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SABECK'S ✓  
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.

NO. A 267861

STEVEN GROGAN,

Defendant.

REPORTERS' DAILY TRANSCRIPT

FRIDAY, July 23, 1971

APPEARANCES:

(See Volume 1)

VOLUME 18

Pages 2271-2425, incl.

Reported by:

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Official Reporters

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1 People v. Steven Grogan  
2 No. A267861

VOLUME 18, Pages 2271-2425, incl.  
Friday, July 23, 1971

3  
4 I N D E X

5 PEOPLE'S WITNESSES

DIRECT

CROSS

REDIRECT

RECROSS

6 SHEA, Magdalene Velma

2320

2326

7 (In chambers, no jury- 2347)

8 BABCOCK, Sharon

2350

9 (Cont'd) P.M.

2361

2372

10 BABCOCK, Jimmy R.

2379

2399

2422

2423

11  
12  
13  
14 E X H I B I T

15 PEOPLE'S

FOR IDEN.

16 28 - (Out of order) Xerox copy of

17 telephone bill dated 9/25/69

2369

1 LOS ANGELES, CALIFORNIA, FRIDAY, JULY 23, 1971

2 9:45 A.M.

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

6 THE COURT: Now, we are in chambers on Friday the 23rd  
7 of July 1971.

8 Defense counsel is here. Defendant is here.  
9 The clerk and sheriff are here. The deputy district attorney  
10 is here.

11 Now, gentlemen, let's continue on our discussion  
12 here on these statements, or alleged statements of Manson to  
13 Shea related by Shea to the wife.

14 MR. KATZ: Statements and conduct, your Honor.

15 THE COURT: I haven't gotten that far.

16 MR. KATZ: I am sorry.

17 THE COURT: Give me a chance. I will get to it.

18 Statements -- I will put it in there -- statements  
19 and conduct. You are correct in that -- by Manson to Shea as  
20 related by the wife, Mrs. Shea, to show the state of mind of  
21 Shea as a result of the statements and/or conduct of Manson.

22 That's about it, isn't it?

23 MR. KATZ: Yes, your Honor.

24 THE COURT: All right.

25 Now, first of all, let's get down to our genesis  
26 on this. First of all, the Dr. Finch case -- and in that  
27 opinion excerpts from the Hamilton case indicate -- I have read  
28 this a number of times -- indicate several propositions but

1 first of all the state of mind must be in issue for one thing.  
2 It is the state of mind in issue? Statements -- is it in  
3 issue and if it is in issue, the court poses a question -- let's  
4 assume it is in issue, the court poses a question, should the  
5 statements of the deceased person be related in front of the  
6 jury because of the possible prejudicial effect on the jury  
7 irrespective of whether or not the state of mind of the deceased  
8 person is in issue?

9 Now, it's posed in this fashion in Finch, page 765,  
10 point 9 and 10, for instance.

2-1

1 213 Cal. App. 2d. I won't read the whole length  
2 of it.

3 It is picked up pretty well in this subdivision 10  
4 of the opinion. In Hamilton the court pointed out, citing  
5 the case, that there should be rigid limitations on the admis-  
6 sion of such testimony.

7 "When the declarations are of such nature  
8 as to be obviously prejudicial, and where any  
9 possible proper benefit to the prosecution is  
10 far outweighed by its prejudicial effect to the  
11 accused, such evidence should be excluded."

12 The court further noted at page 895 of Hamilton  
13 as follows:

14 "Some of the otherwise admissible declara-  
15 tions of the decedent as to her fear of the  
16 defendant, because of threats were not made  
17 under circumstances" --

18 I'm going to jump off there and go over now to the bottom of  
19 page 76.

20 "In Hamilton portions of the state of  
21 mind evidence were held to be prejudicial.  
22 By these declarations prosecution was able  
23 to tell" --

24 this is the disturbing factor in my mind. "By these declara-  
25 tions the prosecution was able to tell the jury," mainly  
26 through the mouths of law enforcement officers on that case,  
27 "on innumerable occasions the defendant had brutally beaten  
28 his ex-wife and otherwise assaulted her in not a very subtle

1 way. It was told the jury what kind of man he was. That was  
2 before them on trial. It must inevitably follow that if the  
3 jury believe that the decedent was in fear of her life, it was  
4 only because defendant had, in fact, beaten and otherwise  
5 assaulted her. Logically, it is impossible to limit" -- here  
6 is my disturbance. "Logically, it is impossible to limit the  
7 prejudicial and inflammatory effect of this type of hearsay  
8 evidence in the minds of the jury."

9 Now, that is the situation and that is the law.  
10 That is the law even though the People are -- that is the law,  
11 assuming but not conceding -- let's assume it, that the state  
12 of mind is in issue.

13 Now, Mr. Weedman makes a point that the state of  
14 mind is not in issue but for the moment let's assume that it is  
15 in issue.

16 The law is if the state of mind is in issue, the  
17 question the court has to face head-on right here, and you have  
18 got it right here, is again this. "Logically, it is impossible  
19 to limit the prejudicial and inflammatory effect of this type  
20 of hearsay evidence."

21 Now, that is what worried me yesterday before I  
22 culled out or read the statement in Finch. That was the  
23 factor that was disturbing me terribly. It still bothers me.

24 Now, last night I posed the question that the  
25 People might be able to circumvent inflammatory statements by  
26 asking the wife, or Mrs. Shea, in substance, you had a  
27 conversation with Mr. Shea on such and such a date. Yes. And  
28 Mr. Shea stated to you he had a conversation with Manson, and

1 Manson related -- talked to Mr. Shea. Yes. Now, after Mr.  
2 Shea told you of his conversation with Manson, are you able to  
3 state the effect or what was the state of mind. What was the  
4 appearance, or what did appear to be the state of mind of Shea.  
5 Can you answer that, Mrs. Shea. Yes, he was nervous. He was  
6 excitable. He appeared in a state of fear, or whatever her  
7 answer is.

8 That was my feeling. Now, that is, if possible,  
9 as I indicated last night, that could be used -- I am putting  
10 the question marks in because I am disturbed. That could be  
11 used as an answer to the contentions of the People.

12 They want to show a state of mind. It might be  
13 shown without going into alleged inflammatory acts or statements  
14 of Manson. That is number one.

15 Number two is a very profound question that defense  
16 counsel raises. Is the state of mind in issue?

17 As I get it from you, Mr. Weedman, your question  
18 is whether the state of mind is in issue at this time.

19 Is that briefly your position?

20 MR. WEEDMAN: Yes, your Honor.

21 THE COURT: The court, again, in Scott discusses con-  
22 siderably that position, is the state of mind properly in issue  
23 or not before you can get in -- whether you circumvent the  
24 statements of Manson or not, you still have to get a proper  
25 basis for the question or a structural background to the  
26 question of whether the state of mind is in issue.

27 Now, that disturbs me.

28 Now, you take page 765 of Finch. It is right on



1 that point. They point out where the state of mind is properly  
2 in issue. For instance, this is in Finch. Now, this is Finch.

3 "Likewise, in the case at bench, the  
4 state of mind evidence was offered to show  
5 that the deceased,"

6 that is the wife of Finch,

7 "was in mortal fear of her husband, and for  
8 that reason would never have gone home on the  
9 night of July the 18th had she known or  
10 suspected the defendants,"

11 Finch and his girlfriend,

12 "would be there. She would have driven away  
13 had she seen them,"

14 that is the deceased wife,

15 "and that being afraid of guns she did not  
16 have her husband's .38 with her in the car.  
17 She did not draw the gun and point it at the  
18 defendant Tregoff,"

19 that is the co-defendant girlfriend,

20 "and that defendant Finch would not have  
21 fractured her skull and struck her with the  
22 gun in self-defense as he contended would  
23 happen."

#3

1 Now, the court further says clearly in this case  
2 as in Hamilton the state of mind of the deceased -- this is  
3 Finch's wife, in our case Shea -- was properly in issue.

4 Now, they point out there where a state of mind  
5 is in issue.

6 So, therefore, let me ask the People in what way  
7 do you hold the position that at this juncture in the case  
8 right now the state of mind of Shea is in issue, Mr. Katz?

9 MR. KATZ: By reason of the evidence brought out by  
10 the defense that --

11 THE COURT: On cross.

12 MR. KATZ: On cross examination, that Mr. Shea inferen-  
13 tially had friendly feelings, good feelings for Mr. Manson  
14 and had a reasonably good relationship with him.

15 Now, this is obviously inferences to be drawn by  
16 the questions and answers propounded to Mrs. Shea on cross  
17 examination.

18 Let me say this, your Honor, because you have very  
19 well analyzed the Hamilton doctrine and the limitations  
20 therein. I think without mentioning Mercouris, it must be  
21 mentioned that it has been disapproved and mentioned in the  
22 comments to 1250 of the Evidence Code.

23 Let me say at the outset so both Mr. Weedman and  
24 your Honor are well apprised, I am not now seeking --

25 THE COURT: All right.

26 MR. KATZ: -- to introduce -- because I think this will  
27 save a lot of time -- the conversation itself which would  
28 contain the following:

1 THE COURT: The conversation with Mrs. Shea and --  
2 pardon me, the conversation of Shea and Manson you are talking  
3 about?

4 MR. KATZ: Through the mouth of Mrs. Shea.

5 THE COURT: All right. Now go on.

6 MR. KATZ: Which would have contained approximately the  
7 following: "Charlie Tuna threw a knife at me, and when I  
8 asked him why he did so Charlie replied, in substance, 'well,  
9 I might as well kill you because if I don't, your brothers  
10 will do it,' whereupon I asked him what you meant by that, and  
11 he said, 'You know, your wife's black brothers.'"

12 Now, I do not intend to elicit any of that because  
13 I feel it is a statement of memory as to past events which,  
14 even though I would like to offer it as state of mind evidence,  
15 would be restricted under these particular circumstances,  
16 at this particular time, under the Hamilton doctrine, under  
17 the cases which disapprove of the Mercouris doctrine because  
18 of the statements of fear which were actually used by the  
19 prosecutor to tell the jurors that these past events had  
20 actually occurred.

21 All I wish to do, therefore, at this time -- I  
22 think I am permitted to do so -- is elicit the following:

23 THE COURT: From the wife.

24 MR. KATZ: Yes.

25 "Mrs. Shea, you said that you did have a second  
26 conversation concerning Charlie Tuna or Charlie Manson, is  
27 that correct? Yes."

28 And I will then elicit the approximate date and

1 time the conversation took place.

2 Then I will ask, "Now, did you discuss once again  
3 Charlie Tuna? Yes."

4 And without eliciting any conversation or conduct  
5 on the part of Manson between Shea and Manson, that is, I will  
6 ask her how -- and phrasing it in the general manner that the  
7 court did: "After you had this conversation with Mr. Shea in  
8 which he related to you what Manson had said to him to Mr. Shea,  
9 did your husband appear nervous, worried, or what was his  
10 attitude as a result of the conversation?"

11 That is all I am going to elicit, the response,  
12 her observations as to his conduct, his attitude, something  
13 that she could perceive. No hearsay will be involved in regard  
14 to this. It is merely circumstantial evidence as to his re-  
15 action and his state of mind concerning Mr. Manson.

16 THE COURT: Now, you want to answer that, Mr. Weedman?

17 MR. WEEDMAN: Well, if I understand Mr. Katz at this  
18 point, he is seeking to introduce evidence that following a  
19 conversation between Mr. Shea and Charles Manson, Mr. Shea  
20 exhibited fear and anxiety.

21 Again I raise the problem what possible relevancy  
22 does Mr. Shea's feelings of -- other than to show conduct on  
23 the part of Mr. Manson, if we are talking about any exception  
24 to the hearsay rule by way of state of mind, we are talking  
25 about relevancy only insofar as it might demonstrate and explain  
26 acts or conduct of the declarant, which, in this case, would  
27 be Mr. Shea.

28 There is absolutely no relevancy, your Honor.

1 There is no need to -- well, you go ahead. I am sorry, your  
2 Honor. I am just trying to make a record here.

3 THE COURT: I didn't mean to interrupt you.

4 MR. WEEDMAN: No, I want you to go ahead, your Honor.

5 THE COURT: Now, Mr. Katz said in substance that it was  
6 an effort on his part to answer your position or the result  
7 of your cross examination, that Shea and Manson were friendly.  
8 Have I stated that correctly?

9 MR. KATZ: That was the primary reason. I had a second  
10 reason.

11 THE COURT: You correct me if I mistake you.

12 MR. KATZ: Yes.

3A

#3A

1 THE COURT: And this is to show, "No, they were not,  
2 friendly. There was a fear insofar as Mr. Shea is concerned."

3 MR. WEEDMAN: But it is hearsay, your Honor. It is  
4 hearsay coming from Mr. Shea. In other words, what Katz is  
5 doing indirectly, and he is trying to do it indirectly now,  
6 what he cannot obviously do directly, he is trying to show  
7 that there was an argument and/or that there were some threats  
8 or something that transpired between Mr. Shea and Charles  
9 Manson.

10 That is hearsay. You can't prove that by the  
11 statements of Mrs. Shea. We are talking about third party  
12 hearsay now.

13 THE COURT: Well, would it be shown by the state of  
14 mind, would it be shown by Mrs. Shea's statements Mr. Shea was  
15 worried, nervous, fearful after relating this conversation?  
16 Could that circumstantially -- could that circumstantial  
17 inference or direct statement of physical well-being of Shea  
18 be stated for the purpose of showing "No, they weren't friendly,  
19 no, there was no friendship between them"? Would it not be  
20 a proper element of rebuttal in redirect?

21 MR. WEEDMAN: No, your Honor, because what it shows by  
22 inference is that there were probably some threats from  
23 Charles Manson to Mr. Shea. That's all hearsay.

24 MR. KATZ: It is not, your Honor.

25 MR. WEEDMAN: That can't be related -- do you mind,  
26 Mr. Katz?

27 I am sorry, your Honor.

28 THE COURT: All right.

1 MR. WEEDMAN: Mr. Katz has interrupted me, and I have  
2 lost the train of my thought.

3 May I begin again?

4 THE COURT: All right. Go ahead.

5 MR. WEEDMAN: I would like to back up for a moment, too.

6 THE COURT: Back up. We won't rush you.

7 MR. WEEDMAN: Part of Mr. Katz's theory apparently of  
8 admissibility here is that on cross examination I sought to  
9 establish that during the first meeting at least between  
10 Mr. Shea and Charles Manson and Mrs. Shea, that nothing by way  
11 of any unfriendliness appeared. There appeared to be no  
12 hostility. There appeared to be nothing of that kind. And I  
13 produced that on cross examination by direct evidence.

14 This was the product of Mrs. Shea's direct obser-  
15 vations of conduct between her husband and Charles Manson.  
16 The only possible element of hearsay that crept into that was  
17 the statement, not offered for the truth, that he was introduced  
18 as Charlie Tuna, a person who had written some music for the  
19 Beach Boys.

20 I did not open the door in any way to permit  
21 Mr. Katz to come back and talk about a conversation that  
22 involves statements by Charles Manson related to Mr. Shea and  
23 then testified to by Mrs. Shea. It's hearsay upon hearsay.

24 And we can think about Hamilton, and we can think  
25 about Mercouris, and we can talk about 1251a of the Evidence  
26 Code until we are blue in the face, but the fact remains that  
27 it is prejudicial hearsay of the rankest kind.

28 And your Honor's first reaction to this, I submit,

1 was absolutely correct. There is only one reason that  
2 Mr. Katz seeks to introduce evidence that Mr. Shea, following  
3 a conversation with Charles Manson, was fearful, and it is  
4 because Charles Manson made some threats towards him.

5 And I might add, your Honor, I object to it on the  
6 further ground that there is absolutely no connection between  
7 that and my client. None whatsoever. My client wasn't present,  
8 did not adopt these statements in any way at all.

9 And to permit this kind of thing to be heard by  
10 the jury is just asking for reversible error in this case, in  
11 my humble opinion.

12 MR. KATZ: May I answer that, your Honor?

13 THE COURT: Well, wait a minute. Now, I will listen  
14 to you. I am discussing with one counsel there, and I will  
15 hold onto him. I will listen to you in just a minute.

16 MR. KATZ: Yes, your Honor.

17 THE COURT: Let me ask you this. Your cross examination  
18 in part of Mrs. Shea was -- let us cull it down, was something  
19 to this effect: I may be jumping along as I ask it:

20 "Mrs. Shea, did you at any time observe anything other than  
21 good will or friendship between Mr. Shea and Mr. Manson?"  
22 That is the substance of your cross examination, isn't it?

23 MR. WEEDMAN: That's correct, your Honor.

24 THE COURT: Now, you correct me. I am not trying to  
25 mislead anybody.

26 MR. WEEDMAN: No, that is correct.

27 THE COURT: But I have got to call on my memory, and it  
28 is hard. To take that question, in substance, either the



1 direct statement or in answer or the inference was "Well, now,  
2 there seemed to be pretty good friendship between them," or  
3 "there appeared to be a friendship basis," something to that  
4 effect.

5 Now, if Mrs. Shea can tell you on cross examination  
6 the conduct of Shea and Manson seemed to be one of a friendly  
7 nature, then would it not be permissible for the People on  
8 redirect to ask Mrs. Shea, "Well, all right, Mrs. Shea. You  
9 have told defense counsel that the conduct between Manson and  
10 Shea was friendly and of an amiable nature, now. But isn't it  
11 true, or after you had a conversation with Mr. Shea on  
12 August 2nd or 9th, would you say that Mr. Shea still had what  
13 would appear to be a friendly relationship with Manson, or  
14 would you say that now Mr. Shea's conduct was one of fear and  
15 anxiety?"

16 Wouldn't that be a correct redirect?

17 MR. WEEDMAN: Your Honor, I agree that it is relevant.  
18 There is no question about relevancy here. It is a question  
19 of how the prosecutor is going to be permitted to prove it.

20 How do we know that Shea talked to Charles Manson  
21 on some second occasion? How do we know that? We only know  
22 that because Mrs. Shea told us that he talked to her husband  
23 and that is what her husband told her. That is hearsay.

3-5  
1 THE COURT: I would agree with you what Shea told Mrs.  
2 Shea is hearsay.

3 MR. WEEDMAN: You see, on my cross-examination, your  
4 Honor, of Mrs. Shea, I asked her for direct observations of  
5 the two men that were before her very eyes. On the question  
6 of the relationship between Charles Manson and her husband.

7 Now, apparently a week or two later her husband  
8 comes home. Charles Manson is nowhere around. Her husband  
9 comes home and tells her that he has had a conversation or he  
10 has had some contact with Charles Manson. That's hearsay.

11 If she had been at the ranch, your Honor, and she  
12 had seen the knife-throwing incident and she had heard Charles  
13 Manson threaten her husband then obviously Mr. Katz could have  
14 her so testify.

15 THE COURT: Well, I think I will make this ruling: --

16 MR. WEEDMAN: Well, may I add this then, your Honor.

17 THE COURT: Sure.

18 MR. WEEDMAN: How am I going to cross-examine Mrs. Shea  
19 with respect to Mr. Shea's state of mind? How can I possibly  
20 cross-examine her if you permit this to come in?

21 THE COURT: Well, you will have to open up what you  
22 don't want to open up, naturally. I am not asking you to.

23 MR. WEEDMAN: Your Honor, you see, that is the proof of  
24 the error in permitting Mr. Katz to ask these questions.  
25 Because the proof of it is that you are permitting Mr. Katz to  
26 do indirectly what you have already indicated the law will not  
27 permit him to do directly. Then you immediately preclude me  
28 from effective cross-examination with respect to this.

3-

1 I am locked out. Which proves the error of  
2 permitting Mr. Katz to ask this question.

3 THE COURT: Well, all right.

4 Then, I would answer you this way. When you asked  
5 Mrs. Shea, in substance: "Was it your opinion or your feeling,  
6 your relationship with Mr. Shea -- are you convinced of the  
7 fact that at all times the conduct between Shea and Manson was  
8 of a friendly nature?" And she says, "Yes."

9 When you ask those questions then of course the  
10 People are without any way of rebutting that if they have a  
11 way of rebutting it. Their mouth is closed.

12 MR. WEEDMAN: Your Honor, their mouth is closed because  
13 they are not permitted to introduce rank hearsay, and that is  
14 just too bad for the prosecution. That's tough.

15 I have endless hearsay that I would like to  
16 introduce. I would be very pleased to. As a matter of fact,  
17 if your Honor wants to give both sides a blanket hearsay rule  
18 at this point, I will waive any objections to any hearsay  
19 evidence. Let's just open up this trial. It will suit me fine.

20 But obviously your Honor is not going to do that,  
21 and the reason I mention it, your Honor, and the reason that I  
22 hope that I am emphasizing my strong feelings about this is  
23 that it is going to permit the prosecution to introduce the  
24 most damaging kind of material against my client, which he not  
25 only didn't participate in but it involves the notorious Charles  
26 Manson whose reputation is well known by everybody by virtue of  
27 all the publicity of the Tate-La Bianca case.

28 And then further, your Honor, I haven't the

1 opportunity of cross-examination of Mrs. Shea with respect to  
2 this unless I go into this knife-throwing incident, and this  
3 purported conversation involving threats by Charles Manson  
4 against her husband.

