

Didn't provoke shootout — suspect says

From his Oakland County Jail cell in December, where he was awaiting trial on a charge of armed robbery, Casimir Bagaciunis wrote the following to the Livonia Observer:

"I would like you and the public to know that Arthur Sherman and I did not have any weapons on us and surrendered ourselves into the custody of officers Klask and Henderson. That we both had our hands on the car with our legs spread, waiting to be searched. Before either one of us knew it we both were shot from behind. Which you could plainly see if you saw my arm or knee — that the studs came in from behind."

Bagaciunis was shot three times by Henderson.

The three were accused of binding and terrorizing two brothers and a woman for 3 1/2 hours during the robbery. After brandishing a sawed-off shotgun, police said the three men tied up the two brothers and assaulted the girlfriend of one of them. The men then demanded drugs, money and other possessions before ransacking the house. They drove away shortly before 3 a.m. driving south on Middlebelt toward the Jeffries Freeway.

THE OBSERVER interviewed Bagaciunis in late December in the Oakland County Jail.

Q: Did you rob the Farmington Hills home?

A: I saw it as an easy way to get money. Dopers don't call police. I wouldn't rob anyone who earned an honest living. Dopers are rich and not getting it legally. Sherman felt that way, too.

Q: What did you do at the house?

A: We tied up the people and ransacked the place. We spent a lot of time taking stuff out (to the car) and putting it in the back seat and trunk. I didn't see any sexual assault. The woman was Maceed and her legs were burning (from the Mace). We stole marijuana, hash, one-half gram coke, tools, electric guitars, amplifiers, stereos, a 20-gauge shotgun and \$1,070 cash.

Q: What happened before the shootout?

A: We were near the freeway when we saw the cops. We hoped they wouldn't follow us. The three of us were in the front seat. I was in the middle, sitting on a gun, which was between the seats. There was a .38 underneath the passenger seat. We had thrown a BB pistol onto the pile in the back.

There were two shotguns in the trunk. The amplifiers were sticking up, touching the ceiling. We turned onto the freeway entrance ramp and their lights went on. We had a story ready. Barton was just evicted, the reason for all the stuff in the car. The car was weighted down, so we stopped on the road. If we had gone off, we would have scraped bottom.

Q: What happened when the officers approached?

A: Klask came up to the driver's side; Henderson came up to the passenger side. They asked us to step out of the car. Henderson opened the door. Sherman stepped out. I hesitated. I was wondering what Barton (the driver) was doing. He was making no attempt to get out. So Klask opened the driver's door. Barton began getting out when I did. Then I think Henderson saw the BB pistol on the floor. It probably fell off the pile. It looks like a regular gun. He yelled there was a gun in the

car to the other cop. He grabbed me and pulled me the rest of the way out and shoved me toward the side of the car, next to Sherman. Sherman had his hands on the trunk. We were out of the car before the gunfire started.

Q: When did the shooting start?

A: Barton got back into the car. That's when the shooting started. Klask was standing back (from the driver's door). Henderson fired into the car. The shootout lasted 10-20 seconds. There were popping sounds, flashes of fire. Henderson fell back. He was shot in the chest. He fell on the ground, toward the rear of the car. He was firing up into the car. We had already surrendered. He murdered Sherman, shot him in the back. There was no possible way for Henderson to shoot Barton.

I was hit in the knee. It twisted me around. Henderson emptied his gun. Barton was shooting over my shoulder at Klask. He was hit twice by Klask. Klask emptied his gun. He was reloading when Barton started the car and took off.

When Henderson got shot, he fell back and down. I think he was mad because he was hit and began firing. He could have yelled "freeze." We had surrendered. We weren't armed. We wouldn't have moved.

AT THE PRE-TRIAL examination, Henderson said he was wounded, stumbling and knew he was "bleeding badly"

when he shot at Barton, and that he pointed his gun "in the direction" of Sherman and Bagaciunis.

