

LANCE VICTOR ✓
SUPERIOR COURT OF THE STATE OF CALIFORNIA

19

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 52

HON. JOSEPH L. CALL, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,)
)
Plaintiff,)
)
v.)
)
STEVEN GROGAN,)
)
Defendant.)

NO. A 267861

REPORTER'S DAILY TRANSCRIPT

MONDAY, JULY 26, 1971

APPEARANCES:

(See Volume 1)

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1 People v. Grogan
2 No. A 267861

Monday, July 26, 1971
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4 I N D E X

5 PEOPLE'S WITNESS

DIRECT

CROSS

6 VICTOR, Lance

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11 E X H I B I T S

12 PEOPLE'S EXHIBITS

FOR IDENT.

13 21-A through 21-N Black and white photos

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14 22-A through 22-F Black and white photos

2479

15 23 16x20 mounted photo

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LOS ANGELES, CALIFORNIA, MONDAY JULY 26, 1971

9:40 A.M.

THE COURT: All right. We will go ahead. People against Grogan.

Defendant is here. Defendant's counsel is here, People's counsel is here.

Now, sheriff, if you will please bring the jury in and the alternates, we will proceed.

THE BAILIFF: Yes, sir.

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

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

So the People may proceed.

MR. KATZ: Thank you, your Honor.

The People wish to call Lance Victor.

THE COURT: All right.

Step right up here, please. And when you are up there then if you will raise your right hand the clerk will swear you first.

THE CLERK: Yes, sir.

LANCE VICTOR,
called as a witness by the People, testified as follows:

THE CLERK: You do solemnly swear the testimony you will give in the cause now pending before this court shall be the

truth, the whole truth and nothing but the truth, so help you
God?

THE WITNESS: I do.

THE CLERK: Thank you, sir.

Will you be seated, please.

THE COURT: Now, state your name first. Talk right in
here like a telephone. Bring that right up to your mouth
there.

Now, state your full name so the clerk can right
it down.

THE WITNESS: Lance Victor.

THE CLERK: Will you spell your first name, please.

THE WITNESS: V-i-c -- oh, the first name? L-a-n-c-e.

THE CLERK: Thank you.

THE COURT: All right. Now go ahead.

DIRECT EXAMINATION

BY MR. KATZ:

Q Mr. Victor, you are a very soft-spoken gentleman,
and we would like to hear you. The two gentlemen who are
seated in front of you at this time are court reporters, and
they are going to take down your testimony.

So will you speak loudly, slowly and clearly into
the microphone.

A Right.

Q That's good. If at any time you don't understand
the question that I ask, would you ask me to reframe it.

A Yes.

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1 Q You see, you are dropping your voice.
 2 A Oh, okay.
 3 Q Mr. Victor, did you know a person by the name of
 4 Donald Shea?
 5 A Yes, I did.
 6 Q Approximately when was it that you met Donald
 7 Shea?
 8 A It was about in -- around 1965.
 9 Q Was there a specific event that happened in 1965
 10 which enables you to state that that was the approximate time
 11 period in which you first met Shorty?
 12 A Yes, we were going to film a picture.
 13 Q What was the name of the picture?
 14 A It was Joaquin Murrieta.
 15 Q Where was this to be filmed?
 16 A It was to be filmed out at Spahn's and Iverson's
 17 Is this Spahn's Movie Ranch?
 18 A Yes.
 19 Q Where is Iverson's located?
 20 A Iverson's is located right across the street.
 21 Q This is also a ranch in the Santa Susana Pass area?
 22 A Yes.
 23 Q Who was producing the picture?
 24 A Mr. Bickston.
 25 Q Is that Robert Bickston?
 26 A Bob Bickston.
 27 Q What was the nature of the movie?
 28 A It was a documentary on Joaquin Murrieta, and I

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1 played Jesus, Joaquin's brother, and Bob played Joaquin.

2 Q Incidentally, for our own edification, who was
3 Joaquin Murrieta?

4 A He was a bandit, outlawed.

5 Q Spanish?

6 A Spanish outlaw.

7 Q This was a documentary on that particular era
8 of Mexican folklore and culture?

9 A Right.

10 Q Did Shorty appear in the picture?

11 A Yes, he did.

12 Q Did Bob Bickston?

13 A Yes, Bob also.

14 Q Did he also direct it?

15 A Yes.

16 Q Did you know Ruby Pearl and George Spahn about
17 that time?

18 A Yes, that is about the time that I met them real
19 well.

20 Q In other words, you may have known them to
21 recognize them, but didn't know them until around 1965?

22 A No.

23 Q Incidentally, had you ever seen Donald before
24 without becoming friendly with him? That is, before 1965?

25 A No.

26 Q What was your part in Joaquin Murrieta?

27 A I was playing Jesus, Joaquin's brother.

28 Q What did Donald do, if you recall?

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1 A Donald did some backdrop walk.
2 Q What?
3 A Backdrop walk, you know, like walking in the
4 back --
5 Q You are talking very fast; please talk more
6 slowly.
7 A Don did some backdrop walk where, you know, he
8 was -- like the camera was cranking and he was in the background
9 of the action, some of the action going on.
10 Then later on the last part of the picture he
11 drove the stagecoach and I road shotgun because that's where
12 they couldn't see your face, because it was moving too fast.
13 So that is how they saved some people.
14 Q Now, did you become friendly with Donald at that
15 time, or was it later that you became friendly with Don?
16 A It was mostly later.
17 Q All right. Approximately when was it that you
18 renewed your acquaintanceship with Donald?
19 A It was around 1968, I believe.
20 Q All right. Now, sometime in 1968 did you go to
21 the Leslie salt mines in Vallejo, California?
22 A Yes.
23 Q Sometime before going to the Leslie salt mines
24 did you become friends with Donald Shea?
25 A Yes, just before that. Yes.
26 Q All right. Did you meet some people called the
27 Binders?
28 A Yes, I did.

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1 Q Did you know the name?

2 A It was Jerry Binder and his wife was named Mimi.

3 Q Mimi?

4 A Mimi.

5 Q That is M-i-m-i?

6 A Yes.

7 Q All right. Do you recall whether or not the

8 Binders had any children?

9 A Yes. Yes, I do. They had three girls.

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1 Q Now, before going to the Binders or meeting the
2 Binders had you met somebody by the name of Ray Parrott?