4-1

1 Your Honor, if you permit the prosecution to do  
2 this, I say this with all due respect and all humility, it is  
3 absolutely reversible error in this case.

4 I might add further, your Honor, that Charles Manson  
5 is an alleged, and this is by Mr. Katz' earlier arguments  
6 before this court, an alleged co-conspirator. There is  
7 absolutely not one shred of evidence of a corpus delicti for  
8 conspiracy, and to permit this kind of evidence under the guise  
9 of state of mind exception to come in is to open up error with  
10 respect to the problem of conspiracy here because I must  
11 reiterate that my client was not present when this happened  
12 between Manson and Shea, if it did happen.

13 He was not present. He did not adopt it by act or  
14 conduct or anything else. How could this possibly be -- these  
15 are statements now by a co-defendant.

16 How could they be admissible against my client?  
17 This is a problem we haven't even gotten to yet.

18 It seems to me, your Honor, that Mr. Katz just  
19 because the attitude between Shea and Manson may have some  
20 relevancy, he feels he can just go ahead and prove that up  
21 any way he wants to, and I most strenuously object to it.

22 THE COURT: I have to make a ruling here, gentlemen.

23 I have not been remiss listening to both sides,  
24 and both sides, I think, have substantial position.

25 I might be inclined to make a ruling along this  
26 line. If the question was posed -- if it were cautiously posed  
27 by the People, and I am fearful of my own quote, by my  
28 impression is to make it -- I will try it myself in abstraction.

4-2

1 Mrs. Shea, you have related on cross-examination  
2 that the general relationship between Mr. Shea and Mr. Manson  
3 was that of a friendly relationship. Answer by Mrs. Shea "Yes."  
4 Mrs. Shea, from and after August 2nd or August 9th is it your  
5 feeling that this friendly relationship still existed or not,  
6 and the answer "Yes" or "No."

7 MR. KATZ: I think that would be improper, your Honor.  
8 I think the way you phrased it yesterday would be more in  
9 keeping with the matters brought out on cross-examination, and  
10 in keeping with the law which permits us to offer no conversa-  
11 tions, as such, and offer only circumstantial evidence of the  
12 state of mind concerning Charles Manson.

13 You stated it yesterday at page 2268.

14 "After you had this conversation with  
15 Mr. Shea in which he related to you what Manson  
16 had said to him, to Mr. Shea, did your husband  
17 appear nervous, worried, fearful as a result of  
18 that conversation,"  
19 and to which the witness replied to your Honor's question,  
20 "Yes."

21 THE COURT: Well, I am revisiting my own question. If  
22 you will notice the way I have posed it the last time, I have  
23 left Manson out of it entirely.

24 Mrs. Shea, as I have indicated -- read me the  
25 theoretical question to Mrs. Shea.

26 (The record was read by the reporter  
27 as follows:

28 "Mrs. Shea, you have related on

4-3

1 cross-examination that the general relation-  
2 ship between Mr. Shea and Mr. Manson was  
3 that of a friendly relationship. Answer by  
4 Mrs. Shea "Yes." Mrs. Shea, from and after  
5 August 2nd or August 9th is it your feeling  
6 that this friendly relationship still existed  
7 or not, and the answer "Yes" or "No."

8 THE COURT: You see, I have eliminated the conversation. I have  
9 put the dates in.

10 Mrs. Shea, from and after August 2nd or 9th is it  
11 your opinion that the -- there still existed a friendly  
12 relationship between Mr. Shea and Mr. Manson.

13 Now, that is a matter of visual observation, I  
14 think, so she could say -- you see, the question isn't hinged  
15 on particularly-- it gets a date.

16 Now, you have said at one time his appearance, his  
17 demeanor, his actions were friendly. Now, from a certain date  
18 on do you still have the same feeling. From August 2nd on is  
19 it still your feeling that the relationship between Manson and  
20 Shea was friendly, or not.

21 MR. KATZ: May I comment, your Honor?

22 THE COURT: I would permit it if you could ask it that  
23 way.

24 MR. KATZ: First of all, there are two basic objections  
25 to that. Number one, you are assuming that the jury is going  
26 to draw the same inference that could be drawn, which I have  
27 been drawing only for sake of argument and discussion, namely  
28 that there was originally a friendly relationship between

4-4

Mr. Manson and Mr. Shea.

Now, that is -- you are telling the trier of fact now that they are supposed to assume that. That is not the case.

They may or may not assume that from the answers which Mr. Weedman elicited from his questioning.

Now, secondly, it would call for the rankest kind of conjecture and speculation, unfounded upon any factual basis, for the drawing of such conclusion. What I am saying to you very -- I say this very earnestly and very sincerely, that there is nothing wrong with asking whether or not she has had a conversation with an individual, and as a result of that conversation what did you observe. That is proper. There is no hearsay at all.

I am asking for no statements. I am not offering them. An extrajudicial statement made out of court for the truth of the assertions, and that is the definition of hearsay, your Honor, and Mr. Weedman is not correct when he tells you that we are offering any statement for the truth of the assertions, because in fact we are not eliciting any statements whatsoever, and it can draw no inference that certain things were said and therefore they are true because they don't even know what, if anything, was said. That is point number one.

So there was absolutely no hearsay. This is state of mind evidence. It is circumstantial evidence, and she can say as a result of the conversation with her, her husband, wherein he related a confrontation with Mr. Manson, verbal or otherwise, that his opinion had changed, his feelings were



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1 different towards Charles Manson, and that he had suffered  
2 anxiety and fear as a result thereof, and I think it is  
3 relevant, your Honor.

4 I have one more point.

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1 THE COURT: Let's just say, without arguing again your  
2 position, and suppose you are right, that -- once again,  
3 suppose your question -- the matter of the asking of the  
4 question is correct. Once again, what are you proving?

5 What are you accomplishing by proving a state  
6 of mind which would be fear of Shea insofar as Manson is  
7 concerned at this juncture? What are you establishing?

8 MR. KATZ: All right, your Honor, let me just add to  
9 that.

10 THE COURT: That is a repeat of my former question.

11 MR. KATZ: Yes, your Honor. Let me just add that we are  
12 not only attempting to prove fear, we are showing anxiety and  
13 the fact that he was upset.

14 So those are three separate things we want to show  
15 by this. Let me state this. We are certainly entitled to  
16 show that there is a different inference to be drawn from the  
17 evidence which was brought out on cross examination. Namely,  
18 that there was a good relationship between Manson and Mr. Shea.

19 Secondly, this fear that we expect to establish,  
20 and together with other evidence as will develop during the  
21 course of the People's case in chief, we show a motive to  
22 leave that ranch, to get out of there, to repair to a place of  
23 safety consistent with the Alcalde doctrine which has been  
24 cited by numerous Supreme Court cases, and Mutual Life versus  
25 Hilman, which states that where a person, for example, makes a  
26 statement of present intent to do a future act, that evidence  
27 is admissible to show two things, the intent of a declarant  
28 at the time the statement was made and, secondly, that he

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1 consummated this intent and went to the place where he said  
2 he was going.

3 Now, this fear, this motivating factor would have  
4 made him inferentially leave the Spahn Ranch area to go to the  
5 Vallejo salt mines or to go to Bob Bickston's movie in Phoenix,  
6 Arizona. Had he been there, he would have contacted his  
7 friends that he has known for as long as fifteen years.

8 These are legitimate inferences, and under the  
9 Whetherford case, the People versus Whetherford, and I will  
10 cite those cases later on --

11 THE COURT: Let me get a question in right at this  
12 point.

13 Suppose he did, as a result of conversations with  
14 Manson, suppose he had a fear and did leave the ranch. What  
15 does that establish?

16 Where is your principle there?

17 MR. KATZ: My principle is simply this, your Honor. We  
18 will establish, as we are doing so at this point, various  
19 close relationships with various people. For example, we had  
20 Elizabeth Shea, the mother, saying, "My God, this man went  
21 from California to Boston, from Boston to California, back and  
22 forth." These were his homes.

23 We had Sandra Harmon saying how close he was with  
24 George Spahn and Ruby Pearl, and these were people he had  
25 contact with over the years.

26 We had people saying that they had never been out  
27 of contact with Mr. Shea for a week or two weeks over the  
28 certain periods.

1           Some will say two months. This is circumstantial  
2 evidence, the type that was presented in the Scott case.

3           Had he left, absented himself voluntarily, he would  
4 have repaired to a position of safety and contacted his friends.

5           What we are talking about is the relevancy of his  
6 fear, his attitudes towards Charles Manson. It would have  
7 motivated him, number one, to have left and not immediately  
8 have accepted the job with Frank Retz, which we will develop  
9 in the course of testimony, Frank Retz offering him a job to  
10 get rid of Manson and the Manson family and to purge the Spahn  
11 and Retz properties of the vagabonds known as the Manson  
12 family.

13           We will show his state of mind of Manson, who we  
14 allege is a co-conspirator and his vitally important, and as  
15 in the Finch case, was admissible against Tregoff where she  
16 raised the identical point.

17           She said, "My gosh, what has the state-of-mind  
18 evidence being used to show Finch's attitude toward the victim,  
19 and the victim's attitude towards Mr. Finch, what does that  
20 have to do with me?"

21           The Finch case responded to that, and they said  
22 at 771, "Defendant Tregoff asserts that none of the state-of-  
23 mind testimony related to her, and therefore it should not  
24 have been admitted into evidence against her. The trial court  
25 overruled such objection on the theory that a conspiracy  
26 having been charged, the state of mind of the deceased as to  
27 one of the conspirators made the testimony admissible against  
28 both. We hold that the ruling was correct, and that under

1 the repeated admonitions of the court and its final instruction  
2 to the jury with respect to such state-of-mind evidence, there  
3 was no error in the admission of it for the limited purposes  
4 for which it was offered."

5 THE COURT: But right there that assumes that there has  
6 been proof of a conspiracy in Finch's case.

7 It assumes approving of a conspiracy. You are  
8 not even in that position here.

9 MR. KATZ: I respectfully submit, your Honor, that,  
10 number one, I want to quote first of all from People versus  
11 Brust, 47 Cal. 2d, 776, at 784 to 785. The court stated as  
12 follows:

13 "The death of the declarant creates the  
14 necessity for resort to hearsay and declarations  
15 being those of a present existing state of mind  
16 made in a natural manner and not under circum-  
17 stances of suspicion, carried a probability of  
18 trustworthiness."

19 Now, let me just jump here. It is not necessary  
20 for us at this point of time to prove a full-blown conspiracy  
21 in order to receive these particular statements in evidence.

22 Now, let me emphasize at this point, and we will  
23 get to this later -- we are not going to offer acts or declara-  
24 tions of a co-conspirator in furtherance of the object of the  
25 conspiracy at this time. That is not the issue here.

26 If we were, I would submit my briefs on the order  
27 of proof, and on what type of showing, if any, must be made  
28 before the court can introduce such statements against a

co-conspirator.

The only thing we are showing here at this time is his state of mind as to Charles Manson.

We are not putting in acts of declarations in furtherance of the object and the design of the conspiracy, so we don't have to meet that issue at this point.

We are meeting the inferences that are to be drawn from the evidence elicited from Mr. Shea on cross examination.

He did not have friendly feelings towards him. He was upset with Manson, and he was anxious and fearful, and that I think is legitimate, and we are not doing it by any statements, any hearsay whatsoever.

This is circumstantial evidence of a state of mind, and admissible as such under 1250 of the Evidence Code.

MR. WEEDMAN: Your Honor, may I just make this very brief observation?

THE COURT: Yes, certainly.

MR. WEEDMAN: Mr. Katz wants to put Mrs. Shea, of course, under further examination, and he is going to say to her, "Well, following August 2nd or August 9th, did you have a conversation with your husband or did you see your husband? Yes, I did. Did your husband tell you that he had seen Charles Manson? Yes, he did. Question: Did your husband following that conversation appear to be anxious and fearful? Yes, he was."

It means, your Honor, that Mr. Katz is going to have Mrs. Shea testify that her husband had a conversation with Charles Manson or had some contact with Charles Manson.

1 Now, can we permit Mr. Katz to prove that Mrs. Shea  
2 met with Mr. Manson, when it is hearsay?

3 Forget about the conversation. Let's just say  
4 that Mr. Katz wants to establish that Mr. Shea had a later  
5 meeting or confrontation with Charles Manson. There were no  
6 eyewitnesses to that. That is hearsay.

7 How could we permit that to come in through the  
8 testimony of Mrs. Shea? She wasn't there. All she knows is  
9 what her husband told her, and that is hearsay.

10 I mean, if there is any hearsay rule, this is  
11 hearsay.

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1 MR. KATZ: Your Honor, just briefly in answer to that,  
2 when somebody tells you something and it's not offered for the  
3 truth of the assertions then it is not hearsay whatsoever.

4 THE COURT: Yes, but --

5 MR. KATZ: May I finish.

6 THE COURT: Wait a minute, now.

7 MR. KATZ: May I finish, your Honor.

8 THE COURT: Go ahead.

9 MR. KATZ: All right.

10 So what we are saying is that if A tells B that  
11 such and such happened, to show how A is thinking, what his  
12 attitude is because it's relevant at this time because it's  
13 relevant and not offered for the truth of whatever statements  
14 he has made, but to show how he is thinking, what his attitude  
15 is, is he calm, is he agitated, then it is not hearsay at all.  
16 And it is circumstantial evidence.

17 And counsel, merely because he says somebody else  
18 told a second party who in turn relates it to a third party,  
19 that is hearsay on hearsay, is absolutely fallacious and untrue.  
20 Because we are not seeking to introduce the statements  
21 whatsoever.

22 So you have to go back in the Evidence Code, your  
23 Honor, to the instruction which says that hearsay is defined  
24 as an extrajudicial statement offered for the truth of the  
25 matters contained therein.

26 And that is the definition of hearsay, and there is  
27 no content of a conversation. There are no statements that are  
28 being offered whatsoever, whether for the truth of the



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1 assertions or not.

2 We are merely asking: "Was there in fact a  
3 conversation? Yes. And as a result of that conversation did  
4 you notice a marked change in the attitude of Mr. Shea towards  
5 Mr. Manson?"

6 And we can elicit that kind of observation, and I  
7 will add one last point; Mr. Weedman had asked on cross-  
8 examination, "Did you have any additional conversations with  
9 Mr. Shea, your husband, after the one wherein he told you about  
10 Charlie Tuna playing for the Beach Boys?" To which she said,  
11 "Yes."

12 Then Mr. Weedman -- and it is in the transcript --  
13 said, "When did that take place?" And he elicited the approxi-  
14 mate date of that conversation. Then he dropped it.

15 That is Mr. Weedman's tough luck.

16 MR. WEEDMAN: So what, counsel?

17 All I can say, your Honor, is that if Mr. Katz  
18 didn't object to it at that time -- and I don't see why he  
19 should object to it, because I didn't elicit any portion of  
20 the conversation at all, because I think it would have been  
21 error to do so -- Mr. Katz now claims he can introduce hearsay  
22 here. It is the most incredible argument I have ever heard,  
23 your Honor.

24 Your Honor, Mr. Katz wants to show Mr. Shea had a  
25 conversation with Charles Manson. How is he going to prove  
26 that, that Mr. Shea had a conversation with Mr. Manson? How  
27 can he possibly prove it except by hearsay?

28 Only Mr. Katz for some reason is saying that he is

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1 not introducing that to prove that there was a conversation.  
2 Well, that's absolute nonsense. If he is not seeking to show  
3 that there was a conversation between Manson and Shea then what  
4 is he doing?

5 THE COURT: Well, without answering your question, I am  
6 disturbed by another element here. It may have been covered.  
7 We have covered so much of the field here. I will pose a  
8 question:

9 First of all, get back to our basic premise, the  
10 purpose of the testimony is to show -- the purpose of the  
11 questions and answers to Mrs. Shea is to show the state of mind  
12 of the deceased Shea. Is that right?

13 MR. KATZ: Yes, your Honor.

14 THE COURT: That is your purpose?

15 MR. KATZ: Yes, your Honor.

16 THE COURT: I am getting back to our purpose. That is  
17 what you want to do?

18 MR. KATZ: Yes, your Honor.

19 THE COURT: All right.

20 Now, that is your basic purpose.

21 Now, there is no proof as yet that Manson had, so  
22 far as the charges against Grogan are concerned, there is no  
23 proof of any kind that I can see so far of a conspiracy or that  
24 Manson had anything to do with the death of Shea, assuming but  
25 not conceding that Shea was killed.

26 I know you have put on evidence in that respect, but  
27 I am just jumping over these hurdles for the purpose of getting  
28 to my point. Manson is a stranger to the whole proceedings as

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1 far as the testimony is concerned.

2 Now, suppose that Mr. Shea instead of talking to Manson  
3 had talked to a John Smith, some stranger at the ranch there.  
4 Somebody, under any way you figure it, who had nothing to do  
5 with the case. And says to John Smith -- Shea, the deceased,  
6 talks to John Smith and as a result of that conversation and  
7 statements of John Smith, let us assume Shea becomes very  
8 disturbed, worried, fearful of his life.

9 You have a state of mind of Shea. You have a  
10 state of mind of Shea that is one of tremendous fear. It would  
11 serve no purpose. I can see of no admissibility of the state  
12 of mind of Shea at that time as a result, no matter how  
13 fearful or scared he was, because there is no tie in of John  
14 Smith in the case.

15 And at the present time there is no tie in of  
16 Manson in the case. And in my way of looking at it I don't see  
17 the materiality of it even if it does go to the state of mind.

18 What is your answer to that? Do you follow my  
19 thinking?

20 MR. KATZ: Your Honor, you are suggesting that I must  
21 present -- I mean this respectfully.

22 THE COURT: Yes. But you do follow my thinking?

23 MR. KATZ: Yes.

24 THE COURT: I am not asking you to agree with it.

25 MR. KATZ: Yes. A full-blown conspiracy off the bat  
26 before I can get statements in which connect a co-conspirator.

27 Let's start out once again. I have got to make  
28 this delineation. There is a distinction between an act and

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1 declaration of a co-conspirator which is to be introduced  
2 against all other members of a conspiracy who are presently on  
3 trial.

4 That is not -- I repeat, that is not our situation  
5 here. We are showing Shorty Shea's state of mind with respect  
6 towards one member of the conspiracy who will be shown to be  
7 a co-principal in the killing --

8 THE COURT: All right. But you --

9 MR. KATZ: -- of Mr. Shea.

10 THE COURT: But it isn't material at this juncture. If  
11 nothing else, you are pulling in somebody you haven't -- you  
12 might as well establish A, B, C and D here, and have fear  
13 directed to A, B, C, and D. There is no connection.

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SA 1 MR. KATZ: All right.

2 Now, I'm going to answer your question.

3 THE COURT: All right.

4 MR. KATZ: Certainly the court will concede that anything which  
5 serves -- let us assume that you have A, B and C who are  
6 members of a conspiracy.

7 THE COURT: Or not. Suppose you have fear directed to  
8 people that aren't even connected in the conspiracy.

9 MR. KATZ: We are directing it to people who will later  
10 be shown to have been a co-principal in the killing. Let's  
11 assume A, B, C and D are members of a conspiracy. The court  
12 certainly can concede anything which serves to identify any  
13 of the members of the conspiracy or serves as a motive for  
14 the killing with respect to the joint fact which results in  
15 the death of an individual is admissible against all parties  
16 of the conspiracy.

17 Now, under the Evidence Code 1223 you have the  
18 inherent power to alter the order of proof. Under 1223c it  
19 makes it clear that the order of proof is within the sound  
20 discretion of the trial court.

21 Of course, the case law concurs. 599 of People  
22 versus Ferlin, California Supreme Court case 203 Cal. 587, the  
23 California Supreme Court stated, "In the case of People versus  
24 Matthew it is declared 'It is unquestionable in the general  
25 rule that proof of the existence of the conspiracy ordinarily  
26 should precede proof of the acts or declarations of a co-  
27 conspirator.'"

28 THE COURT: That is my point.

1 MR. KATZ: Let me finish. I'm sorry, your Honor.

2 THE COURT: Yes.

3 MR. KATZ: Made pending the conspiracy and in aid and  
4 furtherance of the common design. Again I repeat at this  
5 juncture these are not acts and declarations we are seeking  
6 to introduce, but the rule in this respect, I am quoting:

7 "It unquestionably is the general rule  
8 that proof of the existence of the conspiracy  
9 ordinarily should precede proof of the acts of  
10 declarations of a co-conspirator made pending  
11 the conspiracy and in aid and furtherance of the  
12 common design but the rule in this respect is  
13 not absolute and unyielding; and sometimes, for  
14 the sake of convenience, evidence of the acts  
15 and declarations of an alleged conspirator is  
16 admitted before sufficient proof of a conspiracy  
17 is given. This, where, as here the facts from which  
18 the conspiracy is to be inferred are so intimately  
19 blended with other facts going to constitute the  
20 crime that it is difficult to separate them, it is  
21 not essential to the introduction of evidence of  
22 the acts and declarations of one of the conspirators  
23 that evidence should first be introduced to establish  
24 prima facie in the opinion of the court, the fact of  
25 conspiracy."

