

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 106

HON. RAYMOND CHOATE, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

BRUCE MCGREGOR DAVIS,

Defendant.

251

No. A-267861

REPORTERS' DAILY TRANSCRIPT

Friday, February 25, 1972

VOLUME 51APPEARANCES:

For the People:

JOSEPH P. BUSCH, District Attorney
BY: ANTHONY MANZELLA
and
STEPHEN R. KAY,
Deputies District Attorney

For Defendant Davis: GEORGE V. DENNY, III

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1 LOS ANGELES, CALIFORNIA, FRIDAY, FEBRUARY 25, 1972 9:41 A.M.

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4 THE COURT: All right. In the case of People vs.
5 Bruce Davis, get the jury in.

6 THE BAILIFF: Yes, sir.

7 (Proceedings had on unrelated matters.)

8 THE COURT: Good morning, ladies and gentlemen.

9 (Whereupon, murmurs of "Good morning, Judge,"
10 were heard from members of the jury.)

11 THE COURT: We are all glad to see all of you,
12 apparently in good health, and looking forward to the weekend,
13 probably.

14 The defendant is present now. Both counsel,
15 Mr. Kay and Mr. Denny, are present.

16 You may proceed, Mr. Denny.

17 MR. DENNY: Thank you, your Honor.

18 Again, ladies and gentlemen, good morning.

19 I did want to go over a couple of instructions
20 -- actually, more than a couple of instructions -- with you.

21 You'll hear them from the Judge, but sometimes
22 they sound sort of mechanical. The Judge has to read a
23 lot of instructions. You will get the instructions in the
24 jury room to go over.

25 But I think it's important for a lawyer -- on
26 either side -- to try to interpret those instructions some,
27 if they need interpretation, or perhaps stress what he feels
28 is an important part of them.

A-2

1 The instructions are supposed to be pretty bland
2 statements of the law, but when you apply them to the facts,
3 sometimes, they're not quite so bland.

4 And quite frankly, you people, in the course of
5 about an hour, Monday, are going to be instructed on some of
6 the most esoteric points of law that have come down and been
7 developed over the centuries, that our judicial processes
8 have been in the process of developing.

9 And it's almost impossible, really, for a lay
10 jury -- much less people who supposedly have been schooled
11 in the law -- to absorb all of that at one time.

12 So I feel it's proper, and our function as
13 attorneys, to attempt to relate how the law, as given to you
14 by the Court, fits some of the facts that you have heard --
15 and although there may be a different opinion as to what
16 those facts are; each of may look at them differently; some
17 of you jurors may look at them differently -- but at least
18 see how they may apply to a state of facts, if you find
19 that to be the state of facts.

20 Now, first, you'll hear:

21 "All persons concerned in the commission
22 of a crime who either directly and actively commit the
23 acts constituting the offense or who knowingly and
24 with criminal intent aid and abet in its commission
25 or, whether present or not, who advise and encourage
26 its commission, are regarded by the law as principals
27 in the crime thus committed and are equally guilty
28 thereof."

1 Now, a principal is simply a person who could be
2 charged as a co-defendant -- the same as an accomplice.
3 And we'll talk about that a little bit.

4 Now, the People have sought to have this instruc-
5 tion given, obviously, because they say that Bruce Davis was
6 a principal in both of these -- or all three of these, as
7 there are three counts alleged, three crimes charged.

8 It's just as applicable, however, in your deter-
9 mination -- which you must determine -- as to whether or not
10 Ella Jo Bailey was a principal.

11 And in that context, you look at the words
12 "who either directly and actively commit the act constituting
13 the offense --" well, she didn't really do that -- "or who
14 knowingly and with criminal intent aid and abet in its
15 commission," -- and we'll get a little further here some
16 instruction on what the phrase -- or the words "aid and abet"
17 mean legally -- "or, whether present or not, who advise and
18 encourage its commission."

19 Now, think about that, when you are thinking
20 about Ella Jo Bailey.

21 Now, as I said, "a person aids and abets the
22 commission of a crime if he knowingly and with criminal
23 intent aids, promotes, encourages or instigates by act or
24 advice or by act and advice, the commission of such crime."

25 The People would like you to think of that in
26 relationship to Bruce Davis. I would like you to think of
27 that in -- and you should think of that, and the Court will
28 so advise you -- in relationship to Ella Jo Bailey, whether

Aa fls.

1 she is an accomplice, a principal, an aider and an abettor.
2 And if she is, other things follow, of course.
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1 "An accomplice is one who is liable to be
2 prosecuted for the identical offense charged against the
3 defendant on trial.

4 "To be an accomplice, the person must have
5 knowingly --"

6 Let me just go back here. "An accomplice is one
7 who is liable to be prosecuted for the identical offense
8 charged against the defendant on trial."

9 That means: Is that person guilty of the offense
10 for which the defendant is on trial?

11 It doesn't mean -- and it doesn't imply -- that the
12 defendant necessarily was involved in anything. It's not
13 Bruce Davis's accomplice.

14 The phrase -- or the word "accomplice," is very
15 particular, very discrete in its meaning.

16 It simply means: Can that person be charged with
17 the same offense that the defendant is charged with?

18 All right.

19 "To be an accomplice, the person must have know-
20 ingly and with criminal intent aided, promoted, encouraged,
21 or instigated by act or advice, or by act and advice, the
22 commission of such offense."

23 Think about that in connection with Ella Jo
24 Bailey? Who aided, promoted, advised, encouraged the
25 commission of the robbery and the murder of Gary Hinman?

26 Now, this is an interesting instruction, particularly
27 in regard to Ella Jo Bailey.

28 "One who has knowingly and with criminal intent

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1 aided and abetted the commission of a crime may terminate his
2 or her liability and end his or her responsibility for the
3 crime --" How? -- "by notifying the other party or parties
4 of whom he has knowledge of his or her intention to withdraw
5 from the commission of the crime and by doing everything in his
6 power to prevent its commission."

7 That's why my line of questioning to Ella Jo
8 Bailey. After she had instigated, promoted and encouraged
9 the robbery of Gary Hinman, she kind of bugged out on the
10 caper, to use the common phraseology, and sent Susan Atkins
11 in her stead -- knowing that Gary Hinman would probably be
12 killed.

13 Did she do anything to -- did she do everything in
14 her power to prevent the commission of this offense? I asked
15 her, you know, "You knew he was going to be killed, didn't
16 you?"

17 "A No, I didn't know."

18 And finally, as I read to you yesterday, "Well, I
19 had an idea that if he put up a struggle, he might get hurt.

20 "And you did nothing to advise him? You
21 did nothing? You didn't go to the police? You
22 didn't even give him a call?

23 "A Oh, well, I was afraid of Charlie.

24 I was afraid of Charlie."

25 This female who, for one year, ten months -- as
26 it was pointed out, not two years -- one year, ten months had
27 been one of the first Manson girls, had stuck with the group --
28 "But I was afraid of Charlie."

1 She wasn't so afraid that she didn't just take right
2 off after the commission of this offense, with Bill Vance, her
3 boyfriend.

4 Bill Vance, whom she testified to, had a mind of his
5 own, and didn't take orders from Charlie. She wasn't all that
6 afraid.

7 If she had wanted to remove herself from the
8 conspiracy of which she was one of the prime movers, she could
9 have done so two days before she did, instead of at the time
10 she did, after the offense had been committed.

11 And then, it goes on:

12 "If notice to the other party or parties is
13 impossible or impractical, he may end his responsibility --"
14 or her responsibility -- "by doing everything in his or her
15 power to prevent the commission of the contemplated crime."

16 She did nothing. And indeed, as the People almost
17 concede here -- have to concede -- she did those acts which
18 aided, helped, after the brought home the bootie, the loot,
19 the spoils, leaving the dead body to rot at 964 Old Topanga
20 Canyon Drive.

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1 I know I sound like a prosecutor here when I'm
2 talking to you. I don't like pictures of stinking bodies
3 with skin slipping off them, flashed before a jury. But it
4 is a fact. It happened. And I can't deny that. So you'll
5 have it and you can see it. And it is a ghastly, grisley,
6 gruesome picture that you wouldn't hang out on the wall of
7 your home or anything, certainly, but it is life. A body
8 decomposes. A body stinks after it is decomposed for a while.

9 All right, going on.

10 "A conviction cannot be had upon the
11 testimony of an accomplice unless it is corroborated
12 by other evidence as shall tend to connect the
13 defendant with the commission of the offense."

14 We talked about that yesterday at some length.
15 We don't need to go over it. And we talked about how you
16 determine whether the testimony of the accomplice has been
17 corroborated.

18 What is corroborative evidence? You have to
19 remove all of the testimony of this accomplice. Again, an
20 accomplice simply being one who could be charged with the
21 same offense, not one who necessarily has any relationship
22 with the defendant. Remove all of that from the case, wipe
23 it out of your mind. You must perform this psychological
24 feat, which is most difficult. And then see if there's
25 anything left that connects the defendant with the offense.
26 Not which connects something that the defendant may have
27 purchased some weeks earlier and which other people have
28 access to, but which connects the defendant specifically with

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1 the offense. There is no such evidence in this case.

2 Now, again, you'll hear:

3 "Merely assenting to or aiding or assisting
4 in the commission of a crime without guilty knowledge
5 or intent is not criminal, and the person so assenting
6 to, or aiding, or assisting in, the commission of a
7 crime without guilty knowledge or intent in respect
8 thereto, is not an accomplice in the commission of
9 such crime."

10 Now, this is essentially an instruction which the
11 defense would normally put in if you give some credence to the
12 testimony of Ella Bailey, because all she has testified to
13 in connection with Bruce Davis is that he was there and
14 there's some question as to whether he was there in this
15 Devil's Canyon campground meeting. She possibly being under
16 the influence of pot, not remembering who was at such dinner
17 meetings within any of the period of time, the week before
18 or the week after.

19 She remember the people who were there on that
20 one particular night, quite a feat of memory. But assuming
21 you believe her and you didn't find that she's an accomplice,
22 which I hardly think you cannot find, all she's testified to
23 is, what? That she saw Bruce Davis talking with Manson
24 and Beausoleil and she has testified to this admission. It
25 is not a confession. It is an admission supposedly made,
26 and I say "supposedly made," because that's the only damaging
27 thing in all of her testimony.

28 We'll go over in the Shea case about three pieces

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1 of testimony given by three separate witnesses which are the
2 smallest, most unreliable type of admission that you could
3 possibly get against a defendant, and that's all they've got
4 against Bruce Davis in this case.

5 But, anyway, if somebody does and acts without
6 the guilty knowledge necessary -- and you must show that --
7 then, they cannot be held as an accomplice in the commission
8 of the offense.

9 Again, evidence that a person was in the company
10 of or associated with one or more other persons alleged or
11 proved to have been members of the conspiracy is not in and
12 of itself sufficient to prove that such a person was a member
13 of the alleged conspiracy.

14 And this is the hideous aspect of this type of
15 conspiracy.

16 The conspiracy, the charge of conspiracy is known
17 as the prosecutor's darling.

18 Clarence Darrow made that phrase famous in a
19 number of cases that he tried which were conspiracy cases;
20 conspiracy to bomb, conspiracy in connection with workers'
21 struggles during the period when the strike was evolving,
22 the lockout and the boycott and all of that. And the prose-
23 cutor always used to charge the workers with conspiracy.
24 Because, you see, conspiracy permits the prosecutor to get
25 in all sorts of statements of other people -- not the
26 defendant -- but other alleged conspirators. This is just
27 one of the crazy parts of the law that has evolved and
28 developed and has been under great, great criticism of recent
years.

1a fls.

1a-1

1 But it is the prosecutor's darling, because this
2 way they can get in the statements of three, four, five
3 people, and introduce them in evidence against the sixth
4 person, or the seventh or eighth, who have said nothing, But
5 because they are associated with, suspected or even admitted
6 conspirators, the aura of criminality, the aura of guilt
7 somehow is supposed to and frequently does, unfortunately
8 brush off onto them. And that's why you are told, and there
9 is a specific instruction and it is an important instruction
10 that mere association in and of itself is not sufficient.
11 And this is why, and we'll get into a particular exhibit
12 here and I'll talk about that a little bit further, why I
13 argued so strongly yesterday about this guilt by association.
14 I don't think that merely because Bruce Davis was a member
15 of the Manson Family, admittedly, was associated with Charles
16 Manson, is going to permit you to be railroaded by the
17 prosecution into conviction him on that basis.

18 Because there were lots of members of the Manson
19 Family.

20 And merely because they were members of the Manson
21 Family, that doesn't make them guilty of everything that
22 Charles Manson did or Ella Jo Bailey did or Bill Vance or
23 Danny DeCarlo did.

24 Then, again, evidence of the commission of an
25 act which furthers the purpose of an alleged conspiracy is
26 not in and of itself sufficient to prove that the member
27 committing the act was a member of such conspiracy.

28 Now, if you feel that, again, Ella Jo Bailey's

1a-2

1 testimony is entitled to any credence at all, in view of the
2 fact that she perjured herself time and time again, and in
3 view of the fact that you will be instructed that where you
4 find that a witness willfully and with a design to deceive
5 gave you false testimony, you can toss out all of that
6 person's testimony, which I submit you should do as far as
7 Ella Jo Bailey is concerned.

8 You may, some of you in your deliberations,
9 attempt to look at it to give some credence to her testimony
10 that Bruce Davis went with Charles Manson as she relates
11 he told her. And let me just jump in here a minute and
12 interrupt myself.

13 You know an extraordinary thing again.

14 Mr. Manzella argued to you briefly yesterday
15 about the kind of guy Bruce Davis is who would make the
16 statements because of one snippet of conversation that you
17 got through Sergeant Whiteley, one tiny bit of conversation
18 that Sergeant Whiteley related out of a good deal more, you
19 must say, that he took from the context of some TV cameraman
20 and reporters questioning Bruce Davis when he gave himself
21 up. And the conversation that was related there, and this
22 is supposed to explain the whole character of Bruce Davis.

23 What do you know about Bruce Davis? You know
24 precious little, actually. But does that little snippet of
25 conversation give you such insight into his character as to
26 assume that he is such a blabbermouth that he is going to
27 bare his soul to Ella Jo Bailey, the person that certainly
28 Charlie Manson didn't trust by her own statement and probably

1a-3

1 the rest of the Family didn't trust? And just pour out his
2 part in a rather hideous murder? Well, you think about that.

3 Getting back to this, if you give it any
4 credence, the fact that he did an act, the fact that he went
5 with Charles Manson, assuming you believe anything that Ella
6 Jo Bailey says, you've got to determine, again, whether he
7 knew what was going on at the time.

8 Now, you may say that everybody -- everybody
9 knew. But he's got to have some guilty knowledge. And I
10 don't think you've been given any evidence to that effect.
11 Other than such innuendoes that may have been involved in
12 Ella Bailey's testimony.

13 Now, finally, we get to flight.

14 People like to give such an instruction, and
15 they're going to argue and have argued indeed, Mr. Manzella
16 did, that the departure of Mr. Manson, Bruce Davis, other
17 members of the Family at the end of August was flight, flight
18 from the crime of killing Shorty Shea.

19 Well, you know, that's sort of interesting
20 because it is acknowledged that they were involved, Davis
21 was not involved, when I say "they", but Manson, Ella Bailey,
22 Sadie Atkins, Mary Brunner, Bob Beausoleil. But Bob Beausoleil
23 did drive the truck, drive a Fiat up north -- for what purpose
24 it is not known -- but he was stopped by Officer Humphrey.

25 But all the rest of these people, they stayed
26 right there. Manson stayed there. Manson was arrested
27 twice during this period of time. He still stayed right
28 there at the ranch, after the killing of Gary Hinman. They

1a-4

1 left when they were ready to leave, when they had planned to
2 leave and when they did leave. There was no flight.

3 But who, who fled after the commission of the
4 Hinman murder? Two people. Bill Vance and Ella Jo Bailey.

5 Now, consider this instruction in connection with
6 Ella Jo Bailey, if you will.

1b fls.

1b-1

1 "The flight of a person immediately after the
2 commission of a crime, whereafter he is accused of
3 a crime that has been committed, is not sufficient
4 in itself to establish his guilt, but is a fact
5 which, if proved, may be considered by you in the
6 light of all other proved facts in deciding the
7 question of his guilt or innocence. The weight
8 to which that circumstance is entitled is a matter
9 for the jury to determine."

10 All right, who fled? Who had a sense of guilt?
11 Who was guilty? Who was guilty as hell of conspiracy to
12 rob and murder Gary Hinman? Well, she admitted, finally,
13 on the last day of cross-examination that she was responsible
14 and, indeed, she was.

15 All right. Now, back to Shea.

16 Delma Baker we've talked about.

17 Richard Barber, we've talked about.

18 Paul Ewart. Interesting, again, the unasked
19 question. The unasked question.

20 Paul Ewart was asked on direct examination very
21 little.

22 "Did you get the car?

23 "Was the car, Shorty Shea's car towed into
24 your garage?

25 "Do you still have the car?

26 "Did you get it at some sort of foreclosure
27 sale or something like that?"

28 The unasked question; questions.

1b-2

1 Let's get the whole truth out, Mr. Prosecutor.

2 "What was the condition of the car when
3 you got it?

4 "The brakes were bad. It needed brakes
5 and the steering was in such condition that it was
6 so unsafe that I wouldn't let somebody use it as a
7 loan car, so I had to fix something in the steering
8 and I had to put new brakes on."

9 Oh, is that so?

10 "Well, why didn't the prosecution bring
11 that out? Why?"

12 Because it explains why Shorty Shea would not
13 take that car on a long trip. Because, as you remember,
14 Lance Victor testified that the year before, when they had
15 gone up to the salt mines -- that's just the test for the
16 air raid. Wait just a minute.

17 (Pause.)

18 I think I can talk over it.

19 You recall Lance Victor said they took his car
20 the year before, in 1968, to go up to the salt mines because
21 that year, with the car Shorty Shea had, an old '59 Cadillac,
22 that the brakes were bad and Shorty wouldn't drive it that
23 distance. Remember. This year, both the brakes and the
24 steering are bad. So bad to make it an unsafe car to drive.
25 But the prosecution didn't ask those questions.

26 All right, Karen Nelson, simply here to show
27 you that by the Leslie Salt Company records there's no
28 record of his having gone up in the year '69 to work.

1b-3

1 Now, I questioned her, about the fact of whether
2 he might have worked briefly, because you see, he did work
3 only briefly the year before, only a couple of weeks, and
4 then left. And I'm not sure whether he would have worked
5 under an assumed name or not, if he ever got up there. I'm
6 not sure he ever got up there. I'm not sure that he left.
7 We don't know.

8 Do any of you sitting there right now really
9 think you know the whereabouts or what has happened to
10 Shorty Shea?

11 His mother -- I'll put her name up here in just
12 a minute. But his mother testified, and the dear lady,
13 she said when I asked her -- I said, "You've been told that
14 your son is dead, is that right?" And she said, "Yes."

15 And I said, "But do you know that?" And she
16 said, "No, it is just I haven't heard from him for so long."
17 She doesn't know.

18 All right. Sam Launer. Again, the pawnshop
19 owners come through very well as a group here. The man
20 who pawned Shorty's guns.

21 Now, think about it -- in just a minute I'll
22 get those exhibits, those pawn slips -- these guns that were
23 so important. This is the thing that Mr. Manzella has made
24 so much of in his statement as to a way of life. Mr. Kay
25 may. The prosecution has. They must have called ten
26 witnesses just to establish the fact that Shorty loved his
27 guns.

28 Well, ladies and gentlemen, if I had a pair of

1b-4

1c fls.

1 matched guns like that, whether I am a cowboy or not, I'd
2 be pretty proud of them. I'd love to have a pair of matched
3 guns like that. I'd be happy about it, too.
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1 And I'm sure Shorty Shea was -- I'm sure they
2 probably meant more to him than they do to me. It is funny
3 about Shorty Shea, those pawn slips show that he pawned the
4 guns in February, one of them he redeemed in March, one of
5 them he didn't redeem until May. These guns he loved so
6 much. He sure didn't have them very much out of the year.
7 He got them in '68, the testimony goes.

8 Now, we don't know whether he pawned them in
9 '68 or not. They didn't bring any pawnbrokers in on that.
10 But it is possible to assume that this was, again, his way
11 of life, to use Mr. Manzella's phrase. That whenever he
12 needed money, he hocked these guns. And although he was
13 proud of them and he liked them and all, he didn't have
14 them in his possession very much.

15 And Sam Launer says "Yeah, I hocked these guns
16 for him back in February and in July, both of them."
17 Interesting.

18 Now, let's take the next group of witnesses.

19 All right, "All those essentially disinterested
20 witnesses-officers."

21 Well, Officer James Pursell testified to the
22 arrest of some of the people and the names they used and the
23 fact that practically all the Manson people used false names.
24 Deputy John Sheehan testified to the arrest on August 16th
25 that the big raid of, who? I should say of whom.

26 Danny DeCarlo, under the name of Richard Alan
27 Smith. And that booking slip is in evidence. And the booking
28 slip is the one that the handwriting expert compared with the

1c-2

1 writing on the redemption slips, "Richard Alan Smith,"
2 Danny DeCarlo. Very interesting.

3 Richard Wachsmuth, his testimony has been gone
4 into by Mr. Manzella.

5 And Sergeant Paul Whiteley, called by the
6 prosecution in this case for certain evidence, specifically
7 concerning the terrain of the Goler Wash-Ballararat area,
8 the discussion of the maps that are in evidence here, the
9 topo maps.

10 Discussion of something else interesting, the
11 fact that you and I and everyone in here who pays taxes
12 paid for some 5,000 man-hours of work digging up Spahn Ranch
13 and Devil's Canyon and Ybarra Canyon and Box Canyon looking
14 for Shorty Shea.

15 Now, that's kind of interesting. There must have
16 been an awful lot of rumors going around as to different
17 places where Shorty Shea is supposed to have been disposed
18 of.

19 That map we have -- excuse me just a minute.
20 Let's get that.

21 (Whereupon, there was a pause in the proceedings
22 while Mr. Denny left the courtroom, returning shortly,
23 and the following proceedings were had:)

24 MR. DENNY: We've got Devil's Canyon here (indicating)
25 -- golly, I don't think we've even gone into Ybarra Canyon,
26 Box Canyon. They're way even off this map, Exhibit 68 --
27 no, that's not 68, 92.

28 They were digging up places all over the place,

1c-3

1 diverting the channel of the stream down here (indicating).

2 Does that remind you of another search for a
3 body connected with the Manson case? Ronald Hughes. And
4 that's sufficiently of common knowledge, so I think I can
5 discuss that.

6 Ronald Hughes, one of the attorneys in the
7 Tate-La Bianca case.

8 And remember when he disappeared? And there was
9 all sorts of talk going around, ah hah, the Manson Family
10 has dispatched Ronald Hughes. They've done him in, the poor
11 slob. He wasn't much of an attorney. This was the first
12 case he had handled. He was a bungler, stumbler, according
13 to some, and they done him in. And the headlines blazed
14 it for weeks. And there was rumor going all around about the
15 murder of Ronald Hughes, that he had disappeared. And some
16 three months or so later, a couple of hikers -- and this was
17 after a great search by helicopter units, by ranger patrols,
18 by search and rescue squads, they hadn't found him.

19 Had he been murdered? Had he been done in by the
20 infamous Manson Family?

21 A few months later a couple of hikers found a
22 body wedged between some rocks by a stream that obviously
23 during the rain season overflowed its banks and caught him
24 somehow or other.

25 You see how easy it is, how easy it is for
26 rumors to fly; you attach the name Manson to them.

27 All of the searching and no Shorty Shea,
28 Searching Helter-Skelter, here and there, no Shorty Shea.

1c-4

2 fls.

Well, the search of all these people in connection with the Sheriffs and the search and rescue squads and the helicopters didn't turn up the body of Ronald Hughes either.

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1 All right. The next witnesses:

2 And again, so-called "expert" witnesses. Although
3 here, in connection with this aspect of the case, there were
4 some expert witnesses -- Sergeant Herbert Campbell is an
5 expert witness, a good handwriting man, with good qualifi-
6 cations; a man who takes some pride in his work, who does
7 maintain a library, who reads, who reads more than one book
8 on the subject.

9 And I have no quarrel whatsoever with either
10 Sergeant Campbell's qualifications or his findings. And his
11 findings, among others, were that Jack Paul McMillian and
12 Bruce Davis are the same. That's no big problem there.
13 We certainly acknowledge that. He compared some other hand-
14 writing -- all of which, there's no quarrel with.

15 Let's leave Deputy Chamousis for a moment, and
16 go to Dr. William Kaufmann. Dr. Kaufmann obviously is a very
17 well qualified man in his field, who testified to the moon,
18 and on our little trip to the moon that we took -- for
19 whatever benefit it had, to establish the People's case --
20 we have no quarrel with either his qualifications or his
21 testimony.

22 Interesting to see, though, that the People made
23 so much of it, so much of this moon time of the month,
24 that they brought in such an expert to establish it.

25 Because it indicates one thing, and that is that
26 they're stuck with the theory that they're trying to sell
27 you.

28 And in that regard, don't let them weasel, after

1 I get through talking with you, and say, "Well, it could be
2 this, and it could be that, now that Mr. Denny has shown
3 you that perhaps it didn't happen the way we have been trying
4 to sell you the bill of goods that we have been trying to
5 sell you."

6 The bill of goods that they have been trying to
7 sell you is that Shorty Shea was done in on the night of
8 either the 27th or the 28th of August, 1969, because that
9 was about the night of the full moon; and, tied in with
10 testimony as to when the Family left, it would have been
11 right about there.

12 And you are going to receive an instruction, and
13 it's an important instruction. It's an extremely important
14 instruction, that is as follows:

15 "The prosecution has elected to rely on
16 the acts testified to have occurred between August
17 16, 1969, and September 1, 1969, as constituting the
18 offense charged against the defendant in Count III
19 of the indictment."

20 That's the Hinman (sic) count. They have relied
21 on the period of time between those specific dates, not
22 "on or about," as they did in Count I, or Count II, but
23 specific dates between August 16 and September 1, 1969.

24 You must not find the defendant guilty of the
25 offense so charged against him unless you find that he
26 committed such offense within that particular time, regard-
27 less of your belief as to the commission of the offense by
28 the defendant or some other person or persons at some other

1 time."

2 Now, we'll talk about that in just a moment.
3 Also, as to the commission of the offense by some other
4 person or persons at some other time.

5 Deputy Chamousis. Now, I have no quarrel with
6 Deputy Chamousis' findings, as far as the palm prints of
7 Bruce Davis being on that footlocker. They're his palm
8 prints. There's testimony, you see -- though it doesn't
9 hurt my feelings too badly -- that many people would have
10 had access to those footlockers.

11 And again, this didn't come out by way of any
12 examination from the prosecution. It was brought out by the
13 defense on cross-examination of a prosecution witness,
14 Johnny Swartz -- and also Barbara Hoyt.

15 And Johnny Swartz said, "Yeah, Shorty was
16 living out of his car, but he was throwing his trunks in
17 the storeroom there, along the boardwalk. And I have been
18 in there with Shorty."

19 And, as Barbara Hoyt testified, she had been in
20 there -- not with Shorty, but she had just been in there.
21 Anybody could go in there. No reason why not.

22 Plenty of opportunity for Manson, Davis,
23 Barbara Hoyt, anyone to put their palm print, fingerprint,
24 whatever, on anything in that storeroom.

25 And consider again the testimony that you've
26 heard from Ella Bailey, Barbara Hoyt, Ruby Pearl. What
27 was Bruce Davis doing, most of the time? What evidence
28 do you have of the kind of guy we have here? Limited as it
was.

1 He was working on the dune buggies. Remember Barbara Hoyt
2 saying that -- or rather, Ella Bailey saying that during the
3 period of time, during the period of June, July, particularly
4 July, they were working on dune buggies, putting on roll-
5 bars, extra roll-bars, extra supports, braces.

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2a-1

1 And who was doing that work? Bruce Davis. And
2 that they had strung up lights, even so they could work at
3 night, strung up lights from the outlet in the saloon, dragging
4 the wires through there; and that they would work at nights on
5 it.

6 Who was working at nights? Bruce Davis, working on
7 the dune buggies.

8 Now, it's quite reasonable under the circumstances
9 that he'd get grease on his hands. He didn't go around with
10 clean hands, washing them all the time, in that kind of setup.
11 You don't, when you are working with mechanical things.

12 And therefore -- and this is one of the reasons why
13 we went into it so much, as far as Chamousis was concerned,
14 and as far as Mr. Clements, when we called him -- because you
15 can't tell, after a period of time, whether a print has been
16 laid down from the oil of the skin, as we've pointed out, or
17 from going through the hair, or if you get oil or grease on
18 your hand, it will lay down a print and stay there.

19 And again, you see, a print is circumstantial
20 evidence. And where you have circumstantial evidence, and the
21 People are relying in this case totally, wholly and completely
22 on circumstantial evidence, and where there is -- where there
23 are two reasonable interpretations -- or at least, two
24 reasonable interpretations of that evidence, one pointing to
25 the defendant's guilt -- the People say the only way those palm
26 prints could have gotten on there was Bruce Davis being involved
27 somehow in the murder of Shorty Shea and taking his car and
28 stashing it and opening those trunks or closing those trunks and

2a-2

1 doing something with the trunks after Shorty Shea was dead;

2 And therefore, there's a guilty inference to be
3 drawn from those palm prints.

4 But the other reasonable inference is that those
5 prints had been on there for some period of time; that they
6 were on there -- we don't know when they were laid down. You
7 see, it's important; and the reason that I was upset by the
8 testimony of Chamousis -- and more upset by the testimony of
9 Flois White, because Flois White just either did not know what
10 he was talking about -- and let's be charitable; let's just say
11 that, which is bad enough, when a man's life hangs in the
12 balance -- or he was lying -- which I think is the more
13 reasonable interpretation of his evidence.

14 But Peter Chamousis just didn't know. He just
15 didn't know. Peter Chamousis, in 15 years as a so-called
16 expert, had read one book on the subject. And when I asked
17 him, "have you read this book, this book, or this book?"

18 He says, "Well, if there was anything in
19 there that I thought would help me, I'd read them.

20 But you know, I know it all."

21 Well, he didn't know it all. He doesn't know it
22 all. And that's why we brought Mr. Clements in, Wendell
23 Clements, who has read more than one book on the subject, who
24 has kept up with the field, who does read something more --
25 you know, anybody with a little practice can move those eye-
26 pieces around and make comparisons and find it. That's a
27 mechanical job. You can train anybody to do that.

28 But it's the knowledge of the field that's

1 important, that makes an expert. We don't question what he
2 found in moving those things around. That's not important.

3 The important thing, and the reason you bring an
4 expert to court, is so that he can do something more than just
5 simply say, "Yeah, this point and this point match." What is
6 the meaning of it?

7 "What is the meaning of it, Deputy? Here
8 you find fingerprints -- or palm prints on a trunk
9 that has been -- or, a footlocker that has been in
10 the trunk of a car for some period of time, and you
11 find no other prints in the whole car. Does that
12 have some significance?"

13 Not to Chamousis. He doesn't know enough to
14 attach significance to it.

15 Well, what is the significance? Were those
16 prints put on just within ten days? Well, that would be kind
17 of funny. The car was found on December 8th. That would mean
18 that Mr. -- or, ten days or two weeks; that would mean that
19 Mr. Davis would have had to put the prints on sometime within
20 that period of time.

21 Well, that doesn't sound reasonable, from what
22 Sergeant Whiteley said and what Chamousis said. But
23 particularly Whiteley said it looked as if that car had been
24 there for quite a period of time, sitting there.

25 And it doesn't fit in with the People's theory,
26 either, because apparently the People would contend that when
27 Shorty Shea was murdered -- as they say he was -- on the night
28 of August 27th or 28th, somehow his car was taken and driven

1 down there and stashed; and that was it.

2 So that would mean three months' time. September,
3 October, November -- plus a few days.

4 Well, if that's so, then -- and they say Bruce
5 Davis obviously, put his prints on during that period of
6 time -- well, then, how come they're still there?

7 Well, their expert didn't know. He wasn't sure.
8 He couldn't say. He didn't have the learning. He didn't have
9 the expertise.

10 And this is why we brought in Mr. Clements. Be-
11 cause I think again you should have the truth, to help you
12 determine.

13 And Clements said, "Heck, yeah. Those prints
14 could have been on that trunk three months."

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2b fol

2b-1

1 Now, you see, that could be bad for the defendant,
2 to prove, for the People, that -- yes, he could have put his
3 prints on, if the car was stashed by the killers, and he was
4 one of the killers, and the car was stashed on the night of
5 the 27th or 28th of August.

6 But I'm not going to try to fool you -- or leave
7 something up in the air -- if I can help it.

8 Because it's important to get the truth, to
9 determine what the facts are, insofar as we can bring them
10 to you.

11 And Clements went further. He said, "There's
12 just no way of telling when they were laid down there. They
13 could have been laid down three months, four months, five
14 months, six months. There's no way of telling. But prints
15 will last for a number of months.

16 All right. So, ladies and gentlemen, the point
17 is: Those prints could have been just as easily put on by
18 Mr. Davis when those trunks -- you see, there's only a
19 period of about two weeks that we are talking about, the
20 period between August 16 -- or August 17, when Shorty showed
21 up at the ranch with those trunks, living out of his car,
22 and -- at least, as far as the People are concerned -- a
23 period of about August 27th, 28th or 29th; less than a period
24 of two weeks. Actually, 11, 12 days.