3 A Yes, I did.

4 Q And did you stay at Ray Parrott's house sometime in
5 1968?

6 A Yes.

7 Q And did somebody stay at Ray Parrott's house with
8 you?

9 A Yes, Don.

10 Q Donald Shea?

11 A Donald Shea.

12 Q Did you stay actually in the main house, or was
13 this some outshed or other building that you stayed in?

14 A There was a little cottage-type thing in the back.

15 Q I see. And thereafter was it that you met the
16 Binders?

17 A Pardon? Was this after?

18 Q No, I said after this staying at Ray Parrott's
19 house in 1968 did you meet the Binders also in 1968?

20 A Yes.

21 Q All right.

22 Later that year?

23 A Later.

24 Q Approximately when was it that you met the Binders?

25 A It was about the -- seemed like right at the first
26 of the year. I believe I knew -- now I think back, I knew the
27 Binders before we went to Ray Parrott's.

28 Q All right.

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1 Q When do you think you first met the Binders?

2 A About the first of '68.

3 Q Did somebody introduce you to the Binders, if you
4 recall?

5 A Yes, it was Don.

6 Q Donald Shea?

7 A Yes, sir.

8 Q Directing your attention to sometime in August of
9 1968 did you go over to the Binders' house with an Arlene
10 Marlatt?

11 A Yes, I did.

12 Q Is Marlatt spelled M-a-r-l-o-t-t?

13 A -a-t-t.

14 Q -a-t-t?

15 A Yes.

16 Q All right.

17 And who went to the Binders' house with Arlene
18 Marlatt and yourself?

19 A Don did. He was -- he stayed there, too, for a
20 little bit.

21 Q All right.

22 Did you stay at the Binders' house for a couple
23 days?

24 A Yes.

25 Q And after staying at the Binders' house for a
26 couple of days did you go someplace with Donald, or did you
27 just continue to stay at the Binders?

28 A No, we stayed at the Binders for a couple days,

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1 then seemed like to me then Don went to Ray Parrott's place,
2 and then he rented that little cottage thing in the back or
3 something.

4 Q Did you go to the Vallejo salt mines?

5 A Yeah, but this is after we left their cottage.

6 Q All right.

7 When did you go to the Vallejo salt mines with
8 Shorty Shea?

9 A It was in '68.

10 Q When in '68?

11 A It was in the last part of August, first part of
12 September.

13 Q All right.

14 That's 1968?

15 A Yes.

16 Q All right.

17 Now, I am asking you whether or not in August of
18 1968 and the latter part of August, whether or not you went
19 over to the Binders with Arlene Marlatt?

20 A Yes. Yes, I am sorry.

21 Q All right.

22 Now, following that did you go to the Vallejo
23 salt mines?

24 A Right. Yes, sir.

25 Q In other words, you stay at Ray Parrott's before
26 going to the Binders, and then from the Binders you went to
27 the Vallejo salt mines, is that correct?

28 A Yes, sir.

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1 Q Who did you go to the Vallejo salt mines with?

2 A Don Shea.

3 Q Is this a seasonal occupation?

4 A Yes, it is.

5 Q What is the general season in which these people
6 work at the Leslie Salt mines?

7 A It is the last part of August and the first part
8 of September on into around, oh, about the middle of December.

9 THE COURT: September -- set the year again, please.

10 Q BY MR. KATZ: Yes. This is 1968?

11 A '68.

12 THE COURT: Thank you.

13 Q BY MR. KATZ: All right.

14 And how did you get up to the Vallejo salt mines --
15 I should say the Leslie Salt mines in Vallejo?

16 A Yeah. In my car.

17 Q Did Donald have a car at that time?

18 A Yes, he did.

19 Q What kind of a car did he have?

20 A He had a blue '59 Cadillac.

21 Q What condition was that car in at that time?

22 A It was pretty bad.

23 Q Well, when you say pretty bad, will you tell us
24 exactly what was wrong about it.

25 A It needed new brakes because it was starting to
26 squeal, and the engine was using a lot of oil. And it was in
27 pretty bad shape.

28 Q Was your car in better shape?

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1 A Yes, it was.

2 Q Where did you leave the car, the '59 Cadillac of
3 Don's?

4 A We left it at Ray Parrott's.

5 Q How long did you stay at the Leslie Salt mines in
6 Vallejo in 1968?

7 A I stayed there for the full season.

8 Q That would be from the end of August or first part
9 of September till December of 1968?

10 A '68.

11 Q All right.

12 It is approximately three to four months duration,
13 is that correct?

14 A Right.

15 Q What capacity did you work there?

16 A You mean what kind of work did I do?

17 Q Yeah, what did you do there?

18 A I drove a locomotive that pulled little cars, like
19 you have the little elves that pull things out of the mines.

20 That is the only way that I can explain it.

21 Q All right.

22 Lance, again you are talking fast and you are
23 talking low. So would you modulate better.

24 A Right.

25 Q Talk slower so we can all hear you.

26 A Right.

27 Q What did Shorty do when he was at the Leslie Salt
28 mines with you in 1968?

A Shorty drove one of the little trains also.

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1 Q All right.

2 Now, did Shorty stay the duration of the season
3 of 1968 at the Leslie salt mines or did he leave?

4 A No, he stayed there for a few weeks, it seemed
5 like to me. Then he told me he had to come back down here.
6 He had to pay something, a ticket or something.

7 Q Traffic ticket?

8 A Yes, sir.

9 Q Did you remain in contact with Shorty by way of
10 telephone after Shorty left and while you still remained
11 during the season of 1968?

12 A Yes.

13 Q Where were you able to contact Shorty?

14 A I contacted him at the Wilcox Hotel.

15 Q That's in Hollywood?

16 A Yes, sir.

17 Q All right.

18 Now, when was it that you actually returned to
19 Los Angeles in 1968?

20 A I returned the latter part of '68 after the season
21 was over with.

22 Q Would that be sometime in December of 1968?

23 A Yes. Just before January, the new year.

24 Q Now, bearing in mind that you returned approxi-
25 mately in December of 1968, how often would you see or hear
26 from Shorty Shea from the end of 1968 until August of 1969?

27 A I heard -- or just that time I talked to him on
28 the phone.

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1 Q No, I don't think you understood my question.

2 A Okay, repeat it.

3 Q We are talking about the time period after you
4 returned from Leslie salt mines in December of '63.

5 A I see.

6 Q All right.

7 Now, using that as one point of reference between
8 that time and August of 1969, how often would you see him in
9 that period or hear from him in that period?

10 A I didn't hear from him for quite a while after that.

11 Q Well, when did you start seeing him again or
12 hearing?

13 A I had went up to the ranch, Spahn's Ranch. That
14 is when I ran into him again.

15 Q Well, approximately when was this?

16 A Around '69.

17 Q Of, well, all right. When in '69?

18 A It was around the summertime, I believe.

19 Q All right.

20 Summertime of 1969. And did you ever see Shorty
21 at Jim Babcock's house?

22 A Yes, yes.

23 Q All right. Now, using that as a frame of reference
24 had you seen Shorty before that in 1969?

25 A Yes, I had seen him once at Spahn's Ranch.

26 Q All right.

27 Did you use to frequent Spahn's Ranch at all?

28 A Yes, I did.

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1 Q What did you do at Spahn Ranch?