26 And the Supreme Court then cites People versus  
27 Fehrenbach, F-e-h-r-e-n-b-a-c-h, 102 Cal. 394. Another Supreme  
28 Court case. And People versus Sing, S-i-n-g, 42 Cal. App. 397.

1 Now, they made that statement with respect to the  
2 People proving acts and declarations of one alleged co-conspira-  
3 tor which was introduced against a defendant conspirator  
4 without even a prima facie showing of conspiracy.

5 THE COURT: You have got three answers to your question.  
6 One, what is the date? Your citation would read in the 1915,  
7 -16 or -17's. The date of rendering, for one thing. That is  
8 45 or 50 years ago, isn't it?

9 MR. KATZ: Your Honor, this has been Shepardized down  
10 to the very recent time.

11 THE COURT: All right.

12 What was your citation there?

13 MR. KATZ: My citation was People versus Ferlin, 203  
14 Cal. 587.

15 THE COURT: All right. Now, I will show you why I am  
16 doing this.

17 MR. KATZ: All right, your Honor.

18 THE COURT: Well, let's take our time.

19 MR. KATZ: While you are doing that, let me cite the  
20 new cases we have Shepardized.

21 THE COURT: I don't want to take more than one bite at a  
22 time. 203, wasn't it? Here we are. 1927.

23 All right.

24 Now, under your own premise here you were very  
25 careful to point out, very properly so, that it is a discretion-  
26 ary matter with the court.

27 MR. KATZ: They certainly are, your Honor.

28 THE COURT: Are they asking for capital punishment in

1 that case, in 203? Let's take it again and read it. 203 what?

2 MR. KATZ: 203 Cal. 587.

3 THE COURT: I had it here. All right. Wait a minute,  
4 pardon me.

5 I can't go so fast. 203 Cal, right? 507?

6 MR. KATZ: No, 587, your Honor.

7 THE COURT: All right.

8 587. People against Ferlin. Prosecution for arson,  
9 murder and burning insured property.

10 (Short pause.)

11 THE COURT: Now --

12 MR. KATZ: There is a brand new Supreme Court case on  
13 this. People versus Brawley, B-r-a-w-l-e-y. It is 1 Cal. 3d,  
14 277, at page 286, which once again enforces and brings up to  
15 date the doctrine set forth in the case that I cited to you.

16 THE COURT: But here, according to your authorities, the  
17 rule was that where there is a prima facie proof of a conspir-  
18 acy, testimony regarding the conspirators' statements made  
19 during the conspiracy in the furtherance thereof, is admissible.  
20 I concede that.

21 But you are asking here, your position is that  
22 I should alter the testimony or create a variation of proof so  
23 as to admit either acts, declarations or a course of conduct  
24 of the party, ahead of proof of the conspiracy. There is  
25 your position, that I should exercise those rights or that  
26 power under the code.



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1 Now, number one, I am very hesitant to do such a  
2 thing, because you are claiming in here you desire acts,  
3 statements or conduct in which the People are asking for  
4 capital punishment, the death penalty, in which the name of  
5 Manson is pulled in here constantly. It is not purposely, and  
6 I don't say that. It is just pulled in here, and it is not  
7 helpful as far as the defendant is concerned.

8 I am not blaming anybody in the matter here, but I  
9 am saying that it is, and for me to go ahead and to put these --  
10 allow statements in here with Manson --

11 MR. KATZ: These aren't statements. That is the point.

12 THE COURT: I don't know. Now, wait a minute.

13 Some of your argument is based on the fact that  
14 such statements would be permissible, and your last statement  
15 to me would be permissible, could be permissible, should be  
16 considered in a taking in of the testimony without proof, first,  
17 of the conspiracy.

18 I wouldn't be inclined -- this case is too serious  
19 to inject in there statements of alleged conspirators until  
20 there is a prima facie showing of conspiracy, which under the  
21 law consists of the showing of an unlawful agreement. I will  
22 get the wording of the code.

23 The agreement between the two or more people to  
24 commit a crime, I believe is basically what it says, which  
25 must be coupled with one overt act.

26 MR. KATZ: Do you expect us to show a contract whereby  
27 one person says to the party of the first part -- I am not  
28 being facetious. It has to be done circumstantially.

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1 THE COURT: But you can't do it with declarations in  
2 there, I am a conspirator, and then tie up the defendant with  
3 it.

4 MR. KATZ: The only reason why I cited this is your  
5 inherent power to alter the order of proof to show you that if  
6 you could do it involving such serious matters as acts and  
7 declarations in furtherance of the conspiracy, then certainly  
8 we can show the state of mind concerning the victim in regards  
9 to one of the alleged co-conspirators.

10 THE COURT: Well, here is what you are getting to again.  
11 Suppose a stranger comes on the ranch. Suppose a stranger  
12 comes on the ranch and talks to Shea, and as a result of talking  
13 to some total stranger Shea is scared to death. Now, you want  
14 to show it in this case, that Shea is scared to death and  
15 worried because Manson is a stranger as far as we are concerned.

16 I don't know anything about -- there is no  
17 testimony about Manson. He is a stranger, just as much as a  
18 sheriff that would come out there and scare the life out of  
19 Shea.

20 You see, Manson is a stranger until you get proof  
21 of your conspiracy in here. Then you have another position.

22 MR. KATZ: It has no relevancy whatsoever in the manner  
23 in which you state it.

24 THE COURT: Would you say that John Smith, if he went to  
25 make statements to Shea and scared him to death, that it would  
26 be relevant?

27 MR. KATZ: I am not assuming that, you are assuming that  
28 Mr. Manson is not a part and parcel of the conspiracy.

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1 THE COURT: He isn't, until you prove it.

2 MR. KATZ: There has to be a point, your Honor, at which  
3 you start to establish the beginning tendrils of a conspiracy.  
4 It just doesn't come up full force and envelop one to the  
5 point where we say, "My gosh, we have a contract here. There  
6 is an overt act here. All parties are now nicely tied in in  
7 a tight web of conspiracy."

8 Conspiracies don't happen like that. They happen  
9 over long periods of time, and it takes many, many facts upon  
10 which inferences are to be drawn, inferences from inferences.

11 That is what happened in Scott. That is what  
12 happened in Finch. That is what happened in Brawley, and a  
13 lot of these other cases that we have been talking about.

14 These things just don't come full blown, full  
15 scale. There has to be a point at which some of this evidence  
16 starts coming in. You have the remedy of striking it if we  
17 can't prove our conspiracy.

18 But again let me emphasize, your Honor, I don't  
19 think I have made myself clear, and I apologize because I  
20 haven't. That is this state of mind, your Honor, is not an act  
21 or declaration. I am not asking Mrs. Shea to say, "Well, what  
22 did he tell you," because then I agree with you. Then the jury  
23 would say, "My gosh, that is why he feels so bad," and they  
24 would draw the inference if he feels that bad or that way  
25 towards Charlie, then this event must have happened, namely  
26 the throwing of the knife and, "I'm going to kill you. I might  
27 as well, because your black brothers will do it anyway."

28 I might as well, because we are avoiding that whole

6-4

1 area described in Hamilton. Because on August 2nd or August  
2 9th you talked with your husband about Charlie Tuna. Is that  
3 right. And on that same day your husband told you he had seen  
4 Charlie. Is that right. Did his attitude change.

5 Now, there is nothing here that suggests a knife  
6 throwing, unless counsel wants to throw it in. There is  
7 nothing here that suggests that there was any particular kind  
8 of conversation other than the relationship had changed.

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1 THE COURT: All right. Now, suppose the wife testifies,  
2 as apparently she would because I took the testimony in cham-  
3 bers, after the conversation with Shea. Mrs. Shea, what is  
4 your opinion or what is your reaction, what is your feeling  
5 as to the mental state of mind of Shea. Well, I think he was  
6 very worried, disturbed, and anxious, fearful. Now, that is  
7 state of mind, isn't it?

8 MR. KATZ: Yes, your Honor.

9 THE COURT: I will ask you again. What is the materi-  
10 ality of state of mind of Shea that may flow from conduct  
11 with Manson at this stage?

12 MR. KATZ: I will answer that in a rhetorical question.

13 What was the materiality --

14 THE COURT: Of the state of mind of Shea at this period,  
15 insofar as Manson is concerned, because it flows from Manson's  
16 statement.

17 MR. KATZ: I am asking this rhetorically.

18 What I am saying is, what was the state of mind or  
19 relevancy of the state of mind of Mr. Shea to Manson when  
20 Mr. Weedman elicited it? Certainly it has no greater relevancy  
21 nor less relevancy.

22 Am I not allowed to meet that at least by the very  
23 minimum opening you are giving me? I think I should be allowed  
24 to leave that.

25 The inference there is that Charlie and Shorty were  
26 fast buddies. This guy was a drummer or wrote some songs for  
27 the Beach Boys, and I want you to meet him. He is a real great  
28 guy.

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1 This is the inference to be drawn from this kind  
2 of testimony. You can see how vigorously and forcefully that  
3 Mr. Weedman argues. He can very effectively deal with that  
4 if I'm cut off from showing at least circumstantially that  
5 this state of mind had been shifted.

6 Now, I will show another point of relevancy, if  
7 I may. We are at the Spahn Ranch. Our evidence is going to  
8 start to narrow down to the area of August 16th to September  
9 1st. We are going to show that Shorty Shea was living  
10 there at that time. We are going to show that Charles Manson  
11 was living there at that time and that Steve Grogan was living  
12 there at that time, and that the family was living there at  
13 that time.

14 We are going to show that Frank Retz was negotiating  
15 with George Spahn to not only buy his property, but wanted  
16 Shorty to throw the Manson family off of the ranch.

17 Now, my gosh, I think I could at least answer the  
18 suggestion on cross examination they said yesterday that  
19 Charlie Manson and Shorty got along famously, or were good  
20 friends.

end  
6a

6b-1

1 THE COURT: Well, I will give you a ruling over  
2 defendant's -- if your objection is not clear, we will  
3 certainly make it clear.

4 If you can couch the question -- mine that I posed  
5 last evening when we recessed is substantially what I would go  
6 by. It is a little crudely formed, under the stress of the  
7 time there.

8 A question substantially as follows: Mrs. Shea,  
9 you had a conversation with Mr. Shea on or about August 2nd  
10 or August 9th with Mr. Shea. Yes.

11 I am debating with myself as to how to proceed.

12 MR. KATZ: Yes, thank you, your Honor.

13 THE COURT: After that conversation -- strike that.  
14 Let's try it again.

15 This conversation -- and this conversation with  
16 Mr. Shea, Mr. Shea related a conversation between Manson and  
17 Mr. Shea. Now, after Mr. Shea related this conversation to  
18 you, did Mr. Shea appear to be anxious -- did Mr. Shea appear  
19 to be in a disturbed state of mind. Theoretically she answers  
20 "Yes."

21 Those are visual observations. There is an element  
22 of hearsay that I am not unmindful of. You can take your  
23 objection, and I will limit it to that part, and no further.

24 I would permit it.

25 MR. WEEDMAN: Your Honor, may I be heard, sir, please?

26 THE COURT: Surely.

27 MR. WEEDMAN: The question, as I understand it, as your  
28 Honor has visualized it, now, is going to be something like,



6b-2

1 Mrs. Shea, did your husband go to the Spahn Ranch? Oh, yes,  
2 he did. Were you with him? No, I wasn't. While he was at  
3 the Spahn Ranch, Mrs. Shea, did he have a conversation with  
4 Charles Manson? Oh, yes, he did. Were you there at the Spahn  
5 Ranch? No, I wasn't. Well, where were you, Mrs. Shea, at  
6 this time? Well, I was home.

7 THE COURT: Well, you can bring that out on redirect.

8 MR. WEEDMAN: Your Honor, that is what Mr. Katz wants  
9 to put in, not me, and that is hearsay, your Honor. There is  
10 no way in the world that Mr. Katz is going to be permitted  
11 properly to prove that Shea had a conversation with Charles  
12 Manson. How can he prove it unless somebody was there and  
13 saw it, and there wasn't anybody there as far as we know.

14 THE COURT: The question doesn't actually relate that.

15 The question was, did Mr. Shea state that he had  
16 a conversation with Manson. Yes.

17 MR. WEEDMAN: But that is hearsay, your Honor.

18 THE COURT: All right.

19 MR. KATZ: No, it is not. It is a fact of the conversa-  
20 tion.

21 It is not hearsay, because there is no conversation  
22 being elicited.

23 MR. WEEDMAN: Your Honor, I hope that I am not really  
24 touched by madness this morning, but as I understand it Mr.  
25 Katz wants to get into evidence that Mr. Shea had a conversation  
26 with Charles Manson. I'm not talking about the contents of the  
27 conversation at this point, but the mere fact that he had a  
28 conversation with Charles Manson is hearsay.



6b-3

1 How can we escape that?

2 MR. KATZ: It is not, your Honor.

3 THE COURT: I will make that ruling over your objection.

4 MR. WEEDMAN: But don't you agree, your Honor, that it is  
5 hearsay? Supposing all --

6 THE COURT: Well, counsel --

7 MR. WEEDMAN: The fact that Mr. Shea had a conversation  
8 with Charles Manson is rank hearsay.

9 THE COURT: If Mrs. Shea says "I talked with Manson,"  
10 that is a statement of fact.

11 MR. WEEDMAN: She didn't talk with Manson.

12 THE COURT: Well, strike that. I don't mean that.

13 If Mrs. Shea says that I talked with Shea, that is  
14 a statement of fact.

15 MR. WEEDMAN: That is perfectly all right.

16 THE COURT: Now, she goes into hearsay. Mr. Shea said  
17 that I, Shea -- I, Mr. Shea, talked with Mr. Manson.

18 MR. WEEDMAN: That is hearsay at that point.

19 THE COURT: Now, I agree with you that that is hearsay.

20 MR. KATZ: It is not, your Honor.

21 THE COURT: And you stop there. All right.

22 After this conversation you are relating -- you  
23 stop there. You don't need to go into that. After you quit  
24 talking to Mr. Shea then your question, is it your opinion  
25 that Mr. Shea was disturbed, worried or fearful from his  
26 physical appearance to you. There is factual observation.

27 MR. WEEDMAN: I agree, but you see -- I submit,  
28 respectfully, that Mr. Katz is jumping a gap.

6b-4 1

2 Oh, of course, if you can get past the hearsay,  
3 then naturally -- if you get past the hearsay you can put in  
4 anything.

5 Your Honor, supposing Mr. Katz says this to Mrs.  
6 Shea on the stand, "Mrs. Shea, did you have a conversation with  
7 your husband. Yes, I did. Did he tell you where he went.  
8 Yes, he did. Well, where did he tell you he went. He told  
9 me he went to the Spahn Ranch."

10 Your Honor, that is inadmissible under any possible  
11 theory of law. Don't you agree, your Honor?

12 THE COURT: I think you are right.

13 MR. WEEDMAN: Of course. And then supposing Mr. Katz  
14 went further and said, "After your husband told you where he  
15 went, did he tell you what he did? Oh, he told me what he did."  
16 That is also hearsay.

17 THE COURT: Well, if it is limited as I have indicated,  
18 over your objection I will --

19 MR. WEEDMAN: But your question calls for the very  
20 hearsay I have just suggested. Your Honor is going to permit  
21 Mr. Katz to prove that Shea had a conversation with Charles  
22 Manson. I don't care about the contents of the conversation.

23 THE COURT: I think it is admissible to show, if it does,  
24 a rebuttal of the statements on cross-examination of Mrs. Shea  
25 that there appeared a friendship between the two.

26 MR. WEEDMAN: I agree with your Honor. It is relevant.

27 I raised it on cross-examination, and I intend to  
28 raise it further, if I can, but relevancy and materiality is  
no excuse for the admissibility of hearsay.

1 THE COURT: I will make the ruling, gentlemen, and we  
2 will show objection.

3 I caution you to couch it very carefully. I don't  
4 want to correct it in front of the jury.

5 MR. WEEDMAN: I respectfully inform the court that I  
6 will make a motion for a mistrial, your Honor, and I will  
7 pursue it as vigorously as I can.

8 THE COURT: Well, this has been done out of the presence  
9 of the jury.

7 fls.

#7

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

THE COURT: All right, gentlemen, we will proceed now  
in People against Grogan. Defendant is here. Defense counsel  
is here. People's counsel is here.

You can bring in the jury, sheriff.

And the witness, where is our witness?

MR. KATZ: May I talk to the witness to question here,  
also?

THE COURT: All right.

MR. KATZ: So that we can conform with the court's  
ruling.

THE COURT: Go ahead.

MR. KATZ: Thank you.

(Short pause.)

THE COURT: All right. You be seated. State your name  
to the reporter, please.

THE WITNESS: Magdalene Velma Shea,

THE COURT: Thank you.

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

THE COURT: Now we have all jurors here, all regular  
jurors plus the three alternates.

Is there any redirect examination?

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

THE COURT: Go ahead.

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

3  
4 REDIRECT EXAMINATION

5 BY MR. KATZ:

6 Q Mrs. Shea, I believe yesterday at the close of the  
7 court day we were talking about a second conversation apparently  
8 you had with your husband concerning Charles Manson, is that  
9 correct?

10 A Yes.

11 Q When did this conversation between yourself and  
12 your husband, Shorty Shea, take place concerning Charles  
13 Manson?

14 A It was the Saturday, August 2nd or August 9th.  
15 I don't know exactly the correct date. But I know it was a  
16 Saturday.

17 Q All right.

18 And you are sure it is in August of 1969?

19 A Yes.

20 Q And was this before or after you had first met  
21 Charles Manson?

22 A It was after.

23 Q And was this before or after you returned the  
24 second time to Spahn Ranch?

25 A It was before.

26 Q So in other words, this conversation with your  
27 husband occurred between the two times you went to Spahn Ranch,  
28 is that correct?

1 A Yes.

2 Q Now, did you have a conversation -- strike that.

3 Did this conversation with your husband the second  
4 time concerning Charles Manson take place the same date he  
5 earned that commission for selling the horses?

6 A Yes.

7 MR. WEEDMAN: Excuse me, your Honor. Well, no. Very  
8 well, your Honor, I'm sorry, forgive the interruption there.

9 THE COURT: It is all right.

10 Go ahead.

11 MR. KATZ: Thank you.

12 Q Now, in this conversation with Mr. Shea, that is,  
13 your husband, did he relate to you --

14 MR. WEEDMAN: Excuse me, your Honor. I think counsel --  
15 and forgive me for interrupting Mr. Katz. I think counsel,  
16 your Honor, is about to lead the witness. And I think it is  
17 rather -- I really wish counsel to ask her --

18 THE COURT: I won't go into the conversation.

19 MR. KATZ: I was directed to.

20 MR. WEEDMAN: I object to counsel's gratuitous remark and  
21 ask it be stricken, he was directed. I don't know what he is  
22 talking about.

23 MR. KATZ: Your Honor, I am just establishing the  
24 conversation.

25 THE COURT: She testified she had a conversation. After  
26 the conversation, then give your question. Otherwise I will  
27 sustain objection.

28 Q BY MR. KATZ: After the conversation you had with

1 Shorty concerning Charles Manson, how did he appear to you?

2 A He appeared disturbed, aggravated and very upset.

3 Q And was this easily noticeable?

4 A Yes, it was.

5 Q All right.

6 Now, let's go back to the first time you met  
7 Charles Manson at Spahn Ranch. How many words did Charles  
8 Manson say to you?

9 A One.

10 Q What did he say?

11 A Hi.

12 Q Did he smile when he said it?

13 A No.

14 Q Did he act friendly towards you?

15 A No.

16 Q Did he stay at all and talk with you?

17 A No.

18 Q What did he do after he said Hi?

19 A He walked away.

20 Q Now, when you met the girls on the second time you  
21 returned to Spahn Ranch, did they talk with you?

22 A No. They spoke -- or he introduced me.

23 Q Who is "he"?

24 A Don introduced me to them. And they was cleaning,  
25 and they talked among themselves.

26 Q Did any of the girls such as Squeaky or anybody  
27 else you met there engage you in a conversation at all?

28 A No.

1 Q Did any of the men engage you in a conversation  
2 at all?

3 A No.

4 THE COURT: Just yes or no. Don't go into any conver-  
5 sation.

6 Q BY MR. KATZ: Is your answer no?

7 A No.

8 Q All right.

9 Now, with reference to -- I am not trying to mis-  
10 lead you -- with reference to Tex Watson asking you for a  
11 cigarette, I assume that you did not mean to tell us he did  
12 not ask for a cigarette, is that correct?

13 A Yes.

14 Q Other than Tex Watson?

15 A Yes.

16 Q Asking for some cigarettes, repeatedly, did anybody  
17 other than George or Ruby, putting them aside for a moment,  
18 engage you in any type of conversation at all?

19 A No.

20 Q So that none of the other persons talked with you,  
21 is that right?

22 A No.

23 Q Is that right?

24 A No. No more than -- no.

25 Q Is that right?

26 A Yes.

27 Q All right.

28 That is what I want to get. Now, you did meet on



1 the second occasion George and Ruby Peal, is that correct?

