

Jimmy + Diane Rogers

testimony

Plus

Motiv

between pages 1248-1315

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IN THE COMMON PLEAS COURT OF LOGAN COUNTY, OHIO

STATE OF OHIO,

Plaintiff,

vs.

Case No. 83CR-3

GEORGE W. SKATZES,

Defendant.

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS

Taken before the Honorable Ronald E. Hadley,  
Judge, on Monday, April 18, 1983, through Friday,  
April 29, 1983.

\* \* \* \* \*

APPEARANCES:

On behalf of the State of Ohio,

Mr. Douglas D. MacGillivray,

On behalf of the Defendant,

Mr. Lewis E. Williams, Jr., and

Mr. Dennis Day.

Clerk Logan County, Ohio

*[Signature]*

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COURT COMMON PLEAS  
LOGAN COUNTY OHIO  
APR 3 1984

*[Signature]*  
Clerk Logan County, Ohio

PERMAD CO., BACUMBI, H.J. 02/20/83

	<u>STATE'S WITNESSES</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>	<u>Redirect</u>
1						
2	Marianne Smith	1124	1144	1179		
3	Billie Kennedy	1181	1189			
4	Charles Stout	1195	1201			
5	<u>James R. Rogers</u>	1206				
6	Defense Motions on					
7	4/25/83 and discus-					
8	sion on "other acts"	1248				
9	Defense Motion to					
10	have subpoena					
11	enforced. . . . .	1308				
12	Cont'd testimony of					
13	<u>James R. Rogers</u>	1317	1344	1391	1392	
14	Donald LaRoche	1395	1399			
15	Timothy Barnett	1401	1410			
16	James Hockenberry	1415	1422	1428		
17	Thomas Nicholson	1429	1438			
18	Sylvia Colbert	1440	1449			
19	Diana Rogers	1451	1464	1481	1483	
20	Dr. Paul Jolly	1493	1517			
21	Jerry Whitaker	1521	1528	1535		
22	Roland Harrington	1539	1542			
23	Phil Alloway	1543	1573	1580	1581	
24	Jack Valvano	1584	1593	1596	1598	1599
25	Billy Lord	1599	1604			
	Larry Forsythe	1605	1613			
	Vicki McHugh	1614	1619			

1 confesses to perjury that confession can be used against  
2 him in a future trial on that issue.

3 THE COURT: All right. We'll see what develops.

4 (The following proceedings continued within the  
5 hearing of the jury:)

6 MR. MACGILLIVRAY: Raise your right hand and face  
7 the Court, please.

8 THE CLERK: Over here, please.

9 JAMES ROGERS,

10 being first duly sworn, was examined and testified as follows:

11 THE COURT: Please take the stand.

12 DIRECT EXAMINATION

13 By Mr. MacGillivray:

14 Q What is your name?

15 A James Rogers.

16 Q And your current temporary residence?

17 A Bellefontaine city police department.

18 Q And if you aren't there, where would you be?

19 A Southern Ohio Correctional Facility.

20 Q That's at Lucasville, Ohio?

21 A Yes, it is.

22 Q And why are you there?

23 A I'm there serving a 37-to-130-year sentence for  
24 aggravated robbery, five counts of kidnapping, aggravated  
25 burglary, and possession of criminal tools which stem from a

1 single armed robbery.

2 Q That was in Allen County, Lafayette?

3 A Yes, it was.

4 Q In the early months of 1980?

5 A Yes.

6 Q We'll talk more about that later, Mr. Rogers. Are  
7 you married?

8 A Yes, I am.

9 Q What's your wife's name?

10 A Diana.

11 Q Where does she lived?

12 A She resides at 511 North Cherry Street in Kenton,  
13 Ohio.

14 Q When did you marry her?

15 A 1973.

16 Q Are there any children living there with her?

17 A Yes, I have two children.

18 Q What are their names?

19 A Teddy, my boy, 13. Anna Diane, a daughter. She's

20 8.

21 Q Now, are you the natural father of Teddy?

22 A No, I adopted him.

23 Q You had a legal adoption after you married Diana?

24 A Yes.

25 Q That's by a prior marriage of your wife?

1 A Yes.

2 Q What grades are your children in?

3 A My son's in the eighth grade. My daughter's in  
4 the third grade.

5 Q How long have you lived in Kenton?

6 A Since 1976.

7 Q Have you had any jobs during that time?

8 A Yes, I have.

9 Q And what are those?

10 A At the time I moved to Kenton I was employed by the  
11 Seventh Step Foundation in Marion, Ohio. And following that  
12 I've been employed at Quaker Oats.

13 Q Where is Quaker Oats?

14 A Located in Marion, Ohio.

15 Q And what was your job at the Quaker Oats?

16 A I was involved in infestation control.

17 Q What years did you work at Quaker Oats?

18 A 1977 until such time I was convicted on this charge.

19 Q When was that?

20 A July, 1980.

21 Q Do you see anyone else in this courtroom that worked  
22 at Quaker Oats with you?

23 A Yes, I do.

24 Q Would you point him out, please?

25 A George Skatzes. (Indicating.)

1 Q For the record, where is he seated?

2 A Defense table.

3 Q And there's three men at that table. What's his  
4 relative position to the other two?

5 A Sitting in the center.

6 Q You mentioned earlier you worked for a Seventh  
7 Step Foundation. What was that?

8 A It's an ex-convict organization whose primary  
9 function was to aid parolees in housing, employment, counseling.

10 Q You were paid to do this?

11 A Yes. It was funded by the federal government.

12 Q And how long did you have that job?

13 A Approximately two and a half, three years.

14 Q Now, while you were in Kenton, were you involved  
15 in any community activities?

16 A Yes, I was.

17 Q And what were some or, of those?

18 A Well, I was involved in the school activities,  
19 schools that my children attended along with my wife. And  
20 I was also the president of Kenton Little League.

