¹⁴⁷ it seems a moral vigilante is sensibly to be the same. Thus, when Mei disappears, her young sister paints the ‘Z for Zorro’ symbol, confident that

¹³⁹ *Zorro: The Wedding*, *supra* note 111, at 12–13. Zorro doesn’t intend for Nah-Lin to be released in order to continue her ravages; instead, he takes her to the natives, where she is tried and punished for betraying their interests merely to seek vengeance against Zorro. *Id.* at 13–16. I will tackle Nah-Lin’s role as Zorro’s foil momentarily.

¹⁴⁰ *Zorro: Inheritance*, *supra* note 56, at 14.

¹⁴¹ *Id.*

¹⁴² See *Paul Lantom*, MARVEL CINEMATIC UNIVERSE WIKI, https://marvelcinematicuniverse.fandom.com/wiki/Paul_Lantom [https://perma.cc/KT2N-KD79] (last visited June 4, 2024).

¹⁴³ *Zorro: Inheritance*, *supra* note 56, at 14.

¹⁴⁴ *Zorro: The Execution*, *supra* note 100, at 13.

¹⁴⁵ *Id.*; see also *Zorro: The Wedding*, *supra* note 111, at 14 (Diego expressing that he “didn’t ask to be Zorro,” and that “this outfit does not belong to the one who wears it. It’s everyone’s. It’s hope.”).

¹⁴⁶ *Zorro: Inheritance*, *supra* note 56, at 15. “Do you think you returned to avenge your father’s death?”, continues Night Crow. *Id.* “No. You returned to decide the fate of California.” *Id.*

¹⁴⁷ See *Lady Justice*, Wikipedia, https://en.wikipedia.org/wiki/Lady_Justice [https://perma.cc/6YDD-7VTW] (last visited June 5, 2024).

Zorro will respond, and indeed Diego-as-Zorro does, even as he then unsurprisingly encounters difficulty on account of not speaking Chinese.¹⁴⁸ And thus warrior Nah-Lin serves as foil. Her interest is intensely personal, centering in anger at her elder brother's (the former Zorro's) death, that he had as much as promised the role would one day be hers,¹⁴⁹ and everything made all the worse by her being physically-able but not chosen to avenge, while a rich, white landowner is instead handed that role.¹⁵⁰ One can certainly empathize. But as a result, Nah-Lin lacks Zorro's restraint and self-doubt, representing not any measure of justice, but instead her own interests at essentially any costs. She kills indiscriminately,¹⁵¹ and Zorro directly calls out her motives and methods before her tribal community:

We all known what Nah-Lin has done. Some of you think it is fair. But I can assure you that this path only brings death and destruction . . . There is no justice in revenge. Only pain. Is that what you want? . . . Zorro does not kill the innocent. I need Nah-Lin to know this.¹⁵²

Nah-Lin herself acknowledges that Zorro "want[s] to bring peace to this world; I want to change it."¹⁵³ Hence, the moral vigilante seems to see himself as doing justice—in extra-legal form, yes, but as restrained and limited as possible—and, as a result, the common people neither fear nor resent him.¹⁵⁴

While Nah-Lin thus plays a revenge-seeking/no-holds-barred foil to Zorro, so Captain Monasterio plays the other, overly tentative side of that coin. "I suppose I became a solider because. . . I like order," recognizes the Captain.¹⁵⁵ "I firmly believe in law and order. It's my life."¹⁵⁶ Diego recognizes the same, commenting that, "Monasterio. . . he'd never do that. It goes against the rules."¹⁵⁷ Until, that is, the rules become *so* unjust that not even law-abide-or-bust Monasterio can remain such. "Since I came to these lands," he confides to Lolita, "I thought we were

¹⁴⁸ See *supra* Part II.

¹⁴⁹ *Zorro: Inheritance*, *supra* note 56, at 15 ("One day, sister. One day.").

¹⁵⁰ *Id.* In the words of Night Crow, "Nah-Lin has deep wounds that must be healed, or they'll poison her spirit completely. She is destined for great things, but she may end up devoured by hate and vengeance." *Id.*

¹⁵¹ See *id.* at 15 ("If [Nah-Lin] becomes Zorro, warns Night Crow, "there'll be unnecessary deaths"); *Zorro: Revenge*, *supra* note 60, at 3 ("Until now, Zorro has never acted with such violence," comments newspaper editor Janus Carter after one of Nah-Lin's misidentified attacks; "This isn't justice . . . this is vengeance. . . [H]e's never acted with such rage. I don't understand."); *Id.* at 7 ("Nah-Lin is robbing and killing. There's a difference").