2 A Yes, I did.

3 Q Did they talk with you?

4 A Yes.

5 Q Did you visit with them?

6 A Yes.

7 Q How long do you think you visited with George and  
8 Ruby?

9 A I don't exactly know. I went in George's room  
10 where he was -- had his room in his house, and he was -- I  
11 talked to him for maybe ten minutes.

12 And I went back outside where they was feeding the  
13 horses, and I talked to Pearl for maybe twenty minutes because  
14 he was there, and he was feeding the animals.

15 Q Were George and Ruby friendly to you?

16 A Yes.

17 Q And in addition to observing some of the girls  
18 you have told us about and Tex Watson on this second visit  
19 to Spahn Ranch, did you see other male and female persons whom  
20 you could not identify as such?

21 A Yes.

22 Q And where did you see them?

23 A They was helping feed the animals.

24 Q All right.

25 A And walking around the ranch.

26 Q I take it you did not get a good-enough look at  
27 them to identify them, is that correct?

28 A Yes.

1 Q Incidentally, did you see anybody at Spahn Ranch  
2 with a shaved head?

3 A I can't say. It was dark.

4 Q All right.

5 So you don't know how long, for example, the males  
6 that you observed, their hair was, is that correct?

7 A Yes.

8 Q Could have been short, could have been long, you  
9 don't know, is that right?

10 A Yes.

11 Q Now, when you observed these girls such as Squeaky  
12 at the Spahn Ranch on the second occasion, were they talking  
13 among themselves?

14 A Concerning --

15 Q You can answer that yes or no. Were they talking  
16 among themselves?

17 A Yes.

18 Now, with respect to the clothes that you have  
19 previously identified in the footlockers, I believe you  
20 indicated they were clean and folded, is that correct?

21 A Yes.

22 Q Have you seen Shorty wear those clothes?

23 A Yes.

24 Q And you indicated, I believe, that one of the  
25 pieces of clothing was worn by Shorty during your marriage,  
26 is that correct?

27 A Yes.

7a-1

1 Q That would have been July 1st, 1969 in Las Vegas?

2 A Yes.

3 Q And which piece of clothing or pair of clothing  
4 would that be?

5 A The brown suit. That is <sup>in</sup> one of the footlockers.

6 Q All right.

7 And you have previously noticed it to be present  
8 so we don't have to open the footlockers at this time?

9 A Yes.

10 Q All right.

11 Now, the last time you saw Shorty you indicated  
12 that he was wearing some boots, is that right?

13 A Yes.

14 Q And would you describe the boots to us?

15 A They were brown and yellow, like cowboy boots,  
16 fancy.

17 Q And what was his attitude toward those boots?

18 A His -- he loved those boots like he loved to wear  
19 them. That was his favorite boots.

20 Q His favorite pair of foot apparel, is that right?

21 A Yes.

22 MR. KATZ: Thank you.

23 I have no further questions.

24 THE COURT: All right.

25  
26 RECROSS-EXAMINATION

27 BY MR. WEEDMAN:

28 Q Mrs. Shea, would you say that your husband, Donald

7a-2 1 liked those boots so much that if he were to, say, leave town,  
2 that he would wear those boots in preference to wearing those  
3 shoes that he had?

4 A Yes.

5 Q Have you ever seen those boots again, Mrs. Shea?

6 A No.

7 Q Now, you indicated that your husband was wearing  
8 a brown suit. You mean literally a brown suit, well, perhaps,  
9 kind of like maybe the old brown suit I have on, that is,  
10 where the coat matches the trousers?

11 A Yes.

12 Q And did you see such a brown suit in those lockers?

13 A Yes.

14 Q Okay.

15 And with respect to this question by Mr. Katz on  
16 redirect about Charles Manson acting friendly towards you, you  
17 said he did not act friendly towards you. What do you mean by  
18 that, Mrs. Shea?

19 A He spoke to me. And he left.

20 I was in the car.

21 Q Well, is that what you mean by your answer to the  
22 question "Did he act friendly? Answer: No." Is that what you  
23 mean that he just came over and talked to you?

24 A He didn't talk to me.

25 Q Well, he said hi to you. That's all I mean. He  
26 said hi to you?

27 A That's all.

28 Q Okay.

7a-3

1 Well, let me back up again so we will be clear about  
2 it. Mr. Katz just asked you a moment ago "Did Charles Manson  
3 act friendly towards you?"

4 A No.

5 Q And your answer is no?

6 A No.

7 Q Well, did he act unfriendly towards you?

8 A No. He didn't act any way towards me.

9 Q Okay. So when you said in response to Mr. Katz'  
10 question "Did he act friendly towards you? No," he didn't  
11 act any way toward you, isn't that right, Mrs. Shea?

12 A Yes.

13 Q Did he act unfriendly toward you? Yes or no?

14 A No.

15 Q Did you have any conversations with Mr. Katz  
16 about your testimony after you finished up yesterday afternoon?

17 A No.

18 Q Did you have any conversations with Mr. Katz about  
19 your testimony this morning?

20 MR. KATZ: Excuse me. I will object that counsel is  
21 certainly entitled to talk with his witness.

22 MR. WEEDMAN: I am not saying he is not entitled to talk  
23 to her.

24 THE COURT: Well, read the question.

25 MR. WEEDMAN: That is counsel's inference, not mine.

26 (The question was read by the reporter  
27 as follows:

28 "Q Did you have any conversations

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1 with Mr. Katz about your testimony this  
2 morning?")

3 MR. KATZ: Excuse me. I will object on the grounds it  
4 is ambiguous. About what? Concerning what? What to say?  
5 What not to say?

6 MR. WEEDMAN: Oh, I will go into that depending on her  
7 answer, your Honor.

8 THE COURT: Well, of course, it is basically immaterial  
9 unless there is something said in the conversation that would  
10 tend to vary the truth, the conversation is of no materiality.  
11 Counsel may counsel with his witness. The law so permits.  
12 So in a certain sense it is immaterial.

13 MR. KATZ: I would so object on that basis also, your  
14 Honor. It is immaterial.

15 MR. WEEDMAN: Well, your Honor, I am not suggesting that  
16 Mr. Katz may not talk with his witnesses.

17 THE COURT: No, I understand that.

18 MR. WEEDMAN: As a matter of fact Mr. Katz could right  
19 now go up and have a whispered conversation with his witness.  
20 Would be perfectly all right with me. As a matter of fact I  
21 anticipate probably both sides may end up doing that during  
22 this trial.

23 THE COURT: Then the question is immaterial. That is  
24 what I am getting at. Suppose the witness says yes. It is  
25 immaterial. He has a right to talk to the witness.

26 I am not trying to argue the case, I am talking  
27 about procedure.

28 MR. WEEDMAN: Yes, your Honor. But there are certain

7a-5

1 matters that go to credibility relative to a conversation she  
2 said we have had with other persons. Mr. Katz is not sacrosanct  
3 here, he is not a privileged character here. I hope he is not.

4 MR. KATZ: Excuse me again. This personal involvement is  
5 just unwarranted.

6 THE COURT: I will sustain the objection. If you want  
7 to make a direct question of it respecting your credibility,  
8 you are entitled to.

9 MR. WEEDMAN: All right, your Honor.

10 Q Did you discuss your testimony with anyone?

11 A No.

12 Q Just a moment.

13 Regarding Charles Manson being friendly or  
14 unfriendly toward you?

15 A Would you repeat the question?

16 MR. WEEDMAN: May we have the question read.

17 THE COURT: Yes.

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

20 "Q Did you discuss your testimony  
21 with anyone regarding Charles Manson being  
22 friendly or unfriendly toward you?"

23 THE WITNESS: Yes.

24 Q BY MR. WEEDMAN: Who did you discuss it with,  
25 Mrs. Shea?

26 A I talked to the district attorney.

27 MR. KATZ: Indicating me, your Honor. I believe she  
28 pointed in my direction.

7a-6

1 THE COURT: Well, I should say to the jury, as a matter  
2 of law, not as a matter of argument, counsel has a right to  
3 talk to a witness. His witness, so-called, or the witness may  
4 talk to the lawyer.

5 The unlawfulness comes in where a witness is  
6 prompted or told to relate something that is not true, as truth.  
7 There is where the problems come.

8 The conversation itself is permissible. There is  
9 nothing wrong with it. It is the attempt of one to state to  
10 the other that something that is not true, is true.

11 Now, having made that statement as a basic premise  
12 of law, if you have any further question to ask, you do it.  
13 I am not trying to prohibit you.

14 MR. WEEDMAN: Thank you, your Honor.

15 THE COURT: All right.

16 Q BY MR. WEEDMAN: With respect to this visit to  
17 the Babcocks you recall, where your husband seemed to be so  
18 happy and he was playing with the children and so on, can you  
19 tell us when that visit occurred, relative to these visits that  
20 you made to the Spahn Ranch?

21 MR. KATZ: I am going to object on the grounds it has  
22 already been covered on the cross and out of the scope of the  
23 redirect examination.

24 THE COURT: Will you read the question, please.

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

27 "Q And with respect to this visit  
28 to the Babcocks you recall, where your husband



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1

seemed to be so happy and he was playing with  
the children and so on, can you tell us when  
that visit occurred, relative to these visits  
that you made to the Spahn Ranch?"

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THE COURT: Wasn't that covered, Mr. Weadman, on cross?

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1 MR. WEEDMAN: Your Honor, counsel has just raised the  
2 question of the issue of Mr. Shea's being anxious, and whatever  
3 descriptive words were used in addition to this, just now.

4 May we have an answer to my question?

5 Do you recall the question, Mrs. Shea?

6 THE WITNESS: Would you repeat the question, please?

7 (The reporter read the question as  
8 follows:

9 "Q With respect to this visit to  
10 the Babcocks you recall, where your husband  
11 seemed to be happy and he was playing with  
12 the children and so on, can you tell us when  
13 that visit occurred, relative to these visits  
14 that you made to the Spahn Ranch?"

15 THE WITNESS: August 11, 1969.

16 Q BY MR. WEEDMAN: In other words, on August 11, 1969  
17 would it be fair to say that your husband was a happy man?

18 A Yes.

19 Q And that was following both visits to the Spahn  
20 Ranch, or not?

21 A No.

22 Q That was in the middle sometime.

23 Was that between the visits to the Spahn Ranch?

24 A Between.

25 Q When did you last go to the Spahn Ranch?

26 A August 12, 1969.

27 Q So following that conversation that you had with  
28 your husband where he appeared fearful and anxious and so on,

1 following that conversation, why he appeared to be a happy  
2 man?

3 Generally so, isn't that so?

4 A Would you repeat it, please? May I have it?

5 Q Don't you understand that question, Mrs. Shea?

6 A No, I don't.

7 MR. WEEDMAN: I will withdraw the question.

8 THE COURT: Restate it.

9 Q BY MR. WEEDMAN: When did your husband -- well, let  
10 me start over again.

11 Do you have any personal knowledge that your  
12 husband went to the Spahn Ranch and broke a horse?

13 A Yes, I know he was there.

14 Q You know he was there, because he told you he was  
15 there?

16 A Yes.

17 Q You weren't there yourself, were you, Mrs. Shea?

18 MR. KATZ: Your Honor, I am going to object on the grounds  
19 that it is argumentative and again -- excuse me, your Honor.  
20 The evidence was offered for the state of mind of Mr. Shea,  
21 and counsel well knows that, so he is now trying to ask her  
22 whether she was percipient to an event about which she related.

23 THE COURT: The objection is overruled. You can answer  
24 the question.

25 Repeat the question, if it is not clear.

26 MR. WEEDMAN: May we have it?

27 Thank you, your Honor.

28 THE COURT: Yes.

(The question was read by the reporter  
as follows:

"Q You weren't there yourself, were  
you, Mrs. Shea?")

THE WITNESS: No.

MR. WEEDMAN: May I have just a moment, your Honor?

(Short pause.)

Q BY MR. WEEDMAN: Had your husband been drinking  
when he came back from that horse-breaking episode?

At least that you understood he was out breaking  
a horse?

A No.

Q When you went out to celebrate that night, did  
you have anything to drink, you and Mr. Shea?

A Yes, we did.

Q Did you spend the whole \$45 that night?

A No.

Q How much did you spend?

Do you remember?

A I don't remember.

Q What were you celebrating that night?

A Our wedding anniversary that we didn't get a chance  
to -- we couldn't celebrate on the 1st of the month.

Q Was that because he didn't have the money?

A Yes, it was.

Q So that \$45, then, was that about all of the money  
that you had up to that time?

That is, up to the time that you were going to

1 celebrate -- I will withdraw the question.

2 MR. KATZ: I am going to object.

3 MR. WEEDMAN: I will withdraw the question.

4 Q Did you have any other money other than that \$45?

5 A Yes.

6 Q But you waited until you got the \$45 to celebrate  
7 your wedding anniversary?

8 A Yes.

9 Q In other words, you could have celebrated it on  
10 the 1st, if you wanted to, Mrs. Shea?

11 MR. KATZ: I would object to that as argumentative.

12 THE COURT: You may answer the question.

13 THE WITNESS: What?

14 THE COURT: You can answer the question.

15 THE WITNESS: Would you repeat it again, please?

16 Q BY MR. WEEDMAN: You could have celebrated your  
17 anniversary on the 1st, if you had wanted to, then, as far as  
18 money goes?

19 A No.

20 Q Then you didn't have the money on the 1st to  
21 celebrate with?

22 A No.

23 Q But you did when Shorty finished breaking this  
24 horse, or at least you understood he broke a horse?

25 Then you had \$45?

26 A Yes.

27 Q And that is what you used to celebrate with?

28 A Yes.

1           Q       You didn't have any other moneys at that time,  
2 any other substantial moneys?

3           A       No.

4           Q       Did your husband appear to have a good time  
5 celebrating with you that night, Mrs. Shea?

6           A       Yes.

7       MR. WEEDMAN: Thank you, Mrs. Shea. That is all I have.

8       THE COURT: That is all. Thank you, lady.

9       MR. WEEDMAN: Your Honor, I respectfully request that  
10 Mrs. Shea be ordered to remain as a witness for the defense.

11               I do not want her excused, your Honor. Now, she  
12 may be on call.

13       MR. KATZ: If you have any statement, would you please  
14 make it at the bench?

15       MR. WEEDMAN: That is all I wanted to say.

16       THE COURT: Is there any objection?

17       MR. KATZ: There is no objection. She will be available  
18 at counsel's pleasure.

19       THE COURT: All right.

20               You won't want her here at this time, Mr. Weedman.  
21 Later on you want her here?

22       MR. WEEDMAN: Yes, your Honor.

23       THE COURT: Mrs. Shea, the defense counsel has indicated  
24 that he will or may want to examine you at a later time in  
25 the future, so I am asking you to keep yourself in readiness.  
26 I won't ask you to sit down here and wait through these  
27 proceedings. You can if you want to. The courtroom is open.

28               I am not asking you to, but I am telling you that

1 you must be available as a witness if you are telephoned or  
2 advised to come in. You are under subpoena, and you are under  
3 order of the court.

4 Now, do you understand that?

5 THE WITNESS: Yes, sir.

8a

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7 ERASABLE

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9 FOLIO

10  
11 PERMANENT

8A

1 THE COURT: I'm making this in order but I am not  
2 trying to discommode you any more than I have to. You must  
3 be kept in readiness just in case you are called back.

4 THE WITNESS: Yes, sir.

5 THE COURT: Gentlemen, do you have the phone number and  
6 address?

7 MR. KATZ: Yes, your Honor.

8 THE COURT: Thank you. You are excused now.

9 Thank you very much, lady.

10 Now, you call your next witness.

11 MR. WEEDMAN: Excuse me, your Honor. As long as we have  
12 Mrs. Shea here, may I inquire, or would your Honor inquire,  
13 of Mrs. Shea if she has given her most current address and  
14 most current telephone number to the district attorney?

15 THE COURT: Yes. Would you tell us your phone number?

16 MR. KATZ: Your Honor, we have it.

17 THE COURT: You have the latest number?

18 MR. KATZ: Yes, your Honor.

19 MR. WEEDMAN: Counsel may not know that.

20 THE COURT: Are you satisfied?

21 MR. WEEDMAN: No, I want to hear it from Mrs. Shea,  
22 your Honor.

23 MR. KATZ: If your Honor pleases, may we approach the  
24 bench?

25 THE COURT: Well, I don't think so.

26 MR. KATZ: I have never heard of such a request.

27 THE COURT: Well, you are hearing it now. She doesn't  
28 want to speak it out loud.



8A2

1 MR. KATZ: She does not, your Honor.

2 THE COURT: Well, that is it. Step over to the defense  
3 counsel so that he may have your number.

4 You step over here, please. He is entitled to it  
5 because you are a witness, if he wants it.

6 Wait a minute, you don't want to give the name and  
7 address?

8 MR. WEEDMAN: I don't need the address. I need a place  
9 to contact this woman.

10 THE COURT: Well, if you don't want to do that, we will  
11 hold you here.

12 MR. WEEDMAN: Well, just let her remain. That is all  
13 right with us.

14 MR. KATZ: I would like to approach the bench.

15 I cite counsel for misconduct.

16 MR. WEEDMAN: I am sorry, your Honor, I respectfully ask  
17 that your Honor strike Mr. Katz's remarks, and just tell the  
18 jury to ignore it, please, for the record.

19 THE COURT: Do you want the address or not? Let's get  
20 that.

21 Do you want the address? If you do, come in to  
22 chambers.

23 MR. WEEDMAN: Well, Mr. Katz seems terribly disturbed  
24 about this, your Honor. I don't want to disturb him. I just  
25 want to make sure that this woman is not going to leave the  
26 state. I want her here.

27 THE COURT: I am satisfied to take your request, but I  
28 understand you want her address.

8A3

1 MR. WEEDMAN: I will accept that.

2 THE COURT: Are you satisfied with my instruction that  
3 she remain available to the order of the court?

4 Does that satisfy you?

5 MR. WEEDMAN: Well, it certainly does, your Honor, except  
6 I want to make sure that the district attorney's office knows  
7 where she is.

8 THE COURT: You will take Mr. Katz's assurance on that?

9 MR. WEEDMAN: She is a convicted felon. She is not a  
10 California resident since 1968.

11 THE COURT: Let's go in chambers. We are having problems  
12 here.

13 MR. KATZ: Would your Honor strike the remarks of counsel  
14 and admonish the jury to disregard them?

15 THE COURT: In a little while I will handle it my way.

16 (The following proceedings were had  
17 in chambers.)

18 THE COURT: We are in chambers. Both counsel are here,  
19 and the defendant is here.

20 Now, let me try to quell the storm here, gentlemen.

21 MR. WEEDMAN: Thank you, your Honor.

22 THE COURT: I will ask this as a question, Mr. Weedman.

23 First, I could put the witness and hold her in  
24 custody as a material witness. I don't want to do that if it  
25 can be avoided.

26 Are you satisfied that I obtain from the witness  
27 a statement in open court, or admonition, or in chambers, that  
28 she will be available to the process of this court, and in the

8A4

1 presence of the district attorney that the district attorney  
2 has the number or the way to communicate immediately with the  
3 witness?

4 Does that satisfy your requirement?

5 MR. WEEDMAN: Yes. I just want to make sure that  
6 Mr. Katz knows where she lives, and the only way he is going  
7 to know is for her to tell him.

8 What Mr. Katz was saying out there is, well, we  
9 know where she is. I don't accept that.

10 THE COURT: I'm not asking you to.

11 MR. WEEDMAN: She is anything but a reliable citizen,  
12 your Honor.

13 THE COURT: Now, if we bring her in here -- you see,  
14 she may be under duress by giving her address or phone number.  
15 I don't know.

16 I don't want to cause more trouble than we have.  
17 That is what I am concerned about.

18 MR. WEEDMAN: Very well, your Honor, but I do not accept  
19 that, respectfully, because --

20 THE COURT: Now, if I bring her in here and at this time  
21 state to the district attorney, or the district attorney  
22 advises her that -- over to the side, and finds out if he has  
23 her latest address and phone number, and that is the number  
24 that she will be available at at all times, would that satisfy  
25 you?

26 MR. WEEDMAN: Why, of course.

27 THE COURT: Bring her in.

28 MR. KATZ: I would like to be heard on this record.

8A5

1 Mr. Weedman has known that gratuitously, without formality,  
2 without motions, I have made everything available to  
3 Mr. Weedman. I have gone out of my way.

4 I have made tapes available. I have secured  
5 machines for him. I have given him addresses, and lists.  
6 I have done everything that I can to convince Mr. Weedman that  
7 he knows, as an officer of the court I will do everything that  
8 I can to secure her presence or make her available at his  
9 convenience.

10 I have always done that. I don't think he would  
11 indicate to the contrary that I have not done so in good faith.

12 What I am saying is this, your Honor. This woman  
13 is out here crying in the courtroom. Now, she is so fearful  
14 that her address will be made known to the public --

15 THE COURT: I am not taking it.

8B fls

8B1

1 MR. KATZ: Mr. Weedman understands that we are certainly  
2 in contact with her. We will make her available to Mr. Weedman,  
3 should he want an investigator to talk to her or for whatever  
4 legitimate purposes.