25 There's no way of telling by looking at the
26 print whether the print was laid down there on August 27th,
27 28th, or on August 20th, 21st, 22nd or 23rd.

28 The People want you to draw one inference,

2b-2

1 pointing towards guilt. And the evidence -- brought out
2 again by Johnny Swartz on cross-examination and Barbara Hoyt
3 on cross-examination -- showing that those trunks were
4 available to be touched by anyone on the ranch, is just as
5 susceptible of the reasonable interpretation, pointing to the
6 fact that those were innocently placed.

7 And again, where you have those two reasonable
8 inferences, it's your duty to adopt that pointing to innocence
9 and reject that pointing to guilt.

10 All right. Next group of witnesses.

11 THE COURT: Let's take a recess, now. At 20 minutes
12 to, be back, by that clock. And would you be back in the box,
13 please, ladies and gentlemen?

14 During the recess, you are advised not to converse
15 amongst yourselves nor with anyone else, nor permit anyone to
16 converse with you on any subject connected with the matter,
17 nor to form or express any opinion on it until it is finally
18 submitted to you.

19 (Proceedings had on unrelated matters.)

20 THE COURT: All right. In the case of Davis, get Mr.
21 Davis in, will you?

22 THE BAILIFF: Yes, sir.

23 (Pause in the proceedings.)

24 THE COURT: The defendant is present. All the jurors
25 are present.

26 Mr. Denny, you may proceed.
27
28

3 fls.

3-1

1 MR. DENNY: Thank you.

2 Before I leave Deputy Chamousis, because you are
3 going to receive in the jury room an exhibit which has been
4 received into evidence, and there's only one purpose I
5 submit for this having been submitted by the People in
6 evidence, and that is to inflame your passions and prejudices
7 against this defendant.

8 Deputy Chamousis -- again, I have some strong
9 feelings about this, like all people who handle a volume of
10 fingerprinting, taking handwriting exemplars, writing booking
11 slips or whatever, said, "No, I can't recognize Bruce Davis
12 now. The name I recognize, but I can't recognize Bruce Davis
13 now."

14 So the People presented him with a picture, and
15 said, "Well, you recognize that picture as the person whose
16 prints you rolled on 12-11-1970?"

17 "Oh, yes, yes, certainly. Now, that's the
18 picture of the man I recognized, absolutely, yes,
19 indeed."

20 Well, they didn't have to go through all of that.

21 There are other ways of establishing who the
22 party is whose prints were rolled.

23 You know, in many, many cases it is done simply
24 by the name, the same name.

25 I've been in cases where the Court had admitted
26 into evidence the fact that the deputy doesn't know the
27 print, he doesn't remember specifically the print, but it is
28 the name of Bruce McGregor Davis taken on or about the date of

1 his arrest.

2 It says under a doctrine called in Latin, in
3 effect, identity of name, there's sufficient to get that
4 introduced into evidence.

5 Well, there's no quarrel with the fact that --
6 the defense has never had any quarrel with the fact that
7 that's his fingerprint exemplar card. And there's a booking
8 number on it, which you'll see in People's 16-C. It can be
9 traced a dozen different ways.

10 But the People, for some strange reason, have to
11 do it with a picture. And there's the picture, ladies and
12 gentlemen. This is the first time you'll see it and I'll
13 show it to you. A picture of Bruce Davis with an X cut in
14 his forehead.

15 Now, some of you, in the course of the publicity
16 that's been given to the various Manson cases, you're not
17 supposed to consider that publicity for or against either the
18 People or the defendant, may attach some significance to
19 that. And that's what the prosecution wants you to do with
20 this wholly unnecessary exhibit. And that's been the type
21 of case that they've been presenting to you, and that's what
22 this defense has been up against right from the beginning.
23 And just consider the necessity for this when you consider
24 the reception of evidence in this case and the type of case
25 that's been put on to try to convict Bruce Davis of the
26 crimes charged against him.

27 All right.

28 Now, let's go to these civilian witnesses. And

1 we don't have to spend a great deal of time with them,
2 because Mr. Manzella ran down most of the testimony.

3 Jim Babcock and Sharon Babcock, friends of his,
4 testified, among other things, he loved his guns and he
5 wanted to be a stuntman.

6 Now, let's go into this.

7 When you were questioned on voir dire, many of
8 you were asked, "Do you recognize the term 'stuntman Shorty
9 Shea, stuntman Shorty Shea'?"

10 Well, you know, that's a little catch phrase that
11 the newspapers and the other media for dissemination of news
12 have used because it is kind of catchy. It is like the
13 Black Dahlia. That's a catchy phrase.

14 There are many other phrases which you can think
15 of which have been applied: "The Red Light Bandit, Caryl
16 Chessman."

17 You see, it sells newspapers.

18 "Stuntman, Shorty Shea."

19 Well, when you get right down to it, and the
20 evidence we've heard, this guy was a jack of all trades and
21 a master of none, and a dreamer of great dreams, but a
22 realizer of none of them.

23 Was he a stuntman? A purveyor of dirty books
24 and adult curios? I won't use the term pornography because as
25 Mr. Binder said, who knows what pornography is.

26 A builder of bookshelves or racks for the sale
27 of these adult books in the Hollywood and Las Vegas stores?
28 Was he a tree trimmer? Was he a shoveler of horse manure,

1 cleaning the barns, as George Spahn said he did? Was he a
2 horse wrangler? Was he an occasional movie actor and an
3 occasional stuntman, among all these other trades?

3a fls.

3a-1

1 Was he a bartender? Was he most frequently an out-
2 of-work drifter? You see, none of those sell newspapers quite
3 as well.

4 "A bartender Shorty Shea." He was a bartender.

5 "Drifter Shorty Shea," he was a drifter.

6 Uh, "Tree trimmer Shorty Shea," doesn't sound quite
7 as good as stuntman. But was he any more stuntman than any of
8 these other things, really? Many people have dreams of getting
9 into the movies.

10 Oh, minister, Reverend Shorty Shea, the attache
11 case attests to. Was he a minister? He had a mail order
12 certificate, apparently, establishing his ministerial
13 qualifications.

14 Did that make him any more qualified to be a
15 minister than the fact that he had a set of matched Colt .45's
16 made him qualified to be a stuntman? I don't know. But I
17 balk a little bit at the phrase that's been applied to him by
18 the newspapers, because that phrase is no more applicable than
19 many other phrases that could be applied to Shorty Shea.

20 All right, Bob Bickston. To hear the People examine
21 him on examination, on direct, you would think that Bob
22 Bickston was C. B. DeMille.

23 "Did Shorty appear in some of your TV documentaries?"

24 "Oh, yes, I made three, four TV documentaries,
25 "Joaquin Murrietta," et cetera, et cetera. Oh, that is the
26 truth, but is it the whole truth and nothing but the truth?

27 Cross examination, Mr. Bickston.

28 "Whatever happened to those TV documentaries?"

3a-2

1 Were they ever shown?

2 "A Well, no.

3 "Were they ever distributed?

4 "Well, no.

5 "Did they ever see the light of day anywhere
6 as the production before any sort of audience?

7 "Well, no.

8 "And this outfit that you ran to make these films
9 financed by one of Bing Crosby's sons, in fact, this was kind
10 of a fly-by-night organization, really, in the trade you would
11 call it that, wouldn't you?

12 "Well, yes."

13 There's the whole truth.

14 Now, why build it up? Why build it up? Why make
15 Bob Bickston seem what he isn't? Why make Shorty Shea seem
16 what he isn't? Why try to fool you, the jurors? Why? Because
17 this is part of the People's picture that they want to paint,
18 that Shorty Shea was interested in going into the movies. And
19 he had a movie deal all lined up here, and a movie deal all
20 lined up there.

21 Well, now, you know that's kind of interesting,
22 too. Trying to figure out what the People's theory of this
23 case is, I keep shaking my head in bewilderment. I have ever
24 since I was appointed to represent Mr. Davis. And when I first
25 read the Grand Jury transcript in this case, I shook my head
26 and said, "Just a second now. Shorty's supposed to have a job
27 with Frank Retz, so he's supposed to be there. But Shorty is
28 supposed to have a job with Bob Bickston over in Arizona, so

3a-2

1 he's supposed to be there. But Shorty is supposed to have a
2 job with Maurice Kosloff in Hollywood, so he's supposed to be
3 over there. No, Shorty, according to Lance Victor, is
4 supposed to have a job up in the salt mines up in Vallejo,
5 so he's over there."

6 Where do the People contend Shorty's interests
7 lay? Shorty's interests lay just exactly where they had
8 always lain, and that is any place where he could pick up a
9 buck.

10 All right. Jerry Binder, we don't need to go
11 into his testimony overly, except for the fact that he did
12 establish that these trunks were trunks -- I'm sorry, I think
13 it was Magdalene Shea.

3b fol

3b-1

1 It was either Jerry Binder or Magdalene Shea,
2 to establish that the footlockers were the footlockers
3 purchased by Shorty in Las Vegas. So he did not have them
4 until July sometime. And this ties him in with the testimony
5 of Johnny Swartz again.

6 Johnny Swartz, when he testified, said he had
7 seen those footlockers up in the storage room and he wasn't
8 sure whether it was before or after August 16, but you see,
9 it couldn't really have been too much more. He only visited
10 twice up there. He took his wife up there one time and he
11 went up there another time with her and George Spahn wasn't
12 there. He didn't have the footlockers there with him then.
13 They wouldn't have been stored then. They were stored after
14 he had come to stay for a while, after the August 16th raid.

15 Archibald Hall. Archibald Hall -- interesting,
16 again, the unasked question of the prosecution. Why did
17 they bring him in? Well, Archibald Hall sold Shorty the
18 guns.

19 "How much did you sell them for, Mr. Hall?

20 "Well, the price was, I think, about \$150.

21 "No further questions."

22 "Oh, did you ever get them --" I don't
23 think they even asked him anything much more than that, as
24 I recall.

25 Now, cross-examination.

26 "Mr. Hall, did he pay you that \$150?

27 "No, he paid me \$25 cash and gave me a
28 couple of cameras."

1 I think the People may have brought out that he
2 gave cameras for security, collateral, whatever.

3 "But he paid me the \$25.

4 "Oh, well, now, Mr. Hall --" and this is
5 again purely by virtue of the fact that we have discovery,
6 we get through discovery reports of these witnesses what
7 they have stated previously, so we know. But the People
8 know because we get them from the People. They have the same
9 information, at least as much as the defense is able to get.

10 So reading the reports of his earlier statements,
11 I said:

12 "Well, Mr. Hall, isn't it a fact that you
13 had some conversation with Shorty about these guns
14 in July?

15 "Oh, yeah, sure I did.

16 "What was that conversation, sir?

17 "Objection, hearsay.

18 "State of mind of Shorty Shea."

19 People got in all sorts of state of mind. So we
20 get that in. And what is it?

21 Shorty called and said, "Gee, Arch, I don't
22 want you to think that I'm --" I can't remember quite
23 the phraseology now, but "-- cheating you here. I'll get
24 that money in to you for the guns in the next couple of
25 weeks. And if I don't, I'll bring the guns back."

26 Now, that's the People's witness, Arch Hall.
27 And he seemed to be an honest, credible witness.

28 Now, what does that do to the People's theory

1 espoused by Mr. Manzella so zealously, and perhaps Mr. Kay
2 when he talks to you that Shorty Shea would never part with
3 his guns. These were his babies, as Jerry Binder said, who
4 is hardly a totally disinterested witness. And I have put
5 down, "interested but not critical witnesses."

6 What does that do to their theory?

7 Mr. Manzella told you that this was a life style,
8 that these guns had become part of Shorty.

9 Well, as I pointed out, not a very big part or
10 else he's missing that part an awful lot of the time during
11 the time he was supposed to have had them, because they were
12 in hock most of the time.

13 But Arch Hall says, "He told me he was going to
14 pay me or he'd bring the guns back."

15 "Deadbeating" is the word that Shorty used in that
16 phone conversation.

17 "I don't want you to think I'm deadbeating
18 you around, Arch."

19 Acknowledging the fact that he liked the guns,
20 he wanted the guns, he would like to have kept the guns.
21 Give Shorty credit enough for the fact that he, at least,
22 told Arch Hall, "I'll either pay you or bring them back."

23 Well, the facts are that he couldn't pay him
24 because Lance Victor said that he was trying to bum money
25 off of him there in the last week of August sometime. So
26 we'll go on with that subject a little bit further.

3c fls.

3c-1

1 Sandra Harmon, again, the first wife. All she
2 established, as far as I could see, that Shorty was perhaps
3 not the greatest husband in the world and certainly not the
4 best father in the world, who had abandoned his children. And
5 she, perhaps, not the most human-type of creature to, in
6 effect, say, "Get out and don't bother the kids. Leave me
7 with them," whatever it was. That's the way it wound up, and
8 Shorty never saw his children again after 1965. Apparently,
9 never contributed to them. And that bespeaks a little of the
10 character of Shorty Shea. Perhaps the character of Sandra
11 Harmon.

12 Muriel Quant, the only thing she testified to
13 other than the fact, again, Shorty loved his guns and Shorty
14 had been at the ranch a long time.

15 This incident was supposed to have such sinister
16 overtones -- you listened to the People's testimony on direct.
17 Again, the truth, the whole truth, let it come out, let it all
18 hang out on direct. Why not? Instead of having to wait and
19 have it pulled out from the witnesses on cross examination.
20 To hear it from the People's questioning. And the witness can
21 only answer what the prosecution asks of her.

22 "What -- Mrs. Quant, what happened?

23 "Well, we walked down here and Manson
24 threw a knife as Shorty Shea."

25 Oh, that sounds bad. That's motive, you see.
26 That's supposed to establish motive.

27 You'll get an instruction on motive. It is not
28 necessary, but if you find one, it may tend to help to

1 incriminate the parties.

2 It is not Bruce Davis's motive, but supposedly
3 since Davis was tied in with Charles Manson, he shares somehow
4 this motive that you get in a conspiracy case. It rubs off on
5 him somehow.

6 But this is motive? It shows that -- what,
7 Charlie had attempted to kill him then? Well, that's a lot of
8 rubbish. In front of Muriel Quant?

9 Well, then, let's bring it out. What happened?

10 The guys were standing around there in front of
11 the door. They threw knives all the time.

12 There's testimony from Johnny Swartz on that.
13 There is testimony by some other person that they threw knives
14 all the time.

15 Muriel Quant had better sense than to do what
16 Shorty Shea did. She went around this group. She didn't
17 walk along the boardwalk. She and Shorty had been walking
18 together. She took the longer way. Shorty went right
19 through, and Manson whipped a knife from about this space
20 (indicating) to the wall, and it hit the door, about three
21 feet in front of Shorty.

22 Well, that's not all that dangerous. I wouldn't
23 like it. You wouldn't like it. It is sort of a dumb thing to
24 do. But it certainly isn't an attempt to kill Shorty or any-
25 thing like that.

26 "And, well, then, what happened, Mrs. Quant?
27 What did Shorty do?

28 "Well, he just sort of grinned with a sheepish

1 grin and walked on." That's the truth of it.

2 Let it all hang out. Tell it. Tell it on direct,
3 instead of having to have the defense bring out the whole truth
4 on cross examination.

5 Elizabeth Shea, again, simply established, like all
6 mothers, she heard infrequently from her son and, generally, by
7 a collect phone call or whatever. And as I said, the dear lady,
8 she doesn't know whether her son is dead or not.

9 Lance Victor, the guy who had gone up with Shorty
10 to the salt beds, or as they call them, "salt mines" in
11 Vallejo in '68, taking them up in his car because Shorty's car --
12 his brakes were bad.

13 Lance Victor, who testified that sometime in this
14 period after the raid, sometime perhaps within the last week of
15 August, he did see Shorty. He came up on weekends, I think he
16 said and talked to him.

17 Shorty said, "You know, things aren't right around
18 here. Things are funny. I want to get out of here. And I
19 need some money."

20 And Victor gave him a couple of bucks and said,
21 "I'll bring thirty bucks at the end of the week. Thirty dollars
22 at the end of the week."

23 And he went up at the end of the week, after he
24 had gotten paid and Shorty was not there. But Shorty told him,
25 "I am going up to Vallejo. I'm going to get out of here."
26 Right?

27 Okay. And then, we get to the category of "Very
28 Much Interested and Involved Civilian Witnesses."

1 Now, we've mentioned John Swartz here just
2 briefly. And what did Swartz testify to?

3 Well, we've gone over his testimony at some length
4 except, again, the fact that Swartz's testimony for the People
5 that he saw Danny DeCarlo and Bill Vance come into the gun room
6 sometime in early September with Shorty's attache case and
7 Shorty's two guns. Right? People stop there.

8 Well, I know that there's something more happened,
9 and the People know that something more happened. And so on
10 cross examination: "Mr. Swartz, there was some conversation that
11 went on there, wasn't there?

12 "Yes, there was.

13 "And what was that conversation?

14 "Well, DeCarlo said, 'Well, we finally got Shorty's
15 ego.'"

16 Oh, a little bit more of the truth comes out. Not
17 from the People. Now, isn't that interesting? Isn't that
18 interesting?

19 And Mr. Manzella says, "Well, obviously that means
20 they got Shorty's guns. They're talking about Shorty's guns
21 and that's what Shorty's ego means."

22 Well, that's one interpretation. Another
23 interpretation is: "We finally got Shorty. His ego, his being.
24 Him."

25 Now, ladies and gentlemen, I told you a little
26 earlier today that I don't know what's happened to Shorty. I
27 don't know where he went. I don't know where he's gone. And I
28 asked if any of you know.

1 You see, the People have to convince you, and
2 convince you beyond a reasonable doubt and to a moral certainty,
3 to a near certainty that Shorty Shea is dead. That he's dead
4 by criminal means, and that this defendant had something to do
5 with killing him.

6 Are you sure that Shorty is dead? His mother
7 isn't. His own mother. Are you? Are you sure if he is dead --
8 in your own mind, you feel, well, a person hasn't showed up for
9 two and a half years or so, he must be dead. Are you sure he's
10 dead by criminal means?

11 Remember Ronald Hughes?

12 But if you feel he was done in by criminal means,
13 who did it? Where does the evidence most likely point to?
14 Where is the bulk of the circumstantial evidence in this case?
15 You think about that for a minute or two, and I'll tell you.
16 I'll tell you what it appears to me, at any rate.

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17 All right, Ruby Pearl, let's take Ruby Pearl.
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1 Now, Ruby Pearl is -- well, before we take Ruby
2 Pearl, let me go to Magdalene Shea.

3 Now, I gave Magdalene Shea kind of a rough time on
4 cross examination. And I don't like parading a person's
5 misdeeds before a jury, and I don't do it just -- just for
6 amusement, just for sport, just for fun. I don't do it to
7 degrade a person.

8 It is their life. They have created that. But I
9 did it in this case because I didn't believe her.

10 Now, it's not particularly important whether she
11 had an argument with Shorty and Shorty left her, or she left
12 Shorty -- except that the circumstances under which that
13 parting did take place, those circumstances become relevant if
14 she left -- as Shorty told Marian -- or Miriam -- Binder she
15 left: Not because of Shorty's drinking; not because Shorty
16 was unhappy with her topless dancing; but because she was
17 going back to her old boyfriend, because she was scared that
18 something would happen to her or to Shorty at the hands of that
19 boyfriend.

20 Now, that's what Shorty told Miriam Binder. And
21 all this discussion, all this talk from Magdalene Shea, talk-
22 ing about the letter that disappeared -- funny about that --
23 all that just didn't ring true to me.

24 And so I began digging and digging and digging,
25 and subpoenaing records, and going to the courts -- where
26 things are a matter of record -- and I come up with what?
27 Those arrest reports, those arrest reports on November 5th,
28 the arrest report on August 22nd -- six days after they'd

4-2

1 split up, she's arrested down at the International Hotel
2 at 2:00 o'clock in the morning.

3 And what name does she give as a person to notify?
4 What name does she give herself? Not Shea. Fuery. Who to
5 notify? Allan Fuery.

6 November 5th, arrested again, International Hotel.
7 What name does she use? Fuery. Who to notify? Allan Fuery,
8 husband.

9 Arrested again in May of 1970. The name? Fuery --
10 again, down at the International Hotel. The name she gives,
11 Magdalene Fuery. Who to notify?

12 And interestingly enough, she said, when I
13 questioned her, you remember, as far as the November 5th arrest,
14 "Do you remember putting down Allan Fuery, husband?"

15 And she says, "No. No, brother."

16 And I said, "No, that was the one in May." And it
17 was.

18 At that point, she puts down "Allan Fuery,
19 brother, person to notify. Address, same as above."

20 In each instance, "Address, same as above."

21 Living with her. And where is it? Not the
22 address she testified to on both direct and cross examination,
23 where she was supposedly living with a friend -- girlfriends,
24 second or third cousins -- but an entirely different address on
25 Western Avenue. Not the address on South LaBrea that she gave
26 us.

27 Now, is this a red herring? Is this something I
28 am dragging across your path, to try to divert your attention

4-3

1 from the obvious guilt of Bruce Davis, that the People have
2 established by their flimsy circumstantial evidence?

3 Ladies and gentlemen, I don't know. I don't know
4 what's happened to Shorty. All I know is what the facts are
5 that have been developed thus far, and developed by virtue of
6 an awful lot of hard work on the part of an awful lot of people --
7 not only Paul Whiteley. I've tried to develop a few facts, too,
8 and I hope that I have been able to bring them to you.

9 I don't know. I don't know if he is alive or dead.
10 And if he's dead, I don't know whether he died accidentally or
11 by criminal means. And if he died by criminal means, I don't
12 know who killed him.

13 I don't know if Allan Fuery had anything to do with
14 it or not. I only know that Shorty expressed this to Miriam
15 Binder. And I don't see that there is any reason for Miriam
16 Binder to lie on that.

17 One other thing that Magdalene Shea did testify
18 to, and that's the luggage that he had -- well, time is getting
19 short, and I don't want to read all of this in. I was going to
20 read it, but it's interesting to recall that he had a number of
21 pieces of luggage, a regular suitcase, a brown suitcase, and
22 a -- an overnight case, a silver-blue overnight case, a week-
23 ender overnight case, along with these footlockers and the
24 attache case.

4a fol

4a-1

1 And the blue-gray suitcase here is not that
2 overnight case. He indicated that, that that does not belong
3 to Shorty.

4 So, there are two pieces of luggage that are
5 missing, that we don't know about, that Shorty may well have
6 used to travel with.

7 Obviously, he is not going to travel with the
8 steamer trunks.

9 And there's testimony from Ruby Pearl that he
10 generally wore old work clothes, Levis, regular clothes that
11 she'd wear working around the barn or on the ranch.

12 And in the main, those clothes are not in the
13 trunks.

14 Those are the clothes he would have taken with
15 him, as well as his cowboy boots, his hat -- if he wore one.
16 So, the clothes that he would normally wear are missing, and
17 the suitcases that he would use to carry those in are also
18 missing.

19 Ruby Pearl, I said we'd get to.

20 Now, Ruby, I think, is -- if I can call her that--
21 is essentially an honest woman. She was dishonest, I think,
22 specifically, in one area. And that's when I asked her if
23 she wore glasses.

24 And she says, "No, I've never worn glasses. No,
25 I don't wear glasses."

26 I don't know whether you recall that or not.
27 Here, starting at page 5189, on cross-examination by Mr.
28 Denny.

4a-2

1 "Q Oh, right away, Mrs. Pearl, you wear
2 glasses at times; isn't that correct?

3 "A No, I never wear glasses.

4 "Q Well, ma'am, when you check your bills,
5 make out your bills, you wear glasses to see the
6 fine print, don't you?

7 "A No.

8 "Q Well, ma'am, going back to the weekend
9 before this last weekend, when I was up there with you,
10 remember -- talking to you and Mr. Spahn?

11 "A Well, just the last few months. Not when
12 I was at the Spahn Ranch. I never owned a pair."

13 And then, she goes on, saying that she just picked
14 up an old pair, and she had never been to an optometrist.

15 She had never been to an optometrist, so she
16 doesn't know, really, what her eyesight is. But she was a
17 little dishonest there.

18 Perhaps, as one who is getting a little bit
19 older and doesn't like to acknowledge the results of
20 advancing age, she was just simply a little too proud to
21 acknowledge the fact that she does need glasses; that her
22 eyesight is getting a little bit dimmer.

23 But essentially, I think, she's sort of the salt
24 of the earth kind, who has done what so many of us so naturally
25 do. She doesn't recall specifically the date on which she
26 last saw Shorty. In fact, if you remember, I asked her,
27 "Did you make a statement on December 14 --" I believe it
28 was December 14 -- "1970, to Paul Whiteley, in the presence

4a-3

1 of George Spahn and Randy Starr, that you last saw Shorty
2 approximately either the 10th or the middle of September,
3 somewhere?"

4 And she says, "I may have said that."

5 And I asked Paul Whiteley, when we brought him in
6 on directly, and he said, "Yes, that's the statement she made."

7 Again, that's interesting. Paul Whiteley -- that's
8 a statement very much against the prosecution theory here,
9 but Paul Whiteley was honest, and he said, "Yes, she did make
10 that statement to me."

11 But she saw something, one time, there on the ranch.
12 She saw a car. She saw some men pile out of the car, and she
13 had been talking to Shorty, and as she drove away, she saw
14 the men walk toward where Shorty was walking.

15 Now, I believe that. I believe that that
16 happened. She's dim and hazy, however, as to really all of
17 the circumstances.

18 Now, these pictures, and the series 80 pictures,
19 are particularly relevant. You see --

20 (Pause in the proceedings while Mr. Denny pinned
21 a series of photographs on the board.)

22 You see, she was required to testify from a new
23 picture, this picture (indicating), People's 80-I, instead
24 of from a picture from which she had -- or, as to which she
25 had previously testified in prior proceedings, 80-C.

26 And I had a purpose in insisting on this. And
27 the purpose became very clear, in the course of her cross-
28 examination. She testified she had certain conversations,

4a-4

1 and she saw, as she started to drive out, a car pull in fast,
2 and four people -- four people get out of that car and move
3 then in the direction toward Shorty.

4 So the prosecutor -- I can't recall whether it
5 was Mr. Kay or Mr. Manzella at the time -- said, "Would you
6 mark with an X where Shorty was? And mark with zeroes where
7 those four people were?"

4b fls.

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1 So she dutifully did so, and she marked with an X
2 and a circle where her car was, at about this time -- supposed
3 to be a load of manure there on a trailer of some sort, in this
4 picture 80-I.

5 And she said, "That is the scene that I recall.
6 And there was a shadow sitting in the car there, but the
7 shadow never got out --" if indeed it was a person.

8 Interesting? Now, if this had been in front of the
9 Grand Jury, where there's no right of cross examination and you
10 were on that Grand Jury of ours, that's all you'd have.

11 But this is a trial, where a defendant has an
12 opportunity to cross examine.

13 And so I said, "Mrs. Pearl, let's look at this
14 picture which is the same picture, essentially, 80-C, that you
15 marked up in a prior proceedings. There are five people there,
16 five X's about Shorty Shea; isn't that correct?

17 "A Well, yes. Yes, it is.

18 "Q And also 'R. P. 1' where you were supposed
19 to be is a good deal closer than you've put it now;
20 right?

21 "A Yeah."

22 But five X's? Five people?

23 "You've testified previously that Bill Vance
24 was there, and that he got out of the car, and he
25 moved over. Five people; isn't that right?

26 "A Well, yes. But I'm just not sure,"
27 et cetera, et cetera."

28 Well, again, this is sort of an interesting

4b-2

1 thing. The instruction you'll get is: You may disbelieve the
2 testimony of one who has willfully and with a design to
3 deceive testified falsely, and toss out all of that person's
4 testimony.

5 I'm not sure that I could say Ruby Pearl really
6 willfully and with a design to deceive has testified. She just
7 is not sure. She just doesn't remember. She doesn't recall.

8 And the fact that she testified one way one time and
9 one way the other time only attests to that confusion.

10 Again, we went into it very specifically, because
11 she marked on direct examination the route that this car took.
12 And the car that she said drove in came right in that drive-
13 way, the driveway that is shown here on the lower left-hand
14 portion of People's 29, zoomed in right by the grass -- the
15 grass that's shown in both photograph 80-A and People's 29 --
16 and parked over by the grass, facing in a westerly direction,
17 marked in green with a green arrow here on People's 29, with
18 the "R. P." and the line drawn under it.

19 That's where the car parked. Now, this Exhibit
20 29 was a particularly important exhibit, and it was secured
21 for one reason, one particular reason, to show the distances
22 that are involved here.

23 Because these pictures in the 80 series don't
24 really show the distances. You have to get up above it and
25 look down, as this photograph does, to see how much distance
26 is involved. And you people with some engineering background
27 can look at the size of the trucks and the cars and make some
28 estimate, a truck being about 20 feet, a car about 18 to 20

4b-3

1 feet, and you can make some estimate as to the distances in-
2 volved, where -- even assuming Pearl was where she said she
3 was, over here where the "R. P." and the line drawn to the
4 green mark, over by the corral, which is supposed to indicate
5 her car when she first started out, and this is to the car that
6 she says these people got out of.

7 Now, see how many car lengths it is from there
8 over to there. And then recall her testimony, her testimony
9 at the Grand Jury -- which I used to, frankly, impeach her.

10 She testified she was almost squeezed out by this
11 car as it came in. And where is the only place that you can
12 really get squeezed out, particularly if a car makes that right-
13 hand turn as fast as it did? The only point is right at the
14 entranceway. And this (indicating) is where Pearl was when she
15 saw this car.

16 Now, whether it was a dark night or whether it was
17 a moonlight light -- and this is sort of interesting. Pearl
18 had not previously testified anything about moonlight night.
19 She established that. But then on cross examination, Page
20 5229, starting at Line 26:

21 "Q BY MR. DENNY: Well, ma'am, isn't it
22 a fact that you didn't mention anything about a
23 moonlight night until you heard from someone in
24 the prosecution that Barbara Hoyt said, 'Oh, I
25 heard someone scream on a moonlight night,' and
26 this is when you said, for the first time, in
27 September of 1971, 'The last time I saw Shorty was
28 a full moon.'

29 "A No."

4c fol

4c-1

1 And then she goes on:

2 "I didn't even hear that Barbara Hoyt
3 said anything like that.

4 "Q BY MR. DENNY: Someone in the prosecution
5 told you that another witness was going to say that
6 she heard Shorty screaming on a full moonlight night--
7 on a full moon night; isn't that true, --

8 "A No.

9 "Q -- before you testified for the second
10 Grogan trial?

11 "A No. I never --

12 "Q And before that, you had never mentioned,
13 at any trial, any proceeding, any Grand Jury hearing,
14 or to any police officer that there was a full moon
15 out, the last time you saw Shorty; isn't that a fact?

16 "A I never mentioned it until it was stressed
17 to me. 'It must have been light. Was it moonlight?'

18 "And I said, 'Well, it was light. The
19 sky was light.'

20 "It was pumped into me -- 'How -- how
21 much was it?'

22 "'Well, it was light.'

23 "Q It was pumped into you, wasn't it?

24 "A Well, I --

25 "MR. KAY: Your Honor, I am going to object
26 to Mr. Denny yelling at the witness."

27 And you may remember, I did yell. I was amazed.
28 I was delighted, finally, that the truth came out.

4c-2

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"MR. DENNY: I'm sorry.

"THE COURT: That was several decibels above --"

And then:

"Q BY MR. DENNY: I'm terribly sorry, Mrs. Pearl. It was pumped into you?

"A It was questioned to me, 'How light? How light? How light? There must have been moon. There was moon.'

"Q And when it was pumped --

"A 'And how much.'

"Q -- pumped into you?

"A Like now. I never mentioned --

"Q Some lawyer telling you, --

"A No.

"Q -- 'There must have been light. There must have been light. There must have been light.'

"Isn't that right?

"A No, I don't remember anybody mentioning light. I saw what I saw, and there was light enough to see, and this is all I was interested in."

Well, she goes on for a couple of more pages, which I don't have time to read.

"It was pumped into me and pumped into me and pumped into me, 'It must have been light.'"

Again, that doesn't happen too often on cross-examination. And when a lawyer has an opening, a little break like that, where the light -- be it moonlight or sunlight -- shines through, it is an extremely delightful

4c-3

1 experience. But that was the truth shining through.

2 Someone in the prosecution had pumped her and
3 pumped her and pumped her into that.

4 All right. The dear lady -- this was possible
5 to do with her. She had a background in show business.
6 The photographs that are in evidence show that, with her
7 dog act, I think, or some horses and things. And she has
8 this sort of theatrical background, this theatrical point
9 of view.

10 She would tend to build up something -- in
11 retrospect -- because, you see, it's interesting; we go to
12 George Spahn's testimony.

13 George Spahn said, "We didn't miss Shorty for
14 six weeks after we hadn't seen him around."

15 "We."

16 And Pearl and George are like that (indicating).

17 "We didn't miss him for six weeks," and
18 then there was some incident that brought it to his mind.
19 And but for that incident, they wouldn't have missed him
20 at all, probably, because he comes and goes, comes and goes.

21 So, something brings it to mind. The police come
22 out. They start digging up the ranch.

23 And then, in retrospect, she says, "Now, I
24 remember everything. You know, I remember. I remember there
25 was a time when I saw these guys get out and walk towards
26 Shorty."

27 MR. KAY: Well, your Honor, I'm going to object to that.
28 There's no evidence that that's why she remembered.

4c-4

1 THE COURT: The objection is overruled.

2 MR. DENNY: Now, I am not stating her testimony. I am
3 stating my interpretation of what went on in this good lady's
4 mind.