Livonia police captured Barton, injured, three hours later in front of a home on Arden Street.

Sherman was dead on arrival at Westland Medical Center. The Wayne County medical examiner said Sherman was wearing handcuffs when he was examined. The autopsy noted he had abrasions over his face and on the

left side of his nose. "Most likely the result of a fall."

Bagaciunis said Sherman was kicked in the face by police officers who arrived on the scene after the shootout and as he lay dead on the side of the road.

This story was written by Marie Chestney

BOTH Bagaciunis and James D. Barton pleaded guilty to the armed robbery of a Farmington Hills home on May 5, 1985. The robbery took place minutes before the shootout on the freeway. Police also implicated Sherman in the robbery.

Oakland County Circuit Judge Frederick Ziem sentenced Barton to 20-50 years in prison and Bagaciunis to five years.

Barton also was sentenced to a mandatory five years in prison for possession of a firearm in the commission of a felony/second offense. Bagaciunis also was sentenced to a mandatory two years in prison for felony firearms possession/first offense.

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The suits were filed by a Westland man convicted in January of armed robbery and now in Jackson Prison, and by the mother of the Garden City man killed in the same shootout on the Jeffries.

Officers Gregory Henderson, a 15-year member of the force, and Charles Baron-Klask, a 16-year veteran, have been named in the suits filed in Wayne County Circuit Court.

For their handling of the freeway incident, Mayor Edward H. McNamara named the two officers as Livonia's 1985 "Officers of the Year."

IN HER SUIT, Marlene Burke of Canton Township charges Henderson with shooting her son, Arthur Sherman, 25, after he had gotten out of a car, put his hands on the car and "stood there passively."

Sherman's mother asks for compensatory damages of \$10,000 and \$1 million in punitive damages.

Henderson received a bullet wound to his chest in the May 6, 1985, shooting. He is still disabled and has not returned to work.

Wednesday, Inkster resident James D. Barton pleaded guilty to the shooting of Henderson before Wayne County Circuit Court Judge Michael J. Conner. He faces a Feb. 26 sentencing on two charges, assault with intent to commit murder and felony firearm.

City attorney Harry Tatigian called the two lawsuits, filed Jan. 27 by Birmingham attorney Gerald Portney, "ridiculous." He vowed the city would counter-sue at the time it answers the charges.

"THE CITY suffered damages because of that incident," Tatigian said. "We lost an officer. He's been off duty and on sick leave and that costs the city money. We will counter claim to recover our damages. Plus, we could charge them with malicious prosecution."

Burke's suit also alleges that Sherman, when told to get out of the car by Henderson, walked to the rear of the passenger side of the car and put his hands on the car.

The lawsuit filed by Casimir Bagaciunis, who is in prison, alleges that he, too, followed Henderson's orders and got out of the car. The suit says Bagaciunis, 20, stood on the same side of the car as Sherman and put his hands on the car. (See related story.)

Henderson then pointed his gun at Sherman and Bagaciunis "while they stood there passively and shot (them)," according to the lawsuit.

Bagaciunis' suit asks for \$10,000 in exemplary damages and "compensatory damages in whatever amount I find to be fair and just."

The suits don't mention the gunfire that erupted from the front seat of the car after Sherman and Bagaciunis had gotten out. The two officers had stopped the car on the freeway at 3 a.m. for a traffic violation.

Nor do the lawsuits say that Henderson himself was shot in the chest when he fired his weapon at both Sherman and Bagaciunis.

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Goldilocks and the 27 Bears — showtimes: 12:00, 2:00, 6:00

Shooting prompts suit

By Marie Chestney staff writer

The city of Livonia and two police officers have been named as defendants in two lawsuits stemming from a 1985 freeway shooting in which one man was killed and three others, including a police officer, were injured.

The suits were filed by a Westland man convicted in January of armed robbery and now in Jackson Prison, and by the mother of the Garden City man killed in the same shootout on the Jeffries.

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