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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 52

HON. JOSEPH L. CALL, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

v.)

STEVEN GROGAN,)

Defendant.)

NO. A 267861

REPORTERS' DAILY TRANSCRIPT

Thursday, July 22, 1971

APPEARANCES OF COUNSEL:

(See Volume 1)

VOLUME 17

Pages 2126 - 2270 incl.

Reported by:

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Official Reporters

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3 I N D E X

4 PEOPLE'S WITNESS

CROSS

REDIRECT

5 SHEA, Magdalene Velma

2164

6 (Continued)

2200

7
8 (Examination in chambers,
9 out of presence of jury, page 2246)

10
11
12
13
14 E X H I B I T S

15 PEOPLE'S

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17 20-F2 - " " 20-H2

2164

#1 1 LOS ANGELES, CALIFORNIA, THURSDAY, JULY 22, 1971; 9:50 A. M.

2 - - -

3
4 (The following proceedings were had
5 in chambers.)

6 THE COURT: Yes, sir. What is on your mind? We are in
7 chambers at the request of counsel. The defendant, the deputy
8 district attorney, and defense counsel are here.

9 Go ahead.

10 MR. KATZ: Thank you, your Honor. The reason I asked
11 for this session at this time out of the presence of the jury
12 is because of the indication by counsel in his opening state-
13 ment as reflected on page 1902, wherein he indicated that some
14 of his evidence would tend to show that the decedent, Shorty
15 Shea was -- and I am now quoting;

16 "...selling pornography and pornographic
17 materials. He was carrying around and displaying
18 for sale such items as artificial penises, some
19 of which were even mechanically, electrically
20 activated. This is what the man was reduced to,
21 or this is what the man did," et cetera, et cetera.

22 THE COURT: Let me read that, will you.

23 MR. KATZ: Yes, sir. (Handing.)

24 THE COURT: Before you go further in your statement.

25 (Short pause.)

26 THE COURT: Now, your next statement.

27 MR. KATZ: All right, your Honor.

28 Now, I am very much concerned that Mr. Weedman is

1 going to embark on a very dangerous and prejudicial and inflam-
2 matory course whereby he will attempt to assassinate the
3 character of not only the decedent but anyone with whom he was
4 associated during the course of his life. Already indications
5 have come to pass by way of evidence by virtue of some of his
6 prying into the background of this particular witness,
7 Magdalene Shea, where he was suggesting by way of questioning,
8 by way of innuendo about living with other men, et cetera,
9 et cetera, which has nothing to do with her credibility as such
10 but merely is character assassination evidence.

11 Now, under 787 of the Evidence Code it indicates
12 in part that evidence of specific instances of conduct
13 relevant only as tending to prove a trait of his character --
14 meaning the witness' character or, indeed, the decedent's
15 character -- is inadmissible to attack or support the credi-
16 bility of a witness.

17 Now, when we read this in connection with 350 of
18 the Evidence Code it states only relevant evidence is admissi-
19 ble. Now, they go on in the comment to that section by
20 indicating that even where there is relevant evidence there
21 are still other Evidence Code sections which contain a number
22 of provisions which exclude relevant evidence because it is
23 unreliable or because of reasons of public policy.

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1 Going on to section 352, which is critical here,
2 your Honor, it says that the court in -- I am paraphrasing and
3 not quoting, your Honor.

4 It says that the court in its discretion may exclude
5 evidence if the probative value, and I am not conceding any
6 probative value, in connection with the evidence that I have
7 just mentioned is outweighed by, number one, the undue consump-
8 tion of time or, number two, dangerous and substantial
9 prejudice, which is further defined as, A, confusing the issues
10 or misleading the jury.

11 Now, I submit that the kind of evidence such as
12 Shorty was dealing in pornographic materials, if such could be
13 shown, and I am not conceding that it can be shown, or that he
14 was the purveyor of some mechanical penises in connection with
15 his employment, or what have you, would not only confuse the
16 issues, but terribly prejudice and inflame the jurors and
17 mislead the jury as to the true issues of the facts in the
18 case.

19 Accordingly, your Honor would have the inherent
20 power under 350 and 352 to exclude such evidence.

21 The reason I asked for the hearing, your Honor, is
22 because I do not want to be placed in the position of having to
23 jump up each and every instance during the course of Mr.
24 Weedman's cross-examination, because obviously in so doing I
25 would be doing nothing but emphasizing rather than deemphasizing
26 what I regard as prejudicial matter.

27 THE COURT: Now, let me stop you right there.

28 This is cross-examination counsel is proceeding

2-2

1 with. How could, without answering your question for the
2 moment, but how could such a position be very seriously
3 challenged in cross-examination?

4 MR. KATZ: I am not sure I follow the tenor of your
5 Honor's question.

6 THE COURT: All right, your cross-examination is limited,
7 basically, to the direct examination. How would your point
8 appear, without me passing on it, but how would your point
9 crop up in cross-examination?

10 MR. KATZ: Well, your Honor, I can see Mr. Weedman, and he
11 is a very imaginative and competent lawyer, and he would argue
12 that this goes to the bias and motive of the witness, and
13 because this is a murder case and the People are asking for the
14 death penalty that we have wide latitude, and we appeal to your
15 Honor's judgment in letting that kind of character assassination
16 in.

17 Mr. Weedman is a very articulate and competent
18 lawyer, and I don't want to be placed in the position of jumping
19 up and saying, "Your Honor, this is an improper question and
20 should not be raised," because I cannot unring the bell that
21 has already been rung in front of the jury.

22 THE COURT: You are asking me to cut him off before he
23 starts cross.

24 MR. KATZ: No, the reason I asked for the hearing is so,
25 in a sense, I can give Mr. Weedman notice as to my thinking in
26 this area and --

27 THE COURT: Why don't you simply, if the question is
28 asked that you want to propound an objection to, just say,

1 "Just a moment," and approach the bench. I will bring you in
2 chambers.

3 MR. KATZ: One last point, if I may.

4 I certainly appreciate your Honor giving me the
5 benefit of expressing myself in this area.

6 For example, in People v. Crandall, and I believe
7 the citation is 125 Cal. 129, a Supreme Court case, the court
8 held that a witness cannot be asked on cross-examination as to
9 particular acts of immorality on her part.

10 At pages 133 and 134 the court stated, "On cross-
11 examination for the avowed purpose of impeaching her the
12 district attorney, against continuous objection and protest on
13 the part of the defendant, was allowed to ask a series of
14 questions which, if answered affirmately would disgrace and
15 degrade the witness. They were all wholly collateral and
16 outside the issues in the case, and did not refer the relation
17 of the witness to the parties, to the subject of the action or
18 to the previous testimony of the witness."

19 THE COURT: Well, wait a minute. Stop right there. You
20 are going too fast.

21 You have asked this witness questions about her
22 business on direct, her occupation?

23 Is that right?

24 MR. KATZ: Yes. I have no objection to --

25 THE COURT: Now, wait a minute. You move too fast.

26 MR. KATZ: All right, your Honor.

27 THE COURT: In the fact that she had topless dancing
28 and other matters, so that you have a latitude right at that

point of considerable cross-examination.

Is that right?

2A

1 MR. KATZ: With regard to what, your Honor?

2 THE COURT: Well, with regard to -- you opened up
3 considerable position there as to inquiry, where you work, why
4 you work there, who did you work for, what is your position.

5 You have asked her where she works. The man is
6 entitled to cross-examine.

7 MR. KATZ: I am not arguing that.

8 THE COURT: But that comes within your citation here.

9 MR. KATZ: Your Honor is misconstruing.

10 The point is, the only question that was asked of
11 her on direct examination with regard to her work was where
12 was she employed, whether she met Shorty Shea, and I brought
13 out the fact because I knew certainly that defense counsel
14 would do so on cross-examination, that she was not only working
15 as a topless dancer at that place but also as a barmaid.

16 Now, that was to show the place and the approximate
17 time period in which she met Shorty Shea.

18 Now, any other such things as, what did you do two
19 years before, or what are you doing now, or what did you do
20 then has absolutely nothing to do with the issues in this case,
21 cannot affect her credibility, and indeed cannot be used for
22 purposes of character assassination. That is the very point
23 I made.

24 The only thing was with respect to direct examina-
25 tion she was employed at the Cab Inn Bar at the time she met
26 Shorty Shea, and she was working in a certain capacity, and that
27 after she returned from Las Vegas she worked again for a couple
28 of days, after which she joined Shorty.

1 That was permissible, and certainly Mr. Weedman
2 should be able to examine in that area.

3 THE COURT: Wait a minute. Time is not a limitation on
4 my efforts here, and you are free and I am free. Let's take
5 our time here. I don't want to move too fast from one point
6 to another.

7 Maybe my mind doesn't work as fast as yours.

8 I want to think out these points before ruling on
9 them.

10 MR. KATZ: It works much clearer than mine, your Honor.

11 THE COURT: I will ask you to recap again.

12 You have brought out on direct the employment, time
13 and substance, am I not right?

14 You brought out her salary, did you not?

15 MR. KATZ: I did not bring out her salary, your Honor.

16 THE COURT: Recap what you brought out on direct.

17 MR. KATZ: Yes. On direct examination I brought out the
18 fact that she met her husband, Donald Jerome Shea, in approxi-
19 mately April of 1969 when she was working as a topless dancer
20 and barmaid at the Cab Inn establishment.

21 THE COURT: All right.

22 MR. KATZ: And I showed that Shorty was working there for
23 a short period of time, after which he left to join Jerry
24 Binder in Las Vegas.

25 Now, I showed that she joined Mr. Shea in Las Vegas,
26 after which they were married on July 1st, 1969, and Shorty
27 thereafter returned in the middle or latter part of July to
28 California.

Now, again, all I am suggesting and -- I was more concerned with questions such as mechanical penises with reference to Mr. Shea's alleged selling of such obscene materials, and that kind of evidence which would tend to humiliate and demean the alleged decedent, and he is not here to defend his own character.

His character is not an issue, as such. This is the type of questioning that I want to head off before any such question is posed to the jury.

Now, Mr. Weedman I think was very candid and very frank in his opening statement indicating that this is exactly the type of evidence he intends to produce.

He had reference to a Ray Parrott, for example, that Mr. Shea was --

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1 THE COURT: Well, let's wait a minute.

2 MR. KATZ: Yes.

3 THE COURT: Wait a minute. You asked her what she did
4 for a living, didn't you, yourself?

5 MR. KATZ: Specifically with reference to when it was
6 that she met Shorty Shea. It was a very limited question.

7 THE COURT: Well, you asked her -- all right.

8 Who took that testimony on direct from Mr. Katz?

9 THE REPORTER: It is all typed up in the transcript.

10 THE COURT: What I am getting at is this. The testimony
11 was more than just narrow. As I remember, the testimony asked
12 her in substance, "What were you doing? Where were you
13 employed? What were your hours?"

14 I will stand for correction on this.

15 "Was it not a topless exhibition you had, in part?"
16 And the answer was "Yes."

17 MR. KATZ: I didn't ask that, your Honor.

18 THE COURT: All right.

19 Then I will stand corrected. That is why I want
20 a reading.

21 MR. KATZ: Yes.

22 THE COURT: The question was asked, "And in between, you
23 served beer?" Who asked that? Was that part of your question?

24 MR. KATZ: Mr. Weedman's.

25 THE COURT: All right.

26 Also the wages. You asked the duration of
27 employment, isn't that right?

28 MR. KATZ: All I asked was what she was doing when she

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1 met Shorty Shea.

2 THE COURT: All right. Will you find that portion in
3 the transcript.

4 (Short pause.)

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1 THE COURT: I am reading here in chambers on page 1978
2 to myself. I have no objection to reading it out loud in a
3 minute. This is in Volume 16 of the reporters' daily tran-
4 script of Wednesday, July 21, 1971.

5 This is direct examination by the People of the
6 wife, second wife, of Shea, Magdalene Velma Shea.

7 Now, let's see what we have.

8 Well, I don't like to mark up the original tran-
9 script for an appellate court to look at. I don't like to
10 mark this.

11 MR. WEEDMAN: May I be excused? I will get my copy,
12 your Honor.

13 THE COURT: Thank you very much. Now, let's see where
14 we are. Let's try it again.

15 I have defense counsel's copy. All right.

16 "Q Where were you employed?

17 "A At the Cab Inn on Alondra and Avalon
18 in Carson City.

19 "Q All right, what type of establishment
20 is this?

21 "A It was a beer bar where they had
22 topless dancing and waitress.

23 "Q I notice you have a tendency to drop
24 your voice at the end of a sentence. Will you
25 keep your voice up so everybody can hear?

26 "A Okay.

27 "Q In what capacity were you employed?

28 "A I was a barmaid and topless dancer.

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"Q All right. When did you first secure employment at the Cab Inn Bar?

2

3

"A The last of February.

4

"Q That would be of 1969?

5

"A 1969.

6

"Q Now, sometime in 1969 in connection with your employment at the Cab Inn Bar did you meet Donald Jerome Shea?

7

8

"A Yes, I did. It was --

9

10

"Q When was that that you first met Donald Shea?

11

12

"A In May. About the last two weeks in May.

13

14

"Q That is 1969?

15

"A 1969.

16

"Q At the time that you met him was he a new employee of the Cab Inn Bar?

17

18

"A Yes, he was.

19

"Q Generally in what capacity was he employed?

20

21

"A He was the manager.

22

"Q Was your boss a person by the name of Herb Bromberg?

23

24

"A Right.

25

"Q How do you spell his last name, or do you know?

26

27

"A I can't spell it.

28

"Q Is it Blumberg or Bromberg?

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1 "A Bromberg.

2 "Q B-r-o- m-b-e-r-g?

3 "A I think so.

4 "Q Did he operate several other bars
5 as well as the Cab Inn at that time?

6 "A Yes, he did.

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1 "Q After first meeting Donald Shea in
2 the last two weeks of May 1969 did you begin to
3 go with him?

4 "A Yes.

5 "Q You dated him?

6 "Is that correct?

7 "A Yes.

8 "Q Sometime in the latter part of June
9 did Donald leave the Cab Inn facility or bar and
10 go someplace?"

11 Then Mr. Weedman: "Excuse me," objection. With-
12 drawn.

13 "THE COURT: Restate it.

14 "Q BY MR. KATZ: All right. Can you tell
15 us whether or not Mr. Shea at sometime following
16 your going with him" -- doesn't say when.

17 I am backing up here -- after the first meeting
18 with Shea in the last two weeks of May -- after, "Did you
19 begin to go with him?"

20 "A Yes."

21 I assume it's in the last two weeks of May of '69.

22 "Did you begin to go with him after
23 the first meeting in the last two weeks?"

24 It is a little ambiguous. I am not critical. I
25 am trying to dissect this.

26 Now, I am dropping back. I am on page 1968.

27 "THE COURT: Restate it.

28 "Q BY MR. KATZ: All right. Can you tell

us whether or not Mr. Shea at sometime following
your going with him" --

which is probably the last two weeks in May --

"sometime following your going with him" --

I am inserting from my thinking the last two weeks of May
of '69 -- oh, here --

"at sometime following your going with him" --

I am turning the page --

"in the period of May and June 1969, did he leave
his employment at the Cab Inn?

"A Yes, he did.

"Q Did he go someplace?

"A He went to Las Vegas.

"Q All right.

"For a short period of time did you
continue to work at the Cab Inn?

"A Yes, I did.

"Q That was again in the capacity of a
topless dancer and cocktail waitress?

"Is that right?

"A Right."

Then Mr. Weedman is objecting as leading. I will put that to
one side.

"THE COURT: Read the question.

"MR. WEEDMAN: It is also assuming facts
not in evidence, your Honor."

Then there is argument and it is withdrawn. Now,
we turn the page, go over to page 1971.

1 "Q BY MR. KATZ: For Mr. Weedman's benefit,
2 in what capacity were you employed?

3 "A I was a bar --

4 "MR. WEEDMAN: Excuse me, your Honor. I will
5 object to counsel's remark. It is totally improper.
6 I ask it be stricken and the jury admonished to
7 disregard it.

8 "Nothing being said here is for my
9 benefit, your Honor."

10 Let's see where we get through this discussion.
11 "The jury will disregard it."

12 Now let's go back to the question. All right.
13 Here we are. Here is the question.

14 "Q BY MR. KATZ: In what capacity were
15 you employed?

16 "A I was a barmaid and topless dancer.

17 "Q All right.

18 "Now, sometime after Shorty left the
19 Cab Inn Bar and went to Las Vegas did you join him
20 in Las Vegas?

21 "A Yes, I did.

22 "Q All right.

23 "Now, before going to Las Vegas to
24 join Donald Shea did Mr. Shea introduce you to
25 some of his friends?

26 "A Yes, he did.

27 "Q In particular, did you meet a couple
28 known as the Binders?

1 "A Yes, I did.

2 "Q At that time where were the Binders living?

3 "A They was living --

4 "MR. WEEDMAN: Your Honor, excuse me."

5 Then there is argument. The Court. Weedman.

6 The Court. Read the question.

7 I am now up to page 1973. Reading question. You
8 may answer.

9 "Where were the Binders living?" That is the
10 final question here on page 1973 line 21.

11 "I think it was 81- or 8807 Hollywood Boulevard.

12 "Q BY MR. KATZ: In any event, it was on
13 Hollywood Boulevard, is that correct?

14 "A Yes, it was.

15 "Q All right."

16 Now, turn the page to page 1974:

17 "And who was living at the Binders' place at
18 that time?

19 "A The Binders and their children.

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"Q All right..

"What are their names, please?

"A Shelley, Adrian and Sherry.

"Q Those are the children?

"A Yes.

"Q And what were the names of the Binders?

"A Jerry and Marian.

"Q All right. And did Shorty at all talk about his feelings toward the Binders before taking you to meet them?

"A Yes, he did. They was --

"Q Well, you have answered the question. We will take it step by step.

"What, if anything, did he say about his feelings toward the Binders?

"A They were very close, and Mamie and Jerry was like a brother and sister to them. And the kids all called him Uncle Donald.

"Q All right. Now, Mamie is Marian Binder?

"A Yes.

"Q That is Jerry Binder's wife, is that correct?

"A Yes, it is.

"Q All right.

"Now, when you met the Binders at their home on Hollywood Boulevard, did you visit them for a while?"

I am now on page 1975.

1 "A Yes, I did.

2 "Q And did you see any or all of the
3 children at that time?

4 "A Yes, I did.

5 "Q And can you tell us how the children
6 reacted towards Shorty and how Shorty reacted
7 towards the children?