5 There was no testimony as to that, certainly.
6 But extrapolating from, and looking at the reasonable
7 interpretations which I think you may draw from the evidence,
8 I think you put a little common sense and a determination of
9 human nature and how it operates into the hopper -- which
10 certainly you are permitted to do; you don't park your brains
11 outside the jury room when you go in there to deliberate;
12 as you listen to the evidence, you don't park your brains
13 outside and just receive what is spoken here.

14 You interpret it. That's your function.

15 So, this good lady, I submit, some weeks later,
16 says, "You know, I'll bet that's when Manson and the Family
17 did Shorty in."

18 And then, at a time even later than that, someone
19 pumps her and pumps her and pumps her to say it was on a
20 moonlight night, when she had never said so before. And that's
21 how that happened.

22 Now, I've spent a good deal of time going into
23 her eyesight, her vision, et cetera. Her eyesight is not
24 that good. She does wear glasses. The distances here, the
25 night -- certainly, not under the most ideal circumstances.
26 How could you tell who these people were?

27 "How did you know them? Well, how did
28 you know Bruce Davis? How did he walk?

4c-5

1 "A I never saw him walk. I generally just
2 saw him standing around."

3 The People would argue to you that she can tell
4 by their movement; that you can tell a person you've seen
5 before by the way he moves, by the way he walks; you're
6 used to seeing it.

7 But she said these people were moving faster
8 than she had ever seen any of them move before, and she had
9 never even seen Bruce Davis move before.

5 fls.

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1 Now, there were other men on the ranch, too. But
2 she jumped to the conclusion.

3 And, again, I say the good lady, I don't think
4 she's lying with an intent to deceive you. I think she has
5 deceived herself. I think she has talked herself into this.
6 And I don't castigate her for that, like some of the other
7 witnesses who have perjured themselves willfully, knowingly,
8 intentionally, with a design to deceive you. But I think
9 this woman has simply talked herself into having seen some-
10 thing that she's just not sure she saw at a time when she's
11 just not sure she saw it. She did see something like this,
12 one night, and it may have been a night when Shorty told her,
13 you know, "I would like to get out of here, funny things are
14 going on." A time when Shorty was tipsy. But was it the
15 last time that she saw Shorty? Because she told Sergeant
16 Whiteley the last time she saw him was in mid-September.
17 And none of the Manson Family members were there on the
18 ranch, at least not any of these male members that got out
19 of the car at the ranch at that time. They were all up in
20 Olancho except maybe Steve Grogan, but -- not Olancho, but
21 the Barker-Meyers Ranch.

22 So, again, look at the way it's evolved. Look
23 at the way the testimony occurred. Look at the credibility
24 of the witnesses.

25 Here is a witness that I don't think is all
26 that credible as to what she saw, but I don't think she is
27 willfully trying to deceive you. And that's an important
28 distinction for you to make, certainly, in this case.

5-2

1 All right, let's talk about Frank Retz.

2 Now, Frank Retz -- it is sort of interesting to
3 see Frank Retz on cross-examination, because at one point I
4 think we were at dagger's points, he and I, as I was question-
5 ing him, and questioning him quite hard. At the end it was
6 almost a love set.

7 But interesting what his testimony was on
8 direct. Trying to develop as I did at the discussion about
9 Shorty Shea with George Spahn and getting Shorty to be hired
10 as a watchman with something which, through some devious
11 process of Squeaky listening stealthily behind George Spahn's
12 blind eyes to the conversation, on and through Squeaky as
13 a conduit of this information, got to Charlie Manson. And
14 having that information, they figured they had to dispatch
15 Shorty Shea to keep him from queering the works. What works?
16 They were going to be gone. But that's the People's theory
17 of the case.

18 And so they set this all up. Squeaky there.
19 Did Squeaky hear these conversations? Well, heck yeah, she
20 may have heard them, although George Spahn, when we called
21 him down, said generally we try to get away from any people
22 when we discussed business.

23 But, then -- all right, let's get some of the
24 rest of the conversation.

25 Now, again, I don't have any more information
26 than the People have. They may have more than I do, but I
27 don't have any more than they do as to what Frank Retz had
28 previously said. But they don't bring out what Frank Retz

5-3

1 previously said, what Frank Retz previously testified to at
2 the Grand Jury hearing. The Grand Jury through which this
3 indictment was gotten, but at which there was no lawyer to
4 represent Bruce Davis and cross-examine these witnesses as
5 I have done here before you.

6 And what did Frank Retz say? He said, "We had a
7 conversation about Shorty's coming over and Shorty was to
8 come over Monday. And I got a phone call from Shorty on
9 Monday about 9:00 o'clock Monday morning, and I told Shorty,
10 'Come right down. You be right down here.' And Shorty said,
11 'Yes, I will come Monday morning, 9:00 o'clock.'"

12 Now, he said, "It was either Monday or Tuesday.
13 I do my banking Monday or Tuesday, so it was either Monday
14 or Tuesday.

15 "I didn't do my banking, but I waited for him
16 until the afternoon and he didn't show up and he never
17 showed up." Monday or Tuesday morning. People didn't bring
18 that all out because, you see, that doesn't fit in very
19 nicely with their theory. Their theory is somewhere in here
20 (indicating) he disappeared.

21 But, now, look. If it is a Monday or Tuesday,
22 if it is the 25th or 26th of August, Charlie Manson was in
23 jail there. And you have the evidence here in People's 101
24 and People's 102 as to the periods of time that he was in
25 jail.

26 People's 102, I believe it is, shows that he was
27 in jail following the March 6th -- or the August 16th arrest,
28 from August 16 to August 20. There's no Monday or Tuesday that

1 he could have dispatched poor old Shorty then, because he was
2 in jail.

3 And lo and behold, the following Monday and
4 Tuesday, he's in jail. He's in jail the 25th and 26th, and
5 he isn't released, according to the People's 102, until
6 11:42 at night.

5a fls.

5a-1

1 But this period of time, when Pearl says she saw
2 him, was between 11:00 o'clock and midnight. And Sergeant
3 Whiteley testified it takes a good 45, 50 minutes, to get from
4 the jail out to Spahn Ranch. So it couldn't have been that
5 Monday or Tuesday, the 25th or 26th of August.

6 And low and behold, the next Monday or Tuesday,
7 the 1st and 2nd of September, all the evidence shows that Bruce
8 Davis, Tex Watson and Charlie Manson were up at the Barker-
9 Meyers Ranch.

10 Now, ladies and gentlemen, why is it that the
11 People didn't call George Spahn? I told you. I told you right
12 at the beginning of this case that they were not going to call
13 George Spahn, didn't I? In my opening statement I said, "We'll
14 prove to you that they've got witnesses available, witnesses
15 they called at the Grand Jury hearing that they will not call.
16 Witnesses like George Spahn."

17 And why? Why did they not call George Spahn?
18 Because they knew what testimony the honest George Spahn would
19 give.

20 Starting at Page 7070.

21 "Q All right. Now, the last occasion when
22 you talked to Don about this, do you remember about
23 what day of the week that was?

24 "A No, I'm not 'sertain.

25 "Q What did you tell him, the last occasion
26 that you spoke to him?

27 "A Well, I told him now to be sure and
28 go see Frank, 'because Frank wants to see you.'

5a-2

1 "And I understood it to be a -- he said -- it
2 was on a Monday that Shorty should go down there,
3 between 8:00 and 9:00.

4 "And I told him just, 'to be sure and do it,
5 Shorty, because he wants to see you, and he won't
6 fool around.'

7 "Q Do you recall what Shorty replied, if
8 anything?

9 "A Well -- no. I took it for granted that
10 he went.

11 "Q Well, no. Wait a second. You are getting
12 ahead of the story a little bit.

13 "This conversation that you had, was this
14 conversation on the day that he was supposed to
15 go, which was a Monday?"

16 Well, there's an objection at that point.

17 New question by Mr. Denny.

18 "Well, sir, he had just told us about a
19 conversation about Shorty going to meet Mr. Retz
20 on Monday.

21 "A Yes.

22 "Q Between 8:00 and 9:00 o'clock, is that
23 right?

24 "A Yes."

25 And a further question by me.

26 "Now, this conversation that you had with Don,
27 was that had on the day that Don was supposed to go
28 meet Mr. Retz?

1 "You can answer that.

2 "A May I answer?

3 "Q Yes.

4 "A No, that wasn't the day.

5 "Q How many days before the day that
6 Don was supposed to meet Mr. Retz did you have
7 that conversation with him, do you recall?

8 "A Well, it was just a mighty few days
9 before he was supposed to go I reminded him again
10 to be sure and be there.

11 "Q All right.

12 "A And he said he sure would.

13 "Q All right, sir. And to your recollec-
14 tion, is that the last conversation that you had with
15 Don?

16 "A I think it was -- I think that it was.

17 "Q All right.

18 "Now, was there a period of time thereafter,
19 Mr. Spahn, at which you began to be concerned about
20 the fact that Don was missing?

21 "A Yes.

22 "Q And about how long thereafter was
23 that that you became concerned about the fact that
24 Don wasn't around any more?

25 "A Well, it was, uh -- I would say six
26 weeks."

27 People didn't want that information to get before
28 you for some strange reason. But the defense brought it in.

1 It corroborates Frank Retz. It corroborates what Frank Retz
2 said at the Grand Jury hearing. It corroborates what Frank
3 Retz acknowledged was his testimony at the Grand Jury hearing
4 and was the truth.

5 The testimony of Mr. Retz.

6 "Now, Mr. Retz, do you recall, though, that
7 Shorty did call you about 9:00 o'clock in the
8 morning?

9 "A It was after 9:00, yes, shortly
10 after 9:00 that I remember, because I got my
11 appointments every day. The secretary said,
12 'Will you accept a call from Shorty Shea collect?'

13 "Collect?

14 "Yes.

15 "You remember collect?

16 "I say yes.

17 "You remember.

18 "And this is at your office where, sir?

19 "5767 Lankershim Boulevard or 5769, which
20 you call that, too.

21 "Q All right. And you've related that
22 conversation to us that Shorty said he'd be happy
23 to take the job?

24 "A That's correct.

5b fol

5b-1

1 "Q And asked about the money?

2 "A That was the first thing.

3 "Q The first thing, 70 bucks a week and all
4 you can eat?

5 "A That's right.

6 "Q All the good delicatessen food you can
7 eat, and then Shorty said he'd be there in about
8 a half an hour, is that right?

9 "A That's what he said.

10 "Q All right. And you waited for him to
11 come, is that right?

12 "A That's right.

13 "Q And you waited until even the afternoon,
14 later into the afternoon for him to come and he
15 didn't show up?

16 "A He didn't show up.

17 "Q All right.

18 "And you specifically recall waiting
19 for him and being a little upset because that was
20 your banking day that you took stuff to the bank,
21 that particular day, isn't that right?

22 "A Well --

23 "Q The day that he called?

24 "A Monday, Tuesday, is my banking day.
25 Sometimes also Wednesday, because I go three or
26 four times a week to the bank. But I know when
27 I go to the bank and if I take off to the bank
28 and I say to my secretary, if somebody waits for

5b-2

"me, he can wait, and it takes ten minutes and I'm back.

"Q Well, let me direct your attention to the Grand Jury hearing.

"A Uh-huh.

"Q When you testified on December 14, 1970, before the Grand Jury.

"A Yes.

"Q Of this County.

"Do you remember that?

"A Yeah.

"Probably if you refresh my memory, I can remember, probably."

All right, then, we'll stipulate down to the point where I do refresh his memory and he says:

"Yes, it does."

And so I read:

"Q --" from me reading from the Grand Jury testimony that he had given.

"And do you know whether or not it was a weekday or a weekend that Shorty called you?

"A It was probably on a Monday. It was beginning -- I was Sunday out and I discussed the thing with George. It was on a Monday, so far as I remember.

"In other words, you discussed it with George on a Sunday, and then on Monday

5b-3

1 "you received a call from Shorty Shea?

2 "A That is correct.

3 "Q And do you recall whether or
4 not it was in the morning or the afternoon?

5 "A It was in the morning because
6 I was to get some place, somewhere, usually
7 Monday. That's my day where I go to the bank
8 and things like that. And I know I delayed
9 that for afternoon because I was waiting for
10 Shorty. And after I called up approximately
11 1:00 o'clock, Spahn, he said, "He left."

12 "Do you remember that?"

13 I'm asking him now, "Do you remember that?"

14 His answer:

15 "That's -- that's -- I guess, now, it
16 comes clear. Yes, I was waiting for him at the time
17 and after I went to the bank and I returned, called
18 Spahn up. It could be on a Monday or Tuesday because
19 on Monday if I don't have time to go to the bank on
20 Monday, go on Tuesday."

21 So he talked to Shorty Shea on either a Monday or
22 Tuesday. If it is the 25th or 26th, Manson is in jail. And
23 if it is the first or second Monday, Davis, Watson, are all
24 up at the Barker-Meyers Ranch. No wonder the People didn't
25 want to call George Spahn. No wonder People didn't want to
26 get into that aspect of Mr. Retz' testimony. All right,
27 Barbara Hoyt. Let's take Barbara Hoyt quickly. And I had
28 a quotation here for Barbara Hoyt, something about "Butter not

1 melting in her mouth," or, again, the one "Milk masquerading
2 as cream."

3 An attractive looking girl, an intelligent girl,
4 a smart girl, a smart-aleck girl. You know, that's one of
5 the things that you can take into account when you look at
6 the credibility of the witness. Their demeanor on the
7 stand. Their interest in the case. Their demeanor.

8 Well, after a day or so of cross-examination
9 some of that veneer was stripped away and you saw that
10 smark-alecky demeanor of this delinquent, Barbara Hoyt,
11 who is not such a sweet, demure young thing as that outfit
12 she first wore, that long pink gingham dress or whatever
13 that she paraded in before you with.

14 Now, Barbara Hoyt is another one whose testimony
15 is perjury.

16 THE COURT: I'm going to interrupt you at this time.
17 We'll reassemble at 1:00 o'clock, and I'll let -- can you
18 close in a half hour, Mr. Denny?

19 MR. DENNY: I think I can, your Honor, yes.

20 THE COURT: We'll give you a half hour to close,
21 and then at 1:30 we'll hear from Mr. Kay, beginning his close.

22 So, ladies and gentlemen, during the recess --
23 now, I'll see you at 1:00 o'clock.

24 During the recess you are obliged not to converse
25 amongst yourselves, nor with anyone else, nor permit anyone
26 to converse with you on any subject connected with the matter,
27 nor form or express any opinion on it until it is finally
28 submitted to you.

(Whereupon at 11:55 o'clock a.m. the noon recess

6-1

1 LOS ANGELES, CALIFORNIA, FRIDAY, FEBRUARY 25, 1972, 1:07 P. M.

2
3 THE COURT: The record may show that the defendant is
4 present with counsel. All the jurors are present. Mr. Kay and
5 Mr. Denny are present, and also Mr. Manzella.

6 Mr. Denny, you may proceed.

7 MR. DENNY: Thank you, your Honor.

8 Mr. Kay, ladies and gentlemen of the jury:

9 Getting back to Barbara Hoyt now for a moment --
10 and I've only got a half hour left, allotted by the Court, so
11 that's why I'm talking a little bit faster than I was before.

12 Now, Barbara Hoyt, the young lady, in whose mouth
13 butter would not melt, as I've said, testified to just a few
14 points that were really critical material. But we took her on
15 cross examination for quite a period of time to discuss -- or,
16 to probe her credibility.

17 And what were the points? One, that she heard
18 screams, Shorty Shea's screams, on a particular night. Well,
19 I won't review it, because we've reviewed it and reviewed
20 it and reviewed it to some degree, except to point out the
21 fact that assuming, for the sake of argument, you believe this
22 young lady, that she heard screams -- let's say that that is
23 so -- that's an area, an out-of-the-way area, where many
24 sounds in the nighttime could be heard, at any time.

25 Did she hear Shorty Shea's screams? Well, again,
26 taking her own testimony, Page 5572, Line 4.

27 "Q Well, are you good at recognizing screams,
28 ma'am?

6-2
1 "A I don't know. This is my only
2 opportunity --

3 "Q The only time in your whole life when
4 you've ever heard anyone scream?

5 "A Like that.

6 "Q And recognize it?

7 "A Oh, no. No, I mean screaming like
8 that."

9 But she told about recognizing her brother's
10 scream, or whatever. Well, if she couldn't recognize Shorty's
11 speaking voice, how does she recognize his screaming voice?

12 And this is interesting, again, too. You see, she
13 wasn't really quite well enough prepared in this particular
14 area of examination. Ruby Pearl said, "Shorty Shea was a guy
15 from "Bahston," and his mother, Mrs. Shea, had lived in
16 "Bahston," and had brought him up in "Bahston," and spoke with
17 a "Bahston" accent, and this is what Pearl said. Do you
18 remember?

19 And I asked Barbara Hoyt fifteen different ways if
20 she could tell anything about Shorty's speaking voice. And you
21 may remember -- and the judge commented that I was talking with
22 a western drawl at the time. I said, "Did he talk lak a
23 cowboy, lak this?"

24 And she didn't say. "I don't know. I don't know.
25 I don't know."

26 I gave her every opportunity in the world to say
27 he spoke with a Boston accent, and she couldn't, because she
28 didn't know.

6-3
1 And if she didn't know that much about his speaking
2 voice, how in heaven's name does she know what his screaming
3 voice sounds like?

4 Now, again, about these screams, Mr. Manzella
5 argued that -- "Well, if it were different than one of these
6 Manson Family members had testified, we could bring in some more
7 Manson Family members to testify contrary to her -- " or them,
8 or any of the Manson people, or ex-Manson people, or Manson-
9 associated people, who are the chief witnesses for the
10 prosecution.

11 And I say to you -- and I questioned Barbara Hoyt,
12 "Who was there on the night you say you heard this?"

13 Well, Johnny Swartz was there. Well, George
14 Spahn was there. Well, Larry Jones was there. A number of the
15 cowboys were there. A number of different people were there.

16 Only Barbara Hoyt heard these screams.

17 Now, I am talking loud now. But no way to match
18 that when I screamed the other day, in cross examining her.
19 I know I scared some of you, I'm sure, out of your seat almost.
20 But that was done for a purpose, too.

21 I don't find it particularly promotive of the
22 image of the staid lawyer, to be screaming around the courtroom.
23 But it was done for this reason:

24 This gal kept saying -- when I was screaming, just
25 about as loud as I could scream, screaming to the point where I
26 was hoarse -- I had to use a microphone that afternoon -- "No.
27 It was louder, louder, louder."

28 Now, you heard me screaming just about

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1 human being could scream. And if it was louder than that,
2 everybody in Chatsworth could have heard that scream.
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1 Somebody besides Barbara Hoyt would be brought in
2 by the prosecution to say, "Yes, I heard the screams. I
3 corroborate Barbara Hoyt. I heard those screams that night,
4 and I wondered what was going on, because I heard screams
5 of pain and fear also.

6 "I heard screams that sounded like a
7 woman screaming in a horror movie. I heard those
8 screams."

9 But no, nobody is brought in other than Barbara
10 Hoyt.

11 Barbara Hoyt, the prosecutor's darling.
12 Barbara Hoyt, who says she's spoken to millions of police-
13 men and thousands of attorneys -- District Attorneys.

14 Now, she was exaggerating then, just as she was
15 exaggerating on everything else she testified to. Obviously,
16 she didn't talk to millions of officers. But she talked
17 to plenty of officers.

18 And, interestingly enough, those officers
19 didn't believe her. Lieutenant Nielsen, one of the chief
20 investigators in the Tate-La Bianca case, questioned her on
21 December 29th. He questioned her, and when she said it was
22 Shorty's screams, he disbelieved it so that he didn't put
23 down it was Shorty screaming; he couldn't give credence
24 to that.

25 And you are supposed to believe that, beyond a
26 reasonable doubt and to a moral certainty, when that officer,
27 who's trained, didn't believe it?

28 Now, the People want you to. And the People

6a-2

again figure they -- "Those officers are incompetent officers."

Well, I don't think they're incompetent officers.

All right. She's testified to the screams. She testified to them being under the moonlight. All right, ladies and gentlemen. If you want to believe that, fine. The People are struck with it. They have made their case.

They took some -- a bit of testimony that came out -- you see, she hadn't -- and this has been brought out by testimony. She hadn't testified to that before the Grand Jury. She hadn't told any investigating officer; she hadn't told any district attorney; when she testified at the first Grogan case, she didn't testify to that.

It was only at the time of the Manson case that it just happened to come out, in the course of cross-examination by Mr. Kanarek. And I've read that examination to you, disclosing that this sprang into her mind.

"Oh, it was a moonlight night." And boom! The prosecution jumped on that.

They thought, "Ah hah! This will be good. It was a moonlight night. All right. Let's set it right in this area (indicating), and we'll bring in a moon man from the Griffith Observatory, and we will get it right down to the fine point."

Okay. They have done this. Now, they're stuck with it. If you believe it, fine. But it's strange that, in two years, she hadn't told anybody who questioned her very thoroughly about that, before; but they're stuck with that date now, that they've figured out.

6a-3

1 All right. Then she testifies to one more thing.
2 Now, this is important. You are going to receive an
3 extraordinarily complex instruction, that has never before
4 been given, I imagine, in California -- and may never again
5 -- but it's an instruction that was worked over, with some
6 diligence, to try to make it as simple as possible; but it
7 is a complex idea.

8 You see, the People are contending, now, finally,
9 -- they still haven't put it in writing; they've still never
10 charged the defendant with such a conspiracy -- but they're
11 contending now that this was not simply a conspiracy to
12 murder Shorty Shea, but because it's necessary to get in
13 this evidence of supposed statements Charles Manson made,
14 and the only way they can do that is by prolonging the
15 conspiracy beyond the point when they say -- they alleged
16 that Shorty was killed, they -- they sort of fabricate this
17 new theory, this new concept, that in order to get this
18 evidence in, "Well, we will say that there was a continuing
19 conspiracy; not just to murder Shorty, but to murder and to
20 hide the body and to conceal the murder."

21 And you see, there's a body of law that says if,
22 in fact, a conspiracy does start out -- or, in the course of
23 the conspiracy, it evolves -- that one of the objectives is
24 not just to commit the crime, but to conceal the crime --
25 and in case of a murder, conceal the body, conceal the fact
26 of the crime -- then statements made all during the course
27 of that conspiracy are admissible against the co-conspirators,
28 even if they didn't say it; they weren't there.

6a-4

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6b fls.

Now, this again, is part of the testimony of the prosecutor's darling. All right. So, this is what the People have said, in order to get in the statement of -- supposedly made by Manson to DeCarlo, down by the stream, that their -- that, "Does lye or lime get rid of a body?" Which is supposed to show that they've killed Shorty, and now they're trying to dispose of his body by lye or lime.

6b-1

1 Interestingly enough, it's supposed to have been
2 said to DeCarlo. Interesting, again. Where did she flee to
3 when she fled the desert, from Charlie, from Barker Ranch. To
4 DeCarlo; to Danny DeCarlo.

5 And who's Danny DeCarlo's big buddy? Bill Vance.
6 And who's Bill Vance's sweetheart? Ella Jo Bailey.

7 There they are again, all together (indicating).
8 Did these people -- the two girlfriends -- have reason to
9 fabricate, to hide, maybe to try to put the blame on others?
10 When all the evidence in this case, really, points to Bill
11 Vance and Danny DeCarlo, if anyone killed Shorty Shea -- and
12 we'll get into that in just about five minutes.

13 All right. But again, this instruction says,
14 in effect, "If you believe that there was this sort of
15 continuing conspiracy, this conspiracy to not only murder
16 Shorty Shea, but to hide the body, and to hide the crime, then --
17 and if you think that Bruce Davis was part of this conspiracy,
18 if you believe that there was the conspiracy to murder, et
19 cetera, and the other factors that are involved, then and only
20 then may you consider any statements made by Manson --" and there
21 are two particular statements, one made by Manson, and one
22 supposedly made by Clem Grogan, to Juan Flynn. And again --

23 MR. KAY: Well, your Honor, I am going to object. That
24 wasn't one of the statements covered by that instruction. That
25 was Manson and Swartz.

26 THE COURT: Oh, Swartz, yes.

27 MR. DENNY: Swartz, that's right.

28 THE COURT: John Swartz.

6b-2

1 MR. DENNY: Right. Thank you, your Honor.

2 The one supposedly made to John Swartz, that
3 Shorty had to go to San Francisco, that Manson had gotten him a
4 job with somebody and had sent him on up there to San
5 Francisco.

6 And this, the People are introducing by way of
7 attempting to show that, supposedly, they're trying to throw
8 people off the track as to where Shorty really is -- presuming
9 that Shorty was dead.

10 All right. Now, this statement of Barbara Hoyt,
11 this interesting statement that -- this lye or lime bit, that's
12 not admissible against Bruce Davis, but it's hard for a jury
13 to -- to make that cut-off of testimony. But the People have
14 gotten it in; that was their main -- main object. It's
15 paraded before you. As they say, can you unring a bell?

16 Well, according to law, according to the theory
17 of law, you are supposed to be able to. If the Judge tells you
18 to, you're supposed to be able to. Hopefully, you can.

19 If you find that, as I said to you, that there was
20 a conspiracy to murder Shorty Shea, and as a part of that
21 conspiracy there was a conspiracy to hide the fact of the
22 murder, well, it was the most bungled and fumbled conspiracy
23 ever.

24 Because apparently, according to these witnesses,
25 the chief architect of that conspiracy and the others did noth-
26 ing but blab it away, talk about it, talk about it.

27 Or, was this part of the same routine that Charlie
28 had followed for a long time? Now, assume this -- and I'm

6b-3
1 jumping ahead a little bit because I must; I'm in a hurry.

2 The evidence shows, according to Frank Retz --
3 the People's witness; part of his testimony that they didn't
4 put on -- and George Spahn, the People's witness at the Grand
5 Jury hearing, but the evidence that we had put on in this case --
6 that Shorty was supposed to meet with Frank Retz on a Monday
7 or Tuesday.

8 Well, assuming it wasn't the Monday or Tuesday,
9 the 25th or 26th of August, let's go over to the Monday or
10 Tuesday, the 1st and 2nd of September. It's marked in red
11 here, because -- and I think the Court has already taken
12 judicial notice -- or I believe so -- that Monday was Labor
13 Day, September of 1969.

14 So, it could have been that Monday, Labor Day,
15 that Frank Retz was at work, until Shorty appeared, or
16 Tuesday, the next banking day. Frank Retz said it was either
17 Monday or Tuesday.

18 Low and behold, the first gun that is redeemed
19 by Richard A. Smith -- Danny DeCarlo -- is redeemed on the
20 2nd. Suppose, in fact, Shorty was killed -- was killed on his
21 way to see Frank Retz. Never got there. Was killed by --
22 who? Who is remaining down here?

23 Barbara Hoyt says Danny DeCarlo came up, but he
24 went back down, and then came up again later for that supper
25 that she and Juan Flynn were at on a weekend.

26 And there's no question that he was down here on
27 the 2nd because his signature is on that redemption slip.

28 On the 3rd, the second gun and the gun case were

6b-4

1 redeemed from San Launer's pawnshop; and presumably, on either
2 that day or the next day was the day that John Swartz saw who?

3 Danny DeCarlo, and Bill Vance, with Shorty's guns.

4 "Well, we finally got Shorty's ego."

5 Then, Shorty's attache case, the attache case that's
6 in evidence -- and what does it contain? It contains checks
7 and things in the name of who? Mr. Vance, under his various
8 pseudonyms, of Dwayne Schwarm or -- who's the other one here?
9 Yes, William Rex Cole -- and the blue suitcase, again, with
10 numbers of checks made out in the same name.

11 But when that blue suitcase was found, not the
12 shirts of Danny DeCarlo in it, I submit.

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6c fol

6c-1

1 All right. Trunks, footlockers. Now, again,
2 the inventory of those footlockers that Sergeant Whiteley
3 made out and put with them has disappeared, once it got to
4 the prosecutor's office. So we don't really know what was
5 in those trunks.

6 Were those shirts, with Danny DeCarlo's laundry
7 mark on them, in those trunks? Well, the pictures show you
8 that everything was taken out of those trunks to photograph.
9 Some things remained in; you can't see everything that was
10 there.

11 There was just a hodgepodge of stuff that was
12 taken out and photographed, the series 65 pictures.

13 Were Danny DeCarlo's shirts in those footlockers?

14 And if so, who's covering up for Danny DeCarlo?
15 Is Barbara Hoyt? The woman who fled from Charles Manson to
16 Danny DeCarlo's? Along with Sherry Cooper?

17 Who's trying to cover up for William Rex Cole,
18 the person in whose custody those guns were, along with
19 Danny DeCarlo, according to John Swartz? Who's trying to
20 cover up for him? Ella Jo Bailey, his girl friend? Is she?

21 All right. I'll leave that to you.

22 Now, let's go to this statement that Barbara
23 Hoyt made concerning the dinner up here.

24 And this is interesting, too, the dinner that she
25 and Juan Flynn were at. Here's a diagram on the board that
26 we drew of the Meyers ranch house, and Juan Flynn placing
27 various people and placing the girls where they were sitting.

28 And this dinner apparently occurring about the

6c-2

1 5th or 6th, of September -- or, that weekend -- up at the
2 Meyers Ranch.

3 Present: Danny DeCarlo, Charles Manson, Charles
4 Watson, Bruce Davis and Juan Flynn and some girls -- Barbara
5 Hoyt among them. And it's the same dinner, because I got
6 the tapioca bit in . Both Juan and Barbara said, "Yes, it
7 was tapioca for dessert."

8 So, we've established it was the same dinner.
9 But their versions of it differ markedly.

10 Barbara Hoyt says, "Oh, yes, the girls got
11 cigarettes for the men after dinner, and they smoked
12 cigarettes. But it was not marijuana cigarettes." She says
13 there was no gun passed around the table.

14 But she did see Juan Flynn go out.

15 Now, if Juan Flynn went out, it was after the
16 dinner, after the gun was passed around, because she testified
17 he went out after this gun was passed around. He went out
18 to relieve himself.

19 So, their versions don't quite jive, in some
20 particulars, because Juan Flynn says, "Yes, at that dinner,
21 marijuana was put in the pipe and passed around, and there
22 wasn't enough for the girls, so we passed around a pipe.

23 "And also, this gun was passed around."

24 Now, if the conversation was related as Barbara
25 Hoyt relates it to you, well, sure as heck, Juan Flynn
26 should have remembered that conversation, and any "Yeahs"
27 or nods of the head, with smiles thrown in, of Bruce Davis,
28 because he was --

6c-3

1 MR. KAY: Your Honor?

2 MR. DENNY: -- a lot closer than Barbara Hoyt, who is
3 blind as a bat, was to --

4 MR. KAY: Your Honor, I'm going to object to that,
5 since Mr. Denny was the one who objected to Mr. Flynn
6 relating that conversation. I think that's improper.

7 THE COURT: The objection is overruled.

8 MR. DENNY: Now, ladies and gentlemen, you see, the
9 conversation is admissible -- and the reason I objected to
10 it -- and Mr. Kay may be proper in jumping up here, but
11 the only way that conversation is admissible is under a
12 very interesting formula of the law, which says: You can't
13 admit a statement by another person, unless it's admitted
14 against the defendant in this case, in the guise of an
15 adoptive admission.

16 An adoptive admission is an admission that is,
17 in effect, incriminating in some way, whereby -- for instance,
18 if I would say, "The reporter and I, we went out last night
19 and we killed somebody," and the reporter nodded his head
20 (indicating), now, that's an adoptive admission on his part.
21 He hasn't said anything, but he nods his head.

22 It's a kind of assent. Or, if he just says,
23 "Yeah, yeah," that's an adoptive admission; you see? That's
24 all it takes, just to get someone to say, "Yeah."

6d fls.

6d-1

1 The reporter said, "Yeah, yeah," when Danny was
2 relating that the two of them went out and killed somebody.
3 But unless there's this "Yeah, yeah," or some form of assent
4 to adopt the admission, it's not admissible.

5 And who remembers? Who remembers? Who has that
6 fine, distinct memory of that adoptive admission? Why,
7 Barbara Hoyt. Barbara Hoyt, who remembers it when?

8 On May 20th, 1971, when questioned by one of the
9 prosecutors in this case. And never before. Never before?
10 Never before because it's needed now, some sort of adoptive
11 admission is needed against Bruce Davis, because they don't have
12 any case without it, so on May 20th, they get it.

13 And what is it?

14 "Uh, Charlie said that, uh -- let's see how he
15 put it.

16 "That 'we told Shorty that we wanted to show
17 him something and we took him for a ride in a dune buggy.'

18 "And then, he said, they took him for a ride,
19 they hit him in the head with a pipe, I think he said. I
20 think he said lead, but I'm not sure if he said lead.

21 "And then, they started stabbing him, and stabbing
22 him, and stabbing him, and then he said he was real hard to
23 kill until they brought him to now."

24 Barbara, talking to the prosecutor now:

25 "Do you want me to put in the things that Bruce
26 said in the statement?

27 "Q Yes, if you would."

28 Has she been rehearsed?

6d-2

1 "A All right. Well, he said that -- at the
2 end, about the now part, uh --

3 "Q So far you've related what Manson said; is
4 that right?

5 "A Yes.

6 "Q All right. Now, put in also what you heard
7 Mr. Davis say.

8 "A Well, he said -- when he said, 'he was
9 pretty hard to kill until we brought him to now,' he said, 'yeah,
10 when we brought him to now, Clem cut his head off.'

