Pezzulich and Sgelirrach

NEW YORK

N O. 36 Beach Street, New York City, was at one time a private house, but after 1910 had been used for light housekeeping and furnished rooms. Most of the men who stayed there were Austrians or Croatians who worked for the railroad companies, or on the boats which pld New York Harbor. On the ground floor of the house was a large room, which during the evening hours was lighted only by the faint glow of a single gas light.

In this room, and the one next to it, nine of these laborers—all Croatians—lived. They slept and cooked their meals in the two rooms. Usually after their evening meal they sat around the dimly lighted room and talked until bedtime. This was what they were doing on the night of March 22, 1919, when the door suddenly opened, and seven masked men walked in, all of them brandishing pistols.

The holdup men went about their business systematically, for each of the men in the room was covered; and to add to the terror of their victims, one of them, Vincent Zic, was hit on the head with the butt end of a revolver, and three shots were fired into the ceiling. During the proceedings, the handkerchiefs, used as masks, dropped from the faces of two of the robbers.

The nine Croatians were carefully searched and relieved of all their money. Frank Zic, a railroad laborer, thirty-eight years of age, was robbed of $1,728, his savings from a lifetime of hard work. John Bonafacto had $85 taken from him, Nick Zic lost $13, and Andrew Androzvick, $15. In six or seven minutes the job was done. The robbers fled from the house to the street, and then separated in different directions, some going toward Varick Street and some toward Hudson Street.

The victims were stunned by the outrage. But Mike Zic recovered a little more quickly than his fellows. He rushed to the front door of the house and ran after the thieves. He chose the group that went toward Varick Street. About a block and a half away, at the corner of Varick and North
Moore Streets, he caught up with one of the robbers whom he had not lost from sight, and held him until he was arrested by Policeman Robert Wilson of the Fourth Precinct, who came upon the scene. The prisoner was taken to the station house at the corner of Beach and Varick Streets. There he was identified by Zic as one of the robbers, and gave the name of Frank Strolich, twenty-five years old, a fireman on one of the river boats. Strolich denied having had anything to do with the robbery. He gave his address as No. 408 West Twenty-fourth Street, which was a sailors' and laborers' boarding house run by Mrs. Mary Nazinovich.

Detective James P. Murphy immediately went to that address. Arriving there at about 9.30, in company with Frank Zic, the heaviest loser in the robbery, he met two men coming up the stairs leading to the first floor. They seemed about to leave the place. Despite their protests, he forced them to return to the kitchen and there arrested them, upon the identification of Frank Zic, as two of the other robbers.

The two men gave the names of Frank Pezzulich and Frank Sgelirrach. The former said that he had lived at the house for only three weeks, that he was a marine fireman, having come to the United States from Austria in 1907, and that he was thirty-three years old and unmarried. Sgelirrach, also a marine fireman, said he was twenty-seven years old and unmarried, and had been in this country six years. Both could read, write, and speak English, though not well, and both were unnaturalized. Neither had been convicted before of any offense. They claimed that they knew nothing of the crime, though they did know Strolich, the man already arrested, who lived at the house.

That ended the arrests for that night. The other robbers were not caught, nor were any further suspects captured until December, 1919, over eight months later. But in the meantime, proceedings were begun against the three men who had been arrested. An indictment was filed against them on March 31, 1919. Strolich was the first to go to trial, before Judge Charles E. Nott of the Court of General Sessions, and a jury; and on May 9, 1919, two months after
the holdup, he was convicted of robbery in the first degree and sentenced to not less than eight nor more than sixteen years in Auburn prison. This was his first conviction since he had come to the United States from Austria six years before.

Before Pezzulich and Sgelirrach were brought to trial a few weeks later, Assistant District Attorney Owen W. Bohan had Strolich returned to New York to question him further about the holdup, with the idea of using him as a witness against Pezzulich and Sgelirrach.

Then for the first time, Strolich denied that Pezzulich and Sgelirrach had been involved in the robbery, and to substantiate this statement he gave Bohan the names of all the others who took part. He refused to testify in the impending trial and was sent back to Auburn while the police began a search for the men he had named.

