

ELLA JO BAILEY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 106

HON. RAYMOND CHOATE, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

CHARLES MANSON,

Defendant.

133

No. A-267861

REPORTERS' DAILY TRANSCRIPT

Friday, August 13, 1971

VOLUME 33

APPEARANCES:

For the People:

JOSEPH F. BUSCH, JR., District Attorney
BY: ANTHONY MANZELLA,
Deputy District Attorney

For Defendant Manson: IRVING A. KANAREK, Esq.

BAILEY (ELLA)

FRASER (JAMES)

WHITELEY (MANSON'S STATEMENT)

COPY

MARY LOU BRIANDI, C.S.R.
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Official Court Reporters

I N D E XPEOPLE'S WITNESSES: DIRECT CROSS REDIRECT RECROSS

BAILEY, Ella Jo		5182 5224	5234 5238	5235
FRASER, James K.	5248			
WHITELEY, Paul J.	5257 5315	5261	5267	5276

DEFENDANT'S WITNESS:

MANSON, Charles	5295	5299
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COURT'S WITNESS:

BLACKBURN, Clifford Patrick
(Examination by the Court at p. 5286)
(Examination by Mr. Kanarek at p. 5290)

E X H I B I T SSPECIAL COURT EXHIBITS: FOR IDENTIFICATION IN EVIDENCE

K - Copy of Herald-Examiner for 8/11 and 8/12		5181
L - 2 pages of Sgt. Whiteley's notes	5279	

LOS ANGELES, CALIFORNIA, FRIDAY, AUGUST 13, 1971

9:52 A.M.

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THE COURT: People versus Manson?

MR. KANAREK: Your Honor, before the jury comes in, I have a couple of points I would like to make to the Court.

THE COURT: Very well. Let's have Mr. Manson out here.

You may be heard, Mr. Kanarek.

MR. KANAREK: Your Honor, I have -- there's no one from the jury here?

I have a paper of August the 11th, that says, "Manson Confession" and so forth. It's the Herald Examiner. Also, August 12th, "Manson's Tale of Death," all on the front page.

I have another copy of the Herald Examiner for -- another edition, the Sunset edition, and the Starlight Edition for August the 11th. I just want to -- it's my belief that the jurors have read this, have seen this, know about it.

It was on television, and it's my -- and I -- it's my belief that it's essential that the Court -- and I do make a motion for a mistrial. No question about it, your Honor. I don't know -- I don't believe your Honor has interrogated concerning this, these matters of August the 11th and the 12th.

THE COURT: The motion for mistrial is denied.

MR. KANAREK: I ask that the jury be voir dired on it, your Honor, questioned concerning it.

And may these be marked as exhibits? These three --

THE COURT: They may be received as People's exhibits --

1 Is it K? Special Exhibit K?

2 THE CLERK: Special Exhibit K.

3 MR. MANZELLA: Defendant's, your Honor.

4 THE COURT: Did I say People's? I meant Defendant's.

5 MR. KANAREK: And I ask for a hearing, your Honor.

6 THE COURT: The request for a hearing is denied. How-
7 ever, the Court will inquire of the jury.

8 Anything further?

9 MR. KANAREK: No, not at this time, your Honor.

10 THE COURT: Mr. Manson, this morning the Court will
11 permit you to remain. As I have told you before, you may
12 remain in the courtroom if you can conduct yourself properly.
13 And you know how to do that.

14 DEFENDANT MANSON: Properly.

15 THE COURT: You understand that if -- if you make any
16 outbursts whatever, make any statements aloud to the Court or
17 to the jury, or in any way disturb the proceedings, the Court
18 will have to remove you.

19 You may be seated. Bring the jury in.

20 THE BAILIFF: Yes. They're on their way.

21 (Proceedings had on an unrelated matter.)
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1 THE COURT: Case of People vs. Manson. The record
2 will show the jurors and alternates are present.

3 Good morning, ladies and gentlemen.

4 Mr. Manson is present with Mr. Kanarek, and Mr.
5 Manzella for the People.

6 Miss Bailey was on the stand.

7
8 ELIA JO BAILEY,
9 called as a witness by and on behalf of the People, having
10 previously been duly sworn, resumed the stand and testified
11 further as follows:

12 THE COURT: Let's see, there was a conversation at the
13 conclusion of yesterday's -- do you remember where you
14 were?

15 MR. KANAREK: Your Honor, may I have a half a moment?

16 THE COURT: Yes, you may.

17 (Whereupon, there was a pause in the proceedings.)

18 THE COURT: I believe you were inquiring how far away
19 these three girls were from Mr. Manson at the time that they
20 came from the trailer, Mr. Kanarek?

21 MR. KANAREK: Yes, your Honor, thank you.

22 THE COURT: All right. And we had established that,
23 I believe.

24
25 CROSS-EXAMINATION (Continued)

26 BY MR. KANAREK:

27 Q Good morning, Miss Bailey.

28 A Good morning.

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1 THE COURT: Move that seat up so you're closer to the
2 microphone.

3 Q BY MR. KANAREK: Then, as far as that, what
4 went on, if anything, in the conversation that we were
5 speaking of last evening? The distance was such that you
6 did not hear what was said, is that correct?

7 A That's correct.

8 Q Now, has the District Attorney paid your expenses
9 to Los Angeles?

10 A Yes.

11 Q And the District Attorney has paid -- is paying
12 for your -- well, will you tell us what monies the District
13 Attorney has spent in connection with your coming to this
14 courtroom?

15 MR. MANZELLA: Objection, your Honor, it is not
16 relevant, and it would call for hearsay on the part of the
17 witness.

18 THE COURT: Sustained.

19 Q BY MR. KANAREK: Well, are you paying -- are you
20 staying at a hotel or motel?

21 A Yes.

22 Q Is your mother also here on the trip?

23 A Yes.

24 Q And are you paying the bills at the hotel or
25 motel?

26 MR. MANZELLA: Objection, your Honor, it would call
27 for hearsay on the part of the witness and it is not relevant.

28 MR. KANAREK: It is not hearsay as to whether she,

1 herself, is doing it. It is not hearsay.

2 MR. MANZELLA: I'll withdraw the objection, your Honor.

3 THE COURT: The objection is overruled, in any event.

4 You may answer.

5 A Yes.

6 Q BY MR. KANAREK: You are paying it?

7 A No.

8 Q And your state of mind is that the County of Los
9 Angeles is paying it, right? The District Attorney's office
10 and the Sheriff?

11 A Yes.

12 Q And they are also paying for your mother, her
13 air fare and her lodging, food and so forth?

14 MR. MANZELLA: Objection, your Honor, assumes a fact
15 not in evidence.

16 THE COURT: Sustained.

17 MR. KANAREK: I'm asking, your Honor.

18 THE COURT: I'll reverse the ruling. You may answer.

19 A Yes.

20 MR. KANAREK: Now, may I approach the witness, your
21 Honor?

22 THE COURT: No, you may not.

23 MR. KANAREK: Well, I have to -- then, we'll --

24 THE COURT: For what purpose?

25 MR. KANAREK: For the foundation, your Honor, as to the
26 statements.

27 THE COURT: Try it from where you are.

28 MR. KANAREK: Well, I have to show her the lines and

1 the places where she -- where there is language that she
2 purportedly added. I can't -- it is impossible to delineate--

3 THE COURT: You wish to show her something, is that it?

4 MR. KANAREK: I have no other reason for approaching
5 the lady, your Honor.

6 THE COURT: All right, you may approach and show her
7 something.

8 MR. KANAREK: Your Honor, may the record reflect that
9 Mr. Manzella approached this lady on many occasions during his
10 direct examination? May the record so reflect?

11 THE COURT: No, the record may not.

12 MR. KANAREK: Is your Honor saying that that was not so?

13 THE COURT: You may proceed, Mr. Kanarek, if you wish to.

14 Q BY MR. KANAREK: Now, Miss Bailey, were you
15 arrested in Ukiah, California, in 1968?

16 A Yes.

17 Q Have you been convicted of a felony, Miss Bailey?

18 A No.

19 Q On how many occasions have you been arrested?

20 MR. MANZELLA: Objection, your Honor, that's improper
21 cross-examination.

22 THE COURT: Sustained.

23 Q BY MR. KANAREK: Well, would you tell us the status
24 of the case in Pierce County concerning you, concerning the
25 forgery?

26 MR. MANZELLA: Objection, your Honor, that question
27 has been asked and answered.

28 MR. KANAREK: I haven't --

1 THE COURT: Sustained.

2 Q BY MR. KANAREK: Well, have you gone to court
3 in connection with that case?

4 A Do you mean on trial?

5 Q Yes.

6 A No.

7 Q Have you entered a plea in connection with that
8 case?

9 A Yes.

10 Q What plea have you entered?

11 A Not guilty.

12 Q Now, directing your attention to this time you
13 say that Mr. Hinman was -- was discussed, the time that
14 money was discussed concerning Mr. Hinman, were there any
15 other occasions, other than that time that money was
16 discussed, concerning Mr. Hinman?

17 A Not that I remember.

18 Q Then, I ask you to read over in this report --
19 did you, Ella -- what is your middle name?

20 A Jo.

21 Q -- Ella Jo Bailey state that "Through 1969,
22 Charles Manson would ask Susan Atkins, Mary Brunner and
23 herself to go to the Hinman residence for money"?

24 A No, I believe that was misquoted.

25 Q That's -- did you utter those words?

26 A No.

27 MR. KANAREK: May the record reflect, your Honor, I'm
28 referring to file No.069-02378-1076-016, the same file

1 number?

2 May I have a moment with Mr. Manzella, your Honor?

3 (Whereupon, Mr. Kanarek approached the counsel
4 table and an off the record discussion ensued between
5 Mr. Kanarek and Mr. Manzella.)
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1 Q BY MR. KANAREK: Now, at the time --

2 THE COURT: You are nearly in the witness box with the
3 witness, Mr. Kanarek.

4 Now, would you simply show her what you wish to
5 have her see? And let her --

6 MR. KANAREK: Well, if the District Attorney --

7 THE COURT: And let her answer such questions that you
8 wish to direct to her concerning the document? And then
9 resume your place at the --

10 MR. KANAREK: That's exactly what I am doing, your
11 Honor.

12 THE COURT: All right. Please move along.

13 Q BY MR. KANAREK: Directing your attention, Miss
14 Bailey, to the words --

15 THE COURT: Miss Bailey, have you ever seen that document
16 that Mr. Kanarek has, which appears to be a typewritten sheet,
17 and to which he has referred?

18 THE WITNESS: No.

19 THE COURT: Go ahead, Mr. Kanarek.

20 Q BY MR. KANAREK: Did you have a discussion with
21 Mr. Whiteley, Mr. Guenther and other people in the Sheriff's
22 Office, on May 18th, 1970?

23 A Yes.

24 MR. KANAREK: Then, your Honor, I make a motion that we
25 have -- that the District Attorney's Office make a question
26 and answer transcript of those proceedings, as to exactly
27 what words were uttered, Because this (indicating) is what I
28 have been given.

1 THE COURT: All right. Your motion is denied.

2 MR. KANAREK: Then I allege -- not doing that is a denial
3 of due process and equal protection for Mr. Manson.

4 THE COURT: Proceed.

5 Q BY MR. KANAREK: Did you -- did you tell anyone in
6 the Sheriff's Office that through 1969, Charles Manson would
7 ask Susan Atkins, Mary Brunner, and yourself to go to the
8 Hinman residence for money?

9 MR. MANZELLA: Objection, your Honor.

10 Q BY MR. KANAREK: Did you tell anyone in the Sheriff's
11 Office that on May 18th, 1970?

12 MR. MANZELLA: Objection, your Honor. That question has
13 been asked and answered.

14 MR. KANAREK: No, it hasn't, your Honor. I am -- I --
15 if she -- in view of the fact that they're not furnishing me
16 with a transcript, I have to get this in detail. Otherwise,
17 Mr. Manzella will -- will -- will make certain positions
18 to the Court.

19 THE COURT: All right, gentlemen. I've asked both of you
20 not to argue. Just state the objection. The Court will rule
21 on it. If I want your argument on it, I'll ask you to come to
22 the bench.

23 It appears to me as though it has been asked and
24 answered. The objection is sustained.

25 Q BY MR. KANAREK: Now, directing your attention,
26 Miss Bailey, to the Sheriff's Department personnel -- Mr.
27 Guenther, Mr. Whiteley and other Sheriff's Department personnel --
28 did you, on or about May 18th, 1970, referring to the time when

1 you were meeting with other individuals at the Spahn Ranch
2 some time in July, did you say that at that time, the name of
3 Gary Hinman was brought up and Charles Manson stated, "Yeah,
4 he's single and owns that house and probably has stocks and
5 lots of money," end quote?

6 A No, that's not a correct quote of what I said.

7 Q That isn't what you said.

8 MR. KANAREK: Then, your Honor, I allege that we are
9 being denied due process and equal protection. I make once
10 again the motion that we have the transcript of whatever this
11 conversation was, your Honor.

12 THE COURT: The motion is denied.

13 If you have -- if you wish to argue on such a
14 motion now, the Court would ask you to approach the bench.

15 MR. KANAREK: Thank you. Thank you, your Honor.

16 THE COURT: I am not inviting argument.

17 The Court at this time would deny the motion.

18 MR. KANAREK: Yes. If I may. Yes, thank you.

19 THE COURT: Do you wish to state any other grounds that
20 you haven't already stated on the record?

21 MR. KANAREK: Well, if your Honor prefers, I'll state
22 them at the bench.

23 THE COURT: Are there any other grounds?

24 MR. KANAREK: Yes, your Honor.

25 THE COURT: All right. Approach the bench.

26 MR. KANAREK: Thank you.

27 (Whereupon, the following proceedings were had at
28 the bench among Court and counsel, outside the hearing of the

1 jury:)

2 MR. MANZELLA: Good morning, your Honor.

3 THE COURT: Good morning. First, do you have any other
4 transcription of her conversation, that has not been made
5 available to Mr. Kanarek?

6 MR. MANZELLA: No, your Honor. The tape recording of the
7 conversation on May 18, 1970, was made available to Mr. Kanarek.

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1 MR. MANSON: It's undecipherable.

2 THE COURT: All right. Now, if --

3 MR. KANAREK: Your Honor, it can't be heard, that tape.
4 I -- I invite -- I make a motion that that tape be brought to
5 this courtroom. You -- it is -- you can't hear the words that
6 are stated on that tape.

7 I listened to it. I spent a lot of -- a great
8 amount of time. You don't need to take my word for it. Your
9 Honor can listen to it himself.

10 We are being denied due process and equal protec-
11 tion by this purported synopsisizing.

12 THE COURT: You are in no worse position than the People
13 are in respect to --

14 MR. MANZELLA: It is a bad tape, I agree.

15 THE COURT: -- with respect to the tape.

16 MR. KANAREK: Then that means that this witness, if they
17 don't -- if they don't supply a correct tape -- if they put her
18 on, we are entitled to discovery. If they don't do it right,
19 then we are entitled to have her evidence suppressed.

20 And I do make a motion --

21 THE COURT: Your motion --

22 MR. KANAREK: -- for evidentiary hearing.

23 THE COURT: Your motion is denied. Your motion for
24 evidentiary hearing is denied.

25 What else do you want to say about this matter?

26 MR. KANAREK: The tape --

27 THE COURT: What you have been referring to is a sheet
28 from a homicide book which has been available to you for a long

1 time, as I understand it; at least months prior to --

2 MR. KANAREK: How is that relevant, your Honor?

3 THE COURT: -- to the commencement of the trial of this
4 case.

5 MR. KANAREK: That is not so.

6 THE COURT: And it contains --

7 MR. KANAREK: That is not so.

8 THE COURT: And it contains a --

9 MR. KANAREK: Your Honor, that is not so. Your Honor, she --

10 THE COURT: The Court is incorrect in connection with
11 that page from the homicide book. It was not made available to
12 you until recently.

13 MR. KANAREK: A few days ago.

14 THE COURT: That's true. And as I understand it, there
15 is no recount, however, that -- of the conversation other than
16 that, other than on that page?

17 MR. MANZELLA: That's right, your Honor.

18 THE COURT: Of course, you could always put Sergeant
19 Whiteley on, if you wish to get statements from him, --

20 MR. KANAREK: That's why --

21 THE COURT: -- as to what she did say.

22 MR. KANAREK: That's the evidentiary hearing I am
23 asking for.

24 THE COURT: The Court denies that.

25 MR. KANAREK: The Court -- the Court is denying its own
26 suggestion?

27 THE COURT: The Court denies that, that request for an
28 evidentiary hearing.

1 I see no purpose --

2 MR. KANAREK: Well, how can we have discovery if --

3 THE COURT: The Court sees no purpose for it.

4 Do you have any other grounds? You stated you
5 wanted to come to the bench.

6 MR. KANAREK: Yes, your Honor. If I -- may I have a
7 moment? I have to get something.

8 (Pause in the proceedings while Mr. Kanarek
9 proceeded to the counsel table, from which he returned shortly,
10 and the following proceedings were had:)

11 MR. KANAREK: These chicken scratches here (indicating),
12 your Honor -- if I may use that term -- I can't read them.

13 THE COURT: Now, again, you are speaking of the notes
14 that Mr. Manzella took, a copy of which you have asked to be
15 marked in evidence, as Defendant's Exhibit Special J? And it
16 has been so marked?

17 MR. KANAREK: Not in evidence. For identification.

18 THE COURT: For identification, yes.

19 MR. KANAREK: I can't understand it. There are --

20 THE COURT: The Court can read them. And I think nearly
21 anyone can read them.

22 MR. KANAREK: Well, your Honor has not gone through all
23 the pages. They're not decipherable, your Honor.

24 THE COURT: What else do you have to say?

25 MR. KANAREK: Well, I would like --

26 THE COURT: We went through this yesterday.

27 MR. KANAREK: I make a motion that Mr. Manzella dictate --
28 at least, the very minimum, dictate this, so that I can have

1 it in some kind of a sequential form, so I can understand it.

2 Mr. Manson is denied the effective right to
3 counsel, if this purported discovery, in this way, with arrows
4 and --

5 THE COURT: Do you have any other grounds that you want
6 to state for your motion? You said that you had.

7 MR. KANAREK: Yes.

8 THE COURT: I don't want to rehash what we went over
9 yesterday.

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1 MR. KANAREK: The grounds are that I can't read what he
2 has given me.

3 THE COURT: All right. Your motions are denied. You
4 may proceed with your cross-examination.

5 (Whereupon, the following proceedings were had
6 in open court, within the hearing of the jury:)

7 THE COURT: You may proceed with your cross-examination.

8 MR. KANAREK: Yes. Thank you, your Honor.

9 Q Mr. -- or, Miss Bailey, at the time after you
10 suggested Mr. Hinman, you tell us, as a possible victim from
11 whom money could be taken, would you tell us all the words
12 that Mr. Manson uttered at that time?

13 MR. MANZELLA: Objection, your Honor. The question
14 assumes a fact which is not in evidence.

15 THE COURT: The objection is sustained.

16 Q BY MR. KANAREK: At that time, when you mentioned
17 Mr. Hinman, your state of mind was that Mr. Hinman would be
18 used as a source for money; is that correct?

19 MR. MANZELLA: Objection, your Honor. The question was
20 asked and answered yesterday.

21 THE COURT: Sustained.

22 MR. KANAREK: Well, I --

23 THE COURT: We went over that yesterday.

24 Q BY MR. KANAREK: At the time that you mentioned
25 Mr. Hinman, at that purported meeting with all the people
26 there, will you tell us what Mr. Manson said?

27 A I can't remember.

28 Q You don't remember what he said; right?

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1 A No.

2 (Pause in the proceedings.)

3 THE COURT: Proceed, Mr. Kanarek.

4 (Pause in the proceedings.)

5 THE COURT: Mr. Kanarek?

6 MR. KANAREK: Your Honor, I -- I --

7 (Pause in the proceedings.)

8 MR. KANAREK: May I have a moment, your Honor?

9 THE COURT: No, you may not. Proceed with your cross-
10 examination.

11 MR. KANAREK: Well, your Honor, I would like to approach
12 the bench, your Honor, if I may.

13 THE COURT: No, you may not.

14 MR. KANAREK: Well, may the record reflect, your Honor,
15 what your Honor just observed? Because it's denying a fair
16 trial, your Honor, for your Honor to ask me to proceed at
17 this time.

18 DEFENDANT MANSON: For any defendant to have a lawyer's
19 denying a fair trial.

20 THE COURT: Mr. Manson, now, please be quiet. The
21 Court would rather have you remain in the courtroom, so that
22 you could observe the proceedings and hear the testimony,
23 than to have to exclude you.

24 DEFENDANT MANSON: If your Honor would let me defend
25 myself, I'm sure I could do a much better job. I think you
26 know that.

27 THE COURT: Now, the Court's going to warn you again,
28 and then the Court will have to ask you to be removed.

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1 Mr. Kanarek, you may approach the bench. Mr.
2 Manzella?

3 (Whereupon, the following proceedings were had at
4 the bench among Court and counsel, outside the hearing of the
5 jury:)

6 MR. KANAREK: Your Honor saw Mr. Manson take those
7 papers --

8 THE COURT: What I observed was Mr. Manson take the
9 papers from your hand and tear them into four pieces, and
10 the papers that he tore were apparently the papers that were --
11 the papers from the Homicide Book, the file numbers of which
12 you had read, and contained the resume, as I have just said,
13 from what you have been reading to the witness, of her
14 testimony -- not testimony, but her statement to the officers.

15 MR. KANAREK: And your Honor, having observed that,
16 ordered me to proceed, notwithstanding the fact that your
17 Honor observed this -- actually, he did not take it from my
18 hand. He took it from up on the table.