21 Q You weren't born in Kenton, were you?

22 A No.

23 Q Where were you born?

24 A Taylorville, Illinois.

25 Q And how long did you live in Illinois?

1 A Until I was eight years old.

2 Q And where did you move then?

3 A My family moved to Akron.

4 Q Akron, Ohio?

5 A Yes.

6 Q And I think I've met your parents. They still  
7 live in Akron, don't they?

8 A Outside of Akron, a small community. It's in the  
9 country. Hartville.

10 Q All right. Does your mom have a job outside the  
11 home?

12 A No, she doesn't.

13 Q And what about your father?

14 A He's a long distance truck driver.

15 Q Do you have any brothers and sisters?

16 A Does he have any?

17 Q Do you have any brothers and sisters.

18 A Yes, I do.

19 Q They older or younger or --

20 A I have three brothers and a sister. I'm the oldest.

21 Q When was the first time you got in trouble with the  
22 law?

23 A I was probably 13, 14 years old.

24 Q What did you do?

25 A It involved joy riding, auto theft.



1 Q By yourself or --?

2 A I was involved with some others.

3 Q All right. Did you get punished for that?

4 A At that time I was placed in a detention center,  
5 yes.

6 Q Where was this detention center?

7 A Akron, Ohio.

8 Q While you were still a juvenile did you get in any  
9 more trouble?

10 A Yes, I did.

11 Q What was that all about?

12 A Well, from the detention center I was sent to a  
13 private school in Wooster, a boys' village. I escaped from  
14 there. Actually just ran away. Which led to burglaries and  
15 auto theft at the age of 14. And at that time I was committed  
16 to the boys industrial school in Lancaster.

17 Q You were still 14 years of age?

18 A Yes, I was.

19 Q How long did you spend at the B.I.S. in Lancaster?

20 A The first time I was there for a year.

21 Q You must have been there a second time.

22 A Yes, I was. And a third.

23 Q What was the second time all about?

24 A Parole violation, which involved carrying a concealed  
25 weapon.

- 1 Q How old were you by this time?
- 2 A 16.
- 3 Q And you were sent back to B.I.S.?
- 4 A Yes, I was.
- 5 Q Got released again?
- 6 A Yes.
- 7 Q And got in trouble again.
- 8 A Yes.
- 9 Q What did you get in trouble for the third time?
- 10 A I think there were several charges. One that I  
11 recall would be leaving the state without the permission  
12 of my parole officer. And I think it also involved a weapon.
- 13 Q I met your parents. They seem like decent middle-  
14 class folks. Have you thought about how you got started  
15 at 13, 14, doing this stuff?
- 16 A I thought about it many times.
- 17 Q There's no good reason, but why did you?
- 18 MR. WILLIAMS: Objection. Irrelevant, Your Honor.
- 19 THE COURT: Sustained.
- 20 Q When was the first time you ran afoul of the  
21 law when you were an adult?
- 22 A At the age of 18.
- 23 Q What was that for?
- 24 A I was involved in an armed robbery.
- 25 Q Would that have been about 1965?

1 A Yes.

2 Q What happened to you?

3 A There were three of us involved. (Robbed a person  
4 who owned a business establishment. And as a result, arrested  
5 and convicted and committed to the Ohio State Reformatory.

6 Q Mansfield, Ohio?

7 A Yes.

8 Q Now, at that time did you take the stand and try  
9 to deny your involvement?

10 A (I certainly did.)

11 Q What you said to save your neck wasn't true.

12 A No, it wasn't.

13 Q How long did you spend at Mansfield for that armed  
14 robbery?

15 A Five years.

16 Q Didn't get out until 1970?

17 A 1970.

18 Q By the way, when did you first meet George Skatzes?

19 A I was probably 14, 15, 16 years old.

20 MR. WILLIAMS: Your Honor, may we approach the bench,  
21 please?

22 (Thereupon, the following was had at the bench out  
23 of the hearing of the jury:)

24 MR. WILLIAMS: I believe there is already a court  
25 order explaining that the prosecutor is not allowed to bring

1 out any prior record concerning my client unless he takes  
2 the witness stand. And also if my client was a juvenile  
3 when they first met and anything that is going to come out  
4 concerning a juvenile record of my client, this is totally  
5 a violation of the rules and the law. I just wanted to make  
6 perfectly clear that I'm going to move for a mistrial if  
7 there's any reference to my client being in any of these  
8 institutions that this man was in; that proof of his character  
9 by prior conviction is inadmissible unless he takes the wit-  
10 ness stand.