11 "And Bruce said, 'That was far out.'

12 "And a couple of other times he said, 'Yeah,'
13 and things like that, and agreed."

14 And let's see, what else he said?

15 "Oh, Shorty said, after they started stabbing him,
16 Charlie said Shorty asked, 'Why, Charlie, why?' and Charlie
17 said, 'Why? This is why, and I stabbed him again.'

18 "That's what he said.

19 "Q That's what Charlie said?

20 "A Yes.

21 "Q And did Bruce say anything to that?

22 "A I believe he did.

23 "Q Do you remember what he said at that
24 point?

25 "A I remember a couple of times, though, he
26 said 'yeah.'"

27 Going on, "Q BY MR. KAY: Miss Hoyt, you've told
28 us that when Manson said that when Shorty got to now, Clem cut

6d-3

1 his head off, but that Mr. Davis said, 'Yeah, that was far
2 out'?

3 "A 'Yeah, that was pretty far out.'

4 "Q Other than that statement, would you tell
5 us what Mr. Davis said during the conversation at which points
6 he said something, as far as you remember?

7 "A Uh, well, he said -- uh, when he said we
8 were stabbing him and stabbing him and things like that, Bruce
9 said, 'Yeah.'

10 "Q And did you see Bruce's demeanor when he
11 said that?

12 "A Yeah, he smiled and said 'Yeah,' and nodded
13 his head.

14 "Well, I don't remember that he smiled. I remember
15 that he nodded his head and said 'Yeah.'

16 "Uh, let's see, what else did he say?

17 "That's all I can think of."

18 Ladies and gentlemen, are you able to believe
19 that? Are you really going to believe that, from that blind
20 bat up there, that he smiled and nodded his head and said
21 "Yeah," in the candlelight? When the People are telling you the
22 candlelight cast such funny shadows that a black gun barrel
23 (indicating) looked gold?

24 That is fabricated, lying, perjured testimony!
25 And I submit to you, ladies and gentlemen -- and I've said it
26 before, and I'll say it again -- that is fabricated and manu-
27 factured with the full knowledge, consent and connivance of the
28 prosecution in this case. And I'm not going to mince any words

6d-4

1 words about it.

2 And this is hideous, if you people are going to be
3 a party to convicting a man on testimony like that. I shudder!
4 I shudder! I shudder for the sons and daughters of every one
5 you, who may be tried under circumstances like this.

6 Paul Watkins. Let's take him just briefly here,
7 because all he testified to was just one small thing.

8 Amazing! Out of all this conversation that
9 supposedly was going on between Bill Vance and Bruce Davis,
10 as they're walking down this wash together, what -- what is
11 heard?

12 "That's why we killed Shorty."

13 Isn't that amazing? That's all he remembers.

14 Do you believe that?

15 Paul Watkins, that's all he really testified to,
16 and yet I took him on cross examination for as long as I did,
17 to show him -- and to show you, the jury -- the background of
18 this fellow, the hophead, the marijuana-smoking, pill-dropping
19 person that he is.

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1 All right, we must go on.

2 Juan Flynn, what did he testify to? Not much. He
3 testified about the gun, though. That gun which he described
4 how? As a gold barrel with scrolls. With scrolls. Does that
5 sound familiar?

6 MR. KAY: I'll object to that. That was Mr. Crockett
7 that testified to that.

8 THE COURT: The objection will be overruled.

9 Again, ladies and gentlemen, I'm sure that neither
10 counsel will willfully misstate the evidence. You are the
11 ultimate judges of the facts of the evidence in the case.

12 Go ahead, Mr. Denny.

13 MR. DENNY: If I am mistaken, I apologize. But the point
14 I wanted to make was -- Paul Crockett did also testify that
15 this was a gun with scrolls. And that's why I was saying,
16 did it sound familiar? A gold-barreled gun.

17 On my examination, on my examination I questioned
18 him about earlier testimony, as far as it being a gold-barreled
19 gun, as he had so testified previously. Gold with scrolls.

20 I said, "Does that look gold?"

21 "Well, no, it doesn't now.

22 "Where are the scrolls?

23 "I don't see them.

24 "Neither do I."

25 Here, 5980.

26 "Q BY MR. MANZELLA: Would you describe
27 the revolver for us?

28 "Well, it looked like the type of gun that one

7-2

1 would have in a collection. It was a .45 caliber six-shooter
2 revolver with a long barrel and it had fancy little, oh,
3 scrolls on it. It was a nice piece. It was strictly a
4 collector's item."

5 Then, my cross examination.

6 "It is different than the gun you saw Mr. Manson
7 with, is that correct?"

8 Talking about the gun in evidence here, one of
9 Shorty's guns.

10 "Now, in what respect are you referring to?

11 "I'm referring to the respect that you described it
12 previously to a number of different people as a gold-plated
13 gun; isn't that correct?

14 "A Well, I don't know whether that's gold-
15 plated or not, but it has the appearance of being gold.

16 "Q How about the barrel?

17 "The barrel is very similar to the gun that I
18 looked at.

19 "Q A gold-plated barrel?

20 "A Well, it has been changed considerably.

21 "Q Then, it is different than the gun you saw,
22 is that correct?

23 "A I would say that if I had to look down the
24 barrel of it again, I would say it is the same gun. But I don't
25 have any specific marks that I can put on it that I can say
26 positively that that's the gun.

27 "Where are the fancy scrolled designs? Where is the
28 gun with the fancy scrolled designs that Mr. Manson put in your

7-3

1 "face?

2 "Would you like to point those out to the jury or
3 the judge or anyone?

4 "I don't see them.

5 "Q Neither do I.

6 "No further questions."

7 Do you remember that? Does that sound familiar?
8 Where did Juan Flynn get "gold-barreled gun"? From Paul
9 Crockett, that's where. The three musketeers up there: Big
10 Paul, Little Paul and Brooks, Brooks Posten, joined by the
11 fourth.

12 Who are they? Arthos, Porthos, Aramis and
13 D'Artagnon? Living up there now in Shoshone together. The three
14 joined by the fourth musketeer. All getting together, all
15 talking about their stories, what they are going to say, what
16 they are going to testify to. And all getting their stories
17 the same way, mixed up, that this gun was a gold-plated gun
18 with fancy scrolls.

19 Now, that's just one of the small pieces that we
20 could get, that we could put together for you to show you what
21 these people have done. All right, that's Paul Watkins and
22 Paul Crockett. Big Paul and Little Paul and Juan.

23 John Swartz, we've talked about.

24 Al Springer. Let's get to Alan Springer.

25 You know, before we do, I've got to read you just
26 briefly one little thing that I felt was so apropos of the
27 testimony of these girls, Barbara Hoyt and Ella Jo Bailey. It
28 is from Arthur Miller's Crucible. The story is about the

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1 Salem witch trials that were brought about by the young girls
2 who, a couple of them, had been caught dancing nude by the uncle
3 of one and it was sinful then. And in order to take the heat
4 off themselves, they got the idea to start calling some of the
5 women in the community witches. And they began to have a trial,
6 and they began to issue warrants based on the statements of
7 these young girls.

7a fol

7a-1

1 Abigail is one of them. Parris is her uncle.
2 The Minister through whom this process began. Proctor
3 is the husband and one of the women who has just received
4 a warrant for his wife's arrest. And he ripped it up.
5 And the bailiff says:

6 "You've ripped the Deputy Governor's
7 warrant, man!

8 "Damn the Deputy Governor!

9 "Out of my house!"

10 And the other Minister who has been brought up:

11 "Now, Proctor, Proctor!

12 "Proctor: Get y'gone with them! You
13 are a broken Minister.

14 "Hale: Proctor, if she is innocent,
15 the court --

16 "Proctor: If she is innocent! Why
17 do you never wonder if Parris be innocent --" that's
18 the uncle of Abigail "-- or Abigail? Is the accuser
19 always holy now? Were they born this morning as
20 clean as God's fingers? I'll tell you what's
21 walking Salem -- vengeance is walking Salem. We
22 are what we always were in Salem, but now the
23 little crazy children are jangling the keys of
24 the kingdom, and common vengeance rights the law!
25 This warrants vengeance! I'll not give my wife
26 to vengeance!"

27 And I'll not give my client to vengeance, not
28 out of the mouths of these witnesses, I won't.

7a-2

Alan Springer.

You know, my daughter, my older daughter was playing a record for my younger daughter from Peter Pan, and I heard this song, a light, delightful song sung by the fellow that's appeared so often on Broadway. I can't remember his name right now. He played Captain Hook. Green is the -- his last name. And he sings this song, "Who is the swinest swine in the world, Captain Hook, Captain Hook. Who is the swinest swine in the world." And he goes on to tell what a nasty, evil, reprehensible, indispensable man is he. And I thought how fitting. Alan Springer. Alan Springer who testified to only one thing, really, against this defendant, and that's this alleged conversation of November 26th, when, having gone to the police on behalf of whom? Danny DeCarlo, his buddy. Danny DeCarlo, who he was worried about, so worried that although he, Springer only had four counts against him at the time, he was worried because Danny was involved in what, murder. Murder. And so he wanted to help his buddy get off any involvement in murder. And so he went to the police.

And he said, "I'll cooperate with you if you help Danny and help me." And the police said, "Sure, we'll help you. We'll take care of you for as long as you can testify for us," which they've done. And we don't need to recount that any more.

"And we'll take care of Danny. You tell him just to come in."

All right. And Alan Springer, who then goes out

7s-3

1 and gets the sword and brings it in, "Am I being helpful?
2 Am I being helpful? Do you need more?" And so he brings
3 in more.

4 "Hey, I've got a statement for you. How's that?
5 How's that? A statement. I got a statement from
6 Bruce Davis."

7 And he relates the statement. And the People
8 say, "Oh, well, now, you've impeached him up one side and
9 down the other with all the immunity he's got and all the
10 breaks he's got, but just remember he's stuck with that same
11 statement ever since it was made. He's stuck with that
12 statement."

13 Well, sure as hell he has. That's his ticket
14 to freedom. That's his ticket to get off. And he's gotten
15 off again, again, and again.

16 And you know, Mr. Bugliosi made a statement,
17 I believe in the course of his argument in the Tate-La
18 Bianca case, when they relied on the same type of creeps
19 and villians and cut-throats and receivers of stolen property,
20 to support the People's case. Except in that case they
21 weren't impeached time and time again by police officers,
22 as they have been in this case, which I'm still waiting for
23 the prosecution to explain.

7b fls. 23

7b-1

1 But Vince Bugliosi is reported to have said some-
2 thing about -- in trying to say that the jury should give
3 credence to the testimony of these witnesses, "Well, when you
4 descend into hell, you can't expect to find angels." And if
5 the prosecution gives you some of that garbage, that they take
6 their witnesses where they find them, and they have to get these
7 witnesses, and if they have to go to hell to get them, you
8 can't expect to find angels, I say you are damn right, you
9 don't find angels." And just because they're testifying for the
10 prosecution now instead of sitting as defendants, where most of
11 them ought to be, doesn't mean that all of a sudden, as in the
12 Crucible here, they speak the truth.

13 Do these thieves and villians that have been called
14 as the chief witnesses for the prosecution all of a sudden turn
15 to truth sayers? Well, if you all feel that you would want to
16 be convicted on the testimony of such people, and you feel that
17 they are credible, and then find Bruce Davis guilty based on
18 that type of testimony, especially when that type of testimony
19 is contradicted in every major respect by good police officers
20 and good Deputy Sheriffs.

21 Ladies and gentlemen, I submit to you that we have
22 done for the defense exactly what I told you we would do in our
23 opening statement. I submit to you we have proven everything
24 that we set out to show, that I knew we could show, that I knew
25 we would show, and that I submit we have shown. And I submit
26 to you that we have shown that the People's witnesses have
27 contradicted themselves, have contradicted one other and
28 themselves. That they have lied. That they have perjured

7b-2

1 themselves. That in some instances they have done so with the
2 connivance and the behest of the prosecution.

3 If the evidence in this case has been fooled with
4 and tampered with, not only by the experts, but by representa-
5 tives of the prosecution. That the case stinks to high heaven.

6 And I submit that you, as jurors, would want no
7 part in the conviction of anybody based on a case of this kind,
8 no matter how long it's been, no matter how long it's taken.

9 I do want to thank you for taking that period of
10 time out of your lives. You have seen something here which,
11 I say, you will not see the likes of again. I hope you will
12 not see the likes of again. And I hope, ladies and gentlemen,
13 that in a very short period of time, giving due regard to your
14 duty and responsibility to deliberate this case, that you will
15 return with a proper verdict. And a proper verdict in this
16 case, based on what you have seen and what you've heard in
17 this courtroom, is a verdict of acquittal as to all Counts.
18 Thank you very much.

19 MR. MANZELLA: Your Honor, if Mr. Denny is through with his
20 argument, could I be heard on something out of the presence of
21 the jury? In other words, could you declare a recess now?

22 MR. KAY: It is going to take me about ten or fifteen
23 minutes to set up anyway. Ten minutes.

24 THE COURT: All right, we'll declare a recess until
25 2:00 o'clock.

26 Ladies and gentlemen, during the recess you are
27 admonished not to converse amongst yourselves, nor with anyone
28 else, nor permit anyone to converse with you on any subject

7b-3

1 connected with this matter, nor form or express any opinion on
2 it until it is finally submitted to you.

3 (Whereupon, the jurors exited the courtroom, and
4 the following proceedings were had:)

5 THE COURT: Yes, Mr. Manzella.

6 The record will show that all the jurors have
7 left.

8 MR. DENNY: Do you want to close the door out there?

9 THE COURT: Go ahead.

10 MR. MANZELLA: Your Honor, the People have located
11 Bill Vance. And the People are -- on Monday, would move to
12 re-open their case. I would like to be heard on that, on
13 that, now. Because it involves bringing Bill Vance back from
14 Missouri.

15 Sergeant Whiteley advised me this morning that he
16 had located the whereabouts of Bill Vance. That he was living
17 on a farm in Missouri and that he had contact with Vance, and
18 established contact with Vance through the Sheriff in that
19 county in which Vance was living in Missouri.

20 Now, the People are asking leave of Court to re-
21 open their case for the purpose of presenting Bill Vance, Bill
22 Vance's testimony, and I would like to make argument to the
23 Court now on behalf of our motion.

24 THE COURT: I'll say, you start out at a disadvantage.

25 MR. MANZELLA: I understand. That's the first time I've
26 ever argued --

27 THE COURT: Because here, Mr. Manson has been tried on
28 these same charges and, presumably, there were many months

7b-4

1 during which the People might have pursued this --

2 MR. MANZELLA: We have pursued --

3 THE COURT: -- this witness.

4 MR. MANZELLA: Yes, your Honor.

5 THE COURT: And the Court would like to have some
6 explanation as to why Mr. Vance has not been located previously.

7 MR. MANZELLA: Yes, your Honor.

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8 THE COURT: I'll hear from you.

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7c-1

1 MR. MANZELLA: Your Honor, the People would offer the
2 testimony of Sergeant Whiteley on the -- what, in effect,
3 would be the diligence of the investigators in attempting to
4 contact, subpoena or arrest and subpoena Bill Vance for the
5 purpose of securing his testimony here at this trial.

6 Sergeant Whiteley isn't here right now to testify
7 to that because of the fact that he's busy arranging to go to
8 Missouri to bring Vance back here.

9 THE COURT: Well, what would you anticipate that Vance
10 might say, in the first instance?

11 MR. MANZELLA: Well, those are the two points.

12 In the first place, the People believe we have
13 exercised diligence in attempting to locate Vance; and, in
14 the second, his testimony would be material, which are the
15 two requirements required before reopening can be allowed.
16 And the materiality of Vance's testimony will be that he
17 can establish the statements of the parties, Charles Manson,
18 Bruce Davis and other members of the Family with regard to
19 the conspiracy and agreement to rob and murder Gary Hinman.
20 And that he can, as the Court knows from the evidence that's
21 been offered at the case, that he was involved in securing,
22 along with Danny DeCarlo, Shea's guns within a few days after
23 Shea was killed. And that the case found in the desert had
24 his papers in it, showing his connection with that.

25 In other words, he can testify to material points
26 on both the Hinman murder and on the Shea murder.

27 Now, he may have more knowledge than that. I
28 can't say whether he does or not. I just don't know yet at

7c-2.

1 this point. That's why I say the People are going to ask
2 to reopen on Monday. He's still in Missouri as of this date,
3 and he will be brought back over the weekend.

4 THE COURT: From where do you arrive at your conclusions
5 that he will make such statements; from Sergeant Whiteley?

6 MR. MANZELLA: From -- yes, Sergeant Whiteley. But from
7 statements that Vance has made to him since this morning,
8 but rather from evidence which we have which is in the
9 homicide manual and in all the statements and reports that
10 form part of the investigation in this case --

11 THE COURT: Well, do you have --

12 MR. MANZELLA: -- that Vance was present.

13 And from the testimony of Ella Bailey -- we are
14 not allowed to go into it completely, but from her testimony
15 Vance was present at the conversation with Manson just prior
16 to the time that Manson asked Ella Bailey to go to Hinman's
17 home.

18 And in that conversation, I don't believe it all--
19 the conversation itself or what Vance told her that Manson
20 said was not brought out here, because it is hearsay. But
21 the testimony is that she -- that Vance -- that at that
22 meeting Manson told Vance and the other members of the --
23 the male members of the Family that "Everyone was going to
24 have to kill for me or for the Family."

25 And, again, as I say, Sergeant Whiteley has not
26 interviewed Bill Vance, so we don't know what -- exactly
27 what information he has. But the combination of that and the
28 fact that he was in possession of Shea's guns and made the

7c-3

1 statement, "We finally got Shorty's ego," established that
2 he had knowledge of Shea's death and knowledge of the guns,
3 the fact that DeCarlo had gotten them. In fact, he may have
4 been with DeCarlo. We just don't know at this point.

5 But the testimony would clearly be relevant,
6 since both sides have argued Bill Vance -- and Mr. Denny has
7 just finished spending a lot of time arguing Bill Vance.
8 If he could get up on the witness stand, his testimony would
9 be relevant. Mr. Denny has accused him, along with Danny
10 DeCarlo, of killing Shorty Shea. So he's certainly a figure
11 in this case. So I believe --

12 THE COURT: Oh, he was a figure in the other case --

13 MR. MANZELLA: I certainly think it is material.

14 THE COURT: -- months ago, and it should have been
15 plain to the People --

16 MR. MANZELLA: It was, your Honor. It has been plain
17 to the People. For two years we wanted Bill Vance. That's
18 why the original contact was made with Ella Bailey, the
19 record shows the original contact was made with Ella Bailey.
20 We've been trying to get him for two years now and we
21 haven't been able to find him. We've finally gotten him.
22 And I believe his testimony would be most material, would
23 be material. And I think we can show -- I can show actually
24 under oath through the testimony of Sergeant Whiteley the
25 efforts that he's made to locate Bill Vance and that those
26 efforts have continued since October of 1969, his attempt to
27 locate and get Bill Vance.

28 THE COURT: Well, what was this, a sudden surge of energy

1 on Sergeant Whiteley's part or some fortuitous event or
2 what?

3 MR. MANZELLA: No, it wasn't. As with all homicide
4 investigations, it was probably a combination of a number
5 of things. But more than anything, luck. That all of his
6 investigation finally paid off, and he's located Bill Vance.
7 That's probably what it is.

8 THE COURT: There's probably no doubt that Bill Vance
9 would be a very important witness to one side or the other.

10 MR. MANZELLA: That's correct, your Honor.

11 THE COURT: And the Court can see that right from the
12 7d fls. start that Mr. Vance -- Vance's testimony could be important.

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1 MR. MANZELLA: Now, I am prepared to argue the
2 case --

3 THE COURT: I have some reservations about the question
4 of diligence and notice. I -- at this time I'm going to deny
5 your motion with the idea in mind you may at the end of the day,
6 if you wish, present Sergeant Whiteley to put on some evidence
7 in connection with it. We'll go ahead at this time with the
8 argument --

9 MR. MANZELLA: All right.

10 THE COURT: -- of the People, the closing argument.

11 MR. MANZELLA: All right.

12 MR. KAY: I need about five more minutes.

13 THE COURT: All right, we're in recess on the Davis
14 case.

15 MR. DENNY: Oh, your Honor, excuse me, if I can bring up
16 one point on the record.

17 I have been informed that -- apparently in the
18 course of my preparation for my argument, I have not heard some
19 of the remarks that have been made by the Court to the jury,
20 that the Court did not intend to sequester this jury during
21 their deliberations.

22 THE COURT: True.

23 MR. DENNY: Is that -- well, I would strongly, strongly
24 object, your Honor, to a jury, in what has just been declared
25 a non-capital case, but what has heretofore been a capital
26 case, where a man is accused of the crimes that Mr. Davis is
27 accused of, of not being sequestered.

28 THE COURT: What's the basis of your objection?

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1 MR. DENNY: Well, the basis of my objection, your Honor,
2 is the fact it is hard enough in a case of this kind for jurors
3 not to form or express any opinions with anybody until the
4 matter has been submitted to them, but once the matter has been
5 submitted to them, once they begin to give and take, then, they
6 should not have the chance of being exposed to those in their
7 family or friends or whatever who will interject something into
8 the discussion that is supposed to remain just among those twelve
9 people. And I think there's too much likelihood in a case of
10 this kind, your Honor, of that happening.

11 The People have studiously --

12 The jurors have studiously, I assume, avoided
13 forming or expressing an opinion. But now you send them out to
14 do just exactly that and to start thinking about how they are
15 going to vote in this case.

16 MR. MANZELLA: Just a moment, the jurors are coming in.

17 (Whereupon, members of the jury commenced entering
18 the courtroom.)

19 THE COURT: Would you wait out in the hallway, just a
20 moment, ladies and gentlemen?

21 (Whereupon, there was a pause in the proceedings
22 while members of the jury exited the courtroom, and then the
23 following proceedings were had:)

24 THE COURT: Yes.

25 MR. DENNY: And, your Honor, where you have a traffic
26 case or something like that, or a case that's maybe taken one
27 or two days to try, even a felony case, I think there's some
28 reason to say, for inconvenience sake or whatever -- and the

1 matter is relatively simple for the jury to arrive at a verdict
2 and they may or may not even take a full day in deliberation,
3 that's fine. But here we can assume that the jury, if it is
4 a conscientious jury, is going to spend some time in delibera-
5 tion. And they should be kept together during that period of
6 time and not exposed to any outside influences when they are
7 in a diligent attempt -- we assume a diligent attempt, and I
8 do, looking at these jurors when I say that, to come to a
9 consensus of those twelve people responsible for arriving at
10 that verdict. And I think where a case has gone as long as
11 this has, where the evidence has taken some two months to
12 present, that it would be -- not necessarily foolhardy, but
13 asking for trouble that we do not need to ask for, to permit
14 the jurors to go out among their family and friends during
15 the process of deliberation. There is too much opportunity,
16 your Honor, for error to creep in in that respect. And I think
17 the Court doesn't need to take that chance. This has been a
18 hard fought case and the Court has had a lot of rulings to make
19 and whether they go one way or the other, I think at this point,
20 at least, we've got a decent record that's not going to be
21 muddled up by something that could happen in this phase of the
22 case that need not happen. I strongly urge your Honor that
23 they be sequestered.

24 THE COURT: I'll consider it.

25 (Whereupon, unrelated matters were called and heard
26 before the Court.)

27 THE COURT: Are you ready, Mr. Kay?

28 MR. KAY: Yes, your Honor.

1 THE COURT: I'm not.

2 (Laughter.)

3 (Short recess.)

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1 THE COURT: The record will show the defendant is
2 present with his counsel, Mr. Kay for the People. The
3 jurors are all present.

4 You may proceed.

People's
closing?

5 MR. KAY: Thank you, your Honor.

6 Ladies and gentlemen: A lot of slanderous and
7 completely false remarks have been made by Mr. Denny here
8 during his two-day harangue; and I have just been waiting
9 for the opportunity to respond.

10 You know, I can't say much when I'm sitting
11 here, and the other counsel is arguing, but -- but I have
12 got a lot to say (indicating). I have got a lot to say.

13 And I will be finished Monday afternoon, because
14 that's when you are going to be -- that's when you are going
15 to be instructed. And I think -- I think that you are going
16 to have a little different slant on this case when I finish
17 my argument than you have now that Mr. Denny has finished
18 his argument.

19 Mr. Denny, at least 20 times during his argument,
20 has been looking over his shoulder and saying, "Now, you
21 know that Mr. Kay is going to stand up and -- and, gee,
22 I'm not going to have a chance to respond to him. And I --
23 I want you to go to the jury room, and I want you to
24 respond to him."

25 Why is he worried about Mr. Kay standing up
26 and arguing? And you people trying to respond to him? Why?

27 Because he knows that I wouldn't let him get
28 away with the argument, the argument quote, unquote, that

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1 he made in front of you ladies and gentlemen during the last
2 two days in this courtroom, a court of law.

3 Now, I'll admit that Mr. Denny is an eloquent
4 and skilled defense attorney, and that what he says sounds
5 good. But sounds are not evidence. In this case, they are
6 not evidence.

7 Ladies and gentlemen, the People of the State of
8 California have not only proven in this case beyond any
9 reasonable doubt that Bruce Davis is guilty of two of the
10 most vicious, brutal murders in the annals of California
11 crime, we've also proven that Mr. Davis is guilty of those
12 murders, and they are murders of the first degree.

13 Now, when you ladies and gentlemen go into the
14 jury room, to commence your deliberations, there are two
15 courses of action that you can follow. The first course of
16 action is to walk into the jury room in a state of utter
17 confusion about what the evidence is in this case, because
18 your interpretation of the evidence has been clouded and
19 blurred by the tactics of Mr. Denny.

20 The second course of action is to walk into the
21 jury room in a clear-thinking manner, and make your decisions
22 based on the substantial, truthful evidence that the People
23 have presented in this case.

24 Let's talk for a moment about the first course
25 of action. I wonder if any of you have read the great
26 Victor Hugo's account of the octopus. Mr. Hugo says that
27 "No man can appreciate such a fish unless he has seen it."
28 He says, "It has the aspect of scurvy and gangrene." He

8-3

1 describes it as "diseased, embodied in monstrosity. It
2 doesn't have a beak to defend itself like a bird; it doesn't
3 have claws to defend itself like a cat; it doesn't have
4 teeth to defend itself like an alligator.

5 "But it does have what one would call an ink
6 bag. And when it is attacked, it lets out a dark fluid
7 from that ink bag, making all the surrounding water dark
8 and murky, so that it can escape into the darkness."

9 Now, I ask you, ladies and gentlemen, is there
10 any similarity between the ink bag of the octopus and the
11 defense in this case? Has the defense argued any real,
12 valid, legitimate defense, reasonably based on the evidence?

13 Or has Mr. Denny sought to employ the ink bag
14 of the octopus by making everything dark and murky, and
15 attempting to escape into the darkness?

16 There is an easy answer to this, ladies and
17 gentlemen. Mr. Denny has sought to employ the ink bag of
18 the octopus-- for the only reason, that this is the only
19 defense that Mr. Davis has to these charges.

20 The only problem for Mr. Davis is that the ink
21 bag is not a legally recognized defense to murder in the
22 State of California.

23 There are defenses to murder. There are self
24 defense, alibi, prevention of a felony, defense of others.
25 But the ink bag hasn't yet reached the statutes of this
26 great state -- and I might add that it never will.

27 Let me ask you this: Has Mr. Denny stated,
28 even once, that based on the evidence in this case, that Mr.

8-4

1 Davis is innocent of these charges? Of course not.

2 Mr. Denny has tried by innuendo, suspicion,
3 character assassination, to attack our witnesses, to attack
4 the Sheriff's Office, and to attack Mr. Manzella and myself.

5 Their only hope is, ladies and gentlemen, that
6 you are going to be unable to see through the dark fluid
7 put out by the ink bag of Mr. Denny and come back, because
8 you have not been able to see the true state of facts in this
9 case, with verdicts of not guilty.

10 Now, Mr. Denny has told you that he's the one
11 that has brought out the truth in this case. I say that
12 that man doesn't know the meaning of the word. What he
13 has brought out is double talk and confusion.

8a fls.

8a-1

1 Mr. Denny let us all know right from the very
2 beginning, what the word "truth" meant to him. He said that
3 "cross-examination is the great engine for truth. Thank
4 God we have it."

5 But then, in a typical double talk fashion,
6 Mr. Denny says -- in trying to wiggle out of the fact that
7 he didn't put on a defense of any merit in this case --
8 that he didn't call any members of the Manson Family,
9 because some of them were liars and the truth, quote,
10 unquote, would have been lost by hours of cross-examination
11 of them by the prosecution.

12 So in other words, if he brings something out on
13 cross-examination, it's the truth. If we bring something
14 out, it's a lie. The truth is going to get lost.

15 Mr. Denny had the audacity to say to you that if
16 he called other members of the Manson Family, that there would
17 just be a conflict in testimony with our witnesses. So,
18 what would that prove?

19 Don't you believe him. I suggest that there's
20 no conflict. If there was any conflict, you know that Mr.
21 Denny would have just been so happy to put some witness up
22 there, to show that one of our witnesses was lying about a
23 material point.

24 Mr. Denny even spelled out an instruction to you,
25 on one of his little charts -- which I suggest, again, is a
26 half truth on Mr. Denny's part. His chart said: "In
27 deciding whether or not to testify, the defendant may choose
28 to rely on the state of evidence and upon the failure of the

8a-2

1 People to prove every essential element of that charge
2 against him."

3 That was basically what his chart said. He
4 left out something. The instruction that you are going to
5 be read says:

6 "In deciding whether or not to testify,
7 the defendant may choose to rely on the state of
8 evidence and upon the failure, if any, of the People
9 to prove every essential element."

10 "If any."

11 Mr. Denny says that the People's case is Alice
12 in Wonderland. I say that the People's case is one of
13 unbelievable horror and savagery and inhumanity, unparalleled,
14 outside of wartimes, in the 20th Century.

15 Now, ladies and gentlemen, I intend to clear up
16 the water which Mr. Denny has sought to make murky. I intend
17 to do this so that you folks can clearly see the evidence,
18 the facts and the issues in this case, so that you are going
19 to be able to behold the form of the retreating octopus and
20 bring Mr. Davis to justice.

21 I want you ladies and gentlemen to follow the
22 second course of action, and this is to walk into the jury
23 room and commence your deliberations with the substantial
24 evidence in this case clearly in mind.

25 I am confident that if you do this, and you are
26 reasonable -- as you all promised Mr. Manzella and I on voir
27 dire, when we were selecting you, that you would be -- you
28 will come to the inescapable conclusion that Bruce Davis is

8a-3

1 guilty of two counts of first degree murder and one count of
2 conspiracy to commit murder.

3 Let's talk for a minute about reasonable doubt.

4 Now, you all stated on response to my questions
5 on voir dire that you realize that, in a criminal case, the
6 People -- the prosecution -- has the legal burden of
7 proving a defendant guilty beyond a reasonable doubt,
8 and that we had this same burden in criminal case, from a
9 traffic ticket up to a murder case.

10 We do not -- I repeat: We do not have the burden
11 of proving a defendant guilty beyond all doubt, beyond a
12 shadow of a doubt, to an absolute certainty.

13 We do not have the burden of proving Mr. Davis
14 guilty to the point that you are absolutely positive, abso-
15 lutely certain, absolutely sure that he is guilty, and no
16 doubt whatsoever in your mind of his guilt.

17 Such degree of proof is rarely if ever possible.
18 His Honor will instruct you that the prosecution does not
19 have the burden of offering that degree of proof which
20 excludes all possibility of error and produces absolute
21 certainty. Only moral certainty is required.

22 Moral certainty is simply that degree of proof
23 which produces conviction in an unprejudiced mind.

24 Now, obviously, ladies and gentlemen, the
25 doctrine of reasonable doubt certainly does not place an
26 insurmountable burden on the prosecution, because if it did,
27 we would never be able to get a conviction in any case.

28 A reasonable doubt is a doubt based on sound

8a-4

1 reason and logic, and has a firm foundation in the evidence,
2 and is not based on speculation or conjecture.

3 With this in mind, I submit to you that there is
4 no reasonable doubt as to Mr. Davis' guilt on the three
5 counts with which he is charged.

6 Now, let's talk for a while about circumstantial
7 evidence. You've all heard a lot of talk about circumstantial
8 evidence during the jury selection process and during Mr.
9 Denny's argument. But I think it's a very important concept,
10 and I want to spend a little time on it.

11 Both direct and circumstantial evidence are
12 entitled to equal weight under the laws of our state. Every
13 one of you jurors promised Mr. Manzella and myself that you
14 would follow this law, and that you would have no quarrel
15 with it.

8b fls.

8b-1

1 Now, let me say this about circumstantial evidence.
2 There is absolutely nothing in the world wrong with circumstan-
3 tial evidence. It's obviously the type of evidence that's most
4 used in criminal trials.

5 Let me ask you this: Where would you expect to get
6 direct evidence to the Hinman and Shea murders? Ladies and
7 gentlemen, in order to get an eyewitness to those murders and
8 get direct evidence, you would have to descend to the depths of
9 hell and interview the likes of Charles Manson, Bruce Davis,
10 Steve Grogan, Susan Atkins, Tex Watson, Robert Beausoleil.

11 After all, you didn't expect these people to come
12 down from -- from wherever they are and testify for the
13 prosecution in this case, did you? But don't we really have the
14 equivalent of direct evidence in this case?