19 THE COURT: He took it from your hand.

20 MR. KANAREK: Well, my --

21 THE COURT: He snatched it directly from your hand.

22 MR. KANAREK: My recollection is that it was sitting on
23 the table. My recollection, it was on the table.

24 THE COURT: Of course not.

25 MR. KANAREK: Well, your Honor --

26 THE COURT: You had it in front of you reading it,
27 holding it in both your hands, and he took it right from both
28 your hands.

1 MR. KANAREK: Well, your Honor may be correct. My
2 recollection is that I was --

3 THE COURT: Well, it doesn't really matter.

4 MR. KANAREK: -- that it was on the table.

5 THE COURT: Now, what is your problem?

6 MR. KANAREK: This happened in open court, in the
7 presence of the jury. And your Honor asking me to proceed at
8 that time, without my having another copy of that, is obviously
9 improper.

10 THE COURT: Do you have another copy?

11 MR. MANZELLA: I'll find out.

12 THE COURT: All right. Will you keep it away from the
13 defendant, please?

14 (Whereupon the following proceedings were had in
15 open court, within the hearing of the jury:)

16 THE COURT: Provide Mr. Kanarek with another copy of
17 that, would you, please?

18 MR. MANZELLA: Your Honor, may I have a few moments to
19 make another copy? Apparently we don't have another one
20 available. I will try to get --

21 DEFENDANT MANSON: All this man does is set and bring
22 out the worst of everything. He doesn't do what I ask him
23 to do. He is not my attorney.

24 THE COURT: Now, Mr. Manson --

25 DEFENDANT MANSON: He is your attorney.

26 THE COURT: The Court will order that you be taken
27 from the courtroom.
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1 THE DEFENDANT: Looks like somebody would wake up here.

2 MR. MANZELLA: Your Honor, may I make another copy for
3 Mr. Kanarek?

4 THE COURT: Are all the pieces there?

5 MR. KANAREK: I can go on to another subject, your
6 Honor.

7 THE DEFENDANT: Your Honor, this man doesn't know anything
8 about this case.

9 THE COURT: All right, let's --

10 (Whereupon, the Defendant Manson was ushered by
11 the bailiff into the holding tank and the following proceedings
12 were had:)

13 THE COURT: All right, Mr. Kanarek.

14 MR. KANAREK: Yes, your Honor, thank you.

15 THE COURT: Ladies and gentlemen, the Court orders you
16 to disregard the comments of Mr. Manson.

17 You may proceed.

18 MR. KANAREK: Yes, your Honor, thank you.

19 Q BY MR. KANAREK: Now, Miss Bailey, during that
20 period of July, 1969, and August that you testified about,
21 from time to time you smoked marijuana, is that right?

22 A Yes.

23 Q And from time to time in that period you took
24 drugs, right?

25 A If you are asking July and August?

26 Q Yes.

27 A No.

28 Q You took no LSD during that period of time?

1 A That's right.

2 Q Now, did you take any LSD while you were at the
3 Spahn Ranch?

4 A Over the two-year period, yes.

5 Q Now, what drugs, if any, did you take during
6 July and August?

7 A None.

8 Q Is there some reason that you -- well, tell us
9 when was it that you took the drugs that you did take while
10 you were at the Spahn Ranch? What days was it that you took
11 drugs?

12 A I don't know the days.

13 Q Well, then, you don't know what days you didn't
14 take drugs; is that a fair statement?

15 A No, that's not a fair statement.

16 Q Well, at the time when people gathered around the
17 campfire, did they take drugs from time to time, LSD?

18 MR. MANZELLA: Objection, your Honor, that's not
19 relevant.

20 THE COURT: Sustained.

21 Q BY MR. KANAREK: On the occasions during July and
22 August, you tell us, you did take marijuana, though?

23 A Yes.

24 Q On what days did you smoke marijuana?

25 A I don't remember the days.

26 Q What effect does marijuana have on your mind, your
27 thinking?

28 MR. MANZELLA: Objection, your Honor, calling for a

1 conclusion of the witness.

2 THE COURT: Overruled. You may answer.

3 THE WITNESS: I believe it makes you really relaxed.

4 Q BY MR. KANAREK: Do you know the term "euphoria"?

5 A Yes.

6 Q Does it give you a feeling of euphoria when you
7 smoke marijuana?

8 A Not always.

9 Q But on occasion it does?

10 A Yes, at times.

11 Q And it makes your thinking fanciful, is that
12 correct?

13 A I suppose you could use that word.

14 Q And you seem to think of things that don't really
15 occur when you smoke marijuana, is that right?

16 A No.

17 Q Well, then, can you give us a little description of
18 effect marijuana has upon your thinking?

19 THE COURT: Do you wish to relate it to the specific
20 instances or times that have been mentioned in her testimony?

21 MR. KANAREK: Well, your Honor, we are not bound by this
22 witness' self-serving statements as to when. I'm asking her
23 the effect upon her when she does have it. We're not bound by
24 her statement as to what particular day she has it or doesn't
25 have it. This is cross-examination.

26 THE COURT: The effect of taking marijuana the same every
27 time?

28 THE WITNESS: No.

1 Q BY MR. KANAREK: Would you describe for us what the
2 effect is on you?

3 A It would depend on the circumstances, the
4 environment, who you are with.

5 Q Well, directing your attention to the type of
6 circumstance when you're around a campfire with a bunch of
7 friends like at the Spahn Ranch, on those kinds of occasions
8 you have taken marijuana, is that right?

9 A Yes.

10 THE COURT: You needn't answer that.

11 Do you wish to relate it to specific times that
12 have been talked about in the testimony?

13 MR. KANAREK: Well, but we're not bound by her answers,
14 your Honor.

15 THE COURT: Well, would you do that, please?

16 MR. KANAREK: Certainly, to accommodate the Court, I will.

17 Q BY MR. KANAREK: On the occasions that you have
18 spoken of, Miss Bailey, on -- let us say that night when you
19 say Mr. -- you mentioned Mr. Hinman's name first concerning
20 money, on that night did you take any marijuana?

21 A I really don't remember if we did or not.
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3a

1 Q You might have, though?

2 A Possibly we did.

3 Q You might have been under the influence of marijuana
4 when all of that occurred, right?

5 A When all of what occurred?

6 Q That evening that you purportedly are telling us
7 about?

8 A Well, I could have been smoking marijuana, I don't
9 remember.

10 Q And you don't remember what day it was, do you, when
11 you smoked marijuana? You sort of go off in a hazy dream
12 and time just goes by, right?

13 MR. MANZELLA: Objection, your Honor, the question is
14 compound.

15 THE COURT: It is a compound question, you needn't answer
16 it.

17 Q BY MR. KANAREK: Now, directing your attention,
18 Miss Bailey, to this entire period of time, on these days,
19 from time to time you took marijuana, the days concerning
20 which you have testified here in this courtroom, July and
21 August, 1969?

22 MR. MANZELLA: Objection, your Honor, that question is
23 vague and ambiguous.

24 THE COURT: Sustained.

25 Q BY MR. KANAREK: Did you smoke marijuana during the
26 period July and August, 1969, that you testified about?

27 MR. MANZELLA: Objection, your Honor, the question has
28 been asked and answered.

1 THE COURT: Overruled. You may answer.

2 THE WITNESS: I really don't remember.

3 Q BY MR. KANAREK: So, just so we -- I'll withdraw
4 that.

5 Then, concerning the conversations, the times at
6 which these conversations that you are speaking of occurred,
7 you don't remember whether you were under the influence of
8 marijuana or not?

9 MR. MANZELLA: Objection, your Honor, that assumes a fact
10 not in evidence. Mr. Kanarek questioned her on only one
11 conversation so far.

12 THE COURT: Sustained.

13 Q BY MR. KANAREK: Well, directing your attention,
14 if I may, Miss Bailey, to all of the conversations that you
15 spoke about, conversations that I have interrogated you on,
16 and conversations that Mr. Manzella has interrogated you on,
17 is it true that you don't know whether, at each of those
18 occasions, you were under the influence of marijuana or not?

19 A I can't remember which days I had smoked marijuana.
20 You know, two years ago, I really don't remember.

21 MR. KANAREK: Well, may I have an answer to the question,
22 your Honor?

23 THE COURT: The witness has answered.

24 Q BY MR. KANAREK: My question is, Miss Bailey, do
25 you remember or don't you remember whether on these occasions
26 when you say you participated in the conversations, all of
27 them that you have testified to in this courtroom, is it true
28 you don't know whether, on each of those occasions, you were

1 under the influence of marijuana or not?

2 A I remember on some of the conversations that were
3 brought up in my testimony that I had not smoked marijuana,
4 but you'd have to ask me about each conversation again before I'd
5 remember.

6 Q All right, tell us the conversations when you had
7 not smoked marijuana.

8 A When Charles Manson came up and asked me, when I
9 was with Bill Vance, to go to Gary Hinman's house, I had not
10 been smoking marijuana.

11 Q You know that for sure?

12 A I know that for sure.

13 Q I see, all right.

14 Tell us the other conversations that you know for
15 sure.

16 THE COURT: Mr. Latiner, where did he go?

17 THE BAILIFF: Sir, he stepped next door to the reporter's
18 office.

19 THE COURT: I can call those other cases now whenever he
20 returns. Mr. Kanarek, go ahead.

21 MR. KANAREK: I have a question pending. I believe the
22 witness is taking some time to think about it.

23 THE WITNESS: When he spoke to Mary Brunner and Susan
24 Atkins later that night I still had not smoked any marijuana.

25 And from the period of time from the time Charles
26 asked me to go to Gary Hinman's until I left the ranch, I had
27 not smoked any marijuana.

28 Q BY MR. KANAREK: All right.

1 As to all other times you are telling us now you
2 may have been under the influence of marijuana?

3 A I can't remember those occasions.

4 Q Pardon?

5 A I don't remember on those occasions.

6 Q Well, will you tell us an occasion when you do
7 remember that you were under the influence of marijuana?

8 THE COURT: One which was mentioned in her testimony?

9 MR. KANAREK: In this period of time, yes, your Honor.

10 THE WITNESS: I can't remember.

3b

3b-1

1 Q BY MR. KANAREK: You can't remember any occasion
2 when you were under the influence of marijuana during July
3 and August of 1969?

4 A No, I can't recall specifically any date.

5 Q Now, you kept no track of time as to when you
6 took LSD, did you; did you keep a calendar of that?

7 A No, I didn't keep a calendar.

8 Q So you don't know what days and what months you
9 took LSD, do you?

10 A No.

11 Q And so the times that you took LSD could be during
12 the times of July and August, 1969?

13 A No, sir, I don't believe so. We hadn't taken
14 any LSD for quite some time.

15 Q Did Linda Kasabian come to the ranch in July of
16 1969?

17 A I don't remember when she came.

18 Q Well, you remember when she came to the ranch?

19 MR. MANZELLA: Objection, your Honor, as not relevant.

20 MR. KANAREK: It is relevant in terms -- and I represent
21 to the Court it is most relevant.

22 MR. MANZELLA: I object on the grounds it is not relevant.

23 MR. KANAREK: It is cross-examination, your Honor.

24 THE COURT: She's been asked and answered it. She says
25 she doesn't remember when she came to the ranch. The objec-
26 tion is sustained.

27 Q BY MR. KANAREK: Well, but you do remember when she
28 came in the summer of '69?

3b-2

1 MR. MANZELLA: Objection, your Honor. When Linda
2 Kasabian came to the ranch is not relevant.

3 THE COURT: Sustained.

4 Q BY MR. KANAREK: Did Linda Kasabian bring to the
5 ranch a packet of LSD in July of 1969, a large bag filled
6 with many, many capsules of LSD in July of 1969?

7 MR. MANZELLA: Objection, your Honor, the question is
8 compound.

9 THE COURT: Overruled. You may answer.

10 A I don't know if she did or not.

11 Q BY MR. KANAREK: Well, did you, during the summer
12 of 1969, lay out on the ground, under the influence of LSD,
13 on the Spahn Ranch?

14 A At any time during the summer?

15 Q Yes.

16 A I believe so.

17 Q And you don't know what days, what month, when
18 these occurrences were that you were under the influence of
19 LSD, do you?

20 A No.

21 Q Would you tell us what effect LSD has upon your
22 thinking? What does that do to you?

23 A It would depend on your environment and who you
24 are with. I couldn't tell you specifically, you know, the
25 over-all effect of LSD on any one person. It could be
26 different.

27 Q On you. That's what we are asking about, Miss
28 Bailey.

3b-3

1 A Sometimes it made me afraid. Sometimes I really
2 enjoyed it and I could just relax on it. It just depended
3 what I was thinking about at the time I took it.

4 Q And while under the influence of LSD, is it true
5 that you hallucinate?

6 A No, sir, I did not.

7 Q You don't -- do you know what an hallucination is,
8 when I say that?

9 A Yes.

10 Q Do you hallucinate under the influence of
11 marijuana?

12 A No, I have not.

13 Q And do you have any departure from reality when
14 you're under the influence of LSD, as far as your thinking
15 is concerned?

16 A Yes, at times.

17 Q Would you demon -- would you tell us what is
18 this departure from reality that you experience when you're
19 under the influence of LSD?

20 A Well, you could become involved in any one
21 thought and just experience that one thought over and over
22 for a long period of time. It is too complexed. I really --
23 I don't know I could tell you how it affected me at every
24 time.

25 Q Well, can you tell us when you're under the
26 influence of LSD what you think?

27 A Sir, it all depends on whom I'm with.

28 Q Well, tell me any instances when you were with, let's

3b-4

1 say, the people at the Spahn Ranch.

2 MR. MANZELLA: Objection, your Honor, it is not
3 relevant.

4 THE COURT: Sustained.

5 MR. MANZELLA: The question is overbroad, as stated.

6 THE COURT: Sustained. Limit it, Mr. Kanarek, and you
7 can ask the question.

8 MR. KANAREK: I'm sorry, your Honor.
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1 THE COURT: Limit it as to time or --

2 MR. KANAREK: Yes.

3 Q BY MR. KANAREK: During the summer of 1969, when
4 you were at the Spahn Ranch, would you tell us what your
5 thinking was, what you actually thought while you were under
6 the influence of LSD with the people at the Spahn Ranch?

7 A The last time that I remember taking acid with the
8 people would be when we were living down at Gresham Street
9 in Canoga Park. And I felt that I was being crucified at the
10 time.

11 Q You thought that you -- you felt that you were
12 being on the cross?

13 A Yes.

14 Q You felt as if you were a Christ figure on the
15 cross?

16 A Yes, I did.

17 Q And on Gresham Street, when did you live on
18 Gresham Street?

19 A During the months between January and March of
20 1969.

21 Q During the summer of 1969, you took LSD at the
22 ranch?

23 A I don't recall. That I ever did.

24 Q When you say you don't recall, are you telling
25 us that you don't know whether you did or did not?

26 A Yes.

27 Q When you took LSD at the ranch in the summer of
28 '69 --

3b-6

1 THE COURT: She states that she --

2 Q BY MR. KANAREK: I'm sorry.

3 When did you take LSD with the people at the
4 ranch, those people -- those are the same people at Gresham
5 Street, right?

6 A Yes.

7 MR. MANZELLA: Objection, your Honor, it is compound.
8 It is incomplete and assumes a fact not in evidence.

9 MR. KANAREK: I haven't finished it, but I'll be glad
10 to rephrase it.

11 THE COURT: The answer may remain. She's answered it.

12 MR. KANAREK: Now, your Honor, would it be convenient
13 to take the recess at this time?

14 THE COURT: Yes, we can recess at this time.

15 We'll recess, ladies and gentlemen, for approxi-
16 mately ten or fifteen minutes.

17 During that time you are admonished that you are
18 not to converse amongst yourselves, nor with anyone else, or
19 permit anyone to converse with you on any subject connected
20 with this matter, nor are you to form or express any opinion
21 on the matter until the matter has finally been submitted to
22 you.

23 About 15 minutes.

24 You may step down and be back in 15 minutes.

25 (Morning recess.)

4 fls.

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3b-7

1 THE COURT: Mr. Kanarek and Mr. Manzella?

2 (Whereupon proceedings were had at the bench
3 among the Court, counsel, and the Defendant Manson,
4 which were not reported.)

5 (The following proceedings were had at the
6 bench among the Court and counsel and Defendant
7 Manson, outside the presence and hearing of the
8 jury.)

9 THE COURT: There was a discussion off the record at
10 the bench between the Court, counsel and the Defendant Manson.
11 The record should show --

12 MR. KANAREK: I would like to, on the record, say that
13 the Court has invaded the right to counsel. The Court has
14 arbitrarily -- arbitrarily, and capriciously invaded the
15 right to counsel.

16 THE COURT: All right.

17 MR. KANAREK: Mr. Manson, the Court has --

18 THE COURT: Your remarks are --

19 MR. KANAREK: He has spoken to Mr. Manson without
20 permission of counsel. The Court --

21 THE COURT: Mr. Kanarek --

22 MR. KANAREK: The Court has tried to force Mr. Howard
23 Beckler upon Mr. Manson, and Mr. Manson has said he didn't
24 want Mr. Beckler, because Mr. Beckler wanted him to plead
25 guilty --

26 THE COURT: All right, Mr. Williams. This is off the
27 record.

28 (Whereupon, a discussion was had off the record.)

4-2

1 THE COURT: All right. Now --

2 DEFENDANT MANSON: Put this on the record.

3 THE COURT: All right, Mr. Manson.

4 DEFENDANT MANSON: If anything is true, you have invaded
5 the right to counsel by not accepting my communication. I
6 can't communicate with this Court, because of you. Because of
7 you, there -- there have been things that have been cut off
8 in the communication.

9 You've set on me for the last two years. You set
10 on me in the other trial. I was forced into you by the Court.
11 If you want to get on the Court, get on the Court for forcing
12 me into this situation to start with.

13 I have seven gas chambers because of you --
14 because of Judge Keene, because -- because of his inadequacies.

15 THE COURT: Well, we --

16 MR. KANAREK: Well, the Court --

17 THE COURT: Just a minute, Mr. Kanarek.

18 MR. KANAREK: The Court has interrogated Mr. Manson
19 concerning Mr. Beckler, and --

20 THE COURT: Mr. Kanarek, I order you to be silent.

21 The Court has, for the last five minutes, been on
22 the bench with Mr. Kanarek, Mr. Manson and Mr. Manzella.
23 Mr. Manzella was absent for about two minutes of that time.

24 During this time, the Court has conversed with
25 Mr. Manson about whether or not he wishes at this time, in
26 view of his expressions concerning Mr. Kanarek, to consult
27 with other counsel.

28 Mr. Manson has again reiterated his wish to

1 represent himself. The Court has no reason at this time to
2 change its previous ruling, and does not change its previous
3 ruling, that Mr. Manson may not represent himself.

4 DEFENDANT MANSON: May I set the record straight on
5 one thing?

6 THE COURT: Yes.

7 DEFENDANT MANSON: This attorney was hired by me --

8 THE COURT: You mean Mr. Kanarek?

9 DEFENDANT MANSON: -- on a guarantee of my pro per;
10 to go in the federal court; to fight with motions in a higher
11 court, with a bigger father. And that's all he was retained
12 for.

13 I was locked in with this attorney, because I
14 refused to accept any other attorney.

15 I didn't want this attorney, nor do I wish any
16 other attorney.

17 THE COURT: Well, what --

18 DEFENDANT MANSON: I would like to represent myself. It's
19 the same thing I've stood on.

20 Permission was granted in seventeen hundred
21 something that I have the right to prepare and defend with
22 the assistance of counsel. It's not complicated at all.

23 MR. KANAREK: And I make the motion that Mr. Manson be
24 associated in as co-counsel.

25 Your Honor has a vendetta, a desire to get rid
26 of me. Your Honor has arbitrarily and capriciously -- the
27 duty of the Court is to ameliorate --

28 DEFENDANT MANSON: I think we are one in that thought.

1 MR. KANAREK: And the Court has the obligation to
2 ameliorate and to try to make the attorney-client relationship
3 as good as possible, instead of injecting, arbitrarily and
4 capriciously, Mr. Beckler.

5 Mr. Beckler is -- is a fine gentleman. But the
6 Court is using horrendous -- a horrible pressure upon Mr.
7 Manson as a fulcrum in order to get rid of me, because it is
8 my belief that the Court is biased and prejudiced against
9 Mr. Manson.

10 The Court has indicated to me that Mr. Manson is
11 guilty.

12 DEFENDANT MANSON: The pressure hasn't started yet.

13 MR. KANAREK: The Court has told me so in chambers.
14 The Court has said that --

4a fls.

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1 THE COURT: Is there anything else you wish to say about
2 what has been said in chambers?

3 MR. KANAREK: Yes. Yes, your Honor. I think that your
4 Honor -- it's most -- I ask this Court to declare itself to
5 be prejudiced. The Court is biased and prejudiced against
6 Mr. Manson.

7 The Court considers this trial to be -- to be a --

8 DEFENDANT MANSON: That's an opinion. It doesn't hold
9 water.

10 THE COURT: The Court has never expressed itself to you,
11 to the effect that -- that you've stated, Mr. Kanarek.

12 MR. KANAREK: Well, the Court has indicated --

13 THE COURT: The Court has previously discussed with
14 Mr. Manson, in your presence, the possibility of his having
15 other counsel, and I think the record is clear as to --

16 MR. KANAREK: But --

17 THE COURT: -- as to what occasioned that, and what
18 occasioned this.

19 MR. KANAREK: Well, the Court was very eager to --

20 THE COURT: And what occasions this conference.

21 MR. KANAREK: What occasions this is the horrible
22 pressure --

23 THE COURT: Now, at this time, Mr. Kanarek, we will
24 resume your cross-examination of this lady.

25 And Mr. Manson, the Court will permit you to remain
26 in the courtroom, if you wish to. But only if you can keep
27 quiet.