2 A I didn't do nothing. I just went up there to
3 visit Pearl and, of course, Randy was up there.

4 Q Randy Starr?

5 A Randy Starr.

6 Q Pearl, this is Ruby Pearl?

7 A That's right.

8 Q Did you know George Spahn?

9 A Yes, I did.

10 Q Were you friends with George Spahn and Ruby Pearl?

11 A Oh, yes. I used to sit and talk with them.

12 Q Also Lance -- not Lance Victor, but Bill Humphreys?

13 Did you know Bill Humphreys?

14 A Not real well, no.

15 Q All right.

16 Now directing your attention to sometime in the
17 summer of 1969, when was it precisely, if you recall, that you
18 saw Shorty at Jim Babcock's house?

19 A I believe it was on a weekend.

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1 Q Now, what I'm asking you is, do you remember the
2 approximate month?

3 Are we talking about April, May, June, July,
4 August?

5 A Oh, now, I don't remember the month.

6 Q All right. At the time you saw Shorty at Jim
7 Babcock's was there any discussion about his having just
8 gotten married?

9 A Yes.

10 Q What did he say in that regard?

11 MR. WEEDMAN: Excuse me, your Honor. While it is true
12 we certainly have testimony that Mr. Shea has been married --

13 MR. KATZ: I will withdraw that.

14 THE COURT: All right, it is withdrawn.

15 Q BY MR. KATZ: In any event, there was discussion
16 about Shorty having married somebody?

17 Is that right?

18 A Yes, sir.

19 Q Do you know whether or not he showed a picture of
20 his wife?

21 A Yes, he did.

22 Q All right.

23 Do you remember whether that picture was Caucasian
24 or Negro?

25 A She was Negro.

26 Q All right. Did you ever meet Mrs. Shea?

27 A No, not until Wednesday.

28 Q All right. Did you see Shorty again?

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1 That is, following the meeting at Jim Babcock's?

2 A Yes, I did.

3 Q When did you next see Shorty?

4 A Well, I went up to the Spahn Ranch and that is
5 when I met him again.

6 Q And approximately how much time elapsed from the
7 time you saw him at Jim Babcock's until you again saw him at
8 Spahn Ranch?

9 A I would say about a week or so.

10 Q Incidentally, when you saw him at Jim Babcock's
11 and you saw him at Spahn Ranch about a week later, was he the
12 owner of a car?

13 A Yes, he was.

14 Q What kind of a car was it?

15 A He had a white Comet.

16 Q Do you know whether or not he was living out of
17 that car at Spahn Ranch?

18 A Yes, he was.

19 Q That is when you saw him approximately a week
20 after seeing him at the Babcocks?

21 Is that right?

22 A Yes, sir.

23 Q Now, in that same time period did Shorty discuss
24 a forthcoming Bickston movie with you?

25 A Yes, he did.

26 Q What did he say about it?

27 State of mind only, your Honor.

28 A He said it is taking too long. I have to find

1 something, you know, where I can get some money.

2 Q Well, had he first told you about the movie?

3 A Yes.

4 Q What did he say about the movie?

5 A Well, he said that Bickston was going to film a
6 movie down in Arizona, but he didn't know when he was going
7 to do it, you know.

8 It was taking too long.

9 Q Well, when he first told you about it, did he --

10 MR. WEEDMAN: Excuse me, your Honor. Forgive me for
11 interrupting counsel's question, your Honor, but I think we
12 have a right to have this witness elicit the conversation in
13 this limited area offered presumably for state of mind without
14 counsel leading the witness.

15 MR. KATZ: Excuse me, your Honor, but if I may be just
16 permitted the courtesy to finish my question, it is directed
17 to a specific subject matter.

18 MR. WEEDMAN: I rather suspect, your Honor, that counsel
19 is not getting quite the answers he has expected, and I think
20 we ought to allow this witness to tell us what that conversa-
21 tion was between himself and Mr. Shea.

22 THE COURT: Let me have the way the question is.

23 (The reporter read the question as
24 follows:

25 Q Well, when he first told you
26 about it, did he -- ")

27 THE COURT: Well, it is leading. Reframe your question.

28 MR. KATZ: I will reframe my question.

1 Q Did you ever have any discussions about Shorty
2 engaging in movies in general, about his feelings about movies?

3 A Oh, yes. Once in a while, yes.

4 Q What would he say about them?

5 A He was hoping maybe one of these days that he
6 would land a series and something good would break for him.

7 Q What was his attitude towards participating in
8 movies as he expressed it to you?

9 A He liked it. It was kind of another outlet for
10 him.

11 He enjoyed his work.

12 Q Now, with respect to his attitude towards movies,
13 did he tell you how he felt about this forthcoming Bickston
14 movie?

15 A Oh, yes.

16 He was very excited about it, your know. He said
17 that, well, maybe this one will go over because we have had
18 so many flops in the past.

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1 Q Now, you said that he was telling you something
2 about the movie hadn't happened yet?

3 Is that right?

4 A Yes, sir.

5 Q Tell us specifically that conversation, and what
6 he said about that.

7 A From what I can remember, he said -- the picture
8 that I was supposed to do with Bickston was taking too long,
9 and I have to find some sort of employment until he is ready.

10 Q When did he tell you that?

11 Was that at Babcock's house, or at the Spahn Ranch?

12 A Spahn Ranch.

13 Q That was approximately about a week later?

14 Is that right?

15 A Yes.

16 Q At that time did you notice anything unusual about
17 Shorty in regards to how he was acting?

18 A Yes, he --

19 MR. WEEDMAN: I'm going to object to this in the absence
20 of some foundation, your Honor.

21 THE COURT: Let's have the question again, please.

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

24 "Q At that time did you notice
25 anything unusual about Shorty in regards
26 to how he was acting?"

27 THE COURT: Set a foundation in there, please.

28 MR. WEEDMAN: May we have the time, place, persons

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1 present, circumstances?

2 THE COURT: Yes.

3 Q BY MR. KATZ: Can you tell us whether or not you
4 went to Spahn Ranch in August of 1969?

5 A Yes.

6 Q Can you tell us whether or not you saw Shorty in
7 August of 1969 at Spahn Ranch?

8 A Yes.

9 Q All right.

10 To the best of your recollection can you tell us
11 what part of August of 1969 you saw Shorty following your
12 visitation to the Babcocks?