15 We do. We have Bruce Davis's confessions to both of
16 these murders, and to the fact that he was a very willing
17 participant.

18 He has told us, through these confessions, what took
19 place -- at least to the extent that we know he is guilty of
20 these murders.

21 You also stated to Mr. Manzella and myself that you
22 had no quarrel with finding Bruce Davis guilty of first degree
23 murder, based on circumstantial evidence, if that circumstantial
24 evidence convinced you that he was guilty beyond a reasonable
25 doubt.

26 And I submit to you, ladies and gentlemen, that
27 there does not exist a sound, rational, reasonable doubt, with
28 a firm foundation in the evidence, as to Mr. Davis's guilt.

8b--2

1 I want to read an instruction to you, and then I
2 want to examine this instruction with you at some length. This
3 is a circumstantial evidence instruction.

4 "You are not permitted to find a defendant guilty
5 of any crime charged against him, based on circumstantial
6 evidence, unless the proved circumstances are not only
7 consistent with the theory that the defendant is guilty of the
8 crime, but cannot be reconciled with any other rational
9 conclusion, and each fact which is essential to complete a
10 set of circumstances necessary to establish the defendant's
11 guilt has been proved beyond a reasonable doubt.

12 "Also, if the evidence as to any particular Count
13 is susceptible of two reasonable interpretations, one of which
14 points to the defendant's guilt and the other to his innocence,
15 it is your duty to adopt that interpretation which points to the
16 defendant's innocence, and reject the other which points to
17 his guilt."

18 Now, Mr. Denny says that the prosecutors don't like
19 this instruction. Well, let's see. Let's examine this
20 instruction and the wording.

21 Let me ask you this: Other than the rational
22 conclusion that the evidence in this case points to Mr. Davis's
23 guilt, on the three Counts with which he is charged, would
24 another rational conclusion be that the evidence points to his
25 innocence?

26 I submit to you that it would be unreasonable to
27 conclude, from the totality of all the evidence presented in
28 this courtroom, that Mr. Davis is innocent of any or all of these

8b-3

1 charges.

2 Now, this instruction talks about a set of
3 circumstances. You jurors are going to have to decide, among
4 yourselves, back in the jury room, what set of circumstances you
5 are going to require to prove to you that Mr. Davis is guilty
6 beyond a reasonable doubt of each and every one of these charges.

7 His Honor, Judge Choate, is not going to instruct
8 you that if you find that facts A, B, C and D exist, that you
9 have to convict him; or if you find that the facts W, X, Y and
10 Z exist, you have to acquit him.

11 You are going to have to decide what evidence you
12 are going to base your conviction or acquittal on.

13 Now, the trap that you must not fall into, when you
14 are analyzing the circumstantial evidence in this case, is to
15 look at each piece of evidence separately. You don't analyze
16 a piece of evidence -- a confession, a piece of physical
17 evidence or something separately. You have to look at that
18 piece of evidence in relation to the total picture, all the
19 other evidence. Because the other evidence gives meaning to
20 each individual piece of evidence.

21 Now, an example of this would be like if you
22 came into this courtroom -- say I was standing right here, and
23 I had to prove that I was in a room. Well, now, if I cup my
24 hands together (indicating) and just looked at a door, now,
25 just by looking at the door -- the door's open now, but pretend
26 it was shut now -- if I cupped my hands together and just looked
27 at the door through a tiny hole, I couldn't see that I was in a
28 room.

8b--4

1 I mean, that door might be standing up by itself,
2 out in a lumber yard. Just by seeing a door, I cannot see that
3 I am in a room. And if I just look at a window (indicating),
4 well, I can't see that I'm in a room. That window might be
5 on a new construction project and there's nothing else around
6 except for the window.

7 See, in order for me to prove that I'm in a room,
8 I have to look around, and I see the door and I see the window,
9 and I see the chairs and I see the floor, and I see the walls
10 and I see the ceiling. Taking all these things all together I
11 know that I'm in a room.

12 If I look at anything separately, I can't see that
13 I'm in a room. So remember this, when you analyze the evidence
14 back in the jury room. Look at it all together. Don't try and
15 just take one little piece of it and say, "Well, gee, does this
16 little piece of evidence prove that Bruce Davis is guilty
17 beyond a reasonable doubt?"

18 No. Take the whole picture. Say, "Does this
19 evidence, taken together with everything else, all the other
20 evidence that's produced, does all that evidence together prove
21 that Bruce Davis is guilty beyond a reasonable doubt?"

22 Mr. Denny has said that circumstantial evidence is
23 like a chain, and if one link breaks, the whole thing falls
24 apart. Well, circumstantial evidence isn't like a chain.

8c fol

25
26
27
28

8c-1

1 It's like a rope. And each fact is a strand of
2 that rope. And as the prosecution piles one fact upon
3 another, one circumstance upon another, we add strands and
4 add strength to that rope, until that rope is strong enough
5 to bind the defendant Bruce Davis to the just verdict of
6 guilty.

7 Now, if one strand breaks -- and I'm not for a
8 moment suggesting that any important evidence in this case has
9 been disproved by the defense -- but if any strand breaks,
10 that does not mean that that rope is broken like a chain,
11 because that rope can be so strong -- because there are so
12 many other strands -- that the loss of one or two strands
13 is not going to break that rope. It's still going to be
14 strong enough.

15 And remember, again, that you and you alone are
16 the ones who decide what facts are essential in your own
17 mind, to convince you that Bruce Davis is guilty beyond a
18 reasonable doubt.

19 Now, the last part of the instruction I read to
20 you states that, "If the evidence as to any particular count
21 is susceptible of two reasonable interpretations, one point-
22 ing to the defendant's guilt and one pointing to innocence,
23 that you must take that interpretation which points to
24 innocence."

25 However, you'll note that we have that word
26 "reasonable" again. So in other words, that if one inter-
27 pretation of the evidence is reasonable, and one is unreason-
28 able, you have to reject the interpretation of the evidence

8c-2

1 that's unreasonable.

2 And once again I say to you, ladies and gentlemen,
3 if there is a reasonable interpretation of the evidence
4 pertaining to the defendant's innocence, where is it? Don't
5 you think that if it existed, we would have seen it by way
6 of defense in this case? Of course we would have.

7 Ladies and gentlemen, it would be unreasonable
8 on your part to interpret the overwhelming evidence in this
9 case as reasonably pointing to this defendant's innocence.

10 Now, let me at this point clear up one of the
11 clouds of ink left behind by the defense. The defense has
12 attempted in this trial, from the moment Mr. Denny made his
13 opening statement, to get you off the track of Bruce Davis,
14 and instead get you thinking about those terrible people in
15 law enforcement, that made all those agreements with certain
16 witnesses to get their testimony, their truthful testimony,
17 before juries in this county, in the numerous murder cases
18 in which members of the Manson Family have been charged.

19 Mr. Denny wants to get you so mad at us that you
20 will let a vicious murderer walk out of this courtroom.

21 Now, ladies and gentlemen, there is nothing in
22 the world wrong with law enforcement making an agreement to
23 grant immunity or to dismiss a lesser charge, in return for
24 valuable, truthful testimony in a major criminal prosecution.

25 If there was, the law would prohibit it.

26 Now, there have only been three agreements made
27 by the prosecution in this case: Alan Springer -- and we'll
28 talk about it when I talk about the Shea case in a couple

8c-3

1 of minutes -- Ella Jo Bailey; and Bruce Davis himself.

2 Mr. Denny stated that -- on his chart, he
3 had Mark Arneson there the other day.

4 Well, Mark Arneson never got any deal out of
5 the prosecution. His case was dismissed, because he was
6 turned over to the Army and prosecuted for -- he was put in
7 the stockade for AWOL.

8 I'm not saying he wasn't guilty of the charge,
9 the -- getting Gary Hinman's VW microbus, because I think he
10 knew it was probably hot when he got it.

11 But I am just saying that there was no deal
12 made for his testimony.

13 Now, Ella Jo Bailey. Ella Jo Bailey? Mr. Denny
14 would just have loved to see us not make any deal with Ella
15 Jo Bailey, because one Ella Jo Bailey's gone, his client's
16 gone on the Hinman case.

17 Well, Ella Jo Bailey, if we hadn't made a deal,
18 she could have refused to testify in this case, on the grounds
19 that she might incriminate herself -- because, as we all know
20 -- and as I'll explain when we get into the law later --
21 that Ella Jo Bailey is an accessory of the Hinman murder.
22 She's guilty of being an accessory to a murder.

23 So, what did we do to get her testimony in
24 front of juries in this county? Well, we gave up the
25 prosecution of a stingray -- Ella Jo Bailey -- to get four
26 man-eating sharks -- Manson, Davis, Atkins and Brunner.

27 I would say that's a pretty good trade, a \$155
28 credit forger and an accessory for four vicious murders.

8c-4

1 Mr. Denny alleged in his opening statement that
2 there's a conspiracy among members of law enforcement to
3 convict Bruce Davis and other members of the Manson Family,
4 by any means possible.

5 Mr. Denny says that he was an ex-prosecutor and
6 that when he was a prosecutor, he was interested in seeing
7 that justice was done -- indicating, obviously, that Mr.
8 Manzella and myself are only interested in a conviction and
9 not interested in seeing that justice is done.

8d fls.

8d-1

1 Well, ladies and gentlemen, having spent the last
2 two years of my life with only two weeks off --

3 MR. DENNY: Well, I object to this, your Honor. I don't
4 believe that that's either in the evidence or permissible
5 argument.

6 THE COURT: Very well. That is not within the evidence.

7 MR. KAY: Well, ladies and gentlemen, having been
8 involved in the prosecution of the Tate-LaBianca murders, and now
9 the Hinman and Shea murders, I --

10 MR. DENNY: I don't think that's in the evidence either.

11 MR. KAY: I think it is. Barbara Hoyt gave testimony on
12 that.

13 THE COURT: The objection is overruled. You may continue.

14 MR. KAY: Having prosecuted the Tate-LaBianca murders and
15 now the Hinman and Shea murders, bringing six vicious murderers
16 to justice, justly and fairly prosecuting them, I take great
17 offense at that man and the remarks that he has made in this
18 courtroom, the false utterances of a man that has only one
19 thing in mind: Walk that client out the door; get a gold star
20 by your name.

21 We are seeking justice, ladies and gentlemen. But
22 Mr. Denny certainly doesn't want to have anything to do with
23 justice, because justice in this case means that Bruce Davis is
24 guilty.

25 Mr. Denny said that you will not see the likes
26 of this case again. All I can say, ladies and gentlemen, is
27 that juries never before -- and I hope to heaven never again
28 will have to sit on cases involving the viciousness and the

8d-2

1 wantonness, the wanton disregard for human life that has been
2 exhibited in this case, that has been exhibited by Mr. Davis and
3 by other members of the Manson Family.

4 Now, I agree with Mr. Denny. If Mr. Davis is
5 convicted, you won't see the likes of this case again. Mr.
6 Denny would obviously rather see us prosecute Ella Jo Bailey,
7 Mark Arneson, Alan Springer, and Niki Shea, Fireman Mel Walker,
8 Sergeant Robert Chirstansen, Deputy Flois White, Barbara Hoyt,
9 Juan Flynn, Deputy Chamousis, Paul Watkins, rather than Bruce
10 Davis, Charles Manson, Susan Atkins, Mary Brunner, Robert
11 Beausoleil, Tex Watson, Steve Grogan.

12 All of those Manson Family members are just innocent
13 little flower children. Mr. Denny would have you believe that
14 there were all these dead bodies around Los Angeles, and just
15 because we have nothing else better to do, we went out and
16 charged members of the Manson Family with murder.

17 All I am going to say to you is this: We don't
18 like to make deals or grant witnesses immunity. When I see a
19 crime committed, I want to see that crime prosecuted. But some-
20 times the realities of the situation dictate that such agree-
21 ments be made for the protection of our society -- let me repeat
22 that: For the protection of our society.

23 Just because we enter into such an agreement does
24 not mean that the witness is going to get up on the witness
25 stand and lie. If we thought that would occur, we obviously
26 wouldn't call that witness.

27 And as far as the Manson Family is concerned, you'd
28 better all thank God -- thank God that we have brought those

8d-3

1 that I have previously mentioned to justice, just as you are
2 going to bring that man, Bruce Davis, to justice in this case.

3 When you are weighing the credibility of some of
4 the former associates of Bruce Davis --

5 THE COURT: Excuse me just a minute. I think the
6 references to the Manson Family, and bringing them to justice,
7 as you put it, Mr. Kay, are out of place. And the Court strikes
8 Mr. Kay's remarks about that.

9 What occurred in previous cases involving any
10 members of the Manson Family has no bearing on -- that is,
11 what the ultimate result was in other cases has no bearing what-
12 ever in this case.

13 MR. KAY: When you are weighing the credibility of some
14 of the former associates of Bruce Davis and Charlie Manson, that
15 have been called as witnesses by the prosecution in this case,
16 such as Ella Jo Bailey, just remember this:

17 When murders are committed by Bruce Davis and
18 Charles Manson and other members of this indescribable organi-
19 zation of vicious murderers, you don't have Shirley Temple
20 as a witness.

21 Now, Mr. Manzella and I would have loved to have
22 called some all-American boy or all-American girl, have them
23 get up on the stand and give you the Doris Day-type smile and
24 just have a perfect, immaculate record, no involvement with the
25 law or anything.

26 But Mr. Davis wouldn't have associated with that
27 type of person. Who did he associate with? He associated with
28 Ella Jo Bailey, Charles Manson, Steve Grogan. That's why.

8d-4

1 That's why he confessed to Ella Jo Bailey, and confessed to
2 these other members of the Manson Family; because they were --
3 they were close. They were all together. They were members of
4 a single organization, a close-knit group.

5 They confided in one another. As Mr. Denny brought
6 out in the testimony of Ella Jo Bailey, they never lied to each
7 other; never lied to each other; always confided in one another.

8 Now, Mr. Denny didn't spend too much time on the
9 Shea case, so I am going to start out talking about the Shea
10 case, because I think that a lot of time is required on this
11 case, because there was an awful lot of substantial evidence
12 pointing to Mr. Davis's guilt on this case.

13 Now, there are three questions, I think, that you
14 should ask yourself, back in the jury room, on the Shea case.

15 The first question: Is Shorty dead?

16 The second question is: Did Bruce Davis participate
17 in his murder?

18 And the third question is: Is Mr. Davis guilty of
19 first degree murder?

20 Now, in talking about whether or not Shorty's
21 dead, I have a lot of subcategories here, and the first
22 category that I'm going to start with is his friends and his
23 relatives.

24 Now, Shorty was a very open-minded and likeable
25 fellow, and I think his friends liked him very much, and he
26 liked his friends very much. I think you saw on the witness
27 stand, when his friends testified, that their love for this
28 man came through -- from the tears of his mother to Jerry

8d-5

1 Binder calling him a "Macho," that he was a man's man; that it
2 was fun to be with him.

3 Lance Victor said, "Oh, I had a special nickname
4 for my good friend. I called him 'Pirate.'" You know, And
5 he had that warm expression on his face when he was talking
6 about Shorty.

7 Dawn Quant, when asked about her relationship with
8 Shorty, said, "Real close."

9 fol

9-1

1 And then, there's Bob Bickston and Jim Babcock.
2 You can just sense their love for Shorty when they are talking
3 about him. I can't -- I can't put into words the feelings
4 that they expressed while they were on the stand, but you
5 all got to observe them and I think it probably came across
6 to you.

7 Now, with his friends and relatives, you saw over
8 a 12-year period, the people that were closest to Don. When
9 Don was in trouble, he always went to his friends. If he
10 needed to borrow money, he went to Jerry Binder, went to
11 Ruby, went to Lance Victor, went to his mother, wired her
12 for money. When he needed help, did he run away from his
13 friends? No, to Lance Victor.

14 "Lance, I think they're trying to kill
15 me."

16 To Ruby;

17 "Ruby, they're out to get me, Pearl."

18 When he needed work, Jerry Binder -- he followed
19 Jerry Binder around. He worked for him for the last four
20 years of his life. I'm not saying he worked 365 days of the
21 year for him, but every one of those years he worked for him.

22 Bob Bickston, Arch Hall. He was always contacting
23 Bickston and Hall about jobs in the movies.

24 Now, Mr. Denny belittled Shorty for the fact that
25 he never was successful in the movies. But, for heaven's
26 sakes, the man tried. That was his dream. That was his life.
27 Why belittle him. That was all he talked about. That was
28 all he thought about.

9-2

1 For friendship, he went to the Bickston -- or he
2 went with Bickston. He and Bickston were close friends. He
3 was always talking to him and with him.

4 Jerry, Jerry Binder was like a brother to him.
5 Jerry was the best man at his wedding.

6 Lance, he and Lance, especially in that last year,
7 were close. They saw each other a couple of times a month,
8 when Lance got back from the salt mine.

9 And for love, Ruby and George, they were like a
10 mother and father to him. When he was in town, if he wasn't
11 working at Spahn Ranch, he'd always go there on the weekend
12 to visit Ruby and George, always.

13 And his mother; sweet; sweet lady.

14 Niki. Niki. He was head over heels in love with
15 Niki. Just head over heels in love with her.

16 One of the things that you can -- you might think
17 from the evidence, "Well, what if Shorty was just scared?
18 He was obviously afraid of the Manson Family. What if he was
19 just scared and ran away? Maybe he's living somewhere to
20 get away from these people. What if he was just scared and
21 ran away?"

22 Well, ladies and gentlemen, it is unreasonable
23 to believe that he ran away because he was afraid, because
24 he certainly wasn't afraid of his mother. He wasn't afraid
25 of his close friends. He wouldn't have stayed away for two
26 and a half years without contacting them. He just wouldn't
27 have done that. Those weren't the people that he was afraid
28 of. So if he went somewhere, he would have contacted them.

9-3
1 He would have contacted them.

2 And that's the same reason why he didn't leave
3 voluntarily, because if he left voluntarily or if he left
4 because he was afraid, he would have contacted his friends.
5 He had no arguments with his friends. He had nothing against
6 them. These are close friends. These are over a 12-year
7 period. These were this man's friends. He would have
8 contacted them, some of them. Let's see what some of them
9 have to say. And remember, that Shorty never told anyone
10 that he was going to permanently leave the Los Angeles area.

11 He told Lance, when he talked to him about
12 going up to the salt mines, he said, "Well, Bickston's
13 picture isn't as fast as I want it. I'm thinking of going
14 up to the salt mines to earn a little money in the meantime
15 until it gets started."

16 But let's see what some of the friends and
17 relatives say.

18 Shorty's mother, between 1957 and 1969, she said
19 that she would hear from Donald at least two or three times
20 every year. Now, during that period of time she said she
21 would always -- this is very important -- always hear from
22 him on Christmas and Mother's Day. Always. Not some of the
23 Christmases and some of the Mother's Days, but always,
24 every one of those years she would hear from him.

9a fls.

9a-1

1 So on Christmas he would send her a present. And
2 on the last Christmas she said she got a tapestry from him.
3 And on Mother's Day he would send her a telegram or call her.
4 The last time she heard from him at Christmas was 1968.

5 Now, remember, we're alleging that he was murdered
6 probably the 27th or 28th of August, around that time, of '69.
7 So the last Christmas that she heard from him was in '68. He
8 never lived to Christmas of '69.

9 The last time she heard from him on Mother's Day
10 was May of '69, before August of '69. Never heard from him
11 since. That's the last time that his mother ever heard from
12 him, May of '69.

13 Now, from 1957 to 1968 she said that Don came back
14 to Boston to visit her at least eight times. But she hadn't
15 seen him. She hadn't heard from him since Mother's Day in May,
16 1969. And she said she'd made inquiries and she still can't
17 find any trace of him.

18 Now, I've talked about Don visiting Spahn Ranch.
19 That was certainly his favorite hangout. They haven't seen
20 him since August of '69.

21 Now, Mr. Denny brought something up which we'll
22 get into about Pearl saying, "Oh, well, probably saw him in
23 the last of September or the middle of September, the 10th."

24 But you know when Pearl was on the stand, she said,
25 well, she never paid too much attention to dates. But the way
26 she remembered the last time she saw him was by the event when
27 she had the conversation with him, and then saw all the four
28 defendants fan out after him on the boardwalk. That was the last

9a-2

1 time she saw him. And moonlight or no moonlight on her part,
2 the most important part of her testimony is the fact that both
3 she and Barbara have always been consistent on saying that the
4 Manson Family left the next day.

5 Barbara said that the Manson Family left the
6 day after the screams, after she heard the screams. And Ruby
7 said the Manson Family left the day after she saw the men get
8 out of the car and rapidly approach Shorty on the boardwalk.
9 That's why we know they're both talking about the same thing.
10 So we'll get into that later, when we talk about how Shorty met
11 his death and when it was.

12 Now, Jim and Sharon Babcock. They were very good
13 friends of Shorty. Jim knew Shorty since 1959. He last saw
14 Shorty on August 17, 1969, and at that time Shorty was driving
15 the Mercury Comet. Drove it over to his house to show him
16 wedding pictures. How proud he was of the marriage. And he
17 brought him some corn. You remember that Jim remembered that
18 Shorty brought him, he and his wife, some ears of fresh corn.

19 Bob Bickston. Well, Don worked three pictures for
20 Bob in 1965, '66 and '68.

21 Now, Mr. Denny brings up the fact, "Well, gee,
22 these weren't successful pictures," you know, "Shorty was a
23 bum. He never was a success."

24 What difference does it make whether the pictures
25 were successful or not? It is not important. It is Shorty's
26 state of mind that was important. This was his life. I mean,
27 the guy could have gone on for 30 years like this Ben Johnson,
28 who was in the last picture show and never been a success and

9a-3

1 all of a sudden been in a picture and he's a big star. But it
2 is his way of life, whether he made any money at it or not,
3 whether his pictures sold or not.

4 Bob Bickston testified that Shorty last worked for
5 him in March of '69, when they were dubbing sound for the
6 picture they made in '68, Hangfire, which Don was in.

7 Now, the important part here is that Bob was going
8 to make a film in the summer of '69, which would have fulfilled
9 Shorty's dream. It was an integrated western in which Don was
10 going to have a good part throughout the picture. And it was a
11 Union budget picture which would have meant at long last Don
12 would have been able to get his Union card. God, Don was
13 ecstatic. He couldn't believe that after all these years he
14 was going to get his Union card. Now, this is what Bickston
15 said about it, "God, Don was ecstatic. He couldn't believe
16 that after all these years he was going to get his Union card."

17 Shorty wouldn't have left. Not with this
18 opportunity.

19 Remember, the last phone call that we know that
20 Shorty had, in the end of August, when he was talking to Dawn
21 Quant over the phone, all he talked about to her was how
22 excited he was about Bickston's upcoming picture. Sure, it
23 had been postponed a couple of times, and eventually it wasn't
24 made, but Shorty didn't know that. He was still looking for-
25 ward to it. He was going to be a Union actor, a member of the
26 Screen Actors Guild. He was going to have his Union card.

9b fol

9b-1

1 Now, Bob Bickston kept in touch with Shorty all
2 the time. They were close friends. He said when one of them
3 was out of state, one or the other of them, either Bob or
4 Shorty, that they would be in contact at least six times a
5 year. And when they were both here, they would be in contact
6 every three to six weeks. Bob Bickston hasn't heard anything
7 from Shorty since the summer of '69.

8 And it was brought out, the innumerable phone
9 calls and conversations that Shorty had with Bob about,
10 "Hey, do you know anybody that's got any movie work, any
11 job?" And he had the same type of conversations with Arch
12 Hall. Shorty wouldn't have gone and left these people
13 without contacting them.

14 Lance Victor -- again, they were good, close
15 friends. Especially the last year when Lance got back from
16 the salt mines, they went to the salt mines together. Shorty
17 came back, and then Lance came back, and then they saw each
18 other quite often during that period.

19 And, again, Shorty confided in Lance out at
20 Spahn Ranch when he -- when Shorty was in trouble and in
21 fear.

22 Dawn Quant. Shorty asked her to make Christmas
23 candy for him again on the coming Christmas, the Christmas
24 of '69. That shows some intention that he wasn't planning
25 on leaving permanently.

26 "Hey, Dawn, are you going to make me
27 some of that Christmas candy again next Christmas?
28 I really liked it. I'm looking forward to it."

9b-2

1 Ruby Pearl has known Shorty for about 15 years.
2 She said that Shorty was considered a part of the family
3 and was always welcome there at Spahn Ranch. She said that
4 from 1956 through 1969, six or seven months was the longest
5 period of time that Shorty was ever out of contact with her.
6 The longest period of time, over that whole period of time,
7 '56 to '69. She hasn't heard from him since that night that
8 he told her, "Pearl, they're out to get me."

9 Remember that Pearl gave Shorty the negatives
10 because Shorty wanted to get some publicity shots of the
11 pictures that they'd been in together. Well, where were --
12 and he said he'd give them back to Pearl as soon as he had
13 the pictures made from the negatives.

14 Well, where were the negatives found? In Don's
15 abandoned car in December of '69. They were in a white
16 envelope by the car in the footlockers.

17 Niki Shea. Don was so much in love with her.
18 This woman meant everything to him. He took her around --
19 when they got back to L. A., he took her around and he
20 introduced her to his friends. He introduced her to George
21 and Ruby, and the Babcocks, and Lance, he took the wedding
22 photographs over for them to see. Look at how proud this
23 man is in these wedding photographs (indicating).

24 And you know from the letter that was passed
25 around to you that this woman meant everything to him. He
26 wouldn't have -- he wouldn't have gone off and left her. Not
27 for all this period of time. He wanted to get back with her.
28 He said in the letter, and we know it is confirmed, that he

9b-3

1 did leave the letter.

2 Remember that Niki testified that he left the
3 letter saying that, "If you want to get in contact with me,
4 get in contact with me through the Babcocks."

5 And remember Niki testified, and Sharon Babcock
6 confirmed it, that that's who Niki called to try and find
7 Don.

8 Now, if Don had voluntarily gone anywhere, he
9 would have let the Babcocks know where he was going so that
10 Niki could be in contact with him. He wouldn't have just
11 left without leaving a forwarding address, so to speak.

12 Over his chest, over his heart, he had the tattoo,
13 "I'll always love Niki," and he had a little heart, a tattoo,
14 "I'll always love Niki," on the heart. She last saw him on
15 August 16, 1969.

16 Jerry Binder -- I think it is clear from his
17 testimony how close he and Don were, that they were like
18 brothers. That he always tried to employ Shorty. And when
19 he couldn't afford to employ Shorty, he got Shorty a job
20 with Herb Bromberg who was the owner of the Cab Inn, the
21 place where he met Niki Shea.

22 Jerry said he always found Don to be a dependable
23 employee and that between '65 and '67 Jerry would see him
24 every day at work. And that if Don ever left town, he would
25 always let Jerry know where he was. And that in '67 and '68,
26 he would see Don every day when Don was working for him,
27 and once a week for dinner if he wasn't working for him.

28 Now, remember that Jerry testified to something

9b-4

9c fls.

1 pretty important. The fact that on many occasions he had
2 loaned Shorty money. He said that he had loaned him up to
3 \$500 and that Shorty always paid him back except for the fact
4 in July of '69 he lent him \$100 and he's never been paid
5 back. Why? Well, a dead man can't repay a debt.
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9c-1

1 Jerry said that the last time he heard from Don
2 was in August of '69. And he said that even when Don would go
3 out of town and they weren't at the same location together, and
4 Don would go out of town, that he would call Jerry collect, and
5 that Jerry encouraged him to do this, go call me collect when
6 you're out of town." "Sure." He did. They always kept in
7 contact, from '65 to August of '69. August of '69 being the
8 last time that Jerry heard from Don.

9 Remember, he talked to him over the phone when Don
10 was at his house here in Hollywood and Jerry was in Las Vegas.
11 He said from '65 to '69, the most that they were out of contact,
12 was three months, at the most. He said, "We were in constant
13 communication."

14 Now, Jerry lived in Las Vegas for one and a half
15 years after Don left to come back to L. A. in July of '69. He
16 had the same phone number as when Don was there, and the
17 business where he and Don were together. His partner owns the
18 business now and knows how to contact Jerry, and that business
19 has the same phone number now as it did when Don worked there.
20 Haven't heard from Shorty since August of '69.

21 And Miriam Binder, Jerry's wife, said August 19,
22 of '69, was the last time she heard from him. That's when he
23 took her to the doctor's.

24 Now, ladies and gentlemen, you don't just all of a
25 sudden forsake your mother, your wife and the close friends
26 that you have accumulated over a 12-year period unless you are
27 a victim of foul play. Based on the evidence in this case,
28 there is no reasonable explanation for Shorty not contacting

9c-2

1 any of his close friends and relatives for over two and a half
2 years, other than the reasonable explanation that he was
3 murdered.

4 Would this be a good time for a recess, your Honor?

5 THE COURT: If you wish.

6 MR. KAY: Yes.

7 THE COURT: During the recess you are admonished, ladies
8 and gentlemen, not to converse amongst yourselves, nor with
9 anyone else, nor permit anyone to converse with you on any
10 subject connected with the matter, nor form or expresss any
11 opinion on the matter until it is finally submitted to you.

12 About ten minutes, if you will, please.

13 (Afternoon recess.)
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10-1

1 THE COURT: All right. The record will show that
2 all the jurors are present. The defendant is present with
3 his counsel. The clerk is here.

4 We are ready to proceed.

5 MR. KAY: Thank you, your Honor.

6 I know that it's almost asking the impossible
7 to ask you to stay awake on a Friday afternoon, especially
8 at 20 minutes after 3:00; but you know, all of counsel
9 involved in this case -- as I'm sure you are well aware of --
10 have been working long and hard on it.

11 And everything I've written down, I've tried to
12 put as much thought as I know how into it, and -- you know,
13 I hope that as much as you are physically able to, that you
14 can pay attention to what I have to say, because I think it's
15 important, and I hope that you'll think it's important,
16 too.

17 Okay. Under Shorty's -- is Shorty dead? The
18 second category, I've titled: Shorty's love for the movies.
19 We've talked somewhat about this, and the other remarks I've
20 made already.

21 Sandra Harmon, her testimony, I thought was very,
22 very relevant to this point, and it showed exactly how much
23 the man really did love the movies.

24 Sandra said that Don talked about the movies all
25 the time. That's the thing he really wanted. That's the thing
26 he wanted most, was to be in the movies.

27 Now, the important thing she testified to is:
28 That's the reason they separated. She said that she was

10-2

1 opposed to his movie work, and that's why they separated.
2 She didn't want to have anything to do with it.

3 So Shorty, even back in '65, when he separated,
4 wanted to be in the movies so badly, so much, that he lost
5 his wife and his children because of it.

6 This man was possessed with a desire to become
7 a movie actor. This -- he lived it; he breathed it.

8 We have already talked about Bob Bickston, and
9 you'll remember his many contacts with Bickston, about
10 being in the movies, and how excited he was about Bickston's
11 upcoming film.

12 Lance Victor said, "The movies were the main
13 thing Shorty talked about."

14 Arch Hall, he said that Don would come by his
15 studio in Burbank, about every two months, after 1963, and
16 talk about the movies and how much he wanted to be an actor
17 and a stuntman, and he would ask if Mr. Hall knew if there
18 was any work available for him.

19 Well, Mr. Hall is a substantial and successful
20 producer; no question about that. And Shorty knew that.
21 And he kept in contact with Mr. Hall, all the time, about
22 jobs.

23 And Mr. Hall did employ him in at least one
24 picture, now, that he filmed -- I think it was in '65 --
25 that's still being shown over in Europe. And Don had a small
26 part in it.

27 Dawn Quant said she talked to Shorty over the
28 phone in the latter part of August, and he told her about a

10-3

1 movie job that was coming up -- Bob Bickston's -- and about
2 how excited he was about it. This was the main topic of
3 their conversation. Don said Dawn Quant said that Shorty
4 said he wanted the job badly. This is in the end of August,
5 1969.

6 Niki testified that on August 11th, that they
7 went to Maurice -- not Morris; Mr. Denny called him Morris.
8 I don't. His name's Maurice Kosloff. And Don and Niki went
9 to Maurice Kosloff's studio, to audition for a part in a
10 movie that was going to be made.

11 Don got a speaking part. Niki got an extra
12 part. They were both measured for costumes. And Niki said
13 that Don was just extremely excited. Here, he got a speaking
14 part in this.

15 And on top of that, she said that Don was
16 extremely excited about the Bickston movie. Here, there are
17 two movies, not just one. There are two movies that he's
18 very excited about. Niki said that mostly all Don would
19 talk about was going back into the movies; that's all he
20 talked about, the movies, the movies.

21 Jerry Binder said, "The movie industry came first
22 and foremost in his mind. All he wanted to do was work in
23 the movies. We talked about that constantly."

24 So, almost everything that Don did and thought
25 about was directed towards a career in the movies.

26 Jerry Binder, you remember, testified that when
27 Don was working for him, he always -- at least, in Shorty's
28 state of mind -- said that that was just temporary; that he

10-4

1 was just going to work for Jerry until he got a job in the
2 movies; that that was his state of mind.

3 And remember, that's the important thing, what
4 Shorty's state of mind was, not what the actual reality of
5 the situation was.

6 We are not saying that Shorty's Clark Gable or
7 Burt Lancaster or someone like that. He wasn't. But his
8 state of mind is important.

9 And again, I say that, based on the evidence in
10 this case -- and I'm talking about all of the evidence;
11 remember, always, we have got to keep all the evidence in
12 mind -- based on the evidence in this case, the only
13 reasonable explanation for why Don has disappeared from his
14 lifetime dream, being in the movies, working in the movies
15 as an actor and as a stuntman, is that he was murdered.