28 DEFENDANT MANSON: I wish to --

1 THE COURT: Do you understand?

2 DEFENDANT MANSON: I wish to defend myself, to put my
3 life in this courtroom. I think your Honor knows, as well --

4 THE COURT: The Court again denies the motion, on the
5 same grounds.

6 MR. KANAREK: And I'll make a motion that Mr. Manson be
7 allowed to be co-counsel with me.

8 THE COURT: That motion is denied.

9 DEFENDANT MANSON: Your Honor, you are sitting on top of
10 a dead thought.

11 MR. KANAREK: And it's most significant that your Honor --

12 THE COURT: Oh, let's resume.

13 MR. KANAREK: -- that your Honor, at the bench, did not
14 have the reporter here at the very beginning.

15 I ask that we have an evidentiary hearing as to
16 what was said at the bench --

17 THE COURT: The Court --

18 MR. KANAREK: -- when your Honor --

19 THE COURT: The Court has stated what was said.

20 MR. KANAREK: No, the Court has not been candid.

21 THE COURT: Very well. State what has --

22 MR. KANAREK: The Court arbitrarily injected
23 Mr. Beckler, who is, as I say, a fine gentleman --

24 DEFENDANT MANSON: Your Honor -- Irving, I'm not against
25 the Court. I never have been against the Court.

26 MR. KANAREK: I'm not against the Court either, but the
27 Court --

28 DEFENDANT MANSON: Then I can't see why you are trying to

1 put it on the Court. Put it where it belongs.

2 MR. KANAREK: I know, Charlie.

3 DEFENDANT MANSON: See, you have to live with it, too.
4 You have to live with it, too.

5 THE COURT: All right. This is off the record.

6 MR. KANAREK: No, your Honor. May we stay on the record?

7 THE COURT: Off the record.

8 (Whereupon, a discussion ensued off the record.)

9 THE COURT: All right. In response to your request,
10 Mr. Manson, the Court will make that man available to you in
11 the event that you should wish to speak to him.

12 Now, Mr. Kanarek, you may -- if you wish to give
13 your recounting of what was said, before the reporter came up
14 here, you may.

15 MR. KANAREK: Yes. Your Honor artificially and arbi-
16 trarily --

17 THE COURT: Well, will you just state what was said, with-
18 out --

19 MR. KANAREK: Your Honor mentioned Mr. Beckler to
20 Mr. Manson. Mr. Manson stated that -- words to the effect that --

21 DEFENDANT MANSON: Why did he do that? Because I tore
22 up a piece of paper.

23 MR. KANAREK: That's correct.

24 THE COURT: That's what he said.

25 DEFENDANT MANSON: I tore up a piece of paper.

26 MR. KANAREK: And Mr. Manson pointed out to you that
27 he didn't want Mr. Beckler, because Mr. Beckler wanted him to
28 plead guilty.

1 DEFENDANT MANSON: And I didn't want Mr. Kanarek, either.

2 MR. KANAREK: Right. Mr. Manson's feeling is as a result
3 of being in the penitentiary so many years, and being sold down
4 the river by -- where Mr. Manson has done many -- you think
5 I'm kidding? This is the reason for --

6 THE COURT: Mr. Kanarek --

7 MR. KANAREK: Mr. Manson has been mistreated by people,
8 that have been -- have been lawyers. For instance, he did many
9 years for a \$17 check --

10 THE COURT: Mr. Kanarek, the Court orders you to stop at
11 this moment.

12 MR. KANAREK: Well --

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1 THE COURT: All right. Now, what was said before Mr.
2 Williams came up was this: The Court pointed out that --
3 that the Court's state of mind was that Mr. Manson was
4 expressing his dissatisfaction with your representation.
5 Mr. Manson had indicated on the record that he wished to
6 represent himself, and had taken a paper from your hand and
7 had torn it while you were looking at it.

8 And the Court construed this -- and told Mr.
9 Manson so -- as being an expression of dissatisfaction with
10 your representation, and asked whether or not he wanted to
11 speak to other counsel, Mr. Beckler.

12 And Mr. Manson said that he was -- he assumed
13 Mr. Beckler was too busy.

14 MR. KANAREK: That is not so, your Honor. Your Honor
15 mentioned Mr. Beckler first, and Mr. Manson indicated that,
16 "That's the man that wanted me to plead guilty," and he
17 didn't want to see him.

18 THE COURT: The Court did mention Mr. Beckler first,
19 that's correct.

20 MR. KANAREK: And I believe that the Court deliberately
21 did not put this on the record, at that time, because the
22 Court did not wish that to be a matter of record.

23 THE COURT: That's not true. The Court --

24 MR. KANAREK: Because he wishes it all not to be on the
25 record.

26 DEFENDANT MANSON: Your Honor, may I take this one
27 little second here, to say this to the lower court, that
28 the decisions are passed down to, that they have to set on

4b-2

1 and straighten out?

2 That Older's thought will be unlocking doors,
3 forever and ever and ever.

4 THE COURT: All right. Let's proceed. Mr. Manson can
5 remain in the back room here, in view of the fact that he
6 apparently is unable to keep from interrupting.

7 DEFENDANT MANSON: You people still don't see me, do you?

8 (Whereupon the following proceedings were
9 had in open court, still outside the presence and
10 hearing of the jury:)

11 THE COURT: All right. Bring the jury in, please.

12 (Pause in the proceedings while the jury was
13 being ushered into the courtroom.)
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1 THE COURT: Miss Bailey.

2 All right, the record will show Mr. Kanarek to
3 be present. Mr. Manzella, All the jurors and alternates are
4 in the box.

5 And would you state your name for the record?
6 You are still under oath.

7 THE WITNESS: Ella Jo Bailey.

8 THE COURT: Go ahead, Mr. Kanarek.

9
10 CROSS-EXAMINATION (Continued)

11 BY MR. KANAREK:

12 Q Now, Miss Bailey, did you have a conversation with
13 Mr. Manzella a few days ago in which he took notes while you
14 were speaking with him?

15 A Yes, I did.

16 Q And in that conversation, uh, at the time you had
17 the conversation, who was present?

18 A Mr. Manzella, my mother and myself.

19 Q That was after you had stated that you didn't
20 want to talk to me, is that right?

21 A Yes, sir.

22 Q And do you recall that when we met on the tenth
23 floor of the Old Hall of Records here?

24 A Yes.

25 Q A few days ago?

26 A (Nods head.)

27 Q And you -- when did you form the intent that you
28 didn't want to speak to me?

1 A The first time was a few days previous to the time
2 I saw you when I was told I had the choice of whether or not I
3 wished to make a statement to you before I came on the stand.

4 Q I see.

5 And directing your attention, then, there was
6 another lawyer connected with this case that wanted to speak with
7 you, also, right?

8 A Yes.

9 Q And you chose not to speak with him either, right?

10 A Yes.

11 Q And he, uh -- he was a defense lawyer, right?

12 A Yes.

13 Q When did you form the intent not to talk to him?

14 A At the same time I was told that he would be --
15 you know, asking me -- when I was told about you, I was told
16 about him. I made my opinion then.

17 Q And you -- you didn't want to speak to him or me,
18 right?

19 A Prior to the time I came on the stand, that's
20 right.

21 Q Is that because you were afraid of me; is that
22 the reason?

23 MR. MANZELLA: Objection, your Honor, that's not
24 relevant.

25 THE COURT: Sustained.

26 Q BY MR. KANAREK: What is the reason you didn't
27 want to speak to me?

28 MR. MANZELLA: Objection, your Honor, that's not

1 relevant.

2 THE COURT: Sustained.

3 Q BY MR. KANAREK: Or the other lawyer?

4 MR. MANZELLA: Same objection.

5 THE COURT: The objection is sustained.

6 Q BY MR. KANAREK: Now, you say that you are
7 scared of Charles Manson, Miss Bailey?

8 A Yes.

9 Q Now, can -- will you tell me -- you are now
10 testifying.

11 Are you going to be any less scared of him now
12 that you've testified?

13 A I don't know, sir.

14 Q Well, are you -- are you -- are you scared of
15 Mr. Manson right now?

16 A At this moment, no.

17 Q Well, when you left the courtroom yesterday,
18 were you scared of Mr. Manson?

19 A No.

20 Q Were you scared of Mr. Manson the last couple
21 three months?

22 A Oh, I've had moments when I had been, yes.

23 Q Well, Mr. Manson is sitting in a dungeon, right?

24 A (Shrugs shoulders.)

25 MR. MANZELLA: Objection, your Honor.

26 THE COURT: Sustained. It is argumentative. You needn't
27 answer it.

28 Q BY MR. KANAREK: Now, when Mr. Manson -- when you

1 saw Mr. Manson on -- on the evening that you tell us that the
2 police were there -- remember?

3 A Yes.

4 Q On that evening was Mr. Manson arrested?

5 A No, sir.

6 Q Well, when, with reference to that evening, was
7 Mr. Manson arrested?

8 How soon, to your knowledge?

9 A I don't know.

10 Q Well, at the time that the police were on the
11 premises at the Spahn Ranch that night, was anyone arrested?

12 A I was told later that John Swartz was arrested.

13 Q That John Swartz was arrested.

14 For what reason?

15 MR. MANZELLA: Objection, your Honor, it is not
16 relevant and calling for hearsay.

17 THE COURT: Sustained.

18 Q BY MR. KANAREK: Well, the truck that you took
19 when you left with Mr. Vance, that truck was in the name of
20 John Swartz, right?

21 MR. MANZELLA: Objection, your Honor, it is not
22 relevant.

23 MR. KANAREK: It is relevant, your Honor.

24 THE COURT: Sustained.

25 Q BY MR. KANAREK: How far away were you from the
26 police officers when you saw them that night, Miss Bailey?

27 A I was on top of the hill behind the boardwalk.

28 Q How far were you from them? How far would you

1 have to walk to get to them?

2 A You'd have to come down the hill and on to the
3 ranch, through the corral and around the bunkhouse and to the
4 boardwalk.

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1 Q And did anyone prevent you from walking over to
2 those police officers?

3 A No.

4 Q And is -- what reason did you have, if any, why
5 you didn't go to the police officers and tell them what you may
6 have known concerning Mr. Hinman?

7 A I was frightened.

8 Q You were frightened with all those police officers
9 there, you were frightened?

10 A Yes, sir.

11 Q And you were frightened of whom?

12 A Of both of them, of the Family and of the police
13 officers.

14 Q You were frightened of both the Family and the
15 police officers?

16 A Yes, sir.

17 Q And who in the Family were you frightened of?

18 A Charles Manson.

19 Q Who else? You say "the Family."

20 A I meant Charles Manson.

21 Q You were frightened of no one else but Charles
22 Manson, is that right?

23 A That's right.

24 Q Now, when you went -- when you left the ranch,
25 did you take any radios with you?

26 A No.

27 Q What was in the trunk?

28 MR. MANZELLA: Objection, your Honor, it is not relevant.

1 THE COURT: Sustained.

2 Q BY MR. KANAREK: Did you sell any items that were
3 in the trunk?

4 A No.

5 Q After you left the ranch?

6 A No.

7 Q Now, when you -- directing your attention to the
8 time when you were in the saloon and you said you heard Mr.
9 Manson make some statements; you have that time in mind?

10 A Yes, I do.

11 Q Would you tell us what did Mr. Manson say?

12 A He said that after he had gotten the phone -- after
13 the phone call had come from the ranch, he said he and Bruce
14 had gone to Mr. Hinman's.

15 He said that at that time Sadie and Mary Brunner
16 and Bob Beausoleil had gotten the gun back from Mr. Hinman.

17 He also stated that he had had a heated argument
18 with Mr. Hinman and that it became necessary for him to slash
19 him from his left ear to his chin in order to quiet him down.

20 He further stated that the girls put Mr. Hinman in
21 bed and cleaned him up and that Gary had asked for his beads.

22 And he made a comment about \$27 that was taken and
23 the two automobiles.

24 Q That -- he said all of that, right?

25 A Yes, sir, he did.

26 Q Well, on May the 18th, 1970, referring again to
27 this report, the Sheriff's report, did you tell the Sheriff,
28 on the following day, while in the saloon at Spahn Ranch,

1 Charles Manson stated, "I found it necessary to use the sword
2 on Gary; I got \$27 and his cars"?

3 Is that what you said?

4 A I don't remember if those were my exact words.
5 In essence, that's what I said.

6 Q That's all you said?

7 Pardon? That's all you told them, is that right?

8 A I don't remember.

9 Q Well, is there some reason --

10 May I approach the witness, your Honor?

11 THE COURT: No, you may not.

12 MR. KANAREK: Well, then, I allege, your Honor, that your
13 Honor's ruling is denying effective right to counsel under the
14 Sixth Amendment which is --

15 THE COURT: Go ahead with your questions.

16 Q BY MR. KANAREK: You see this gun here, Miss Bailey,
17 this People's 30?

18 A Yes, I do.

19 Q Other than the fact that the Sheriff has shown you
20 this gun and has told -- has discussed this gun with you in
21 connection with this case, other than that, is there anything
22 about this gun that makes you remember it?

23 A I saw Bruce Davis carry the gun several times.

24 Q Well, what's there about this gun that makes you
25 remember it as opposed to many, many, maybe, millions of guns
26 in the world?

27 A It is very similar, if not the exact one.

28 Q Well, what's --

1 A I mean, it looks like --

2 Q Would you tell us what there is about it that it
3 is similar?

4 A The fact it has a blunt nose.

5 The fact it requires a clip that clips up through
6 the handle.

7 Q So, in other words, all you remember about the gun
8 is that it had a blunt nose and that it had a clip up through
9 the handle, right?

10 A No, sir, I remember that it was a black gun. And
11 at the time I saw it, it had plastic handles on the side where
12 you hold it.

13 Q So you don't know whether this is the gun or not?

14 A It is very similar to the gun.

15 Q You can't say that this is the gun?

16 A I believe it is the gun.

17 Q After talking with the Sheriffs, the representatives
18 of the Sheriff's Department on many occasions, you now believe
19 it is the gun, right?

20 MR. MANZELLA: Objection, your Honor, that's argumentative.

21 THE COURT: Sustained.
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1 Q BY MR. KANAREK: Can you tell us, Miss Bailey, why
2 is it that you told the Sheriff on May 18, 1970, only, that
3 "I found it necessary to use the sword on Gary. I got \$27 and
4 his cars"? Is there some reason that you only told the Sheriff
5 that, as opposed to what you have told us here in court?

6 A I'm not sure that that is all that I told the
7 Sheriff at that occasion. I can't remember.

8 Q You don't remember what you told them on that
9 occasion, is that right?

10 A Not specifically. I remember in essence what I
11 told them.

12 Q Well, is this in essence what you told them, what
13 I have just read to you off of 069-0237⁸ -- and so forth, the
14 Sheriff's report?

15 MR. MANZELLA: Objection, your Honor, the question is
16 vague and ambiguous.

17 MR. KANAREK: She, herself --

18 MR. MANZELLA: With regard to what "this" is, your Honor.

19 THE COURT: Oh, sustained.

20 Q BY MR. KANAREK: Do you recall the words that I
21 stated to you that came off of this report, the report that
22 I am handling in my hands?

23 A Not word for word, no, I don't.

24 Q Well, directing your attention to the words that I
25 read to you, are those the words -- are those all the words that
26 you told the Sheriff concerning Mr. Manson and what he said at
27 the saloon?

28 A I can't remember if those are the only words I

1 spoke at that time,

2 Q And you don't remember what occurred at the saloon,
3 right?

4 A Yes, I do.

5 Q And you supposedly remember that after how many --
6 how many different occasions have you spoken to Sheriff's
7 officers concerning this case?

8 A I don't know how many times.

9 Q Many, many times, right?

10 A Several.

11 MR. KANAREK: Thank you.

12

13 REDIRECT EXAMINATION

14 BY MR. MANZELLA:

15 Q Miss Bailey, I just have a few questions to ask
16 of you.

17 MR. KANAREK: Your Honor, I would like the record to
18 reveal that I can't proceed because I can't read this. May
19 the record so reflect? I would like to interrogate on this
20 statement and I can't read it.

21 THE COURT: You're speaking of the notes which you
22 heretofore marked -- asked to be marked, and the Court has
23 marked for identification as --

24 MR. KANAREK: Yes, your Honor.

25 THE COURT: What letter was it?

26 MR. KANAREK: It is not a letter, your Honor, it is a
27 note that Mr. --

28 THE COURT: I mean, the letter identifying it.

1 MR. KANAREK: It is Exhibit No. J, and Mr. Manzella,
2 himself, had difficulty in deciphering it for me and it is his
3 own purported report.

4 MR. MANZELLA: That's incorrect, your Honor. That's an
5 incorrect statement.

6 MR. KANAREK: Well, your Honor --

7 THE COURT: Gentlemen, will you stop bickering.

8 MR. MANZELLA: I'm not bickering, your Honor.

9 MR. KANAREK: Then, I make a motion that --

10 THE COURT: Mr. Kanarek's statement is stricken, and so
11 is, Mr. Manzella's.

12 You have stated your position for the record and I
13 think it is sufficient.

14
15 CROSS-EXAMINATION (CONTINUED)

16 BY MR. KANAREK:

17 Q Well, may I ask you this, then, Miss Bailey, did you
18 tell Mr. Manzella that these occurrences in the saloon
19 occurred on June 28, 1969? --

20 A No, sir, I told him that it occurred on July 28.

21 Q I see.

22 MR. KANAREK: Well, your Honor, may I approach the witness?

23 THE COURT: For what reason?

24 MR. KANAREK: It says "June 28," Mr. Manzella's notes
25 taken a few days ago say "June 28th," and I want to lay the
26 foundation.

27 THE COURT: All right, that is stricken, ladies and
28 gentlemen.

1 MR. MANZELLA: Your Honor, would the Court admonish
2 Mr. Kanarek to stop making statements in front of the jury?

3 THE COURT: Ladies and gentlemen, the statements of
4 counsel are not evidence, and you should disregard them.

5 And, Mr. Kanarek, you know very well you should
6 not be making that type of a statement.
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1 MR. KANAREK: I want to lay the foundation, your
2 Honor.

3 THE COURT: Now, the reason you wish to approach this lady
4 is so she may look at Mr. Manzella's -- a copy of Mr. Manzella's
5 notes?

6 MR. KANAREK: Yes, your Honor.

7 THE COURT: All right, you may approach her.

8 MR. KANAREK: Thank you.

9 THE COURT: Just show her the notes.

10 MR. KANAREK: Yes.

11 Q BY MR. KANAREK: Do you see these notes that are
12 labeled "Defendant's Exhibit J" for identification only?

13 A Yes.

14 Q Were these notes taken -- are these a copy of an
15 original which was taken while you were talking to Mr. Manzella?

16 A Yes.

17 Q You recognize that?

18 A (Nods head.)

19 Q No question about it, right?

20 A I recognize them.

21 Q And he wrote down as you spoke, right?

22 A Yes.

23 Q And did you tell him that the occurrence in the
24 saloon occurred on June 28, 1969?

25 A No, sir, I told him that they occurred July 28,
26 1969.

27 MR. KANAREK: Thank you.

28 Thank you, your Honor.

1 THE COURT: Redirect,

2 MR. MANZELLA: Yes, thank you.

3
4 REDIRECT EXAMINATION

5 BY MR. MANZELLA:

6 Q Miss Bailey, I just have a few questions to ask you.

7 You've testified to the statements on my direct
8 examination that Mr. Manson made, and I want to direct your
9 attention to each of those occasions in order.

10 Now, directing your attention to the time you were
11 at the campsite in Devil's Canyon in the latter half of July,
12 1969, and you testified with regard to certain statements that
13 Mr. Manson made.

14 Had you taken any LSD prior to or during that
15 occasion?

16 A No.

17 MR. KANAREK: That's ambiguous as to time, your Honor.

18 THE COURT: Uh, sustained -- overruled. The answer may
19 remain.

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1 Q BY MR. MANZELLA: Now, directing your attention
2 to that -- those statements that you testified Mr. Manson
3 made, at about suppertime or dusk, behind the corral, in the
4 presence of Bill Vance, do you recall the conversation about
5 which I am speaking?

6 A Yes, I do.

7 Q Had you taken any LSD prior to or during that
8 occasion?

9 A No.

10 Q All right. Directing your attention to the date
11 of July 28th, 1969, that Monday, when you heard Mr. Manson
12 make the statements that you've testified he made in the
13 saloon, had you taken any LSD prior to or during that occasion?

14 A No.

15 Q Now, Miss Bailey, you have testified that when you
16 left the Spahn Ranch on July 28th, 1969, you drove a truck
17 belonging to John Swartz; is that correct?

18 A Yes.

19 Q Strike that. I'll withdraw that.

20 That you were in a truck belonging to John
21 Swartz; is that correct?

22 A Yes.

23 Q All right. And who was with you in the truck?

24 A Bill Vance.

25 Q And this is when -- the last time that you left
26 Spahn Ranch; is that correct?

27 A Yes, it is.

28 Q And was Mr. Vance driving?

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1 A Yes.
2 Q Now, why was it that you and Mr. Vance took that
3 truck?