8 "A They were very glad to see him, and
9 they all talked. They talked to me. And Donald
10 and the little girl Sherry, the little baby,
11 they got on the floor and they played. She rode
12 him like a horse.

13 "Q How did Donald react in that situation?

14 "A Oh, he was having a ball."

15 THE COURT: Highball, I guess.

16 MR. KATZ: No. "He was having a ball." Enjoying him-
17 self, your Honor.

18 THE COURT: Oh, I don't know. It is left ambiguous here.
19 Ball.

20 "Q All right. And now, as I understand
21 it, you did go to Las Vegas at some point, is that
22 correct?

23 "A Yes, I did.

24 "Q And just so the record is clear, this
25 is after Mr. Shea had left the Cab Inn Bar and
26 went to Las Vegas?

27 "A Yes.

28 "Q All right. And approximately when

1 was it that you first went to Las Vegas?

2 "A It was in June. I don't know the
3 exact date.

4 "Q Is this 1969?

5 "A '69."

6 Now, page 1976:

7 "Q All right. And at some point of time
8 were you required to leave Las Vegas for a short
9 period of time?

10 "A Yes, I was. I came back here."

11 Now, on page 1977:

12 "Q Well, okay.

13 "Now, Magdalene, what was the reason
14 for your having to leave at that time?

15 "A I came back because I had a death in
16 the family, and I came back for a funeral.

17 "Q All right. And how did you come to
18 California?

19 "A I flew back on Air West with Jerry
20 Binder to Beverly Hills -- Burbank Airport.

21 "Q Did somebody pick you up at the airport?

22 "A Yes, Marian and Shelley.

23 "Q This is Marian Binder, the wife of
24 Jerry Binder?

25 "A Yes.

26 "Q And Shelley is one of the daughters?

27 "A The baby.

28 "Q Did you go someplace after that?

1 "A To Jerry Binder's home.

2 "Q Tell us what happened there, did you
3 visit or what?

4 "A Yeah, I went there and I visited and
5 I stayed and I talked with Marian for three or
6 four hours before I left, going up in San Joaquin
7 Valley.

8 "Q That was the place where the funeral
9 was to be held, is that correct?

10 "A Yes.

11 "Q All right. Now, after attending the
12 funeral what did you do, did you return someplace?

13 "A I came back to Los Angeles, and I
14 worked for two or three days. And I returned back
15 to Las Vegas and I married Donald.

16 "Q All right. Now, you say you worked
17 for two or three days when you returned to Los
18 Angeles. Where did you work?

19 "A At the Cab Inn.
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1 THE COURT: July 1 married 1969. Married in Las Vegas.

2 Now, will you tell me again, Mr. Katz -- I am
3 interrupting myself.

4 Repeat, please, the question that you are fearful
5 that Mr. Weedman is going to ask the wife.

6 MR. KATZ: Your Honor, it is more in terms of a series of
7 questions, not only that I anticipate will be asked of this
8 witness but of other witnesses in view of comments made by
9 Mr. Weedman in the opening statement.

10 I just don't think it is proper to go into a broad--

11 THE COURT: You are speaking of questions directed, at
12 the moment, to the wife?

13 MR. KATZ: This witness, yes.

14 THE COURT: Go ahead.

15 MR. KATZ: I don't think it is proper for Mr. Weedman to
16 go into areas and ask such questions as, "Well, what were you
17 doing at this time, did you have any other employment. Did you,
18 for example, see your husband with pornographic materials."

19 Again, I don't want to concede that this was the
20 case whatsoever, or that he ever had any. "Did Mr. Shea, your
21 husband, work for Jerry Binder at which time he was distributing
22 pornographic materials," and that kind of questioning, because
23 it, again, does nothing but degrade or demean not only the
24 alleged decedent, who has no opportunity to defend his
25 character, which is not an issue, and also demeans and offends
26 the character of Mrs. Shea, who is presently on the stand.

27 In other words, any questions going into employment
28 which has not been covered by way of direct examination, or

6-2 1 with respect to what Mr. Shorty Shea may have been doing for
2 Mr. Binder, as such, in my opinion would be inadmissible.

3 Certainly under section 352 of the Evidence Code,
4 even were it to have some small probative value, it would be
5 highly outweighed by the prejudicial effect.

6 Just lastly, to complete my thought, and this is
7 the last citation I will give you, California Supreme Court,
8 Davis v. Parsons, and the citation is 165 Cal. 70, where a
9 witness was permitted not, and I underscore "not," to answer
10 questions as to her mode of life and occupation in certain
11 cities, because the questions tended to unnecessarily humiliate
12 her.

13 And so holding the court stated at pages 81 and
14 82:

15 "The next alleged errors were where
16 the court permitted the witness, Nellie Davis,
17 to refuse to answer certain questions. Those
18 questions were addressed to her mode of life
19 and her vocations in the cities of Chicago
20 and Boston. The ruling of the court was simply
21 that if the answers tended unnecessarily to
22 humiliate the witness, she should not give
23 them, and resting upon this perfectly proper
24 declaration of the court she refused to answer."

25 All I am saying is this, I am not trying to
26 restrict reasonable inquiry into anything that has been raised
27 by way of direct examination.

28 I am just stating for the record that I would

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1 certainly strenuously check, and put counsel on notice, to any
2 type of questions which are so collateral and prejudicial,
3 even if they may have some slight probative value, but which
4 in its total effect would tend to degrade and humiliate that
5 witness.

6 THE COURT: Well, now, you have two problems that you
7 present in your position here.

8 One problem is that some of the questions of
9 Mr. Weedman might humiliate the wife. That is one point.
10 The next point you bring out is questions that Mr. Weedman
11 might ask the witness respecting Shea.

12 Now, most questions, as I understand it, that
13 you would ask the wife about Shea would be obviously calling
14 for hearsay answers, and would be objectionable as hearsay for
15 one thing.

16 That would be unless it is something like this,
17 "Mrs. Shea, you say you were working at the club for two or
18 three weeks, whatever it is. Now, you have testified that
19 Mr. Shea was there. Yes. Now, Mrs. Shea, at that time," and
20 this is in response to your position.
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6a

6a-1

1 "Did you see him with some kind of literature or
2 pictures of a degrading nature." This is one of the positions
3 that you fear that Mr. Weedman would ask.

4 MR. KATZ: Yes, your Honor, which would have no relevance.

5 THE COURT: First of all, it would call for an answer of
6 "Yes" or "No."

7 "I never saw him with some pictures or photographs."
8 She may testify to that.

9 MR. KATZ: It would call for a conclusion too.

10 THE COURT: "Yes, I did. I saw him working there, and
11 he had pornographic paraphernalia of a lewd nature," whatever
12 it is.

13 Now, she says that, isn't that question a matter
14 of cross-examination? You have asked her if Shea was there,
15 whether he was working there, "Did you see him there." If he
16 is working, he could be working in the selling of liquor or
17 pornographic literature. Do you see? I don't know.

18 You see that you are attempting to take the
19 benefits of your question, then reject the obvious cross-
20 examination. That is a correct cross question, is it not?

21 MR. KATZ: I would like to answer that head-on.

22 THE COURT: Yes.

23 MR. KATZ: Merely because something technically falls
24 within the scope of direct examination, and therefore is a
25 proper subject of inquiry in general, does not give counsel
26 carte blanche go to into something which does not meet the
27 requirements of 350 and 351 of the Evidence Code. Namely, that
28 where even though there might be some probative value, and for

6a-2

1 the sake of your example I will concede there might be some
2 probative weight, it is greatly outweighed by the prejudicial
3 effect.

4 In other words, what this tends to do is simply say
5 this. Shorty is nothing more than a purveyor of pornographic
6 literature. He has all of these mechanical devices, and he is
7 worthy of nothing. In essence, he is telling the jury this
8 person deserves to die, if he is dead.

9 THE COURT: I don't want to get in an argument.

10 Why did you ask questions like where were you
11 employed, how long were you there, what did you do, what is
12 your business. Why those questions?

13 MR. KATZ: I will answer that.

14 THE COURT: You answer that.

15 MR. KATZ: Because, first of all, it is certainly in the
16 People's case in chief incumbent upon us, especially when we
17 get to the critical area of the timing when we allege Mr. Shea
18 has disappeared by reason of the criminal agency, that he had
19 a certain pattern of employment, and that we have substantiated
20 by other people stating that they were employed at this time or
21 they worked with Mr. Shea, that they have certain days which
22 serve as a touchstone by which to answer questions with
23 reference to the chronology of events that lead up to his
24 disappearance in the latter part of August 1969.

25 You will note I didn't go into any great detail,
26 for example, with regard to her employment at the Cab Inn Bar
27 in Carson City, nor did I go into any detail with regard to
28 his employment, apparently, with Jerry Binder at the Swinger's

26a-3

1 Boutique. I wasn't interested in that, as such. I was trying
2 to show -- account for where he was, and account for his being
3 there at certain times, and that is all.

4 That, I think, answers directly your question. But
5 when you say, "Now are we going to give carte blanche to counsel
6 to say what was it, in fact, that Mr. Shea did at this precise
7 time, isn't it a fact that he had pornographic literature, isn't
8 it a fact that he helped sell it, isn't it a fact that he made
9 dirty movies," and I am not conceding these things for the sake
10 of argument --

11 THE COURT: All right, stop right there. You asked about
12 his employment. You said, "What did he do at that cafe."
13 You have asked that question.

14 Now you are asking me to shut off the defendant.
15 You asked the question. Now, you ask me to shut off further
16 questioning.

17 MR. KATZ: No, not with respect to the Cab Inn. I have
18 no objection.

19 In other words, I know that we are getting into an
20 area which is going to move on to Las Vegas. We also know that
21 he worked for Jerry Binder, and I only elicited this point
22 that he was employed by Jerry Binder at two places, the
23 Swinger's Boutique in Las Vegas and also a place called the
24 House of Paperbacks.

25 That was the extent of my examination, to
26 establish once again that he was working. Now, the relevancy
27 of this is to show that, number one, here we can account for
28 him being at a certain place at a certain time preceding his

6a-4

1 disappearance. That is number one.

2 Number two is to show that he was gainfully
3 employed. That is all. There is no other purpose.

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1 THE COURT: But the defendant may have another purpose.
2 Suppose his purpose is to show that his occupation isn't what
3 you say it is, that he has some other occupation, that he isn't
4 there at the time you say he is, that his business in selling
5 some kind of paraphernalia or literature takes him away from
6 there and that he can't be there.

7 You want to cut that right off here and take your
8 side, which may be true. I am not denying that one way or the
9 other. You are asking me to cut that examination off.

10 MR. KATZ: May I make one last observation?

11 THE COURT: That is all right. I can't help but argue
12 the matter. You are asking for a ruling, so I am discussing
13 it.

14 Go ahead.

15 MR. KATZ: I don't mind Mr. Weedman exploring this area,
16 as such, but for example his statement that he is going to
17 show that Juan Flynn was involved in weird sexual acts, deviate
18 sexual acts, that is the most degrading kind of thing.

19 THE COURT: You are fearful Mr. Weedman will ask the wife
20 about sexual acts of Shea? Is that right?

21 MR. KATZ: Absolutely.

22 THE COURT: You frame the question of what you think you
23 are fearful of coming out, so I can have this clearly in front
24 of me.

25 MR. KATZ: I have no idea.

26 THE COURT: "Well, Mrs. Shea, have you ever seen your
27 husband in certain types of weird sexual acts." That is about
28 the way it will come, something like that.

1 MR. KATZ: It could be that kind of question.

2 THE COURT: I might rule with you on that, because I
3 don't think that has anything to do with his employment, with
4 the term of his employment, with his occupation or livelihood.

5 I would probably rule with you on that. I am not
6 saying I would or I wouldn't, but I probably would.

7 MR. KATZ: That kind of question would place me in the
8 most unfortunate position that to even object would emphasize
9 or, indeed, inferentially concede that the subject matter
10 inquired within the question was true, and of course the
11 opposite would, in fact, be the case.

12 I would be in a difficult position. I would just
13 ask for a strong admonition by the court at that time. Were
14 I a defendant, I would ask for a mistrial. The People can't,
15 because that would be double jeopardy.

16 MR. WEEDMAN: May I be heard for a moment?

17 THE COURT: I will listen to you.

18 MR. KATZ: The matter is submitted. I have nothing
19 further to say.

20 THE COURT: I have. Let me get some thinking out here.

21 The People have preferred very serious charges in
22 here in which they are asking for capital punishment. The
23 People's case hinges, as far as the corpus is concerned, and
24 at least as far as that half of the corpus or that part of the
25 corpus with respect to the proof of the physical body, the
26 deceased, the fact that Shea is deceased, on circumstantial
27 evidence.

28 Your criminal agency, undoubtedly, in many respects

1 as far as the prima facie showing falls on circumstantial
2 evidence.

3 Now, the law, and you take the Scott case, reaches
4 out and brings in a great field, a great panorama, of direction
5 that you can go to prove that, if you can so convince the jury.
6 But you see, the defendant is entitled -- you can't shut him
7 off and say, "Well, I am going to take this in the whole
8 picture here and convict you," and maybe you can. I am not
9 arguing that. I am not arguing the merits, I am talking about--
10 I am talking about legal admissibility. You can't at the same
11 time shut him off and say, "I am going to ask questions about
12 Shea, did you work at the bar or" -- to the witness, Shea's
13 wife, "Did he work there, how did he work, what did he do,
14 what were his hours, what is the time that he worked there,"
15 and then expect serious restrictions in here.

16 Now, to one of your questions that you propose,
17 I think, undoubtedly, I would sustain an objection and make
18 direction to her, Mrs. Shea, as to "Did you see some weird
19 sexual acts by Shea." If the objection were made I undoubtedly
20 would sustain it.

21 I don't think it would prove or disprove anything,
22 or would be proper cross.

23 I am just arguing here, but some of these questions
24 that you have indicated I should prohibit I think are inherently
25 a part of the cross-examination. To rule any other way would
26 be reversible error.

27 If we spend six months trying this, the court would
28 come down and say, "You didn't let this man cross-examine."

1 Now, you bring up another point. You talk about
2 Mrs. Shea, as I understand it, being embarrassed or her
3 character impugned unnecessarily, but you have already got
4 Mrs. Shea on the stand there, and I am not saying it is critical,
5 but you have got her in there dancing day in and day out, part
6 time, selling liquor, and that is permissible, and dancing
7 before people with her breasts exposed.

8 It is rather difficult to say that persons engaged
9 in that livelihood, that is going to embarrass her, simply
10 embarrass her, to ask her questions along that line.

11 That is one of the arguments you advance.

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EXHIBIT 1

#7

1 I think if there is any kind of criticism, she
2 passed it on to herself by saying, "Yes, that is my business
3 there."

4 It is hard to say the questions asked of her are
5 going to embarrass her in some way. I don't think you are
6 going to embarrass her by whatever the questions are.

7 But you can unduly more or less attack her charac-
8 ter. She is in her own honest answers putting herself in a
9 certain light in the presence of the jury.

10 The jury is deciding the case. I'm not passing on
11 the facts. The light, the establishment, the mental reaction
12 of dancing around there with her breasts exposed, you have the
13 flopping around in the shadows there -- that is the way I take
14 it from the way I have seen these pictures of the way they do
15 it -- I don't care what they did. I am not trying those cases.
16 But that is what she does. That is her livelihood.

17 MR. KATZ: We brought it out.

18 THE COURT: I am not criticizing this, but I am answer-
19 ing the position you say it may unduly cause her criticism,
20 impeach her character, attach a stigma to her she couldn't
21 overcome.

22 MR. KATZ: I didn't ever refer to asking her about
23 further topless dancing or anything, I don't know. All I am
24 saying on the record, we certainly don't want to be subjected
25 to a situation in which there are inquiries made about other
26 activities that, for example, would not amount to a felony
27 and which would be morally degrading and would be evidence
28 of specific bad acts, i.e., prostitution, for example.

7-2

1 This is what some of these cases hold. You see,
2 this has absolutely nothing whatsoever to do with the evidence.

3 THE COURT: Here is your question to Mrs. Shea:

4 "In what capacity were you employed?"

5 Now, I might ask the same question because you
6 forced me into discussing these matters, is that a necessary
7 question? Is it sufficient to say, "Were you employed at the
8 hotel here?" "Yes." You see, you cut out, -- you didn't say,
9 "Were you employed here?" "Yes." All right. "Were you
10 employed such and such a time?"

11 "In what capacity were you employed?"

12 So now you have laid yourself wide open here.
13 You are leading with the chin out.

14 MR. KATZ: Counsel has every right to inquire as to what
15 she was doing there. I have no objection.

16 THE COURT: All right.

17 You have got to take the consequences that flow
18 from it. "In what capacity were you employed?" "I was a
19 barmaid or topless dancer."

20 Now, she has stated the fact that she is a bar-
21 maid and a topless dancer. All right.

22 "When did you first secure employment at the Cab
23 Inn?"

24 Now, you've got serious legal questions. You are
25 asking me to restrain here, and you asked her, "When were
26 you first employed," a proper and honest question.

27 But there is a question as to what extent I can
28 close the mouth of defense counsel and say, "Well, you can't

7-3

1 enlarge on that at all. You have got to take that as your
2 key.

3 "You are cross examining but you have got to stay
4 on this."

5 Have I the right as a court to say, "You can't
6 ask -- I don't know whether it is material or not but you
7 can't ask 'Where were you employed a month before that?' Or
8 'Where were you employed two months before?'"

9 MR. KATZ: That is my point.

10 THE COURT: That could or couldn't be material. I don't
11 know. It is very difficult.

12 You, yourself, have asked her, "When did you first
13 secure employment?" And she gives the date. If counsel asks
14 "Where were you employed a month before," and she says, "I was
15 employed at another topless bar," and the truth is she wasn't
16 employed at the second, you can't tell. That is your purpose
17 of cross examination.

18 The fact she says she was employed at a certain
19 bar at a certain time can be impeached by her own cross
20 examination, or couldn't. I don't know. But this is the
21 danger of the court, at least, trying to make rulings on
22 evidence prior to the asking of the question. That is why I
23 pull from it whenever I can. I pull right away from it.
24 I don't care who knows it.

25 I try to pull from it and get the question.
26 Sometimes I can't do that because the questions could be so
27 damaging and so inflammatory that I try to rule on it ahead of
28 time in chambers, or something of that nature. But I dislike

7-4

1 to attempt it in any way.

2 And it goes both ways. It isn't just a one-way
3 street. It goes both ways, I try not to force prior rulings.

4 I would only say, there is latitude in here.
5 I would caution counsel for defendant to watch your questions.

6 And if you have any objections, raise your hand.
7 If you don't want to make objections so the jury can hear you,
8 I don't blame you. I don't blame you a bit. I will take you
9 in chambers and give you a ruling. Right or wrong, I will
10 give a ruling.