13 A It was the first part of August.

14 Q I take it that you are not quite certain about the
15 exact date?

16 Is that correct?

17 A That is right.

18 Q Now, when you saw Shorty at that time was there
19 somebody else with you?

20 A Yes, a friend of mine.

21 Q What is your friend's name?

22 A Robert Ferrin.

23 Q How do you spell his last name?

24 A Ferrin, F-e-r-r-i-n, I believe.

25 Q Was there anyone else present when you had this
26 conversation with Shorty at Spahn Ranch in August of 1969?

27 A Yes, Robert was, Robert Ferrin.

28 Q In other words, there was Robert Ferrin, Shorty and

4a-3

1 yourself?

2 A Yes. Robert stood kind of off because he figured
3 we had a conversation.

4 Q Basically, it was you and Shorty that were talking?

5 A Mostly, yes.

6 Q Can you tell us what conversation you had with
7 him at that time?

8 This is offered for state of mind only.

9 A Yes, he was -- seemed very nervous --

10 MR. WEEDMAN: Excuse me, your Honor. I wonder if we
11 might have an offer of proof outside the presence of the jury,
12 in view of what has happened last week in connection with this
13 area.

14 THE COURT: Well, do you want to go in chambers?

15 MR. WEEDMAN: Yes. Thank you, your Honor.

16 THE COURT: The reporter will please step in.

17 (The following proceedings were
18 had in chambers:)

19 THE COURT: We are in chambers. Read the question again.
20 I think the foundation is there, August of 1969.

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

23 "Q Can you tell us what conversation
24 you had with him at that time?"

25 THE COURT: Yes, a foundation had been set, parties
26 present.

27 Now, what is the objection, Mr. Weedman?

28 MR. WEEDMAN: Oh, yes, your Honor, because last week

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1 counsel on a purported state of mind exception sought to
2 introduce evidence of hearsay statements of Shorty Shea's
3 over which, of course, we had considerable argument and I felt
4 that in view of Lance Victor's testimony before the grand jury
5 that counsel might well be seeking to elicit similar statements
6 this morning.

7 Of course, I can't object because I don't know what
8 they are yet.

9 THE COURT: Well, let's bring the witness in here.

10 MR. KATZ: I can make an offer of proof.

11 THE COURT: All right, let's have your offer.

12 What do you expect to show there?

13 MR. KATZ: First of all, I expect under People v. Alcalde
14 to elicit the statement that Shorty told Lance that he
15 intended to go to the Leslie Salt mines in Vallejo to work,
16 and asked Lance Victor to join him, as he had done the
17 previous year.

18 Obviously that conversation is admissible under
19 state of mind, present intent to do a future act, manifesta-
20 tion of his intent. The Supreme Court cases so hold that, as
21 does Evidence Code 1250.

22 In addition I intend to show his state of mind at
23 or about the time of his disappearance, because by other
24 witnesses we will better be able to pinpoint the conversation
25 showing that it was after the raid of August 16th, 1969 and
26 closer to the end of August.

27 I expect to elicit the following: Shorty said,
28 "Hey, listen. You've got to get me out of here. I think they

4a-5 1 are trying to kill me."

2 Lance said, "Who is they," and I am quoting.

3 "Well, no one is trying to kill you, you know.

4 You are probably just downhearted," to which Shorty replied,

5 "No, they threw a knife at me."

6 And Shorty was talking fast, and he was stern. He
7 was serious.

8 THE COURT: Stop for a minute. This is the witness
9 talking here?

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1 MR. KATZ: Yes, and then he said Shorty seemed to be more
2 agitated and earnest in his conversation on that occasion. He
3 further points out the fact that Shorty when talking about the
4 situation stopped repeatedly when he saw people walking close
5 to where they were having this conversation, and this was quite
6 unusual since Shorty had never, ever acted in this fashion.

7 So once again, your Honor, we are showing circum-
8 stances, state of mind, his motive to leave Spahn Ranch, the
9 earnest need that he felt he had of repairing to a place of
10 safety, and had to repair to that place of safety such as the
11 Leslie Salt mines in Vallejo, he would have contacted his
12 friends thereafter.

13 Obviously, therefore, a criminal agency interrupted
14 the consummation of that intent.

15 Now, the Whetherford case, that is People v.
16 Whetherford, I believe it is a California Supreme Court case,
17 and the People v. Alcalde, and 1250 of the Evidence Code
18 permits such evidence.

19 MR. WEEDMAN: Well, your Honor, counsel is talking about
20 two kinds of evidence. He is talking about a statement of
21 present intention to go somewhere. Clearly that is not hearsay,
22 and is admissible.

23 As a matter of fact, if Mr. Katz does not elicit
24 that from this witness, we intend to. That is, Mr. Shea told
25 this witness that he intended to go to Vallejo to work in the
26 Leslie Salt mines. We have no objection to that testimony.

27 We do object to the balance of this conversation
28 had with Mr. Shea. It is only offered for one thing, your

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1 Honor, and certainly this jury is only going to consider it for
2 one purpose, and that is that it tends to show that persons at
3 the Spahn Ranch threatened Mr. Shea.

4 Now, that is hearsay of the rankest kind. Mr. Shea's
5 state of mind is absolutely of no relevancy in this case apart
6 from that.

7 In other words, if we are not going to show that
8 someone threatened Mr. Shea at the Spahn Ranch, then what
9 possible reason is there for talking about Mr. Shea's state of
10 mind? None. It is irrelevant to any issue in this case, your
11 Honor.

12 Counsel is seeking, again, as he argued for several
13 hours last week, seeking again under the guise of state of
14 mind, which he uses apparently whenever he has a little
15 difficulty with hearsay, he calls it state of mind exception
16 to the hearsay rule which, of course, is utter nonsense.

17 He is seeking again, your Honor, to introduce this
18 blatant hearsay in the guise of this craze, somehow, state of
19 mind exception to the hearsay rule.

20 THE COURT: I think that that segment or portion, if it
21 could be divisible, there are, I think, parts of what you
22 propose to show that will be permissible.

23 There are some statements of the witness, I think,
24 that would be highly prejudicial to this jury at this juncture
25 without a prima facie showing of your corpus. That is my
26 first immediate thing.

5

1 For instance the statement "They are threatening to
2 kill me," or whatever, the words to that effect, that "They
3 will kill me," -- highly prejudicial, and it is the particular
4 species of testimony that is referred to in the Finch case that
5 outweighs the questions of state of mind.

6 So I would say for one thing you could segment that,
7 bring the witness in here, advise him in the presence of
8 everybody that is to be eliminated from his statement.

9 I think that is loaded. That answer in there to
10 this jury at this time, without the corpus being shown.

11 MR. KATZ: Your Honor --

12 THE COURT: Go ahead.

13 MR. KATZ: I was just going to ask you this question.
14 There has to come a point at which you start to develop the
15 tiniest tendrils which indicate that there is the presence of
16 a corpus. Now, we are doing this step by step, --

17 THE COURT: Now, I understand that. But of course you
18 have got a problem, too. You have got a problem where the body
19 isn't physically produced, the testimony of it.