11 MR. MACGILLIVRAY: I want to know how long he's  
12 known George is all.

13 MR. WILLIAMS: Okay. Thank you, Your Honor.

14 (Thereupon, the following continued back within  
15 the hearing of the jury:)

16 Cont'd questioning of JAMES ROGERS by MR. MACGILLIVRAY:

17 Q How old are you now, Mr. Rogers?

18 A 36.

19 Q So you've known George 20, 21 years, something  
20 like that?

21 A Yes.

22 Q Now, you were out of Mansfield Reformatory in 1970,  
23 having served five years. Did you stay out of trouble for  
24 awhile?

25 A I didn't successfully complete a parole, no.

1 Q You were a parole violator?

2 A Yes, I was.

3 Q And why? What did you do?

4 A After about eleven months, I was in violation of  
5 parole for failure to remain in contact with the parole  
6 officer, leaving the state without his permission, carrying  
7 a concealed weapon, and suspicion of dealing drugs.

8 Q Did you go back to Mansfield then?

9 A Yes, I did.

10 Q How long did you stay that time?

11 A Well, I was only in the reformatory for about six  
12 months; and at that time I was transferred to the London  
13 Correctional Facility in London.

14 Q How long did you stay there then?

15 A Approximately 21 months before I was paroled.

16 Q That brings you up to, what, seventy --?

17 A 1973.

18 Q That's the year you, you married?

19 A It's the year I was paroled and married; yes, sir.

20 Q What trouble did you get into in those years?

21 A From '73 until '80 are you speaking?

22 Q Yes.

23 A Well, I've been involved in various crimes over  
24 that period of time, which really didn't start until about  
25 1976 --

1 Q '76.

2 A --'77.

3 Q You were clean for three or four years there?

4 A Well, to be more specific, it'd have been 1978.

5 Q Do you remember the first thing you did in 1978?

6 First illegal act you did?

7 A Yes, I do.

8 Q Would that have been the --does the name "Mosurer"  
9 sound familiar to you?

10 A Yes.

11 Q Would that have been the first time you got back to  
12 your old ways?

13 A Yes.

14 Q Now, you're telling the jury during the period of  
15 '73 through a certain time in '78, you held down a job;  
16 you got married; and you were clean.

17 A Yes, I was.

18 Q We'll talk more about how you got back a little later.  
19 How long have you been here in the city jail now?

20 A Approximately five weeks.

21 Q Were you here --off and on before that, were you  
22 there?

23 A Yes, I was.

24 Q I don't think any of our jurors have been in that  
25 city jail. I hope not. Can you describe it to them?

1           A     Well, it has five cells. They're small. It's  
2     confining. There are no recreation facilities. There are  
3     no visitation facilities. And the maximum security prison  
4     in Lucasville has a cell that's probably bigger than the  
5     one that I'm now housed in.

6           Q     It's not a place to lock up anyone for a long term,  
7     is it?

8           A     No, it wouldn't be. I don't think that's what  
9     it was intended for.

10          Q     When you're in a state prison, are there recrea-  
11     tional facilities provided for you?

12          A     Yes, there are.

13          Q     What recreational facilities have you had here?

14          A     What do I do for recreation?

15          Q     Yeah.

16          A     Calisthenics. Work out some on my own.

17          Q     You been jogging?

18          A     I've been out about three or four times; yes, sir.

19          Q     There's a deputy sheriff that has a pistol jogs along  
20     with you?

21          A     I believe he is employed by the sheriff's office,  
22     yes.

23          Q     All right. He's armed and he goes with you.

24          A     Yes.

25          Q     Just for some exercise. Has your wife visited you

1 quite often?

2 A She visits every other day by herself. And on  
3 the other days, she brings my children.

4 Q You still close to your children?

5 A Yes, I am.

6 Q Where were you last night?

7 A I attended a band concert that my boy was involved  
8 in.

9 Q With an armed guard?

10 A Yes.

11 Q And I think, what, a few days ago the armed guard  
12 took you to a function your daughter was in?

13 A Yes. A baton competition.

14 MR. WILLIAMS: Pardon me? I didn't hear that.

15 A A baton competition.

16 Q You've agreed to turn State's evidence, have you not?

17 A Yes, I have.

18 Q Can you recall the terms of this agreement?

19 A Probably not verbatim. I recall, I could probably  
20 recall most of the points, yes.

21 Q Tell us what you can recall.

22 A Well, in the first place, I was offered immunity  
23 [on the murder] I was, I pled guilty to an aggravated robbery.

24 Q Of who?

25 A Arthur Smith. Rink's department store. Favorable



1 recommendation to the parole board for my cooperation.

2 Immunity on additional charges that I've been involved in.

3 Q Now, you said you pled guilty to aggravated robbery  
4 of Arthur Smith. Have you been sentenced on that?

5 A Not at this point, no.

6 Q Have you been told what your sentence is going  
7 to be?

8 A I have no idea.

9 Q Could you get more time?

10 A More than likely since armed robbery's a non-  
11 probationable offense.

12 Q No, I mean has the State of Ohio or Judge Hadley  
13 said if you do this we'll make the 7 to 25 years, which is  
14 the maximum for armed robbery, concurrent; we won't add any  
15 more time to you. Have you been promised that?

16 A No, I haven't been told that.

17 Q So you're 37 to 130 now.

18 A Yes.

19 Q On top of that you could get another 7 to 25, could  
20 you not?

21 A Yes, I could.

22 Q Now, you said that if you testify we would write  
23 a letter stating that to the parole board; is that correct?

24 A Yes.

25 Q So you will be eligible for parole before the

1 37 to 130 years is up. Or 42 to whatever if Judge Hadley  
2 makes that sentence consecutive. Is that correct?