11 And I will say right now you are at liberty to
12 make an objection every time you want to, and it isn't going
13 to hurt my feelings and it isn't a question of hurting my
14 feelings because you have the right to have my ruling. And I
15 know you do, and defense does, and we will give it to you,
16 right or wrong, I will give you the ruling. So that is about
17 as close as I can know.

18 MR. KATZ: Thank you, your Honor. I appreciate your
19 giving me the time in chambers.

20 THE COURT: All right.

21 MR. WEEDMAN: Your Honor, we have reached about 11
22 o'clock. I wonder if we might have a recess at this time.

23 THE COURT: All right. We will take a five-minute
24 recess.

25 MR. WEEDMAN: Thank you.

26 (Recess.)

7A

7A

(The following proceedings were had in
open court, outside the presence of the
jury.)

THE COURT: All right, gentlemen. We will proceed now.

I will call the case of People against Grogan.
Defendant is here. Defendant's counsel is here. District
Attorney is here.

And you can bring in the jury, if you will, sheriff.

THE BAILIFF: Yes, sir.

MAGDALENE VELMA SHEA,
resumed the stand and testified further as follows:

THE COURT: Now, you have been sworn, Mrs. Shea. State
your name, please. The full name. State your full name.

THE WITNESS: Okay. Magdalene Velma Shea.

THE COURT: Thank you. Now, you have been sworn.

And we will proceed in just a moment as soon as the
jury comes here. Thank you.

(The following proceedings were had in
open court, in the presence of the jury.)

THE COURT: Now, we have all of our regular jurors in
the jury box and the alternates are here.

And you go ahead, Mr. Weedman.

MR. WEEDMAN: Your Honor, the clerk is being good enough
to bring out my copy of the transcript.

THE COURT: Oh, I beg your pardon.

MR. WEEDMAN: Thank you. If we can wait just a moment
until I have that.

1 THE COURT: Yes. That's right.

2 THE CLERK: Yes, sir.

3 Your Honor, may the record reflect that references
4 to exhibits 20-H1 and 20-H2 on pages 2100 and 2101 of Volume 16
5 of the daily transcript dated July 21, 1971, are corrected
6 to refer to exhibits 20-F1 and 20-F2.

7 THE COURT: All right.

8
9 CROSS EXAMINATION (Resumed)

10 BY MR. WEEDMAN:

11 Q Mrs. Shea, we left off yesterday by asking you how
12 much you earned at the Cab Inn, and I believe your answer was
13 that you did not recall. And we left off at about the same
14 time by my asking you how much your husband, Mr. Shea, earned,
15 and you indicated that you did not recall.

16 In the intervening time have you perhaps remembered
17 what your earnings were there and what Mr. Shea's earnings
18 were?

19 A No, I haven't.

20 Q Can you give us any idea at all, Mrs. Shea, as to
21 your earnings at the Cab Inn?

22 A I can't give you that because, like --

23 Q Well, it is all right. In other words, you are
24 telling us you cannot?

25 A No.

26 Q How about an approximation, if you know, of
27 Mr. Shea's earnings?

28 A I don't know what he was getting paid at all.

1 Q I see. I take it, then, that --- and you can
2 answer this yes or no if you will -- that he never discussed
3 his earnings with you?

4 A No.

5 Q You indicated yesterday that you had come to
6 California in 1968. Did you come here alone or with someone?

7 A I came here alone.

8 Q And do you have relatives in California -- or
9 strike that.

10 Did you have relatives back in 1968 living here
11 in California?

12 A Yes, I have relatives here.

13 Q And you have relatives here in Los Angeles at
14 the present time?

15 A I have a sister here, yeah.

16 Q I see. Who was it that passed away in your
17 family, Mrs. Shea, sometime, as I understand it, in June 1969?

18 A Grandfather.

19 Q And that was somewhere in the San Joaquin Valley?

20 A Yes, it was.

21 Q At what time was that, do you know, Mrs. Shea?

22 A Tulare, California.

23 Q Up in Tulare?

24 A Yes.

25 Q That was the reason, of course, that you came down
26 from Las Vegas on that occasion?

27 A Yeah.

28 Q And at that time, of course, you returned with

- 1 Mr. Binder and were met at the airport by his wife, is that so?
- 2 A Yes. From Las Vegas.
- 3 Q Was there any particular reason that Mr. Binder
- 4 returned with you at that time, Mrs. Shea?
- 5 A I don't know. He just came home. He lived here.
- 6 Q So that was just more or less of an accident, if
- 7 you will, that Mr. Binder just happened to come back to Los
- 8 Angeles with you?
- 9 A I guess so.
- 10 Q Did you actually fly together or sit together on
- 11 the airplane?
- 12 A Yes.
- 13 Q I see. How did you get up to Tulare, Mrs. Shea?
- 14 A I caught the bus.
- 15 Q All right.
- 16 Did you go up there alone or with someone?
- 17 A I went up there alone.
- 18 Q Did your sister go with you at that time?
- 19 A No.
- 20 Q Was she living in Los Angeles at the time?
- 21 A Yes.
- 22 Q Was she at the funeral, Mrs. Shea?
- 23 A No.
- 24 Q When we say "your sister" I realize it is obvious,
- 25 but we are talking about that is her grandfather as well as
- 26 your grandfather?
- 27 A No.
- 28 Q Oh, it is not her grandfather?

1 A No.

2 Q Was that perhaps the reason your sister didn't go
3 to the funeral?

4 A Yes. It's my father's daughter.

5 Q I see.

6 So it's not your full sister in any event?

7 A No.

8 Q All right.

9 When you first met Mr. Shea and thereafter, did
10 he appear to have any kind of a drinking problem, Mrs. Shea?

11 A He drank. But a problem, I wouldn't say a real
12 big problem. He drank just like I drink sometimes.

13 Q Was this, however, something that you quarreled
14 about later on, his drinking?

15 A Yes.

16 Q And did you quarrel about it because he was drink-
17 ing too much?

18 A Well, I didn't like for him to drink.

19 Q At all, or too much?

20 A Not too much. And not at all, really, because I
21 don't like to drink.

22 Q I see. But you do drink?

23 A On occasionally.

24 Q Did you usually drink with your husband when he
25 was drinking?

26 A Sometimes we had a few drinks together.

27 Q Did you argue following his drinking, that is, was
28 the drinking related to any arguments that you may have had

with him?

A No, not all the time.

Q Well, were there times, though, when perhaps he would drink too much and an argument would follow?

A Sometimes we had misunderstandings. And I couldn't truly say that it was the drinking all the way.

Q When did you meet the Binders for the very first time, Mrs. Shea, either one of the Binders?

A In '69. May or June, I'm not sure.

Q All right.

Well, let me ask you this: Was this before or after the first time you went to Las Vegas in connection with Mr. Shea?

A Before.

Q And you met them here in Hollywood?

A Yes.

Q And they were living out along Hollywood Boulevard at the time?

A Yes.

Q Did you understand at that time that Mr. Binder had a business here in Los Angeles or in the Los Angeles area?

A No, I didn't know.

Q Was anything ever said about what Mr. Binder did for a living, if anything, here in Los Angeles?

A No. Don never told me anything.

8-1

1 Q I take it -- you can answer this "Yes" or "No."
2 I take it you never discussed that with Mr. Binder
3 himself?

4 A No.

5 Q Now, Mr. Binder did have a business in Las Vegas,
6 did he not?

7 A Yes.

8 Q One of the establishments was called the Swinger's
9 Boutique, was it not?

10 A Yes.

11 Q Mrs. Shea, this was a shop that sold erratic and
12 pornographic material?

13 Is that correct?

14 MR. KATZ: I will object on the grounds that it calls for
15 a conclusion of the witness, and it is ambiguous as to the
16 meaning of the terms.

17 He can ask the witness what was sold, if anything,
18 there.

19 THE COURT: The objection is overruled. You may answer
20 the question.

21 Is the question clear?

22 THE WITNESS: No, it wasn't.

23 THE COURT: Read the question, please.

24 (The question was read back by the
25 reporter as follows:

26 "Q Mrs. Shea, this was a shop that
27 sold erratic and pornographic material?")

28 THE COURT: Is the question clear?

8-2

1 THE WITNESS: Yes, but I don't understand what --

2 THE COURT: Can you restate it, please?

3 MR. WEEDMAN: Yes, your Honor.

4 Q Wasn't this a store that sold magazines -- first
5 of all, that sold magazines depicting persons in the nude, both
6 male and female?

7 A The store sold a variety of things.

8 Q Well, tell us what the store sold, then.

9 Perhaps I should just ask you this that way.

10 A They sold lingerie, they sold souvenirs, they sold
11 magazines, they sold regular books.

12 It was just quite a variety of things.

13 Q What kind of magazines did they sell?

14 A Guns, horses, books with the cover over them, you
15 know.

16 I mean like -- well, I guess you would say -- I
17 guess they was nude, but they had them covered.

18 Q I am sorry, what was covered, Mrs. Shea?

19 A The books.

20 Q The books themselves were covered in some fashion?

21 A Yes, they were.

22 Q You mean they had like a plain wrapper on them,
23 something of that sort?

24 A No, it was covered more deeply than that too.

25 Q I'm not quite sure what you mean by "covered."

26 You mean physically covered with a piece of paper or
27 cellophane?

28 A No, it had a wrapper around it, but it had things

8-3

1 where you couldn't see things.

2 Q You mean -- were these books stapled together?

3 A Yes, they were stapled together.

4 They couldn't be opened.

5 Q In other words, if a customer came into the store
6 and wanted to look through one of these books, he couldn't get
7 the pages open, is that so?

8 A No.

9 MR. KATZ: Excuse me, your Honor. I have no objection to
10 the questions and answers that we are getting, but we are
11 getting double negatives and I don't think Mr. Weedman wants
12 the record confusing either.

13 I think she meant to say "Yes" in response to the
14 way Mr. Weedman worded the question.

15 MR. WEEDMAN: I am satisfied with the answer.

16 MR. KATZ: Well, then I have no objection.

17 THE COURT: Ask your next question. You can redirect
18 if you have any question with regard to it.

19 MR. KATZ: Thank you so much, your Honor.

20 Q BY MR. WEEDMAN: Mrs. Shea, do you know why these
21 books were stapled?

22 A I never asked any questions, no.

23 Q Did you understand, nonetheless, that these books
24 were stapled because they contained pictures of persons
25 involved in sexual acts?

26 A No, I didn't.

27 Q Did you ever look inside any of these books?

28 A No.

8-4

1 Q Did Mr. Shea, to your knowledge, ever look inside
2 any of these books?

3 A He never brought any home.

4 Q Did Mr. Shea work at the Swinger's Boutique in
5 Las Vegas while you were there?

6 A Yes, he did.

7 Q What did he do there, Mrs. Shea?

8 A He was like a manager, and he kept track of the
9 salesgirls and the salesmen, whoever worked there, what is
10 happening throughout the day.

11 Q Did he, himself, sell items of merchandise that
12 were there?

13 A I can't say, because I wasn't at the shop all the
14 time.

15 When I was there he didn't.

16 Q When you were there you didn't see him actually
17 selling anything, but rather sort of managing or running the
18 shop?

19 Is that correct?

20 A Yes.

21 Q What about this other store that Mr. Binder
22 apparently owned in Las Vegas, the House of Paperbacks?

23 Can you tell us what was sold there?

24 A Books.

25 Q Were they books that were at least similar to the
26 books that we have just been talking about that were sold at
27 the Swinger's Boutique?

28 A They were different.

8-5

1 Q By "different" you mean that they were not books
2 depicting sexual acts?

3 A I don't know, because they had a lot of books, and
4 I would go there to see Donald, and that was all.

5 I wasn't interested in what they were selling
6 there.

7 Q To your knowledge did Mr. Binder have any other
8 businesses?

9 That is, other than these two stores, the Swinger's
10 Boutique and the House of Paperbacks in Las Vegas?

11 A That is the only two, to my knowledge.

12 Q Did you work while you were in Las Vegas with
13 Donald?

14 A No.

15 Q Do you know what Mr. Binder was paying Donald while
16 he was working for Mr. Binder in Las Vegas?

17 A No, I don't.

18 Q Can you give us any idea at all?

19 A No.

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Q Did you have any money yourself when you left Los Angeles to go up to Las Vegas?

A Yes, I did.

Q How much did you have with you?

A I don't know the exact figure, but it was over \$200.

Q Pardon me?

A I don't know the exact figure, but it was over \$200.

Q How about your husband?

Did he have any money, if you know, when he went to Las Vegas?

A Yes, he did, I guess.

Yes, he had money.

Q Do you know how much he had?

A No, I don't.

Q Can you give us any idea at all as to how much money he may have had?

A I don't know, because I didn't ask him what he had.

Q Did Mr. Shea, when you met him at the Cab Inn, did Mr. Shea tell you that he had been working at any other businesses or locations?

A No, he didn't.

Q What was your understanding as to what Mr. Shea generally did for a living at that time?

A He never talked about it.

Q When you met Mr. Shea at the Cab Inn, did you assume perhaps that he was in the business of managing beer bars?

A We never discussed that either. I was working

8a-2

1 then. He was just my boss.

2 Q Was it your understanding that Mr. Shea was going
3 to leave the Cab Inn permanently when he went to Las Vegas?

4 A Yes, he told me.

5 Q To your knowledge he had worked at the Cab Inn
6 approximately one month?

7 Is that correct?

8 A Yes.

9 Q Did Mr. Shea indicate to you how long he had
10 intended to work in Las Vegas for Mr. Binder?

11 A No, he didn't.

12 Q How long did Mr. Shea actually stay in Las Vegas
13 working for Mr. Binder?

14 A I am not -- I don't know exactly how long.

15 Q It would have been between a month and six weeks,
16 at the most, would it not?

17 A Yes, almost two months.

18 Q Almost two months?

19 A Yes.

20 Q Then, of course, Mr. Shea returned to Los Angeles
21 about a week after you came down for the last time?

22 A Yes.

23 Q Had you had a fight up there in Las Vegas before
24 you came down to Los Angeles for the last time?

25 A No.

26 Q I take it, then, that when you left Las Vegas
27 there was no misunderstanding or disagreement between you and
28 Donald?

1 A No, we had talked about coming back here.

2 Q Had Mr. Shea indicated to you why he was now leaving
3 this job in Las Vegas?

4 A Yes.

5 Q What was that reason?

6 A Because he wanted to go to Arizona to work in a
7 movie for Robert Bickston.

8 Q When was that movie to start, Mrs. Shea?

9 A In August.

10 Q Was there a movie that started in August, Mrs. Shea?

11 A I don't know. He went out and saw Mr. Bickston
12 or his wife, but I don't know if it ever started or not.

13 Q So far as you know, as far as you can tell us,
14 there was no movie, then?

15 Would that be a fair statement?

16 MR. KATZ: Excuse me, your Honor.

17 MR. WEEDMAN: I will withdraw the question. I withdraw
18 the question.

19 Q Just to be clear about it, did Donald go to work
20 on some movie during the month of August of 1969?

21 A Not -- until the 16th, he didn't.

22 Q In other words, you didn't see him after August the
23 16th?

24 A No.

25 Q But up to August the 16th did Donald go to work?

26 A Yes, he did.

27 Q In a movie?

28 A No.

Q Did Donald, up to August 16th, go to Phoenix, Arizona?

A No.

Q Particularly, did he go to Phoenix, Arizona for any purpose at all, movie or otherwise?

A No.

Q Apart from Donald leaving the employment in Las Vegas to work in a movie in August, did he leave for any other reason?

A Well, he wanted to work in this movie, and living expenses over there was quite high.

Q Of course, you've indicated to us that you did not know how much Donald was paid by Mr. Binder?

A No, I don't.

Q Can you give us any idea at all, Mrs. Shea?

A I don't know what Mr. Binder paid him at all.

Q Now, who paid the rent on this -- I believe you indicated \$250-a-month apartment in Las Vegas?

A Don.

Q Did you contribute any moneys at all to your mutual support while you were in Las Vegas?

A No, I didn't.

Q Where did Donald get the \$250 to pay the rent, if you know?

MR. KATZ: I have no objection, he said "if she knows."

THE COURT: Just a minute, please.

Read the question, if you will.

(The question was read back by the

1 reporter as follows:

2 "Q Where did Donald get the \$250
3 to pay the rent, if you know?")

4 MR. KATZ: I withdraw my objection.

5 THE COURT: All right.

6 THE WITNESS: From his employer, I guess.

7 Q BY MR. WEEDMAN: From Mr. Binder?

8 A Yes.

9 Q Would it be fair to say, then, that, if you can
10 tell us, that Donald did not, himself, have enough money to pay
11 the rent?

12 A No, the first rent, no.

13 Q Was Donald making enough money in Las Vegas to
14 support the both of you?

15 A Yes, I would say.

16 Q About how high were your living expenses in Las
17 Vegas?

18 A The rent was about the highest that we had. We
19 had an apartment.

20 Q Well, you indicated one of the reasons that you
21 came back to Los Angeles, as I understand it, is because it
22 cost too much to live in Las Vegas?

23 A Well, it did.

24 Q Is that one of the reasons you returned?

25 A Yes.

26 Q I am just asking you now approximately how much it
27 cost the both of you per month to live in Las Vegas.

28 A Well, I don't know how much it cost to live there,

1 the both of us, but they have slot machines and they play
2 blackjack, so I like to do that.

3 He gave me money to do that, so that was another
4 reason that I left, because we couldn't afford to -- for me to
5 throw money away like that.

6 Q So one of the other reasons you left Las Vegas was
7 to get away from the temptation of the slot machines and the
8 other gambling up there?

9 A Yes.

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1 Q What about Mr. Shea?

2 Did he also spend too much money playing the slot

3 machines?

4 A No.

5 Q You were the only one, then, who did that?

6 A Yes.

7 Q Is that so?

8 A Yes.

9 Q When did you learn for the first time, Mrs. Shea,

10 that Shorty knew some folks out at the Spahn Ranch?

11 A It was in Las Vegas he told me.

12 Q What did he tell you about that, Mrs. Shea?

13 A Well, he told me that he had someone that he

14 wanted me to meet out there, because he had lived out there

15 years -- before I even knew that Donald existed.

16 He told me that he wanted me to meet Ruby Pearl and

17 George Spahn because they was very close to him. They was like

18 a family, and George was like a father to him.