20 You have got problems. But just the same -- I
21 understand the law gives you considerable -- gives a lot of
22 leeway or latitude insofar as circumstantial evidence or
23 implications from circumstantial evidence are concerned. You
24 have those rights if you can establish them.

25 But you bump right into this, you can't get away
26 from this statement in Finch. It is so to the point where the
27 court states that -- it is point 10 again -- point 12, page 767,
28 going back to Hamilton.

5-2

I am reading in Finch here:

"In Hamilton portions of the state of mind evidence were held to be prejudicial" -- here is what disturbs me -- "by these declarations" -- which theoretically would be those of the witness on the stand -- "the prosecutor is able to tell the jury mainly through the mouths of law enforcement officers" -- in that case -- "that on innumerable occasions defendant had brutally beaten his wife and otherwise assaulted her. In a not very subtle way it told the jury what kind of a man it was that was before them for trial. It must inevitably follow that if the jury believed that the decedent " -- that would be Shorty -- "was in fear of his life it was only because defendant had in fact beaten and otherwise assaulted her."

Now, here is your summation in the case: "Logically it is impossible to limit the prejudicial and inflammatory effect of this type of hearsay evidence."

Now, that is given for the purpose of a state of mind, and that is the summation of the court. So, if you have this witness, or the court permits this witness to say, "They are going to kill me" there is no question that it is highly inflammatory testimony at this juncture put before that jury.

MR. KATZ: Well, your Honor, then I suggest that perhaps your Honor has misconstrued Finch. As a matter of fact, it is precisely what happened in the Finch case --

MR. WEEDMAN: Forgive me for interrupting, Mr. Katz. I promised not to do it.

We argued this point several hours last week. It

5-3

1 seems to me Mr. Katz just does not want to accept the court's
2 ruling without endless argument. The Finch case, as the court
3 states, was based on stringent interpretations, there was a
4 claim of self-defense, et cetera, et cetera. All things we
5 talked about last week.

6 There is absolutely nothing in this case that
7 parallels the requirements for admissibility that we found in
8 Finch. As a matter of fact we are in a Hamilton-kind of
9 situation here.

10 I don't see any point in spending another three or
11 four hours this morning with Mr. Katz arguing, beating this
12 same dead horse again.

13 It is so obvious that you cannot permit this kind
14 of purported state of mind stuff to come in, it is so
15 inflammatory, so prejudicial, we have no way of cross-examining
16 with respect to whether such things ever happened or not.

17 And Mr. Katz' complaint that he may not be able
18 to prove up his conspiracy otherwise, I can only comment, your
19 Honor, that I announced to the court in my humble opinion many,
20 many days ago, that Mr. Katz probably could never prove a
21 conspiracy in this case. This appears to be the kind of stuff
22 Mr. Katz is relying upon to prove a conspiracy.

23 I think I can only say I suspected it all along.
24 If this is what Mr. Katz is relying on for conspiracy he is
25 just not going to make it stick.

26 MR. KATZ: First of all, this has nothing to do with
27 conspiracy. Secondly, I am appalled at the fact Mr. Weedman,
28 every time he panics, has to interrupt me. I don't know why

5-4

1 he is so unethical, he keeps interrupting me.

2 Let me have my case, and Mr. Weedman can talk.
3 If he wants to conduct himself, comport himself consistent with
4 the ethics of this profession. I have had it.

5 THE COURT: Go right ahead.

6 MR. KATZ: Now, in the Finch case the attorney who
7 represented Mrs. Finch, for example, in the divorce, testified
8 that she told him that on May 16th, 1959 defendant had broken
9 into her house and beaten her.

10 Now, this is a statement of memory of past events.
11 The worst kind of past events.

12 On May 18th, 1959 she told him of an altercation,
13 referring to the attorney, with her husband which took place on
14 May 15th. This defendant had hit her with a gun, choked her.
15 That she was in fear of her life.

16 This was all admissible in the People's case in
17 chief. That Finch told her he had someone in Las Vegas who
18 he could pay a thousand dollars to kill her. I can't think of
19 anything more inflammatory and prejudicial than that kind of
20 evidence that came in the People's case in chief with respect
21 to her state of mind, which showed the fear she had.

22 Therefore, the theory of the People was that if she
23 knew Finch and Tregoff were coming to her home and that she
24 would have avoided that home, and she would not have been there
25 at that time.

26 What Mr. Weedman says is correct in that with
27 respect to Hamilton and Finch there was an issue that was
28 precisely delineated in the case, namely, one of fear because

5-5

1 in those cases the posture of the defense, albeit whether it
2 was raised in the People's case in chief, or in the defense
3 case in chief, was that the victim was an aggressor.

4 So they were permitted, you see, to get these
5 statements of memory of past events, but they weren't offered,
6 once again, to prove the truth of the past events.

7 In other words "Mr. Finch told me that he is going
8 to kill me." It wasn't offered for the truth of those asser-
9 tions, it was offered as her state of mind tending to show
10 that those statements affected her in such a way as to render
11 her in fear, which was relevant on some other point.

12 Now, again, these statements that I am attempting
13 to elicit have nothing whatsoever to do with a conspiracy as
14 such. They are not offered on a conspiracy theory, so why
15 counsel tries to throw a red herring every time and says
16 counsel is trying to show a conspiracy at this point, we are
17 not. The statements that we are seeking to elicit show his
18 attitude, how did he think, how was he acting, how was he
19 responding, how was he perceiving during the critical period
20 during August 16, 1969 and September 1st, 1969?

5a

5a-1

1 Now, it is very interesting in the Whetherford
2 case, I am going to cite it now, People v. Whetherford,
3 27 Cal. 2d 401. And there discussing the Alcalde doctrine,
4 A-c-a-l-d-e.

5 The defendant was convicted of murder, of his wife--
6 excuse me. He was convicted of murder of a tenant of his cafe.

7 At the trial evidence was introduced showing that
8 the defendant wanted the tenant to vacate but that she refused
9 to do so. The prosecution relied on her refusal as a possible
10 motive for the murder.

11 Defendant's attempts to introduce statements of the
12 deceased indicating that she was preparing to leave were not
13 allowed by the trial court because there was no evidence that
14 she had gone anywhere. In other words, her body was found.
15 She hadn't gone anywhere.

16 In holding that the trial court unduly restricted
17 the hearsay rule exception the Supreme Court stated at page 422
18 "The declarations of the intent are admissible not only as
19 evidence of the probable doing of the act, but also as evidence
20 of the intent itself, even if the act has not been done."