5 He could assume that we have enough good faith and  
6 integrity to make sure we have the latest and last address.

7 THE COURT: All right, but let's get the statement from  
8 the girl in here so there will be no question about it.

9 MR. KATZ: Personal aspirations cast upon me in front  
10 of the jury, I think, were --

11 THE COURT: I don't think so. I will try to satisfy the  
12 jury in this respect by admonishing them to disregard any  
13 problems that may have existed, to put it to one side.

14 Get the girl here for a minute, if you will, please.

15 Now, you sit down, Mrs. Shea.

16 Now, listen to me, please, and don't get too ner-  
17 vous about this.

18 I have the right, but I don't want to do it, to  
19 keep you in custody pending the trial. There is a section of  
20 the code on that, or else I can impose a very substantial bail  
21 to hold you. I don't want to do that, but I must impress upon  
22 you and find out here, and first of all I believe Mr. Katz is  
23 correct. He made a correct statement. He has your latest  
24 address, or means by which he can get in touch with you immedi-  
25 ately.

26 I am satisfied of that, but I want you to tell  
27 Mr. Katz -- I don't care, you may have reasons as to why you  
28 were disturbed at giving your name and address.

1 I'm not trying to pry it from you, but you tell  
2 Mr. Katz. Go over in the corner and give him -- put it this  
3 way. Is the number, address, or way of communication very  
4 latest address that you have, the one that you have given  
5 Mr. Katz?

6 Is that correct?

7 THE WITNESS: Yes.

8 THE COURT: Will you be available at that address if I  
9 say to Mr. Katz, "Mr. Katz, you get Mrs. Shea in here. The  
10 defendant wants to cross examine her"?

11 Will you be available at that address?

12 THE WITNESS: Yes.

13 THE COURT: The court is making it an order.

14 THE WITNESS: Yes.

15 THE COURT: You must do that.

16 THE WITNESS: Yes.

17 THE COURT: You understand that?

18 THE WITNESS: Yes.

19 THE COURT: In that way I am not trying to publicize  
20 your address, you see, but you must be available.

21 Do you understand that?

22 THE WITNESS: I will.

23 THE COURT: All right. Does that answer our question,  
24 gentlemen?

25 MR. WEEDMAN: Your Honor, I want to make sure that the  
26 district attorney's office knows where she lives.

27 How can Mr. Katz tell us that he knows where she  
28 lives? I want her to give Mr. Katz her present address.

1 I don't care to know what it is, and her present telephone  
2 number. That is all.

3 That is all I asked for outside.

4 MR. KATZ: Magdalene, would you please once again write  
5 down for me your present address and telephone number, and  
6 any other number where you can be reached, and I will then  
7 deliver it to the clerk who will seal it.

8 Would you do that?

9 THE COURT: Give it to Mr. Katz. I won't take it. I  
10 don't even want it.

11 MR. WEEDMAN: May I ask Mrs. Shea a further question  
12 relative to her appearance in court?

13 I just want to ask her a further question relative  
14 to her appearance in court.

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1 THE COURT: Let's get this done first. Just one minute.  
2 Give it to Mr. Katz. I won't even look at it as  
3 a court.

4 (Witness writing.)

5 THE COURT: All right.

6 Now, take that, Mr. Katz.

7 Now, your question.

8  
9 EXAMINATION

INDEX

10 BY MR. WEEDMAN:

11 Q Mrs. Shea, are you presently on probation to any  
12 court?

13 A No.

14 Q Are you presently on parole?

15 A No.

16 Q What was the disposition of this last arrest for  
17 prostitution or for aiding and assisting prostitution in 1969?

18 MR. KATZ: I am going to object. This is not a deposition,  
19 your Honor.

20 THE COURT: I will sustain your objection.

21 MR. KATZ: Thank you. I am shocked.

22 MR. WEEDMAN: The record seemed to me to indicate she  
23 was placed on probation. I may be in error on that. I don't  
24 have the make sheet at this time.

25 THE COURT: I think it is immaterial.

26 MR. KATZ: It is immaterial.

27 THE COURT: If the People can't produce it you may have  
28 error in appeals. It would be error in favor of the defendant.



9-2

1 MR. WEEDMAN: I will abide by that, your Honor. I am  
2 sorry about that thing out there. I was really only asking for  
3 an assurance that the D.A. had her present location.

4 THE COURT: I am sure she has got it there. I am  
5 satisfied.

6 MR. WEEDMAN: I am, too, your Honor. Thank you.

7 THE COURT: I would say after the insistence which you  
8 are justly entitled to make, there are very serious grounds  
9 which would exist for further proceedings. You are protected.

10 MR. WEEDMAN: Then I appreciate that very much, your  
11 Honor. That is all we could ever possibly ask for here.

12 THE COURT: All right. That is it then.

13 MR. KATZ: Yes, thank you.

14 THE COURT: All right.

15 We will take a short recess, folks.

16 (Recess.)

17 (The following proceedings were had  
18 in open court outside the presence  
19 of the jury:)

20 THE COURT: All right, gentlemen.

21 Now, we will go ahead. People against Grogan.  
22 We are back in court. Defendant is here, defendant's counsel  
23 is here, the district attorney is here.

24 You can bring in the jury, sheriff.

25 THE BAILIFF: Yes, sir.

26 (The following proceedings were had  
27 in open court in the presence of the  
28 jury:)

1 THE COURT: Now, we have all of the jurors here plus  
2 the three alternates.

3 Ladies and gentlemen, let me say because court was  
4 determining on the address of the last witness, Mrs. Shea, I  
5 am satisfied that the witness is fully available for immediate  
6 presence back in court if, as and when she is needed again.

7 And let me say that just overlook any discussions  
8 between counsel arising in court back and forth that are not  
9 pertinent to the case. Just overlook them and remember you are  
10 here in the same capacity as I am, as the judges of the facts.  
11 Your duty is to judge the facts. Don't be disturbed or upset  
12 one way or another on anything but the facts, that is all.

13 Go ahead, gentlemen.

14 MR. KATZ: Thank you so much for that admonition, your  
15 Honor.

16 The People wish to call Sharon Babcock.

17 THE COURT: All right.

18  
19 SHARON BABCOCK,

20 called as a witness by the people, testified as follows:

21 THE COURT: Now, if you will please raise your right hand  
22 and be sworn.

23 THE CLERK: You do solemnly swear the testimony you may  
24 give in the cause now pending before this court shall be the  
25 truth, the whole truth and nothing but the truth, so help you  
26 God?

27 THE WITNESS: I do.

28 THE CLERK: Thank you, ma'am. Will you take the stand and

1 be seated, please.

2 THE COURT: Lady, you please sit down here so everybody  
3 can hear. Pull this microphone up and talk right into it.  
4 A little closer, if you can. That's it.

5 Keep your voice up. All the jury must hear. That  
6 is it.

7 You tell us your name, will you, please.

8 THE WITNESS: Sharon Babcock.

9 THE CLERK: Will you spell your last name.

10 THE WITNESS: B-a-b-c-o-c-k.

11 THE CLERK: Thank you, ma'am.

12 THE COURT: All right. There you are.

13 Now, go ahead.

14  
15 DIRECT EXAMINATION

16 BY MR. KATZ:

17 Q Mrs. Babcock, I am over here. And when I ask you  
18 a question if you do not understand it will you ask me to  
19 rephrase it?

20 A (Nodding head affirmatively.)

21 THE COURT: Don't nod your head.

22 THE WITNESS: Okay.

23 Yes.

24 THE COURT: Speak up.

25 Q BY MR. KATZ: All right.

26 Now, you see the gentleman who is seated in front  
27 of you in that good looking brown suit?

28 A Yes.

1 Q He is here to take down everything you say, you  
2 understand?  
3 A Yes.  
4 Q He can't take it down if you nod, isn't that right?  
5 A Right.  
6 Q So you have got to talk right into a microphone so  
7 we can all understand. Will you do that?  
8 A Yes.  
9 Q Mrs. Babcock, are you married to Jim Babcock?  
10 A Yes, I am.  
11 Q The both of you have been waiting in the hall  
12 corridors for three days, is that right?  
13 A We have.  
14 Q Mr. Babcock is presently outside, is that right?  
15 A Yes, he is.  
16 Q All right.  
17 And did you meet -- strike that.  
18 Did you know Shorty Shea?  
19 A Yes, we did.  
20 Q All right.  
21 And did you meet his wife Nikki?  
22 A Yes, we did.  
23 Q And that is the previous witness who just got off  
24 the stand?  
25 A Yes, she is.  
26 Q All right.  
27 Now, I want to direct your attention to sometime in  
28 August of 1969. Did you receive a call from Nikki?

1 A Yes, I did.

2 Q All right.

3 Approximately when was it?

4 A It was after the -- it was about the 26th, 27th of  
5 August.

6 Q That's 1969?

7 A Right.

8 Q And can you tell us the subject matter of that  
9 conversation?

10 A Where to find Don.

11 Q All right.

12 Would you tell us what Nikki said and what you said  
13 in that regard.

14 A She just wanted to find --

15 MR. WEEDMAN: Excuse me, your Honor. It may well be  
16 the conversation will not involve any hearsay, but we have no  
17 way of knowing. Of course there is a possibility.

18 THE COURT: Read the question again, please.

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

21 "Q All right. Would you tell us  
22 what Nikki said and what you said in that  
23 regard?")

24 MR. KATZ: As an offer of proof --

25 THE COURT: I will listen to that. That is a conversation  
26 the 26th of August 1969?

27 MR. KATZ: Yes, your Honor.

28 THE COURT: Well --

1 MR. KATZ: It is not offered for the truth of the  
2 assertions.

3 THE COURT: Well, we'd better have a statement in  
4 chambers. I don't know what the witness is liable to say.  
5 I don't know.

6 Better come in chambers, I think. I don't know  
7 what this witness may say. You can make an offer of proof. It  
8 shouldn't be in front of the jury.

9 Do you want to make an offer of proof up here?

10 MR. KATZ: Yes. I will be happy to, your Honor.

11 THE COURT: All right.

12 Come on up here.

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9A

(The following proceedings were held  
in chambers.)

THE COURT: All right. Now we are in chambers. Defendant is here. Counsel are here, reporter and clerk.

Go ahead.

MR. KATZ: Yes, your Honor. Again let me emphasize that this is not offered for the truth of the assertions, it is merely as circumstantial evidence and corroborative evidence as to when Mrs. Shea first contacted Mrs. Babcock after receiving the Babcock number from Mr. Shea.

Now, the testimony would be just simply --

THE COURT: Make a leading question of it without going into the contents, then.

MR. KATZ: Well, no, your Honor, if I may just finish.

THE COURT: I will let you talk. I won't try to cut you off.

MR. KATZ: That sounded short. I didn't mean it that way.

THE COURT: It is all right. Go ahead.

MR. KATZ: In other words, what I intend to show is that approximately on three occasions Nikki had called Mrs. Babcock. The first time around August 26th or August 27, 1969, in which she --

THE COURT: Mrs. Shea?

MR. KATZ: Mrs. Shea. Thank you for correcting me.

THE COURT: All right.

MR. KATZ: Mrs. Shea attempted to find out through Mrs. Babcock where Mr. Shea was. That's all.

9A2

1 There is no mention of Charles Manson or anything  
2 like that. And just in other words, "Where is he? Do you  
3 know where he is?"

4 And then to which Mrs. Babcock would reply, "Well,  
5 he may be at Spahn Ranch." And that would be the basic tenor  
6 of the conversation.

7 I will then ask her whether as a result of that  
8 conversation did she make a call some place in an effort to  
9 locate Donald Shea. And she will reply, "Yes."

10 And I will say, "Where?"

11 "I called Spahn Ranch."

12 "Do you have the number?" "Yes."

13 "What is the number?" And she will give us the  
14 number. And she will produce a telephone bill which she  
15 received apparently from General Telephone Company showing --

16 THE COURT: This is Mrs. Shea?

17 MR. KATZ: No, Mrs. Babcock.

18 THE COURT: Just a minute. I'm sorry.

19 All right. Go ahead.

20 MR. KATZ: Showing a toll call made from her house to  
21 Spahn Ranch and just to fix the approximate date when she  
22 called.

23 So, in other words, we are only showing circum-  
24 stantially the approximate time period when Magdalene called  
25 Mrs. Babcock in an effort to locate Mr. Shea, what message  
26 she left and then what Mrs. Babcock did. And that's all we are  
27 showing.

28 This is nothing for the truth of the assertions.



9A3

1 THE COURT: Well, you are offering this, then, to show  
2 the state of mind of Mrs. Shea with respect to making telephone  
3 calls, substantially, is that it? Otherwise you get into  
4 hearsay statements.

5 MR. KATZ: Of course. In other words, I am -- I can't  
6 emphasize this too strongly -- merely because you have a  
7 statement, your Honor, it doesn't mean it is hearsay unless,  
8 in other words, when people verbalize, unless it is offered  
9 for the truth of the matter asserted. It is obviously hearsay  
10 which is inadmissible unless it comes in under one of the  
11 well-recognized exceptions.

10 fls

10-1

1 But if it is to show state of mind, and it is  
2 otherwise relevant, then under 1250 of the Evidence Code it  
3 must come in.

4 Now, this is merely circumstantial evidence to show  
5 the approximate time period when she received the call from  
6 Mrs. Shea concerning Mrs. Shea's efforts to locate Shorty  
7 through the Babcocks.

8 It shows the critical date around August 16th,  
9 August 17th, 1969 and it shows Mrs. Babcock's effort to locate  
10 Mr. Shea.

11 Again, there is nothing in there which is  
12 prejudicial, inflammatory or which is in any way offered for  
13 the truth of the assertions, your Honor.

14 Again, verbal statements can be used just as  
15 anything else, as circumstantial evidence.

16 Apart from state of mind evidence, circumstantial  
17 evidence establishing a time period.

18 Now, if, for example, she called and asked about  
19 the sun and the moon and the stars, it would have no relevancy,  
20 would it, your Honor?

21 In other words, if I asked her, "Did Nikki call you  
22 at this time," and to which she would reply, "Yes." And "What  
23 did you talk about? Well, we talked about buying a Jaguar.  
24 We talked about the sun, and the moon, and the stars." There  
25 would be an obvious objection on the grounds that it is totally  
26 irrelevant and immaterial.

27 But if the conversation relates to the subject  
28 matter of the whereabouts of Shorty Shea, it has materiality

1 and it also is circumstantial evidence that this is the time  
2 period when she received a call concerning where is Shorty  
3 Shea and of course this is part of the circumstantial evidence  
4 to be presented.

5 It is clearly admissible under 1250 of the Evidence  
6 Code.

7 MR. WEEDMAN: Your Honor, I merely felt this offer of  
8 proof was in order because the question could have permitted  
9 all kinds of hearsay, and we didn't know what was going to come  
10 in.

11 THE COURT: Do you object to the testimony?

12 MR. WEEDMAN: No, your Honor.

13 THE COURT: Well, then we are all right.

14 MR. WEEDMAN: Oh, sure, your Honor. It was just the  
15 one thing that I'm not too clear about, the business about a  
16 telephone bill.

17 THE COURT: Well, she's going to testify that this is  
18 a telephone bill showing that she phoned the Spahn Ranch.

19 MR. WEEDMAN: She called the Spahn Ranch.

20 THE COURT: Mrs. Shea called the Spahn Ranch?

21 MR. KATZ: Not Mrs. Shea called the Spahn Ranch, Mrs.  
22 Babcock did, and I will have her produce the original bill.

23 I just saw it the other day. I will have a copy  
24 of it for Mr. Weedman to look at.

25 MR. WEEDMAN: Fine. You don't need the original.

26 THE COURT: All right, let's go over until 2 o'clock,  
27 because you have cross-examination here.

28 MR. KATZ: Certainly, your Honor.

1 (The following proceedings were had  
2 in open court in the presence of the  
3 jury:)

4 THE COURT: We will proceed. People against Grogan,  
5 Counsel and the defendant are here, and the jury  
6 and the alternates are present.

7 Now, you indicated in chambers that you had two  
8 questions.

9 MR. KATZ: A few questions.

10 THE COURT: You had questions, Mr. Weedman?

11 MR. WEEDMAN: Well, maybe none from us of Mrs. Babcock.

12 THE COURT: Let's take the direct, then.

13 MR. KATZ: I was going to say this, your Honor. I think  
14 Mrs. Babcock has to wait for her husband anyway.

15 THE COURT: Let's don't be crowded.

16 We will go over until 2 o'clock.

17 I will ask that all the jurors kindly return  
18 promptly. Do not discuss the case or come to any opinion or  
19 conclusion.

20 Lady, we will take your testimony promptly at  
21 2 o'clock. Thank you very much.

22 Do not discuss the case.

23 Thank you, gentlemen.

24 (The noon recess was taken to 2 o'clock  
25 p.m. of the same day.)  
26  
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#11

LOS ANGELES, CALIFORNIA, FRIDAY, JULY 23, 1971; 2:05 P. M.

THE COURT: All right, gentlemen. Now we will proceed. People against Grogan. The defendant is here, counsel for defendant is here, People's counsel is here.

Now, we will bring in the jury, sheriff, please.

THE BAILIFF: Yes, sir, your Honor.

(Proceedings were resumed in open court in the presence of the jury.)

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

So you may call your witness.

MR. KATZ: Thank you, your Honor.

Sharon Babcock.

SHARON BABCOCK,  
resumed the stand and testified further as follows:

THE COURT: Now, lady, you step right over here. You have already been sworn. So tell us again your name, please.

THE WITNESS: Sharon Babcock.

THE COURT: All right.

Now, you be seated. Remember, talk to the microphone and speak up so the jury and everyone can hear you.

All right.

DIRECT EXAMINATION (Resumed)

BY MR. KATZ:

Q Sharon, I am over here, if you can see me. We were talking just at the recess about a telephone call that I believe you said you received from Magdalene Shea in the latter part of August, 1969, is that correct?

A Yes.

Q And do you know when it was that you received the call?

A It was on the 27th.

THE COURT: Set the date.

MR. KATZ: Yes.

Q The 27th of what?

A August.

Q And that was 1969, is that correct?

A Right.

Q And would you tell us the conversation you had with Mrs. Shea at that time -- and the jury should be admonished, your Honor, respectfully, that it is not offered for the truth of the assertions but for the state of mind of the declarant, Mrs. Shea.

11-1

12 fls

#12  
1 THE COURT: Do you want a restatement for the jury on  
2 that, on your statement?

3 Is that clear to the jury, the purpose it is being  
4 admitted?

5 MR. KATZ: Yes, your Honor. It is offered for the  
6 limited purpose of state of mind.

7 THE COURT: For the limited purpose of showing state of  
8 mind.

9 Go ahead.

10 THE WITNESS: Okay. The last time we saw Don he told us  
11 he was staying out at Spahn's.

12 MR. WEEDMAN: I am sorry, your Honor.

13 MR. KATZ: I agree with counsel.

14 Q Tell us the conversation you had, not the one with  
15 Donald Shea.

16 You told us that Magdalene Shea called you  
17 August 27, 1969?

18 THE COURT: What did you say to Mr. Shea and what did  
19 Mr. Shea say to you at that time.

20 MR. KATZ: Excuse me, I think you mean Mrs. Shea.

21 THE WITNESS: Nikki asked if we knew where Don was at.

22 Q BY MR. KATZ: Slow down, you're going too fast.

23 A Yes; and we told her he was out at Spahn's.

24 Q "We" or "you"?

25 A I told her.

26 Q Tell us what you said, and what Magdalene Shea said.  
27 Let's back up for a moment. I want to make sure we  
28 understand one another.

12-2

1 You received a call from Nikki, who was Magdalene  
2 Shea, August 27, 1969?

3 Is that correct?

4 A Yes.

5 Q All right. Can you tell us the conversation you  
6 personally had with Nikki at that time.

7 What did you say to her and what did she say to  
8 you?

9 A She asked if we knew where Don was at, and we told  
10 her that he was at Spahn's.

11 She asked for the phone number, and I gave her the  
12 phone number, and then she called up there, also.

13 When I called out, I asked for Don Shea.

14 Q We are getting ahead of ourselves.

15 What else was said during that first conversation,  
16 August 27, 1969?

17 A That was it.

18 She just really wanted to know where he was at, and  
19 we told her. We gave her the phone number.

20 Q I see. Was there any discussion at all about  
21 leaving word for Shorty were he to call you at that time?

22 A Yes. She stated if we heard from him, to get his  
23 number and she would call back and we could give it to her so  
24 she could get in touch with him.

25 Q After this first telephone call of August 27, 1969,  
26 did you call some place?

27 A Yes, I did.

28 Q Where did you call?



1 A I called Spahn's Ranch.

2 Q Who did you talk with, if you know?

3 A I don't know who answered the phone. It was a  
4 woman, a girl, woman.

5 Q What did you say and what did the woman say?

6 A I asked if Don Shea was there, and she said they  
7 didn't know who he was.

8 Q Was that the total sum and substance of the conver-  
9 sation?

10 A Yes, the first phone call.

11 Q All right. Now, did you receive any further calls  
12 from Magdalene Shea, or Nikki, as you called her?

13 A Yes, I did.

14 Q When?

15 When approximately did you receive the next call?

16 A It was later on that evening or the next morning.

17 Q In other words, we are talking about roughly  
18 August 28, 1969?

19 A Yes.

20 Q What was the sum and substance of that conversa-  
21 tion?

22 A Well, again I told her that I had called there  
23 and they said that they didn't even -- they didn't know him  
24 by the name I gave.