¹⁵² *Zorro: The Execution*, *supra* note 100, at 4–5.

¹⁵³ *Id.* at 16.

¹⁵⁴ In one effective conversation, the Captain comments upon the seemingly deserted town, only to have the doctor acknowledge that "people don't want to come out at night; they're afraid." *Id.* at 14. "Afraid of Zorro?" the Captain naively asks. "Of Zorro? No; of you and your men. Captain, only the rich are afraid of Zorro." *Id.*

¹⁵⁵ *Zorro: Mask Games*, *supra* note 54, at 4.

¹⁵⁶ *Id.* at 8.

¹⁵⁷ *Zorro: The Execution*, *supra* note 100, at 11.

bringing peace, prosperity. But. . . [l]ately it's been very confusing. I don't want to carry out injustice in the name of the law."¹⁵⁸ And so, pressed too far by the lawless Governor, Monasterio partially cracks, becoming a shadow vigilante who tentatively, and then more aggressively, violates his own strong principles and sworn oaths.¹⁵⁹ And this transformation is worth examining in some detail, for it too conveys the restraint of an apparently moral vigilante.

Ordered and threatened by the Governor, a still-obedient Monasterio reluctantly executes a native by shooting him in the back while riding away.¹⁶⁰ When the Governor then orders a false report of attempted escape, the Captain reflects that he doesn't even know the man's name,¹⁶¹ a critical aspect of personhood, yet an aspect the Governor immediately rebukes: "What does that matter? . . . And bury [him] outside the cemetery. They're animals. They don't deserve to rest in hallowed ground."¹⁶² After the Governor leaves, the Captain asks the remaining natives a single, simple, but profound question: "What was his name?"¹⁶³ Monasterio's loyalty to the law is critically wavering.

But it is not yet broken. The Captain later clears away a group of townfolk clamoring for justice and, questioned by Diego, he explains that the Governor has ordered the remaining men executed in three days' time.¹⁶⁴ "Without a trial?" questions Diego.¹⁶⁵ "Exemplary measures," explains the Captain.¹⁶⁶ "What's your opinion," inquires Diego.¹⁶⁷ "I have no opinion; I follow orders. I advise you to be careful, Diego. These aren't good times for ranchers."¹⁶⁸ Indeed; without justice, they are not good times for any of the people of Los Angeles, perhaps with the exception of its corrupt Governor. Still, the Captain has always been loyal to the law, and at this point he so remains, as he explains when a rancher later compliments his work in stifling protesting citizens: "The law is above everyone, and it must be complied with. Without exceptions."¹⁶⁹

¹⁵⁸ *Zorro: Mask Games*, *supra* note 54, at 8.

¹⁵⁹ For more on shadow vigilantism and its dangers see Paul H. Robinson, *The Moral Vigilante and Her Cousins in the Shadows*, 2015 U. ILL. L. REV. 401.

¹⁶⁰ *Zorro: The Execution*, *supra* note 100, at 1. "Kill him," commands the Governor. "In the back?" "Shoot, or I will," explains the Governor, pointing his own gun at the Captain. *Id.*

¹⁶¹ *Id.* at 2.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.* at 4.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.* at 5.

But when the Governor proceeds to murder the heir to the Ramirez estate for monetary gain, the Captain's loyalty finally snaps.¹⁷⁰ The man who has previously proclaimed absolute fealty to the law refuses a direct order to shoot and thereby capture the wanted Zorro.¹⁷¹ Monasterio too thus becomes a vigilante, albeit a "shadow" one working within the system. As explained above, by series' end he is working with Zorro to out the Clan and end their threat to Mexican rule. Still, like Diego, the Captain has come to vigilantism reluctantly and not for reasons of self-interest, and thus he continues to act with as much restraint as possible, only deviating from law where necessary to achieve justice.¹⁷²

CONCLUSION

At one point in the Amazon series, Diego complains of Nah-Lin's behavior to Night Crow, thinking Night Crow ought to put a stop to it.¹⁷³ "Don't complain; act," Diego is counseled in return.¹⁷⁴

Night Crow serves as moral voice,¹⁷⁵ and Diego heeds his call for moral vigilance—and moral vigilantism—because conditions in that fictional Los Angeles

¹⁷⁰ *Id.* at 3–4, 8.