19 He had lived out there previous, before I even knew

20 him, and worked out there for a number of years.

21 Q And, of course, Donald told you about George Spahn

22 and Ruby Pearl up in Las Vegas?

23 A Yes.

24 Q Where were you living, Mrs. Shea, when you met

25 Donald?

26 A By myself.

27 Q Where was Donald living when you met him?

28 A I don't know.

8B2

1 Q Where was Donald living after you started going
2 with him?

3 A It was -- I'm not exactly sure but it was on
4 Long Beach Boulevard, out there close to the job somewhere,
5 but I don't know the town or whatever.

6 Q In any event, he was not living at the Spahn Ranch
7 when you were going out with him?

8 A No.

9 Q Have you any idea how long Mr. Shea had lived out
10 near the Cab Inn?

11 A No, I don't.

12 Q What sort of place did Mr. Shea have out there
13 near the Cab Inn?

14 Was it a room or an apartment or what?

15 A It was an apartment.

16 Q Did he live there alone or with someone?

17 A He was alone.

18 Q Was there any particular reason why, when you came
19 back to Los Angeles, that you didn't go back to that particular
20 area to live?

21 Is there any particular reason?

22 A Because I was never living in that particular area
23 anyway.

24 Q I see. When you returned to Los Angeles, was it
25 your intention to go back to work at the Cab Inn?

26 A No, not really.

27 Q What sort of employment did you intend to maintain
28 when you came back to Los Angeles?

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A Well, I was waiting on him, and while I was waiting I went back to work out there.

I also had a check out there so I went out there to pick it up, and I went to work.

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1 Q And then about a week later, why, Shorty joined
2 you?

3 A Yes.

4 Q Now, you stayed with some folks when you came back
5 to Los Angeles. That is, you and Shorty stayed with some
6 folks. Who are those folks?

7 A It was a friend of his, I don't remember who they
8 are. Their name. And, like, they had a big house out there
9 in Carson.

10 Q And is Carson near where the Cab Inn is located?

11 A The Cab Inn is in Carson City.

12 Q So you and Mr. Shea stayed, in effect, near the
13 Cab Inn?

14 A Yes.

15 Q And you stayed there about two or three days?

16 A Two days.

17 Q And then you moved to the Wilcox Hotel?

18 A Yes.

19 Q Who paid the rent at the Wilcox Hotel?

20 A Donald.

21 Q Do you know how much money Donald had with him when
22 he returned from Las Vegas?

23 A No, I didn't ask him.

24 Q And I take it he never told you?

25 A No.

26 Q How much money did you have when you moved into
27 the Wilcox Hotel?

28 A I had a hundred-and-some dollars. I don't remember.

9-2

1 I don't remember.

2 Q Did you participate in Shorty's buying this auto-
3 mobile from John Enfield?

4 A Did I?

5 Q Participate in the purchase of the automobile?

6 MR. KATZ: Excuse me. I will object to the ambiguity.

7 I don't know what counsel means by participate in.

8 MR. WEEDMAN: Yes, I will withdraw the question.

9 THE COURT: All right. It is withdrawn.

10 Q BY MR. WEEDMAN: When did you --

11 THE COURT: Wait a minute. Pardon me. I want a
12 statement for the transcript.

13 The question is withdrawn.

14 Ask your next question.

15 Q BY MR. WEEDMAN: When did you learn that your
16 husband had an automobile?

17 A When he came home.

18 Q So that's -- so it was news to you up until the
19 time -- I mean it was news to you, you had nothing to do with
20 the negotiating and the purchase price and so on?

21 A No.

22 Q Do you know whether or not Donald actually paid
23 any money for that automobile?

24 A I don't know.

25 Q I take it that that subject was not discussed
26 between you and Donald, that is, what he paid for the car, that
27 is, what he agreed to pay for the car and whether in fact he
28 actually paid for the car?

1 A Yeah, he told me what he was supposed to pay for
2 it. What he -- I don't know whether he paid it, but what he
3 wanted for the car was \$200.

4 Q Well, as a matter of fact, Mr. Shea didn't have
5 the \$200 for that car at that time, did he, Mrs. Shea?

6 A At the particular time, no.

7 Q So as far as you knew at that time he would have
8 to pay for it at some later date?

9 A He had just started to work when he got the car.

10 Q And where was he working when he bought the car?

11 A Out in Norwalk.

12 Q And what was he doing in Norwalk?

13 A He was the manager of a bar.

14 Q And what kind of a bar was that?

15 A Beer bar.

16 Q Was that a beer bar that was owned by this What's--
17 his-name Bromberg, who had owned the Cab Inn?

18 A Yes.

19 Q And how long did Mr. Shea work there out in Norwalk?

20 A About a week.

21 Q And did he leave that employment for any particular
22 reason?

23 A He left and started driving a truck for somebody.

24 Q So he left to get another job?

25 A Yes.

26 Q And who did he work for in driving the truck?

27 A I don't know. He got up every morning and went to
28 work, and he came back every afternoon.

1 Q Do you know how much your husband earned during
2 that week he worked in Norwalk in the beer bar?

3 A No, I didn't ask him.

4 Q How long did he work as a truck driver?

5 A About two weeks.

6 Q And how much did he earn at that time, Mrs. Shea?

7 A I didn't ask him about his check or his pay. He
8 just gave me what he wanted to give me.

9 Q How much did he give you?

10 A He gave me an allowance to spend on whatever I
11 wanted to spend.

12 Q Can you give us an approximation of how much that
13 was?

14 A Oh, about \$35, \$40, which I wasn't doing anything
15 with.

16 Q How long had he held the job as a truck driver?

17 A About two weeks. He got laid off.

18 Q So that's the reason he left that?

19 A Yes.

20 Q Was there any particular reason why he was laid
21 off?

22 A From what I understand, the guy didn't have any
23 work.

24 Q Do you know what kind of truck he was driving,
25 that is, the business that the truck was in?

26 A Well, he would be awfully dirty when he came home.
27 So I just presumed that he was working in some -- doing some
28 construction work.

1 Q And what did Mr. Shea do for a living, if anything,
2 after he was laid off from the truck driving?

3 A He started tree-topping. Cutting trees.

4 Q And where was that, Mrs. Shea?

5 A Out in the Valley some place. I don't know where
6 it was, either.

7 Q How long did he have that job topping trees?

8 A Until he fell out of one of the trees.

9 Q Well, about how long was that? That is, how long
10 did he have the job before he fell out of the tree?

11 A About a week.

12 Q And I take it he suffered some injuries when he
13 fell out of a tree, is that so?

14 A Yeah.

15 Q What happened to him, that is, what were the
16 injuries?

17 A I don't know. He went to a doctor from the job
18 and he came home.

19 Q And he never went back to tree-topping or tree
20 trimming, whatever it was?

21 A Yeah, he went back, but I -- he didn't climb the
22 trees. He was picking up the branches that was -- whoever
23 was cutting the trees.

24 Q So even though he wasn't trimming trees, he
25 continued in that same general kind of employment for a while?

26 A Uh-huh.

27 Q About how long, then, did he work for the outfit,
28 if you will, that was engaged in tree trimming and brush

1 cleanup?

2 A Well, the week before the 16th he worked three
3 days. And he was off, too, because they had cleaned up whatever
4 they was cutting. And he was waiting to go back to work.

5 Q Well, about how many days overall was he involved
6 in the tree work?

7 A I don't recall.

8 Q Less than a week?

9 A No, it wasn't less than a week because he worked
10 one week, and that is when he fell out of the tree.

11 Q Then he went back and he worked how much beyond
12 that?

13 A About three days.

14 Q So he worked overall about a week and a half and
15 then he was off for a couple of days in that period of time?

16 A Yes.

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1 Q How much did he earn on that job, Mrs. Shea?
2 A I don't know.
3 Q Were you working at this time anywhere?
4 A No, I wasn't.
5 Q What was Mr. Shea doing for a living, if anything,
6 when you first were taken to the Spahn Ranch?
7 A The first time?
8 Q The first time.
9 A He had just got back from Las Vegas.
10 Q So he hadn't gotten the job yet out in Norwalk in
11 the beer bar?
12 A No.
13 Q And when you went out to the Spahn Ranch, why, of
14 course, you met some folks out there, and did you meet Charles
15 Manson that first time that you were out there?
16 A Yes, I did.
17 Q Did Mr. Shea introduce you to Charles Manson?
18 A Yes, he did.
19 Q But he used a name that wasn't Charles Manson, isn't
20 that so?
21 A Yes.
22 Q That name was Charlie Tuna?
23 A Yes.
24 Q And what did Donald say in connection with Charles
25 Manson and what he did for, perhaps, for a living?
26 A I don't know what he said to Charlie Manson.
27 Q No, what did Donald say to you about Charles Manson?
28 A What did he say to me?

9a-2

1 Q Yes.

2 A Well, he said that I -- once that he had wrote
3 songs for the Beach Boys.

4 Q And did he say anything else to you about Charles
5 Manson, otherwise known as Charlie Tuna?

6 A No.

7 Q Okay.

8 Did you spend very much time perhaps meeting
9 Charles Manson?

10 A In all he introduced me, and I said hi, and he said
11 hi, that's all.

12 Q Did you meet anyone else that first time you went
13 out to Spahn Ranch?

14 A No.

15 Q Did you drive out to the Spahn Ranch in this
16 automobile that Shorty had just purchased?

17 A He hadn't purchased this. We drove out in his
18 friend's car, the one that we were staying in Carson with.

19 Q Oh, I see. And did you go out there alone, that
20 is, just you and Shorty go out to the Spahn Ranch?

21 A Yes.

22 Q So the only person you met the first time you went
23 there was Charles Manson?

24 A Yes.

25 Q And the only thing Shorty told you about Charles
26 Manson was that he had written some music for the Beach Boys?

27 A Yes.

28 Q And did he tell you that Charlie Tuna was not this

9a-3, man's real name, but that his real name was Charles Manson?

A I didn't -- no, he didn't tell me. He just introduced me as Charlie Tuna, and I didn't ask no questions later.

Q What was Mr. Manson doing, if anything, when you actually saw him for the first time?

A I don't know what he was doing. He came to the car. I was sitting in the car. And that is how I met him.

Q Was Shorty in the car, too, at that time?

A Yes.

Q Did Shorty say something like "Nikki, Magdalene, I would like you to meet Charlie Tuna", something like that?

A He said -- he told me, he says, "Charlie Tuna, this is my wife Nikki," and that was it.

Q What did Charles Manson say in reply to that?

A He just said hi and that was it. And I said hi.

Q Was that during the day, daytime?

A Yes, it was in the evening.

Q Had the sun already gone down?

A No.

Q And what, if anything, did Charles Manson do after you met him?

A I wasn't paying any attention to what nobody was doing.

Q Were there other people around the area, even though you didn't meet them at the time, at the Spahn Ranch?

A Yeah, there was someone there, but like I was tired, I had worked all that Saturday night. We had went to this

8-4

1 friend's house, and we had stayed up through the night. And I
2 wasn't really paying any attention to what anybody was doing.

3 There was peoples walking.

4 Q Do you recall how much you earned at the Cab Inn
5 during that brief period of time that you worked there after
6 you came back from Vegas?

7 A No, I don't recall because I worked funny hours.

8 Q Were you paid by the hour?

9 A Yes.

10 Q When Shorty -- Shorty saw Charles Manson at the
11 ranch for the first time when you were there, did Shorty say
12 something to Charles Manson?

13 MR. KATZ: Excuse me, your Honor. I assume this is
14 offered for state of mind evidence, is that correct?

15 There should be a limiting instruction to that
16 effect.

17 THE COURT: Let me have the question, please.

18 (The question was read by the reporter
19 as follows:

20 "Q When Shorty -- Shorty saw Charles
21 Manson at the ranch for the first time when you
22 were there, did Shorty say something to Charles
23 Manson?")

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1 THE COURT: Now, the objection.

2 MR. WEEDMAN: I will withdraw the question.

3 MR. KATZ: I have no basis of objection. It is state of
4 mind evidence, and the jury should be instructed that it is
5 not offered for --

6 MR. WEEDMAN: I will withdraw the question, your Honor.

7 THE COURT: I understand the point.

8 MR. KATZ: May I just address the court, your Honor?

9 With respect to the alleged conversation between
10 Mrs. Shea and Mr. Shea concerning Charles Manson, the jury
11 should also be instructed that was offered for state of mind.
12 That was hearsay.

13 I would ask the court to give a limiting instruction.

14 THE COURT: Your position, Mr. Weedman, is to show the
15 state of mind?

16 Is that correct?

17 MR. WEEDMAN: Your Honor, I am seeking to withdraw the
18 question, if I may.

19 THE COURT: You are withdrawing?

20 MR. WEEDMAN: Yes, your Honor.

21 THE COURT: All right.

22 MR. KATZ: He hasn't withdrawn it with respect to the
23 other questions I alluded to, and the answers given to them.

24 I think the jury should be advised it was offered
25 for state of mind.

26 THE COURT: The question is withdrawn. You may ask your
27 next question.

28 Q BY MR. WEEDMAN: Did your husband say to Charles

1 Manson, "Hi, Charlie"?

2 A I can't say.

3 Q Did your husband, however, greet Mr. Manson in some
4 fashion?

5 Do you know what I mean by that?

6 A He got out of the car, and he asked was George
7 Spahn and Ruby Pearl there, and he was talking to Charlie Tuna.

8 Q Well, did he ask Charlie Tuna, otherwise known as
9 Charles Manson, where George Spahn was?

10 MR. KATZ: Again, your Honor, there is an objection only
11 for the limited purpose of instructing the jury that it is
12 offered for the state of mind.

13 THE COURT: Is this directed to state of mind?

14 MR. WEEDMAN: It is not being offered for the truth of
15 the matter asserted, since a question "Where is somebody" doesn't
16 contain any substantive matter, your Honor.

17 THE COURT: I think that will suffice, then.

18 Ask your question or repeat it. I think that covers
19 it.

20 Is the question clear to you?

21 THE WITNESS: No.

22 THE COURT: Do you want to restate it?

23 MR. WEEDMAN: I will try, your Honor.

24 Q Did your husband ask Charles Manson where George
25 Spahn was?

26 A I don't know what him and Charles Manson talked
27 about, but he asked somebody, because he came back to the car
28 and he told me that he was gone to have dinner. He was gone

1 out to eat, and Pearl had taken him out to eat, and they would
2 be back sometime.

3 Q Now, after you saw your husband talking with
4 Charles Manson, did Charles Manson then come over to the car,
5 and you said "Hi," and Charles Manson said, "Hi"?

6 A We spoke, that is all.

7 I was introduced.

8 Q So after your husband spoke with Charles Manson,
9 your husband then introduced you to Charles Manson?

10 A Yes.

11 Q Then your husband told you something about Charles
12 Manson having written some music for the Beach Boys --

13 MR. KATZ: Excuse me, your Honor. Once again there is an
14 objection unless it is understood that it would be offered for
15 the state of mind.

16 THE COURT: The last statement would be hearsay. I
17 will sustain it.

18 The statement of Mr. Shea to the girl --

19 MR. WEEDMAN: I will agree, your Honor, that that is
20 offered for Mr. Shea's state of mind.

21 MR. KATZ: Counsel is correct.

22 MR. WEEDMAN: And his attitude towards Charles Manson.

23 MR. KATZ: I have no objection, your Honor, as to that.
24 That is all I was seeking, was the jury to be admonished by
25 your Honor that that is the limited purpose for which it is
26 offered.

27 MR. WEEDMAN: I have agreed.

28 THE COURT: All right. You have both agreed.

1 I will not reemphasize it or repeat it.

2 It may stand. Go ahead.

3 Q BY MR. WEEDMAN: So we get the sequence of events
4 straight here, you went to the Spahn Ranch with your husband,
5 and he got out of the car and he talked to some people, and he
6 talked with Charles Manson. He returned to the car, introduced
7 you to Charles Manson, told you a little something after the
8 introduction about Charles Manson, and that is all that was
9 said about Charles Manson by your husband?

10 A Yes, to me.

11 Q Did your husband ever again discuss Charles Manson
12 with you?

13 You can answer that "Yes" or "No."

14 A Did my husband again ever discuss --

15 Q Yes, ever tell you any more about Charlie Tuna,
16 otherwise known as Charles Manson.

17 A We never discussed anything.

18 Q I take it your answer is that your husband --

19 A Wait a minute, I don't understand.

20 MR. KATZ: Could we have the question reread?

21 THE COURT: Read the question, please.

22 (The question was read by the reporter
23 as follows:

24 "Q Yes, ever tell you any more about
25 Charlie Tuna, otherwise known as Charles Manson?")

26 MR. WEEDMAN: Your Honor, let me withdraw the question
27 just for the sake of time.

28 THE COURT: All right.

1 Q BY MR. WEEDMAN: Did you have any further conversa-
2 tions with Shorty, your husband, about Charlie Tuna, otherwise
3 known as Charles Manson?

4 A Yes, one Saturday.

5 THE COURT: First answer it "Yes" -- the answer is "Yes"?

6 THE WITNESS: Yes.

7 THE COURT: All right, now your question.

8 Q BY MR. WEEDMAN: What Saturday was that, Mrs. Shea?

9 A It was the Saturday that he made the 10 percent
10 commission on the horse sale.

11 Q Now, when your husband met -- rather, when you met
12 Charles Manson, when you were introduced to him by your husband,
13 there wasn't any animosity apparent between your husband and
14 Charles Manson, was there?

15 A I was just introduced.

16 Q And you were introduced by Mr. Shea as Mr. Shea's
17 new wife?

18 A Yes.

19 Q And Charles Manson didn't react in any particular
20 or peculiar way to that?

21 A He said "Hi."

22 Q He just said "Hi."?

23 A Yes.

24 Q I take it your answer is that Mr. Manson did not
25 react in any particular or peculiar manner to that introduction?

26 A Just "Hi," no.

27 THE COURT: Gentlemen, I will interrupt.

28 We are at 12 o'clock. We will recess till

1 2 o'clock.

2 I will ask the jury not to discuss the case or
3 come to any opinion or conclusion.

4 We will proceed at 2 o'clock. Thank you very much.

5 (The noon recess was taken to 2 o'clock p.m.

6 of the same day.)
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LOS ANGELES, CALIFORNIA, THURSDAY, JULY 22, 1971

2:10 P.M.

(The following proceedings were had
in open court outside the presence
of the jury.)

THE COURT: Now, we will proceed in People against Grogan.
The defendant is here. Defendant's counsel is here. People's
counsel is here.

And the witness is on the stand. Will you please
state your name again, Mrs. Shea.