10a fls.

10a-1

1 That, ladies and gentlemen, is the only thing
2 that could keep him away, the only thing that could keep him
3 away.

4 Now, the third category is Shorty's revolvers.
5 I want to make one point, which was kind of in the middle
6 of what I was going to say, but I want to say it to you at
7 the outset, so you aren't confused by the misinformation that
8 was given to you in Mr. Denny's argument.

9 Mr. Denny made a big production about the fact
10 of -- "Well, Shorty said that he was going to take the guns
11 back to Arch Hall, either he would pay him or he'd take the
12 guns back to him."

13 Shorty Shea never said that. That's why
14 counsel's closing remarks are not evidence. The evidence
15 comes from the witness stand. The evidence doesn't come
16 from Mr. Denny's mouth.

17 Let me read you what Mr. Hall did say -- if I
18 can find the transcript here. I've got the page number, but
19 not the volume.

20 Page 4476.

21 "Q All right. And either 'I will pay you
22 what I owe you and make good on those bad checks' --"

23 And remember, Arch Hall testified that Shorty
24 had given him some bad checks as part of buying the gun.

25 "A I believe I told him --" "I" being Arch
26 Hall.

27 "I believe I told him, you know, either
28 return the guns or pay the balance."

10a-2

1 Shorty never said that he's going to bring the
2 guns back. Huh-uh! Not on your life! Arch Hall said,
3 "Pay the balance or bring the guns back."

4 It's a little different, I think you'll agree.
5 It's a little different than you heard in Mr. Denny's argu-
6 ment.

7 And also, Mr. Denny said that it wasn't brought
8 out on direct that Mr. Hall never received payment for these
9 guns. Well, page 4467, Volume 30. And this is on direct.

10 "Okay. Now --"

11 "Q Now, between the time that he had purchased
12 the guns from you in August of '68 until the time he
13 called in late July or early August, '69, had you heard
14 from him?

15 "A No, I had not.

16 "Q Okay. Now, in this conversation you had
17 with him --

18 "Again, your Honor, this will be admitted
19 for Mr. Shea's state of mind --

20 "-- what did he say to you?

21 "A You are speaking now with reference to
22 the call in 1969?

23 "Q Right. Late July or early August.

24 "A Yes. He said that he was very sorry that
25 he hadn't been back to take care of the payment; and
26 that he had been out of the country. I think he said
27 he had been married in the meantime, and that he would
28 be by in a few days and settle up and pick up the

10a-3

1 "cameras and pay me the balance on the guns.

2 "Q Now, do you remember when this was in
3 late July or early August? Do you remember whether
4 it was July or August?

5 "A It was in August. The -- the late July
6 or early August was when he bought the guns."

7 And then, he goes on to say -- well, he said that
8 he was out of the state, not out of the country, on direct
9 examination.

10 You see, that's what was said, not what Mr. Denny
11 in his argument said. Oh, that sounds good; that sounds
12 good. But sounds are not evidence in this case.

13 The evidence comes from the witness stand, not
14 from -- not from the attorneys; not even from what I say. It
15 comes from the witness stand.

16 So you understand, Mr. Denny's sounds are not
17 evidence in this case -- thank goodness.

18 Now, Shorty's revolvers.

19 These were his prized possessions, there's no
20 question about that -- oh, and also, another thing that Mr.
21 Denny said. These guns were never pawned in 1968. You
22 never heard any evidence on that. That's an unreasonable
23 inference to draw from the evidence.

24 Do you think if they were, that Mr. Denny wouldn't
25 have brought some evidence in, saying, "See, look, he pawned
26 them all the time."

27 That's baloney. They never were pawned in '68.

28 All right. Now, getting back to this. Shorty

10a-4

1 loved the guns. They were part of him, and he felt that they
2 were essential to his movie work -- which, of course, was
3 his dream.

4 What did some of the people who knew him best
5 have to say about his love for the guns? Jim Babcock:
6 "Shorty told him how proud he was of the guns; that they
7 were the first set of guns that he ever owned, and that he
8 intended to use the guns in his stuntwork."

9 How did he treat the guns? "He treated them like
10 most men would treat a favorite pet. And he said, as many
11 of the other witnesses have said, that the guns are now, of
12 course, in much worse condition now than they were then.

13 Why are they in worse condition? Because they were
14 up in Death Valley, up at Barker and Meyers Ranch, and got a
15 lot of rough treatment out there in the desert.

10b fls.

10b-1

1 Bob Bickston. Bob made the inserts on this
2 attache case -- which is helping me in my argument this
3 afternoon (indicating) -- of Shorty's. So Shorty carried the
4 guns around with him. He even had a special case for them,
5 that he had the two guns in, and he had a knife that he kept
6 in there, too.

7 But what did Bob Bickston say about how Shorty
8 treated the guns? "Don treated the guns like newborn babies.
9 He had a silicone cloth that he carried in the attache case,
10 and each time someone handled one of the guns, he took this
11 cloth and wiped the gun completely clean of anybody's
12 fingerprints and put it back into the case by holding it by
13 the wood, and not by the metal."

14 Remember that Shorty bought these guns before he
15 went up to the Leslie salt mines in 1968. This is what
16 Bickston has to say: That he last saw the guns in June of
17 '69, and Don was still treating them the same way he always
18 had, and that they were still in new condition. Don's feelings
19 didn't change about these guns.

20 Lance Victor. What did Lance say about it? He
21 said: "When Shorty had the guns, you could look at them with
22 a magnifying glass and not see any dust on them." He said,
23 "Don would talk about the guns all the time," and he said
24 that they were the greatest things that he'd have.

25 Arch Hall, getting back to him for a minute, said
26 that as far back as 1964, when they worked -- when Don worked
27 on the film "Deadwood 76" -- which is -- I can remember the
28 name, but this is the film that's being shown in Europe now

10b-2

1 Shorty worked in -- that Arch Hall said that Don fell in love
2 with the guns, way back in '64. So, look at the torch he held
3 for these guns, until he could afford to get them in '68.
4 Remember that Mr. Hall testified that when Don would come
5 by to his studio, even before he bought them, that he would --
6 you know, he would look at the guns and practice twirling them
7 around and everything; but that Mr. Hall wouldn't let him take
8 them off the property.

9 He kept them, you know; would keep them locked up,
10 because he didn't want anybody to take them, because he didn't
11 want them to turn up missing.

12 And of course, Arch Hall said that the last time
13 he heard from Don was in August of '69, when Don called him
14 over the phone, and he told -- he told Don, "Either --" you
15 know, "bring the guns back, or make up the payment."

16 Dawn Quant. Dawn Quant said -- and this is very
17 significant -- said that Shorty said that he wouldn't sell
18 them, ever. Now, Dawn was a very close friend of Shorty's.
19 They were friends for about 15 years.

20 Dawn said she wanted to buy them, and she asked
21 Shorty -- you know, if she could buy them. And he said: No,
22 that he wouldn't sell them, ever. Now, certainly, if he was
23 going to sell them to anybody, he would have sold them to a
24 friend, especially if a friend wanted to buy them. And Dawn
25 Quant did.

26 Shorty said he wouldn't part with them; that they
27 were his prize possession.

28 Ruby Pearl said that Shorty left the revolvers with

10b-3

1 her when he went to Las Vegas, and he said, "Take very good
2 care of them. Don't let anyone have them." And she said that
3 Shorty said -- he was always saying how they fit him; they were
4 a part of him; they were his personal possessions; he felt odd
5 without them.

6 Now, Niki Shea. And this is -- Niki is really a
7 good indication of how much Don thought of his guns. Here's
8 the woman he marries -- just been married less than a month --
9 and he thinks so much of the guns that he even shows her how
10 they're matching serial numbers on the guns.

11 Remember, she said, "Oh, yeah, he pointed out to
12 me that they were matching serial numbers." And he also
13 pointed out to her that one of the guns had a hair trigger.
14 This is to his new bride he's so proud of these possessions.

15 "Honey, look, look. I have got -- they've got
16 matching serial numbers. And this one has a hair trigger. It's
17 been balanced." Don told Niki that he would never, never sell
18 the guns to anyone; that he would never get rid of them -- the
19 same thing he told Dawn Quant, that he would never sell them to
20 anybody.

21 Now, of course, this becomes significant in a little
22 while, when we see how the guns ended up.

23 Now, it's true that Don did pawn the guns on a
24 couple of occasions. But this is very relevant. Niki: I asked
25 him why he didn't pawn the guns for more money."
26
27
28

10c fol

10c-1
1 Now, remember when he took the guns in and pawned
2 them? It was always like for \$20 apiece, for each gun.

3 Niki: "I asked him why he didn't pawn the guns
4 for more money, and he told me the reason he didn't
5 was because this way, he was sure that he would get
6 them back."

7 He could have got more money for them. Every-
8 body has testified that they were certainly worth more than
9 he pawned them for. But he pawned them for just a small
10 amount of money, so that he could afford to raise the funds
11 and get the guns back.

12 This was apparently the only collateral that this
13 man owned, his beloved guns.

14 Jerry Binder, describing how Shorty treated the
15 guns: "He polished them, he cleaned them, he rubbed them,
16 he drooled on them."

17 He didn't mean that literally, but you know, that's
18 how Shorty reacted to the guns.

19 Okay.

20 Now, what happens to the guns? What happens to
21 the guns? Remember the first time he pawned them, February
22 3rd, 1969, for \$20 -- \$20 for each gun, and the brown
23 attache case, and then he redeemed them, one gun for \$23,
24 and the other gun for \$24?

25 Then, he pawned them on July 25th, 1969 -- these
26 are both to Sam Launer -- for -- the first gun for \$20;
27 on July 28th, 1969, the second gun for \$25, plus the
28 attache case.

10c-2

1 He put in the gun and the attache case on the
2 second time.

3 Okay. Now, when were these redeemed? They were
4 redeemed September 2nd, 1969, and September 3rd, 1969. By
5 whom? Who redeemed them? Danny DeCarlo, forging the name
6 R. Smith, or R. A. Smith or Richard Alan Smith -- I don't
7 think he wrote out Alan, but there is no question that Danny
8 DeCarlo, a member of the Manson Family, the man who -- who
9 Manson and Danny were discussing how to get rid of Shorty's
10 body, by lye or lime -- "Which will get rid of it? Lye or
11 lime?

12 "Lime will preserve it. Lye will get rid of it."

13 And of course, it's only expected that Danny
14 would be the one to get the guns. Why? Because the testimony
15 in this trial has been that Danny was the keeper of the guns
16 for the Manson Family; he was the one that lived in the gun
17 room; he was the one that took care of the guns -- I think
18 somebody called him the armorer -- so it's only logical that
19 he would end up with Shorty's guns.

20 And we know, from the "Last Supper," that he
21 brought the prize revolvers up to the Meyers Ranch area, so
22 that they could all gloat over their accomplishment of getting
23 Shorty's revolvers.

24 Remember that Barbara Hoyt testified that when
25 they went up to -- up to the Barker-Meyers Ranch area, that
26 Danny was in one of the two cars that went up; and that he
27 came back the same night, and then he came back up again.

28 Well, obviously, when he came back, then he got

10c-3

1 the guns out on September 2nd and September 3rd, and then
2 came up in time to be at the -- at the Meyers Ranch dinner,
3 which was at the end of the first week of August (sic).

4 And of course, the fact that even the Manson
5 Family knew that -- how much thought, how much Shorty
6 thought of the guns, that's why they were so happy getting
7 them. DeCarlo and Vance saying, "Well, we finally got
8 Shorty's ego."

9 Well, the guns were his ego. There's no question
10 about it. I think that's proved beyond any doubt in this
11 case.

12 Now, the Meyers Ranch dinner -- and I think that
13 there's no doubt in anybody's mind that Juan Flynn -- that
14 the guns -- or, at least the one gun that he saw -- was
15 Shorty's gun. He has been consistent on it. Even before,
16 he said that the gun said -- that it was an Italian gun.
17 It said: "Made in Italy." And that it said ".45 Caliber
18 Colt." All these things are on the gun, and when you get
19 the guns in the jury room, you can look at all these things.

20 He also said that the gun had a wooden handle.
21 He has been consistent on this. He did say that the gun
22 looked golden or bronze.

23 Well, again, you remember Mr. Manzella's argument,
24 how -- he showed you all the different gold parts, the gold
25 parts of the gun (indicating). Maybe, in Juan's memory,
26 that's what he remembered. Obviously, the gold isn't -- the
27 gun is not gold or bronze (indicating) but maybe that's the
28 thing that stuck in Juan's mind.

10c-4

1 But all the circumstances -- the wooden handles,
2 the "Made in Italy," ".45 Caliber Colt" -- and of course,
3 Juan had good reason to remember the gun, because it was
4 being pointed at him.

5 He was looking down the barrel most of the time
6 until it was passed, until it was passed to him.

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1 What did Bruce do, when he had the gun there at
2 that Meyers Ranch dinner? Well, according to Juan, "Well, he
3 handled the gun. He pointed it at me. And then he looked at
4 it. He looked at me. And he looked around to the people at
5 the table."

6 They were all very proud. These are -- these are
7 proud people. They're proud of their accomplishment, getting
8 Shorty's ego -- "Shorty's ego" -- passing the gun around.

9 Now, Mr. Denny brings up the fact that Barbara Hoyt
10 didn't testify about the gun incident. Well, number one,
11 certainly Juan would have more of a reason to remember a gun
12 being passed around the table than Barbara would, especially
13 because the gun was pointed at Juan. And also, Barbara didn't
14 say that she was there all the time.

15 She said that she got up and went into the kitchen
16 a few times. And remember, because she was the one that was
17 serving the dinner. And also, Juan testified that the gun
18 incident happened after dinner.

19 And Barbara didn't say that she was there after
20 dinner. And also, Barbara didn't say that the gun incident
21 didn't happen. She just said that she didn't remember whether
22 it happened or not.

23 And that's -- you know, not knowing that it's --
24 what significance the gun has, that's not really too significant
25 an event, just having the gun passed around the table --
26 especially not for people that have a lot of guns and that are
27 used to it. I mean, it's no big deal.

28 It's a big deal now, because we know it was

10d-2

1 Shorty's gun; but one of the Manson Family, just around the
2 table area at the time, it's -- it's not that big a thing.

3 Then, Elma Baker came in and testified that R. A.
4 Smith -- who we know to be DeCarlo -- sold the guns to him on
5 October 10th, 1969, for \$75; and that then the guns were in bad
6 condition; the bluing was worn, and the handles were scratched.
7 Obviously, they had been up in Death Valley.

8 Now, when a person leaves voluntarily, and nothing
9 happens to him, he takes those things with him which are his
10 prized personal possessions, the things that are treasured by
11 him.

12 But Shorty's revolvers ended up in the hands of
13 those he hated, the Manson Family. Do you think that he would
14 have even let any of these people touch his guns? Even touch
15 his guns?

16 Not to speak of redeeming them at the pawnshop and
17 keeping them and selling them. Do you think that he would even
18 have let these people -- knowing how he felt about them -- that
19 he would have let them even touch, even touch those guns?

20 Hmm-mm! No, sir!

21 He was in love with these guns. He wouldn't have
22 left without them. Once again, ladies and gentlemen, based on
23 all the evidence, all the evidence, the only reasonable
24 explanation for what happened to Shorty's guns is that they
25 fell into the hands of the Manson Family, certain members,
26 after they murdered him.

27 Now, the confessions and admissions on the Shea
28 case, of Manson, Davis and Grogan, as to the murder of Shorty

10d-3

1 Shea clearly establish, beyond any reasonable doubt, that
2 Shorty was murdered.

3 And of course, you can consider these confessions
4 and admissions to substantiate and strengthen the other proof
5 that we have submitted to you on Shorty's death.

6 Now, we'll talk about these confessions and
7 admissions somewhat later in my argument.

11 fol

11-1

1 Let's talk about Paul Whiteley a minute,
2 Sergeant Whiteley and the investigation that he performed.
3 A very thorough, detailed investigation that certainly,
4 if Shorty was alive, would have turned him up.

5 Sergeant Whiteley testified that he commenced
6 his investigation on October 13, 1969. And that he ended
7 it November, 1971.

8 First thing, teletyped to the record section in
9 California that keeps the criminal records. It is called
10 CII. He went to see if there was any arrest record.
11 Checked the DMV, the division of hospitals in California and
12 Arizona, the Coroner's Office throughout the nation. Licensing
13 bureaus in California, Arizona and Massachusetts and Texas,
14 and checked the Federal Bureau of Investigation, State
15 Department Division of Passports, credit agencies in
16 California, the Internal Revenue Service, Social Security,
17 Workmen's Compensation. That he sent out nationwide teletypes
18 describing Shea to missing persons details of local police
19 departments. He contacted the U. S. Post Office at every
20 known address that Shorty had ever had. He contacted the
21 trade unions in Southern California, the Bureau of Social
22 Services, which is welfare. Local utility companies. The
23 Veterans Administration. The U. S. military records in
24 Kentucky. The registrar of voters. Every known friend that
25 Shorty had ever had. He checked with each police department
26 in every town that Shorty had ever lived in. What did he
27 find? He found no record of Shorty's existence after August
28 of '69. No record of Shea's existence after August of '69.

11-2

1 Now, the physical search.

2 He said that he began the physical search in
3 December of 1969 for Shea's body and ended it in July of
4 1970. You've seen those photographs enough, the aerial
5 photographs of Spahn Ranch and the surrounding area. Sergeant
6 Whiteley performed a very thorough search. He went into
7 every around there that the Manson Family had been known to
8 have frequented. Searched the canyons, the different canyons.
9 Pumped the creek dry. Sent scuba divers down the well. 5,000
10 man-hours. A man-hour, if one man works eight hours, that's
11 eight hours, you know, so on and so forth. Two men work eight
12 hours, 16 man-hours. 5,000 man-hours. Of course, in this
13 area -- and remember, he said that part of the search was
14 done up in the Barker-Meyers Ranch, the Death Valley area,
15 and you're going to get all those pictures in there to see
16 how barren and desolate that area is.

17 Well, this is certainly looking for a needle in
18 a haystack here. He could have walked right over the spot
19 where Shorty was buried and can't find him. He can't dig
20 up the whole area, but he tried. He looked around in caves
21 and creeks.

22 Also, very, very important, Sergeant Whiteley
23 testified that while this physical search was being performed
24 that it was highly publicized. That there were the TV cameras
25 out there and there were reporters. And you know from this
26 trial that there have been other trials about Shea's murder,
27 and still no Shorty Shea. Nobody to say, "Oh, hey, Shorty
28 is over here. He's up in San Francisco. He's up in Las

1 Vegas," or something. All the publicity. Nobody, nobody
2 has heard of Shorty's existence since August of '69.

3 And, remember, up in the Death Valley area, that
4 Sergeant Whiteley described that, how when he was up there
5 that there was no traffic on the road except for police
6 officers. That he's been up there four times and the only
7 traffic on that road between Ballarat and Goler Wash that
8 he's seen have been police vehicles that have been patrolling
9 the area.

10 And it certainly -- at both Spahn Ranch and
11 Death Valley and the surrounding area of Spahn Ranch -- it
12 is just like looking for a needle in a haystack.

13 Ofcourse, this assumes -- this assumes that
14 there even exists a body.

15 Remember -- remember that conversation between
16 Manson and Danny DeCarlo, overheard by Barbara Hoyt? Lye
17 and lime. Lime preserves it, lye destroys it. Manson said,
18 "Where can I get some lye?" There may very well may not be
19 a body in existence. We'll talk on that subject a little
20 more.

21 Now, also a very important point about showing
22 that Shorty is not alive, his unusual markings on his body
23 and how easy, how easy it would be for him to be detected.
24 This is a description of this man's body.

25 He had three horses tattooed on his chest. On
26 his left arm he had a rose with the word "Rose" on it.
27 Over his heart, "I'll always love Niki," and a heart. He had
28 a scar over his left eye that started up above the eyebrow and

1 came down through the eyelid and ended above the left
2 cheekbone. Both of his legs had been broken. He had
3 visible scars on both legs. He had a hole in his back
4 where it looked like a bone had been broken. Like it sunk
5 in. His feet were both broken.

11a fls.

11a-1

1 Now, a man with these unusual features and markings
2 on his body could not easily disappear. Police and hospitals
3 could spot him right off. All those markings. Certainly,
4 unusual markings.

5 Now, what are some other reasons why we know that
6 Don is dead.

7 Well, his car. His car was found abandoned, dusty
8 and dirty. Just a stone's throw away from the old Manson
9 Family hangout on Gresham Street.

10 Well, why was it taken there? Obviously, because
11 these people had lived there. They knew on this dirt road that
12 the car would go unnoticed, on the dirt shoulder -- let me see
13 if I can find that.

14 Well, I can't find the photographs right now, but
15 there are some color photographs in evidence of the location
16 where Don's car was found. And it shows that it is off on the
17 side on a -- just a dirt shoulder, and I think that you can see
18 the --

19 Oh.

20 MR. DENNY: Is that it, Steve?

21 MR. KAY: No, but thanks anyway.

22 Let's see. Well, anyway, you're going to get all
23 the exhibits in the jury room, so you know you should look
24 through each and every one of the exhibits to see what they are
25 and you'll come across these pictures. And you'll see the area
26 where the car was abandoned. Certainly, if they knew that the
27 car was taken to this area it would be a long while before it
28 was noticed or that anybody would call up. I mean, they lived

11a-2

1 in the area. They knew the type of people that lived in the
2 area. They knew whether they'd bother or not calling up about
3 an abandoned vehicle.

4 Now, in this car, the two footlockers, Shorty's
5 two footlockers, were his clothes.

6 Now, Jerry Binder and Niki Shea both testified that
7 Don had precious few clothes. And when you get in the jury
8 room, you look through those clothes and you'll see that the
9 clothes that were in those footlockers, were found in the foot-
10 lockers, were good clothes. They're good shorts, pants and
11 shirts and different things. They smell bad now, because good-
12 ness knows, they've been in those footlockers for a time and
13 haven't been cleaned or anything. But they're good quality
14 clothes. And Shorty just didn't have that much money to go
15 around just throwing his good clothes away. And the car, also.

16 Paul Ewart testified that in March of 1970 that
17 that car was still in usable condition. He didn't say it was
18 in excellent condition, but he said it was in usable condition.
19 He said that by his own standards that he wanted to fix the
20 brakes and the steering wheel because he thought they would be
21 dangerous, but that they were in usable condition.

22 And remember, Don, when he had that old Cadillac
23 before, when they were going up to the salt mines, Don was
24 driving the car around with bad brakes. That didn't bother him.
25 Lance Victor said, "Oh, that scared me, so -- we took my car
26 up."

27 Don had precious little money. He wasn't going to
28 abandon this vehicle, this car. He just wasn't going to leave

1 it there, if he left voluntarily.

2 And, also, look where the car is. Right by the
3 old Manson Family hangout on Gresham Street. You've heard a
4 lot of talk about Gresham Street and who lived there and the
5 fact that Barbara Hoyt said that's when she first met the
6 Family. She was taken there on April 1st, when she first met
7 them.

8 And, also, the keys to this vehicle that operated
9 the ignition were underneath the driver's seat. Of course,
10 when they were turned, nothing happened because the battery
11 was dead because the car had been sitting there for such a long
12 time. But the keys were there.

13 Also, about how long the car had been there.

14 Again, circumstantial evidence. These magazines
15 were found in the footlockers. I want you to look at these in
16 the jury room.

17 These Shooting Times, August, of 1969. Guns and
18 Hunting, July of '69. We know how crazy Don was about guns.
19 Gun Facts, July, '69. Gun World, August of '69. Guns and
20 Ammo, July of '69. Shooting Times, July of '69. Ebony,
21 June of '69.

22 Now, remember, we allege that Don was killed at
23 the end of August of '69. You don't see any September,
24 October, November magazines in here. They're not there.

25 Other reasons that we know that Don is dead, the
26 fact that his attache case was hidden under some bushes in
27 that road between Ballarat and Goler Wash, hiding the evidence,
28 getting rid of it. Vance and DeCarlo probably did that. Their

11b fol

1 property was in -- Vance's was in the attache case. But
2 DeCarlo's shirts -- DeCarlo's shirts were in the blue suitcase.

3 Remember Whiteley, Sergeant Whiteley testified that
4 when he went over to L.A.P.D. to get the suitcase that those
5 shirts were in there. And, of course, they were, because
6 Danny DeCarlo knew -- because Danny DeCarlo knew Shorty was
7 murdered. If he didn't participate in it, he certainly knew
8 about it. And he certainly is not going to use Shorty's
9 footlockers. And then, when the footlockers are dumped, he's
10 not going to leave the shirts in the footlockers with his name
11 on them. Huh-uh. He knew Shorty was murdered. He either
12 participated or he knew it.

13 Also, Karen Nelson. The only place that Shorty
14 indicated that he was going to go other than L.A. around the
15 time that he was murdered was the Leslie salt mines. Karen
16 Nelson said he never got there. He never worked for them after
17 September of '68.

11c fol

11c-1

1 Now, another reason we know he's dead is because
2 of Charles Manson's incredible statement that he made to John
3 Swartz. An incredible statement.

4 Now, remember Swartz testified that he had this
5 conversation with Manson about ten days after the raid.
6 Listen to this.

7 " Swartz said that he asked Manson if he had seen
8 Shorty. Shorty said, 'Yes, that a friend had a friend in
9 San Francisco who needed someone to work for them, so he --'
10 Charlie -- 'told Shorty about it, and then gave Shorty some
11 money to go to San Francisco.'"

12 Can't you just imagine giving -- Charlie Manson,
13 his old friend, his old buddy Shorty Shea, who they talked
14 about at all those dinner conversations about what a snitch
15 Shorty was and the fact that he caused the raid and he was
16 going to work for Frank Retz, yeah, well, he gave his old
17 buddy Shorty some information about a job up in San Francisco
18 and on top of that gave him some money. Sure thing.

19 You know, this is very interesting. Mr. Denny
20 gets up here and says, "Well, gee, if there was a conspiracy
21 to conceal Shorty's body, it was sure the most ill kept
22 secret. They blabbed it to everybody." Huh-uh. Huh-uh.
23 Look at who different things are said to. John Swartz,
24 not a member of the Manson Family, not -- well, he's a law
25 abiding citizen. I think we can say that. He was a ranch
26 hand. He was not involved with these people. What did they
27 tell him to conceal, the fact that Shorty had been murdered?
28 Oh, he went to San Francisco. Got a job up there and gave him

11c-2

1 some money. Doesn't that sound familiar?

2 Steve Grogan, Clem, telling Juan Flynn -- Juan
3 was a Family member. They spoke freely with Juan. But they
4 said, "Juan, if anyone asks you about Shorty, you tell them
5 that he went to San Francisco."

6 Now, the only non-Family member, the only non-
7 Family member that was told anything about this was Alan
8 Springer. Alan Springer, a member of an outlaw motorcycle
9 gang, the Straight Satans. Sure, they told him. They
10 probably thought, "Well, if anybody -- if anybody should be
11 anti-law enforcement, not a friend of law enforcement, it
12 should be Alan Springer, a member of the motorcycle gang,
13 an outlaw motorcycle gang," a friend of Danny DeCarlo. And
14 remember, he and Davis, at the time they related this to him,
15 how they could get Danny, of course Springer didn't mean that.
16 He was just trying to find out what they were going to do
17 with Danny about testifying.

18 "Well, what do you think about Danny testifying?"
19 Showed them the article and everything. I'm sure
20 that they didn't figure that Mr. Springer would be on the
21 side of law enforcement, as he is.

22 Now, ladies and gentlemen, there can be absolutely
23 no doubt about why Shorty Shea was murdered. Shorty wasn't
24 murdered for the reason that Mr. Denny said, because he was
25 going to be a watchman at Frank Retz' place. That was just
26 another fact added onto it.

27 Let's look at this for the motive. Let's go
28 through this and see what was said.

1 Barbara Hoyt testified that in the dinners at
2 the back house, when she was present, she said that after the
3 Family members got out of jail, after the August 16th raid,
4 Shorty's presence on the ranch became a common topic of
5 conversation among the members of the Family.

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1 And that the majority of these conversations,
2 Manson, Davis, Grogan and Watson was present. And to say that
3 Shorty was hated by the Family was an understatement.

4 Barbara told us that at some of the dinners at the
5 back house, his royal highness, Charles Manson, made certain
6 pronouncements about Shorty Shea. And remember Barbara
7 describing a number of the conversations she said about
8 Shorty's presence, "They were countless conversations because
9 they were all the time." What did Manson say, "paranoia,
10 paranoia." Manson said that "Shorty was an ex-policeman and
11 an informant."

12 Well, Manson had a lot to worry about, goodness
13 knows.

14 "And that he caused the raid and, also, that he
15 was working with -- and, also, that he was working with
16 Frank Retz to get the Family kicked off the ranch. And he was
17 bad-mouthing the ranch, which Barbara took to mean that he was
18 bad-mouthing the Family to the police."

19 Manson and the Family, but especially Manson, hated
20 Frank Retz. So when he found out that Shorty was going to be
21 an armed guard for Retz, this was just one more fact about why
22 Shorty was hated.

23 Now, the Family wanted to go to the desert, but
24 they wanted to go when they were good and ready.

25 You remember Barbara Hoyt testifying the reason that
26 Manson gave to her about why they went up to the desert when
27 they did? She said that Manson told her that the reason they
28 were going up at that time because he, Manson, wanted to get the

1 girls under 18 away from the police. Baloney. It was too hot
2 for them on the ranch, that's why they left at that time.

3 Now, you'll remember that Shorty showed up at Spahn
4 Ranch on the day of the raid, but after the raid happened. He
5 also visited the ranch on several occasions the week before the
6 raid, and since it was known that Shorty hated the Family,
7 in some way Manson must have felt that Shorty must have informed
8 to the police and caused the raid. Another fact which placed
9 Shorty's life in danger.

10 But make no mistake about it, Shorty was not
11 murdered because he was going to be hired as an armed guard by
12 Frank Retz. He was murdered because, God only knows, the Manson
13 Family had a lot to hide from -- from the police, and in their
14 minds Shorty was making it too hot for them. He was bad-
15 mouthing the ranch to the police, according to Manson. He had
16 caused the raid.

17 Look, this is what -- this is what Davis said to
18 Al Springer during that conversation which again corroborates
19 this point. Davis told Springer, he said, "The guy was a
20 snitch," telling about the guy that they killed, how they took
21 care of snitches, how they took care of snitches and you wonder
22 why we have to give Al Springer deals to come in and testify
23 after Davis told him how they took care of snitches, cutting
24 off their head and arms. Oh, well, Springer can hardly wait
25 to get in here and testify, wow.

26 This is what Davis said to Springer. Davis said,
27 "The guy was a snitch and he drank too much." Well, we know
28 Shorty drank too much.

1 "That they were afraid that he was going to go
2 to the police with information." That's why they murdered him.
3 That's the truth.

4 What did Shorty find out? What did he find out?
5 What information? What information were they afraid he was
6 going to go to the police with? They felt that he had already
7 caused the raid. Did Shorty know something else? That's what
8 Davis said.

9 Now, before -- before Mr. Davis and Mr. Manson and
10 Mr. Grogan and Mr. Watson and maybe Mr. DeCarlo murdered him,
11 there is no telling what they did to torment this poor man.
12 We know that Shorty knew that he was a marked man. We know
13 that. But, unfortunately, Lance Victor didn't have enough
14 money to give him when he came out on the ranch on the 25th or
15 the 26th of August, so that Shorty could go up to the salt
16 mines and get away from them. Shorty never lived to that
17 Friday when Lance came back with the \$30.

18 What was Shorty's state of mind about what the
19 Family was trying to do to him? Manson threw a knife right in
20 front of his face. Oh, Manson smiled about it, I'll grant what
21 Mr. Denny said, that Manson smiled about it. But Dawn Quant and
22 Shorty didn't. This went to his state of mind.

12 fol

12-1

1 Obviously, Manson wasn't trying to kill him with
2 this knife throwing incident. But he was conveying a little
3 message.

4 How would you feel if Charles Manson threw a
5 knife in your path, about three feet from your head?

6 Let's go to the conversation that he had with
7 Lance Victor.

8 (Pause in the proceedings.)

9 Again, I made the mistake of not putting down
10 the volume number.

11 Volume 29, page 4313, questioning by me.

12 "Q Now, sometime after August 16, 1969, did
13 you have occasion to go out to Spahn's Ranch?

14 "A Yes.

15 "Q And did you see Don there?

16 "A Yes, I seen him there.

17 "Q Did you also see his car there, the white
18 Comet?

19 "A Yes, it was sitting up, when I saw it,
20 by the ranch house.

21 "Q When you say 'the ranch house,' is that
22 where George Spahn lived or --

23 "A Yes, he did.

24 "Q Now, in relation to the 16th of August,
25 1969, when was it that you went out to Spahn Ranch
26 and saw Don there?

27 "A It seemed like to me it was about the
28 middle of August.

12-2

1 "Q Well, in relation to the 16th, if you
2 can give us -- was it -- do you know how long after
3 that, or what do you remember?

4 "A Well, I went out -- I was out there to
5 see him -- it was on a Monday or Tuesday.

6 "Q Yeah. But do you remember how many days
7 it was after the 16th?

8 "A No, I don't. It may have been -- it may
9 have been about a week or so or something like that.

10 "Q A week or so after the 16th?

11 "A Yeah.

12 "Q Now, where was Don when you saw him at
13 Spahn Ranch on that occasion?