3 A If it were consecutive, I would go to the parole  
4 board the same time, yes.

5 Q Consecutive or concurrent?

6 A Or if it were concurrent. If it were consecutive,  
7 I would have, my parole board date would be advanced.

8 Q All right. And you aren't eligible for parole  
9 until, what, 1990?

10 A It's either '89 or '90, yes.

11 Q But it could be more if Judge Hadley gives you a  
12 7 to 25?

13 A Yes, it could.

14 Q You've been in the system for awhile. What's your  
15 feeling when the parole board sees you have been involved  
16 in a murder even though you've cooperated --

17 MR. WILLIAMS: Objection, Your Honor. It calls  
18 for a conclusion I don't believe he's in a position to make.

19 THE COURT: Sustained.

20 Q Was one of the terms of your agreement a transfer?

21 A Yes.

22 Q Out of Lucasville?

23 A Yes, it was.

24 Q Why did you insist upon that?

25 MR. WILLIAMS: Objection, Your Honor. That's

1 totally irrelevant.

2 THE COURT: Sustained.

3 Q Would you want to go back to Lucasville after it's  
4 been known that you've cooperated with the State of Ohio?

5 A No, I wouldn't.

6 Q Why?

7 MR. WILLIAMS: Objection, Your Honor.

8 THE COURT: Sustained.

9 Q Mr. Rogers, did you also get on the stand under  
10 oath and not tell the truth when a certain Danny Stanley was  
11 on trial?

12 A Yes, I did.

13 Q You were giving him some kind of an alibi?

14 A I was one of several persons who helped fabricate  
15 an alibi for the man, yes.

16 Q You've been involved in more than one armed  
17 robbery in your adult life, haven't you?

18 A Yes, I have.

19 Q You know what I mean when I say did you develop  
20 an M.O.?

21 A Yes, I do.

22 Q What does the word "M.O." mean to you?

23 A The common term is method of operation. It's a  
24 legal term meaning modus operandi.

25 Q Did you develop a modus operandi or a method of

1 operation for armed robberies?

2 A Yes, I did.

3 Q You want to tell the jury about it?

4 A Well, it involves a certain way or fashion in which  
5 one conducts himself repeatedly. Under my circumstances,  
6 it involved usually the use of police scanners, radio  
7 scanners, to monitor police. Ski masks, loaded pistols,  
8 rope or tape to bound victims with, gloves, and figuring  
9 out a, the best way possible to contain a victim. Allow  
10 myself enough time to get out of town.

11 Q Get out of town before what?

12 A Before the victim either freed themselves and  
13 notified the police or before someone discovered them.

14 Q Did you just drive down the highway or the street  
15 and say, gee, I'm going to rob this place tonight. Is that  
16 the way it worked?

17 A No.

18 Q How did you select a place to rob?

19 A Well, sometimes, sometimes the information was  
20 given to us by other individuals or we would observe a certain  
21 business establishment that we thought maybe to our liking.  
22 In other words, we could set it up the way we had set up  
23 previous scores.

24 Q What were you looking for? What type of thing  
25 were you looking for?

1           A     Usually places that set on the outskirts of town.  
2     Generally wanted to find one that we felt would have a good  
3     deal of money.

4           Q     Did you ever look these places over and case them  
5     before you made your move?

6           A     Yes, we did.

7           MR. WILLIAMS: Your Honor, I'm going to object  
8     to this entire line of questioning at this point. We're  
9     concerned with the robbery of the Rink's store here in  
10    Bellefontaine. This is irrelevant.

11          THE COURT: Overruled.

12          Why don't we take about a ten-minute recess here at  
13    this point. The jury will remember the cautions I've  
14    previously given you about not discussing the case and keeping  
15    an open mind. You'll be in recess for ten minutes.

16          See counsel in chambers.

17          (Thereupon, at 2:12 p.m. a recess was taken; after  
18    which at 2:24 p.m., the following proceedings were had:)

19          THE COURT: Court's back in session. Would you  
20    bring in the jury, please?

21          (The jury is brought in.)

22          THE COURT: Please be seated.

23          Mr. Rogers, the Court will remind you you're still under  
24    oath.

25          JAMES ROGERS: All right.

1 THE COURT: Mr. MacGillivray?

2 CONT'D DIRECT EXAMINATION

3 By Mr. MacGillivray:

4 Q You mentioned earlier you used scanners.

5 A Yes, I did.

6 Q What is a scanner and what was the purpose of its  
7 use?

8 MR. WILLIAMS: There again I'll object to this  
9 unless this is somehow tied in specifically to the case that  
10 we're trying and the evidence is offered for the purpose of  
11 showing my client's guilt or innocence on that particular  
12 charge. I would ask that he, this be not allowed to be asked  
13 for reasons of relevancy.

14 THE COURT: Mr. MacGillivray, will you be able to  
15 show the foundation for this?

16 MR. MACGILLIVRAY: I think it'll be a background  
17 to how the Rink's robbery-murder --

18 THE COURT: All right. We'll overrule it for now.

19 MR. MACGILLIVRAY: You may answer.

20 A Could you ask the question again?

21 Q You mentioned earlier that you used scanners.  
22 What was the purpose--what is a scanner and what was the  
23 purpose of its use during these armed robberies?