THE WITNESS: Magdalene Velma Shea.

THE COURT: Thank you.

Now, you have been sworn.

You can bring in the jury now, sheriff.

THE BAILIFF: Yes, your Honor.

(The following proceeding were had
in open court in the presence of
the jury:)

THE COURT: Now, we have all of our regular jurors and
the three alternates here in the courtroom.

You may continue with your cross-examination.

MR. WEEDMAN: If I may have just a moment, your Honor.

THE COURT: All right.

(Short pause.)

MR. KATZ: Your Honor, while Mr. Weedman is attempting
to locate an object, I notice that from time to time one
alternate juror is having tremendous difficulty in observing

1 some of the evidence because our back has been turned towards
2 that respective alternate juror, and indeed blocks the view.
3 And I am wondering perhaps whether the court can inquire
4 whether that seat is proper.

5 THE COURT: You mean this lady here?

6 MR. KATZ: Yes.

7 THE COURT: Can you see everything clearly, lady? Do you
8 want to be brought up some?

9 ALTERNATE JUROR NO. 3: Except for a while yesterday
10 some of the pictures I couldn't see.

11 THE COURT: You are satisfied you can get a proper view
12 of everything going on?

13 ALTERNATE JUROR NO. 3: Yes, up there, basically, yes.

14 THE COURT: All right. I think that covers it.

15 MR. KATZ: Certainly, your Honor. I just wanted to
16 inquire.

17 THE COURT: All right.

18 Now, go ahead.

19 MR. WEEDMAN: Thank you, your Honor.

20 THE COURT: Yes.

21
22 MAGDALENE VELMA SHEA,

23 resumed the stand and testified further as follows:

24
25 CROSS-EXAMINATION (Continued)

26 BY MR. WEEDMAN:

27 Q Mrs. Shea, I believe we left off generally talking
28

1 about Mr. Manson's apparent reaction to you and to Shorty when
2 you met Charles Manson at the ranch. Did you ever see Charles
3 Manson again after that first meeting with him?

4 A No, I never saw him again.

12

#12

Q Now, with respect to the other persons that I understand you met at the ranch the second time you went up there, talking about Spahn Ranch now, would you tell us again who you met up there?

A Charles Watson, Squeaky and some other -- George Spahn, Ruby Pearl, and some other girls. I can't recall names.

Q Have you seen any photographs of any of those girls whose names you cannot recall since you have been a witness in connection with this matter?

A Have I seen -- I beg your pardon?

Q Photographs of the girls you saw up there whose names you do not remember.

A Yes, I have.

Q Did Mr. Katz, the prosecutor here, show you some photographs of some of the girls that you saw up there whose names you cannot remember?

A He showed me some photos, yes.

Q As far as you know, then, Mr. Katz had some photographs in his possession of some of the girls whose names you cannot recall?

A Yes, they was in with all of the photos -- I was shown all photos, and was -- the names of some of the people I didn't recall, I saw them there.

Q So when you were questioned, I take it, by the police, by the district attorney's office, you were shown a lot of photographs? Is that so?

A Yes.

Q And among those photographs were some photographs

1 of the girls you met up at Spahn Ranch?

2 A Yes.

3 Q Was the reason you went up there the second time
4 with your husband to again try and see Ruby Pearl and George
5 Spahn?

6 A Yes.

7 Q And you finally met them both up there?

8 A Yes, I did.

9 Q About how long were you up there that day,
10 Mrs. Shea?

11 A About two and a half or three, three and a half
12 or four hours. I don't recall, because it was, like I said,
13 a long time.

14 Q Do you recall what means of transportation you
15 used for that second visit there to the ranch?

16 A Our car.

17 Q That was the car that Mr. Shea paid or agreed to
18 pay \$200 for?

19 A Yes.

20 Q That was a white Comet, was it not?

21 A Yes.

22 Q When you arrived at the ranch, did you meet George
23 Spahn and Ruby Pearl before, after, or during the time that
24 you met the other people there?

25 A After -- I had to wait for them, because he was
26 gone to eat dinner.

27 Q George Spahn was?

28 A Yes, they were gone.

1 Q I see. And so while you were waiting there, then,
2 for George Spahn and Ruby Pearl, you met the other folks up
3 at the Spahn Ranch?

4 A Yes.

5 Q Now, you didn't see Charles Manson there?

6 A No, I didn't.

7 Q But you saw Tex Watson, and I believe you testi-
8 fied on direct that Mr. Watson came over and asked you at
9 least for a cigarette?

10 A Yes.

11 Q Did you give him a cigarette?

12 A Yes.

13 Q Did you talk to Charles Watson at that time?

14 A No, I didn't.

15 Q Did Mr. Shea introduce you to Mr. Watson?

16 A No.

17 Q How about the girls that you met up there?

18 Were you introduced in some way to those girls?

19 A Yes, I was introduced as Nikki.

20 Q Who made the introduction to the girls?

21 A Don.

22 Q Did Mr. Shea introduce you to any other men that
23 were there, or boys?

24 A It wasn't -- I didn't -- no -- I don't understand.

25 Would you repeat yourself, please?

26 Q Well, I am really just trying to find out just,
27 really, what happened when you went up there that second time
28 and, you know, how it came about that you met Tex Watson,

1 Squeaky and some girls.

2 A Well, him and the girls was there when we got
3 there.

4 After they came back from eating, Ruby Pearl and
5 George Spahn, after they came back from eating, there were
6 some Manson girls there feeding the animals.

13 fls

Q
13-1

1 Q And was it after that that you met the other men
2 and the girls?

3 A Yes.

4 Q And did Mr. Shea generally introduce you to these
5 people?

6 A No, he didn't go around introducing me to everybody
7 that was there because they was feeding the animals.

8 Q Well, but he introduced you to some people up there,
9 did he not?

10 A Yes, he did.

11 Q He introduced you as Nikki?

12 A Yes.

13 Q And he introduced you as his new wife?

14 A Yes.

15 Q And was there any apparent peculiar or unusual
16 reaction on the part of Tex Watson to you or to meeting you or
17 talking with you?

18 A All he said to me was he wanted a cigarette. He
19 asked if I had -- he asked Don if he had a cigarette. Don told
20 me to give him a cigarette. So that was all.

21 Q Did he appear -- did he have any particular attitude
22 towards you at the time that you could discern?

23 Let me withdraw the question.

24 Did he appear friendly towards you at the time --
25 Mr. Watson?

26 A All he did was walked up and asked for a cigarette.

27 Q Put it this way, did he appear unfriendly when you
28 gave him the cigarette?

13-2

1 A He just asked for a cigarette. Said -- and didn't
2 say anything. Just a cigarette.

3 Q So would it be fair then to say that he neither --
4 he didn't appear unfriendly towards you, that is to say, he
5 didn't do anything that made you think he didn't like you, or
6 was antagonistic towards you, or hostile towards you, did he?

7 A No.

8 Q What about Squeaky --

9 MR. KATZ: Excuse me. I think she was going to add
10 something to the answer.

11 Q BY MR. WEEDMAN: Were you going to add something to
12 an answer?

13 A Yes. He didn't say anything like, just walked up
14 and I didn't see him. He was in a room behind me.

15 Q Well, as a matter of fact, didn't he come out
16 several times?

17 A Yes.

18 Q And several times didn't he speak to you or to
19 Mr. Shea?

20 A For a cigarette.

21 Q Each time was it for a cigarette?

22 A Yes.

23 Q Well, did you end up giving him more than one
24 cigarette?

25 A Yes, I did.

26 Q All during that period of time, what I am trying
27 to find out, did he act in any way antagonistic towards you or
28 in any unfriendly way towards you?

1 A No. I couldn't say that he did.

2 Q Now, what about Squeaky, were you introduced to
3 her?

4 A Yes.

5 Q And did she appear unfriendly towards you or
6 antagonistic or hostile towards you?

7 A She didn't appear any way. Just -- I was
8 introduced to her and that was that.

9 Q How about the other times that you met up there,
10 did any of those girls appear to be antagonistic or hostile or
11 even unfriendly towards you?

12 A They spoke and talked among themselves.

13 Q And you don't know what they said?

14 A No, I don't.

15 Q What about the other men that you met up there,
16 we have -- I don't believe you have named any of those men,
17 but you indicated you had met some other men up there. What
18 about any of those men, did they appear particularly unfriendly
19 or hostile towards you?

20 A They spoke and they was doing their work and kept
21 on doing their work.

22 Q Did any of these people, that is, Squeaky or Tex
23 Watson or even going back to Charles Manson or any of the girls
24 or any of the men that you met up there, at any time appear
25 unfriendly or hostile towards your husband, Mr. Shea?

26 A Would you repeat that, please.

27 THE COURT: Do you understand?

28 THE WITNESS: No.

1 MR. WEEDMAN: I will withdraw the question.

2 THE COURT: All right.

3 Try it again.

4 Q BY MR. WEEDMAN: Did Charles Manson ever appear
5 unfriendly or hostile towards your husband?

6 A Yes.

7 Q And when was that?

8 A The day that he sold the horse before --

9 Q Just a moment. Were you present?

10 A No.

11 Q Well, I want to know -- and forgive me, I didn't
12 make that clear, Mrs. Shea -- I want to know from your own
13 personal knowledge if you saw Charles Manson do anything that
14 was hostile or unfriendly towards your husband?

15 A I never saw him but once.

16 Q That's right. And on that occasion he didn't do
17 anything hostile, and he did not appear to be unfriendly,
18 isn't that so?

19 A I don't know.

20 Q With respect to Tex Watson, you didn't see him,
21 as you have indicated, do anything unfriendly or hostile
22 towards your husband, did you?

23 A No.

24 Q With respect to the girl Squeaky, did you under-
25 stand that Squeaky was taking care of George Spahn when -- did
26 you learn that while you were there?

27 A No, I knew she was there.

28 Q Did you learn that Squeaky was a friend of George

1 Spahn's and Ruby Pearl's?

2 MR. KATZ: I am going to object as assuming facts not in
3 evidence and calling for a conclusion and conjecture. Ask the
4 jury be admonished to disregard the question.

5 THE COURT: It would be hearsay.

6 MR. WEEDMAN: I will withdraw the question.

7 THE COURT: It is withdrawn.

8 MR. KATZ: May the jury be admonished to disregard the
9 question.

10 THE COURT: The jury will disregard the question.

11 It has been withdrawn.

12 MR. KATZ: Thank you.

13 Q BY MR. WEEDMAN: Did Squeaky appear to be
14 unfriendly or hostile towards your husband?

15 A She spoke, and she was working like that particular
16 night that I met those people, they was feeding the animals.

17 Q Can you answer my question -- excuse me, can you
18 answer my question yes or no and, perhaps, then if you would
19 like to explain it then I would like to hear your explanation.

20 Let me start over again.

21 Did Squeaky ever appear unfriendly or hostile
22 towards your husband, Donald Shea?

23 A No.

24 Q And how about any of the other persons there,
25 any of the men that you met, any of the girls that you met,
26 did any of those persons appear hostile towards or unfriendly
27 towards your husband, Donald Shea?

28 A No.

1 Q Did you see my client there?

2 A I don't remember.

3 Q Well, look at him now. Can you see him from where
4 you are?

5 A Yes.

6 Q Can you see him clearly?

7 A Yes.

8 Q Did you ever see my client at the Spahn Ranch?

9 A No.

10 MR. KATZ: Your Honor, at this time I am going to ask
11 the record to respectfully reflect the appearance of Mr. Grogan
12 at this time. He appears to have a --

13 MR. WEEDMAN: It is totally unnecessary, your Honor.

14 MR. KATZ: The record has to reflect the way Mr. Grogan
15 appears now.

16 THE COURT: No, I disagree with the statement respect-
17 fully. Respectfully.

18 I won't make statements of how somebody reflects.
19 The jury is there with their eyes. They can see. I don't see
20 for them.

21 MR. KATZ: I understand that. The problem is the
22 transcript.

23 THE COURT: Motion denied. They see everything that
24 goes on. They hear everything. They make their own
25 conclusions.

26 Ask your next question.

27 I say this respectfully. This isn't said in
28 criticism of you, I just disagree.

1 MR. KATZ: Thank you, your Honor. I appreciate it.
2 Thank you.

3 THE COURT: It is said in the best of spirit, but it is
4 disagreement.

5 Go ahead.

6 MR. WEEDMAN: Thank you.

7 MR. KATZ: I will abide by it, your Honor.

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1 Q BY MR. WEEDMAN: Mrs. Shea, is it true that the
2 first time you saw my client in the flesh, of course I'm not
3 talking about any photographs of him, but isn't it true that
4 the first time you saw him was when you came here to testify
5 in this trial?

6 A Yes.

7 Q So it would be true, then, that not only did you
8 not see my client at the Spahn Ranch, but you never saw him
9 anywhere else in 1969?

10 A No.

11 Q In other words, what I have said is true?
12 Is that correct?

13 A About seeing him?

14 Q Yes. I am guilty of using a double negative, as
15 Mr. Katz has pointed out.

16 Let me start over again.

17 Did you see my client anywhere during the year
18 1969?

19 A No.

20 Q Going back for just a moment, and forgive me for
21 belaboring this point, Mrs. Shea, but do you know what your
22 husband was doing for a living before he came to work at the
23 Cab Inn where you were working?

24 A No, I don't.

25 Q Do you know whether or not he had a job at all
26 prior to coming to work at the Cab Inn?

27 MR. KATZ: At this time I will object on the grounds
28 that it is outside the scope of her personal knowledge.

14-2

1 She indicated she did not meet him until after
2 she had been working at the Cab Inn.

3 THE COURT: Give me the wording of the question, please.

4 (The reporter read the record as follows:

5 "Q Do you know whether or not he
6 had a job at all prior to coming to work
7 at the Cab Inn?")

8 MR. KATZ: It would, therefore, call for --

9 THE COURT: Now, wait a minute. I will listen to you.

10 It is very hard to say whether an answer to the
11 question would be of any materiality or not, whether the answer
12 would be material or not is very debatable.

13 It might not be. There might be inferences drawn
14 from it. If it has no bearing, the jury can disregard it.
15 It is one of those matters I hate to step in and pass on and
16 prohibit it.

17 Your objection could be well-taken. I could strike
18 it out at a later time. I don't know the exact ruling to give
19 at this time.

20 Now, can I say that without debating the evidence
21 at all that I don't know what the answer is going to be.
22 I don't know how the jury may receive it.

23 MR. KATZ: In the interests of time, I will withdraw the
24 objection.

25 THE COURT: I am still thinking out loud, without
26 attempting to prejudice either side one way or the other.

27 While the question says, "Do you know," it would
28 be a hearsay question and answer just the same, unless the

3

1 foundation were set up.

2 It would call for hearsay testimony, because if
3 she says yes, Shorty told me so-and-so, you are back into
4 hearsay.

5 I would be inclined to sustain it at this juncture.
6 It would be hearsay.

7 MR. KATZ: Thank you, your Honor.

8 THE COURT: I will sustain it on that ground at this
9 time.

10 Q BY MR. WEEDMAN: Following Shorty's work as a
11 tree trimmer and then, of course, he was injured, and he went
12 back cleaning up the tree debris, to your knowledge did he
13 have a job after that, and if so, what was it?

14 A To my knowledge?

15 Q Yes.

16 A After he went back to work at cleaning up trees?

17 Q Yes.

18 A Did he have a job after that?

19 Q Yes.

20 A I don't know.

21 Q So perhaps it would clarify matters, I hope so,
22 anyway, but as far as you personally know, Mrs. Shea, from
23 May up to August 16, 1969, Shorty had a job at the Cab Inn,
24 a job in Las Vegas, a job out in Norwalk at another beer bar,
25 a job as a truck driver, and a job trimming trees, and later on
26 cleaning up the debris?

27 Five jobs in about that three-month period?

28 Is that correct?

4

1 A Yes.

2 Q Were there any other jobs he had other than those
3 five jobs in that three-month period that you know of?

4 A No.

5 Q And if he had had a job before working at the Cab
6 Inn when you met him there, you don't know anything about that?

7 A I don't know anything about it.

8 Q And you don't know anything about any job that he
9 may have had after he was no longer working with tree trimming
10 and cleaning up the tree debris?

11 A No.

12 Q So I am correct in that summary, more or less?

13 Is that so, Mrs. Shea?

14 A Yes.

15 Q I would like to go back and hopefully clear up
16 one point, if I may, and then I won't touch on it any longer.

17 Did your husband work as a bouncer at all when he
18 was working, as you have indicated, as the manager at the Cab
19 Inn?

20 A No.

21 Q Do you recall testifying on this matter before the
22 grand jury, Mrs. Shea?

23 A Yes.

24 Q And that was last December, was it not, December
25 of 1970?

26 A Yes.

27 Q Do you recall Mr. Katz asking you questions when
28 you testified before the grand jury in this matter?

5
1 A Yes, I recall.

2 Q Do you recall this series of questions and
3 answers? That is Mr. Katz's questions and your answers, and
4 I would just like to read them, if I may.

5 Beginning at page 21, Mr. Katz, line 23.

6 MR. KATZ: Thank you.

7 MR. WEEDMAN:

8 "Q All right. Did Donald work at this
9 same bar, the Cab Inn?

10 "A Yes.

11 "Q And in what capacity?

12 "A He was the manager.

13 "Q And was he also the bouncer there?

14 "A Yes, I guess you would say he was."

15 I am just curious about your answer at that time.
16 Was he in some way working as a bouncer?

17 A No. Well, maybe I misunderstood what he meant by
18 a bouncer.

19 Like he took care all of the trouble that started
20 in there, but he never threw anybody out.

21 Q So when you said that, in effect, that you guessed
22 he was the bouncer or something of that sort, you meant it in
23 the very broad sense that if some trouble developed that
24 Mr. Shea would be there to handle it?

25 A Yes.

26 Q Did Mr. Shea, to your knowledge, have a bad temper?

27 A Yes.

28 Q Did Mr. Shea, to your knowledge, engage in any kind

of fights with anyone?

A No.

Q So during the period when you were with Mr. Shea, then, as far as you know, Mr. Shea was not involved in any fights?

I mean physical, like fist fights and that sort of thing.

A No.

Q All right. Now, you learned during that period of time that you were with him that he had a bad temper?

Is that so?

A If he was pushed to have one, he did.

Q Well, I take it from your answer, then, that he was pushed and so that is how you know he had a bad temper?

Is that correct?

A Would you repeat that?

Q Yes. I take it you learned that he had a bad temper, and I take it that you learned that because somebody pushed him?

A Well, what I meant by "pushed," nobody -- while we was together he had no arguments with anyone that I knew of -- that I knew of.