¹⁷¹ *Id.* at 16. The Captain does shoot, but he intentionally misses. *Id.* (And while marksmanship would not be much with their rudimentary guns, in the series it is far different, the Captain being a remarkable shot for any age—witness again his previously shooting with a pistol a man riding some distance away on horseback.)

¹⁷² For example, upon the Governor's death, Monasterio urges the native persons to legality: I'm the authority here now! So if you have any complaint, if you need help, come to me and you'll be treated with justice and fairness, like any other citizen. Of that I give you my word. Comply with the law and I'll do my part. However, if any of you decide to collaborate with Zorro, the punishment will not be prison but immediate expulsion from these lands. So choose: Law...or exile?

Zorro: The Wedding, *supra* note 111, at 6. He is a vast improvement upon the former Governor, for he actually respects the law and its citizens regardless of race; but he remains essentially a Javert, thinking law the solution. Similarly, when Tadeo thus expresses a desire to do whatever necessary to rescue his kidnapped daughter, Monasterio urges legal caution: "Hold on. No one is taking justice in their own hands. ... I beg you to calm down. ... I'm the governor. If I don't respect the law, no one will." *Id.* at 10.

¹⁷³ *See Zorro: Revenge*, *supra* note 60, at 6–7.

¹⁷⁴ *Id.* at 7.

¹⁷⁵ I should note that this move to Night Crow is welcome. In McCulley's original, the Catholic friars are noble and besieged, and thus friends to Zorro. *See supra* Part I. In Amazon's reboot, the Los Angeles father is a member of the Clan, albeit not its worst sort. *See, e.g., Zorro: Unmasked*, *supra* note 110, at 13–15 (the priest's fellow members realized he would not have countenanced the murder of Alejandro). Thus, contemporary Zorro's spiritual advisor is the native Night Crow. *See, e.g., id.* at 13 (counseling Zorro regarding this very priest). A small nod, perhaps, but it removes some of the inherent 'whitewashing' in the Zorro tale. Whereas the original Zorro meted out justice for the immoral whipping of Friar Felipe, the contemporary Zorro whips the guilty priest Don Antonio for his role in the Clan. *See supra* Part I; *Zorro: Unmasked*, *supra* note 110, at 13–15. Indeed, in Amazon's very first episode, a native Zorro takes on a messianic role, declaring that "Zorro lives" as he willingly falls from

of yesteryear render them necessary. As we have seen, this leaves the hard questions on the table . . . What conditions make it so? How ought it to be operationalized? But one thing is clear: Night Crow believes—as seemingly do generation after generation of readers and viewers—that sometimes, vigilantism is moral. And just as McCulley began Zorro in the American frontier, where a deeply flawed racial framework and notion of manifest destiny nonetheless held the seed of a truly better, more diverse, more democratic and egalitarian way, perhaps the contemporary Zorro and his many variants contain some seeds for understanding moral vigilantism.

Of course, giving Johnston McCulley the last word, we ultimately prefer the day in which “Señor Zorro shall ride no more, for there will be no need.”¹⁷⁶

the church’s bell tower, arms extended in a slow-motion dive that is both a graceful contrast to the barbarism of the Governor, and that is emblematic of the biblical crucifixion of Jesus Christ. *See Zorro: Inheritance*, *supra* note 56, at 3 (indeed, his dead body is then hung on a cross). Similarly, when Diego has later teamed up with Nah-Lin, she creates a distraction by attacking the Governor’s mansion, and Diego slips in that same church in order to change clothes and emerge as Zorro. *See Zorro: The Execution*, *supra* note 100, at 16 (an instance in which no transcript words convey this action). The symbolism seems clear enough: he emerges as the righteous avenger, ‘resurrected’ from the first episode’s murder of the previous Zorro in that very church. In general, I am uncomfortable with ‘Catholicizing’ peoples given the actual history of forced and coerced conversions. *See, e.g.*, THE SONG OF ROLAND 190–91 (Dorothy L. Sayers trans., Penguin Classics 1957) (chronicling Charlemagne’s apocryphal forced baptism of 100,000 Spanish Muslims). But I believe the Amazon series is trying to convey a positive, inclusive message.

¹⁷⁶ McCULLEY, *supra* note 8, at 262.