14 "A Well, he was down by the corrals.

15 "Q Now, when you went out to Spahn Ranch on
16 that occasion, did you go with anybody?

17 "A Yes, I did.

18 "Q Who was that?

19 "A That was Bob Ferrin.

20 "Q Now, did you have an occasion to talk to
21 Don when you were there at Spahn's Ranch? Did you
22 have any conversation with him?

23 "A Yes, I did.

24 "Q Did you notice anything unusual about his
25 demeanor while you were having the conversation with
26 him, how he acted?

27 "A Well, he was kind of edgy, you know.
28 Kind of a little nervous and he kind of -- you know,

12-3

1 "looked around like this (indicating)" and he indicated
2 on the stand -- "you know, when he was talking, you know.

3 "And he would move around a lot and stand on one
4 foot and the other.

5 "Q Was this unusual for the way --

6 "A Yes, because usually he would lean against
7 the post, just naturally, and just stand up and talk
8 to you --" or, "just stand and talk to you." Not
9 "stand up," but "stand and talk to you.

10 "Did he do anything unusual when someone
11 other than the cowboys would come by?

12 "A Yeah, he would change the subject. If he
13 was talking, he would stop or he would stop talking.

14 "Q And who were the people that would come
15 by that would make him change the subject?

16 "A It was -- well, some of the cowboys would
17 walk by, and some of the other people, but it was
18 mostly the other people that was there.

19 "Q Well, by 'other people,' what do you
20 mean? Old people, young people?

21 "A I believe it was -- I believe it was some
22 of the Family members. They looked like some of the
23 Family members, but I couldn't tell whether it was
24 or not.

25 "Q Did they have long hair or short hair?

26 "A They all had long hair, just like the
27 frontiersmen.

28 "Q On the many occasions that you talked to

12-4

1 "Shorty after you first met him in 1965, had you
2 ever seen him act that way?

3 "A No, I never did."

4 Going to page 4330, to the conversation:

5 "Q All right. Mr. Victor, what did he say,
6 and what did you say?

7 "A Well, Don, he was very nervous, and he
8 said -- he says, uh, he says, 'I think there's something
9 wrong.' He says, 'I think, you know, they're trying to
10 kill me.'"

12a fls.

12a-1

1 "And I says, 'Oh, come on, Don, you're
2 probably just feeling bad because of being out of a
3 job and everything.' I said, 'That's impossible,
4 because, you know, because the people didn't strike
5 me as that way.'

6 "And he says, 'No, I'm not kidding you.'
7 He says, 'There's something wrong.' And so the conver-
8 sation went on like that.

9 "And I says, 'No, that's impossible.'
10 I said, 'What you need is a little bit of money
11 under your belt and you'll feel a lot better.' I
12 said, 'You're stranded here like a -- last man and
13 everything, and you're kind of getting paranoid
14 about it.'"

15 And then this is when they talked about the money:

16 "Q And what else was said about the money?

17 "A Oh, then he says he wanted to go up north,
18 back up to Leslie, where we had been before." At
19 Leslie Salt Mines. "And then he asks Lance for the money,
20 and then Lance said that he couldn't have it until Friday--
21 that's the day the eagle flies, according to Lance -- and
22 then he said that he'd come back with the \$30," and he said,
23 "Don said he would wait. He said, 'Good. I'll be here.'"

24 But of course, when Lance came that Friday, he
25 was never there.

26 "And in the conversation --" this is page

27 4333:

28 "Q And in the conversation that you had with

12a-2

1 "Don -- we are talking about where he asked to
2 borrow the money, and he said, 'I believe they're
3 trying to kill me' -- what was his demeanor?

4 "A He was very nervous."

5 Now, is this corroborative? Yeah, Yeah. The
6 conversation on what we contend was the last night of his
7 life, the conversation with Ruby Pearl, what did he say to
8 Ruby Pearl? He said, "It gives me the creeps to stay here.
9 It's kind of weird here." He wanted to stay at Pearl's house
10 that night, you remember.

11 Ruby said about Shorty, during this conversation,
12 that he was very serious, and he kept looking around, and
13 that she had never seen him act this way before. And then
14 he said, "Pearl, they're out to get me."

15 Who do you think he was referring to? The
16 Spahn Ranch Family? Well, he was a member of the Spahn
17 Family.

18 Or the Manson Family?

19 Okay. When was Shorty murdered? Ruby Pearl
20 remembers that the last time she ever saw Shorty was when
21 she had the conversation with him in the parking lot. That's
22 how she pinpoints the last time she ever saw him. Because it
23 was the conversation in -- and the members of the Manson
24 Family getting out of the car and rushing towards the
25 direction where Shorty was and fanning out.

26 Now, Ruby is not sure that there was a full moon,
27 but she said that she remembers that it was a bright night,
28 and the sky was light.

12a-3

1 (Pause in the proceedings while Mr. Kay
2 examined some volumes of the transcript.)

3 MR. KAY: Volume 34, page 5239. Now, this is about
4 the -- Mr. Denny says that it was pumped into her, that
5 there was a -- that there was a full moon. Well, this is
6 by Mr. Manzella:

7 "Now, Mrs. Pearl, you used the words
8 'pumped into you' in regard to some of the last
9 few questions that Mr. Denny asked you.

10 "Were you referring to questions that
11 occurred in the courtroom, during the course of
12 trial?

13 "A Yes.

14 "Q And were you referring to the kind of
15 questioning that Mr. Denny was doing --

16 "A Yes.

17 "Q -- of you here just a few moments ago?

18 "A Yes.

19 "Q Now, before you testified, nobody told
20 you to say that there was a full moon that night,
21 did they?

22 "A No."

23 What was Ruby Pearl referring to when she said
24 "pumped," that she was "pumped"?

25 BY MR. DENNY: -- and this is on cross-examination.

26 "Q You indicated earlier that someone had
27 pumped you about that, did you not?

28 "A Well, I was insinuating yourself.

12a-4

1 "Q You were insinuating --

2 "MR. MANZELLA: I'm sorry. I didn't hear that
3 answer, your Honor. Could I have it read back?"

4 And then it was read back, the answer, "Well,
5 I was insinuating yourself."

6 "Q BY MR. DENNY: You were insinuating myself,
7 that somebody was pumping you earlier like I'm doing now;
8 isn't that right?

9 "A Not someone. You."

12b fls.

10 Well, we've all seen Mr. Denny in this courtroom.
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12d-1
12x

1 Now, you see, Mr. Denny is arguing to you, like --
2 "Well, gee, the prosecution is so thorough that they just cover
3 everything, that obviously they got the full -- everything out
4 of the witness the first time they ever talked to that witness,
5 that was relevant.

6 "And if the witness didn't tell them -- give them
7 certain information the first time they ever talked to the
8 witness, well, it must be that the prosecution's telling them
9 to come up with some information, or that the witness is
10 lying."

11 Well, a clear example of the fact that that's not
12 true is Barbara Hoyt and full moon. When did the full moon come
13 out? Did it come out by Mr. Manzella or myself or Mr. Katz?
14 Huh-uh!

15 It came out on cross examination by Mr. Kanarek,
16 Mr. Manson's attorney during the Manson trial. Nobody had ever
17 thought to ask her about it before, except that Mr. Kanarek
18 was asking her about the conditions, and -- boom! "Hey, yeah.
19 I remember there was a full moon that night."

20 Now, the important thing, why we know, again,
21 why Barbara Hoyt and Ruby Pearl are talking about the same
22 night, is the fact that both of them agree -- and have been
23 completely consistent on it -- that the Manson Family left the
24 next day for the desert.

25 So the night that Ruby Pearl had the conversation
26 with Shorty and saw Manson, Davis, Grogan and Watson -- and
27 she's not sure about Bill Vance, but I'll get to the other
28 testimony, showing that Mr. Vance was probably not there --

12d-2

1 when they fanned out towards Shorty on the boardwalk, that
2 this was the same night that Barbara Hoyt heard the screams,
3 because they both agreed that the Manson Family went up to the
4 desert the next day.

5 And Ruby says that she remembers that this was
6 approximately two weeks after the raid.

7 Now, Barbara Hoyt remembers that there was a full
8 moon on that night. And she has been consistent about it,
9 ever since somebody questioned her on it, ever since Mr. Kanarek
10 brought it out.

11 She said that the moon was in the south -- and
12 of course, that's corroborated by Dr. William Kaufmann.
13 He testified that the full moon at that time would have been in
14 the south -- which Barbara didn't describe it as being in the
15 south; she described it as being in back of the -- in back of
16 the buildings on the boardwalk. And of course, this would
17 mean that when Davis and Manson and Grogan and Watson were
18 going towards Shorty, that the light from the full moon would
19 have been shining in their faces.

20 Now, Mr. Denny -- and I don't know how he can
21 make this conclusion, based on the evidence -- said, "Oh,
22 well, Ruby Pearl doesn't have good eyesight." Yet he was
23 standing back here with those photographs that he had of Ella
24 Jo Bailey and others, and he was pulling them (indicating),
25 and Ruby Pearl was sitting up there identifying this, that,
26 and the other thing. Her eyesight's great.

27 And she said that she -- she said, "I just took my
28 driver's test, and I have never been to an optometrist before,

12d-3

1 and I never had any problem with my eyesight." The glasses that
2 Mr. Denny brought out, she said that they were for her close
3 work; but she didn't wear glasses at the time that she was at
4 Spahn Ranch; she didn't have any trouble seeing these people.

5 She'd seen them hundreds of times that night. She
6 testified to that, that she saw them at night all the time,
7 even when there wasn't a full moon. But this night, there was
8 a full moon -- which would have been shining into their faces,
9 as they were walking towards Shorty Shea, on the boardwalk
10 area.

11 And remember, Ruby Pearl has never been -- never
12 been inconsistent on the fact that Manson, Davis, Grogan and
13 Watson were there. Never. She's kind of hazy on Bill Vance.
14 One time she said Vance was there, and now she is not sure.
15 But she's sure of those other four, one of which is Bruce
16 Davis. Okay.

17 THE COURT: Let's take a short break, and then we'll
18 stop at five minutes to 5:00 or so -- shortly before 5:00.
19 Let's just take five minutes, so that you can stir around a
20 bit.

21 And during the recess, don't converse amongst
22 yourselves nor with anyone else, nor permit anyone to converse
23 with you on any subject connected with this matter, nor are
24 you to form or express any opinion on the matter until it is
25 finally submitted to you.

26 We are in recess.

27 I'm getting so I can state that pretty fast.

28 (Laughter.)

29 (Short recess.)

13 fol

12c-1?
14-1

1 THE COURT: All the jury is present. The defendant
2 is present with his counsel, the record should show, along
3 with Mr. Kay.

4 MR. KAY: Okay. We only have about half an hour to go.
5 I'll try to keep you awake. All right. Okay.

6 We were talking about when it was that Shorty
7 was murdered. Now, very important in this regard, remember
8 that Barbara Hoyt saw Deputy Wachsmuth take Manson and
9 Stephanie Schram off the Spahn Ranch, after they had been
10 arrested on the 24th. And we stipulated that Manson was
11 arrested -- was released from jail on the 26th. Mr. Manzella
12 has written it in at 11:42 p.m.

13 Now, importantly, Barbara said that it was
14 within a few days after that -- after Manson came back --
15 that she heard the screams. And again, she testified that
16 after she heard the screams, the next day, the Family left
17 for the desert.

18 Dr. William Kaufmann, the director of Griffith
19 Park Observatory, testified that on August 27th, 1969, there
20 was a full moon out in the Chatsworth area. He also
21 testified that on August 26th, 1969, and on August 28th,
22 1969, there would have appeared to have been a full moon in
23 the sky in the Chatsworth area, to a lay observer -- even to
24 himself, he said, without sensitive electronic equipment,
25 he couldn't tell which was the actual night of the full moon.

26 MR. DENNY: Your Honor, again, I didn't interrupt Mr.
27 Manzella on this point, but I think since it's been
28 reiterated, I have to interrupt. I made the objection at

14-2

1 the time. Dr. Kaufmann did not so testify. Dr. Kaufmann was
2 not there, and didn't testify that the full moon was out.

3 He just said that there would have been, by the
4 charts, and that point was very specifically made.

5 So I do want to emphasize that this is stating
6 facts which are not in evidence.

7 THE COURT: Again, ladies and gentlemen, you are the
8 sole judges of the evidence in this case. As I've stated
9 before, it's ultimately up to you as to what the testimony
10 was.

11 MR. KAY: Thank you, your Honor. Mr. Denny's right on
12 that point, that he did object, and that Dr. Kaufmann didn't
13 testify to that. He just testified that there would have been
14 a full moon.

15 We know from Barbara Hoyt that there was a full
16 moon, and that it was -- it was visible, and that there wasn't
17 any clouds blocking it out. That's why we know that there
18 wasn't a full moon there.

19 Well, I mean, there would have been a full moon
20 anyway. But I mean, that's why we know that there weren't
21 clouds blocking it out.

22 Now, very important is this little chart which
23 you all have from Dr. Kaufmann. And important in it is the
24 time -- the bottom part here (indicating), the time at which
25 the moon sat at an altitude of 30 degrees above the horizon,
26 because Dr. Kaufmann testified that once the moon gets to --
27 rises to 30 degrees above the horizon, then until it falls
28 to 30 degrees above the horizon, that the illumination is the

14-3

1 same.

2 Okay. So, on the 26th, August 26th, the moon
3 got to 30 degrees -- to an altitude of 30 degrees above the
4 horizon at 10:00 p.m.; and it fell to 30 degrees below the
5 horizon at 3:45 a.m. on August 27th.

6 Now, I'm not contending that Shorty was killed
7 on August 26th, because -- I just don't think it happened
8 that way, because Manson got out of jail so late at night.

9 On August 27th, the moon rose to 30 degrees
10 at 10:30 p.m. and fell to 30 degrees at 4:16 a.m.

11 On August 28th, the moon rose to an altitude of
12 32 degrees at 11:00 p.m. and fell to 30 degrees above the
13 horizon at 4:45 a.m. on the 29th.

14 Now, you remember that Ruby Pearl testified that
15 when she saw the incident she described in the parking lot
16 there, that it was after 11:00; so that means -- it's
17 corroborated that on each one of those nights, the moon
18 would have been, at that time -- at the time that Ruby Pearl
19 saw what she said she saw -- would have been at full
20 illumination.

21 Now, Lance Victor -- we've just gone over his
22 testimony, but he remembers that it was on a Monday or
23 Tuesday that he saw Shorty at Spahn Ranch, and it was a
24 week after the Spahn Ranch raid.

25 Well, the raid was the 16th, and a week from
26 that would be the 23rd. And the closest Monday or Tuesday
27 would be the 25th or 26th. The 25th or 26th.

28 Now, Mr. Denny argues that -- "Well, Frank Retz'

14-4

1 testimony is in conflict with this." Well, Frank Retz'
2 testimony isn't in conflict, because Frank Retz said that
3 when he got the call to Shorty -- and of course, as I am
4 going to get into, Shorty was scared to death, and he --
5 even though he was talking about -- "Yeah, Frank, I'll
6 be there in 30 minutes." And, "Yeah, George, I'll go see
7 him."

8 He wouldn't have -- he wouldn't have gone.

9 Remember, he told John Swartz, he said, "Well,
10 I am going to go up to Frank Retz this evening and see about
11 a job."

12 Well, he called Retz at 9:00 o'clock in the morning,
13 and Retz was waiting for him at 9:00 that night. So, he was
14 procrastinating, because he knew -- Shorty knew that if he
15 took that job, armed guard against the Manson Family, it
16 would be all over. It would be all over for him.

17 The reason it's not inconsistent is because Mr.
18 Retz testified, on direct examination, that he remembers,
19 specifically, that when Shorty called him, it was in August.

20 So that would eliminate -- because he called him
21 on a Monday or Tuesday, and he said specifically it was in
22 August. Well, the dates that Mr. Denny pointed out, saying,
23 "Well, Danny DeCarlo was down here on the first or second,
24 and that was Labor Day," that's eliminated, because he
25 remembers them as in August.

26 Okay. So Lance remembers that he saw Shorty on
27 a Monday or Tuesday, August 25th or 26th. And that he said
28 he would be back on Friday, which would have been the 29th.

14-5

1 And he did come back. He did come back with the \$30.

2 And remember, Shorty said that he was going to
3 wait for him. He said, "That's fine. I'll wait for you."

4 So, when Lance got there, he said that Shorty
5 was gone; that his car was gone; and that he, Lance, made
6 inquiries and couldn't locate Shorty.

7 So, with the testimony of Barbara Hoyt -- excuse
8 me -- that there was a full moon, Dr. Kaufmann stated that
9 there was a full moon, that's (indicating) the date, the
10 28th.

15 fls.

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13-1 1 Why the 28th? Because Ruby and Barbara both
2 testified that the next -- Barbara said it was in the evening--
3 the Manson Family left for the desert. Paul Watkins testified
4 that he had a draft physical to take. He was up at the
5 Barker-Meyers Ranch area and he said that he left on the 1st
6 and that the Manson Family, Davis and Manson and the others
7 that came up, got there two days before.

8 Well, if they left the evening of the 29th, they
9 would have arrived there on the 30th, which, of course, the
10 30th, 31st, would be two days before Watkins left to go take
11 his draft physical. So I submit to you that the 28th is the
12 most reasonable date that Shorty Shea was murdered. It just
13 fits in with all of the testimony from the different
14 witnesses that the 28th was the date.

15 Now, Mr. Denny made a big point of the fact that
16 he said on his opening statement that we wouldn't call
17 George Spahn and, of course, we didn't call George Spahn.

18 Well, why should we call him? Why drag an 83-year-
19 old blind man down from his resting place in Oregon to
20 testify to nothing? What did George Spahn testify to that
21 Frank Retz and Ruby Pearl hadn't already testified to?

22 I submit that the only reason that Mr. Denny
23 called him was so that he could stand up to you and say,
24 "Well, look, I told you in my opening statement that they
25 weren't going to call him and they didn't call him. Hurrah
26 for me, I called him."

27 What did he add? What did he add? He said he
28 talked to Shorty and he wanted Shorty to get in touch with

13-2

1 Frank Retz. But he didn't -- you know. And Shorty said,
2 "Oh, sure, okay." But he didn't remember what day it was that
3 he talked to Shorty.

4 Well, Frank Retz can pinpoint the fact, "Well, I
5 talked to George about it on a Sunday, and then Shorty called
6 me on a Monday." Why call George Spahn? I mean, what does
7 he add, other than for some more ink for Mr. Denny to spread
8 around.

9 How was Shorty murdered? How was he murdered?
10 Well, let's follow the events at Spahn Ranch after Barbara
11 Hoyt served him what we contend was the last meal that he
12 was ever going to eat.

13 After dinner Barbara remembers overhearing a
14 conversation in which either Brenda or Squeaky -- either
15 Brenda or Squeaky -- and you've seen them in the courtroom
16 during this trial, you've seen Brenda back there making
17 eyes at her boy friend. You've seen her back there. Squeaky
18 came in when George Spahn was here, but did the defense call
19 either one to deny it? What would they have to deny?

20 Barbara said she overheard one of them -- she
21 didn't remember which one -- say that Shorty would be taken
22 care of. Shorty would be taken care of. Yeah, he would be
23 taken care of. He was taken care of.

24 Okay, the dinner, the conversation, "Shorty would
25 be taken care of," then Ruby Pearl's conversation with
26 Shorty, which she says was about 11:00 p.m., at which time
27 Shorty said, "They're out to get me." Mr. Denny says that
28 we're relying mainly on Ruby Pearl for a conviction on the

13-3

1 Shea case. That's hogwash. She is certainly an important
2 piece of evidence. We're relying on all of our witnesses
3 for a conviction in the Shea case. He's trying to boil it
4 down to just one witness. That's just not so. We're relying
5 on all of the witnesses.

6 Now, I think that from your own common experience
7 that you ladies and gentlemen know what the vision -- what
8 your vision is like on a clear full moon night. I think that
9 you all know that you can read a newspaper by the light of
10 the full moon and that you can recognize people that you know
11 probably at distances of over 100 feet. Just think back on
12 your own common experiences. I'm sure that sometime in
13 your lives, at least when you were little, that you did
14 experiments to see how you could see. I know I did, in the
15 light of the full moon. Just think how well you can see.

16 MR. DENNY: Well, object to that. That's assuming
17 facts way outside the evidence.

18 THE COURT: All right, sustained. That is stricken.

19 MR. KAY: What's that, your Honor?

20 THE COURT: You may resume your argument.

21 MR. KAY: All right. Well, forget the fact that I made
22 a test. But think back to your own common experience, when
23 you go into the jury room. We expect you to dwell on your
24 good sense, the experience that all of you have when all of
25 you put your heads together. You've got an awful lot of
26 good experience, so use your good experience and your common
27 sense when you get into the jury room and start deliberating
28 on this case.

13a fls.

13a-1

1 Now, the point about Ruby saying that, uh, that --
2 one time said that Bill Vance was among the four that got out
3 of the car and she's not clear on it any more.

4 Well, remember that Barbara Hoyt testified at Page
5 5647 that Vance wasn't back at Spahn Ranch when they left for
6 the desert. She said that Vance got to the Spahn Ranch between
7 the time Barbara -- between the time they left for the desert
8 and the time that Sadie and Juan came up.

9 Well, we know he probably got there within the
10 first week of September, because he was there with DeCarlo.
11 He and DeCarlo had Shorty's guns there in the gun room.

12 Okay, what happened next? Barbara went to the
13 parachute room and was just ready to go to sleep when she heard
14 something that frightened her and that she will have to live
15 with for the rest of her life, the screams of Shorty Shea
16 being violently and brutally murdered. Let's see what she
17 says.

18 Volume 36, at Page 5492. Question by me.

19 "Now, after you went to the parachute room
20 that night, did something unusual happen?

21 "A Yes.

22 "Q And was anyone with you when this
23 unusual event took place?

24 "A No.

25 "Q Would you please describe to the
26 ladies and gentlemen of the jury what the unusual
27 event was?

28 "A I had just gotten into bed and I heard a

13a-2

1 "scream. And I sat up. And for a minute there
2 wasn't any sound, and so I thought, well, maybe
3 I imagined it. And I laid back down again. And
4 then, the screaming started again. And it kept
5 going and going and going for a long time.

6 "And do you know who it was that was
7 screaming?

8 "A It was Shorty."

9 Barbara has always said it was Shorty. She has
10 never been inconsistent on that as far back as December, 1969.
11 And Lieutenant Neilsen said he didn't believe her. He said he
12 didn't want to tie her down because he didn't know what the
13 basis -- her basis was for knowing it was Shorty screaming.
14 He didn't say he didn't believe her.

15 "Q Now, could you tell the direction of
16 where the screams were coming from?

17 "Well, let me ask you this: Did the
18 screams sound like they were close to you or
19 far away?

20 "They sounded pretty far away. Down the
21 creek, toward the outlaw shacks. Just in that
22 direction."

23 "Approximately how many screams did you
24 hear, Barbara?

25 "A I don't know. Many.

26 "Approximately how long did the screams last?"

27 Now, remember, we're talking about the same night,
28 the same night that Ruby Pearl saw Manson, Grogan, Davis and

1 Watson fan out rapidly and approach Shorty on the boardwalk.
2 We're talking about the same night. But afterwards. Because,
3 remember, Barbara said that it had been dark for a long time
4 and was probably after midnight. And Ruby said that when she
5 saw what she saw, that that was around 11:00.

6 "Q Approximately how long did the screams
7 last?

8 "A Well, it seemed like a really long
9 time, so I really couldn't accurately tell you.
10 It probably wasn't a real long time, though, but
11 it just seemed like it.

12 "Q It seemed to you like it was a long
13 time?

14 "A Yes.

15 "Q How would you characterize those
16 screams that you heard?

17 "A They were loud. And they were painful.
18 And they were the same kind that -- you know, those
19 horror movies when the lady is screaming, that kind
20 of scream.

21 "Well, it was like that.

22 "Q Now, what did you do in the parachute
23 room, when you heard these screams?

24 "A I looked out the window.

25 "Q Did you see anything?

26 "A Uh -- I could only see how light it was.
27 And I saw these leaves that was on the screen, but I
28 couldn't see anything worth telling of.

1 "Now, did that -- did the event that you heard
2 the screams, did that upset you?

3 "A Yes.

4 "Q Were you able to go back to sleep right
5 away?

6 "A No.

7 "Q Did you go to sleep at all that night?

8 "A Yes.

9 "Q Where did you go to sleep in the
10 parachute room after you heard the scream?

11 "A On the floor.

12 "Q All right. And why did you do that?

13 "A I was scared."

14 Of course she was. If any of you had heard those
15 screams, you'd be pretty scared, too.

16 "Q Where on the floor did you sleep?

17 "A By the bed.

18 "Q Now, is there any doubt at all in your
19 mind that it was Shorty that you heard screaming?

20 "A No."

21 Well, why would there be any doubt?

22 Number one, she heard all those dinner time
23 conversations among the Manson Family about Shorty's presence on
24 the ranch and how they hated him and how he caused the raid and
25 how he was bad-mouthing the ranch to the police.

26 Number two, just after she served dinner to him
27 that night she heard either Brenda or Squeaky saying, "Well,
28 he'll be taken care of. Shorty will be taken care of."

1 The next day, when she goes down to the creek
2 area, she hears Danny DeCarlo. And how in the world Mr. Denny
3 can stand up here and say that Barbara Hoyt was Danny DeCarlo's
4 girlfriend when he, himself, brought out on cross examination
5 her boyfriend was Dave Baker, otherwise known as Karate Dave.
6 And she hitchhiked across the country to find him one time.
7 That they were living down on the beach together. Manson gave
8 him \$100 to go down there. Just ink. It sounds good, but it
9 is not the truth.

13b fol

13b

1 Now, the next day she hears Danny DeCarlo and
2 Manson having the conversation about getting rid of "the"
3 body. Lime will preserve it, lye will get rid of it. Charlie
4 asked, "Where can I get some lye?" I mean, whether she
5 recognized Shorty's voice at the time he was actually screaming
6 or not, it is obvious there can be no doubt in her mind -- she
7 would be stupid if there was a doubt in her mind. She has just
8 talked to Shorty that night when she served him dinner and she
9 heard the screams and heard all of this talk about Shorty will
10 be taken care of and how are they going to get rid of the body,
11 lye or lime.

12 And Mr. Denny made a big point about the Boston
13 accent. But Barbara Hoyt said she didn't know what a Boston
14 accent was. So she can't say whether Shorty had one or not.
15 But I submit the main reason she recognizes it was Shorty's
16 voice, because she'd be stupid not to, with all that was going
17 on. I mean, it is so obvious that it was Shorty's voice. It
18 is the only reasonable inference for an intelligent girl, as
19 Barbara Hoyt is. And if there's any girl that's far from being
20 a perjurer, it is Barbara Hoyt. Barbara Hoyt is the only
21 shining light in the whole Manson Family. I mean, that that's
22 a girl that's got her feet firmly on the ground and has got a
23 future ahead of her. That girl --

24 THE COURT: Ladies and gentlemen, we'll recess at this
25 time. During the recess you are admonished not to converse
26 amongst yourselves, nor with anyone else, nor permit anyone to
27 converse with you on any subject connected with the matter, nor
28 are you to form nor express any opinion on it until it is

1 finally submitted to you.

2 I'll see you at 9:15 on Monday morning.

3 Our timetable appears to be this. Mr. Kay will
4 conclude his argument sometime Monday. Possibly early Monday
5 afternoon. And the Court will instruct you. And then, you will
6 have the case.

7 All right.

8 MR. DENNY: Your Honor, may we approach the bench a
9 moment?

10 THE COURT: Remember the admonition, you are not to
11 converse amongst yourselves, nor with anyone else, nor permit
12 anyone to converse with you on any subject connected with the
13 matter.

14 Remember, too, the obligation you have to avoid
15 any news media, any of the news media reports concerning
16 Mr. Manson, the Manson Family, this case or --

17 MR. KAY: Your Honor, excuse me. Can I make just one
18 point? I was just going to make one point, and then I'd be
19 finished.

20 THE COURT: It is 5:00 o'clock, Mr. Kay.

21 MR. KAY: It will only take ten seconds.

22 THE COURT: Save it. You're going to have plenty of
23 time.

24 So, I'll see you at 9:15. We are in recess now.

25 MR. DENNY: Your Honor, before the jury is discharged,
26 could we approach the bench a moment?

27 THE COURT: All right, you may just wait just a moment.

28 You may approach the bench.

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

4 MR. DENNY: Your Honor, I did not interrupt Mr. Kay's
5 argument on the matter of Frank Retz saying that he had spoken
6 to Shorty within the month of August, because I was just not
7 totally sure that I was right. But I have checked the
8 transcripts and I find the only place where a time is mentioned
9 was a place where I objected to the Court.

10 MR. KAY: Huh-uh, no. I can show you. He's talking about
11 the conversation with Shorty --

12 "Q --" it is on Page 4394.

13 THE COURT: Here?

14 MR. KAY: Yeah.

15 THE COURT: "Do you remember it was still August?

16 "Yes."

17 Is that what -- go ahead and take a look at it.

18 MR. DENNY: All right.

19 MR. KAY: Yes, see, he says he recognizes his voice.
20 You're very thorough, George, but I think you just missed one.

21 THE COURT: Was that your cross?

22 MR. KAY: No, it was direct.

23 THE COURT: Redirect?

24 MR. KAY: No, on redirect --

25 MR. DENNY: Apparently it was on redirect -- on redirect
26 it was gone into again and he said he did not know. And
27 that's where I made the objection it was leading and suggestive
28 and the Court sustained the objection. And then, he was asked

1 on Page 4451 when it was and he said he didn't know, but if it
2 is in the report --

3 THE COURT: It appears to be in the record on direct.

4 MR. KAY: Yeah.

5 THE COURT: Although he did reverse himself on cross.

6 So --

7 MR. DENNY: Well --

8 THE COURT: That leaves it in the laps of the jury.

9 MR. KAY: Was Tony going to bring Whiteley back?

10 THE COURT: I was going to hear evidence whether or not
11 to grant a motion to re-open.

12 (Whereupon, the following proceedings were had in
13 open court within the presence and hearing of the jury:)

14 THE COURT: Ladies and gentlemen, I'll excuse you now.
15 Mr. Kuczera will have charge of you on Monday, and he'll be --
16 if you have any questions now, since we will be in recess,
17 you might put them to him. Good night. Have a good weekend.

18 (Whereupon, the jury retired from the courtroom,
19 and the following proceedings were had:)

20 THE COURT: We're in recess. Go get Tony.

21 MR. KAY: All right.

22 (Short recess.)
23
24
25
26
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28

15-1

1 MR. DENNY: Your Honor, before we get into that, your
2 Honor, the Clerk has apprised me of the fact that if you do
3 leave, that it may be that she would be called upon by the
4 Clerk's Office to float, to take the place of clerks who
5 are off sick or whatever and --

6 THE COURT: I don't think she could. She's been eating
7 too many of those doughnuts.

8 (Laughter.)

9 MR. DENNY: Well, I'm not sure how she would float.

10 THE COURT: I would request the Clerk's Office that she
11 remain in the courtroom because of the great number of
12 exhibits.

13 MR. DENNY: That's precisely what I think should be
14 done and that's what I wanted to bring up.

15 THE COURT: We've attempted that before and we've
16 squared that away, so don't worry about that.

17 MR. DENNY: All right.

18 THE COURT: The People have indicated that they desire
19 to present evidence on the motion to reopen to present the
20 testimony of Bill Vance, and that -- I'd be interested in
21 knowing whether there have been any conversations with
22 Mr. Vance so that it could be known that he would testify.

23 In view of what the Court has heard about Mr.
24 Vance, it seems quite likely that an immunity order would
25 have to be made in order to cause him to testify if he were --
26 almost certainly he should have legal advice before he
27 testifies.

28 So that may leave -- that may leave the certainty

15-2

1 of his testimony in the air, even should the Court grant
2 that.

3 MR. MANZELLA: Well, by phone -- I'm sorry.

4 THE COURT: Even should the Court grant the order.

5 I'm interested in the question of diligence.

6 So you may proceed.

7 MR. MANZELLA: All right.

8 Your Honor, on the first point, as far as whether
9 or not Mr. Vance will testify, no court time will have been
10 lost and we'll know by Monday morning definitely whether or
11 not he will testify. So no court time will have been lost,
12 as far as that's concerned.

13 In other words, we'll know definitely Monday
14 morning whether or not he will testify.

15 THE COURT: By that, you mean -- what do you mean
16 exactly? You anticipate he would be here by Monday morning?

17 MR. MANZELLA: Well, Sergeant Whiteley and Deputy
18 Gleason will have spoken to him personally by then.

19 THE COURT: In Missouri?

20 MR. MANZELLA: Yes, your Honor, and will know whether
21 or not he will testify.

22 In other words, the People aren't asking for a
23 continuance, because we'll know Monday morning, when the
24 court opens on Monday, by then we'll know whether or not he
25 will testify.

26 THE COURT: And to what he will testify?

27 MR. MANZELLA: I believe so, yes.

28 THE COURT: Well, this is rather premature to explore

15-3

1 it now, then.