Q Yes.

A But certain things were said. If he didn't like it, he had a bad temper.

Q Do you really mean that, Mrs. Shea, that during the period of time you were with him you did not know him to get into any arguments with anyone?

1 A No.

2 Q That is true, then, isn't it, Mrs. Shea?

3 A Yes.

4 Q When you went looking for Mrs. Shea after this
5 argument you had with him on the morning of August 16, 1969,
6 in particular, did you talk to a man named William Humphrey?

7 A That name I don't recall, but where we were
8 staying at, I talked to the manager of the motel -- I mean
9 where we lived there, but I don't know if his name was William
10 Humphrey.

11 Q Well, I am talking about now after August 16th.
12 You argued, Shorty left.

13 You left the Wilcox address for a short period of
14 time, and you came back and Shorty's things were gone, and
15 that was the last time you saw Shorty?

16 Is that right?

17 A Yes.

18 Q And after that time you went out looking for him?

19 At least you were on the telephone, talking with
20 people and trying to locate him?

21 A Yes.

22 Q Isn't that so?

23 A Yes.

24 Q During that period of time didn't you talk with
25 one William Humphrey?

26 A I don't know any William Humphrey.

27 Q Did Mr. Shea ever mention the name William Humphrey
28 to you?

15-1

A I don't remember.

Q Did you talk to someone named Muriel Quant or Quaint, Q-u-a-n-t, about where Shorty might be?

A No.

Q Did you talk to anyone -- did you talk with a girl by the name of Marian Binder, that is Mrs. Binder, about where Shorty might be after -- I am talking about, of course, after August 16th, 1969?

A No. 'Cause -- I didn't talk to Mimi, Marian.

Q Did you talk with anyone -- of course you may not recognize these names, but did you talk to someone named Ray Parrott about where Shorty might be?

A No.

Q Did anyone after August 16, 1969, while you were still, as I understand it, making some effort to locate him, did anyone else tell you that Shorty had indicated that he was going to go up to Vallejo to work in the salt mines?

MR. KATZ: I am going to object on the grounds that it calls for hearsay upon hearsay.

THE WITNESS: No.

MR. KATZ: And it is inadmissible.

THE COURT: Read the objection, Mr. Reporter.

(The objection was read by the reporter as follows:

"MR. KATZ: I am going to object on the grounds that it calls for hearsay upon hearsay. And it is inadmissible.")

THE COURT: It would be hearsay.

MR. WEEDMAN: It is not being offered at this time, your

15-2

1 Honor, for --

2 THE COURT: Well, it could show -- it is a statement of
3 a third party respecting a substantive statement of evidence.
4 I think it is clearly hearsay. I would sustain the objection.
5 Sustained.

6 Q BY MR. WEEDMAN: Well, would you tell us again,
7 Mrs. Shea, what you did in an effort to locate Mr. Shea after
8 August the 16th, 1969?

9 A I called the telephone number that he had left at
10 the hotel for me to call.

11 Q And that number, as far as you know, belonged to
12 the Babcocks?

13 A Yes.

14 Q And then you called the Babcocks again?

15 A Yes.

16 Q And you were not able to locate Mr. Shea through
17 the Babcocks?

18 A Yes.

19 Q Did the Babcocks ever mention any of the names that
20 I have just given to you, Ray Parrott, William Humphreys,
21 Muriel Quant, Lance Victor -- which is a new name, I am sorry --
22 or Marian Binder -- any of those names?

23 A No.

24 Q Did the Babcocks -- and you can answer this yes or
25 no -- give you any indication at all as to where Mr. Shea
26 might be or where Mr. Shea was going?

27 A Yes.

28 Q And what did they say?

15-3 I

A Spahns Ranch.

2

Q After that did they say where he was going?

3

MR. KATZ: After what? Excuse me.

4

MR. WEEDMAN: I am sorry.

5

Q After you were told by them that he was at Spahn Ranch?

6

7

A Did --

8

Q Yes, did Mr. Babcock tell you at any time after he told you Shorty was at Spahn Ranch that Shorty was going someplace else?

10

11

A No.

12

13

Q Did anyone tell you in connection with your searching for Mr. Shea that he was on his way to work the salt mines in Vallejo?

14

15

A No.

16

17

Q Would it be fair to say as I mention that subject now that is the first time you have heard it?

18

A Yes.

19

20

Q Now, you indicated on direct examination, Mrs. Shea, that you did not intend to leave Mr. Shea. What exactly did you mean by that?

21

22

A I didn't intend to leave him, to break up from him.

23

24

Q Now, you waited almost two weeks, did you not, before you made that first call, that is, the first call to Mr. Babcock?

25

26

A Yes.

27

28

Q Why did you wait two whole weeks, Mrs. Shea, before --

15-4

1 A Because --

2 Q -- excuse me -- before you made the first telephone
3 call in an effort to locate Don?

4 A Because I thought maybe he would come back to where
5 we was living, or at least call.

6 Q Now, were you under the impression that Shorty
7 really wanted to resume this relationship with you, that is,
8 this marriage with you?

9 A Yes, I was.

10 Q Now, during that two-week period of time Mr. Shea
11 made no effort to contact you, as far as you know, isn't that
12 correct?

13 MR. KATZ: Excuse me. I will object on the grounds it
14 is speculative and calling for a conclusion.

15 THE COURT: I think so. Sustained.

16 Q BY MR. WEEDMAN: Did Mr. Shea make any effort --
17 excuse me. Did Mr. Shea contact you at all during that two-week
18 period of time following August 16, 1969?

19 A No.

20 Q And are you telling us, Mrs. Shea, that the reason
21 you waited at least two weeks before making your first
22 telephone call was because you expected Mr. Shea to contact
23 you?

24 A Yes.

25 Q And you fully expected that he would?

26 A Yes, I did.

27 Q Okay. What other persons did you contact other
28 than the Babcocks and of course other than that unknown female

1 voice that answered the phone from the Spahn Ranch in an effort
2 to locate Mr. Shea?

3 A Where he was staying at, and I called out there
4 and I went out there several times.

5 Q Where was that?

6 A On Wilcox, at the Wilcox Hotel.

7 Q You went there several times?

8 A Yes.

9 Q Was that during the two-week period?

10 A Yes.

11 Q In that two-week period?

12 A During the first two weeks period.

13 Q Where were you living, Mrs. Shea, following August
14 16th and the next couple of weeks?

15 A On La Brea.

16 Q As a matter of fact, weren't you living there with
17 some friends?

18 A Yes.

19 Q Didn't you go back to an earlier boyfriend of yours?

20 A No.

21 Q Did you have a boyfriend when you met Mr. Shea?

22 A Did I have one when I met Mr. Shea?

23 Q Yes.

24 A No. No particular boyfriend.

25 Q No particular boyfriend?

26 A Yes.

27 Q Did you tell -- strike that.

28 Did you tell Shorty -- did you tell your husband

1 that you were going back to your boyfriend because you were
2 afraid your boyfriend was going to kill Shorty Shea?

3 A No.

4 Q Or anything like that, Mrs. Shea?

5 A No, I didn't.

6 Q As a matter of fact, Mrs. Shea, one of the reasons
7 you did not -- you didn't make any more effort than you have
8 already told us about to locate Mr. Shea is that you were busy
9 operating as a prostitute, isn't that correct?

10 A No, I wasn't.

11 Q You were arrested for prostitution, were you not,
12 on August 22nd, 1969, right here in Los Angeles?

13 A Yes, I was.

14 Q And that is not the first time you have been
15 arrested for prostitution, is it?

16 A The first time?

17 Q I say that wasn't the first time?

18 A That wasn't the first time?

19 Q That is a question.

20 A Yes.

21 Q That was the first time?

22 A Yes.

23 MR. KATZ: Your Honor, excuse me. Respectfully, it is
24 already in, there is a motion to strike for the purpose of
25 interposing the objection that it is prejudicial and inflammatory
26 matter --

27 THE COURT: I will take the matter up with you in
28 chambers. Step in chambers if you want to, gentlemen. With

1 the reporter.

2 MR. KATZ: Excuse me. I am trying to save time. I have
3 no objection with regard to the question on 8-22-69. I do
4 have objection to the question relating to any previously
5 other alleged activities relating to prostitution.

6 THE COURT: I will talk about it with you in chambers.
7 I don't want to discuss it here.

8 Are the People withdrawing the objection?

9 MR. KATZ: I am not withdrawing the objection to any
10 inquiry as to any other alleged activities concerning
11 prostitution. I have no objection --

12 THE COURT: Then let's debate it in chambers.

13 MR. WEEDMAN: I will withdraw any further inquiry, your
14 Honor.

15 THE COURT: All right. Is it withdrawn?

16 MR. WEEDMAN: Yes, your Honor.

17 THE COURT: Is that satisfactory?

18 MR. WEEDMAN: Of course, your Honor.

19 THE COURT: All right. Go ahead.

20 MR. WEEDMAN: Yes, your Honor.

21 Q Mrs. Shea, you are also known as Magdalene Velma
22 Furie?

23 A Yes.

1 Q You are known as Nikki Stokes?
2 A Yes.
3 Q Known as Velma Vivian Stokes?
4 A Yes.
5 Q Known as Nikki Williams?
6 A Yes.
7 Q Known as Velma Vivian Lomas?
8 A Yes.
9 Q Known as Joan Woodward?
10 A Yes.
11 Q And known as Magdalene Velma Lomas, is that so?
12 A Magdalene Velma Lomas?
13 Q Yes.
14 A Yes.
15 Q Okay. And, Mrs. Shea, you have been convicted of
16 a felony, have you not?
17 A Yes, I have.
18 Q And that was for a term of armed -- that was for
19 armed robbery, was it not?
20 A Yes.
21 Q That was in 1962?
22 A Yes.
23 Q And you were again convicted of -- excuse me. Were
24 you again convicted of a felony following that time?
25 A No.
26 Q Okay. And you served a term in state prison, did
27 you not, for that offense, that is, armed robbery?
28 A I beg your pardon?

1 Q You served a term in state prison for armed
2 robbery, did you not, Mrs. Shea?

3 A Yes.

4 Q Mrs. Shea, with respect to all of these clothes
5 that are contained in these two footlockers that you identified
6 yesterday, and which you examined, do those clothes now as they
7 appear in those footlockers appear to be in just about the same
8 condition they were in when you had seen them in Mr. Shea's
9 possession?

10 A No.

11 Q The clothes now appear to be in a dirty, a rumpled,
12 disarrayed condition inside those two footlockers. How did
13 they appear when you saw them the last time?

14 A They were clean. And packed like -- they wasn't
15 just thrown in there, like you threw something, throw something
16 in a suitcase. They was clean and packed neatly.

17 Q Now, those two footlockers were never brought into
18 the Wilcox address?

19 A No.

20 Q Isn't that so? As far as you know they remained --
21 let me withdraw that.

22 Where were these footlockers when you saw them for
23 the first time with the neatly packed clothing in them?

24 A At the Cab Inn.

25 Q Were they inside a vehicle at that time or out in
26 the open someplace?

27 A They was in the office.

28 Q Mr. Shea had his two trunks with all the clean,

1 neatly put away clothing in the office at the Cab Inn?

2 A He had just arrived from Vegas.

3 Q Well, when I asked you earlier where Mr. Shea was
4 living when you met him at the Cab Inn would it be true then
5 that he hadn't quite settled down, he hadn't quite got a place
6 to live when you met him at the Cab Inn or not?

7 MR. KATZ: Excuse me. I will object. It calls for a
8 conclusion and speculation, your Honor.

9 MR. WEEDMAN: I will withdraw the question, your Honor.

10 THE COURT: All right. It is withdrawn.

11 Now, ask your next question.

12 Q BY MR. WEEDMAN: Did Mr. Shea have a place to live
13 when you first met him at the Cab Inn?

14 A Yes.

15 Q And yet despite that fact, you are telling us that
16 these two footlockers with his clothes were at the Cab Inn, is
17 that right?

18 A Would you repeat the question, please.

19 THE COURT: Yes.

20 THE WITNESS: That you asked me when I first saw the --
21 when I saw the footlockers.

22 Q BY MR. WEEDMAN: Yes. I am sorry.

23 When did you first see those footlockers with the
24 clothes in them?

25 A At the Cab Inn.

26 Q Then you went on to tell us, I believe, that the
27 reason that they were there was because Mr. Shea had just
28 arrived from Vegas.

1 A Yes.

2 Q Are you implying by that that he didn't have a
3 place to live and therefore that is where the trunks were, or
4 some other implication?

5 MR. KATZ: Excuse me, your Honor. It is argumentative.

6 THE COURT: It is argumentative. I will sustain it on
7 that ground.

8 MR. WEEDMAN: I will withdraw the question.

9 THE COURT: Restate it.

10 Q BY MR. WEEDMAN: Did Mr. Shea have an apartment or
11 room or someplace to stay, to your knowledge, when you met him
12 for the first time at the Cab Inn?

13 A When I first met Mr. Shea he didn't have those
14 footlockers. Mr. Shea brought those footlockers back from
15 Las Vegas with him. That is when I first saw them at the Cab
16 Inn.

17 Q Oh, I am sorry. In other words, this was after
18 you met Mr. Shea?

19 A Yes.

20 Q And you both had gone to Las Vegas?

21 A Yes.

22 Q And you had come back to attend the funeral?

23 A Yes.

24 Q Then you had gone back to Vegas?

25 A Yes.

26 Q Then you came back alone?

27 A Yes.

28 Q Then Mr. Shea followed about a week after that?

1 A Yes.

2 Q And it was during his second return -- pardon me,
3 it was during the time that he came back as I have indicated
4 that you saw these two footlockers at the Cab Inn for the first
5 time?

6 A Yes.

7 Q You didn't see them in Las Vegas then, I take it?

8 A He just -- he bought them after I left.

9 Q Were they in substantially the condition that they
10 appear to you to be in now, Mrs. Shea? Talking about these
11 green footlockers, one of which has been marked People's 20-F
12 for identification and the other marked People's 20-G for
13 identification.

14 A No, they was newer. And the paint wasn't chipped
15 like that.

16 Q What about the stenciled name Donald Shea that
17 appears on the top of each of these green footlockers, was it
18 in that -- was the lettering in about that condition when you
19 saw these footlockers for the first time?

20 A No, it was new.

21 Q I am just taking out some of the items from People's
22 20-F for identification which have now been secured by a piece
23 of string and are collectively marked People's 20-F1 for
24 identification.

25 THE COURT: Very well.

26 Q BY MR. WEEDMAN: I am showing these to you again.
27 Are these among the clothes, Mrs. Shea --

28 THE COURT: Can you see them clearly?

1 Q BY MR. WEEDMAN: Can you see these clothes, Mrs.
2 Shea?

3 A Yes.

4 THE COURT: You can see them. All right.

5 Q BY MR. WEEDMAN: Are these the clothes that you
6 are telling us were clean and neatly packed away in one of these
7 footlockers when you had seen them in the footlocker for the
8 first time?

9 A Yes.

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1 Q Including the coat and all the rest of it? Is
2 that so?

3 A Yes.

4 Q And the same is true with respect to this second
5 bundle of clothes that came out of People's 20-F for identi-
6 fication, marked collectively 20-F2 for identification?

7 MR. KATZ: Excuse me, your Honor. It is assuming facts
8 not in evidence. The witness could not identify those items.

9 MR. WEEDMAN: Counsel may be correct. I will withdraw
10 the question.

11 THE COURT: It is withdrawn.

12 Q BY MR. WEEDMAN: This, indeed, was a bundle of
13 clothes you could not identify?

14 A Yes.

15 Q I show them to you again. Can you identify them
16 today?

17 A No.

18 THE COURT: Did you identify that last bundle of clothes?

19 MR. WEEDMAN: Yes, your Honor.

20 MR. KATZ: 20-F2, I believe, your Honor.

21 Q BY MR. WEEDMAN: With respect to People's 20-G for
22 identification, and its contents, Mrs. Shea, showing you now
23 another bundle of clothing which has been collectively marked
24 People's 20-G1 for identification.

25 Are you telling us that this clothing was clean
26 and neatly put away inside one of these footlockers when you
27 saw the clothing for the first time?

28 A Yes.

16-2

1 THE COURT: Pardon me, you said 21. Isn't there another--

2 MR. WEEDMAN: No, your Honor, it is 20-G1, your Honor.

3 THE COURT: That is what I want.

4 MR. WEEDMAN: Yes, thank you, your Honor.

5 Q Now, Mrs. Shea, isn't there a suitcase or grip
6 or valise or something belonging to Mr. Shea that is missing
7 that you haven't seen since this whole thing again?

8 A Yes.

9 Q Didn't Mr. Shea carry clothing in that?

10 A Yes, he did.

11 Q As a matter of fact, isn't it true that he carried
12 enough clothing in that to get him through, say, a week or
13 two weeks or three weeks if he was away traveling?

14 MR. KATZ: I would object to that, your Honor, on the
15 grounds that it calls for conjecture and speculation.

16 She can testify to what the clothing was, if she
17 knows, but it is speculative.

18 THE COURT: Read the question.

19 MR. WEEDMAN: I will withdraw the question.

20 THE COURT: All right. The question is withdrawn.

21 Q BY MR. WEEDMAN: About how large was this missing
22 suitcase or valise or bag, or call it what you will, Mrs. Shea?

23 A It was a regular suitcase like, you know, there's
24 a small one, the overnight, the weekend kit. It was bigger
25 than the -- it was about the fourth one when you buy a set of
26 luggage that you can pack clothes in.

27 Q Did you ever see Mr. Shea wearing shoes, as
28 distinguished from wearing the boots that he liked so much?

16-3

1 A Yes.

2 Q What did he wear most often, the boots or the

3 shoes?

4 A Shoes.

5 Q You testified yesterday, I believe, and correct

6 me if I am wrong, but didn't you tell us yesterday that he

7 wore the boots more than he wore the shoes?

8 A Yes, after he got back here, but when he was on

9 his job as the manager, he wore shoes.

10 Q Well, that is my fault, then.

11 After he got back to Los Angeles, and right up

12 to August 16th, he wore the boots rather than the shoes?

13 Is that correct?

14 A Yes.

15 Q And the shoes, some of the shoes, he just left

16 rattling around the back of this automobile, these old shoes

17 that we have seen here?

18 Isn't that so, the ones depicted in the photograph,

19 and one which has been marked specially as an exhibit?

20 A No, he worked in the black pair when he was

21 driving truck.

22 Q What was Mr. Shea wearing on his feet the last

23 time you saw him?