Despite this new information, Pezzulich and Sgelirrach were brought to trial, inasmuch as, according to Bohan, three of the robbers’ victims had identified them, though the other six were unable to do so. They were identified as the two robbers from whose faces the handkerchiefs had dropped.

Their defense was an alibi, supported by the testimony of seven witnesses. They said they had not worked the day of the holdup because of a strike. They went out that afternoon, they testified, to buy some clothes and then returned to their lodging house and had supper about six o’clock, remaining in the kitchen talking until after nine. When Zie and the detective arrived they were on their way upstairs to their room, they said. All seven witnesses testified that the two had not left the house between six o’clock and the time of their arrest.

The jury returned a verdict of guilty against them, and on June 29 they, too, were sentenced by Judge Mulqueen to eight to sixteen years in Sing Sing Prison.

In December, Lino DePiero was arrested in connection with the robbery, indicted, and tried. Strolich had named him as
one of his accomplices and was brought to New York to testify against him. Judge Mulqueen, however, felt that the evidence against DePiero was insufficient and directed an acquittal.

In January, 1920, three men were arrested in Milwaukee for a crime committed there. They gave their names as Tony Blazcik, alias Tonjak; Frank Fratar; and John DeFranza. The Milwaukee police discovered that they were wanted in New York for the Beach Street robbery. Detective James Murphy, who had charge of the New York case, was sent to Milwaukee to return them to New York. Before starting back he obtained a written confession from the three telling of their participation in the New York robbery, a confession signed in the presence of Capt. John T. Sullivan of the Milwaukee police. They named the others, as Strolich had done, but said nothing about Pezzulich or Sgelirrach.

After they were indicted, Blazcik jumped bail and became a fugitive. The other two were brought to trial before Judge Otto Rosalsky and were found guilty, though they repudiated their Milwaukee confession. Strolich had been brought from Auburn and testified against them. Each was sentenced to eight to sixteen years in Sing Sing.

Assistant District Attorney Bohan had been deeply impressed by the Milwaukee confession, which confirmed Strolich’s statements, and he became more and more doubtful of the justice of keeping Pezzulich and Sgelirrach in prison. He continued his efforts to get the Milwaukee men to repeat their confession and was finally successful through the diplomacy of Father Cashin, the Catholic chaplain at Sing Sing. The two men admitted their guilt and denied emphatically that Pezzulich and Sgelirrach had participated in their crime.

Mr. Bohan was now convinced and initiated proceedings to free Pezzulich and Sgelirrach. They were released from the penitentiary August 19, 1920, on a certificate of reasonable doubt. Mr. Bohan filed a motion for a new trial, which was granted. Then, in an exhaustive review of the entire case, he furnished the court with a complete story of the injustice done the two men, the statements of Strolich,
Fratar, and DeFranza exonerating Pezzulich and Sgelirrach from all connection with the crime, together with the facts that the identifications were made by frightened victims, in an ill-lighted room, with opportunity only for hasty observation, and that Fratar and DeFranza bore a physical resemblance to Pezzulich and Sgelirrach. "The People's witnesses," said Mr. Bohan, "were honestly mistaken." On April 28, 1921, the indictment against Pezzulich and Sgelirrach was dismissed and they were again free men after having served about fourteen months for a crime they did not commit.

Nor much that is new can be said in comment upon this case. The conviction was due to an honest mistake in identification by the panic-stricken victims of a robbery committed under conditions which deprived the victims of their normal capacity for perception and observation. Perhaps the District Attorney might have given more weight to Strolich's exoneration of Pezzulich and Sgelirrach, and the jury, to the facts that six of the victims were unable to identify them, that the conditions for identification were not of the best, and that the alibi was substantiated by seven witnesses. But the ways of juries are strange. Possibly the fact that Mike Zie had correctly identified Strolich, whom he had kept in sight, gave undue weight to the identifications made later by the other Zies.

BIBLIOGRAPHY

1. The papers in the case, People v. Frank Pezzulich and Frank Sgelirrach, on file in the Recorder's Office of the Court of General Sessions, New York City, including a memorandum of Acting District Attorney Alfred J. Talley, and Assistant District Attorney Owen W. Bohan.