4 A We were sent to go get gas in the truck.

5 Q Who sent you to get gas?

6 A Charlie.

7 Q Is that Charles Manson?

8 A Yes.

9 Q And --

10 A We realized it was our opportunity to leave the
11 ranch.

12 Q And what made you decide to leave the ranch?

13 A Bill Vance had told me that Charles had told him--

14 Q Well, let me interrupt you, Miss Bailey.

15 A Okay.

16 Q Just tell us what it was that made you decide
17 to leave the ranch.

18 MR. KANAREK: Well, if it's the conversation, your Honor,
19 I'll object to it on the grounds of hearsay.

20 THE COURT: Sustained.

21 MR. MANZELLA: Well, I am asking that there be no --

22 Q Don't testify to what Bill Vance said somebody else
23 said. Just tell us what it was that made you leave the ranch.

24 THE COURT: The Court believes it's immaterial.

25 Q BY MR. MANZELLA: All right. Now, Miss Bailey,
26 during the period of June and July of 1969, did Mr. Manson
27 make statements with regard to the ownership of property?

28 A Yes.

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1 Q Would you tell us what he said in that regard?
2 Strike that.

3 Did he say that on one occasion or more than one
4 occasion?

5 A On several occasions.

6 Q Do you recall the first time, during that period
7 of time, June and July of 1969, that -- strike that.

8 Let me direct your attention to the period of
9 time from -- after you left the Gresham Street house in
10 Canoga Park and moved to Spahn Ranch, during the period of
11 time from March of 1969 to July of 1969.

12 During that period of time did Mr. Manson make
13 statements with regard to the ownership of property?

14 A Yes.

15 Q And did he make those statements on one occasion
16 or more than one occasion?

17 A On several occasions.

18 Q During that period of time, do you recall the
19 first occasion on which you heard Mr. Manson make those
20 statements?

21 A Certainly not the first time.

22 Q Do you recall any specific occasion during that
23 period of time?

24 A No.

25 Q All right. But you do recall the statements;
26 is that correct?

27 A Yes.

28 Q All right. Do you recall, on any of the occasions,

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1 who was present when the statements were made? Was it one
2 person or more than one person?

3 A I don't remember.

4 Q All right. Now --

5 MR. KANAREK: May the record reflect she hesitated
6 many seconds before ^{her} answer, your Honor? Thinking about it?

7 THE COURT: Mr. Kanarek, it's for the jury to observe
8 that.

9 Will you cease making any comments about what
10 you would like to have on the record, unless you approach the
11 bench and ask the Court?

12 Q BY MR. MANZELLA: All right. Miss Bailey, would
13 you tell us what Mr. Manson said during that period of time,
14 with regard to the ownership of property?

15 A The property that any of us had was communal
16 property, and it belonged to everyone that was with Charlie
17 at the time.

18 Q Now, during that period of March, 1969, to
19 July of 1969, was that the first period of time that you had
20 heard Mr. Manson make those statements?

21 A No.

22 Q When did you first hear Mr. Manson make that
23 statement?

24 A Shortly after I met him.

25 Q Was that in September of 1967?

26 MR. KANAREK: Object, your Honor. That's irrelevant --

27 THE WITNESS: Yes.

28 MR. KANAREK: -- and immaterial.

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MR. MANZELLA: I would like to argue the point, if I may.

THE COURT: The objection's overruled. The answer may remain.

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1 MR. KANAREK: It's also outside the scope of cross,
2 your Honor.

3 THE COURT: Well, the Court didn't hear that objec-
4 tion previously.

5 MR. KANAREK: I ask that that be stricken.

6 THE COURT: The motion is denied.

7 Q BY MR. MANZELLA: All right.

8 Miss Bailey, directing your attention to this
9 occasion when you were at the campsite in Devil's Canyon, in
10 the latter part of July, 1969, during that conversation --
11 during the one in which you suggested Gary Hinman's name as
12 somebody who might come with the Family -- strike that.

13 During that conversation, did you suggest Gary
14 Hinman's name?

15 A Yes.

16 Q All right.

17 And what did you say, specifically, about Gary
18 Hinman?

19 A Well, the conversation was about money. And I
20 suggested Gary Hinman's name. I don't remember what was
21 said after that.

22 Q All right. Now, was there any conversation or
23 any statements made during that conversation at the campsite
24 in Devil's Canyon --

25 A Oh, yes.

26 Q -- in which someone said -- or anyone said that
27 Gary Hinman was to be killed?

28 A Not that I remember.

1 MR. KANAREK: Leading and suggestive; outside the
2 scope of cross, your Honor.

3 THE COURT: The objection is overruled.

4 The answer may remain in the record.

5 Q BY MR. MANZELLA: And when you mentioned the
6 name Gary Hinman at that conversation, was it your idea
7 that you were mentioning the name of someone who might be
8 killed --

9 MR. KANAREK: Irrelevant and immaterial.

10 Q BY MR. MANZELLA: -- for money?

11 MR. KANAREK: Her state of mind is --

12 THE COURT: The objection is sustained.

13 Q BY MR. MANZELLA: Miss Bailey, did you suggest
14 Gary Hinman's name on that occasion as a person who would be
15 killed for money?

16 MR. KANAREK: Object. Calling for a conclusion; asked
17 and answered. It's --

18 MR. MANZELLA: Your Honor, I believe it goes to her
19 credibility.

20 THE COURT: The Court would admit the conversation, but
21 the objection is sustained.

22 MR. MANZELLA: All right.

23 Q Did you suggest that Gary might come with the
24 Family?

25 MR. KANAREK: Calling for a conclusion, your Honor.

26 MR. MANZELLA: I am asking for conversation.

27 MR. KANAREK: And it's hearsay; it's irrelevant and
28 immaterial.

1 THE COURT: The objection is sustained to that form of
2 the question.

3 Q BY MR. MANZELLA: Miss Bailey, let me ask you this:
4 During that conversation, were there a number of different ways
5 discussed about how to get money?

6 MR. KANAREK: Leading and suggestive, your Honor.

7 THE COURT: Overruled.

8 MR. KANAREK: Outside the -- may I finish?

9 THE WITNESS: Would you repeat it once more, please?

10 Q BY MR. MANZELLA: Yes. Were there a number of
11 different ways discussed about how the Family could get money?

12 MR. KANAREK: Your Honor, that's outside the scope of
13 cross.

14 THE COURT: The objection is overruled.

15 THE WITNESS: Yes.

16 Q BY MR. MANZELLA: And what were the ways that were
17 discussed of getting money for the Family?

18 MR. KANAREK: Irrelevant, immaterial, your Honor. The
19 prejudicial value far outweighs the probative value.

20 THE COURT: The objection is overruled.

21 MR. KANAREK: Hearsay and conclusion, your Honor.

22 THE WITNESS: That someone would come with the Family,
23 you know, that had money.

24 Q BY MR. MANZELLA: Was there -- during -- strike
25 that.

26 May I have a moment, your Honor?

27 THE COURT: Yes, you may.

28 MR. MANZELLA: All right. Thank you. I have no further

1 questions.

2 THE COURT: Any recross?

3 MR. KANAREK: I have no questions.

4 THE COURT: You may step down, Miss Bailey.

5 MR. KANAREK: Well, your Honor, I would ask that this
6 witness not be excused. I would like to approach the bench,
7 then, if I may, in connection with it.

8 THE COURT: Will you remain in the courtroom, then,
9 please?

10 MR. MANZELLA: The People call Mr. James Fraser, your
11 Honor.

12 MR. KANAREK: Well --

13 THE COURT: Your request to approach the bench is denied
14 at this time.

15 MR. KANAREK: Well, it's our desire that she -- she may
16 be a witness, and witnesses are excluded, your Honor.

17 THE COURT: You wish to call her as a witness? You wish
18 to put her on?

19 MR. KANAREK: Well, I -- I thought we were supposed to
20 discuss these matters at the bench, your Honor. I would like
21 to approach the bench.

22 THE COURT: The Court is simply asking you whether, at
23 this time, you would call her.

24 MR. KANAREK: Well, I -- may I approach the bench and --

25 THE COURT: Are you asking that she be excluded from
26 the courtroom?

27 MR. KANAREK: May I not discuss this in the presence --
28 outside the presence of the jury, your Honor? I ask to
approach the bench.

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1 THE COURT: Is that your request?

2 MR. KANAREK: Yes, that is my request.

3 THE COURT: That she be excluded?

4 MR. KANAREK: No, that I approach the bench.

5 Oh, it is my request that she be excluded, too,
6 but not excused as a witness.

7 THE COURT: All right. The Court at this time will ask
8 that you step outside, Miss Bailey. And you are not excused.
9 Wait until the Court excuses you today, before you leave the
10 building.

11 Your request to approach the bench is denied.

12 MR. MANZELLA: The People call Mr. James Fraser, your
13 Honor.

14 THE CLERK: You do solemnly swear that the testimony you
15 may give in the cause now pending before this Court shall be
16 the truth; the whole truth, and nothing but the truth, so help
17 you God?

18 THE WITNESS: I do.

19
20 JAMES K. FRASER,
21 called as a witness by and on behalf of the People, being
22 duly sworn, was examined and testified as follows:

23 THE CLERK: Please take the stand and be seated.

24 THE BAILIFF: Would you state and spell your full name?

25 THE WITNESS: James K. Fraser, F-r-a-s-e-r.

26
27 DIRECT EXAMINATION

28 BY MR. MANZELLA:

1 Q All right. Sergeant Fraser, would you state your
2 occupation and assignment, please?

3 A Examiner of Questioned Documents for the Los
4 Angeles County Sheriff's Crime Lab.

5 Q And as an Examiner of Questioned Documents, is your
6 field of investigation the examination and comparison of hand-
7 writing, --

8 A Yes.

9 Q -- among other things?

10 A Yes, sir.

11 Q And you are the Sergeant James Fraser who was
12 previously -- who has previously testified in this case?

13 A Yes, sir, I am.

14 Q Sergeant Fraser, directing your attention to
15 People's 34 for identification, and in particular the back of
16 the exhibit, whereon appears the signature "Gary Allen Hinman,"
17 have you seen that exhibit before?

18 A Yes, sir.

19 Q Directing your attention to People's Exhibit 27-A
20 for identification, what appears to be a certified copy of an
21 application for driver's license -- and in particular, the
22 signatures appearing thereon, "Gary A. Hinman," have you seen
23 that exhibit before?

24 A Yes, sir, I have.

25 Q And directing your attention to People's 3-A for
26 identification, what appears to be a certified copy of a driver's
27 license, and in particular the signature appearing thereon,
28 "Gary A. Hinman," have you seen that exhibit and that signature

1 before?

2 A Yes, sir.

3 Q All right. And have you compared the signatures that
4 I have set forth for you, and that you have stated you have
5 examined before, have you compared all of those signatures on
6 the three exhibits?

7 A Yes, I have.

8 Q And as a result of that comparison, were you able
9 to form an opinion as to whether or not they were made by one
10 and the same person?

11 A Yes, sir.

12 Q Would you tell us what that opinion is?

13 A In my opinion, the name "Gary Allen Hinman" that
14 appears on the back of the certificate of ownership, People's 34,
15 was signed by the same person that signed the exemplar exhibits,
16 People's 27 and People's 3.

17 Q Now, when you say 27, are you referring to this
18 exhibit that I am holding here (indicating)?

19 A Yes, the driver's license application.

20 Q All right. That is People's 27-A.

21 And when you were referring to People's 3, were you
22 referring to the exhibit I am holding here? (Indicating.)

23 A Yes, sir.

24 Q All right. That is People's 3-A.

25 And you formed the opinion that the signatures were
26 made by one and the same person?

27 A That's correct.

28 MR. MANZELLA: Thank you. I have no further questions.

1 THE COURT: Any cross?

2 MR. KANAREK: Yes, your Honor.

3 Q When was it that you made that comparison?

4 A I compared them today. And I had previously seen
5 these documents on April 2nd, 1970.

6 Q No. But when did you make the comparison?

7 A On April 2nd, 1970.

8 Q Is when you -- and you made the comparison -- did
9 you make a -- at the time you made a comparison, did you make a
10 report?

11 A Yes, sir, I did.

12 Q Do you have that report with you?

13 A No, I do not.

14 Q And prior to coming to court, did you refresh your
15 recollection from that report?

16 A No, sir.

17 Q You are just testifying now from memory, as to April
18 the 2nd, 1970; is that right?

19 A No, that's not.
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1 Q Well, you make many handwriting comparisons,
2 right?

3 A Yes.

4 Q And since then, you've made many since April 2nd,
5 1970?

6 A Yes.

7 Q And you didn't look at any report before you came
8 here and testified today concerning these items?

9 A No, that's correct.

10 Q So you don't know -- you don't know whether these
11 are the exact exhibits which you compared then or not, is
12 that correct?

13 (Whereupon, the bailiff handed Mr. Kanarek the
14 microphone.)

15 THE COURT: Thank you, Mr. Kuczera.

16 A No, that's not correct.

17 Q BY MR. KANAREK: Well, you didn't look at a
18 report? In other words, you just remembered it, is that it,
19 Officer?

20 A No, if I can explain?

21 Q Surely.

22 A My initials and date do appear on some of these
23 documents and I looked at them just before coming into
24 court today.

25 Q So you are basing what you're testifying to just
26 on what you did in April of 1970? Nothing wrong with it,
27 I'm just asking you if that's so.

28 A That's correct.

1 Q And you have no independent recollection of these
2 particular items, do you?

3 A Yes, I do.

4 Q As opposed to the many others that you examine
5 in the period of time between then and now?

6 A Yes, I remember these documents.

7 Q I see. And is there some reason why you remember
8 these particular documents?

9 A I have seen them many times. My initials appear
10 on them. I have compared the signature with these documents
11 and other documents and I have gone over, and over, and over
12 this case many times, so I have an independent recollection
13 of this name and these documents.

14 Q And you've gone over it many, many times with the
15 sheriffs; Mr. Whiteley and Mr. Guenther, right?

16 A No, I have examined these documents without
17 their assistance.

18 Q Without their assistance, but you've discussed
19 this case with them on several occasions, shall we say?

20 A No.

21 Q Well, directing your attention, then -- you say
22 you have gone over them many, many times, these and other
23 exhibits.

24 Did you discuss the results of those examinations
25 with Mr. Guenther and Mr. Whiteley?

26 Are you ashamed of that or something?

27 A No.

28 MR. MANZELLA: Objection, your Honor, it is argumentative

1 and an improper statement on the part of Mr. Kanarek.

2 MR. KANAREK: He seems to be --

3 THE COURT: The question is stricken and the objection
4 is sustained.

5 State --

6 Q BY MR. KANAREK: Well, Officer --

7 THE COURT: State your question now. Not a statement.
8 Make a question, a proper question.

9 Q BY MR. KANAREK: Yes, Officer, you say that you
10 examined them on many, many occasions, right?

11 A Yes.

12 Q And why was it necessary to examine them on so
13 many occasions?

14 A I had been handed these documents and others at
15 various times in other courtrooms and in this courtroom, and
16 I have independently looked at these documents to refresh my
17 memory before taking the stand in each case.

18 Q And you've discussed this case with Officer
19 Guenther and Officer Whiteley on several occasions, is that
20 correct?

21 A On some occasions. I don't know what you mean by
22 "several."

23 Q Well, how many would you say?

24 A Three.

25 Q And you are -- you are a member of the Sheriff's
26 Department? You are a police officer, right?

27 A I am a deputy sheriff.

28 MR. KANAREK: All right, thank you.

1 MR. MANZELLA: May Sergeant Fraser be excused, your
2 Honor?

3 THE COURT: Yes, you may step down, Sergeant. You are
4 excused.

5 All right, we'll recess now, ladies and gentlemen,
6 until 1:45.

7 During the recess, you are admonished that you are
8 not to converse amongst yourselves, nor with anyone else, nor
9 permit anyone to converse with you, nor are you to form or
10 express any opinion on the matter until it has finally been
11 submitted to you.

12 (Whereupon, at 12:00 o'clock noon an adjournment
13 was taken until 1:45 o'clock p.m. of the same day.)
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LOS ANGELES, CALIFORNIA, FRIDAY, AUGUST 13, 1971

1:55 P.M.

---O---

THE COURT: Let's proceed. Bring the jury in.

MR. MANZELLA: Your Honor, the People intend to call as their next witness Mr. Paul Whiteley with regard to statements made by Mr. Manson. I don't know if the Court intends to hold a hearing outside the presence of the jury with regard to the foundation for those statements.

MR. KANAREK: It is our position that United States vs. Messiah, your Honor, the statements --

THE COURT: All right, the Court will take evidence outside of the hearing of the jury to determine whether there is a foundation for such, proper foundation for the admissibility for the statements.

MR. KANAREK: May Mr. Blackburn be excused from the courtroom?

THE COURT: I'm sorry.

MR. KANAREK: May Mr. Blackburn be excused from the courtroom in accordance with your Honor's previous --

THE COURT: The Court will ask Mr. Blackburn to exclude himself at this time.

MR. KANAREK: I think under the doctrine of United States vs. Messiah, and the law in the field, the burden is on the prosecution to show the admissibility, your Honor, rather than our burden to show the inadmissibility; am I correct?

MR. MANZELLA: I agree, your Honor.

THE COURT: Yes.

1 You may proceed.

2 MR. MANZELLA: People call Sergeant Paul Whiteley.

3 THE CLERK: Do you want him sworn again?

4 THE COURT: Yes.

5 THE CLERK: Please raise your right hand.

6 You do solemnly swear that the testimony you may
7 give in the cause now pending before this Court shall be the
8 truth, the whole truth, and nothing but the truth, so help you
9 God?

10 THE WITNESS: I do.

11 THE CLERK: Please state your name for the record.

12 THE WITNESS: Paul J. Whiteley, W-h-i-t-e-l-e-y.

13 THE COURT: Go ahead.

14
15 PAUL J. WHITELEY,
16 called as a witness by and on behalf of the People, being duly
17 sworn, was examined and testified as follows:

18
19 DIRECT EXAMINATION

20 BY MR. MANZELLA:

21 Q Sergeant Whiteley, would you state your occupation,
22 please?

23 A Detective, Sergeant, Los Angeles County Sheriff's
24 Office, assigned to the Homicide Bureau.

25 Q And you are the investigating officer in the case of
26 People vs. Charles Manson?

27 A Yes.

28 Q All right. Sergeant Whiteley, directing your

1 attention to the date of August 10, 1971.

2 Were you present in this courtroom on that date?

3 A Yes, I was.

4 Q At some time during the morning of that date were
5 you seated at the counsel table while court was in session?

6 A Yes, I was.

7 Q And at some time during that morning did -- was
8 Mr. Charles Manson, the defendant in this case, also seated at
9 the counsel table?

10 A Yes, he was.

11 Q And at some point during that morning did he make
12 some statements to you with regard to this case?

13 A Yes, he did.

14 MR. KANAREK: Well, now, that --

15 Q BY MR. MANZELLA: Approximately --

16 MR. KANAREK: May I inquire on voir dire at this time,
17 your Honor?

18 THE COURT: No, I don't think so. The Court will permit
19 you to examine him.

20 MR. KANAREK: Very well.

21 Q BY MR. MANZELLA: Sergeant Whiteley, approximately
22 what time during that morning, August 10, 1971, did Mr. Manson
23 make those statements?

24 A It was approximately ten minutes of 10:00.

25 Q How long had Mr. Manson been in the courtroom at
26 the counsel table prior to the time he made the statements?

27 A Approximately five minutes.
28

9a-1

1 Q Were there other people present in the courtroom
2 at that time?

3 A Yes.

4 Q Was court in session at that time?

5 A Yes.

6 Q Would you tell us where the participants in this
7 trial were at the time Mr. Manson made the statements to you?

8 A You and Mr. Kanarek were at the bench with the
9 Judge.

10 Q Was there one or more court reporters in the
11 courtroom at that time?

12 A Yes, there were two.

13 Q Where were they?

14 A I believe one reporter was up at the bench with
15 you and Mr. Kanarek and the Judge, and the other reporter
16 was seated approximately where she is now.

17 Q All right. Were there other persons present in
18 the courtroom?

19 A Yes.

20 Q Were the persons present in the spectator portion
21 of the courtroom?

22 A Yes.

23 Q Were the persons present in the first row of
24 spectator seats in the courtroom?

25 A Yes.

26 Q Approximately how far from you was Mr. Manson
27 at the time he made these statements?

28 A Approximately six feet.

9a-2

1 Q Prior to the time that Mr. Manson made these
2 statements, had you at any time that morning said anything to
3 Mr. Manson?

4 A No.

5 Q All right, would you tell us what the statements
6 were?

7 MR. KANAREK: Well, your Honor, at this time does your
8 Honor wish --

9 THE COURT: The Court will hear the statements.

10 MR. KANAREK: Very well.

11 Q BY MR. MANZELLA: Would you tell us what the
12 statements were?

13 A Uh, Mr. Manson stated that Springer was lying.
14 That he had never met Springer. And, uh, that he had jumped
15 on.

16 I then said, "I didn't put you at the Hinman
17 house, Mary Brunner did."

18 And Mr. Manson stated, "I went to the Hinman
19 house. I -- and got the gun and sliced Hinman's ear and I
20 don't deny it. I, uh -- I told Bobby how to stand up. He
21 had a woman's thought. I told him how to do it. Hinman
22 deserved to die."

23 And then, he paused, and then he said, "He was
24 greasy."

25 MR. MANZELLA: All right, I have no further questions,
26 your Honor.

27 MR. KANAREK: May I interrogate, your Honor?

28 THE COURT: Yes, you may.

9a-3

1 MR. KANAREK: Thank you, your Honor.

2
3 CROSS-EXAMINATION

4 BY MR. KANAREK:

5 Q Mr. Whiteley, would you tell us the words that
6 you uttered that morning to Mr. Manson in this colloquy that
7 you have spoken of?