24 A Boots.

25 Q Where were his shoes the last time that you saw

26 them?

27 A The black and brown pair was -- the black pair was

28 upstairs, and his brown pair was upstairs.

16-4

1 Q Upstairs in your place on Wilcox?

2 A Yes.

3 Q When you came back finally, why, those things
4 were gone? Isn't that so?

5 A Yes.

6 Q Pardon me?

7 A Yes.

8 Q All right. Finally, with respect to these two
9 revolvers, Mrs. Shea, that you have been shown and which you
10 identified yesterday, that is, People's -- I'm sorry, your
11 Honor, I'm looking for the revolver exhibit numbers.

12 THE CLERK: 9-A and 9-B, sir.

13 Q BY MR. WEEDMAN: Yes, Mrs. Shea.

14 With respect to People's 9-A and 9-B, those revol-
15 vers, when you had last seen them in Mr. Shea's possession,
16 did they appear then to be substantially the same, or similar
17 in condition as they appear now?

18 A Did they -- would you repeat --

19 Q Yes. Is the condition of those revolvers, the
20 external appearance of those revolvers, about the same now
21 as it was when you last saw them in Mr. Shea's possession?

22 A Well, they are not cleaned, and he kept them clean.

23 Q Well, do they look now or not as about the same
24 condition as they did when you saw them in Mr. Shea's possession?

25 MR. KATZ: Again, there is only an objection in that the
26 guns are not visible to the witness at this time.

27 MR. WEEDMAN: Well, perhaps we had better produce the
28 revolvers.

16-5

1 THE COURT: Ask your question.

2 Q BY MR. WEEDMAN: Yes, that is not very kind to you,
3 Mrs. Shea.

4 Here are the two revolvers.

5 Would you be good enough to look at those again
6 and tell us, if you can, whether or not they appear to be in
7 substantially the same condition now as they were when you
8 last saw them in Mr. Shea's possession?

9 A Yes.

10 Q All right.

11 Who is Brenda Williams, Mrs. Shea?

12 She is the girl that is apparently depicted in
13 your wedding photograph, People's 4-B for identification.

14 A She was the maid of honor there, and I don't know
15 who she was.

16 She was a friend of Jerry Binder's.

17 Q Finally, Mrs. Shea, my last question to you.

18 I know you won't believe me, but I apologize for
19 going into some of these matters with you, but I am doing my
20 duty here, I hope.

21 Mrs. Shea, did you quarrel with Donald about
22 another man in your life?

23 A No.

24 Q Did you ever quarrel with Donald about a boyfriend
25 that you had before you met Donald Shea?

26 A No.

27 Q Did you ever have a quarrel in that general area
28 at all with Mr. Shea?

1 A No.

2 MR. WEEDMAN: That is all I have. Thank you, Mrs. Shea.

3 THE COURT: Is that all?

4 MR. KATZ: I have some questions.

5 THE COURT: I understand. That is all of your cross?

6 MR. WEEDMAN: It is for now, your Honor.

7 THE COURT: Let's take a short recess.

8 We will go ahead in just a few minutes. Do not
9 discuss the case.

10 (Short recess.)

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(The following proceedings were held in open court outside the presence of the jurors and alternate jurors.)

THE COURT: Now, gentlemen, we will proceed. People against Steve Grogan. The defendant is here. Defendant's counsel is here. The deputy district attorney is here.

If you will take the stand, please, and tell us your name again.

THE WITNESS: Magdalene Velma Shea.

THE COURT: Thank you. You have been sworn.

And you can bring in the jury. Thank you.

THE BAILIFF: Yes, sir.

(The following proceedings were had in open court in the presence of the jury.)

THE COURT: Now we have all of the regular jurors here and the three alternates.

And you had some questions on redirect.

MR. KATZ: Yes. Thank you, your Honor.

REDIRECT EXAMINATION

BY MR. KATZ:

Q Mrs. Shea, I think Mr. Weedman asked you this yesterday at the close of the session, but how old are you?

A 27.

Q What is your birth date?

A March 7, 1944, I was born.

Q All right.

And incidentally, are you an expert in guns?

NX

17-2

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A No.

Q All right.

Are you able to easily look at a gun and see whether it is in the identical condition as it was when you first saw a gun? You can answer that yes or no.

A No.

Q All right.

Now, I want you to just look at these two exhibits which are 9-A for identification and 9-B for identification. Tell me whether or not they look to be in the same condition as when Shorty had them in the attache case, or whether or not they look cleaner or they look dirtier, or more worn, or what.

A They were cleaner. I mean, they was shiny, more shinier.

18 fls

18-1

1 Q All right. Did Shorty keep his guns cleaned and
2 shiny?

3 A Yes, he did.

4 Q I take it they looked a lot better than they do
5 here before you?

6 Is that correct?

7 A Yes.

8 Q Now, as I understand it, you went out to Spahn
9 Ranch in an effort to meet Ruby Pearl and George Spahn the
10 first time, at which time you met this person called Charlie
11 Tuna, who you later knew to be Charlie Manson?

12 Is that right?

13 A Yes.

14 Q And as I understand it you told Mr. Weedman that
15 Shorty had told you that Charlie Tuna was a person who had
16 written some songs or something for the Beach Boys?

17 Is that it?

18 A Yes.

19 Q Then I believe Mr. Weedman asked you a question,
20 whether or not you had a further discussion with your husband,
21 Donald Shea, concerning his state of mind towards Charles
22 Manson, to which you replied, "Yes."

23 Is that right?

24 A Yes.

25 Q When did the second conversation occur concerning
26 his feelings and his state of mind towards Charles Manson?

27 A The Saturday that he brought home the \$45 from the
28 10 percent sale of the horse.

18-2

1 Q Was that before or after the raid of August 16,
2 1969?

3 A Before.

4 Q And approximately what was that date?

5 A It was either the 9th or the 2nd, I am not sure.

6 THE COURT: Of what?

7 Q BY MR. KATZ: Either the 9th or the 2nd of August
8 1969?

9 A Yes.

10 Q This was after you had met this Charlie Tuna or
11 Charlie Manson?

12 A Yes.

13 Q When he came home with this \$45, what was his
14 attitude?

15 Was he acting normally, or was he acting in some
16 strange way, or discernible way?

17 A He was kind of upset.

18 Q Well, would you characterize it?

19 Was he agitated?

20 A Yes.

21 Q All right. Did you have a discussion about his
22 state of mind at that time concerning Charles Manson?

23 A Yes.

24 Q Would you please tell us what he said, and again,
25 this is offered for state of mind evidence only and not the
26 truth of the assertions, but what he said about Charlie Tuna
27 or Charlie Manson at that time.

28 MR. WEEDMAN: To which I will object, your Honor,

1 on the grounds that Mr. Shea's state of mind at that time has
2 no relevancy or bearing on any issue in this case.

3 THE COURT: Well now, let's wait a minute. Let's see
4 where we are.

5 She has stated that at that time he was agitated or
6 aggravated, substantially that. Concerning Shea, that has been
7 testified to.

8 Now, let's start at that premise. Would conversa-
9 tions -- I am not trying to argue in front of the jury, that
10 would go into statements of Shea as to this point that she has
11 already testified to?

12 MR. KATZ: Absolutely, your Honor.

13 As a matter of fact, Mr. Weedman brought out the
14 first conversation relating to his alleged state of mind
15 towards this Charlie Tuna or Charlie Manson.

16 MR. WEEDMAN: Not at all, your Honor. Counsel is
17 absolutely misstating the point.

18 I am talking about substantive evidence of Charles
19 Manson's conduct towards Mr. Shea. It is direct evidence, your
20 Honor.

21 THE COURT: Let's go into chambers. We are getting into
22 a little hassle here.

23 Let's go into chambers.
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#19

1 (Proceedings resumed in chambers.)

2 THE COURT: Now, we are in chambers. Both counsel,
3 defendant, the sheriff, and the clerk.

4 Read the last question again so we can get up to
5 date here.

6 Now, write this down, would you please.

7 Read the question directed by the district
8 attorney to the witness about what he said concerning his state
9 of mind, something to that effect.

10 (The question was read by the reporter as follows:

11 "Q Would you please tell us what he
12 said -- and again, offered for state of mind
13 evidence only, not for the truth of the assertions --
14 what he said about Charlie Tuna or Charlie Manson
15 at that time.")

16 THE COURT: Now, make an X there because I'm going to go
17 back to that question.

18 Now, would you read -- it is out of context --
19 what question did you want now?

20 MR. KATZ: I wanted Mr. Weedman's question that he asked
21 of Mrs. Shea in which he elicited the response that Shorty had
22 told Mrs. Shea that Charlie Tuna is a guy out of Spahn Ranch--
23 and I am paraphrasing now -- who wrote some songs for the
24 Beach Boys, or was affiliated with the Beach Boys. And that
25 was offered -- I made it explicitly clear with respect to my
26 statements to the court at that time that it was offered only
27 for state-of-mind evidence and not for the truth of the
28 assertions. And Mr. Weedman concurred in that, and your Honor

19-2

1 indicated that was the instruction to be given to the jury
2 at the time of the receipt of that particular evidence.

3 Now, my point is this. As you indicated to me
4 when I opened up the door in regards to occupation, I can't
5 just cut it off. You can't have all the beneficial sides,
6 there has to be another side to it.

7 Now, the inference to be drawn from that first
8 state-of-mind evidence concerning Charles Manson was that,
9 "Well, Shorty felt friendly towards Charlie Manson. He
10 certainly didn't feel unfriendly."

11 Now, the state-of-mind evidence that I expect to
12 elicit from this witness in regards to either the Saturday of
13 August the 2nd, or the Saturday of August 9, 1969, will show
14 a marked change towards Mr. Manson. Indeed, one that is 180
15 degrees --

16 THE COURT: Well, now, all right.

17 Now, I would like to take that witness' statement
18 in chambers here for a better purpose of ruling. Is there any
19 objection, gentlemen?

20 I probably have the arbitrary right to do it.

21 MR. KATZ: I would welcome it, your Honor.

22 MR. WEEDMAN: Certainly, your Honor.

23 THE COURT: All right.

24 Bring her in, please.

25 MR. WEEDMAN: I might add, your Honor, with respect to
26 Mr. Katz's statement, that I am somehow not permitted to object
27 merely because Mr. Katz failed to object.

28 If Mr. Katz doesn't object to evidence and he lets

1 it come in, I am not bound by Mr. Katz's failure to object.

2 THE COURT: Now, you sit down here, if you will.

3 We have the witness here.

4 Now, we are in chambers. The witness, Mrs. Shea,
5 is here.

6
7 EXAMINATION

8 BY THE COURT:

9 Q You understand, Mrs. Shea, this is just the same,
10 you are giving testimony under oath just as though you were out
11 on the witness stand there, except the jury is not here and
12 the defendant is here.

13 Now, subject to objection, read the question now
14 to this lady.

15 You listen to the question.

16 (The question was read by the reporter as
17 follows:

18 "Q Would you please tell us what he
19 said -- and again, offered for the state-of-mind
20 evidence only, not for the truth of the assertions"--

21 THE COURT: Let me add, let's get this in the question,
22 set the date.

23 MR. KATZ: I will reframe at this point.

24 THE COURT: Yes, right here. What he said. Set the
25 date in the question.

26 MR. KATZ: All right.
27
28

EXAMINATION

BY MR. KATZ:

Q Now, as I understand it, Mrs. Shea, you indicated that your husband, Donald Shea, returned from Spahn Ranch to your place at Wilcox on the day that he had received \$45 as a commission for selling a horse to a Bridgett, is that correct?

A Yes.

Q All right.

Now, with respect to that, do you recall -- and think for a moment whether that was on a weekday or a weekend?

A It was a weekend.

Q All right.

Do you recall the day of the weekend?

A It was a Saturday.

Q All right.

And as I believe you indicated before, that was the day that you went out to celebrate, is that right?

A Yes.

Q That night?

A Yes.

Q All right.

Now, do you recall whether or not -- strike that.

Do you recall whether it was -- which Saturday it was?

A August the 2nd, I think. I can't recall, but I know it was a Saturday.

Q All right.

THE COURT: Set the month.

1 MR. KATZ: August the 2nd, she said.

2 THE COURT: That is what I want to get. August 2nd?
3 That is the day? I want to get that from the witness.

4 Q BY MR. KATZ: Now, I believe you also indicated
5 that it was possible it could have been the Saturday following
6 that, August 9th, is that right?

7 A Right.

8 THE COURT: The 9th.

9 Q BY MR. KATZ: In any event, you are positive --
10 and tell me if you are not -- that it did occur in August on
11 one of those two dates, is that right?

12 A Yes.

13 THE COURT: Of '69.

14 Q BY MR. KATZ: Of '69?

15 A Of '69.

16 THE COURT: All right.

17 Q BY MR. KATZ: This is before August 16, 1969, the
18 date of your separation, is that correct?

19 A Yes.

20 Q Did this event occur also before you returned to
21 Spahn Ranch on the second occasion when you met Tex Watson and
22 Ruby Pearl and some of the girls?

23 A Yes.

24 Q All right.

25 Now, would you please tell us what it was that
26 Shorty said in his agitated state about Charles Manson?

27 A He said that Charlie Tuna threw a knife, and just
28 missed his head as he was walking down the boardwalk on the

1 old movie set.

2 And he said that he asked --

3 THE COURT: Who said that? That is Shea? Go on, now,
4 I am trying to get the names in there.

5 When you say "he" -- I will show you what I mean --
6 when you say "he said" I don't know whether you mean Manson
7 said or Shea said.

8 THE WITNESS: I am sorry.

9 THE COURT: Start again. What did Shea say to you?
10 Put the names in.

11 THE WITNESS: Donald told me that Charles Manson threw
12 a knife, and it just missed his head as he was walking down --

13 THE COURT: Who is "he"?

14 THE WITNESS: Donald.

15 THE COURT: Don was walking?

16 THE WITNESS: As Don was walking down the boardwalk of
17 the old movie studio at the Spahn's Ranch.

18 THE COURT: Yes, now, go on.

19 THE WITNESS: And he asked --

20 THE COURT: Who is "he"?

21 THE WITNESS: Don asked Charles Manson why did he throw
22 the knife at him. And Charles Manson told him, "I might as
23 well to kill you now because our brothers are going to kill
24 you anyway."

25 Q BY MR. KATZ: And then what was said?

26 A And asked him what did he mean by "brothers."

27 Q Now, who is "he"?

28 A Donald said that he meant that the Negroes was

1 going to kill him anyway.

2 THE COURT: All right.

3 Now, let me stop right there. I won't try to
4 stop you. I'm going to lose my thought.

5 MR. KATZ: Yes, your Honor.

6 THE COURT: Those are statements of Manson to Shea.

7 MR. KATZ: And acts.

8 THE COURT: Rather than Shea's state of mind, they are
9 statements of Manson, isn't that true?

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19a-1 1 MR. KATZ: No, it is not true because you are assuming
2 that I am offering them for the truth of the assertions, which
3 I am not. I emphasize very clearly that just as the statement
4 was made "Charlie Tuna" -- and there is no such evidence --
5 "was a composer or wrote a song for the Beach Boys" which could
6 conceivably be referred to as a statement of memory as to a
7 past event, but it is not offered for the truth of the
8 assertions, that is, the truth of a past event, it is offered
9 to show how does he feel? How is he thinking?

10 THE COURT: How does Shea feel?

11 MR. KATZ: Right. Now, what we are showing here is a
12 complete turnabout, a 180-degree turnabout from the alleged
13 attitude he had towards Manson, brought out, I might add, on
14 cross-examination by Mr. Weedman.

15 We are showing that on August 2nd or August 9th,
16 in a critical period just preceding the raid, how his attitude
17 was.

18 THE COURT: Whose attitude?

19 MR. KATZ: Shea's, excuse me.

20 THE COURT: All right.

21 MR. KATZ: Shea's attitude, his state of mind.

22 THE COURT: But this doesn't -- I am not trying to take
23 issue, I am discussing.

24 This shows again an attitude of Manson but not
25 necessarily of Shea, does it?

26 MR. KATZ: No, because we are showing reaction. We are
27 showing response.

28 THE COURT: What is Shea's response?

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1 MR. KATZ: Well, his response is in the whole tenor of
2 the conversation showing how upset he is. How he is feeling
3 and he is agitated and he indicates that he is upset with
4 Charlie Tuna.

5 Well, you have got to have some conversation in
6 there which shows his state of mind. You can't just come to
7 the conclusionary statement by this witness that Shorty Shea
8 was extremely upset with Charlie Tuna or Charles Manson, as
9 it were, without some basis for it.

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1 THE COURT: All right. Now, let me stop you right
2 there.

3 MR. KATZ: I want to refer your Honor, and I know you
4 are familiar with the case, the Finch case. There you had
5 testimony from numerous witnesses, such as the maid, such as
6 the lawyer, such as friends, to the effect that my husband,
7 Dr. Finch, has beaten me. He bludgeoned me, threw me against
8 the wall. He took me down one time and sewed up part of my
9 face, and he did all sorts of horrible things to me.

10 THE COURT: If you have your corpus in, statements of --
11 for instance, Finch, could be admissible as admissions.

12 MR. KATZ: I didn't make myself clear.

13 We are talking about Mrs. Finch talking to other
14 persons, and this was introduced in the case in chief to show
15 her state of mind, and indeed her fear of Mr. Finch and Carole
16 Tregoff.

17 THE COURT: Prior to the prima facie showing of the corpus?

18 MR. KATZ: I can't say whether or not it was prior.

19 THE COURT: There is a vital difference.

20 MR. KATZ: Well, your Honor, certainly you have the
21 inherent power and discretion to alter the order of proof. As
22 a matter of fact, in conspiracy cases, which I will be happy
23 to cite to the court, they say it is almost mandatory to permit
24 the People to alter the normal channels of proof so that you
25 can put this mosaic in a comprehensible and understandable
26 fashion, because conspiracies don't come forth full blown.

27 THE COURT: But these statements that you are purporting
28 now of Manson to Shea are in the nature of an admission or

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1 confession.

2 MR. KATZ: No, your Honor.

3 THE COURT: Well, they are an admission, "I am going to
4 kill you. I might as well do it now."

5 MR. KATZ: That is not an admission.

6 THE COURT: I don't know what you want to call it.
7 Whatever you may want to label it, a man says, "I am going to
8 kill you. I might as well do it now."

9 MR. KATZ: Your Honor, you are assuming that I am offer-
10 ing it for the truth of the assertions, number one. I am not
11 offering it for the truth. I am only offering it to show how
12 he felt about Mr. Manson.