25 I gave her the number, and she was going to try  
26 and call out there.

27 Q All right. Did you call Spahn Ranch again?

28 A Yes, I did.

I called two more times.

Q When did you call the second time in relation to this second call from Nikki?

A I would say it was a few days later.

Q All right. Did somebody answer the phone when you called Spahn Ranch?

A Yes, the same person that I talked to the first time.

Q Was this a male or a female voice?

A Female.

13 fls

13-1

1 Q And what did you say and what did the female say?

2 A This time I asked for Shorty. The first time I  
3 called out there they told me he went to San Francisco. The  
4 second time they said they didn't know where he was at.

5 Q I am getting confused here. The first time you  
6 told us about a conversation in which they said they didn't  
7 know a Donald Shea, is that right?

8 A Yeah.

9 Q That was the first call. Now, the second call, as  
10 I understand it, was a few days later after Nikki had called  
11 the second time, is that correct?

12 A Yes.

13 Q Tell us what happened, what was said with respect  
14 to call No. 2 to Spahn Ranch?

15 A I called and asked if Shorty Shea was there. And  
16 they told me that they believe he went to San Francisco.

17 Q You say they. This female?

18 A Yes.

19 Q This same female who talked with you on the first  
20 occasion?

21 A Yes.

22 Q And after that second call to Spahn Ranch did you  
23 receive another call from Nikki?

24 A I don't believe so.

25 Q All right.

26 Did you make another call to Spahn Ranch?

27 A Yes, I did.

28 Q In relation to the second call, when approximately

1 did you make the third phone call to Spahn Ranch?

2 A A few days later.

3 Q Did you talk to somebody on the telephone?

4 A The same person.

5 THE COURT: Set the date.

6 MR. KATZ: She said a few days after the second phone  
7 call.

8 THE COURT: The third call was what date? Same day?

9 THE WITNESS: No. A few days --

10 THE COURT: That is it. Get the date in there.

11 MR. KATZ: Yes. Thank you.

12 Q Approximately?

13 A It was around the 29th or 30th.

14 Q Of August?

15 A August.

16 Q This is 1969?

17 A Right.

18 Q All right.

19 These are, of course, rough estimates, is that  
20 correct?

21 A Right.

22 MR. WEEDMAN: Well, excuse me.

23 MR. KATZ: I have no objection. I will withdraw it.

24 MR. WEEDMAN: It is a leading question. May the answer  
25 be stricken, your Honor.

26 MR. KATZ: No objection.

27 THE COURT: All right.

28 Q BY MR. KATZ: All right.

1 And who answered the phone on the third occasion?

2 A The same voice.

3 Q All right.

4 And this is the same female voice?

5 A Yes.

6 Q What did you say and what did the female voice say?

7 A Asked if Shorty Shea was there, and she said they  
8 didn't know where he was at.

9 Q Is that the female talking to you, is that right?

10 A Yes.

11 Q All right.

12 Now, when you called the first time how did you call?  
13 Did you call from your own telephone, or some other place, or  
14 what?

15 A I called from our phone.

16 Q All right.

17 Is that a toll call from your place?

18 A Yes, it is.

19 Q And did you reverse the charges, or did you call  
20 collect or what?

21 A The first time I called straight through.

22 Q All right.

23 In other words, it was billed to your telephone,  
24 is that right?

25 A Yes, it was.

26 Q Now, the second and third time you called the Spahn  
27 Ranch did you call straight from your telephone normally, or  
28 did you call collect or what?

1 A I called collect.

2 Q And why did you call collect?

3 A Because it was a toll call.

4 Q During the month of August had you incurred a number  
5 of toll calls?

6 A Yes, sure did.

7 Q I take it you were watching your budget at that  
8 time?

9 A We were.

10 Q Did you bring with you, at my request, a General  
11 Telephone Company bill for the period reflecting August 16th  
12 to and including, for example, September 1st, 1969?

13 A Yes, I did.

14 Q All right.

15 And would you produce it at this time.

16 THE COURT: Is that it?

17 MR. KATZ: She has the original, your Honor.

18 THE COURT: Better mark it for identification, I think.

19 MR. KATZ: Yes, your Honor.

20 THE COURT: All right.

21 Take your time.

22 MR. KATZ: Before marking it for identification, I would  
23 ask Mrs. Babcock to hand the original to me.

24 THE COURT: Yes.

25 MR. KATZ: May the record reflect she has done so.

26 THE COURT: Yes. That's right, she has.

27 MR. KATZ: Mr. Weedman (handing).

28 Q I have here what you handed me, which is a bill

1 from General Telephone Company of California, and the date of  
2 the bill is September 25th, 1969. And it reflects message  
3 unit calls from 8-22-69 through and including 8-29-69. Is  
4 that correct, Mrs. Babcock?

5 A Yes.

6 Q Now, I have also what appears to be a Xerox copy  
7 of this same bill. Would you look at both of those and tell  
8 us whether these, this Xerox copy is in all respects a true  
9 and correct copy of the original?

10 A Yes, it is.

11 Q Original you have shown to me?

12 A Yes, it is.

13 MR. KATZ: All right.

14 And Mr. Weedman, is that a correct statement? You  
15 have seen both?

16 MR. WEEDMAN: I agree that the copy may be used in place  
17 of the original.

18 THE COURT: All right.

19 MR. KATZ: Yes. Thank you, Mr. Weedman.

20 All right. The People would ask respectfully that  
21 this document which bears the billing date of September 25th,  
22 1969 and which is entitled General Telephone Company of  
23 California, with the name under the name, under the indication  
24 bill presented to Sharon Babcock, I would ask that this be  
25 marked out of order People's 51.

26 THE COURT: All right, so marked.

27 Do you get it?

28 THE CLERK: Could I interrupt, sir. Would it be

1 appropriate, sir, to mark it 28?

2 THE COURT: Did you have some proposed markings?

3 MR. KATZ: Yes, we did.

4 THE COURT: That is why you wanted to mark it that way?

5 MR. KATZ: Exactly, your Honor.

6 THE COURT: How about that?

7 THE CLERK: Yes, sir. According to this prepared list  
8 there is a 51 and 52, sir, in that box. There is no 28.

9 MR. KATZ: There is?

10 At this time I would request it be marked People's  
11 28 for identification.

12 THE COURT: So marked. Is that clear to you, Mr.  
13 Weedman?

14 MR. WEEDMAN: In other words we are jumping ahead from  
15 20-G2 to 28 --

16 THE COURT: Is that right?

17 THE CLERK: Yes.

18 MR. WEEDMAN: I am sorry, from the magazines, People's  
19 25?

20 THE CLERK: Yes, sir.

21 MR. WEEDMAN: Thank you.

22 THE COURT: Mr. Katz will mark it. That is it.

23 Q BY MR. KATZ: Now, showing you People's 28 for  
24 identification would you please look on that bill and tell us  
25 whether or not you recognize a number that you said you used  
26 when you called Spahn Ranch.

27 A You want me to look at it?

28 Q Yes (handing). Would you please do that.



1 A That's 341-9026.

2 Q Please speak into the microphone so we can all hear.

3 A 341-9026.

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#14

1 Q Would you please be kind enough at this time to  
2 encircle that number and entry on People's 28?

3 I will provide you with a pen for that purpose.

4 MR. WEEDMAN: I will object to that, your Honor. It is  
5 not necessary. The witness has identified it on the bill.  
6 It is not necessary to mark it.

7 That only serves to emphasize it.

8 THE COURT: It has been testified to. It could be an  
9 undue emphasis.

10 It has been testified to. The jury has heard the  
11 answer. I think probably that will be sufficient comment.

12 I think probably counsel is correct.

13 MR. KATZ: No problem, your Honor. It was just for the  
14 convenience of the jury.

15 Q Now, what was that number again?

16 A 341 --

17 MR. WEEDMAN: I will object to Mr. Katz's gratuitous  
18 remarks that he is doing something for the convenience of the  
19 jury. This is -- I won't make any more speeches, your Honor.  
20 Thank you.

21 THE COURT: All right, I will strike that out.

22 Ask your question.

23 MR. WEEDMAN: Thank you, your Honor.

24 Q BY MR. KATZ: Yes. What was the number that you  
25 called when you said you called Spahn Ranch?

26 A 341-9026.

27 Q And across from that particular number, 341-9026,  
28 on this bill is there a date which indicates the date you made

1 that call?

2 A Yes, there is.

3 Q What is the date?

4 A August 27, 1969.

5 MR. KATZ: Thank you. No further questions.

6 THE COURT: All right, go ahead, Mr. Weedman.

7 MR. WEEDMAN: Thank you, your Honor.

8  
9 CROSS EXAMINATION

10 BY MR. WEEDMAN:

11 Q Mrs. Babcock, when did you first meet or come to  
12 know Mrs. Shea?

13 A It was in the beginning of August.

14 THE COURT: Of what year?

15 THE WITNESS: 1969.

16 Q BY MR. WEEDMAN: Where did you meet her for the  
17 first time?

18 A She was brought to our home.

19 Q By whom?

20 A Don brought her over.

21 Q By Mr. Shea?

22 A Yes.

23 Q I take it that your husband, Mr. Babcock, was there  
24 with you at the time?

25 A Yes, he was.

26 Q So there is no question about the fact that it was,  
27 in fact, Mr. Shea --

28 A No.

NX

14-3

1 Q -- who called you on the telephone?

2 A Yes, it was.

3 Q How do you remember that particular date,  
4 Mrs. Babcock, August 27, 1969, as I understand it, as being  
5 the first time you received a call from Mr. Shea?

6 A Because as soon as she called me, we knew he was  
7 out there, and I tried to call him on the same day that she  
8 called me.

9 Q Well, knowing he was out there, Mrs. Babcock, why  
10 didn't you -- maybe I misunderstood you.

11 Oh, you did tell her?

12 A Yes.

13 Q That Shorty was at Spahn Ranch?

14 A Yes, I did.

15 Q What did she say in reply to that?

16 A She said she would call.

17 Q And did you ever talk with her again?

18 A Yes, she did call again, you know, a couple of  
19 days later to see what I had heard when I called out there.

20 Q Well, as far as you were concerned, Mrs. Babcock,  
21 Shorty was there on August 27th?

22 Is that correct?

23 MR. KATZ: I would object to that, your Honor. It calls  
24 for conclusion and speculation.

25 The jury will make that determination as an ultimate  
26 fact.

27 MR. WEEDMAN: I am asking for --

28 MR. KATZ: Her state of mind is not in issue.

14-4

1 MR. WEEDMAN: Her state of mind is very much in issue,  
2 your Honor.

3 THE COURT: Read the question, please.

4 (The question was read by the reporter  
5 as follows:

6 "Q Well, as far as you were concerned,  
7 Mrs. Babcock, Shorty was there on August 27th?"

8 THE COURT: It is speculative, because it is beyond her  
9 knowledge.

10 I will sustain the objection. It calls for specula-  
11 tion.

12 MR. WEEDMAN: Well, forgive me, your Honor, but Mr. Katz  
13 was permitted to go into these conversations for state of mind.  
14 Now I am precluded from asking the most elementary questions on  
15 cross examination.

16 THE COURT: You can ask what was said back and forth, but  
17 you were asking for another fact, was Shorty there.

18 That is your question.

19 MR. WEEDMAN: Well, may I, your Honor, with respect to  
20 the state of mind for which this material was offered, at least  
21 inquire of Mrs. Babcock if she believed that Mr. Shea was there  
22 on the 27th, because that is what she apparently told Mrs. Shea.

23 MR. KATZ: May Mr. Weedman be instructed if he has any  
24 further inquiries of the court --

25 THE COURT: Do you believe Mr. Shea was there? Do you  
26 want to ask that?

27 MR. WEEDMAN: That is what I mean to say.

28 THE COURT: All right, ask the question.

14-5

1 MR. KATZ: I will object to that on the grounds that  
2 it calls for speculation, conclusion, and it is immaterial.

3 MR. WEEDMAN: It is not being offered for the truth of  
4 it.

5 MR. KATZ: Then it has no relevancy.

6 THE COURT: The basic question calls for state of mind.

7 You can ask the question. The objection will be  
8 noted and overruled.

9 MR. WEEDMAN: Thank you, your Honor.

10 Q Did you believe on August 27th when you were  
11 talking with Mrs. Shea that Shorty was out at the Spahn Ranch?

12 A Yes, I did.

13 Q Did she say to you that she would try and contact  
14 him there?

15 A Yes, she did.

16 Q All right. There was nothing unusual about that  
17 conversation, was there, Mrs. Babcock?

18 A No, there wasn't.

19 Q How did Nikki appear to you on the telephone by  
20 way of concern or anxiety or anything like that?

21 A She seemed concerned.

22 Q Did she tell you in that conversation that she  
23 hadn't seen Shorty since August the 16th?

24 A Yes, she did.

25 Q Did you by any chance ask her why she perhaps had  
26 waited so long before she tried to call you?

27 A No, I didn't.

28 Q Did it occur to you that that was a pretty long

1 time for her to wait?

2 MR. KATZ: I would object to that as argumentative.

3 This is the most base argumentative kind of  
4 question. I think counsel should be admonished.

5 MR. WEEDMAN: I agree, I should be admonished, your Honor.

6 THE COURT: You withdraw the question?

7 MR. WEEDMAN: Yes, your Honor.

8 THE COURT: The question is withdrawn.

9 Restate it.

10 Q BY MR. WEEDMAN: I take it you didn't ask her this  
11 kind of question during the conversation?

12 A No, I didn't.

13 Q All right. Have you told us substantially all of  
14 that conversation that you had on August 27th with Mrs. Shea?

15 A Yes, I did.

16 Q You will forgive me, Mrs. Babcock, but I just want  
17 to go very briefly through the sequence of these telephone  
18 calls again.

19 Now, after August 27th -- was it August 27th that  
20 you called Spahn Ranch?

21 A It was August 27th.

22 Q Some female answered the phone?

23 Is that correct?

24 A Yes, it was a young voice.

25 Q Young girl. Did you recognize the voice?

26 A No.

27 Q Do you have any idea who answered that telephone?

28 A No, I don't.

1 Q Have you any -- even if you don't know the person's  
2 identity, do you have any idea whether that person lived there  
3 or was a regular habitue there, or whether that person was  
4 in a position of any kind of authority at Spahn Ranch?

5 A No, I don't.

6 MR. KATZ: I will object.

7 Q BY MR. WEEDMAN: Was there any indication at all --

8 MR. KATZ: Excuse me, Mr. Weedman. Please give me an  
9 opportunity to object.

10 I move to strike whatever partial answer there was  
11 on the grounds that it would call for total speculation and  
12 conjecture.

13 THE COURT: Give me the last two questions, if you will,  
14 and the answer to the next-to-the-last question.

15 (Reporter read the record as follows:

16 "Q Do you have any idea who answered  
17 that telephone?

18 "A No, I don't.")

19 THE COURT: You have a negative answer there. The  
20 answer may stand.

21 Q BY MR. WEEDMAN: When that phone was answered,  
22 Mrs. Babcock, that is, when you called Spahn Ranch on the 27th,  
23 what exactly did you say?

24 A I asked if Don Shea was there, that I would like  
25 to speak with him.

26 Q So you used the term "Don Shea"?

27 A Yes.

28 Q And the female voice answered, in substance, that



1 they didn't know who Don Shea was?

2 A No.

3 Q Now, later on when you called Spahn Ranch you used  
4 the name "Shorty"?

5 A Yes.

6 Q Then was it the same female voice, as far as you  
7 know?

8 A Yes.

9 Q That answered the phone and said that Shorty had  
10 gone to San Francisco?

11 A Right.

12 MR. WEEDMAN: Thank you, Mrs. Babcock.

13 THE COURT: Is that all?

14 MR. KATZ: Nothing further.

15 THE COURT: Thank you, lady.

16 Mr. Katz, you don't want the original bill?

17 MR. KATZ: That is correct. We have People's 28, which  
18 is a Xeroxed copy.

19 Jim Babcock.

20 THE COURT: Raise your right hand, please, and be sworn.

21 THE CLERK: You do solemnly swear that the testimony  
22 you may give in the cause now pending before this court shall  
23 be the truth, the whole truth, and nothing but the truth, so  
24 help you God?

25 THE WITNESS: I do.

26 THE CLERK: Thank you, sir.

27 Will you take the stand and be seated, please.  
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JIMMY R. BABCOCK,

a witness on behalf of the People, testified as follows:

THE CLERK: Will you be kind enough to state your name for the record?

THE WITNESS: Jimmy Babcock.

THE CLERK: Is it Jimmy, sir?

THE WITNESS: Yes, it is.

THE COURT: Pull up your chair. All right.

DIRECT EXAMINATION

BY MR. KATZ:

Q Mr. Babcock, I'm over here.

Can you see me?

A I can see you.

Q You have to talk slowly and distinctly so that court reporter, who is sitting in front of you, or both of them who are now seated in front of you, can hear you.

Will you do that?

A I will.

15 fls

15-1

Q It is hard to hear you. Will you speak up a little louder.

A Okay. How is that?

Q That is much better. Thank you.

Now, do you know the previous witness, Sharon Babcock?

A Yes, I do.

Q Is she related to you somehow?

A Yes, she is. She is my wife.

Q All right.

And Mr. Babcock, what is your business or profession?

A I am a self-employed truck driver.

Q What do you do?

A Drive a truck.

Q Do you own a rig yourself?

A Yes, I do.

Q What kind of rig is that?

A Semi-dump for construction.

Q Can you spell that for us?

A What?

Q Semi what?

A Semi-end dump.

Q -e-n-d d-u-m-p?

A Yes. I think so.

THE COURT: Talk up now. The jury has got to hear you.

Q BY MR. KATZ: Yes. You are talking very lowly. Would you talk louder.

A Okay.

15-2

1 Q Is this a medium, small or large rig?

2 A It is a large rig.

3 Q You own this truck yourself, is that right?

4 A Yes, I do.

5 Q Now, did you know a person by the name of Donald  
6 Jerome Shea?

7 A Yes, I did.

8 Q When was it that you first met this person?

9 A It was back about '59, I think.

10 THE COURT: Talk up.

11 Now, you drop down to nothing.

12 Q BY MR. KATZ: All right.

13 Mr. Babcock, where was it that you met Mr. Shea?

14 A At Corriganville Ranch.

15 Q You say you believe it was around 1959?

16 A Yes, I do.

17 Q All right.

18 And sometime ago you told me that you believed you  
19 met Shorty about 1966, is that correct? Did you tell me that  
20 one time?

21 A I think -- I think I did. But that was a  
22 misunderstanding. It had to be.

23 Q When did you -- how do you fix 1959 as the approxi-  
24 mate date that you originally met Shorty Shea?

25 A Well, my wife and I were married in '65. And I  
26 knew Don at least five -- four or five years before that.

27 Q All right.

28 And in any event you met Mr. Shea then approximately

15-3 1

1959 at Corriganville?

2

A Yes.

3

Q Was that a movie ranch?

4

A Yes, it was.

5

Q What was it you were doing at the time when you met

6

Mr. Shea?

7

A Doing stunt work.

8

Q And in particular what did you do in that connection?

9

A I did high falls. Worked off of horses. Fist

10

fight.

11

Q And was this in connection with some type of live

12

performance for a paid audience?

13

A Yes, it was.

14

Q When did you perform these stunts and acts for

15

live performance?

16

A Mostly on Saturdays and Sundays.

17

Q And what was Shorty doing in 1959 when you met him

18

at Corriganville in connection with Corriganville activities,

19

if you know?

20

A He was doing basically the same thing. Mostly

21

fighting and work off of horses.

22

Q You say he was working off of horses?

23

A Yes.

24

Q And what did he do in connection with these horses?

25

A Well, you know, he would -- riding and falling from

26

horses. And death tricks.

27

Q This was in connection with live performances once

28

again?

15-4

1

A Yes, it was.

2

Q Just so we know that we are talking about the same

3

person, let me quickly show you People's exhibit No. 1 for

4

identification and People's exhibit No. 2 for identification

5

(handing).

6

Do you recognize the individual in both of those

7

pictures?

8

A Yes. That's Don Shea.

9

Q And did you know him by any nickname?

10

A Shorty.

11

Q Now, with respect to this stunt activity, were you

12

engaged in any teaching or classes?

13

A Yes, I was.

14

Q And tell us about that.

15

A That was about two years after I was there. We --

16

Mr. Corrigan ran a stunt class.

17

Q This is Crash Corrigan?

18

A Crash Corrigan.

19

Q Can you tell us the nature of this class?

20

A It was young kids that wanted to learn how to do

21

stunt work. And it was a paid-type thing. They paid Crash

22

Corrigan whatever it was, and I was the instructor.

23

Q All right.