8 A "I didn't put you at the Hinman house, Mary
9 Brunner did."

10 Q And at that time, when you uttered those words,
11 your state of mind as a police officer was that Mr. Manson
12 was making statements which could be used in court before
13 the jury against him; is that correct?

14 A No.

15 Q You did not -- when you uttered those words --
16 (Whereupon, the Defendant Manson yelled the
17 following out through the screen of the detention door:)

18 THE DEFENDANT: I'll say that, if he will just finish
19 the statement and complete the damn thing instead of leaving
20 it half completed, half hanging out there. State what else
21 I said.

22 Q BY MR. KANAREK: Would you state all the words
23 Mr. Manson uttered, Mr. Whiteley?

24 THE COURT: One second before you answer that, Mr.
25 Manson. You're going to have to keep quiet now or we're
26 going to have to close that door and that will cut off the
27 microphone to you. And be quiet.

28 Go ahead, you may answer the question, if you

9a-4

1 remember it.

2 Would you read it?

3 THE WITNESS: I remember the question.

4 THE COURT: All right, very well.

5 A Mr. Manson said, "I've never killed anyone."
6 There were other things that I don't remember specifically.

7 (Whereupon, the Defendant Manson made an
8 inaudible statement.)

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1 Q BY MR. KANAREK: Did you make any notation of the
2 conversation?

3 A Yes.

4 Q Do you have those notations with you?

5 A Yes.

6 Q May I see them?

7 A Yes.

8 MR. KANAREK: May I approach the witness, your Honor?

9 THE COURT: Do you have them on your person?

10 THE WITNESS: Yes.

11 THE COURT: Would you show them to Mr. Kanarek.

12 MR. KANAREK: Thank you.

13 Q BY MR. KANAREK: Is it inconvenient, Officer, if
14 I tear off that sheet? Would that be permissible?

15 A No, it would be inconvenient.

16 Q Well, I would like for this -- maybe a copy to
17 be marked.

18 THE COURT: No need to at this point. Go ahead and ask
19 about it. Read it, if you wish. Ask about it.

20 Q BY MR. KANAREK: Did you make these notations,
21 Officer, while Mr. Manson and you were seated at counsel
22 table?

23 A Partly.

24 Q What part did you make while you were seated at
25 counsel table? Would you read that for us?

26 A "Manson: Springer's lying. I never saw the man.
27 He jumped on.

28 "Me: I didn't put you at the Hinman house,

1 Mary Brunner did."

2 About there.

3 Q So, then, "I didn't put you at the Hinman house,
4 Mary Brunner did," those words were uttered by you prior
5 to the rest of everything that is on this sheet, whether you
6 made the notation at the time or otherwise; is that right?

7 A I don't understand what you are saying.

8 Q Where you have "Me: I didn't put you at the --
9 at Hinman house, Mary Brunner did," everything that you
10 attribute to Mr. Manson after that occurred after what I
11 have just stated, "Me," and the colon; is that right?

12 A I still don't understand what you are saying.

13 Q You stated "Me: I didn't put you at the
14 Hinman house, Mary Brunner did," whatever words you attribute
15 to Mr. Manson on this sheet, after the notation I have just
16 indicated, those words were uttered by Mr. Manson after you
17 uttered the words I've quoted to you, right?

18 A Uh, I still don't get your meaning. I don't
19 understand.

20 Q The question is not clear?

21 A Could I explain to you? I think it would clarify
22 it.

23 Q Is the question unclear, Officer?

24 A Yes, it is.

25 Q Where you have the word "Manson," and then a
26 colon, the rest of that -- you see the rest on that sheet,
27 everything else that's written?

28 A Yes.

1 Q That was uttered after you uttered the words
2 "I didn't put you at Hinman house, Mary Brunner did"?

3 A Yes.

4 Q That's my question.

5 A Yes.

6 MR. KANAREK: Then, your Honor -- thank you, your
7 Honor. I ask this be marked for identification or a copy
8 thereof, if the officer wants to keep the original.

9 THE COURT: The Court will have a copy marked.

10 MR. KANAREK: I don't want to inconvenience the Court.

11 I have no further questions, your Honor, but under
12 United --

13 (Whereupon, the Defendant Manson yelled the
14 following from within the holding tank:)

15 DEFENDANT MANSON: Explain that.

16 MR. MANZELLA: I have some further questions, your
17 Honor.

18 MR. KANAREK: May I have a moment with Mr. Manson?

19 THE COURT: Yes, you may.

20 One moment, Mr. Manzella, let --

21 (Whereupon, Mr. Kanarek approached the
22 holding tank and conferred with the defendant.)

23 THE COURT: Bring Mr. Manson out. The jury is not
24 present now, and it will be more convenient for him to
25 converse with his counsel than having Mr. Kanarek walk back
26 and forth here to the lockup door.

27 (Whereupon, the Defendant Manson was brought
28 out into the courtroom, and the following proceedings

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were had:)

MR. MANZELLA: May I continue, now?

THE COURT: Go ahead.

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1 Q BY MR. MANZELLA: All right, Sergeant Whiteley, the
2 conversation about which you have testified, is that the first
3 time that Mr. Manson has spoken to you while you've both been
4 seated at the counsel table here in court?

5 MR. KANAREK: That's irrelevant and immaterial, your
6 Honor, and also calls for a conclusion.

7 THE COURT: Overruled. We're trying to determine the
8 admissibility of his statement, and if there is a course of
9 conduct, the Court would like to know about it. Overruled. You
10 may answer.

11 THE WITNESS: Yes.

12 Q BY MR. MANZELLA: I forgot what the question was.
13 I'll ask it again.

14 Is that the -- the conversation about which you've
15 testified on August 10th, 1971, is that the first time that
16 Mr. Manson had spoken to you while you've both been seated here
17 at the counsel table here in court?

18 A No.

19 Q On approximately how many other occasions has
20 Mr. Manson spoken to you here at the counsel table while you've
21 both been in court?

22 MR. KANAREK: Calls for a conclusion and it is irrelevant
23 and immaterial.

24 THE COURT: Overruled. You may answer.

25 THE WITNESS: Several times, approximately. Maybe seven --
26 seven times.

27 Q BY MR. MANZELLA: All right. Prior to August 10,
28 1971, when was the last time that Mr. Manson spoke to you

1 here at the counsel table?

2 MR. KANAREK: Irrelevant and immaterial.

3 THE COURT: Overruled.

4 THE WITNESS: August 9.

5 Q BY MR. MANZELLA: And approximately what time of
6 day did that conversation occur?

7 MR. KANAREK: Irrelevant and immaterial.

8 THE COURT: Overruled.

9 THE WITNESS: In the morning.

10 Q BY MR. MANZELLA: And were you both present here at
11 the counsel table?

12 A Yes.

13 Q Was anyone else present in the courtroom?

14 A Yes.

15 Q Was court in session at that time?

16 A Yes.

17 Q Now, where was Mr. Kanarek?

18 A At the bench.

19 Q All right. Was I at the bench and the Judge at the
20 bench?

21 A Yes.

22 Q Prior to conversing with -- strike that.

23 Prior to Mr. Manson's statements on that occasion,
24 had you asked Mr. Manson any questions or spoken to Mr. Manson?

25 MR. KANAREK: Irrelevant and immaterial, and calling for
26 a conclusion.

27 THE COURT: I think it is very relevant. Overruled.

28 Q BY MR. MANZELLA: You may answer.

1 THE COURT: You may answer, yes.

2 THE WITNESS: I, uh, -- no, I did not.

3 Q BY MR. MANZELLA: Would you tell the statements
4 Mr. Manson made on that occasion, that is August 9?

5 MR. KANAREK: May the record reflect he is reading, if he,
6 in fact, is?

7 THE COURT: Oh, are you consulting some notes?

8 THE WITNESS: No, only my own brain. I was just looking
9 down, and then up.

10 Q BY MR. MANZELLA: All right. Would you tell us
11 what statements Mr. Manson made on August 9, if you recall?

12 A He told me, "Wouldn't it be funny if you got a
13 phone call from Shorty Shea?"

14 Q Now, is that pretty much the substance of the
15 statements he made to you on August 9?

16 A And then, he told me, "Don't worry, that I won't
17 get one."

18 Q Did you speak to Mr. Manson at all during the time
19 he was making the statements?

20 A No.

21 Q Did you ask him any questions?

22 A No.

23 Q All right. Prior to that time, that morning, had
24 you spoken to him at all or asked him any questions?

25 A No, I don't believe so.

26 Q Now, when was the last conversation before the
27 August 9 conversation?

28 A Uh, I believe -- I'll say Friday, August 6.

1 Q All right.

2 And approximately what time of day did that
3 conversation take place?

4 THE COURT: Well -- all right, go ahead.

5 THE WITNESS: I can't recall.

6 Q BY MR. MANZELLA: Was this while court was in
7 session?

8 A Yes.

9 Q Were you and Mr. Manson both seated at the counsel
10 table?

11 A Yes.

12 Q And were other persons present in the courtroom?

13 A Yes.

14 Q Was court in session at that time, if you recall?

15 A Yes, court was in session.

16 Q Do you recall where I was and where Mr. Kanarek was?

17 A Yes.

18 Q Where were we?

19 A You were at one time at the bench.

20 Q Now, would you tell us -- strike that.

21 Before Mr. Manson made his statements on that date,
22 August the 6th of 1971, had you spoken to Mr. Manson or had you
23 asked him any questions?

24 A No.

25 Q Would you tell us what Mr. Manson said on that
26 occasion?

27 A We spoke of many things in context with this case,
28 and I don't specifically recall, you know, any --

1 Q All right.

2 A -- any specific words that were used.

3 Q Now, when was the last conversation?

4 And I believe this will be the last conversation
5 I'll go into, your Honor.

6 When was the last conversation before August 6th
7 that you had with Mr. Manson?

8 A I think either the 2nd or the 3rd.

9 Q And where did that conversation take place?

10 A At the same place, at the counsel table.

11 Q Was it while court was in session?

12 A Yes.

13 Q Do you recall what -- whether it was the morning
14 session or the afternoon session?

15 A No, I do not.

16 Q Now, at the time that Mr. Manson made these
17 statements, were you and he both present at the counsel table?

18 A Yes.

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1 Q And was, anyone else present in the courtroom?

2 A Yes.

3 Q Do you recall where I was and where Mr. Kanarek
4 was?

5 A No, I don't.

6 Q Now, prior to the time Mr. Manson made the
7 statements on August 2nd or 3rd of 1971, had you spoken to him,
8 or had you asked him any questions?

9 A No.

10 Q And would you tell us what Mr. Manson said?

11 A I cannot recall. We --

12 Q All right. Did you at some time have a conversation
13 with Mr. Manson with regard to how more than one person could
14 be guilty of killing only one person?

15 A Yes.

16 Q And when was that?

17 A I believe it was on the 6th, Friday.

18 Q August 6th?

19 A Yes.

20 Q All right. And prior to the time you -- strike
21 that.

22 Prior to the time Mr. Manson spoke to you, had you
23 asked him any questions?

24 A No.

25 Q Had you spoken to him prior to the time he spoke
26 to you?

27 A No.

28 Q Did the conversation as well take place in the

1 courtroom while both of you were seated at the counsel table?

2 A Yes.

3 Q Do you recall whether or not Mr. Kanarek was present
4 at the counsel table? Seated at the counsel table, I should
5 say?

6 A A portion of that conversation, he was at the
7 counsel table. And a portion of it, he was at the bench.

8 Q All right. Now, when Mr. Kanarek is seated at the
9 counsel table, does he sit between you and Mr. Manson?

10 A Yes.

11 Q All right. Would you tell us what Mr. Manson said
12 on that occasion, August 6, 1971?

13 A In regard to this, about how many people are being
14 charged with one murder?

15 Q Yes.

16 A Mr. Manson said he couldn't understand how so many
17 people were being tried for this one murder, and that only --
18 only one person can actually kill another person.

19 Q All right. And is that as far as you can recall
20 the substance of the conversation, or the statements that
21 Mr. Manson made to you -- on that point?

22 A Yes.

23 Q Did Mr. Manson refer to any particular murder when
24 he made -- when he talked about so many people being tried for
25 one murder?

26 MR. KANAREK: That's assuming facts that aren't in
27 evidence. Until the jury comes in, there's no murder, your
28 Honor.

1 THE COURT: We are simply inquiring as to what was said.
2 This is solely to determine the background, --

3 MR. KANAREK: Well, I don't know whether he's --

4 THE COURT: -- the admissibility. And the objection is
5 overruled.

6 You may answer the question.

7 THE WITNESS: There was no doubt that we were speaking of
8 this murder.

9 Q BY MR. MANZELLA: The Hinman case?

10 A Yes.

11 THE COURT: Of course, that's conclusionary --

12 MR. MANZELLA: Well, your Honor --

13 THE COURT: -- on the Sergeant's part, but --

14 MR. KANAREK: Thank you.

15 MR. MANZELLA: -- I can ask him some further questions on
16 that point.

17 MR. KANAREK: Then I would ask that it be stricken, your
18 Honor.

19 THE COURT: This is solely a voir dire to determine
20 whether or not it's going to be admitted, and it would seem to
21 me to be conclusionary.

22 The Court would strike it.

23 Q BY MR. MANZELLA: Sergeant Whiteley, had you talked
24 about the Hinman murder -- had you -- strike that.

25 Had Mr. Manson referred to the Hinman murder prior
26 to the time he made the statements about which you've testified?
27 If you recall.

28 A I believe so. I'm not sure, though.

1 Q All right. On any of these occasions, any of the
2 conversations about which you've testified, have you at any
3 time asked Mr. Manson any questions in an attempt to elicit
4 information from him, with regard to these cases?

5 MR. KANAREK: That's -- that solicits a conclusion, your
6 Honor; and it's hearsay.

7 MR. MANZELLA: I am asking him for his -- whether he
8 asked any questions, your Honor.

9 MR. KANAREK: That wasn't his previous question. And
10 also, whether something's a question or not --

11 THE COURT: All right. Rephrase it. I've forgotten
12 exactly what you did say now.

13 Q BY MR. MANZELLA: Sergeant Whiteley, on any of
14 these occasions, prior to the time Mr. Manson spoke to you,
15 did you ask him any questions with regard to these cases?

16 MR. KANAREK: That solicits a conclusion. Whether it's
17 a question or not, in the context of these proceedings, is for
18 the Court to determine.

19 THE COURT: Overruled.
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1 THE WITNESS: I have never asked Mr. Manson a question.
2 MR. MANZELLA: Thank you, I have no further questions,
3 your Honor.
4

5 CROSS-EXAMINATION

6 BY MR. KANAREK:

7 Q Officer, you know that Mr. Manson's statement --
8 let me withdraw that.

9 At the time when you were here and these events
10 that you have told us about occurred, you recognize that you
11 were a law enforcement officer, here to convict Mr. Manson,
12 put him in the gas chamber; is that right?

13 A No, sir, I don't convict anyone.

14 Q Well, your state of mind is that your -- one of
15 your obligations is to obtain evidence in connection with
16 convicting Mr. Manson; is that right?

17 A That's correct. I investigate.

18 Q And did you make any notes as to these other
19 conversations that you have testified to, other than the notes
20 that you have shown me previously, and that have been marked
21 for identification?

22 A Yes.

23 Q Do you have those notes with you?

24 A Yes.

25 Q May I see them?

26 A It's all right with me.

27 THE COURT: Are they in the same notebook?

28 THE WITNESS: Yes.

1 THE COURT: All right. Show them to Mr. Kanarek.

2 Have you used them to refresh your memory in your
3 testimony today?

4 THE WITNESS: No.

5 MR. KANAREK: Then I would ask that each one of these
6 be marked for identification, your Honor.

7 THE COURT: Well, they're really not properly marked, if
8 he has not referred to them.

9 However, I will permit you to look at them.

10 MR. KANAREK: May I see them?

11 THE WITNESS: That's (indicating) the note.

12 MR. KANAREK: No, you covered something up, Officer.
13 Are you attempting --

14 THE WITNESS: That's not any portion of the notes.

15 MR. KANAREK: Your Honor, then I would be -- I ask that
16 I be allowed to see it. He's attempting to cover something
17 up. And whether it's part of the notes or not is for the
18 Court to decide.

19 THE COURT: All right. Let me see what you have.

20 What you are handing me now is a small notebook,
21 that looks to be about 4 by 6 inches. And is it a notebook
22 that you use in the course of investigations?

23 THE WITNESS: Yes, sir.

24 THE COURT: And does it have information that is other
25 than the notes that you took concerning these conversations
26 with Mr. Manson?

27 THE WITNESS: Yes.

28 THE COURT: And are there some things in there that --

1 obviously, there's something that you don't want Mr. Kanarek to
2 see?

3 THE WITNESS: Yes.

4 THE COURT: All right. Will you show me that portion
5 that you would not want to show Mr. Kanarek?

6 (Whereupon, the notebook was handed to the Court,
7 which notebook the Court perused.)

8 THE COURT: Oh, I see. It's an address of some person.

9 Mr. Kanarek, the Court believes it would be correct
10 for the officer to conceal that.

11 MR. KANAREK: I accept the Court's representation, your
12 Honor, without looking at it.

13 THE COURT: All right. Would you give me a -- give me a
14 stapler? Just staple that. Would the clerk simply staple
15 that together?

16 (The clerk complies.)

17 THE COURT: All right. Would you designate now, before
18 you hand Mr. Kanarek that notebook, designate with this pencil,
19 with a check mark in each corner, what the pages are on which
20 you have made some notes concerning these conversations?

21 MR. KANAREK: The Court -- I think there's more than one.

22 THE WITNESS: Oh, you've already seen the other page.

23 THE COURT: There are only two pages of notes concerning
24 all the conversations that we've spoken of here; is that
25 correct?

26 THE WITNESS: That's correct.

27 MR. KANAREK: May these be marked cumulatively? Or does
28 the Court prefer they be marked individually?

1 THE COURT: Well, the Court doesn't see the necessity to
2 have them marked at all. However, if you wish to have them
3 marked --

4 MR. KANAREK: Yes, I wish to have them marked for
5 identification.

6 THE COURT: -- they may be marked as your next in order.

7 THE CLERK: L.

8 THE COURT: Yes, that would be L, Defendant's Special L.

9 MR. MANZELLA: May we ask that copies of the pages be
10 marked, rather than the originals?

11 MR. KANAREK: We have no objection.

12 THE COURT: Yes. The Court intended to say that the
13 copies would be made by the clerk's office and placed in the
14 file as Defendant's Special L for identification, both sheets.

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8b-1

1 Q BY MR. KANAREK: Officer, what was the first
2 date that you had a conversation with Mr. Manson?

3 A About the 25th of May.

4 Q I am talking in the context of what Mr. Manzella
5 has interrogated you, in connection with what you've testi-
6 fied here this afternoon?

7 A Either Monday or Tuesday of last week.

8 Q And you -- and what was the next date that you
9 had a conversation with him?

10 A The 6th.

11 Q And what was the date after that?

12 A The 9th.

13 Q So you have had three conversations; is that
14 what you are saying?

15 A So far.

16 Q And you've had none since the 9th; right?

17 A The 10th.

18 Q You've had four conversations?

19 A Yes.

20 Q And in each -- at -- in connection with these
21 notes, you made these notes so that they could be used in
22 court against Mr. Manson; is that correct? Was that your
23 purpose and your intent in making these notes?

24 A Yes.

25 Q And when you made them, did you tell Mr. Manson
26 his constitutional rights to remain silent?

27 Did you give him any constitutional rights,
28 that anything he said could be used against him, all of the

8b-2

1 constitutional rights?

2 Did you give him any of those?

3 A No.

4 Q And is there some reason that you didn't give him
5 these constitutional rights, as you were speaking with him?

6 A Yes.

7 Q And what was your reason?

8 A I haven't been talking in court.

9 Q Pardon?

10 A I haven't been talking in court.

11 Q Well, for a sophisticated investigator, a statement
12 like, "I didn't put you in Hinman's house; Mary Brunner did,"
13 a statement like that, from your standpoint, is a form of
14 interrogation; right?

15 A No.

16 Q That's not -- you don't use statements with --
17 with that kind of language, in interrogation of potential
18 defendants, witnesses and so forth; is that right?

19 A In this case here, it was not meant that way.

20 Q But you -- you uttered those words; right?

21 A I did.

22 Q And you uttered those words knowing that Mr.
23 Manson was sitting right next to you, just a few feet from
24 you; right?

25 A Yes.

26 Q And you uttered those words knowing that his
27 lawyer was at the bench, and the District Attorney was at
28 the bench; right?

8b-3

1 A Yes.

2 Q And did you cause any of this information to
3 be transmitted to me, prior to this instant in time?

4 A No.

5 MR. KANAREK: Well, your Honor, on the basis of -- I
6 have no further questions.

7 DEFENDANT MANSON: May I have a second with my lawyer?

8 THE COURT: Yes.

9 THE WITNESS: Can I have my notebook back?

10 (Whereupon a discussion off the record ensued
11 at the counsel table between the Defendant Manson and
12 Mr. Kanarek.)

13 THE COURT: You might return the notebook to the
14 Sergeant.

15 MR. KANAREK: Yes, certainly.

16 THE COURT: Or give it to the Clerk. She'll -- Mrs.
17 Holt will make copies of those two pages that the Sergeant
18 has checked.

19 Q BY MR. KANAREK: Mr. Whiteley, when is the first
20 time you told Mr. Manzella about these conversations with
21 Mr. Manson?