13 Now, Mr. Weedman brought this up on cross-
14 examination. Are you telling me he can put on the good stuff,
15 and the door is closed? I can't show how he felt concerning
16 Manson, his attitude and state of mind in connection with the
17 motive and reason for his disappearance, whether by a criminal
18 agency or whether he voluntarily left Spahn Ranch?

19 THE COURT: Well, if you had a prima facie showing of
20 death by a criminal agency, I would say to go ahead and put in
21 your statement.

22 That isn't in here yet. These are very violent
23 statements. These are very violent statements. At this
24 stage of the proceedings without death through a criminal
25 agency, as the law prescribes is the corpus in a murder case,
26 to come in at this time, if you get your corpus in here I would
27 say to put them on but --

28 MR. KATZ: Your Honor, first of all we're not talking

1 about admissions to fortify the corpus delicti of a crime.
2 I think your Honor, respectfully, is confusing that area.

3 THE COURT: But that is the effect of it. That is my
4 point.

5 MR. KATZ: No. If you are talking about statements which
6 come in to fortify the corpus delicti of a crime, you are
7 talking about things offered for the truth of the assertions.

8 THE COURT: That is right. I know it.

9 MR. KATZ: All right. Now, this statement, as I indicated
10 in part of my questioning, was not offered for the truth of
11 the assertions, i.e. that Charlie, in fact, threw a knife at
12 him or that Charlie, in fact, said he was going to kill him.
13 It is offered to show how Shea --

14 THE COURT: To show how worried Shea was, scared to
15 death.

16 MR. KATZ: Exactly.

17 THE COURT: But it does more than that, because suppose --
18 let's just take it another step.

19 Let's just say that instead of Manson telling Shea,
20 "I've got a knife. I should just as well kill you now,"
21 something like that, suppose Manson says to Shea at that very
22 time, and let's strengthen it -- let's say Manson says,
23 "Listen, Shea, I am going to kill you. I am going to kill you
24 as sure as you are standing there," and stops right now.

25 You offer that statement at this time.

26 Right now I am saying you are offering it to
27 illustrate what I am disturbed about. You tell me, or you
28 very sincerely make the statement that "I am not showing that

1 as an admission of Manson, that he is going to kill Shea, but
2 I am simply offering it to show the state of mind of Shea,
3 that he is disturbed."

4 Now, undoubtedly it would show a disturbed state
5 of mind. It undoubtedly would give him some fear. I would
6 think it would, if a man has a gun or a knife and says, "I am
7 going to kill you."

8 He would have a disturbed state of mind, very
9 disturbed, but I am not satisfied that that kind of a statement
10 can come in at this time.

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1 MR. KATZ: May I ask you this --

2 THE COURT: In effect, it is an admission, whether you
3 want to temper it down or not.

4 The court says to the jury to forget it, just
5 forget everything about it. You see, you have one of the
6 alleged perpetrators of murder, murder. It is just as though
7 the statement, if the conspiracy is shown -- it is just as
8 though Grogan is saying it, "I am going to kill you."

9 Then I tell the jury, well, don't pay any attention
10 to it. It is just for the state of mind. I doubt very much
11 the right of the court, and I doubt very much if the court
12 will sustain conviction based on that.

13 MR. KATZ: As a matter of fact, under People versus
14 Alcalde and People versus Atchley, that would not only be
15 admissible, but it would be one of the most important pieces
16 of evidence.

17 THE COURT: Is the defendant speaking in those cases?

18 MR. KATZ: Absolutely.

19 THE COURT: Get it off the shelf.

20 MR. KATZ: It was a statement of present intent to commit
21 a future act.

22 MR. WEEDMAN: Your Honor, may I just remind counsel that
23 it is Steve Grogan that is on trial here, not Charles Manson.

24 If counsel is intending to offer this horrendous
25 statement against my client, it is totally out of order
26 because there is absolutely not a shred of evidence of any
27 conspiracy here, not a shred.

28 THE COURT: No, but if there is a conspiracy shown, an

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1 act, statement or declaration of Manson is an act, statement
2 or declaration of Grogan, if a conspiracy and an overt act is
3 shown, that is the law.

4 MR. WEEDMAN: But you cannot show conspiracy by alleged
5 statements, as you know, of --

6 THE COURT: That I concede. That is what I am getting
7 at again.

8 MR. WEEDMAN: Absolutely.

9 THE COURT: I am very disturbed at the effect of the
10 statement.

11 While I may say to the jury, "Pay no attention to
12 that statement, don't pay any attention to it," it is only
13 admissible to show the aggravated state of mind of Shea --

14 MR. KATZ: Your Honor, in the Finch case, and again I
15 want to emphasize --

16 THE COURT: Get Finch.

17 MR. KATZ: I want to bring the case to you because --
18 may I just quickly make this point?

19 THE COURT: I will find it here. Wait a minute. We
20 have all the time in the world.

21 Here is Ray, and that cites Finch.

22 MR. KATZ: May I get my notes, please?

23 THE COURT: Yes, you certainly can. Sure.

24 MR. KATZ: 213 Cal. App. 2d --

25 THE COURT: It is on the bench. That is where it is.

26 Frank, there's a 1967 case, Supreme Court case.
27 Hand it to me. It is on the bench, I am sorry.

28 Thank you, Frank. This is it right here, Scott and

1 Ford.

2 All right. Let's go to the Scott case for the
3 moment. Oh, I thought Finch was cited in Scott, but apparently
4 it is not.

5 All right. Now, you say that Scott indicates your
6 point?

7 MR. KATZ: Finch certainly does.

8 THE COURT: Finch indicates your point.

9 Is that correct?

10 MR. KATZ: Yes, your Honor.

11 THE COURT: What is your citation on Finch?

12 MR. KATZ: 213 Cal. App. 2d, 752.

13 THE COURT: 213? Here we are. What is the page?

14 MR. KATZ: 752, your Honor, is the beginning page.

15 THE COURT: All right. Let's see where we are.

16 MR. KATZ: I would invite your Honor's attention to
17 page 766, as well as other pages.

18 MR. WEEDMAN: Your Honor, may I make this observation?
19 I think it might aid the court in some respects.

20 I say that most humbly and most respectfully, that
21 there are certain cases, the Atchley case and the Finch case
22 are among those cases, which hold that a decedent's declaration
23 is with respect to matters which would give rise to an
24 inference of their state of mind -- that they are indeed
25 admissible, but only in very limited situations, and it is
26 particularly where there is an issue of self-defense involved.

27 As a matter of fact, we have a recent case, and
28 I'm sorry I don't have the citation, which reiterated the

1 rule.

2 There is a very limited area where such declara-
3 tions as Mr. Katz seeks to introduce here are, indeed,
4 admissible, because they are relevant.

5 You see, my basic objection here is not only the
6 enormous prejudice, as your Honor has pointed out, and the
7 almost impossibility on the part of the jury to separate out
8 state of mind from substantive evidence, but beyond that I am
9 objecting on the ground of relevancy.

10 Atchley and Finch make it very clear that such
11 statements are admissible only where there was a claim of self-
12 defense. In other words, where there is a claim that the
13 decedent was the aggressor, and the fight results in the death
14 of the decedent. Those cases absolutely do not stand, I
15 submit, for Mr. Katz's position.

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1 THE COURT: Let me check back now. Now, I have Finch
2 here.

3 What page -- do you have a particular page, Mr.
4 Katz? I can find it here.

5 MR. KATZ: Well, of course --

6 THE COURT: Here are declarations of deceased, point
7 No. 11.

8 MR. KATZ: Page 766, for example. 766 and 767.

9 THE COURT: Now, wait a minute. 766. That is point 11.

10 MR. KATZ: Your Honor, may I remove my coat.

11 THE COURT: Yes, certainly.

12 MR. KATZ: Thank you.

13 (Short pause.)

14 THE COURT: Here is what disturbs me. Stated in syllabus
15 14 here. Let me get this 15 on state of mind again.

16 (Short pause.)

17 THE COURT: Without answering your question for the
18 moment, Mr. Katz, let me ask a question here. You are seeking
19 to show that Shorty Shea was in a vastly disturbed state of
20 mind, and aggravated and worried and fearful. That is what
21 you are seeking to show, the state of mind by reasons of
22 Manson's statement, that's right, isn't it?

23 MR. KATZ: That is correct, and towards Manson.

24 THE COURT: All right.

25 Now, suppose you ask the witness right here "You
26 had a conversation on the 2nd or 9th of August with Shea,
27 didn't you? Yes. He related he had a conversation with
28 Manson, didn't he? Yes. And he related certain statements

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1 between Manson and Shea, didn't he? Yes. Now, after that
2 statement, after Shea related -- after your husband, after
3 Shea related these conversations to you and statements to you
4 that Manson made to Shea, is it your opinion -- is it your
5 conclusion that Shea, your husband, was in a vastly or greatly
6 aggravated state of mind, worry and fear? Did those statements
7 have affect or a fear upon your husband?"

8 Answer:-- I don't know what the answer is, but
9 suppose it's yes.

10 Now, if such questions were asked and permitted,
11 the state of mind of Shea would be established through the
12 witness' statements without going into the particulars of the
13 conversation, would it not?

14 MR. KATZ: Well, that's all I am seeking to do really,
15 your Honor.

16 THE COURT: Well, why don't you --

17 MR. WEEDMAN: Well, your Honor -- your Honor, I must --

18 THE COURT: All right.

19 MR. WEEDMAN: I must urge my most fundamental objection
20 to this line of inquiry by Mr. Katz. And it is -- and I put
21 it out as a -- as a rhetorical question, what possible
22 relevancy does Mr. Shea's state of mind have in this matter
23 at this time?

24 Mr. Katz just is assuming that state of mind is
25 relevant. And I am urging most strongly that it is absolutely
26 irrelevant in this case.

27 THE COURT: Your position is it doesn't make any differ-
28 ence what his state of mind was, is that your position?

1 MR. WEEDMAN: Why, of course.

2 We are not defending here on any theory of self-
3 defense.

4 THE COURT: Let me get Mr. Katz' answer to that. What
5 difference does it make what Mr. Shea's state of mind is?

6 MR. KATZ: First of all, I submit counsel opened the door,
7 and he cannot close it. I have a right to show his state of
8 mind now with respect to Charles Manson because he brought the
9 subject matter out on cross-examination.

10 Number one, assuming the court does not go along
11 with me, I would make a motion to strike all that testimony
12 concerning what Mr. Weedman brought out in cross-examination
13 and have the jury admonished to disregard it.

14 MR. WEEDMAN: Your Honor, Mr. Katz --

15 MR. KATZ: Can I finish?

16 THE COURT: I will give you plenty of time.

17 MR. WEEDMAN: Just in the interest of an orderly
18 presentation, Mr. Katz.

19 MR. KATZ: May I finish.

20 MR. WEEDMAN: Your Honor, you know, I have done very
21 little talking here.

22 MR. KATZ: May I finish, your Honor.

23 MR. WEEDMAN: I don't want to make -- my client is
24 charged not only with first degree murder but Mr. Katz, you
25 are seeking the death penalty. I submit an honest inquiry
26 was made by Judge Call of Mr. Katz. Mr. Katz doesn't want to
27 answer that, he wants to accuse me of something, then he
28 doesn't want to give me the remotest opportunity of replying

1 to it.

2 You know what happens, Judge, as to that kind of
3 thing which goes on about an hour, pretty soon we have got a
4 record here where I can later, if, heaven forbid, my client is
5 convicted, I can be criticized for not making a reply.

6 Mr. Katz is instead of talking about relevancy, is
7 talking about a question I asked Mrs. Shea on cross-examination.
8 I want to make that clear. I hope it is clear, that if Mr.
9 Katz doesn't object to my question at the time, it doesn't
10 mean that I cannot object to his question. I am not conceding
11 my question covered that ground at all because the thrust of
12 my question was direct observations on the part of Mrs. Shea
13 of Mr. Manson's conduct and attitude towards Mr. Shea.

14 Not talking about this kind of incredibly
15 prejudicial material that Mr. Katz seeks to introduce here.

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1 MR. KATZ: Now, to answer your question directly, your
2 Honor, if I may without any personal diatribes.

3 Number one, our evidence is going to show from
4 Ruby Pearl that Shorty Shea was surrounded by five persons,
5 Manson, Davis, the defendant Grogan, Tex Watson and she
6 believes the fifth one perhaps is Bill Vance.

7 All right.

8 And that he was placed in such a position that he
9 was not able to escape or had absolutely no freedom of movement.
10 That was the last time she saw him alive.

11 Point number two, at or about the same time we are
12 going to present Barbara Hoyt's testimony concerning her seeing--
13 strike that -- her hearing late at night, at the same time
14 period, Shorty Shea screaming. Screams were long. They were
15 characterized by pain and by fear.

16 She had seen Shorty that day but had never again
17 seen Shorty.

18 Now, going back to the relevancy of this, his
19 state of mind towards Charlie was such as we bring along the
20 facts as we go towards the 16th and beyond the 16th of August
21 towards September, that he had reasons to go certain places.
22 He wanted to go to Arizona, for example, to engage in the Bob
23 Bickston production so he could acquire union wages, for
24 example.

25 And he would really make it as a stuntman and an
26 actor. He wanted to go to the salt mines in Vallejo. The
27 inference is that had he been able to do so, had something not
28 interrupted him, he would have made it to those places. The

1 records would show he would have been there, or he would have
2 been some other place where he said he was going, and he would
3 have thereafter obviously contacted his very dear and very
4 loyal friends whom he had maintained contact with over the
5 years, some 15 years.

6 And the point is we have the fear here. The fact
7 that Shea is all of a sudden confronted by five individuals,
8 one of whom is Grogan. And it is very important for us not
9 only to show what his state of mind was towards these people
10 and how he would have acted around them, but it is our burden
11 to show the degree of the crime. We must show murder in the
12 first degree. After all, we are seeking a first degree murder
13 verdict. That has to be shown by circumstantial evidence.

14 THE COURT: Let's get back to the question again that
15 defense counsel has objected to, and very properly from his
16 standpoint.

17 Wouldn't your position be answered by a conclusional
18 question: "Mrs. Shea, after you had this conversation with
19 Mr. Shea in which he relates a conversation with Mr. Manson,
20 was Mr. Shea aggravated, nervous, fearful? Did you observe
21 that?"

22 Wouldn't that answer your question?
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1 MR. KATZ: As I say --

2 THE COURT: If asked without asking for the conversation.

3 MR. KATZ: Yes, your Honor. As I say, I would be will-
4 ing to do that, and I accept your Honor's very concise
5 analysis.

6 THE COURT: I will go along with that. I might go in
7 that manner.

8 MR. KATZ: In other words, if I can't get the whole
9 cloth, I will certainly take a half cloth.

10 THE COURT: Take a piece of the pig instead of all of it?

11 MR. KATZ: I would be grateful for at least the oppor-
12 tunity to present it that way.

13 THE COURT: Now, look, folks, let's go until tomorrow
14 and we can settle the question.

15 I might go on the indicated matter here.

16 Let's go until tomorrow.

17 MR. KATZ: Mrs. Shea, I only have a couple questions
18 of you. She has been on the stand for two days.

19 THE COURT: There may be redirect, I don't know.

20 MR. WEEDMAN: Would your Honor kindly, and with all due
21 respect to Mrs. Shea, instruct her that she is not to discuss
22 her testimony?

23 THE COURT: Yes, indeed. Mrs. Shea, you must not talk
24 about this case at all to anybody, or come to any opinion or
25 conclusion.

26 This is understood to be objected to by defense
27 counsel, the question I will ask.

28 MR. WEEDMAN: Oh, no, your Honor.

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1 THE COURT: I want to get the question in the transcript
2 so there won't be a change one way or the other.

3 MR. WEEDMAN: I'm sorry, your Honor. I just wanted to
4 tell Mrs. Shea simply not to discuss the case.

5 THE COURT: Let me ask it, and then you can get your
6 objection in.

7 MR. WEEDMAN: Well, all right, your Honor.

8 THE COURT: Now, Mrs. Shea, you testified that you had
9 a conversation with Mr. Shea on or about August 2nd, or maybe
10 it was August 9th of 1969?

11 THE WITNESS: Yes.

12 THE COURT: And that he just had some type of conversa-
13 tion with Mr. Manson prior to your talking to him?

14 THE WITNESS: Yes.

15 THE COURT: After you had this conversation with Mr. Shea
16 in which he related to you what Manson had said to him, to
17 Mr. Shea, did your husband appear nervous, worried, fearful
18 as a result of that conversation?

19 THE WITNESS: Yes.

20 THE COURT: Get your objection in.

21 MR. WEEDMAN: Well, we are here in chambers, your Honor,
22 of course.

23 THE COURT: But it is deemed objected to.

24 MR. WEEDMAN: If you like, your Honor. Yes, because
25 I have no objection whatever to your Honor's asking questions
26 in order to make a ruling here.

27 THE COURT: Now, let's go until tomorrow. The answer
28 is in.

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1 We will take it in front of the jury and you may
2 make your objection again.

3 MR. WEEDMAN: Well, excuse me. Is your Honor ruling in
4 this matter for Mr. Katz, because I certainly want to be heard
5 further.

6 THE COURT: All right. We will come back in chambers.
7 I will give you plenty of time.

8 I will listen to you carefully.

9 MR. WEEDMAN: Yes, and I might add, your Honor, just
10 for Mr. Katz's benefit at this time that I am going to be
11 citing People versus Lew, a 1968 case, in 68 Cal. 2d, 774,

12 THE COURT: All right.

13 MR. WEEDMAN: I am certainly going to be citing the
14 Hamilton case, the so-called Hamilton limitations. I'm sure
15 Mr. Katz is familiar with this.

16 People versus Hamilton is at 55 Cal. 2d, 881.
17 These are more recent and thorough discussions of this very
18 problem, your Honor.

19 THE COURT: I will make no ruling until we have a re-
20 statement of the whole situation.

21 MR. WEEDMAN: I appreciate it very much.

22 THE COURT: There will be no rushed rulings for either
23 counsel.

24 (The following proceedings were had in
25 open court in the presence of the jury.)

26 THE COURT: We are back in the courtroom. This is People
27 against Grogan. The defendant is here, and counsel are here.
28 The jury and the alternates are present.

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You are excused until tomorrow morning at 9:30, Mrs. Shea. Do not discuss the case with anyone.

We are going to recess the case until tomorrow morning at 9:30, ladies and gentlemen. Do not discuss the case or come to any opinion or conclusion. Thank you.

(At 4:05 p.m., Thursday, July 22, 1971, an adjournment was taken until 9:30 a.m., Friday, July 23, 1971.)