21 Now, let's apply this to our facts. We will take
22 it step by step.

23 Shorty Shea tells Lance Victor "Hey, a lot of weird
24 things are happening at the ranch."

25 You can't take this out of context, your Honor. He
26 is saying, "They are trying to kill me. Something is happening
27 here."

28 He is agitated. He is upset. He says, "Hey, Lance,

5a-2

1 I am going to go up to the Leslie Salt mines in Vallejo. Would
2 you join me? We worked here the year before."

3 Now, that would be offered for two purposes, your
4 Honor. In conformity with Alcalde and Whetherford, one, it's
5 a manifestation of his intent, apart from whether or not he
6 ever followed his intent and got up to Leslie.

7 So it shows his intent, his thinking, his belief.
8 How he was feeling, his state of mind at that time which was
9 critical. His motive for going, a very strong motive for going
10 because of the fear.

11 Secondly, it is also offered as a statement of
12 previous intent to do a future act, namely, to go up to Leslie
13 Salt mines as proof that he did the act.

14 Now, we will bring down, as I indicated before,
15 somebody from Leslie Salt mines who will show, just like in
16 this Whetherford case, he never got there. Why didn't he get
17 there? Inferentially, it is because his life was terminated
18 by a criminal agency.

19 You see, it is offered to show his intent, his state
20 of mind at that time, his feeling, his fear, his anxiety and
21 also as a present intent to do a future act which was
22 interrupted by a criminal agency.

23 I would ask your Honor to read Whetherford. It is
24 a very good case, a California Supreme Court case. I might add
25 People v. Finch is not a California Supreme Court case.

26 MR. WEEDMAN: Your Honor, Mr. Katz I believe last week
27 even made mention of the comment in the Evidence Code, that is
28 a comment to section 1250(b) talking about the kind of evidence

5a-3

1 generally that Mr. Katz seeks to introduce here.

2 The comment in the Evidence Code was talking about
3 Mercouris, of course. And it says the essential -- they are
4 talking about the principle of Evidence Code section 1250(b)
5 created by Mercouris "is not based on any probability of
6 reliability. It is based on a rationale that destroys the very
7 foundation of the hearsay rule."

8 Counsel tells us over and over again that he would
9 like to get this evidence in.

10 And I submit, your Honor, that this is the thrust
11 of Mr. Katz' argument. It is not an argument in law, it is
12 a constant reiteration of Mr. Katz' desire to get it into
13 evidence.

14 And I submit, your Honor, that Mr. Katz has not
15 answered your Honor's feeling about such evidence, the feeling
16 that it is prejudicial, the feeling that it is inflammatory,
17 the feeling that it is obviously designed and will have that
18 impact upon the jury.

19 Those are the objections that your Honor raised.
20 Mr. Katz, I submit, has not answered any of those objections.

21 THE COURT: Well, let me ask a question here. Side-
22 stepping it, the thought, for just a minute. In your position
23 here, this witness in answering this question, the witness
24 proposes, or you say he will say "In my conversation with
25 Shea, Shea said 'They are threatening to kill me.'"

26 That is what you expect him in part to testify to,
27 isn't that right?

28 MR. KATZ: In part, yes.

5a-4

1 THE COURT: Yes. Now, suppose the witness should say --
2 what is the difference whether he gets on the stand and does
3 say that "They are threatening to kill me" or if he gets on the
4 stand right now and says, "Manson and Grogan are threatening to
5 kill me"? Would be the same thing, wouldn't it? In effect,
6 insofar as the jury is concerned? What is the difference?

7 Now, if your theory is good, if your theory is
8 good it would be just as admissible for the witness to say
9 "Manson and Grogan are threatening to kill me" as to say
10 "They are threatening to kill me."

11 MR. KATZ: But as you recall, for example, the Finch
12 case, that is precisely what happened. Mrs. Finch said,
13 "Dr. Finch is trying to kill me." Yet it wasn't offered for
14 the truth of the assertions, it was offered to show, here
15 again, her state of mind.

16 Now, again, the Hamilton doctrine and the Mercouris
17 doctrine as modified by the comment to section 1250 of the
18 Evidence Code indicates that in general the statements of
19 memory of past events is inadmissible as circumstantial
20 evidence unless such state of mind evidence is in fact in
21 issue.

22 I submit that it is in issue.

23 Now, in a circumstantial evidence case in which
24 there is no eyewitness to the killing, in which there is no
25 body, in which there is no eyewitness to having observed the
26 body in death, you must show how was the person feeling at the
27 critical time. Maybe he felt so good that he was going to go
28 off to Paris, and certainly the defendant would be entitled to

5a-5

1 put that on.

2 You see, on the other side of the coin, the
3 defendant can put on evidence saying "My gosh, Shorty was
4 feeling so good he said he was going to go to the Japanese
5 World's Fair" for the truth of the matter. That is, that since
6 he said he was going there, inferentially, he went there.

7 And that would be circumstantial evidence that is
8 the last place he was seen or heard from.

9 So you see the defense can do that, too.

10 The point is we can certainly get his intent in.
11 We certainly can show he was anxious at this time, how he
12 was feeling. Was he calm? This is explanatory of his conduct
13 in the critical period, and it is important for the jury to
14 know in determining how to weigh these other circumstantial bits
15 or pieces of evidence in this broad circumstantial chain,
16 whether or not, for example, he was calm and he was motivated
17 to stay there for a long period of time; whether or not he was
18 anxious and motivated to leave. These are important
19 considerations.

20 Would he have, for example, if he was anxious,
21 would he have tried to seek help from his friends? Doesn't
22 this mean something, if he tried to seek help from his friends?
23 Isn't this circumstantial evidence that had he repaired to a
24 place of safety, that he would have in fact contacted his
25 friends and said, "Look, I am up here in Vallejo at the Leslie
26 Salt mines. I am in trouble. I don't want to go back to the
27 Spahn Ranch."

28 Or, "I am now here in Phoenix, Arizona with Bob

5a-6

1 Bickston, and I don't want to go back to Spahn Ranch." You see,
2 these things, just because they tend to have a damaging effect
3 on the defendant, does not in and of itself cause that to be
4 legally prejudicial. There is a difference between prejudice
5 on the one hand which tends to connect the defendant to an
6 offense and prejudice which is legally prejudicial.

7 THE COURT: Well, you have got a double proposition on
8 your hands here in this case. You have got to show the
9 deceased person was killed. You have got to show it is by a
10 criminal agency.

11 Now, Finch and all the rest -- not all the rest,
12 the Finch case and most of the other cases you have got a dead
13 body there. But you don't have that here. You don't have
14 that.

15 You have got to show it by inference or by
16 circumstantial structure. And that he was killed by a -- and
17 that the death was by a criminal agency. You have got a
18 double-barreled situation. That is not manifested in these
19 cases..