2 MR. MANZELLA: The reason I asked Deputy Gleason to
3 come over today, to show -- because I felt diligence on our
4 part was a necessary showing. I think materiality is
5 clearly shown by the way both sides have treated Mr. Vance
6 in his connection with the case. But I wasn't sure exactly
7 what had been done and Deputy Gleason was more or less
8 involved in the attempting to locate Bill Vance during the --

9 THE COURT: All right.

10 MR. MANZELLA: -- two years.

11 THE COURT: You can put Deputy Gleason on for that
12 point.

13 MR. MANZELLA: All right, Deputy Gleason, will you
14 take the stand, please.

15 THE COURT: Go ahead and swear him.

16 THE WITNESS: I have been.

17 THE COURT: You were sworn previously in the trial,
18 but let's swear him again.

19 THE CLERK: Raise your right hand, please.

20 You do solemnly swear that the testimony you
21 are about to give in the cause now pending before this court
22 shall be the truth, the whole truth, and nothing but the
23 truth, so help you God?

24 THE WITNESS: I do.

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

26 THE WITNESS: William C. Gleason, G-1-e-a-s-o-n.

27
28 WILLIAM C. GLEASON,

15-4

1 called as a witness by and on behalf of the People, having
2 been first duly sworn, was examined and testified as follows:

3
4 DIRECT EXAMINATION

5 BY MR. MANZELLA:

6 Q Deputy Gleason, you are the William Gleason who
7 is one of the investigating officers in this case, assigned
8 along with Sergeant Whiteley and Deputy Charles Guenther?

9 A Yes.

10 Q And you've been involved in the investigation
11 of this case since when?

12 A October of '69, 1969.

13 Q And from October of 1969 until this date, have
14 you made efforts to locate a person who has been referred
15 to during the course of this trial as -- by various names:
16 Bill Vance, William Rex Cole, Bill Van Sickle, Dwayne Schwarm;
17 have you made efforts to locate that person?

18 A Yes.

15a fls.

15a-1

1 Q And when did you begin your efforts to locate the
2 man I'll refer to as Bill Vance?

3 A My first effort would have been around December 1st,
4 1969.

5 Q Now, would you tell us what -- what you did from
6 December 1st on, in an effort to locate Bill Vance?

7 A I've checked all of his known residence addresses,
8 checked all of his known employers. I've contacted numerous
9 friends of his. I've ran checks to determine driver's
10 license issuance, driver's license record, any record of
11 vehicles registered to him. Very lengthy letters to other
12 police agencies asking them to check various addresses in
13 other states.

14 I've spoken to various law enforcement officers in
15 the State of California attempting to locate Vance.

16 Q All right. Have you contacted any agencies or
17 persons in states other than in California?

18 A Yes.

19 Q What states and what agencies or persons?

20 A The Missouri -- I'm sorry, the Kansas City,
21 Missouri Police Department and the Chief of Police of
22 Sewickley, Pennsylvania. That's spelled S-e-w-i-c-k-e-l-y.

23 Q Now, during the course of your -- the efforts about
24 which you have just testified, did you receive information from
25 persons or agencies that Bill Vance had been seen at particular
26 locations at particular times?

27 A In talking to his friends and employers, I
28 determined that he had been seen -- the last he had been seen

15a-2

1 that I could place him was in April of 1970 in the San
2 Fernando Valley of Los Angeles County.

3 Q And who did you talk to that gave you that informa-
4 tion?

5 A I talked to a friend of his by the name of Betty
6 Feiken, F-e-i-k-e-n.

7 Q And --

8 A She stated she had seen him in the Van Nuys area
9 approximately the end of March or the first of -- first week
10 of April, 1970.

11 Q When was this that you talked to her and she gave
12 you this information?

13 A Sometime in the summer of 1970. Probably June,
14 1970.

15 Q Now, have you received information recently with
16 regard to the whereabouts of Bill Vance?

17 A Yes.

18 Q When did you receive that information?

19 A On February 24th, 1972, yesterday.

20 Q Did you do anything after you received the informa-
21 tion? If so, what did you do?

22 A Contacted the Sheriff of Gentry County, Missouri.
23 Asked him if he knew of a person living in his county by the
24 name of Bill Cole. He stated he did. He has known Mr. Cole
25 for -- since July of 1970, and has been a resident of that
26 county, to his knowledge, since July of 1970.

27 Q And this was the Sheriff of Gentry County that told
28 you this?

15a-3

1 A Yes.

2 Q Now, have you since had further conversations with
3 the Sheriff between yesterday and during today? Have you had
4 further conversations with the Sheriff, either you or Sergeant
5 Whiteley?

6 A Yes. I spoke to the Sheriff -- his name is
7 Rainey, R-a-i-n-e-y. I spoke to him approximately two hours
8 ago and he stated that he had again contacted a person known to
9 him as Bill Cole. And in our conversation we compared the
10 physical description that I had against the physical description
11 that he had, and that he determined it to be the same person.

12 Q And did you have any information with regard to
13 persons with whom Bill Cole was living in Gentry, in Gentry
14 County?

15 A Yes, he apparently now is living with a girl that I
16 previously identified as Patricia Joan Baldwin.

17 Q Is she also referred to as Little Patty?

18 A Yes.

19 I -- in speaking to the Sheriff, the physical
20 description that he had of her, matches the physical descrip-
21 tion I had of that person.

22 Q And Little Patty is one of the girls that's been
23 identified at this trial, is that correct?

24 A Yes.

25 Q All right. During the course of your efforts to
26 locate Bill Vance, you've told us about one interview in which
27 you obtained information as to someone who had seen him, and
28 this was out in San Fernando Valley.

15a-4

1 Did you receive any other information like that?

2 A Yes. I spoke to an employer of his in the
3 Chatsworth area. He stated that he had seen Vance, as he best
4 could recall, sometime during the month of December, 1969,
5 and that was in a restaurant in Chatsworth.

6 He knew this person, as Vance had been an employee
7 of his at a Shell service station in Chatsworth.

8 Q And did you -- well, strike that.

9 For what purpose did you originally begin to look
10 for Bill Vance?

11 A During my initial investigation in the case, I was
12 assigned to the Auto Theft Detail and I wanted him for investi-
13 gation of auto theft. That would have been in December of
14 1969.

15 Q And since then, have you -- have your efforts to
16 contact him been motivated also by the fact that you now know
17 that he is a witness to certain events relevant to the Hinman
18 and Shea cases?

15b fol

19 A Yes.
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15b-1

1 Q All right. Is there any information, if you --
2 well, is there any information that you have received that
3 you have not investigated? Any information that you know
4 of that you have received with regard to the whereabouts
5 of Bill Vance that you have not investigated or that
6 someone in your office has not investigated?

7 A None that I can think of.

8 Q All right. Have you sent out teletypes or other
9 types of communication to agencies, various agencies?

10 A Yes.

11 Q Have you brought any of those with you today?

12 A Yes, I have.

13 Q Where are they? Do you have them?

14 A In my folder.

15 Q All right. Perhaps you can take those out.

16 Are those teletypes covered generally in what
17 you have already testified to?

18 A Yes.

19 There are also other teletypes that I did not
20 have time to prepare to bring to court.

21 Q Are those copies -- the ones that you have with
22 you on the witness stand, are they copies of other teletypes
23 that you have?

24 A Yes.

25 Q So could we mark those as an exhibit in this
26 matter?

27 A Yes.

28 THE COURT: Yes, it will be received as People's

15b-2

1 Special Exhibit next in order, whatever that may be, Mrs.
2 Holt.

3 MR. MANZELLA: Could I mark those collectively, your
4 Honor, rather than individually?

5 THE COURT: Yes.

6 MR. MANZELLA: Mr. Denny, have you seen those?

7 MR. DENNY: No, I haven't.

8 MR. MANZELLA: All right.

9 THE COURT: Let's see, we don't have any category
10 of People's Special Exhibits. I thought we did.

11 MR. DENNY: I think that's right. I think that the
12 last thing that we marked was marked as a Court's Special
13 Exhibit.

14 THE COURT: All right, the Court will simply call it --
15 call these teletypes, mark them collectively as Court's
16 Special Exhibit 4.

17 MR. DENNY: Could I see those.

18 MR. MANZELLA: Yes. I was just going to show them to
19 the Judge, first.

20 Did you want to see them before I showed them to
21 Mr. Denny?

22 THE COURT: Thank you.

23 MR. MANZELLA: I haven't seen them either.

24 THE COURT: How did Sheriff Rainey happen to call you,
25 do you know that? Just a friendly chat or --

26 THE WITNESS: No, sir, I called Sheriff Rainey.

27 THE COURT: How did you learn about Sheriff Rainey?

28 THE WITNESS: I was advised that Mr. Vance was in his

Court's 4

15b-3

1 County.

2 THE COURT: Who advised you?

3 THE WITNESS: An informant of mine.

4 THE COURT: Somebody called you on the telephone?

5 THE WITNESS: Yes.

6 THE COURT: And when did that occur?

7 THE WITNESS: Yesterday, February 24th.

8 THE COURT: Was this an informant whom you knew from
9 before?

10 THE WITNESS: Yes.

11 THE COURT: And have been in contact with?

12 THE WITNESS: Yes.

13 THE COURT: Have you ever asked him or heard before
14 where -- anything at all about the whereabouts of Bill
15 Vance?

16 THE WITNESS: Yes, I had.

17 THE COURT: More than once?

18 THE WITNESS: Yes.

19 THE COURT: When was the most recent time that you had
20 asked?

21 THE WITNESS: Well, I do not recall the exact time.
22 We've talked on the phone several times, and it seems to me
23 that probably every phone conversation we did talk about
24 Vance?

25 THE COURT: Well, have you -- since this trial began,
26 have you talked with that person?

27 THE WITNESS: Yes.

28 THE COURT: Since the -- during the course of the

15b-4

1 Manson trial involving these same homicides? Had you talked
2 with that person?

3 THE WITNESS: Not that I recall, sir.

4 THE COURT: When, in relation to -- well, when did
5 you last talk to this person insofar as the month is
6 concerned, this month or --

7 THE WITNESS: Prior to yesterday?

8 THE COURT: Yes, prior to yesterday.

9 THE WITNESS: Probably about ten days ago, as best as
10 I recall.

11 THE COURT: In ten days ago, the person, so far as you
12 know, did not know the whereabouts of Bill Vance?

13 THE WITNESS: Yes, that's true.

14 THE COURT: Did you have any reason to believe before
15 yesterday that the person could disclose the whereabouts of
16 Bill Vance to you?

17 THE WITNESS: No.

18 I probably should explain something, if I could,
19 sir.

20 THE COURT: What I think you should explain, is why
21 this sudden spurt of interest at this point when there's been
22 one homicide trial and this one is so far over, why wasn't
23 this course pursued before? That's what I think you should
24 explain?

25 THE WITNESS: From what I was told, this person that I
26 talked to just found out within the last few days where Mr.
27 Vance was and he relayed the information to me.

28 Q BY MR. MANZELLA: Deputy Gleason, have you talked

15b-5

1 to other informants, including members of the Manson Family,
2 such as the girls, who have been attending the trials, and
3 have been present in the courthouse, other informants,
4 including them, with regard to the whereabouts of Bill Vance?

15c fls.

5 A Yes.
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15c-1

1 Q And has that been a continuous thing -- well, has
2 it been a continuous thing -- well, has it been a continuous
3 thing?

4 A Yes.

5 Q And have you received any information prior to
6 yesterday from any of these persons whom you've called
7 informants or I've called informants with regard to the where-
8 abouts of Bill Vance?

9 A No, not to his positive location.

10 Q And these are persons that you knew to be -- to have
11 been known to Bill Vance and who knew Bill Vance, these persons
12 that you've talked to?

13 A Yes, most of the People knew him personally.

14 MR. MANZELLA: That's all I have, your Honor.
15

16 CROSS EXAMINATION

17 BY MR. DENNY:

18 Q Is John L. Ries, R-i-e-s, another alias of Bill
19 Vance?

20 A It is a name I tried. I'm not sure if he's ever
21 used it or not, but the name came up that he may have used or
22 that he may have used that name.

23 Q Well, so that these teletypes that you've got here
24 for John L. Ries are just sort of a shot in the dark, is that
25 right?

26 A Yes.

27 Q And you started sending them around July 27, 1971,
28 is that correct?

15c-2 1 That's the date that appears to CII. Apparently,
2 "CII fugitive 7 27 71 1340 PDT"?

3 A On the name Ries?

4 Q Right.

5 A Yes, that's right.

6 Q Well, is this one you sent or one that came back to
7 you?

8 A Those, I believe, would be replies.

9 Q "No Rec Ries, John L., CII Wanted Persons Unit
10 GM JN." That's a reply?

11 A That would be a reply from CII.

12 Q Well, are these yellow sheets that appear to be
13 teletypes replies or in the main copies of --

14 Well, this one, for instance, dated 1-6-71, "Refer
15 Deputy Gleason Homicide Bureau Det Div, no record vehicle
16 registered to Dwayne Ernest Schwarm as given in files." That
17 would be -- MVS Sacramento DMV; that's a reply?

18 A Yes.

19 Q All right. And that's in January of 1971; January
20 6th, 1971?

21 A Yes.

22 Q Again, from MSV Sacramento DMV, January 6th, 1971,
23 nothing currently registered to David Lee Hamic.

24 That's one of Bill Vance's aliases, is that right?

25 A Yes.

26 Q All right. But that, again, is over a year ago,
27 January of 1971; is that right?

28 A Yes.

15c-3

1 Q Again, May 18, 1971, "No record driver's license
2 William Rex Vance," doesn't seem to indicate where this is
3 from. DDL CAE.

15c-3

4 A It would be DMV Sacramento. DDL is the initials
5 for the driver's license section of DMV.

6 Q All right. And we've talked about this July
7 27, 1971 on John L. Ries.

8 Another one in -- apparently police department in
9 Cleveland, and I can't make out the date on that. But it is
10 for John L. Ries, too.

11 And that didn't pan out anything, is that right?

12 A That's a reply, also, from Cleveland.

13 Q Right. But you determined that John L. Ries is
14 not the name used by Bill Vance or have you?

15 A That was another -- that was the shot in the dark.

16 Q Yes, that's what I was saying. You've determined
17 that that was not Bill Vance?

18 A Well, they had no positive way of identifying him.
19 I think the teletype said they had no information on that
20 name.

21 THE COURT: Perhaps we can hold this until Monday
22 morning.

23 MR. DENNY: Well, may I inquire some further? I think it
24 would be a good idea to hold this, your Honor, until we can
25 go over these.

26 THE COURT: Well, this has been sprung on you rather
27 suddenly, and you may want to look --

28 MR. DENNY: I would like to look at the teletypes, but

15c-4

1 I would also like to get a little bit of information from
2 Sergeant Gleason right now, if I could, just briefly.

3 THE COURT: All right, if you would.

4 Q BY MR. DENNY: Is Bill Cole now presently in the
5 custody of the Sheriff?

6 A No.

7 Q There in Missouri?

8 A No.

9 Q And you don't have any hold placed on him?

10 A No.

15d fol

15d-1

1 Q You don't know, then, that he has been advised
2 by any counsel concerning what is like to occur as far as
3 his being taken into custody as far as you and Sergeant
4 Whiteley?

5 A As far as I know he was not advised of that.

6 Q And this particular informant that you've talked
7 about, you said you didn't have any reason to suppose that
8 the person could tell you Vance's whereabouts in response
9 to the Court's question, is that right? That before this
10 time you had no reason to suppose, reason to believe this
11 person could tell you about Vance's whereabouts?

12 A Right.

13 Q But you say every conversation that you had with
14 the information you talked about the whereabouts of Vance,
15 is that right?

16 A Well, we talked about Vance to see if -- if he
17 had heard anything about where Vance was. But they are
18 always in the negative.

19 Q But you did feel that that particular informant,
20 of all the informants you've talked to, apparently, would
21 have some information about the whereabouts of Vance? That
22 was your key to get to Vance; is that right?

23 A Well, he was one of the persons I was talking
24 to. Uh, he is the first person that's given me a positive
25 location.

26 Q All right. And this is a person that you've
27 known since the beginning of the investigation of this case
28 or approximately around that time?

15d-2

1 A Yes. I met him probably a year ago was the
2 first time.

3 Q Well, other than these teletypes and the things
4 that you've mentioned --

5 By the way, without going through them, do you
6 know, without having looked at them yourself, when is the
7 most recent official communication by way of teletype or
8 letter that you sent out in connection with your attempts
9 to locate Bill Vance; the date or the approximate date?

10 A Probably July of '71. July or August of '71.

11 Q All right. Since that time, your efforts have
12 been solely by phone call to people like your informant
13 or phone calls from your informant?

14 A Yes.

15 Q And as far as this informant goes, are you
16 refusing to identify the informant on some grounds that you
17 feel his or her life might be in danger if you did disclose
18 the identity?

19 A Yes.

20 Q I assumed that.

21 MR. DENNY: Well, your Honor --

22 THE COURT: What do you think the problem is in
23 connection with that point?

24 MR. DENNY: Beg pardon.

25 THE COURT: By whom -- directing the question to
26 Deputy Gleason.

27 Who might harm him?

28 THE WITNESS: Uh, other friends -- or other persons

15d-3

1 that have been involved in this case and other related
2 cases.

3 Q BY MR. DENNY: Well, might Bill Vance harm him?

4 A That's possible, I don't know.

5 MR. DENNY: Well, your Honor, I have no more questions
6 of Deputy Gleason at this time. I do feel, though, that
7 the People have made not a particularly great showing of
8 due diligence in this connection; and

9 Secondly, the People have in no way indicated
10 at this point, at this juncture, what the testimony would
11 be. They say the testimony of Mr. Vance would be material,
12 but not necessarily material to the prosecution. The
13 prosecution is the one who wants to open this case, reopen
14 this case. They can't say it is going to be material from
15 that standpoint.

16 THE COURT: That's true.

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

18 MR. DENNY: And the defendant isn't requesting that
19 the case be reopened. I don't know what the materiality
20 or relevancy of his testimony might or might not be. I
21 certainly, at this point, don't vouch for his credibility
22 by any means.

23 As the Court points out, he, of all people
24 next to Danny DeCarlo, is probably the next key suspect in
25 the case, by the People's own evidence, if we are to believe
26 Ruby Pearl. And I don't see: One, that they have established
27 due diligence;

28 Two, I don't see that they have established in

15d-4

1 any way what testimony they expect to get from him; and

2 Three, if, in fact, they do expect to grant him
3 immunity for his testimony, I think there's a case that I
4 made some note of, People vs. Newton, which Mr. Manzella
5 brought up, at 8 Cal. App. 3rd.

6 THE COURT: Wait a minute.

7 Is it fair to use the People's authorities?

8 MR. MANZELLA: With our compliments, your Honor.

9 THE COURT: Go ahead.

10 MR. DENNY: All right, 8 Cal. App. 3rd, 359, at 383,
11 and it sets forth the factors --

12 THE COURT: 8 Cal. App. --

13 MR. DENNY: 3rd, 359.

14 The factors to be considered in reviewing the
15 exercise of such discretion, that is the discretion to
16 reopen, at a particular state of the case, stage of the
17 case, I should say, include the stage of the proceedings,
18 the stage the proceedings had reached when the motion was
19 made and they cite People vs. Carter, 48 Cal. 2d 737 at
20 757 for that.

15 e fls.

15e-1

1 THE COURT: 48 Cal. 2d --

2 MR. DENNY: 48 Cal. 2d 737 at 757.

3 "-- the diligence shown by the moving
4 party in discovering the new evidence, --" and they
5 cite Fernandez vs. United States, a Ninth Circuit decision
6 329 Fed. 2d 899, at 903, "-- the prospect that the jury
7 would afford it undue emphasis --" and they cite
8 Eason vs. United States, another Ninth Circuit case 281
9 Fed. 2d 818, 821-822, "And the significance of the evidence."
10 Referring again to People vs. Carter.

11 And then, they note "reopening -- and its
12 conceivably attendant consequences in terms of
13 further proof, argument and instructions -- would
14 have been inconvenient because of the stage of the
15 proceedings at which the defendant moved but it
16 was neither impossible nor unreasonable."

17 In this particular case, it was just a very small
18 thing in changing the wording that had appeared in a docu-
19 ment that had been introduced into evidence. But by changing
20 that wording it completely changed the meaning of it from
21 did to didn't, and the Court in that case merely permitted
22 the parties, the prosecutor and the defense, to write in
23 on the exhibit "didn't," instead of "did," as appeared.
24 And then, sent it into the jury without any explanation.

25 And in that case, -- in this case, the Appellate
26 Court said that the lower court had abused its discretion
27 in not permitting at least that little thing because it
28 wasn't such a big thing. It wouldn't have required an

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1 additional instruction. It wouldn't have required additional
2 argument. It wouldn't have required a new day or days of
3 testimony and cross-examination. It was a simple thing that
4 should have been done.

5 But certainly in this case, I think the Court
6 can envision what is likely to occur if it is necessary to
7 go through the procedure of bringing Bill Vance back here,
8 and I assume they're going to bring him back anyway, in leg
9 irons, because they want him for a number of things. Passing
10 checks is the least of the offenses that he's committed here
11 that I am aware of and I think the Court is aware of.

12 THE COURT: Is there -- excuse me just a moment.

13 Is there, so far as you know, a warrant out-
14 standing for Mr. Vance?

15 THE WITNESS: Yes.

16 MR. DENNY: He may not --

17 THE COURT: He may not choose to waive extradition.

18 MR. MANZELLA: Your Honor, that's a problem we really
19 don't have to get to at this point.

20 THE COURT: Well, as a practical matter --

21 MR. MANZELLA: I don't think so. We're not asking for
22 a continuance. By Monday morning when the court is ready to
23 proceed, we will be ready to proceed with Mr. Vance, as the
24 Court allows us to or we'll say to the Court we don't have
25 Mr. Vance, in which case Mr. Kay will finish his argument.
26 In other words, we're not asking for a continuance.

27 What we're trying to show here is we have exercised
28 diligence to find him and that, come Monday morning, if we

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1 have Mr. Vance here and can put him on the stand, we will
2 argue or we will -- maybe we'll argue now that the law permits
3 us to do that.

4 THE COURT: Go ahead, Mr. Denny.

5 MR. DENNY: Well, may I inquire just one further
6 question?

7 Q BY MR. DENNY: Where, specifically, is Mr. Vance
8 now?

9 A He's in a residence near a town of McFall,
10 Missouri, which is in Gentry County.

11 Q Where?

12 A McFall, M-c-F-a-l-l. I don't have his address.

13 Q Is there any reason why you have not teletyped
14 the Sheriff to take him into custody since there is this
15 outstanding warrant?

16 MR. MANZELLA: I think, your Honor, I think -- I don't
17 want to get into it now, but picking him up assumes a fact --
18 Deputy Gleason and the Sheriff of Gentry County have been in
19 contact. The Sheriff has been in contact with Mr. Vance.

20 THE COURT: Go ahead and explain it.

21 THE WITNESS: Well, my only contact with Sheriff
22 Rainey has been to positively identify Mr. Vance. We have
23 not spoken about taking him into custody or the fact that
24 there was a warrant outstanding for his arrest.

25 Q BY MR. DENNY: Well, that's what I want to know.

26 Is there any reason why, knowing now, through
27 your conversation at least two hours ago with Sheriff Rainey,
28 that the William -- whatever his name is that he is going

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1 under now --

2 THE COURT: Cole.

3 Q BY MR. DENNY: -- Cole or whatever -- is the
4 same person as the Bill Vance you've been looking for, and
5 with the warrant outstanding, that has been outstanding for
6 sometime, why have you not teletyped Sheriff Rainey to take
7 him into custody --

8 MR. KAY: I think that's irrelevant.

9 Q BY MR. DENNY: -- on an outstanding warrant.

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10 THE COURT: It probably is.
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1 MR. DENNY: Well, I think there's some relevancy, your
2 Honor, in the good faith of the People at this time in making
3 the motion that they're making. If what they are doing -- and
4 as I see what they are doing, is they've got him set up there.
5 Then, they're going to send Sergeant Gleason and -- Deputy
6 Gleason and Sergeant Whiteley back to talk to him before he
7 has the advice of counsel, before he has the opportunity to talk
8 to any lawyer, which he would have the opportunity to do if he
9 were taken into custody.

10 Now, the normal procedure in a case of this kind is,
11 if you know that there's a suspect and there's a warrant
12 outstanding, you tell the Sheriff in the place where you've
13 located him, you teletype the Sheriff a copy of that warrant and
14 he goes out and, based on that warrant, makes an arrest.

15 And then, as the Court points out, a guy has an
16 opportunity to get counsel to determine whether he's going to
17 waive extradition or not.

18 What they're doing here, and it may be very good
19 police work, it may be very good work from the prosecution, but
20 what they're doing here is circumventing -- and I can't raise
21 Bill Vance's constitutional rights, certainly, but I can put it
22 on the record and point it out to the Court that's what's going
23 to happen, is that these officers are going to go swoop down on
24 Bill Vance and Little Patty and talk to them there and try to
25 get them to come back here and waive extradition and all the
26 rest of it that's required without the advice of counsel. And
27 I submit that under all the circumstances of this case, it just
28 doesn't look too good, when we've got it on the record here from

1 Deputy Gleason that he's made the identification and that a man
2 is sitting there ready to be arrested, that he hasn't got the
3 man arrested so that he has the opportunity to get the rights
4 that are supposed to be accorded an arrestee, and that is the
5 advice of counsel.

6 MR. KAY: That's why I objected, it is irrelevant.

7 MR. MANZELLA: Since he hasn't been arrested, he hasn't
8 any rights of an arrestee. Mr. Denny's concern for Mr. Vance's
9 rights are touching.

10 THE COURT: He's not concerned about Cole's constitutional
11 rights.

12 MR. MANZELLA: I understand that. We all catch his
13 innuendo. I think we do. But still it is not relevant to our
14 consideration here.

15 THE COURT: No, it isn't. I don't think it is, in any
16 event.

17 MR. MANZELLA: Now, Mr. Denny talked about -- I'm prepared
18 to talk about these cases, if the Court wants me to.

19 THE COURT: I think not. I think we'll close it for the
20 night since it is five minutes to 6:00 and our reporter is about
21 ready to drop. I'll hear from you on Monday. Can we assemble
22 early on Monday, 8:30?

23 MR. MANZELLA: 8:30 is fine.

24 THE COURT: And may we have the Sergeant here, and I
25 would like to have that informant here.

26 MR. MANZELLA: Can I talk to Deputy Gleason just a
27 moment?

28 THE COURT: You're not a Sergeant, are you?

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1 THE WITNESS: No, a Deputy.

2 THE COURT: May we have the Deputy here. Just so we have
3 the right identification.

4 (Whereupon, Mr. Manzella conferred with the witness
5 off the record.)

6 MR. MANZELLA: Deputy Gleason says he can reveal who the
7 informant is, your Honor, now, if that's bothering the Court.
8 If it isn't --

9 THE COURT: It is kind of bothering me.

10 MR. MANZELLA: Go ahead, Deputy Gleason.

11 THE WITNESS: The person I received the information from
12 was a Larry Larson, L-a-r-s-o-n.

13 THE COURT: I don't recall having heard his name, anyway.

14 MR. MANZELLA: He's not connected with the Manson Family,
15 your Honor. He's a private citizen.

16 THE COURT: Aliases.

17 Do you have any questions? I know you have some
18 more, what you want to pursue at 8:30 on Monday morning --

19 MR. DENNY: Yes, let's do that.

20 THE COURT: But this inquiry is really to determine the
21 extent of or lack of diligence on the part of the People, part
22 of the law enforcement in locating Vance. And I will let you,
23 when you have further information, make your -- enlarge upon
24 your motion by telling the Court and counsel what you would
25 expect to prove by Vance, if anything.

26 MR. MANZELLA: Your Honor, Deputy Gleason -- as far as what
27 we have done to locate Mr. Vance, Deputy Gleason will not be
28 needed Monday morning; is that correct?

1 MR. DENNY: Well, your Honor, I would like the Court to
2 make an order that in view of the fact that there's been
3 testimony that other documents, other teletypes, other letters
4 have been sent out, I would like the Court to make an order that
5 Deputy Gleason or the party who sent the teletypes on his
6 behalf or sent letters on his behalf bring into court the
7 complete file of all of the documents showing all the attempts
8 that have been made since September of 1969 to locate William
9 Vansickle or Bill Vance or whatever other name that he goes by,
10 because there's precious little here in the special exhibit to
11 confirm that much attempt has been made, at least as far as
12 teletypes go. And all we've got now, the evidence that while
13 I got together as much as I could in the time that I had -- that
14 he's got the whole weekend. And I think that that's little
15 enough -- if they can expect to get that documentary evidence
16 in, as to what things actually have been sent out.

17 THE COURT: Well, it appears pretty sparse to me. I
18 was looking at it just briefly, and it does appear sparse. And
19 if you wish -- however, I don't see it is to your advantage if
20 you oppose the motion --

21 MR. DENNY: Well, your Honor, I -- again, just get the
22 facts before the Court.

23 MR. MANZELLA: Deputy Gleason tonight will go through the
24 rest of the files and come up with the rest of the teletypes
25 that he has.

26 THE COURT: All right. I would like to have this
27 informant here.

28 Would you tell him that we can't -- he could be

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1 subpoenaed, I suppose, but would he come without a subpoena?
2 I don't want to put anybody to the trouble of subpoenaing him.

3 THE WITNESS: I think he would. He would rather not,
4 naturally.

5 THE COURT: Well, it would be -- if the defendant agrees,
6 we could have it in a closed session so he needn't be -- his
7 identity would not be exposed generally.

8 MR. DENNY: I'm sure that I could work that out, your
9 Honor, if that were of concern to him. You might tell him that.

10 THE WITNESS: I know that would be of concern to him.

11 MR. DENNY: Well, your Honor, I've got a problem in this
12 respect, and I appreciate Deputy Gleason's current concern, but
13 I think as an attorney for the defendant, I have to run down
14 what information I can about this gentleman. And it is going
15 to require my making some inquiries about who he is and what
16 connection he's had with the Manson Family. So whether the
17 hearing is held in camera or not, his name having been
18 disclosed by Deputy Gleason at the instance of Mr. Manzella
19 here, I certainly don't think I should be bound not to make
20 inquiry of those members of the Manson Family that I know to
21 determine who he is and his reliability for anything of that
22 kind.

23 THE COURT: I don't think that's too important, do you,
24 at this point? And the question we're inquiring into, which
25 would be important to the Court, would not be what the
26 connection with the Manson Family might be, but what his
27 connection with Bill Vance might be.

28 MR. DENNY: Well, Bill Vance was connected with the

1 Manson Family.

2 THE COURT: And the diligence which --

3 MR. MANZELLA: Your Honor --

4 THE COURT: -- which has been exhibited by the Sheriff's
5 department.

6 MR. MANZELLA: Your Honor, excuse me. Deputy Gleason --
7 Deputy Gleason can tell us what position the man holds in
8 society.

9 Deputy -- is that all right?

10 THE COURT: Certainly.

11 THE WITNESS: He's a private investigator for Attorney
12 Paul Fitzgerald.

13 FURTHER DIRECT EXAMINATION

14 BY MR. MANZELLA:

15 Q And he's licensed as a private investigator in the
16 State of California?

17 A As far as I know he is.

18 Q And he worked for Mr. Fitzgerald during the Tate-
19 LaBianca case?

20 A As far as I know, yes.

21 Q And you met him during your investigation?

22 A Yes.

23 MR. MANZELLA: All right, your Honor, I would like to
24 ask Deputy Gleason another question, if I could.

25 THE COURT: Go ahead.

26 Q BY MR. MANZELLA: Deputy Gleason, your attempts to
27 locate Bill Vance, were most of them through official
28 channels represented by some of these teletypes that we have

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1 already marked as an exhibit or were they through informal
2 channels? In other words, through the informants, such as this
3 investigator that you have told us about?

4 A Most of it was checking his addresses and talking
5 to people that he knew, people he worked with.

6 These records here are only to determine if he had
7 recently applied for a driver's license or recently received
8 a traffic citation. Some way to determine -- if he was driving
9 a vehicle, we could contact the owner of that vehicle.

10 Q All right. /

11 A But most of it would be verbally.

12 Q All right.

13 THE COURT: All right, fine. See you all at 8:30
14 Monday morning. /

15 THE WITNESS: Do you wish that person here?

16 THE COURT: Yes, let's have him here.

17 Do you want him here, Mr. Denny?

18 MR. DENNY: I think it would be beneficial, your Honor,
19 yes.

20 THE COURT: All right, have him here. We needn't
21 subpoena him. Tell him we'll take it in camera.

22 MR. DENNY: Plus the other documentary stuff.

23 MR. MANZELLA: I'll bring that in, your Honor.

24 (Whereupon, there was an off-the-record discussion
25 between counsel and the Court, and the following proceedings
26 were had:)

27 MR. DENNY: Let's just get back on the record for just
28 a minute.

1 Deputy Gleason has indicated this investigator is
2 going to be real unhappy, et cetera, coming in. And I wasn't
3 sure from the tenor of what you said at the close here whether
4 you wanted him specifically, having asked earlier to get him in
5 or whether you just want him in for my benefit or what.

6 THE COURT: In view of the Court's finding out what his
7 position is, I'm less inclined to want him in. However --

8 MR. DENNY: Well, can we leave it this way, your Honor,
9 if that is the case -- because I would want him in to question
10 him if I can't get some information from him. Deputy Gleason
11 says he's going to give him a call and I will call him, and then
12 if I am satisfied with what I get, can we just leave it at my
13 discretion to have him come in or not?

14 THE COURT: All right.

15 MR. DENNY: Fine.

16 THE COURT: That's all right with me.

17 DEPUTY GLEASON: Thank you.

18 (Whereupon, at 6:10 P. M. an adjournment was taken
19 in this matter.)
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