24

Now, did Don enroll in any of these classes, or did

25

he -- what did he do in that connection, if anything?

26

A Don was already a stuntman when I met him.

27

Q In other words, he was performing then in the live

28

shows, is that right?

15-5 1

A Yes, he was.

2

Q Incidentally, did you get paid for those shows?

3

A Yes, we did.

4

Q All right.

5

Now, did you do any documentaries or commercials out at Corriganville?

6

A Yes.

7

Q During what period of time did you do those?

8

A It was just periodically all -- could be most any time. No set date that I can recall we did them, but there were several of them made out there that we worked in.

9

Q When you say "we" who worked in?

10

A Well, Don or myself or anybody else that happened to be working on the ranch at that time.

11

Q Incidentally, did you know Lance Victor?

12

A Yes, I did.

13

Q Where did you meet Lance Victor?

14

A I met Lance Victor at Corriganville.

15

Q The documentaries, what was the nature of the documentaries?

16

A Oh, there was a documentary, one was a railroad builder. It was made for Encyclopedia Brittanica.

17

Q Did this have something to do with the West and its development or evolution?

18

A Yes, it was. The railroads.

19

Q Did you appear in that?

20

A Yes, I did.

21

Q Did Don appear in that?

15-6

1 A I don't believe Don appeared in that one.

2 Q All right.

3 Did you appear in any more documentaries at  
4 Corriganville?

5 A No, I think that was the only -- the only documentary  
6 that I appeared in out there.

7 Q All right.

8 Now, how long were you associated with Corriganville?

9 A Six years.

10 Q And from what period to what period?

11 A Well, I left just before my wife and I got married,  
12 which was '65. So that put it back to '58, '59.

13 Q All right.

14 So in other words, roughly from 1958 or '59 until  
15 '64 you were associated with Corriganville Movie Ranch, is that  
16 right?

17 A Yes, it is.

18 Q All right.

19 Now, during that period of time did you see Shorty  
20 a lot, or would you see him occasionally or what?

21 A I would see him on the ranch in the shows and up  
22 until the time he left.

23 Q Which was about what time?

24 A About, oh, probably three years before I left.

25 Q That would be what, 1962, roughly, or what?

26 A Oh, roughly, yes.

27 Q All right.

28 Now, did you ever frequent Spahn Ranch yourself?



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A Yes, I did.

Q Would you ever see Don out at Spahn Ranch?

A On a couple of occasions in those days, yes.

15a

J15A

1 Q In those days, again, tell us the time we are  
2 talking about.

3 A Well, he visited Spahn Ranch same time we did,  
4 you know, from -- from when I was out there in '58-'59 up in--  
5 then I seen him out there around two or three times after he  
6 left Corriganville, about like '62 or something like this.

7 Q You didn't frequent Spahn Ranch on a daily basis,  
8 did you?

9 A No.

10 Q You spent more time at Corriganville, is that  
11 correct?

12 A Yes.

13 Q All right. Now, were you aware of the fact that  
14 Lance Victor and Shorty went to the salt mines in '68?

15 A I -- I knew they were there when they got back. I  
16 knew Lance was up there, but I did not know that Shorty was  
17 up there at the time.

18 Q I wanted you to use 1968 as a frame of reference.  
19 That is the purpose for my question.

20 After 1968 how often would you see Shorty after  
21 Lance and Don came back from the salt mines?

22 A I seen Shorty at that time about once every week  
23 or week and a half.

24 Q And that would be roughly in 1968 until when?

25 A Until -- '69.

26 Q All right.

27 Now, did you ever meet a girl by the name of Nikki  
28

1 or Magdalene Shea?

2 A Yes, I did.

3 Q When did you meet her?

4 A It was shortly after Don and Nikki had been married.

5 Q All right.

6 Can you give us a better estimate of the time  
7 period?

8 A That was in '69.

9 Q All right.

10 What part of the year?

11 A I think it was July, if I am not mistaken.

12 Q Well, now, did you buy a truck sometime in the  
13 summer of 1969?

14 A Yes, I did.

15 Q Which truck was that?

16 A The semi dump truck I have now.

17 Q When did you buy it?

18 A Bought that in August, '69.

19 Q Do you remember the approximate date you bought it  
20 in August of '69?

21 A The final papers were signed the 15th.

22 Q All right.

23 Using that as a frame of reference, August 15, 1969,  
24 when was it that you first met Nikki, if you recall?

25 A I met Nikki before that time.

26 Q All right.

27 Approximately how much before that time?

28 A Oh, I don't know. A week or possibly two weeks

1 before that.

2 Q All right.

3 Now, before you met Nikki did Shorty come over to  
4 your house, at which time Lance Victor was present?

5 A Yes, he did.

6 Q Did you visit with Shorty?

7 A Yes.

8 Q And was there any discussion about his having just  
9 gotten married?

10 A Yes, there was.

11 Q And did he mention who his wife was?

12 A Yes. He mentioned that he married a Negro woman.

13 Q All right.

14 And was there any discussion about bringing her to  
15 your house so that you could meet her?

16 A Yes.

17 Q What was that discussion?

18 A Well, he told me that he had married a Negro woman  
19 and wanted to know -- he didn't know how I would feel about him  
20 bringing her to the house.

21 And I told him I, you know, it didn't make any  
22 difference to me. You know, that she was perfectly welcome.

23 Q Do you remember whether or not he had shown you a  
24 picture of Nikki at the time?

25 A Yes, I think he did.

26 Q All right. And thereafter did Shorty in fact bring  
27 Nikki to your house?

28 A Yes, he did.

1 Q And approximately how soon after Shorty told you he  
2 was married did he bring Nikki?

3 A Probably -- probably a week, I imagine.

4 Q This is roughly in this August period of 1969?

5 A Yes.

6 Q That is before you had finally concluded your  
7 buy sale transaction of this large truck which you purchased,  
8 is that correct?

9 A Yes, it is.

10 Q So that would have been before August 15, 1969, is  
11 that right?

12 A Yes.

13 Q And was your wife home when Shorty brought Nikki  
14 around?

15 A Yes, she was.

16 Q Who else was there?

17 A My two children, or one child at that time.

18 Q And what is the name of that child?

19 A Lisa.

*How old?*

20 Q Can you tell us what happened when Shorty visited  
21 with you, with his wife?

22 A You mean in regards to my daughter?

23 Q Well, just what happened.

24 A Well, we -- we talked. And, you know, all of us  
25 did. And there's -- you know, Shorty was, you know, he loved  
26 kids, and he was playing with our daughter. And so was Nikki,  
27 you know.

28 Q How did your daughter react towards Shorty?

1 A She seemed like, you know, real well.

2 Q How did Shorty react towards your daughter?

3 A He just loved her, you know. He is just that type  
4 of a man.

5 Q How did Nikki react in this situation; were you all  
6 having a good time, so to speak?

7 A Yes, we were.

8 Q Didn't seem like at that time anything disturbed  
9 Shorty or anything, is that correct?

10 A No.

11 Q All right.

12 Now, using that, the date that you met Nikki, did  
13 you ever see her again in August of 1969?

14 A No, I did not.

15 Q All right.

16 Did you ever see Shorty again?

17 A Yes.

18 Q In August of 1969?

19 A Yes, I did.

20 Q Approximately when was it that you saw Shorty?

21 A I seen him one time after I bought the truck on  
22 the 15th.

23 Q Well, approximately how many days or months, or  
24 whatever it was that you saw Shorty following the final  
25 purchase of the truck on 8-15-69?

26 A I think it was just -- just a few days.

27 Q All right.

28 So we are talking about roughly maybe August 17th

1 or so, 1969, is that right?

2 A Yes.

3 Q And where did you see him?

4 A At my house.

5 Q And was he alone, or did he come with somebody?

6 A No, he was alone.

7 Q Did you visit with him?

8 A Yes, I did.

9 Q And on that occasion did you see him with a car?

10 A Yes.

11 Q And what kind of car was it?

12 A It was a white Mercury Comet, I believe.

13 MR. KATZ: Your Honor, may I approach the witness?

14 THE COURT: Yes.

15 Q BY MR. KATZ: Showing you very quickly People's  
16 exhibit 16 for identification (handing). Would you look at  
17 this white car depicted in these color photographs and tell  
18 me whether or not you recognize that car as having seen it  
19 before.

20 A Yes, that looks like Shorty's car, yes.

21 Q All right.

22 And in particular looking, for example, at 16-E,  
23 which depicts an air conditioning unit which appears to be off  
24 its mooring or mounts, do you recognize that interior as having  
25 been seen that before?

26 A Yes, I have.

27 Q And that was the interior of what car, sir?

28 A The interior of Shorty's car, the white Mercury

A Comet.

1 Q All right.

2 And did you notice any debris or things in the car  
3 when you saw it on or about this August 17, 1969, date?

4 A Yes. He had clothes in the car. And if I am not  
5 mistaken I seen one or two suitcases in the car.

6 Q When you say suitcases, are you talking about  
7 suitcases as we refer to them, or footlockers, or what?

8 A Well, they could have been footlockers. I refer  
9 to them as suitcases, myself. I would say -- I would say  
10 suitcases.

16 fls



16a-1

1 Q All right. Is there anything in the courtroom  
2 which is visible to you which you would define as or refer to  
3 as suitcases as opposed to footlockers?

4 A I can see the footlockers.

5 I don't remember seeing them in the car, but the  
6 gray suitcase -- it seems to me I have seen that before.

7 Q You say a gray suitcase?

8 THE COURT: You have reference to the two suitcases,  
9 steamer trunks, I guess you would call them?

10 Is that what you are referring to?

11 THE WITNESS: I don't remember seeing them.

12 THE COURT: You do not?

13 THE WITNESS: No.

14 THE COURT: All right.

15 Q BY MR. KATZ: So to be clear, then, you did not  
16 see these footlockers, denominated 20-G and 20-F for  
17 identification?

18 Is that right?

19 A No, I haven't.

20 Q What you remember is something which appeared to  
21 be a regular kind of a valise or a suitcase?

22 Is that right?

23 A Yes.

24 Q And it may have looked something like -- I think  
25 you referred to an object as a gray suitcase, this blue-gray  
26 suitcase?

27 Is that correct?

28 A Yes.

16a-2

1 MR. KATZ: For the record, that is 20-H for identifica-  
2 tion.

3 THE COURT: Yes.

4 Q BY MR. KATZ: Did Shorty give you anything at that  
5 time?

6 A Yes, he did.

7 Q What did he give you?

8 A Corn.

9 Q Did you have to go out to the car to get them?

10 A Yes, I did.

11 Q Is that when you saw the car?

12 A Yes. I was in the back seat of the car getting  
13 the corn.

14 Q Did Shorty have any clothes in the car at the time?

15 A Yes, he did.

16 Q Now, did Shorty tell you -- did you have a discus-  
17 sion with Shorty as to where he was working or had been  
18 working?

19 A Yes.

20 Well, he said he had been working topping trees,  
21 and that at this particular time he was at Spahn's ranch once  
22 again.

23 Q All right. Now, sometime during the period you knew  
24 him, and certainly between the dates 1966 to 1969, did you  
25 ever see him with a matched pair of guns?

26 A Yes, I did.

27 Q Did you see him quite frequently with these guns?

28 A Pretty near -- well, I wouldn't say every time that

16a-3

1 he was over, but a big part of the time he had his guns with  
2 him.

3 Q How would you describe these guns?

4 A Well, they are Dakotas.

5 Q By "Dakotas" what do you mean?

6 A Single-action revolvers.

7 Q And you are somewhat familiar with guns, having  
8 done stunt work?

9 Is that correct?

10 A Yes.

11 Q What was Shorty's attitude toward these guns?

12 A Well, he acted like they was -- they was really  
13 the first set of guns that he had ever really owned, and he  
14 just babied them.

15 They was just like a child to him, really.

16 Q Would he do anything with these guns in front of  
17 you or other people in your presence?

18 A We looked at them, you know, admired the guns.  
19 He did the same with mine -- I had mine hanging on  
20 the wall at the time, because I was no longer doing stunt work.

21 Q Do you know how he carried these guns, or in  
22 what container he carried these guns?

23 A Yes, he carried them in a briefcase or attache  
24 case.

25 Q Can you describe that attache case to us?

26 A Yes, it was a brown attache case with -- it had  
27 "preacher" written across the front of it or top of it.

28 Q Now, did Shorty ever tell you how he personally

16a-4

1 felt about the guns?

2 A Yes, he bragged on the guns.

3 Q What do you mean by "bragged on the guns"?

4 A He thought they was the greatest thing that he has  
5 ever really had.

6 Q All right. Now, showing you People's 9-A and 9-B  
7 for identification, I am going to ask you to look at these guns  
8 and tell me whether you recognize these as having seen guns  
9 like these before in the possession of Shorty.

10 Would you please take care in the examination of  
11 them?

12 A Yes. They are Shorty's guns.

13 Q Now, you say they are Shorty's guns.

14 Is there anything which enables you to say definitely  
15 that these are Shorty's guns, or do they just look similar or  
16 what?

17 A Well, they are Dakotas, 7-1/2 inch barrels,  
18 consecutive serial numbers which makes them a matched set.

19 Q Did you know at the time that Shorty had the guns  
20 that they had consecutive serial numbers?

21 A Yes, Shorty commented, and I looked at them.

22 Q Was he quite proud of that?

23 A Yes, he was.

24 Q Did you ever see him with a holster, a quick-draw  
25 holster set to house those guns?

26 A I don't really remember a holster. No, I don't.

27 Q Showing you People's 10 for identification, that  
28 attache case with the inscription "Reverend Donald Jerome Shea."

16a-5

1 Would you please look at this, and we will open  
2 it for a moment, and tell me whether you recognize this attache  
3 case as having seen this before?

4 A Yes, that is the case he carried his guns in.

5 Q So when you said "preacher," did it have actually  
6 the word "preacher" or did it have "Reverend Donald Jerome  
7 Shea," as you now see it?

8 A That is what it had, just as I now see it,  
9 Reverend Donald Jerome Shea.

10 Q That is what you meant by "preacher"?

11 Is that right?

12 A Yes.

13 Q When you saw the attache case, People's 10 for  
14 identification, and the guns contained therein, was it in  
15 this condition or was it in better shape?

16 A Well, I would say it was in a little better shape  
17 than what it is in now.

18 Q When is the last time you saw or heard from Shorty  
19 Shea?

20 A It was shortly after I purchased the truck, when  
21 he brought the corn up.

22 THE COURT: Try to set your date, if you can.

23 MR. KATZ: Thank you, your Honor. I am going to.

24 Q Approximately when was that?

25 A It was about the 17th or 18th.

26 Q Of August 1969?

27 A Of August 1969.

28 Q From that point on you never heard nor saw Shorty

16a-6

1 Shea again?

2 Is that correct?

3 A That is correct.

4 THE COURT: Read back the last question and answer,  
5 please.

6 (The record was read by the reporter  
7 as follows:

8 "Q From that point on you never heard  
9 nor saw Shorty Shea again. Is that correct?

10 "A That is correct.")

11 Q BY MR. KATZ: Lastly, did you know a Bob Bickston?

12 A Yes, I did.

13 Q Where had you met Bob Bickston?

14 A I had met him first at Corriganville.

15 Q Was he working at Corriganville?

16 A At the time I met him, yes.

17 Q All right. In what capacity?

18 A Stuntman.

19 MR. KATZ: Thank you. No further questions.

20 THE COURT: Cross?

21  
22 CROSS-EXAMINATION

23 BY MR. WEEDMAN:

24 Q Well, Mr. Babcock, we are going to go back over  
25 some of the ground that you have already covered, so if you  
26 will just bear with me I may end up asking you some of the  
27 questions that Mr. Katz has already asked you.

28 Now, when you testified before the grand jury,

INDEX

16a-7

1 Mr. Babcock, that you had met Shorty Shea in 1966, that was  
2 just simply a mistake in dates on your part?

3 A As far as I can realize, yes, sir.

16a

16a-1

1 Q Do you recall being asked these questions by  
2 Mr. Katz and making these answers?

3 "Q How long did you know Shorty  
4 Shea?

5 "A Since about 1966.

6 "Q Well, now, had you met him  
7 prior to 1966 working in a firm?

8 "A No, it was about 1966 when  
9 I first met him.

10 "Q I see. Now, where did you  
11 first meet Shorty?

12 "A At Corriganville Movie Ranch."

13 Do you recall making those answers to those  
14 questions, Mr. Babcock?

15 A It is possible that I did.

16 Q Well, if you made those answers to those questions,  
17 were those answers wrong?

18 A The 1966 date was wrong, yes, sir.

19 Q I see. Is there any particular reason -- well, are  
20 you telling us now that you don't recall actually making those  
21 answers to those questions before the grand jury?

22 A I didn't recall making the 1966 date. I did know  
23 Shorty before that time.

24 Q So without speculating, if you did so testify, that  
25 simply was a mistake on your part with respect to the date?

26 A Yes, sir.

27 Q So you were really off about seven years, then?  
28 Would that be a fair statement?



16a-2

1 A Yes, if I made that date. Yes, sir.

2 MR. WEEDMAN: Your Honor, counsel has indicated, and I  
3 appreciate it, that he is willing to stipulate that the  
4 testimony that I have quoted was, in fact, the testimony of  
5 this witness before the grand jury.

6 THE COURT: Let's see if the jury understands that.

7 You are about to read questions to this witness and  
8 answers to this witness from the testimony before the grand  
9 jury. Is that correct?

10 That is correct?

11 MR. WEEDMAN: Well, I had already read the questions and  
12 answers, your Honor.

13 THE COURT: Well, yes. I understand you, but I want to  
14 get the stipulation.

15 MR. WEEDMAN: Yes, your Honor.

16 THE COURT: The stipulation is that the questions and  
17 answers that you have read to the witness, or that you may  
18 read to him, further questions and answers, are questions and  
19 answers that were given in testimony before the grand jury?

20 Is that the stipulation?

21 MR. WEEDMAN: Yes, your Honor.

22 THE COURT: Is that clear to you ladies and gentlemen?

23 Very well, go ahead.

24 Q BY MR. WEEDMAN: Now, I believe, Mr. Babcock, you  
25 indicated that you had seen Shorty before every week and a half  
26 from around the middle of 1968 through August of 1969,  
27 approximately?

28 A Yes, sir.

1 Q And is that really correct?

2 Did you really see him about every week and a half  
3 of every month?

4 A Yes, sir.

5 Q For about that year's period of time?

6 A Sure did.

7 Q Now, there was a time in 1968, wasn't there, when  
8 Shorty was gone, when you didn't see him?

9 A It would be the early part of 1968, before he came  
10 back from Vallejo, or San Francisco.

11 Q Well, he went up to Vallejo and San Francisco in  
12 August and September of 1968, didn't he, Mr. Babcock?

13 MR. KATZ: If he recalls, I have no objection.

14 THE WITNESS: I don't recall when he went up there.

15 Q BY MR. WEEDMAN: I don't mean to argue with you,  
16 but you indicated you saw him about every week or week and a  
17 half.

18 Are you telling us that you saw Shorty during  
19 August and September of 1968 every week and a half?

20 A I don't know if it was that month or not, but it  
21 was in 1968 when they come back down.

22 Q And who was that that came back down?

23 A That was Lance Victor and Shorty Shea.

24 Q As far as you know, Mr. Babcock, Shorty and Lance  
25 Victor had been up in Vallejo working the salt mines?

26 A That is what I was told, yes.

27 Q You do not recall the exact dates?

28 A No, I don't.

1 Q And you particularly don't recall that it was in  
2 August and September of 1968?

3 A No, I don't.

4 Q Now, during any other months of 1968 and 1969, at  
5 least until August of 1969, were there any other extended  
6 periods of time when you didn't see Mr. Shea?

7 A No.

8 Q Now, were you aware that Mr. Shea had gone to  
9 Las Vegas in 1969?

10 A That is where he married his wife.

11 Q Were you with him in Las Vegas?

12 A No, I was not.

13 Q Did you see him about every week and a half during  
14 that period of time?

15 That is, when he was in Las Vegas, Mr. Babcock?

16 A Not when he was in Las Vegas, no, sir.

17 Q Did you know that he was working at a place called  
18 the Cab Inn, a beer bar down in the City of Carson in May and  
19 June of 1969?

20 A No, I did not.

21 Q Did you see him about every week and a half during  
22 that time?

23 A Mostly, yes.

24 Q And you didn't know he was working down there when  
25 you saw him?

26 A No, I did not.

27 Q Do you know where he was living in May and June of  
28 1969?

1 A May and June of 1969?

2 No, I don't. I have never been to where he was  
3 living.

4 Q Where did you see him about every week and a half  
5 during that period of time, Mr. Babcock?

6 A He would come to my house.

7 Q Where was your house at that time?

8 A It was in Tujunga.

9 Q So he would drive from wherever he was living, as  
10 far as you know, to your place in Tujunga?

11 A Yes.

12 Q Any idea how far it is from Tujunga to the City of  
13 Carson?

14 A No, I don't.

15 MR. KATZ: I will object to that as calling for specula-  
16 tion and conclusion.

17 MR. WEEDMAN: He may well know.

18 THE COURT: Well, let's have the question again.

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

20 THE COURT: You withdraw it?

21 MR. WEEDMAN: In the interests of time here.

22 Q Were you aware that he was working at least for a  
23 week or so at another beer bar out in Norwalk during July 1969?

