

Revisiting the (Lawless and Lawful) Wild West

A précis to Judge Garen Horst, “Reflections on Justice, From the Historic Auburn Courthouse” and Justice Michael Raphael, “California’s First Felony Murder Case”

Have you ever thought of the early twenty-first century as our return to the Wild West of California, experienced now within the virtual world? Our first era of the “Wild West” occurred in the middle of the nineteenth century, with the discovery of gold in California. Two towns were central to this early era of California history: Auburn in Placer County, and Placerville in El Dorado County. Approximately thirty miles separated these towns, traversed through vast forestlands and canyons guiding the American River toward Sacramento.

As these towns were formed, the rule of law was carried out during a time when the laws were in flux and California was just becoming a state. Placer County Superior Court Judge James Prewitt described this era during his dedication of the Historic Courthouse in Auburn in 1898 as follows:

When the mad tide of humanity arrived here in 1849, they found a land without government, without laws, officers or court. No Court House, no jails, no penitentiaries. But almost by intuition, they remedied all that. Miners’ meetings took the place of government; their own inherent sense of right the place of laws; which the Sheriffs and courts were represented by the vigilance committee, and a rude but high order of justice was generally administered on the spot.¹

¹ *Placer Herald*, July 9, 1898.

Both towns have a storied and sometimes troubled history pertaining to the administration of justice in these early years. Auburn has its own skeletons in its closet of justice, some of which may still be buried on the very grounds of its beautiful courthouse. The site was originally an old burial ground, and several hangings were conducted in that location. In 1858, a mob of over sixty people stormed the sheriff's office and removed Aaron Bracey, who was an African American, from custody. Mr. Bracey had been arrested for murder after he allegedly hit his neighbor James Murphy over the head with a pickaxe. The lynch mob took Bracey to the outskirts of town and tied him to a tree. Just before he was hung in front of approximately one hundred onlookers, the lights were extinguished so the executioners could remain unidentified.²

The town of “Placerville” has never been within Placer County, though the shared name continues to cause confusion to this day. Both names are a reference to the “placer” gold, which are the gold flakes and nuggets that can be found in rivers and streams. Placerville was originally known as “Hangtown” before the adoption of its formal name in 1854. The epithet is considered by some to have come from an incident in 1849, when three men were hung by a vigilante group after being accused of theft. The Hangtown reference stuck around for many years within the town and still can be a source of contention today.³

The two articles that follow are inspired by the historical backdrop of these towns once the rule of law was more firmly established. In the first article, “Reflections on Justice from the Historical Courthouse,” Placer County Superior Court Judge Garen Horst reflects upon his evolving concepts of justice after decades of either practicing or presiding at the Historical Courthouse in Auburn. In the second article “California’s First Felony Murder Opinion,” Justice Michael Raphael of the Court of Appeal, Fourth Appellate District, Division Two, describes the evolution of the felony murder rule from a California Supreme Court opinion that originated from a Placerville murder case in the late 1800s. Both Judge Horst and Justice Raphael write about infamous murder trials that still are a source of intrigue and controversy today in their respective towns.

In 1904, a tragedy befell the prominent Weber family, shocking the small town of Auburn. As rescuers tried to put out the flames of their burning

² April McDonald-Loomis and John Knox, “Crime in the Gold Rush,” Placer County Historical Society, January 2016; William B. Lardner and Michael John Brock, *History of Placer and Nevada Counties* (Historic Record Company, 1924), 240, 246–47; “A Citizen Murdered—The Jail Broken Open by a Mob and the Murderer Hung,” *Placer Herald*, February 20, 1858.

³ M. G. Rawls, *Hanging Justice: The Compelling True Tale of the Last Hangings in El Dorado County in 1888 and 1889* (M. G. Rawls, 2025), 3.

home, they discovered the matriarch Mary and eighteen-year-old daughter Bertha shot to death inside. The young son Earl had been bludgeoned and died after being removed from the home. The patriarch Julius was later found shot dead while sitting on the commode. The sole survivor, the nineteen-year-old son Adolph Weber, was arrested the following day for murder, despite no confession, no eyewitness, and an alibi. His conviction was affirmed by the California Supreme Court, with a stinging dissent by the Chief Justice, arguing that Adolph was deprived of a fair trial, in part due to the surprise witness the prosecution presented that provided the smoking gun. The Weber family doctor later wrote that Adolph had suffered from mental illness and didn't deserve to die. Was he guilty? Was he insane? The case still haunts the town of Auburn, and is the subject of ongoing controversy, study, and reenactment.

Sixteen years earlier in the town of Placerville, John Lowell was killed by John Meyers, who was promptly tried, convicted, and executed. His accomplices John Olsen and William Drager were separately tried for murder and convicted, despite only being involved in theft and not the actual killing. The California Supreme Court upheld their convictions in what would become the genesis of our state's felony murder doctrine.⁴ Their deaths were the last legal executions in El Dorado County due to a law change a couple of years later, requiring executions to be conducted in state prison. Did those men really get the justice they deserved? Sheriff James Madison Anderson, the man who arrested them and carried out their hanging, didn't think so. Over a century later, our state legislature changed the law of felony murder, weighing in on this issue of fairness and justice.

Both articles discuss historical events from these Gold Rush towns, but the words written and issues discussed are not simply stuck in the past. History still lives and breathes within us and the law. Our understanding of the historical good and the bad; all the splendor with all the sludge, and our legal achievements and shortcomings, can guide us in our pursuit of justice for tomorrow, whether on or offline.



⁴ The same Chief Justice who later had misgivings about the Weber case apparently had no problem affirming the murder convictions of Olsen and Drager.