24 A A scanner resembles a small walkie-talkie. It  
25 has crystals which are used to monitor calls by the police

1 and sheriff's department. And can also be used for fire  
2 and small aircraft.

3 Q And when you were on an armed robbery, you'd be  
4 listening to these scanners?

5 A Yes.

6 Q Did you ever take scanners with you while you were  
7 casing a job?

8 A Yes, I did.

9 Q Why would you need it then?

10 A To determine whether or not we were being observed  
11 by any neighbors or whether or not anyone may observe us under  
12 any circumstance and notify the police that we were sus-  
13 picious persons in the area.

14 Q You also mentioned, I believe, the use of a walkie-  
15 talkie?

16 A Yes.

17 Q This is separate from a scanner.

18 A Yes, it is.

19 Q What was the walkie-talkie used for?

20 MR. WILLIAMS: Your Honor, may we approach the bench?

21 (Thereupon, the following discussion was had at  
22 the bench out of the hearing of the jury:)

23 MR. WILLIAMS: Your Honor, I do not believe --and  
24 correct me if I'm wrong, I'm sure you will --that walkie-talkies  
25 were used on the night of the Rink's case. Perhaps scanners --

1 MR. MACGILLIVRAY: I don't know. I'll ask him.

2 MR. WILLIAMS: I wish you would ask him before you  
3 go into walkie-talkies.

4 THE COURT: Are you going to be able to tie all this  
5 in, or is this something that'll --

6 MR. MACGILLIVRAY: Honestly I don't know. This  
7 is my problem that I'm having right now, too, Your Honor.  
8 It's all going to be tied in sooner or later.

9 MR. WILLIAMS: Maybe we ought just to wait until  
10 Monday morning and just go home now and get here and get it  
11 out of the way. And I think we can get Jimmy on and off  
12 Monday afternoon.

13 MR. MACGILLIVRAY: I'll withdraw the question  
14 right now.

15 THE COURT: All right.

16 (The following proceedings were had back in the  
17 hearing of the jury:)

18 Cont'd questioning of JAMES ROGERS by MR. MACGILLIVRAY:

19 Q Before the night of October the 12th, 1979, had  
20 you ever visited or observed the Rink's store in Bellefontaine,  
21 Logan County, Ohio?

22 A Yes, I have.

23 Q And from where did you observe this store?

24 A A couple different locations. One, from across the  
25 street, which is a sparsely wooded area. And a building that



1 is adjacent to a parking lot between itself and the Rink's  
2 store.

3 Q What do you mean when you say across the street?  
4 Where is that?

5 A Well, there's a parking lot, a large parking lot  
6 in front of the building. And from that parking lot, there's  
7 access to a highway. And it'd be across the highway.

8 Q You could see the store from clear over there?

9 A I used binoculars.

10 Q And what were you watching for?

11 A To find out who left the store last, or the last  
12 couple two or three people who would leave the store.

13 Q Why did you want to know that?

14 A It generally indicated that they would be the  
15 manager or assistant managers. And at that time we, we had  
16 already known that the money was carried out and deposited  
17 in a bank downtown.

18 Q Well, how did you know that?

19 A I personally followed, I believe, what was an  
20 assistant manager and observed him parking next to a bank  
21 downtown. I was setting in my car, observed him come around  
22 the corner, enter the bank and make the deposit in a night  
23 deposit box. *Where WAS George or Becky Boop?*

24 Q Did you observe the store on more than one occasion  
25 before October 12th?

1 A Yes, I did.

2 Q Did you notice any other people other than this  
3 one person you thought was an assistant manager leaving that  
4 store last?

5 A Yes, I have.

6 Q Do you recall that observation, and tell the jury  
7 about it, if you can.

8 A Do you mean other persons?

9 Q Just tell the jury what you can observe, yes. What  
10 you observed.

11 A I've observed two or three different people leaving  
12 the store last, locking the store up, entering their vehicle,  
13 and leaving the parking lot.

14 Q This is with binoculars.

15 A Yes. That was from across the road with binoculars,  
16 yes.

17 Q Can you recall the type of vehicles these people  
18 had that closed the store?

19 A I can only remember two.

20 Q What are those?

21 A One was a pickup, and the other was a Volkswagon.

22 Q Did you see the Volkswagon before October the 12th,  
23 1979?

24 A No, I didn't.

25 Q Did you see the pickup truck before October 12th,

1 1979?

2 A Yes, I did.

3 Q Was the pickup truck the vehicle that this, what  
4 you think was an assistant manager was driving?

5 A I really didn't know whether it was an assistant  
6 manager or manager. The only thing that I observed was the  
7 fact that the person was the last one out of the store,  
8 entered the truck and left the parking lot. I assumed at  
9 that time that it would be a manager or assistant manager.