20 And to tell this jury here "They are threatening to
21 kill me" at this juncture when there is not a prima facie
22 showing, in my opinion I can't help but feel it would be
23 highly inflammatory on this jury.

6

#6

1 MR. KATZ: Well, your Honor, may I ask you this question?

2 THE COURT: Highly inflammatory.

3 MR. KATZ: Let's assume we had 80 witnesses we intend
4 to call.

5 THE COURT: Yes.

6 MR. KATZ: I know you have read considerably more con-
7 spiracy cases than I have ever read and you well know that it
8 is impossible to present each witness in such an order --

9 THE COURT: I can see that.

10 MR. KATZ: So we have to have some latitude.

11 The point being that even though, and I submit at
12 this time that there certainly hasn't been a prima facie showing
13 of the corpus delicti of the crime. Nevertheless, this kind
14 of thing is what establishes the corpus itself. This has
15 nothing to do with the evidence. It is not used to connect
16 the defendants.

17 In other words, let me give you an example of a
18 statement which would, indeed, be used to fortify the statement
19 of the corpus. If Mr. Grogan would say, "I am going to kill
20 you, Shorty Shea," and Shorty told that to Lance, that would
21 be able to connect him by way of the Alcalde doctrine and the
22 Atchley doctrine. There is no question that that would be a
23 statement of present intent to do a future act. It is not an
24 admission. We can't confuse it with an admission.

25 It is merely a statement of present intent to do a
26 future act. It would be admissible.

27 I submit that, your Honor, here we have a case
28 where we don't have a statement made by Mr. Grogan. It is not

1 offered for the truth of the assertions, and it is merely to
2 show how he was feeling, how anxious he was. I think it is
3 admissible, and if your Honor is not going to permit me to get
4 the exact statements in, I will have to go back and at least
5 characterize his conduct at that time through the mouth of Lance
6 Victor, how did he observe Shorty. In other words, how was
7 he? Was he calm? What was his demeanor, and he would have to
8 describe it to me..

9 I think we are entitled to get this statement in,
10 your Honor. I think we have to face this issue sometime, and
11 I think there are cases indeed that indicate that it is
12 necessary to give the prosecution wide latitude in developing
13 the case circumstantially.

14 THE COURT: Well, I would be inclined to sustain the
15 objection to those specific portions of the witness' reply,
16 theoretical reply.

17 To considerable portions of it, if not most of it,
18 I would rule with you.

19 MR. WEEDMAN: Thank you, your Honor.

20 THE COURT: But I can rule against it at this time. Once
21 the prima facie showing is made, if you want to call him back
22 at that time, I have no objection to it at that time. I think
23 it is premature, and highly prejudicial to tell this jury in a
24 capital case that they are threatening to kill me.

25 MR. KATZ: I will follow your Honor's suggestion.

26 Let me do it this way at this time. What I intend
27 to elicit, so I don't surprise anybody, obviously, is a
28 statement concerning his intention to go to the Leslie salt

1 mines. Counsel has an objection to that, and it is clearly
2 admissible under Alcalde and those other line of cases.

3 Secondly, I intend to elicit only his demeanor at
4 this time, no statements.

5 I will not elicit statements as to why he is in
6 fear nor statements showing anybody threatened to kill him.
7 I will abide by your Honor's ruling.

8 MR. WEEDMAN: I'm certainly going to object to any
9 evidence that Mr. Shea indicated that he was in fear, because
10 that is just a little bit weaker evidence than the very thing
11 that we have been talking about here. You can't fall back on
12 that any more than you can put in direct statements from
13 Charles Manson or my client.

14 MR. KATZ: This is a direct observation.

15 MR. WEEDMAN: It is not material.

16 MR. KATZ: It is material. I am not asking for any
17 statements which indicated that he was in fear. Rather, I am
18 going to ask the witness to characterize his demeanor, for
19 certainly he can do that.

20 Mr. Weedman has been eliciting this kind of evidence
21 throughout this trial.

22 THE COURT: I would go with you on that.

23 MR. KATZ: Yes, your Honor.

24 THE COURT: It is important that you talk to the witness.

25 MR. KATZ: All right.

26 THE COURT: Obviously, it is not to change his testimony
27 but what not to talk about.

28 MR. KATZ: Exactly.

1 THE COURT: In other words, if the defendant wants to
2 bring it out, he can bring it out.

3 Caution him, because if such statements should be
4 made in front of the jury, it would be very serious. That is
5 my opinion.

6 MR. KATZ: I will, your Honor.

7 THE COURT: If you want to do it here, you can. If you
8 want to protect your testimony to the extent that you can take
9 the answer here in court so that you will have it at a future
10 time so that the answer wouldn't be changed --

11 MR. KATZ: I don't need it, your Honor.

12 THE COURT: I suggest to you that you talk to him, and
13 that he not break that. He should be very cautious not to give
14 the other statements, and not --

15 MR. KATZ: What I propose to do, and I have done in the
16 past, and I have been criticized by counsel when trying to
17 follow your Honor's orders by asking a direct question in
18 this area so that he can answer it "yes" or "no." It doesn't
19 suggest the answer, but limits the scope of his reply so we
20 don't get into the dangerous area.

21 THE COURT: Sometimes witnesses are spontaneous, and they
22 splatter.

23 MR. KATZ: I will talk to him first.

24 MR. WEEDMAN: Well, your Honor, just so I will understand
25 now, may I ask Mr. Katz what he does now intend to ask of this
26 witness?

27 Maybe he could summarize it.

28 THE COURT: Will you answer that, Mr. Katz?

1 MR. KATZ: Yes. I intend to elicit the conversation
2 between Victor and Shorty Shea wherein Shea told him that he
3 wanted, in substance, to go back to the Leslie's salt mines
4 because the Bickston movie had not happened, and he needed the
5 money, and he asked Lance to join him.

6 I will further elicit the testimony concerning his
7 attempt to borrow money from Lance, and that conversation which
8 has nothing to do with any statements of fear or what have you,
9 and then I will ask the witness finally whether he observed
10 Mr. Shea during the course of the conversation, and character-
11 ize his demeanor without referring to any statements whatsoever
12 that this witness would testify to.

13 THE COURT: I will permit that. I will permit that.

14 Now, do you want first, Mr. Katz, to take a minute
15 to talk to him?

16 MR. KATZ: Just a couple of minutes.

17 THE COURT: I wonder if we should have a short recess?

18 If the jury sees you talking to the witness, it
19 might not be to your advantage. I would say the same to the
20 defendant.

21 MR. KATZ: I am ready to go now.

22 THE COURT: It may not be good policy to do it as you
23 suggest, because the jury is going to say why is the D.A.
24 talking to a witness.