22 A It's been a continuous thing. Almost every time
23 that I have had a conversation.

24 Q You have told Mr. Manzella about him; right?

25 A Almost every time, yes.

26 MR. KANAREK: Thank you.

27 MR. MANZELLA: No further questions.

28 THE COURT: All right. You may step down.

8b-4

1 MR. KANAREK: Your Honor, under the Messiah case, I
2 make a motion -- I say that there's no prima facie situation
3 here, where these statements can go into evidence.

4 I make a -- under Miranda and Messiah, and the
5 right to effective counsel and due process and equal protec-
6 tion under the 14th Amendment, the right that one not
7 incriminate one's self, the Fifth Amendment, and it's
8 incorporated into the Fourteenth, all of that, I make a
9 motion that all of these statements be suppressed;

10 Particularly, when a sophisticated police officer
11 makes the statement concerning, "I didn't put you in the
12 house; Mary Brunner did," that's soliciting further colloquy.

13 And furthermore, Mr. Whiteley well knows that
14 someone can be guilty of murder -- even though Mr. Manson
15 may not -- and that someone can go to the gas chamber,
16 without actually wielding a weapon.

17 And Mr. -- Mr. Whiteley is taking advantage of
18 that superior knowledge. And I -- I don't think I have to
19 belabor it. It's clear. It's clear that this is a form of
20 interrogation, and Messiah makes very -- makes it very
21 clear that this cannot be done after someone's represented
22 by counsel.

23 And all of these statements must be -- must be
24 suppressed.
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8c fls.

8c-1

1 THE COURT: The People?

2 MR. MANZELLA: Yes, your Honor. It's the People's
3 position that the cases cited by Mr. Kanarek apply only in a
4 situation where not only is there custody, but that the --
5 that there be custodial interrogation as well.

6 And we submit, your Honor, that in this situation,
7 Sergeant Whiteley not having asked any questions of Mr. Manson,
8 and not having engaged in a -- saying much of anything at all
9 to Mr. Manson, except that one statement, cannot be said to
10 have interrogated Mr. Manson.

11 Now, if there's no custodial interrogation, then the
12 cases cited by Mr. Kanarek just don't apply. In this situation,
13 it appears that Mr. Manson freely and voluntarily made these
14 statements.

15 I think it's significant that, as Sergeant Whiteley
16 testified, it occurred on at least seven occasions here in
17 court, while Mr. Manson and Sergeant Whiteley had been seated
18 at the counsel table.

19 As a matter of fact, it's interesting that, on
20 August 6th, the Friday conversation, Mr. Kanarek was seated at
21 the counsel table between Sergeant Whiteley and Mr. Manson for
22 part of the conversation.

23 And we submit, your Honor, that there was no
24 custodial interrogation, and that it is -- and that, therefore,
25 the cases cited by Mr. Kanarek do not apply.

26 MR. KANAREK: Your Honor, I believe that there is an
27 arrangement in this case for continual discovery, first of all;
28 that we were to be told matters that came up during the course

1 of the trial.

2 That is not a big point, but it is a -- somewhat
3 of a point; but furthermore, the prosecution has an obligation,
4 when this information came to them, he has an obligation to
5 convey that to counsel, which he hasn't done.

6 But there's no question about it. This whole course
7 of conduct is a course of conduct that has been fostered by
8 Mr. Whiteley and Mr. Manzella.

9 Because if I'd 've been informed of this, perhaps
10 certain things might have been accomplished.

11 But clearly, it's a misconduct on the part of the
12 prosecutor to have this information, and not convey it to me.

13 THE COURT: All right. The Court will call Mr. Blackburn.

14 MR. KANAREK: Well, as I understand it, they have rested,
15 your Honor. They haven't called Mr. Blackburn.

16 THE COURT: I am calling Mr. Blackburn.

17 MR. KANAREK: Well, then, we do object to the Court
18 entering the arena in that manner, your Honor. I don't believe
19 that --

20 THE COURT: The Court's not entering any arena. The
21 Court simply wants to inquire as to what occurred.

22 Swear Mr. Blackburn.

23 THE CLERK: You do solemnly swear that the testimony you
24 may give in the cause now pending before this Court shall be the
25 truth, the whole truth, and nothing but the truth, so help you
26 God?

27 THE WITNESS: I do.
28

1 CLIFFORD PATRICK BLACKBURN,
2 called as a witness by and on behalf of the Court, having been
3 duly sworn, was examined and testified as follows:

4 THE CLERK: Please be seated and state your name for the
5 record.

6 THE WITNESS: Clifford Patrick Blackburn.

7
8 EXAMINATION

9 BY THE COURT:

10 Q Did you overhear a conversation sometime this
11 week, Mr. Blackburn, between Mr. Kanarek and Officer Whiteley?

12 A Not between -- oh, yes, I've heard many.

13 THE COURT: Between Mr. Manson and Sergeant Whiteley.
14 I'm sorry.

15 THE WITNESS: Yes. I overheard -- which day?
16 I overheard a conversation again this morning. Which day do you
17 refer to, sir?

18 MR. MANZELLA: August 10th, I believe it was.

19 Q BY THE COURT: Yes, an August 10th conversation.

20 A Yes, I did.

21 Q What were the circumstances under which you heard
22 the conversation?

23 A I was seated in my usual seat in the front row,
24 in the press section. It was between 9:45 and 10:00 a.m. on
25 this morning.

26 Attorney Art Alexander, prosecutor Manzella and
27 Mr. Kanarek were at the bench with you, your Honor, I assumed
28 discussing aspects of Mary Brunner's appearance or non-

1 appearance that day in court.

2 Mr. Manson was seated where he is now. Sergeant
3 Whiteley was seated in the chair he usually occupies --
4 although the chair was a bit closer than its place in the court
5 now.

6 They were separated, I guess, by some three to four
7 feet.

8 THE COURT: The record should show that Mr. Manson is
9 now seated at the counsel table alongside of Mr. Kanarek.
10 He is approximately six or seven feet away from the chair
11 indicated.

12 THE WITNESS: And at that time the chair was a little
13 closer, as I recall it.

14 Mr. Manson signaled Sergeant Whiteley to gain his
15 attention, as I heard it, by yelling, "Hey, Whiteley," or
16 "Sssstt, Whiteley," and the Sergeant turned his face toward
17 Mr. Manson.

18 Well, he leaned forward and began talking in a
19 rather low voice. By my leaning forward --
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1 Q BY THE COURT: When you say "he leaned forward --"

2 A Mr. Manson did. Not so much, I don't think, as a
3 method of getting closer to Mr. Whiteley, but more to ease his
4 position at the table. He had his elbows resting on the table
5 and leaned forward. He -- the Sergeant -- tilted his head
6 toward Mr. Manson in a listening position, and Mr. Manson began
7 to talk to him.

8 And needless to say, I did my utmost to overhear
9 what was being said. Mr. Manson spoke for -- in quite a low
10 voice, and I could only catch snatches of conversation. But as
11 they spoke, it seemed to me that either his voice grew more
12 audible, or I was able to hear his voice better, because I
13 was accustoming myself to the tone of voice, and I was able to
14 watch his mouth move, and his facial expressions, so that it
15 enabled me to determine what his words were better.

16 Q What did you hear from Mr. Manson or Sergeant
17 Whiteley?

18 A I heard snatches of conversation regarding a weapon
19 in evidence. But what I heard that, to me, were coherent
20 thoughts were him saying:

21 "I went to his house." And as I had heard the
22 name "Hinman" mentioned three or four times before that, I assumed
23 it was the Hinman house.

24 "I went to his house, and I hit him in the side of
25 the head with the sword. I held the gun on him, and -- and I
26 told Bobby --" or "Bobby Beausoleil," I don't recall whether
27 it was "Bobby" or "Bobby Beausoleil" -- "to kill him. And I
28 even showed him how to do it."

1 And then he -- there was -- it seemed like a pause,
2 and then, "What's all the fuss about? He was dealing in dirty
3 dope."

4 And shortly thereafter -- and I will say this, for
5 the record: That the Sergeant did not attempt to elicit this
6 information from Mr. Manson.

7 Q What did you hear him say?

8 A He said nothing. He listened with an interested --
9 the most he did to express that he was even hearing it was --
10 he seemed to nod; and he had a pleasant -- a smile on his face,
11 as if -- you know, he nodded, but he -- he didn't -- it was
12 really not a conversation. It was one-sided. Mr. Manson did
13 all the talking.

14 Q Did you hear Sergeant Whiteley say anything, any-
15 thing whatever?

16 A No, I did not. I -- I never heard Sergeant
17 Whiteley say anything.

18 Q Was that the gist of the conversation?

19 A That was the gist of it. There was some more, but
20 it -- it tapered off. And about that time, you asked --
21 addressed the courtroom, to ask if Miss Brunner was present,
22 and the attorneys came back to the table, and the Court
23 resumed its regular activities.

8d-1

1 THE COURT: Mr. Manzella?

2 MR. MANZELLA: No questions. Thank you.

3 MR. KANAREK: Yes.

4 THE COURT: Go ahead.

5
6 EXAMINATION

7 BY MR. KANAREK:

8 Q Mr. Blackburn, you are -- you work for the
9 Herald-Examiner; right?

10 A This is correct.

11 Q Your offices are in the District Attorney's suite;
12 right?

13 A One of my offices is, yes.

14 Q And this is the office you use in this building,
15 is in the District Attorney's office?

16 A When I'm covering this trial, yes.

17 Q And when you cover any criminal trials, you are
18 in the District Attorney's --

19 A Not necessarily. I sometimes commute back and
20 forth, between 11th and Broadway, where I also have facilities.

21 Q I see. And you have made statements, Mr. Black-
22 burn, where you have stated you are convinced of Mr. Manson's
23 guilt; right?

24 MR. MANZELLA: Objection, your Honor.

25 MR. KANAREK: It goes to bias and prejudice, your
26 Honor. Bias and prejudice.

27 THE COURT: Overruled.

28 Q BY MR. KANAREK: You have made those statements,

8d-2

1 Mr. Blackburn?

2 A To whom?

3 Q To me.

4 A Yes, I did.

5 Q That you are convinced of Mr. Manson's guilt?

6 A I am.

7 Q Yes.

8 And you think that Mr. Manson should go to the
9 gas chamber? Have you told me that?

10 A I do think that, yes.

11 Q Yes, you do think that, right.

12 A Yes, this is correct.

13 MR. KANAREK: Thank you, Mr. Blackburn.

14 THE COURT: Now, do you wish to inquire about the
15 circumstances at all?

16 MR. KANAREK: Pardon?

17 THE COURT: About the circumstances? Do you wish to
18 inquire at all about the circumstances of the conversation?

19 MR. KANAREK: This -- your Honor --

20 THE COURT: Nothing further?

21 Mr. Manzella?

22 MR. KANAREK: I mean, the bias is --

23 MR. MANZELLA: No, I have no questions.

24 MR. KANAREK: The bias is so obviously --

25 THE WITNESS: Does this release me, now, from your gag
26 order, now that Mr. Whiteley has testified, and Mr. -- I
27 thought I was to be called by Mr. Manzella as a witness, but
28 apparently Mr. Kanarek --

8d-3
1 THE COURT: Well, you were excluded from the courtroom,
2 because you might be called by either side.

3 THE WITNESS: Oh, I understand, when the jurors return.

4 THE COURT: When the jurors return.

5 THE WITNESS: All right, sir.

6 THE COURT: But at this time, unless there's more
7 testimony offered by either side, you may stay.

8 THE WITNESS: But say, for example, Judge Choate, that
9 the matter might not come again before the jury for three
10 weeks, or a month. Will I be excluded for three weeks or a
11 month until someone decides --

12 THE COURT: The Court would order that you be excluded
13 during the time that any testimony is given concerning this
14 conversation.

15 THE WITNESS: All right, sir. Thank you, sir.

16 MR. KANAREK: Your Honor, I renew my motion -- although
17 your Honor called Mr. Blackburn, Mr. Manzella didn't --
18 I renew my motion that this -- all of these conversations be
19 suppressed.

20 It's significant that, even according to the
21 prosecution's testimony, I was at the bench. Even taking
22 their testimony at face value, I was at the bench for all
23 of the time, except for some little snatch of conversation
24 as to one.

25 And it's clear that this -- that this was
26 interrogation. We are dealing with -- and I ask your Honor
27 to think of Miranda, this was custodial interrogation, and
28 the United States Supreme Court --

8d-4

1 DEFENDANT MANSON: It wasn't interrogation.

2 MR. KANAREK: When they make a statement like that,
3 they're soliciting information.

4 MR. MANZELLA: Your Honor, there is no case which
5 holds that statements can be excluded, without custodial
6 interrogation. Miranda certainly stands for the proposition
7 that before statements may be excluded, they must have been
8 elicited by custodial interrogation.

9 There's nothing in any of the evidence that's
10 been brought before the Court that would in any way support
11 or prove that Sergeant Whiteley interrogated Mr. Manson.

12 And without the interrogation, none of the cases
13 cited by Mr. Kanarek apply.

14 MR. KANAREK: Well --

15 MR. MANZELLA: And there's no reason not to permit the
16 statements in.

9' fls.

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1 MR. KANAREK: Well, first of all, the Court certainly
2 can take judicial notice of the fact Mr. Manson is in
3 custody and there is no question about that. And if
4 necessary, we ask the Court to make that judicial notation
5 to end whether or not Mr. Manson is in custody. That's
6 for sure.

7 THE COURT: The question is whether or not the state-
8 ment was unsolicited and voluntary, whether it was freely
9 given by Mr. Manson or whether it came about as a result of
10 interrogation.

11 And it seems to the Court as though it was
12 unsolicited. It does not -- it does not appear to the Court
13 to be a situation wherein there was any attempt of interroga-
14 tion. The --

15 MR. KANAREK: Well, then --

16 THE COURT: The Court believes that under the circum-
17 stances Mr. Manson initiated the conversation and that the
18 statement that is attributed to him came about as a result
19 of his unsolicited -- his unsolicited and voluntary --

20 MR. KANAREK: We would like to offer Mr. Manson, then,
21 your Honor. Our position is prima facie.

22 THE COURT: All right, the Court will hear from you.

23 MR. KANAREK: All right, call Mr. Manson.

24 THE CLERK: Would you raise your right hand.

25
26 CHARLES MANSON,
27 the defendant herein, called as a witness in his own
28 behalf, having been first duly sworn, was examined and testified

9-2

1 as follows:

2 THE CLERK: You do solemnly swear the testimony you may
3 give in the cause now pending before this court shall be the
4 truth, the whole truth, and nothing but the truth, so help
5 you God?

6 THE WITNESS: I do.

7 THE CLERK: Please take the stand and be seated.

8 Please state your name for the record.

9 THE WITNESS: Charles Manson, M-a-n-s-o-n.

10
11 DIRECT EXAMINATION

12 BY MR. KANAREK;

13 Q Do you keep a calendar, Mr. Manson?

14 A A calendar?

15 Q Yes.

16 A Yes, I see the calendar.

17 Q Do you keep one?

18 A No.

19 Q Do you remember being at counsel table when I
20 was at the bench in the last few days?

21 A Yes, I do.

22 Q And was there -- were there words uttered by
23 you and by Officer Whiteley at a time when I was at the bench
24 with Mr. Manzella?

25 A Yes.

26 Q And Mr. Alexander?

27 A Yes.

28 Q Would you tell us the circumstances, Mr. Manson?

9-3

1 A We speak every day. We have a conversation back
2 and forth. The conversations varied -- the conversation has
3 varied every day. We talk sometimes about one thing and we
4 talk about another.

5 Sometimes we talk about brother. Sometimes we
6 talk about police. Sometimes we talk about the weapons.
7 Sometimes we talk about the trial.

8 Q All right, now, directing your attention to a
9 couple of days ago -- let's say -- well, today is the --

10 THE COURT: Let's see, it would have been the tenth,
11 Tuesday, last Tuesday.

12 Q BY MR. KANAREK: Let's say last Tuesday.

13 Do you have any recollection, Mr. Manson, of any
14 conversation last Tuesday?

15 A To recall the conversation verbatim would be
16 impossible.

17 Uh, the conversation went something into the likeness
18 of what the sergeant had said on the stand.

19 We were talking, uh, about my being at the Hinman
20 house. I was programming him for something. I forgot what
21 it was at the time. But we were talking about the Hinman
22 house. And I told him that I had to go over there because my
23 brother couldn't stand up. He was stuck in his mother's mind.
24 And I says that I took the gun away from the guy and I had to
25 cut him. And I felt bad about it. And that I had asked the
26 girls to stay there and clean the place up and clean Mr.
27 Hinman up. That this was two days before Mr. Hinman was
28 supposedly murdered. And that I couldn't see why I was being

9-4

1 held responsible for something someone else did.

2 That very same day we were talking about the
3 social consciousness. We were talking about casting spells
4 upon the social consciousness. We were talking about fires.
5 We were talking about the revolution, in general police
6 talk, procedure talk.

7 The newspaperman -- I seen him leaning over with
8 his big ear. He's had it there ever since we came to the trial.
9 And I could see why he would call it a confession because he
10 got some headlines from it. It was no more than what I said
11 here.

12 I did mention to Mr. Whiteley another day about
13 how many people could be held responsible for one murder,
14 for one crime.

9a fls.

9a-1

1 In general, Mr. Whiteley's statements were right,
2 except for the last two or three words he said on the last
3 statement about what I said and the day -- on the date in
4 question. And if I can recall -- oh, that --that I left
5 Bobby to do something. Bobby does what Bobby does. I don't
6 direct Bobby in any direction. I said that I had to show
7 Bobby with a motion how to stand up and be his own father,
8 and that Gary Hinman being dead was no loss to the world,
9 because he dealt bad dope anyway.

10 And then, I also said that "Wouldn't it be funny
11 if you got a telephone call from Shorty Shea?" And we both
12 laughed.

13 And then, I said, "It doesn't -- it seems
14 doubtful that that will happen."

15 As strange as the words seem, like holes in sound,
16 you people change them to suit yourselves.

17 THE COURT: Anything further?

18 MR. KANAREK: Well, yes.

19 Q BY MR. KANAREK: Have you finished, Mr. Manson?

20 A Have you finished? I'm just answering questions.

21 THE COURT: That's -- go ahead and ask a question.

22 MR. KANAREK: Yes.

23 Q BY MR. KANAREK: Now, have you told us everything
24 that you recollect concerning the conversations that Sergeant
25 Whiteley testified to?

26 A Sir, I didn't look at Mr. Whiteley at anything but
27 a brain that I could program. And I dropped a lot of
28 information in his head that would be useful to me later on.

9a-2

1 THE COURT: Anything more?

2 MR. KANAREK: No, thank you, Mr. Manson.

3 THE COURT: Mr. Manzella.

4 MR. MANZELLA: Yes, thank you, your Honor.

6 CROSS-EXAMINATION

7 BY MR. MANZELLA:

8 Q Mr. Manson, how many times have you spoken to
9 Sergeant Whiteley here at the counsel table here in court?

10 A Every chance I get.

11 Q Has your attorney, Mr. Kanarek, ever been present
12 during any of these conversations with Sergeant Whiteley here
13 in court?

14 A Is he present in court?

15 Q No, let me ask you this way:

16 Has Mr. Kanarek ever been seated at the counsel
17 table when you've talked to Sergeant Whiteley here in court,
18 if you recall?

19 A I'll recall, yes.

20 Q Your answer is yes to the question?

21 A "Yes."

22 Q Now, you talked about many different subjects
23 with Sergeant Whiteley?

24 A Quite a few.

25 Q And you've heard Sergeant Whiteley's testimony
26 with regard to your statements.

27 Is it your testimony that they are substantially
28 accurate?

9a-3

1 MR. KANAREK: Well, that would call for a conclusion,
2 your Honor.

3 A For me to speak through his understanding, and
4 to pass the symbols that I have in my head to his head,
5 would have to go through his symbols and a change. His
6 reality is different than mine, as yours is different than
7 his, and there's no way you can repeat what I say. You can
8 only repeat what you think I say. It has to go through your
9 thinking.

10 Q Bearing all of that in mind, would you say his
11 testimony with regard to your statements were substantially
12 accurate?

13 A To him, as he cared to recollect them.

14 The other man wanted to recollect them in a
15 different way, and if you had a third man, he'd come up with
16 a third story and the more people you have the more you
17 could come up with.
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1 Q During the conversations with Sergeant Whiteley,
2 has Sergeant Whiteley ever asked you any questions with
3 regard to the Hinman killing?

4 A Questions?

5 Q Questions.

6 A Questions?

7 That's your reality. Anything you say is a
8 question, isn't it?

9 Q Has Sergeant Whiteley asked you questions with
10 regard to the Hinman killing, any of the conversations
11 you had?

12 A You ask questions with your motions. You ask
13 questions with your face or your nose or your eyes.

14 Q Has Sergeant Whiteley ever asked you questions
15 with words?

16 A Am I asking you a question (shrugging shoulders)?

17 Q My question to you is, has Sergeant Whiteley
18 ever asked you questions with words?

19 A With words? Brother, I can't recall what
20 happened 20 minutes ago.

21 Q During these conversations you had with
22 Sergeant Whiteley, did you make your statements to him
23 voluntarily?

24 A My statements?

25 Q Yes. Were they voluntary?

26 A Voluntary?

27 Well, am I here voluntarily?

28 Q Did you talk to Sergeant Whiteley voluntarily?

1 A I like Mr. Whiteley. I talked to him any time
2 about any subject that he wished to talk about. I wouldn't
3 speak to him unless I liked him.