10 Q He entered a pickup truck, left the parking lot;  
11 and where did he go?

12 A I don't know where he went. I didn't follow him.

13 Q This was not the same vehicle you had followed to  
14 the bank is what I'm --

15 A No.

16 Q There was another vehicle involved.

17 A Yes, there was.

18 Q Other than the Volkswagon and the pickup truck?

19 A Yes.

20 Q Okay. That was just an automobile?

21 A It was an automobile which I don't recall what kind  
22 it was.

23 Q Did you do all this observation by yourself?

24 A No.

25 Q Who else was along?

1 A George Skatzes.

2 Q Can you recall the evening of October the 12th,  
3 1979?

4 A Yes, I can.

5 Q Where were you that evening?

6 A Here in Bellefontaine.

7 Q Where were you before you came to Bellefontaine?

8 A I was at my house.

9 Q And where's that?

10 A Kenton.

11 Q You recall roughly what time you left there, if  
12 you can? Kenton.

13 A Probably around eight o'clock.

14 Q Did you have any idea what the closing time of  
15 Rink's was by that time?

16 A Yes, I did.

17 Q Do you still know what time it was that evening?

18 A If I recall correctly, it was nine-thirty.

19 Q Did anyone leave your house with you in Kenton?

20 A Yes.

21 Q And who was that?

1 A George Skatzes.

2 Q Can you recall the route you took to Bellefontaine?

3 A Yes, I can.

4 Q Please tell the jury what it was.

5 A I left Kenton on Route 68, entered Bellefontaine  
6 on 68 and came through town. And not knowing the streets,  
7 I think I made one turn which was to the left and followed  
8 a street on out to Rink's store.

9 Q Okay. You came right downtown, almost downtown,  
10 and then turned left at the center of town?

11 A Yes.

12 Q And who was with you?

13 A George Skatzes.

14 Q Anyone else?

15 A We were the only ones.

16 Q Where did you proceed when you got into the area  
17 of the Rink's store here in Bellefontaine?

18 A There's an apartment complex behind the plaza  
19 which Rink's sets in, and that's where I parked my car.

20 Q And why did you park it in that apartment complex?

21 A Well, parking at an apartment complex doesn't create  
22 a lot of suspicion. There's usually a lot of traffic in and  
23 out of an apartment complex. People aren't as likely to  
24 notice or pay much attention to you if you park a car or if  
25 you enter a car.

1 Q And you parked your car there. Did you stay in  
2 it long?

3 A Did I stay in it long?

4 Q Yeah.

5 A No, we parked it and immediately got out.

6 Q You and George got out?

7 A Yes.

8 Q Where did you go then?

9 A We walked back up the street by way of which you  
10 enter the complex and came down across a parking lot to a  
11 building that was under construction next to the Rink's  
12 department store.

13 Q And what did you do at that building?

14 A We observed the front of the Rink's department store.

15 Q Can you recall approximately what time you would  
16 have arrived that evening?

17 A Probably before nine o'clock.

18 Q And this was the twelfth day of October, 1979.

19 A Yes.

20 Q What day of the week was that?

21 A It was a Friday night.

22 Q Anything significant about a Friday night, why you  
23 picked a Friday?

24 A Well, generally discount stores, department stores  
25 do the most business on either Friday or Saturdays; and that

1 would be the time that you would obtain the largest receipts.

2 Q Can you recall what you observed from that partially-  
3 constructed building?

4 A Yes. There was several cars in the lot. And at  
5 various times from the time we arrived until approximately  
6 a quarter to ten or ten o'clock, people or employees were  
7 leaving the store, entering their automobiles; and they would  
8 leave the lot.

9 Q Did you notice any car in particular that night?

10 A Yes, I did. It was a red Volkswagon.

11 Q And where was it parked?

12 A It was parked between the building we were observing  
13 in the Rink's department store and the Rink's department store  
14 itself. There was a side parking lot.

15 Q Did you see that car move that evening?

16 A Yes, I did.

17 Q Was this before or after closing time?

18 A It was after closing time.

19 Q Describe to the jury what you saw.

20 A After nine-thirty the majority of the parking lot  
21 was vacant. There was several cars parked immediately in front  
22 of the store which obviously belonged to employees. A red  
23 Volkswagon was parked in the lot beside the Rink's store. And  
24 at various times an employee would leave Rink's, get in their  
25 automobile. And after everyone but maybe two, at the most

1 three, automobiles were still left in the front of the store,  
2 a person came out, came around the side of the store to the  
3 parking lot, got in the Volkswagon, started it up, drove  
4 it up to the front of Rink's right in front of the door,  
5 parked it there, got out and went back in the store. And  
6 approximately --within a matter of 15 minutes the other two  
7 or three employees, or what appeared to be employees, left  
8 the store, got in their automobile and left the parking lot  
9 which left only one car there. And at that time we assumed  
10 that that had to be the manager or assistant manager and  
11 that he would be leaving with the cash receipts from the store.

12 Q Did you remove anything from that building that  
13 you were in?

14 A Yes, we did.

15 Q What was that?

16 A It was electrical wiring.

17 Q And why did you remove that from the building?

18 A Well, under other circumstances we probably wouldn't  
19 have, but at that time we discovered that we had forgotten  
20 any rope or surgical tape to bound the individual with. So  
21 we found wiring lying around and picked it up to use that.

22 Q Did you leave that building at some time?

23 A Did we leave the building?

24 Q Yes.

25 A Yes, we did.



1 Q In relation to this Volkswagon moving and the other  
2 two cars leaving, when did you leave the building?

3 A After all the other employees, we were convinced  
4 that the driver of the Volkswagon was the only individual  
5 in the store, we left that building, proceeded to the  
6 front of Rink's, which at that time had a large amount of  
7 merchandise setting out front. And we assumed a position  
8 beside what were large garbage cans stacked up.