24 A No, I was not.

#17

1 Q Did he come up to your place about every week  
2 and a half during July of 1969?

3 A I don't know if it was in July or not. But during  
4 that period of time he was over every week, week and a half.

5 Q About when was it that you met his wife Nikki  
6 for the first time?

7 A It was the first part of August. I don't know  
8 exactly when they got married. Before I purchased my truck,  
9 though. I do know that.

10 Q Had you seen Shorty about a week and a half before  
11 that time?

12 MR. KATZ: Excuse me. There's an objection on the grounds  
13 it is ambiguous as to what time. I think it is confusing.

14 MR. WEEDMAN: Well, let me withdraw the question.

15 THE COURT: All right.

16 Restate it.

17 Q BY MR. WEEDMAN: Had you seen Shorty before a  
18 week and a half before you met his wife?

19 A I don't want to say whether I did or not but I  
20 imagine I did, yes.

21 Q Why do you say you imagine you did, Mr. Babcock?

22 A Because at that period of time I was seeing him  
23 about every week, week and a half.

24 Q Where did you see him a week and a half before  
25 you met his wife?

26 A I don't really know if I did see him a week and  
27 a half before I met his wife or not.

28 Q Did you see him two weeks before you met his wife?

2

1 A I couldn't really tell you that either.

2 Q Did you see him two and a half weeks before you  
3 met his wife?

4 A Couldn't tell you that either.

5 Q Well, Mr. Babcock, did you see him three weeks  
6 before you met his wife?

7 A I don't really know.

8 Q Well, did you see him three to four weeks, in that  
9 period of time, before you met his wife?

10 A I couldn't say that either.

11 Q Or five weeks or six weeks and so on, seven weeks?

12 A Couldn't say.

13 Q Are you telling us you don't know?

14 A I couldn't say.

15 Q So, Mr. Babcock, if we are going to be fair about  
16 this, you can't really tell us you saw Shorty every week and  
17 a half during 1969, can you?

18 A Not through the whole year of 1969, no.

19 Q Of course, that's really true now, isn't it,  
20 Mr. Babcock?

21 MR. KATZ: Excuse me, your Honor. I object to the  
22 argumentative form of the question and the tone of voice, which  
23 can't be reflected in the transcript.

24 THE COURT: I think so. You can restate it.

25 Q BY MR. WEEDMAN: Now, with respect to these guns,  
26 Mr. Babcock, have you ever owned any guns similar to these guns,  
27 People's, I believe, 9-A and 9-B for identification?

28 A Not a matched pair, but I owned one. I have owned

3 1 it four years. And still do.

2 Q What kind of a gun is that that you have,  
3 Mr. Babcock?

4 A It is a Colt .45 single-action revolver.

5 Q Is that a Colt manufactured gun, that is, manu-  
6 factured by Colt Arms of the United States?

7 A Yes, it is.

8 Q Is that gun pretty much like the guns that you  
9 see here in front of you, 9-A and 9-B?

10 A Yes, it is.

11 Q What is the value of your gun, Mr. Babcock?

12 MR. KATZ: I'm going to object on the grounds it calls  
13 for a conclusion and speculation.

14 Q BY MR. WEEDMAN: Do you know --

15 I will withdraw the question.

16 Do you know how much your gun is worth?

17 MR. KATZ: Again, the same objection, your Honor.

18 THE COURT: I think the objection is well taken.  
19 Sustained.

20 MR. WEEDMAN: May I approach the witness, your Honor.

21 THE COURT: Yes, sir.

22 Q BY MR. WEEDMAN: You are aware, are you not,  
23 Mr. Babcock, that these are not Colt weapons but that these  
24 guns were manufactured in Italy?

25 A Yes, I am.

26 Q Can you tell us particularly in view of the fact  
27 that you have some familiarity with guns, can you tell us  
28 whether or not Italian copies are as valuable as Colt

1 manufactured weapons of this variety?

2 A No, they are not.

3 Q In other words, the Italian guns are not worth as  
4 much as the true Colt?

5 A No, they are not.

6 Q But you in your opinion -- and of course relying --  
7 falling back now on your experience with guns, would you say,  
8 sir, Mr. Babcock, that these guns appear to have been well  
9 taken care of? I ask you now to examine the bluing, the grips,  
10 the interior of the cylinders and the barrels.

11 MR. KATZ: Your Honor, I'm going to object on the grounds  
12 there is no particular expertise established with respect to  
13 this witness' ability to draw that kind of conclusion, number  
14 one.

15 Number two, this is an ultimate fact which will  
16 have to be determined by the jury. And it is out of the scope  
17 of the direct examination and it calls for speculation and  
18 conclusion because he has no expertise.

19 THE COURT: That disturbs me. It probably calls for  
20 speculation.

21 I am inclined to sustain it as calling for specula-  
22 tion. Opinion or speculation, I believe. Sustained.

23 Q BY MR. WEEDMAN: Mr. Babcock, are you sure of the  
24 year that Shorty went up to work the salt mines in Vallejo  
25 with Lance Victor?

26 A I'm not sure of the year he went up there. I am  
27 sure of the year he came back. I did not know when he went  
28 up there.



1 Q Well, you are sure of the --

2 THE COURT: Let me stop you a minute. I'm not trying  
3 to disrupt you.

4 My ruling could have been a little broad. The  
5 way the question is stated I think the objection is well  
6 taken. But if the question were asked, "In your opinion are  
7 the guns in good condition," I think he would be entitled to  
8 answer that kind of a question if put in that fashion.

9 That is up to you.

10 MR. WEEDMAN: Very well. I appreciate that opportunity,  
11 and I will try and frame that question, your Honor.

12 THE COURT: Ladies and gentlemen, let me say again the  
13 fact I inject myself in the case in any manner whatsoever is  
14 not to be taken in any way that I am in any fashion attempting  
15 to direct or not direct testimony for or in favor of one party  
16 or the other. I may have been a little broad in my ruling,  
17 and I think I was a little broad, and I am simply attempting  
18 to correct my ruling to permit counsel to ask a question, if he  
19 so desires.

20 That is the reason for it, to give to both sides  
21 the same opportunity. It is not done to advocate one party  
22 as against the other. I must make that clear because sometimes  
23 I may interrupt for the People or for the defendant. It is  
24 not done from any standpoint of opinion or bias in any way.

25 Do you want a recess at this time, gentlemen?

26 MR. WEEDMAN: It might be a good idea. Thank you, your  
27 Honor.

28 THE COURT: All right. Let's take a short recess,

1 and we will go right ahead.

2 Do not discuss the case or come to any opinion or  
3 conclusion. We will proceed in just a few minutes. Thank  
4 you.

5 (Recess.)

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1 (The following proceedings were had  
2 in open court outside the hearing  
3 and presence of the jury:)

4 THE COURT: Well, let's go right ahead. People against  
5 Grogan.

6 The defendant is here, and defense counsel is here.  
7 The district attorney is here. You may bring in the jury,  
8 sheriff.

9 Mr. Witness, step up here. You have been sworn,  
10 and will you please state your name again for the record.

11 THE WITNESS: Jimmy Babcock.

12 THE COURT: Remember when you answer the questions that  
13 the jury must all hear you, so keep your voice up so that  
14 everybody can hear you.

15 THE WITNESS: Yes, sir.

16 (The following proceedings were had  
17 in open court in the presence of the  
18 jury:)

19 THE COURT: Now we have, gentlemen, all of the jurors,  
20 the regular jurors plus three alternates, and you may go ahead,  
21 Mr. Weedman.

22 MR. WEEDMAN: Thank you, your Honor.

23 Q I left off just asking generally about the condition  
24 of these guns, but let me back up just a moment, Mr. Babcock.

25 With respect to this attache case, People's 10 for  
26 identification, you recall it has "Reverend Donald Jerome Shea"  
27 on there.

28 Was Mr. Shea a reverend or minister of some kind,

18-2

to your knowledge?

A To my knowledge, I couldn't really say.

Q Now, during the month of August 1969 leading up to the time you last saw Mr. Shea, where was he living, if you know?

A The last time I seen Don he said he was out at Spahn's ranch.

Q But he wasn't living there permanently, isn't that so?

MR. KATZ: I would object to that. It calls for a conclusion and speculation and for hearsay.

THE COURT: Read the question back, please.

(The question was read by the reporter as follows:

"Q But he wasn't living there permanently, isn't that so?")

MR. KATZ: It is also argumentative, your Honor.

THE COURT: Well, it is conclusion.

The facts could be asked, how many times did you see him there, when did you see him there.

It is conclusional, the objection is sustained.

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19-1

Q BY MR. WEEDMAN: Did he indicate to you that he was staying at Spahn Ranch, is that how you know that he was there?

A Yes.

Q And at the same time didn't he indicate that he was just here and there when he needed a place to sleep?

A He didn't indicate nothing like that, no, sir.

Q He didn't give you -- strike that.

There was nothing in this conversation, however, that gave you the impression, was there, that he was staying there permanently; was there?

A No, there wasn't.

Q Okay. So, in other words, to put it another way the impression, that is, the substance of this conversation was that Mr. Shea was not staying there permanently, isn't that correct?

MR. KATZ: Objection, your Honor. Calls for conclusion, speculation and hearsay. It is the rankest form of hearsay, your Honor.

THE COURT: I think it is probably conclusional. I will sustain the objection.

MR. WEEDMAN: Well, your Honor, again it is being offered as we have heard so often, it is being offered now for Mr. Shea's state of mind, not for the truth of whether he was in fact living there on a permanent basis or not.

MR. KATZ: Then it would have no relevance whatsoever and has no materiality at this point, your Honor.

THE COURT: I would be inclined to sustain the objection.

19-2

Sustained.

Q BY MR. WEEDMAN: Well, in addition to your believing that Mr. Shea was up at the Spahn Ranch, isn't it also true that you know that he was not living there permanently?

MR. KATZ: Your Honor, if your Honor pleases, objection. Assumes facts not in evidence and is argumentative.

THE COURT: Well, wait a minute. Let's have a reading.

(The question was read by the reporter as follows:

"Q In addition to your believing that Mr. Shea was up at the Spahn Ranch, isn't it also true that you know that he was not living there permanently?")

MR. KATZ: If your Honor pleases --

THE COURT: Wait a minute. I want to think about it. Just a minute now.

Well, segments of it are conclusional. Segments of it could be answered, and I think if there is some way to break down your question.

MR. WEEDMAN: Well, perhaps I --

THE COURT: The question is to the effect "Where did he live? How long have you known he has lived at certain places?"

You might or might not get at it in another fashion. It is conclusional the way it is asked.

MR. KATZ: I have no objection if this witness has personal knowledge, but that is the problem here, your Honor.

MR. WEEDMAN: Well, I might try it in another fashion.

1 THE COURT: Try and reframe your question.

2 MR. WEEDMAN: I will withdraw that question. Thank you,  
3 your Honor.

4 THE COURT: And see where we are.

5 Q BY MR. WEEDMAN: Mr. Babcock, do you know where  
6 Shorty was living, at least up to the morning of August the  
7 16th, 1969?

8 A The only thing I really know that is that the last  
9 time I seen him, he said that he was at Spahn's ranch.

10 Q And I take it from your answer that you don't  
11 know where he was living up to the morning, at least, of  
12 August 16th, 1969?

13 A The only thing I can say is where he was the last  
14 time I seen him.

15 Q If I told you that he was living at the Wilcox  
16 Hotel would that refresh your memory in any respect?

17 A No, sure wouldn't.

18 Q So I take it, then, that you didn't know that  
19 Mr. Shea was living at the Wilcox Hotel with Mrs. Shea at  
20 least up to August 16th, 1969?

21 A No. When he was living with Mrs. Shea I knew he  
22 was living with her, but I didn't know where. I didn't know  
23 what their address was.

24 Q In addition to Mr. Shea telling you last time you  
25 spoke with him that he was up at the Spahn Ranch did he say  
26 that he was not up there on a permanent basis?

27 A No, he didn't say.

28 Q Okay. Was there anything at all about that

1 conversation that gave you the impression that he was not  
2 there permanently?

3 MR. KATZ: To which I will object on the grounds it  
4 calls for conclusion and speculation of this witness.

5 THE COURT: Well, you may answer the last question. Take  
6 an answer yes or no.

7 If the witness can answer. If he can answer.

8 THE WITNESS: Will you repeat the question, please.

9 MR. WEEDMAN: May we have the question read.

10 THE COURT: Yes.

11 (The question was read by the reporter  
12 as follows:

13 "Q Was there anything at all about  
14 that conversation that gave you the impression  
15 that he was not there permanently?")

16 THE WITNESS: No, there wasn't.

17 Q BY MR. WEEDMAN: Now, didn't Mr. Shea actually say  
18 to you that he was up at Spahn's on and off?

19 A No, he did not say on and off.

20 Q Do you recall testifying before the grand jury in  
21 response to this question directed to you, of course, by  
22 Mr. Katz:

23 "Q Well, now, did he ever talk to  
24 you about where he was living at that time?

25 "A Well, he said he was up at  
26 Spahn's on and off "

27 A I don't remember the on and off. It's possible I  
28 did say that, yes.



Q And do you recall saying "He didn't give me the impression he was up there permanently, you know, just here and there when he needed a place to sleep or something"?

A It's possible.

#20

1 Q Well, isn't that what Mr. Shea told you, in  
2 substance, Mr. Babcock, about ---

3 A It could have been said, within the conversation  
4 It is hard to remember conversations.

5 Q Well, I certainly appreciate that, Mr. Babcock,  
6 and I agree with you.

7 Now, take a look again, if you will, at the two  
8 pistols, People's 9-A and 9-B for identification.

9 Would you examine those and tell us, if you can,  
10 whether or not they appear to be in substantially the same  
11 condition as they were when you last saw them in the posses-  
12 sion of Mr. Shea?

13 A They are not in as good condition as they were  
14 the last time I seen them, no.

15 Q What is the difference?

16 A Well, the lacquer on the grips wore off, unpolished,  
17 and the bluing on the injection rod, which can come from being  
18 drawn from a holster.

19 Q What about the bluing on the portion of the gun  
20 that backs up the cylinder?

21 A On the frame?

22 Q Yes, on the frame.

23 Let me point it out to you.

24 A That is the normal color that these weapons  
25 originally come out brand new.

26 Q I am indicating this portion right here now  
27 (indicating).

28 I am pointing to the left side of People's

2  
1 Exhibit 9-A for identification, the portion which is immedi-  
2 ately behind the cylinder.

3 Would you tell us whether or not that is the normal  
4 bluing condition of a -- of this gun?

5 That is, at least when it is new?

6 MR. KATZ: I will object on the grounds that there is  
7 no expertise in this area.

8 He can testify to how it looked when he first  
9 observed it, and whether it has changed in appearance at  
10 this time. Therefore, it calls for a conclusion and specula-  
11 tion.

12 THE COURT: Well, overruled.

13 Can you answer that question?

14 THE WITNESS: What was the question again, please?

15 THE COURT: Read the question, please.

16 (The reporter read the question as  
17 follows:

18 "Q I am indicating this portion right  
19 here now (indicating).

20 "I am pointing to the left side of  
21 People's exhibit 9-A for identification, the  
22 portion which is immediately behind the cylinder.

23 "Would you tell us whether or not that is  
24 the normal bluing condition of a -- of this gun?

25 "That is, at least when it is new?"

26 THE COURT: Well, it is very conclusional.

27 I don't know if the foundation is there of a gun-  
28 smith with this witness to answer the question. I'm inclined

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1 to think it is conclusional.

2 I think he is entitled to give an abstract answer,  
3 whether the gun is in good condition or not. I think he has  
4 the background to answer that, if he can, unless he has.

5 I think the last question is highly conclusional.  
6 I will sustain the objection to the last question.

7 MR. WEEDMAN: Yes, thank you, your Honor.

8 Q Can you by examining these guns tell us whether or  
9 not they have been fired?

10 A Probably not.

11 Q Are you familiar with the use of firearms as fire-  
12 arms rather than perhaps their use in -- oh, as props of some  
13 kind for stunt work or movie work?

14 A As firearms? Other than props?

15 Q Yes. I mean -- the thrust of my question is that  
16 a gun is used for shooting, but of course it has other uses  
17 as well.

18 A Yes.

19 Q Well, are you familiar with guns from the shooting  
20 point of view?

21 A Yes, I am.

22 Q Did Shorty have any live ammunition for these guns?

23 A I couldn't really say.

24 MR. WEEDMAN: That is all I have. Thank you, Mr. Babcock.

25 THE COURT: Is that all?

26 MR. KATZ: I just have a few questions, if I may.  
27  
28

## REDIRECT EXAMINATION

BY MR. KATZ:

Q Mr. Babcock, I believe you told us that after you were aware of Shorty and Lance Victor returning from the salt mines in Vallejo in 1968, and up until some time in August of 1969, you had seen Mr. Shea on the average of once every one and a half weeks?

Is that right?

A That is right.

Q Now, this was a habit?

There wasn't a specific time that Shorty would come by, or was there?

A No, there wasn't.

Q So when you say that you believe you saw him every one and a half weeks, these are just abstract periods in which you would see him?

Is that right?

A Yes.

MR. WEEDMAN: Well, excuse me. I will object to counsel leading the witness by way of explaining his inconsistent testimony, may it please the court.

THE COURT: It is leading. The objection is sustained.

Q BY MR. KATZ: What I am driving at is, you don't have any specific dates in mind with regard to when you would see him during that period of time?

Is that correct?

A That is correct.

Q Now, when Shorty would come over in this period

1 of time, talking about 1968 and 1969, what would you talk  
2 about?

3 A Well, old friends, weapons, guns.

4 Q I can't hear you. You are dropping your voice.

5 A Oh, I'm sorry. We would talk about, you know,  
6 friends, you know, mutual friends and acquaintances, and  
7 guns, and he would play with, you know, my little girl.

8 Just idle talk. There is nothing really basically  
9 that we talked about.

10 Q Did you pay any particular attention to these  
11 conversations, as such, or was it just merely a social  
12 conversation?

13 A Just social conversation.

14 Q Incidentally, and this is my last question to you,  
15 Mr. Babcock, did Shorty, the last time you saw him in August  
16 of 1969, tell you that he was planning to leave Los Angeles or  
17 California permanently?

18 A No, he did not.

19 MR. KATZ: I have no further questions.

20 THE COURT: Is that all?

21 MR. WEEDMAN: No, your Honor.

22  
23 RECROSS EXAMINATION

24 BY MR. WEEDMAN:

25 Q Do you know someone by the name of Ray Parrott?

26 A I have heard the name but I do not know the man,  
27 no.

28 Q Do you know someone by the name of William

1 Humphrey?

2 A I have heard that name, too, but I don't really  
3 know him personally, no.

4 Q Do you know someone, just so we are clear, by the  
5 name of Lance Victor?

6 A Yes, I do.

7 Q Did you have any conversations, and you can answer  
8 this yes or no, with Lance Victor with respect to where  
9 Mr. Shea was in August and September of 1969?

10 A Not that I recall, no.

11 Q Do you know someone named Muriel Quant?

12 MR. KATZ: I am going to object on the grounds that it  
13 is out of the scope of redirect examination.

14 MR. WEEDMAN: Counsel asked about conversations with his  
15 friends, your Honor.

16 MR. KATZ: No, I did not. It was with reference to  
17 Shorty Shea. I asked specifically what conversation did you  
18 have with Shorty Shea when he would come by every week and a  
19 half during that period of time.

20 THE COURT: I think the objection is well taken.  
21 Sustained.

22 Q BY MR. WEEDMAN: In any of these conversations  
23 was one Muriel Quant mentioned?

24 A Not that I recall.

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1 Q Was one Marian Binder ever mentioned in these  
2 conversations between you and Shorty?

3 A I heard the name. I don't know if it was mentioned  
4 in conversation with Shorty or not.

5 Q And finally, was Jerry Binder's name ever mentioned  
6 in these conversations between you and Shorty?

7 A It could have been. But I don't recall whether it  
8 was or not.

9 Q And finally, did you ever ask Shorty where he might  
10 be going from Spahn Ranch?

11 A No, I did not.

12 MR. WEEDMAN: Thank you, Mr. Babcock.

13 THE COURT: That's all. Thank you.

14 That's all. Thank you very much.

15 MR. KATZ: Thank you, your Honor. I had excused,  
16 unfortunately, the witness who was waiting.

17 THE COURT: All right.

18 Well, we will go over till Monday then.

19 MR. KATZ: Thank you, your Honor.

20 THE COURT: That's correct, you will be ready Monday with  
21 your next witness?

22 MR. KATZ: Certainly will.

23 THE COURT: Ladies and gentlemen, we will recess until  
24 Monday at 9:30. Please do not discuss the case or come to any  
25 opinion or conclusion. Kindly be here promptly at 9:30 Monday  
26 morning. Thank you very much.

27 (An adjournment was taken to Monday, July  
28 26, 1971, at 9:30 a.m.)