4 Q What did you mean that you were trying to program
5 Sergeant Whiteley?

6 A Well, the only thing we know is what we have been
7 told, so I was telling him some things he didn't know.

8 Q About the Hinman case?

9 A About everything in general. Procedure.

10 Q Including the Hinman case?

11 MR. KANAREK: Well --

12 A Including everything that you can possibly want to
13 put in there.

14 MR. MANZELLA: Thank you.

15 THE WITNESS: Jam anything in there you want to.

16 MR. MANZELLA: Thank you, I have no further questions.

17 THE WITNESS: I didn't think so.

18 THE COURT: Step down.

19 Does the defendant have anything further to
20 present?

21 MR. KANAREK: No, your Honor, but it is our position,
22 and I ask your Honor to consider the words in Miranda, that
23 interrogation by a sophisticated police officer can take many,
24 many forms. It doesn't have to even be conversation. A
25 police officer can put his hand on a gun and say nothing.
26 He can -- there are various things he can do, and the human
27 species being what it is, you don't need -- you don't need
28 a fifth grade type of question, with a question mark at the

1 end of it, to be an interrogation. And Sergeant Whiteley knows
2 that. And this whole course of conduct is a course of conduct
3 which shows that the District Attorney's office and Sergeant
4 Whiteley, by virtue of my not being informed of these matters,
5 have deliberately set out to violate the law. And Miranda
6 and Massiah, Escobedo, Dorado, all of these cases stand for
7 the proposition that a man who is in custody, and Mr. Manson
8 certainly is in custody, a very horrendous type of custody,
9 that all of these statements must be suppressed.

10 THE COURT: Well, if the Court believed that Sergeant
11 Whiteley had initiated an interrogation of Mr. Manson outside
12 of the presence of you, Mr. Kanarek, the Court would not permit
13 the statement to come in.

14 Or if I thought that there had been any attempt
15 to induce Mr. Manson to make some statement concerning Mr.
16 Hinman or the events at Mr. Hinman's house, the Court would
17 not permit the statement.

18 But it doesn't appear to the Court that the
19 statement that is in question was solicited by the officer.
20 It appears to be that Mr. Manson had a purpose in his own
21 mind in stating what he did to Sergeant Whiteley, whatever
22 that purpose may have been, and that it was voluntarily and
23 freely given.

24 MR. KANAREK: But, you see, your Honor, that is the
25 whole purpose of custodial law, if I may put it that way.
26 The whole purpose is when a man is in custody, going through
27 what Mr. Manson is going through, and Sergeant Whiteley,
28 a sophisticated police officer, who is free to come and go

1 as he pleases, are on opposite sides of conversations like
2 this, this is a custodial atmosphere and the law does not
3 allow it.

4 Messiah makes it very clear that after someone
5 has counsel you cannot do these things. And you can't follow
6 -- you can't follow the course of conduct that the District
7 Attorney is, and Sergeant Whiteley have gone through in this
8 case.

10 fls.

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1 It's clear that Mr. Manzella knew about these
2 matters, and it's the same as if someone is in the jail, and
3 they decide they wish to speak to some police officer.

4 Counsel is entitled to be notified. Similarly,
5 here, I was entitled to be notified. In fact, Mr. Manson was
6 entitled -- was entitled that I be notified.

7 That's the whole -- that's the purpose of this body
8 of law.

9 And this course of conduct -- and all that's
10 occurred -- makes it clear, especially, that statement that,
11 "I didn't --" about Mary Brunner putting Mr. Manson in the
12 Hinman house, that started a whole colloquy which -- which is
13 obviously, from the record --

14 THE COURT: Well, it didn't start a colloquy, but what
15 it did do was start a statement, apparently by Mr. Manson, that
16 he intended to make in any event.

17 MR. KANAREK: Well, that --

18 THE COURT: It appears to be unsolicited, and the Court
19 would permit it.

20 You may call the jury in.

21 MR. KANAREK: May we have just a five-minute recess at
22 this time, your Honor?

23 THE COURT: All right. We'll take five minutes.

24 MR. KANAREK: Thank you.

25 (Mid-afternoon recess.)

26 THE COURT: All right. The record will show that the
27 jurors and alternates are present. Mr. Kanarek is present.
28 Mr. Manzella for the People.

1 MR. MANZELLA: The People's next witness is Sergeant
2 Paul Whiteley.

3 MR. KANAREK: Your Honor, may we approach the bench?

4 THE COURT: Yes, you may.

5 MR. KANAREK: Thank you.

6 (Whereupon, the following proceedings were had at
7 the bench among the Court and counsel, outside the hearing of
8 the jury:)

9 MR. KANAREK: Your Honor, Massiah vs. the United States --
10 here's the actual case (indicating). It speaks more eloquently
11 than I possibly could,

12 And it's a -- Officer Whiteley certainly is anal-
13 ogous to the co-defendant in this case, where the co-defendant
14 was wired for sound.

15 THE COURT: Well, the difference between the facts of the
16 Massiah case and the facts existing in this case -- in this
17 matter are considerable. The differences are considerable.

18 And the one important difference is that the
19 statement that's offered by the People of Mr. Manson was
20 unsolicited; that it was voluntary; that there was no effort on
21 the part of the police officer exerted to elicit the statement.

22 It's apparent to me, from having listened to
23 Sergeant Whiteley and Mr. Manson, that the two have been
24 conversing; that Mr. Manson says that he likes Sergeant
25 Whiteley, or he wouldn't talk to him; and that he intends to
26 program him; that he was giving him information for -- for his
27 own reasons.

28 It appears to me that the comment by Sergeant

1 Whiteley, "I didn't put you there; Mary Brunner did," or words
2 to that effect -- do not seem to me to be the type of statement
3 which calls for any answer. And had the defendant chosen, he
4 could have remained silent.

5 I think he was intent on giving the Sergeant the
6 information, and that's what he did.

7 MR. KANAREK: Well, your Honor, that's the point, why
8 he's denied the right to effective counsel. This takes place
9 out of my presence, and it's a course of conduct which has been
10 engaged in by the District Attorney and Mr. Whiteley because
11 they knew of the course of conduct, and I didn't.

12 MR. MANZELLA: Your Honor --

13 MR. KANAREK: And the fact of the matter is, this is
14 an a fortiori situation, in connection with Massiah, which is
15 12 Law Ed. 2d at 246.

16 Because in Massiah, the man isn't in custody. Here,
17 Mr. Manson is at counsel table. He has to sit at that one
18 place. Officer Whiteley is an investigating officer. Mr.
19 Manson is a captive, and it's a -- it's a stronger situation
20 than Massiah.

21 THE COURT: Well, there -- customarily, now, the two
22 men are -- the defendant Manson and Sergeant Whiteley have
23 sat four or five feet away from each other, and the Court has
24 seen Mr. Manson several times motion to Whiteley, and -- and
25 has seen Whiteley and Manson engaged in conversation.

26 MR. KANAREK: Mr. Whiteley has the obligation to tell
27 Mr. Manson, "You have a lawyer. I'm not supposed to talk to you."
28 That is the point. Mr. Manson, as I have said, as I have stated,

1 is a captive, literally. He is in custody, and he has to
2 sit where the Court designates that he sit.

3 And this is a clear -- this is the very type of --
4 the course of conduct that -- that is verboten. This is a
5 calculated course of conduct. He's taken notes; he's doing it;
6 he is -- obviously, he is a sophisticated police officer, and
7 he is violating Mr. -- and has violated Mr. Manson's Fourteenth
8 Amendment rights, due process and equal protection, and his
9 right to not incriminate himself, his right to effective counsel,
10 his right to a fair trial.

11 And that's, as I say, stronger than Massiah.

12 THE COURT: Anything further?

13 MR. MANZELLA: No, your Honor. The Court's already
14 ruled on the statement. I have no further argument.
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1 THE COURT: I think I will at this time --

2 MR. MANZELLA: In other words, I --

3 THE COURT: -- take it under --

4 MR. MANZELLA: -- in answer to Mr. Kanarek's specific
5 proposition that he made now, it's my position Mr. Kanarek did
6 know these conversations were going on.

7 Both Sergeant Whiteley's testimony and Mr. Manson's
8 testimony established that he was seated at the counsel table,
9 in between the two of them, during some of these conversations; --

10 MR. KANAREK: No.

11 MR. MANZELLA: --- that Mr. Kanarek did know about them --

12 MR. KANAREK: That is not so.

13 MR. MANZELLA: -- that the conversations were going on.

14 MR. KANAREK: There was testimony that -- that there was
15 a fragment of something or other occurring at one time.

16 MR. MANZELLA: Mr. Kanarek has already forgotten Mr.
17 Manson's testimony in that regard.

18 THE COURT: All right. I'll think about it, about the
19 defendant's argument here, before I permit the statement.

20 I'll hold it until -- I'll take it under submission.

21 Do you have another witness?

22 MR. MANZELLA: No, I have no more witnesses, your Honor.
23 Should I read Mary Brunner's testimony?

24 At this point, I would offer to read her testimony
25 at this point.

26 THE COURT: Have you been able to --

27 MR. KANAREK: Well, your Honor --

28 THE COURT: Have you gotten that clear, between you and

1 Mr. Kanarek, as to what you intend to read?

2 MR. MANZELLA: Well, I gave Mr. Kanarek a copy of -- a
3 Xerox copy of the pages I intended to read, and I underlined
4 the questions and answers.

5 MR. KANAREK: All of those? Well, I am sure the Court
6 should be -- those questions and answers are inadmissible,
7 on grounds other than the confrontation clause. But --

8 MR. MANZELLA: Mr. Kanarek and I have not gotten together
9 on it. Perhaps we can get together on it now.

10 MR. KANAREK: I will be glad to, your Honor. But I don't
11 want to interfere with court time. Isn't there some --

12 MR. MANZELLA: And I'll tell him each and every question
13 that I would offer to read.

14 MR. KANAREK: But I think we have -- we have a more
15 fundamental problem, and that is that none of it can really go
16 in, your Honor, as to Mary Brunner.

17 THE COURT: Mary Brunner's testimony?

18 MR. MANZELLA: Your Honor, may I make a point aside
19 from all of this?

20 THE COURT: All right.

21 MR. MANZELLA: I am ready now -- with Sergeant Whiteley's
22 testimony and reading Mary Brunner's testimony and those things,
23 I am ready to move on to the Shea case.

24 Now, what I was going to ask the Court -- reading
25 Mary Brunner's testimony should not take more than a half
26 hour, depending on how much I read -- maybe much less.

27 Sergeant Whiteley's testimony I don't think will
28 take more than a half hour. I was going to ask the Court if we

1 could have Monday to get my first five or six witnesses -- well,
2 I have got -- I've got more than a half a dozen witnesses coming
3 from out of State, as far away as Canada. Could we have Monday
4 off? To permit me to get all the witnesses in by Monday? So
5 that we can have them all ready to go on Tuesday?

6 Would that be agreeable with the Court?

7 THE COURT: Do you think the thing will move faster if
8 we do?

9 MR. MANZELLA: Yes, your Honor. I talked to Sergeant
10 Whiteley about it, and he and I together are working on getting
11 all the plane -- we have already arranged for -- we have
12 open tickets for all the witnesses and so on, but we have some
13 difficulty, in that some of them come from small areas and have
14 to take several flights and other transportation and so on,
15 and he and I both agreed that if we had Monday, it would help
16 us --

17 THE COURT: How long do you think it will take to present
18 your side of the Shea case?

19 MR. MANZELLA: Shea? About two and a half weeks, --

20 THE COURT: Really?

21 MR. MANZELLA: -- three weeks.

22 THE COURT: You can do it in that time?

23 MR. MANZELLA: Yes. Based on my experience with the
24 first part of the case, yes.

25 THE COURT: Well, I hate -- it is going faster than I
26 expected -- which is a compliment to both of you, that it is.

27 Let me read this Massiah case.

28 MR. MANZELLA: The reason I ask for Monday -- can I just

1 say this one other thing?

2 THE COURT: Yes.

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1 MR. MANZELLA: The reason I asked for Monday was that, in
2 the Shea case in particular, we have a problem of not being
3 able to put on -- really put on statements of the defendant,
4 before we prove the corpus, since it's a no body case.

5 So that therefore, I really do need the witnesses
6 from out of state first to put on the corpus.

7 THE COURT: In the Massiah case, it is clear that where
8 there is a deliberate elicitation of statements from a
9 defendant, in the absence of his counsel, that those statements
10 will be inadmissible. And the Court talks about indirect and
11 surreptitious interrogations which elicit incriminating
12 statements, and it condemns them.

13 The Court has not found that that was the case
14 with Mr. Manson. I see no reason to change my view of his
15 motives, his expressed motives on the witness stand, as to why
16 he made the statements.

17 What lies in his mind, I don't suppose any one of
18 us knows, when he says that he wants to program Sergeant
19 Whiteley.

20 But -- at least, I have no -- there's no doubt in
21 my mind that his statements were voluntary, and that they were
22 spontaneous, and that they are admissible.

23 All right.

24 MR. KANAREK: Every prisoner, your Honor, every person
25 that's in custody, it's been my observation, has some kind of a
26 thought lurking in his mind that he wants to -- well, call it
27 program or whatever -- but because of the nature of the relation-
28 ship, prisoner and police officer, that's the -- the very

1 purpose of cases like Massiah, is to protect the defendant.

2 And this is why he has counsel. And -- and I had
3 no knowledge of these, and Mr. Manzella did.

4 THE COURT: Well, the Court has seen that even while you
5 are at the -- at the table with Officer Whiteley on one side of
6 you and Manson on the other, that there is conversation between
7 them.

8 Now, there seems to be --

9 MR. KANAREK: Oh, there's conversation between Mr.
10 Kuczera, the bailiff; there's conversation between -- between
11 people that -- just ordinary -- ordinary -- what you might call
12 chit-chat. A defendant --

13 THE COURT: That's about what?

14 MR. KANAREK: A defendant should be protected. That's
15 one of the reasons the Court is -- the purpose of the
16 philosophy behind some of these thoughts.

17 THE COURT: Well, this is about what Mr. Manson has
18 said, that there has been conversation between him and this
19 Sergeant on many subjects.

20 MR. KANAREK: That's the vice. That's the vice of it.
21 That's the vice of it, and I --

22 THE COURT: And apparently some --

23 MR. KANAREK: There has been no conversation in my
24 presence concerning the case.

25 THE COURT: And apparently some of it, according to
26 Mr. Manson, while you were present.

27 But as to this particular statement, of course,
28 unless there's further evidence you wish to offer, I can't see

1 that there would be any point in prolonging it. I think it's --

2 MR. KANAREK: Well, it's significant --

3 THE COURT: -- that it's admissible.

4 MR. KANAREK: -- that the overwhelming majority of this
5 occurs while I am at the bench; and I think that's borne out
6 even from the prosecution's own testimony.

7 Mr. Manson has stated on the witness stand that he
8 doesn't remember what happened 20 minutes before that particular
9 instant in time, and that has --

10 THE COURT: The Court's ruling is the same.

11 (Whereupon, the following proceedings were had in
12 open court, within the hearing of the jury:)

13 THE COURT: You may proceed. Call your next witness.

14 MR. MANZELLA: The People call Sergeant Paul Whiteley.

15 THE COURT: There's no need to swear him again.

16
17 PAUL J. WHITELEY,

18 recalled as a witness by and on behalf of the People, having
19 been previously duly sworn, resumed the stand and testified
20 further as follows:

21 THE COURT: You are still under oath. State your name
22 for the record.

23 THE WITNESS: Paul J. Whiteley; W-h-i-t-e-l-e-y.

24
25 DIRECT EXAMINATION

26 BY MR. MANZELLA:

27 Q All right. Sergeant Whiteley, directing your
28 attention to the date of August 10, 1971, were you present here

1 in court on that date?

2 A Yes, I was.

3 Q That was Tuesday of this week.

4 Now, during the morning session of court, were you
5 seated at the counsel table?

6 A Yes, I was.

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1 Q And at some time during that morning session was
2 Mr. Manson also seated at the counsel table with you?

3 A Yes, he was.

4 Q Now, at some point during the morning session,
5 while you and he were seated at the counsel table, did Mr.
6 Manson make some statements to you?

7 MR. KANAREK: Objection, your Honor. First, may I
8 incorporate by reference the foundation -- I object on the
9 grounds of foundation, and all of the objections that have been
10 enunciated out of the presence of the jury, --

11 THE COURT: The --

12 MR. KANAREK: -- may that be --

13 THE COURT: I couldn't hear part of that. Go ahead.

14 MR. KANAREK: May there be a continuing objection, on the
15 foundational aspect? And the constitutional aspects, which we
16 went into outside the presence of the jury?

17 THE COURT: So ordered.

18 MR. KANAREK: Thank you.

19 THE COURT: It may be a continuing objection.

20 The objection is overruled.

21 Q BY MR. MANZELLA: Sergeant Whiteley, at some point
22 during the morning session of August 10, 1971, while you and
23 Mr. Manson were seated at the counsel table, did Mr. Manson
24 make some statements to you?

25 A Yes, he did.

26 Q Well, approximately how far were you from Mr.
27 Manson at the time he made the statements to you?

28 A Approximately six feet.

1 Q All right. Who -- strike that.

2 Were other persons present in the court at the
3 time Mr. Manson made the statements to you?

4 A Yes.

5 Q Approximately what time during that morning
6 session were the statements made?

7 A Ten minutes to 10:00.

8 Q Approximately how long had Mr. Manson been in the
9 courtroom, prior to that time?

10 A Approximately five minutes.

11 Q And was the Court in session at the time that
12 Mr. Manson made the statements to you?

13 A Yes.

14 Q All right. Would you tell us what those statements
15 were?

16 A Mr. Manson --

17 MR. KANAREK: Your Honor -- oh, very well, your Honor.
18 I'm sorry. I have the objection.

19 THE COURT: Yes. Go ahead.

20 THE WITNESS: Mr. Manson stated, "Springer is lying. I've
21 never met the man. He just jumped on."

22 Then I stated, "I didn't put you at the Hinman
23 house. Mary Brunner did."

24 And then Mr. Manson stated, "Sure, I went to
25 Hinman's house and got the gun and sliced his ear. I don't
26 deny that. I told Bobby how to stand up like a man. He had a
27 woman's thoughts. I told him what to do --" no.

28 MR. KANAREK: Is the officer reading at this point?

1 THE WITNESS: No.

2 MR. KANAREK: All right. I can't see from here, your
3 Honor.

4 THE COURT: No, he apparently has nothing in his hands.

5 MR. KANAREK: Very well.

6 THE WITNESS: Uh -- "I told him what to do. Hinman
7 deserved to die. He was selling bad dope."

8 And then there was a pause, and he said, "He was
9 greasy."

10 And that's the end of the statement.

11 Q BY MR. MANZELLA: All right. Did Mr. Manson say
12 anything about his guilt or innocence?

13 MR. KANAREK: That's calling for a conclusion, your Honor.

14 THE COURT: Sustained.

15 MR. MANZELLA: Your Honor, I am trying to -- all right.

16 Q Did Mr. Manson make any other statements at that
17 time?

18 A Yes, there were some other statements made.

19 Q Relative to what you've already testified to?

20 A Yes.

21 Q All right. Would you tell us what those statements
22 were?

23 A I can't.

24 THE COURT: Excuse me. On the same date?

25 MR. MANZELLA: Yes. The same conversation, the same
26 statements, yes, your Honor.

27 THE WITNESS: I can't recall them all.

28 Q BY MR. MANZELLA: All right. Now, Sergeant Whiteley,

1 directing your attention to the date of August 6, 1971, which
2 is last Friday, did Mr. Manson again make some statements to
3 you?

4 A Yes, he did.

5 Q And do you recall -- strike that.
6 Was that here in the courtroom?

7 A Yes, it was.

8 Q And was that while you and he were seated at the
9 counsel table?

10 A Yes.

11 Q Do you recall whether it was during the morning
12 session or afternoon session of court? If you recall.

13 A I can't really recall specifically.

14 Q All right. Were other persons present in the
15 courtroom at the time?

16 A Yes.

11-1

1 Q Approximately how far were you from Mr. Manson on
2 this occasion?

3 A Approximately six feet.

4 Q Were you both seated at counsel table?

5 A Yes.

6 Q Did Mr. Manson make some statements to you on this
7 occasion?

8 A Yes, he did.

9 Q And would you tell us what those statements were?

10 A He said he couldn't understand how so many people
11 could be tried for just one murder.

12 Q Did he say anything else?

13 A Yes, he did, but I don't recall all the other
14 statements.

15 MR. KANAREK: Your Honor, I ask that that be stricken.
16 That's not --

17 THE COURT: Sustained. It is stricken.

18 MR. KANAREK: That's not an admission.

19 THE COURT: It is stricken.

20 MR. MANZELLA: All right, thank you. I have no further
21 questions.

22 THE COURT: Any cross?

23 MR. KANAREK: Yes, your Honor.

24
25 CROSS-EXAMINATION

26 BY MR. KANAREK:

27 Q Officer, do you have the notebook that you wrote
28 these statements in?

11-2

1 A No, sir.

2 Q Well, who has that now?

3 A The Clerk.

4 Q Oh, the Clerk.

5 (Whereupon, the Clerk handed Mr. Kanarek the
6 notebook.)

7 MR. KANAREK: Thank you.

8 Initially, your Honor, I would ask the Court to
9 request the jury --

10 THE COURT: Use the microphone.

11 MR. KANAREK: Ask the Court to request the jury that the
12 purported statement by Officer Whiteley is not offered for
13 the truth of the matter asserted. It is merely -- the words
14 uttered by Officer Whiteley concerning Mary Brunner are part
15 of the conversation, but should not be used against Mr. Manson
16 for anything that they suggest.