9 Q You were hiding?

10 A Yes, we were.

11 Q What happened then?

12 A Well, we were there approximately ten minutes. Had  
13 to conceal ourselves due to the fact that there were, or  
14 there was some other traffic further down the lot. I think  
15 there's a spa, supermarket. And at some point in time which  
16 could have been ten or fifteen minutes later, an individual  
17 came out the front door, locking the doors as he left;  
18 approached the car, was getting ready to enter the car when  
19 we approached him.

20 Q And what do you mean we approached him?

21 A We ran up on him.

22 Q Were you armed?

23 A Yes, I was.

24 Q What were you armed with?

25 A 357 Magnum.

1 Q Was George Skatzes armed?

2 A 38 pistol.

3 Q Were your guns drawn?

4 A Yes, they were.

5 Q Was this individual carrying anything, did you  
6 notice?

7 A Yes, he was carrying a bag. What appeared to be a  
8 money bag. We didn't know at that time; we weren't positive.

9 Q What happened after you approached him?

10 A The man opened the door to enter his automobile.  
11 At that time he heard us running toward him, and he turned  
12 around. And by the time he turned around and observed us,  
13 we were already right there in front of him. He saw the  
14 drawn pistol. We told him that we were there to rob him,  
15 wanted him to get in the car. And at that point in time  
16 he offered a little resistance. And he was -- one of us,  
17 and I don't recall which one, struck him with a pistol.

18 Q Where?

19 A In his head. And he was told to get in the back  
20 seat of the car, which he did reluctantly.

21 Q What happened after -- this blow to the head did  
22 not knock him out?

23 A No, it didn't.

24 Q Did it knock him down?

25 A No, it did not knock him down. I think it probably

1 dazed the man.

2 Q But he got in the back seat of the car after that.

3 A Yes.

4 Q And he did have something in his hand.

5 A Yes.

6 Q What did you do then?

7 A At that time I, he was placed in the back seat or  
8 told to get in the back seat, which he did. I got in the  
9 driver's seat, and George Skatzes got in the passenger's side.  
10 And not being able to drive and hold a pistol at the same  
11 time, George had the man under cover with his pistol; and  
12 I drove out of the parking lot and left the parking lot, made  
13 a right-hand turn and drove for what is approximately, I think,  
14 a quarter of a mile. And came upon an intersection which  
15 I wasn't familiar with and made a right-hand turn. Drove  
16 down that highway for approximately a mile, maybe a mile  
17 and a half, I really don't, I really can't recall the distance.  
18 And I was looking for a country road. And the first one I  
19 came to I made a right-hand turn there.

20 Q Go back just a little bit when you first started  
21 driving that car. Did you have any problems?

22 A Yes. I had a problem with the, it had a four-speed  
23 shift on the floor. And I'm not a mechanic; but there was  
24 a problem with the, with the, with gearing the car, which  
25 could have probably been the linkage or the transmission.

1 And I had a difficult time getting the thing in gear, in  
2 first gear.

3 At that point in time the man offered to show me how  
4 to do it, raised forward from the back seat --there were  
5 bucket seats in the car --raised up between the two seats.  
6 And at that time I had the pistol placed between my legs,  
7 my own pistol. And I was afraid that, and I think George  
8 at the same time was afraid that the man may try to make  
9 a move on the gun. Since he had resisted in the beginning,  
10 I'm sure that, I'm sure that this man would have tried  
11 anything out of desperation to relieve himself from the  
12 circumstances. And so he was told to sit back in the seat,  
13 and I set there grinding the gears until I finally had it  
14 placed in first gear.

15 Q Okay. You said earlier you went out to an inter-  
16 section where there was a highway which you were not familiar  
17 and looked for a country road, found one and turned right.

18 A Yes.

19 Q Then what happened?

20 A Drove down the country road until we were satisfied  
21 or I was satisfied there weren't any houses around. And I  
22 saw a driveway which I thought was a, just a path or a lane  
23 into a field or a wooded area or whatever. And I made a  
24 right-hand turn into a field.

25 Q Okay. Right-hand turn?

1 A Or left-hand turn, I'm sorry.

2 Q What happened then?

3 A Pulled the car back in the field, stopped it.  
4 We both got out, told the man to get out; and at that time  
5 he was told to lay on the ground, which he did. At that  
6 point in time we already had the money bag in hand. And I  
7 took his shoes and socks off, and I bound his ankles. I  
8 also bound his wrists.

9 Q Why did you take his shoes and socks off?

10 A To, to restrain him in a tighter fashion.

11 Q Explain that, please.

12 A Well, if you have shoes --if you have socks on or  
13 any clothing and you try to tie or bound anyone over the  
14 top of that, it allows for --you can't get it as tight. It  
15 allows for a little more movement for the person. And I  
16 just wanted to take that away from him.

17 Q What about his hands?

18 A I bound his hands with the same wire. I wasn't  
19 satisfied that it would hold him. He appeared to be a  
20 physically strong individual; he wasn't small. So I removed  
21 his belt and also tied his wrists with his belt.

22 Q I'm going to show you what has heretofore been  
23 marked State's Exhibit 16 and ask you if that looks familiar.

24 A Yes, it does.

25 Q What does that look like to you?

1 A The feet and ankles that are bound.

2 Q I'm going to hand you what has heretofore been  
3 marked State's Exhibit 14 and ask you if you can identify  
4 that.

5 A Yes, I can.

6 Q And what is that, Mr. Rogers?

7 A It appears to be a man lying on his stomach with  
8 both hands exposed. One arm fully exposed and a wrist that  
9 has wire and belt around it.

10 Q Does that wrist with the wire and belt around it look  
11 familiar to you?

12 A Yes, it does.

13 Q And how does it look familiar to you?

14 A It's the same wire that was used; and obviously that's  
15 his belt which I had removed from him and tied his wrists  
16 in addition, or tied his wrists with it in addition to the  
17 wiring.

18 (The reporter marked State's Exhibits 26 and 27.)

19 Q I'm going to hand you what has heretofore been marked  
20 State's Exhibit 26. And ask you if you can identify that.

21 A Yes, I can.

22 Q Please remove that wire that's exposed there.

23 (The witness complied with the request.)

24 THE COURT: Counsel approach the bench, please.

25 (Thereupon, there was an off-the-record discussion

1 at the bench out of the hearing of the jury and the reporter.)

2 By Mr. MacGillivray:

3 Q And how is that -- strike that. How is that  
4 familiar to you?

5 A Well, it's the same type of wiring that was picked  
6 up in the building that was under construction where we  
7 observed this individual at Rink's. It's also wiring that  
8 was used to obviously bound the wrists with. Or the ankles.

9 THE COURT: Mr. MacGillivray, what's the exhibit  
10 number on this?

11 MR. MACGILLIVRAY: 26.

12 Q Is it the type of knot you would tie?

13 A Yes, it is.

14 Q I'm going to hand you what has been marked State's  
15 Exhibit 27. And ask if the contents of that look familiar  
16 to you.

17 A Yes, it does.

18 Q How does it look familiar to you?

19 A It's the same type of wiring as the other.

20 Q I'm going to hand you what has heretofore been  
21 marked State's Exhibit 22 and ask if that appears to be  
22 familiar to you.

23 A Yes.

24 Q How is that familiar to you, Mr. Rogers?

25 A It's the belt that was used to bound the individual's

1 wrists.

2 Q Now, where was George Skatzes while you were  
3 tying up Mr. Smith with this wire and belt?

4 A He was standing over him with his pistol. And I  
5 think the same time he was probably holding mine.

6 Q Do you recall whether this individual was frisked  
7 or patted down or searched in any way?

8 A Yes, I do.

9 Q It was done?

10 A He was frisked, yes.

11 Q Where was that?

12 A Where?

13 Q Yes.

14 A In the field prior to our, or prior to my tying  
15 him up.

16 Q Can you remember the details of that frisking?

17 A Well, I can remember the details, yes. The  
18 purpose was to determine whether or not the man had a  
19 weapon, which he didn't. And I think the only thing found  
20 or the only thing mentioned was that George had found  
21 some spark plugs in his pocket.

22 Q Do you remember any details about George mentioning  
23 those spark plugs?

24 A Said something about the man stealing from the store,  
25 ridiculing him. And if I remember correctly, they were just



1 thrown to the ground. They weren't kept.

2 (Mr. MacGillivray drew something on the blackboard.)

3 Q Now, the night when you first pulled in that, what  
4 you call that field or whatever, were you aware that that  
5 lane came on around?

6 A No, I wasn't.

7 Q When was the first time you discovered that?

8 A Approximately five weeks ago.

9 Q And how did you discover that?

10 A I was taken to the scene in the daytime, asked  
11 to explain exactly our movements the night of October 12th.

12 Q Now, before you were taken to the scene, were you  
13 told anything about what the scene looked like when Mr.  
14 Smith was found? Where anything was found?

15 A No, I wasn't.

16 Q Were you even told where this was?

17 A No. As a matter of fact, I remembered where it  
18 was at.

19 Q Who did you go with, do you remember?

20 A I think I went with Neil Smith, Phil Alloway,  
21 my attorney, J. C. Ratliff, yourself.

22 Q This was right after you agreed to cooperate with  
23 the State.

24 A Yes, it was.

25 Q You had seen none of the reports. No one told you

1 where anything was found. No one told you even where that  
2 place was at, did they?

3 A No.

4 Q Can you recall telling Mr. Alloway where it was  
5 that you tied up Mr. Smith?

6 A Yes, I can.

7 Q I don't know if you can follow that terrible  
8 drawing of mine or not, but can you locate it roughly on  
9 there where it was you would have tied him up?

10 A Do you want me to point it out?

11 Q Please. You can leave there and point it out.

12 (The witness approaches the blackboard.)

13 A I entered the drive from this side. Not knowing  
14 that this was a drive or a path all the way around that  
15 exited here, I pulled in here, pulled up into this area  
16 here and stopped the car. And the man was tied right here.

17 (The witness then resumed his seat on the witness  
18 stand.)

19 Q After you tied him, what did you do?

20 A After he was tied, we weren't completely satisfied  
21 with the fact that this wire would hold him for any length of  
22 time. So it was agreed that George would stay on the scene;  
23 that I would take the automobile, return to the apartment  
24 complex behind Rink's, park it there, get in my own car,  
25 drive back to the scene, pick George up. And at that time