17 THE COURT: Would you read those words --

18 MR. KANAREK: I have them.

19 THE COURT: -- back to me?

20 MR. KANAREK: Yes, I have them here.

21 Well, I don't know what he testified to. I'd
22 rather have the court reporter read it, your Honor.

23 THE COURT: Would you read them back to me?

24 THE REPORTER: I'm sorry, your Honor, I don't believe
25 the testimony that you are talking about is in my take. I
26 believe Mr. Williams took it.

27 THE COURT: The Court will accede to your request and
28 so instruct the jury in respect to Sergeant Whiteley's

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1 statement to Mr. Manson concerning Mr. Brunner.

2 I'll state to you, now, ladies and gentlemen,
3 that those words should not be considered by you to prove the
4 truth of the matter referred to, but only are received by the
5 Court for the purpose of showing that they were said.

6 The Court will further instruct you when the other
7 court reporter is back and we have the exact words.

8 MR. MANZELLA: Your Honor, would the Court make it
9 clear that that applies only to Sergeant Whiteley's statement
10 and not to Mr. Manson's statement?

11 Q BY MR. KANAREK: Now, Officer, you were sitting
12 here in your capacity as investigating officer, right, at
13 that time?

14 A That's correct.

15 Q And your -- as an investigating officer, your --
16 your intent was to -- have this conversation with Mr. Manson
17 -- I'm now referring to the conversation of August the 11th,
18 1971; is that correct?

19 A No, sir, that's not correct.

20 Q Well, is that the date you wrote it down?

21 A No, sir.

22 Q You have "8-11-71" written down in your own
23 handwriting.

24 Is that an error, Officer?

25 A Possibly.

26 Q You would --

27 May I show it to the officer, your Honor?

28 THE COURT: Yes, you may.

11-4

1 Q BY MR. KANAREK: I show you where it says
2 "Department 106, 8-11-71, 9:50 a.m."

3 A Yes, I see it.

4 Q "Attorneys at bench."

5 You wrote that, on what date are you telling us
6 now that?

7 A I wrote that on August the 10th.

8 Q Now, your function, then, is to obtain information
9 in connection with this case on behalf of the District
10 Attorney, right?

11a fls. 11 A That's correct.

11a-1

1 Q When Mr. Manson told you that "Springer's lying,
2 I never saw the man, he just jumped on," words to that effect,
3 were you, as you look into your thinking, were you interested
4 in finding out wherein Mr. Springer was lying or not?

5 MR. MANZELLA: Objection, your Honor, that's irrelevant.

6 THE COURT: Sustained.

7 Q BY MR. KANAREK: So Manson says to you, words to
8 the effect that "Springer is lying, I never saw the man, he
9 just jumped on," right?

10 A That's what he said, yes.

11 Q And you then said what, Officer?

12 A I said, "I didn't put you in the Hinman house,
13 Mary Brunner did."

14 Q Now, Mr. Springer was testifying concerning
15 matters, as far as your thinking was concerned, that had
16 nothing to do with Mary Brunner; is that right?

17 A That's right.

18 Q And so you used this opportunity to interrogate
19 Mr. Manson on a subject that Mr. Manson had not spoken of
20 in his original statement to you, is that correct?

21 MR. MANZELLA: Objection, your Honor, it assumes a fact
22 which is not in evidence, that Sergeant Whiteley interrogated
23 Mr. Manson.

24 THE COURT: Sustained.

25 Q BY MR. KANAREK: You stated words subsequent to
26 the statement by Mr. Manson concerning Mr. Springer that had
27 nothing to do with Mr. Springer, is that correct?

28 A No, that's not correct.

11a-2

1 Q Well, Mr. Springer had not been testifying
2 concerning Mary Brunner in any way, is that right?

3 A That's right.

4 Q And so you uttered words concerning Mary Brunner
5 after Mr. Manson made this statement, you tell us?

6 A No.

7 Q You didn't utter the words about Mary Brunner
8 putting Mr. Manson in the Hinman house?

9 A Yes, I did.

10 Q And what was your purpose and intent in uttering
11 those words? Why did you utter them?

12 MR. MANZELLA: Your Honor, I'm going to object on the
13 grounds that Sergeant Whiteley's purpose and intent is not
14 relevant at this time.

15 THE COURT: Sustained.

16 MR. KANAREK: Well, may we approach the bench on that,
17 your Honor?

18 THE COURT: Yes, you may.

19 The words were: "I didn't put you at the
20 Hinman house, Mary Brunner did." Those were the words the
21 Court was referring to, ladies and gentlemen, previously,
22 and those are the words that are not to be considered by
23 you for -- to prove the truth of what was uttered by
24 Sergeant Whiteley, but just to establish, if it does establish,
25 what was said by him, Sergeant Whiteley.

26 (Whereupon, the following proceedings were had
27 at the bench among Court and counsel, outside the
28 hearing of the jury:)

11a-3

1 MR. KANAREK: Your Honor, I think that it is important
2 for the jury to know the motivation of the police officer
3 in this interrogation, as to what his purpose was in his
4 uttering these words.

5 THE COURT: I think you're still trying to prove your
6 point that was discussed, on which the Court took evidence --

7 MR. KANAREK: No, I am not --

8 THE COURT: -- outside of the hearing of the jury.
9 And the Court has already made its decision in respect to
10 that.

11 MR. KANAREK: No, no, this is not on a legal matter
12 to the Court, it is for the jury -- it is relevant and
13 material, in that the jury is entitled to know -- Mr. Manson
14 is entitled to have the jury know why the police officer
15 would inject that statement at that time.

16 THE COURT: The Court can't see it, Mr. Kanarek. The
17 objection would be sustained.

18 MR. KANAREK: Very well.

19 (Whereupon, the following proceedings were had
20 in open court within the presence and hearing of the
21 jury:)

22 Q BY MR. KANAREK: Now, directing your attention
23 to the notes which have been marked for identification,
24 Officer.

25 When did you write those notes?

26 A During and after the conversation.

27 Q By that, you mean, you tried to get them -- you
28 tried to write them out as he was saying it, is that right?

11a-4

11b-1

1 A I started to, yes.

2 Q And then, afterwards, you finished it; did you
3 finish it in the courtroom or did you finish it later on
4 when the Court was not in session?

5 A I finished it in the courtroom.

6 Q How long after the words were supposedly
7 uttered?

8 A Uh, approximately a minute and a half.

9 Q And while you were writing, was Mr. Manson
10 talking?

11 A Yes.

12 Q And you didn't get down -- I'll withdraw that.
13 Did you get down all the words that Mr. Manson
14 uttered?

15 A No.

16 Q Mr. Manson also uttered, during that conversation,
17 words wherein he stated he was not guilty of killing Mr.
18 Hinman, is that correct?

19 A No, I do not recall that statement being made.

20 Q Well, did -- well, you mean you don't recall it,
21 but it might have occurred?

22 A No, I don't recall ever hearing a statement like
23 that being made, during this conversation.

24 Q Well -- but there are words that you heard that
25 are not down on this piece of paper, is that correct?

26 A That's correct.

27 Q And can you give us, to the best of your ability,
28 please, what were the words that were stated that are not down

11b-2

1 on the piece of paper?

2 A "I never killed anybody."

3 Q All right, anything else?

4 A "Have you ever killed anybody?"

5 Q Go ahead.

6 A I can't recall any more specific words.

7 Q But there were others, right?

8 A Yes, there were.

9 Q Is there some reason that you haven't, from the
10 time that this occurred, until this instant, written down the
11 words that you have recalled?

12 A Yes.

13 Q What's the reason?

14 A Because I can't write everything that Charlie
15 Manson says.

16 Q I see. And so, as you wrote out this memorandum,
17 you were writing things down that you thought would help the
18 prosecution, right? That was your state of mind as you
19 composed this piece of paper?

20 A Yes.

21 Q And so you left out the matters that you have
22 told us about.

23 Can you think, perhaps, for a moment --

24 MR. MANZELLA: Object, your Honor. I object to Mr.
25 Kanarek's statement. I'm sorry, I can't wait until he
26 finishes his question, which assumes a fact not in evidence.

27 THE COURT: Sustained. The question is stricken.
28 Restate your question.

11b-3

1 Q BY MR. KANAREK: Well, may I ask you this, then?
2 You did leave out words that you recalled, that's for sure?

3 MR. MANZELLA: Objection, your Honor, it is not
4 relevant what Sergeant Whiteley left out of his report.
5 What's relevant is what he has testified to here in court
6 with regard to the statement.

7 MR. KANAREK: It is relevant, your Honor, on the issue
8 of credibility, on the issue of bias and prejudice.

9 THE COURT: Excuse me, gentlemen.

10 The Court overrules the objection. You may
11 answer the question.

12 MR. KANAREK: May that question be read, your Honor?

13 THE COURT: Do you remember the question?

14 THE WITNESS: No.

15 THE COURT: All right.

16 MR. KANAREK: May it be read?

17 THE COURT: Yes.

18 MR. KANAREK: Thank you.

19 (Whereupon, the question was read by the
20 reporter as follows:

21 "Q BY MR. KANAREK: Well, may I ask you
22 this, then? You did leave out words that you
23 recalled, that's for sure?"

24 A Yes, I possibly did leave out a word. I don't
25 recall. In the statement that I wrote in the notebook, I
26 tried to write that portion of what was said as close as
27 possible to what was said.

28 Q BY MR. KANAREK: Now, directing your attention

1 to this other conversation that you've spoken of, Officer.

2 First, let me ask you -- I'll withdraw that.

3 At the time that this occurred, Mr. Manzella
4 and Mr. Alexander and myself were at the bench with Judge
5 Choata, with the court reporter; is that correct?

6 A Yes.

7 Q And, now, then, directing your attention to the
8 other statement that you made, where you wrote it down.

9 Do you recall that, the second one?

10 A Yes, sir.

11 Q Concerning what you've testified, right?

12 A Yes.

11c fls.

11c

1 Q Well, would you tell us what was said at that
2 time?

3 A Mr. Manson stated at that time that he couldn't
4 understand how so many people could be tried for the murder of
5 one person.

6 Q Are those all the words that were uttered?

7 A No, sir.

8 Q Did you write down all the words that were uttered?

9 A No, sir.

10 Q Did you write down any of the words that were
11 uttered?

12 A Which conversation are you now speaking of?

13 Q I'm talking now of this second -- the second
14 event concerning which Mr. Manzella interrogated you?

15 A No, sir, I didn't.

16 Q You wrote none at all?

17 A No, sir.

18 Q Never have, up to this instant?

19 A Uh, yes, sir.

20 Q Pardon?

21 A Yes, sir.

22 Q You did write them down?

23 A I wrote some notes.

24 Q Where are they?

25 A They're right in front of you.

26 Q Well, you did not write down --

27 May I approach the witness, your Honor?

28 THE COURT: Yes, you may.

1 Q BY MR. KANAREK: Would you show me, Officer, where
2 in this notebook you wrote down what you are speaking of now?

3 A You didn't ask me that.

4 THE COURT: Well, the statement of the witness is
5 stricken.

6 Q BY MR. KANAREK: What note --

7 Yes, your Honor?

8 What notes were you referring to just an instant
9 ago, Officer?

10 A What notes -- the notes that are right here before
11 me.

12 Q Would you show me the page?

13 A There are two pages here (indicating).

14 Q But these two pages represent separate events,
15 don't they?

16 A Yes, sir, they do.

17 Q My question is, in connection with this event that
18 you have spoken of a few moments ago, would you tell me where
19 on those sheets is that event portrayed in writing?

20 MR. MANZELLA: Your Honor, I object on the grounds it
21 is not specific enough as to what Mr. Kanarek is talking about
22 by saying "that event."

23 THE COURT: It is a very obscure question.

24 MR. KANAREK: Very well.

25 Q BY MR. KANAREK: You have in mind the statement
26 that you made to Mr. Manzella concerning the time, other
27 than the time on August 10th, when you wrote August the 11th,
28 is that right?

1 MR. MANZELLA: I object again on the grounds the question
2 is vague and ambiguous, your Honor.

3 THE COURT: Sustained.

4 Q BY MR. KANAREK: Directing your attention,
5 Officer, to the conversation where you say Mr. Manson spoke
6 about more than one person being convicted, do you have that in
7 mind?

8 A Yes.

9 Q All right. Having that in mind, would you show me
10 where in your notes that is written down?

11 A I cannot.

12 Q Because it never was written down?

13 A That's correct.

14 Q Right.

15 And is it a fair statement that the reason you
16 didn't write it down is because you thought that that might
17 somehow or other help Mr. Manson to prove he's not guilty of
18 this crime, is that right? Is that the reason you didn't
19 write it down?

20 A No, sir.

21 MR. KANAREK: Thank you.

22 MR. MANZELLA: May I have just a moment, your Honor?

23 THE COURT: Yes, you may.

24 MR. MANZELLA: Thank you.

25 (Pause in the proceedings.)

26
27 REDIRECT EXAMINATION

28 BY MR. MANZELLA:

1 Q Sergeant Whiteley, I would like you to read over
2 the notes that you have down on the pages in your notebook
3 about which we've been speaking. In particular, with reference
4 to the conversation which you testified occurred on August 10
5 of 1971, in the courtroom.

6 MR. KANAREK: Now, your Honor, that's ambiguous because
7 of the fact that the officer has stated one thing and written
8 something else down, your Honor.

9 MR. MANZELLA: All right, I'll withdraw the question, your
10 Honor.

11 Q BY MR. MANZELLA: Sergeant Whiteley, is your memory
12 presently exhausted as to the rest of the conversation that you
13 heard -- strike that.

14 Is your memory presently exhausted with regard to
15 the rest of the statements that you heard Mr. Manson make on
16 August 10 of 1971?

17 MR. KANAREK: That's irrelevant and immaterial. That is
18 an improper -- I'll object to the foundation in that if the
19 officer has a present recollection at all, it is immaterial
20 that he's exhausted it to the differential, to the remaining
21 amount, and that question is improper.

22 MR. MANZELLA: I'm laying a foundation for refreshing his
23 memory, your Honor.

11-d

1 MR. KANAREK: Then, that's improper to refresh his
2 recollection. He can show him the paper to refresh it.

3 THE COURT: You may do that. Sustained.

4 MR. MANZELLA: In order to show him the paper, I would
5 like to ask -- all right, I'll withdraw the question.

6 Q BY MR. MANZELLA: Sergeant Whiteley, have you read
7 the page in your notes which refers to the August 10, 1971
8 conversation?

9 A Yes.

10 Q All right. Is there any more to the statements
11 which you heard Mr. Manson make which are not testified to yet?

12 MR. KANAREK: Calling for a conclusion. It is irrelevant,
13 immaterial.

14 THE COURT: Sustained.

15 Q BY MR. MANZELLA: Sergeant Whiteley, you testified
16 that you didn't recall the entire conversation you had with
17 Mr. Manson on August 10, 1971, is that correct?

18 A That's correct.

19 Q All right. Would it refresh your memory to
20 refer to your notes that you made with regard to that conver-
21 sation?

22 A Yes.

23 Q All right. Would you refer to your notes, please?

24 A I have.

25 Q Do you recall now any more of the conversation than
26 that which you have already testified to?

27 A Yes.

28 Q Would you tell us what that was?

1 MR. KANAREK: Well, may we just have the foundation of
2 what piece of paper it was?

3 THE COURT: Yes.

4 MR. KANAREK: If it could be marked --

5 THE COURT: It has heretofore been marked as "H," has
6 it not?

7 MR. KANAREK: Yes, but it's got two sheets. The top one
8 or the bottom one?

9 THE COURT: It appears to be the bottom sheet; is that
10 correct, Sergeant?

11 THE WITNESS: Yes, sir.

12 THE COURT: All right.

13 Q BY MR. MANZELLA: Would you tell us what the
14 rest of the conversation was that you recall now?

15 A There was -- I can't remember the specific words.

16 Q All right. Tell us the sum and substance of it.

17 A There was something about using the sword on Hinman.

18 Q All right, thank you.

19 I have no further questions, your Honor.

20 MR. KANAREK: I have no questions, your Honor.

21 THE COURT: You may step down.

22 MR. MANZELLA: The People have no further witnesses
23 present today, your Honor. We do, however, have that one
24 piece of evidence which we have, concerning which we made an
25 offer of proof.

26 THE COURT: The Court would have to take some time before
27 -- with both counsel before you may offer what you intend to
28 offer. And that time would have to be outside -- that time.

1 would have to be taken outside the presence of the jury.

2 You have asked that the matter go over until
3 Tuesday?

4 MR. MANZELLA: Yes, your Honor.

5 THE COURT: Would it be convenient for both counsel to
6 confer with the Court this afternoon, and then take that
7 matter up that you are speaking of on Tuesday morning?

8 MR. MANZELLA: Yes, your Honor.

9 MR. KANAREK: If that's the Court's wishes, I would be
10 more than glad to, your Honor.

11 THE COURT: All right, the Court would permit that, then,
12 in view of what you have stated to the Court and to Mr. Kanarek
13 at the bench.

14 Ladies and gentlemen, I'm going to lengthen your
15 weekend, then, at least so far as it pertains to this trial,
16 and we'll permit you to return on Tuesday morning, at 9:30.

17 Remember the admonition that I have given you,
18 that you are not to converse amongst yourselves, nor anyone
19 else, nor permit anyone to converse with you on any subject
20 connected with this matter, nor are you to form or express
21 any opinion about it until it is finally submitted to you.

22 Remember, too, the admonition that I have given you,
23 that you are not to hear, see, or read anything in connection
24 with this case or any other case involving Mr. Manson.
25 And specifically, the Court would refer to those cases that
26 I have heretofore indicated are currently being tried in the
27 Superior Court in other departments. You are not to, in any
28 way, read or expose yourself to any news media report concerning

those cases, People vs. Grogan, People vs. Watson, or anything concerning Mr. Manson.

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11e-1

MR. KANAREK: Your Honor, would it be imposing to ask for 9:45?

THE COURT: On Tuesday?

MR. KANAREK: Yes.

THE COURT: No, it would not be imposing.

But would you ladies and gentlemen be here at 9:40, then. Be here just five minutes early, before the Court calls the case at 9:45 on Tuesday.

I'll ask you this, has anyone during the course of this week read, heard or seen anything whatever in connection with Mr. Manson or this case?

(No response.)

THE COURT: If you have, would you raise your hand and indicate to me, and then the Court will query you as to what it is that you may have seen.

I see no affirmative response.

All right, fine, continue to abide by the Court's order in that respect. I'll see you Tuesday morning. Have a good weekend.

MR. KANAREK: Your Honor, before we go, after --

THE COURT: Good night.

(Whereupon, the jury retired from the courtroom at 4:03 p.m., and the following proceedings were had:)

THE COURT: Off the record.

(Whereupon, a discussion ensued off the record.)

THE COURT: All right, back on the record.

MR. KANAREK: A lawyer friend of mine is in Hawaii and there is a homicide matter in Judge Parker's court wherein

11e-2

1 I've been requested to go there for a few moments, I believe.

2 THE COURT: Tonight?

3 MR. KANAREK: Well, no, they called Mr. Kuczera, right
4 now. I wonder if I can be excused for about five or ten
5 minutes.

6 THE COURT: Let's put it -- let's put that other
7 matter over until sometime in the morning on Monday, whenever
8 you can make it here.

9 MR. KANAREK: Well, your Honor, if we could do it --

10 THE COURT: If you would.

11 MR. KANAREK: It would be most helpful --

12 THE COURT: The Clerk indicated you would be there
13 sometime and I -- off the record.

14 (Whereupon, a discussion ensued off the record.)

15 THE COURT: On the record.

16 The record should reflect the jurors have all
17 left.

18 The Court does understand that you are wanted
19 in Department 108 now.

20 MR. KANAREK: Yes.

21 THE COURT: For some reason or other. And so the Court
22 will permit you to leave. I'll ask both counsel to return
23 on Monday morning at 11:00 o'clock, and the Court will then
24 discuss with counsel the proposed offering of the testimony
25 of Mary Brunner in the trial of People vs. Beausoleil.

26 MR. MANZELLA: Yes, your Honor.

27 MR. KANAREK: And the Court will -- the Court will, I
28 gather, if necessary, accept further argument as to why none

11e-3

1 of that should be read?

2 THE COURT: I'll hear your argument in respect to it.
3 However, I have read the case of California vs. Green, and
4 People vs. Green, as it is reported in the California
5 Supreme Court reports after the decision of California vs.
6 Green, and it is fairly persuasive to the Court that the
7 statement or the testimony of People vs. Beausoleil by
8 Mary Brunner would be admissible. However, I will hear your
9 argument in regard to it.

10 We are in recess.

11 MR. CLIFFORD BLACKBURN: Have I fulfilled my obliga-
12 tions on the court gag order on Whiteley's testimony?
13 Apparently I'm not going to be called by Mr. Kanarek as a
14 witness.

15 THE COURT: Yes. The only time that the Court would
16 exclude you and does order that you be excluded, is during
17 such time as there is testimony concerning that conversation
18 which you overheard and, apparently --

19 MR. BLACKBURN: Sergeant Whiteley takes the stand quite
20 frequently. If I can be told that is the essence of the
21 conversation, then I would be glad --

22 THE COURT: The Court would order that you be
23 excluded only during such times, and otherwise --

24 MR. BLACKBURN: How about any writing I would do
25 concerning this testimony or incident?

26 THE COURT: You are permitted to remain in the court-
27 room, and the Court sees no reason why you could not report
28 on it.

1 MR. BLACKBURN: All right, thank you, sir.

2 (Whereupon, at 4:07 o'clock p.m. an adjournment
3 was taken, the herein proceedings to be continued
4 until 11:00 o'clock a.m., Monday, August 16, 1971.)
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