25 That is my only thought.

26 Maybe we had better take a five-minute recess and
27 go ahead.

28 May the clerk give them a five-minute recess?

29 MR. WEEDMAN: Yes, of course.

(Recess)

6a-1

(The following proceedings were had
in open court outside the hearing
of the jury:)

THE COURT: Gentlemen, we will go ahead. People against
Grogan.

The defendant is here. The defendant's counsel is
here, and the district attorney is here.

If you will bring in the jury, Mr. Sheriff, we
will go right ahead.

You have been sworn. State your name again, please.

THE WITNESS: Lance Victor.

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

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

You may proceed, Mr. Katz.

MR. KATZ: Thank you, your Honor.

Q Mr. Victor, let's back up for a moment so we
understand where we are.

You are at Spahn Ranch approximately a week after
having seen Shorty at the Babcocks in August of 1969?

Is that correct?

A Yes, sir.

Q Now, you have told us you were having a conversation
with Shorty about a movie to be filmed in Arizona for Bob
Bickston?

Is that correct?

6a-2

1

A Yes, sir.

2

Q Now, you told us that conversation, that part of that conversation.

3

4

A He said -- Shorty said that he wanted to work on the picture with --

5

6

Q Talk slowly, and loud.

7

A He wanted to work on the picture with Bickston, but it was taking too long, he would have to go somewhere to find a side job to make some money until Bickston was ready.

8

9

Q All right. Did he talk about where he wanted to go?

10

11

A Yes, he wanted to go to Leslie Salt around Vallejo, California.

12

13

Q This is the place where you had previously worked seasonally in 1968?

14

15

Is that right?

16

A Yes, sir.

17

18

Q What did he say specifically in regard to the Leslie Salt mine?

19

20

A Well, he said that he wanted to go to work up there, and he wanted to get back on his feet, and he wanted to leave, but he didn't have no money to leave.

21

22

Q Was there any discussion about your going with him?

23

24

A Yes, he said he wanted me to go with him, but I said I couldn't because I was working at the present time.

25

26

Q Where were you working at that time?

27

A Loomis Armored Car Corporation.

28

Q You are still presently employed there?

29

A Yes.

6a-3

1 Q What was that?

2 A Loomis, L-o-o-m-i-s.

3 Q What is the entire name?

4 A The armored car corporation.

5 Q Now, in that connection, was there any conversation

6 about Shorty wanting to borrow some money from you?

7 A Yes, he did.

8 Q What did he say about that?

9 A He said, "Do you have any money that I can borrow

10 for some gas so I could go back up there and go to work."

11 I said, "No, I don't have any."

12 He said, "Do you have a couple of dollars on you

13 for right now," and I said, "No, I don't," because Bob Ferrin

14 was next to me -- I called Ferrin over and asked, "Can you

15 loan Shorty \$2, and I will give it back to you when we get

16 back to the house."

17 Q And did you, in fact, loan Shorty \$2 at that time?

18 A Yes, I did.

19 Q Now, was there any discussion about you loaning him

20 some more money to go up to Leslie's?

21 A Yes. I told him -- I said, "Listen, I will be

22 back around Friday, and I will give you around 30, \$35."

23 Q Approximately what day of the week did this

24 conversation take place in August of 1969 at Spahn Ranch?

25 A Tuesday.

26 Q Approximately Tuesday?

27 A Approximately Tuesday.

28 Q After you told him that you would give him \$30,

6a-4

1 did you tell him when you would give him the \$30?

2 A Yes, I told him I would give him \$30 on Friday, a
3 few days after that, on the weekend.

4 Q Was there any specific reason why you were going to
5 give him the money on Friday?

6 A That is when I got paid myself.

7 Q Friday was payday?

8 Is that correct?

9 A Friday was payday.

10 Q Now, on Friday, the following Friday after this
11 Tuesday conversation in the same week of August 1969, did you
12 come back to Spahn Ranch?

13 A Yes, on a Friday. Yes.

14 Q Did you come back with somebody?

15 A Oh, yes, I did. Yes.

16 Q For what purpose?

17 A I was going to give the money to Shea.

18 Q Were you able to locate Don Shea?

19 A No, I wasn't.

20 Q Did you see his Mercury Comet?

21 A No, it wasn't around.

22 Q Have you ever seen Shorty since the time you last
23 talked with him in August of 1969 when you said you would come
24 back on Friday to give him \$30?

25 A No, I haven't.

26 Q Now, going back to this conversation you had with
27 Shorty Shea at Spahn Ranch, would you just describe his
28 demeanor to us as he was talking to you?

6a-5

1 A Well, he appeared, you know, nervous, not usual,
2 and like when he was talking about different things when
3 somebody walked by he would stop talking or change the subject
4 on something else.

5 Q Was he acting normally as you knew him to act?

6 A Not quite. He was kind of, you know, more of a
7 hard person, but now he seemed more -- a little, like, you know,
8 nervous.

9 Q Could he handle himself in a fight, would you say?

10 A Oh, yes.

11 It would take quite a lot of guys. He was really,
12 you know, a hard fighter.

7

#7

1 Q All right.

2 And when aroused, did Shorty have a temper?

3 A Yes, he did.

4 Q Now, did you know Shorty to own any guns?

5 A Yes. Yes, he did. Yes.

6 Q Do you know what kind of guns he owned?

7 A They were Dakotas. He had a matched pair of

8 Dakotas.

9 Q Can you tell us what his attitude was towards

10 these guns, these Dakotas?

11 Let me backtrack for a moment. Do you know from

12 whom he purchased these Dakotas?

13 A Yes.

14 Q You can just answer that yes or no.

15 A Oh.

16 Q Were you there when he purchased the guns from

17 this individual?

18 A Yes.

19 Q And from whom did he obtain the guns?

20 A He obtained the guns from Arch Hall.

21 Q This is Arch Hall, the movie producer?

22 A Yes.

23 Q All right.

24 And do you know what he gave Arch Hall in return

25 for the guns?

26 A Oh --

27 Q In your presence.

28 A He gave Arch Hall some money plus some cameras

7-2

1 that he had for, you know, collateral until he got the rest of
2 the money.

3 Q What did he get from Arch Hall, just the guns, or
4 did he get a container for the guns, or what?

5 A No. He just got the guns.

6 Q Did you ever see him with a quick-draw holster
7 from Arch Hall?

8 A Yes, he had a holster with the guns.

9 Q In other words, he got the holster and the guns,
10 is that right?

11 A At the same time.

12 Q When was this, approximately, that he got the guns?

13 A This was a few weeks before we went up to Leslie.

14 Q So this was before going to the salt mines at the
15 end of August or the first part of September, 1968, is that
16 correct?

17 A Right.

18 Q And did he thereafter, or did you observe him to
19 carry it in any other kind of container -- and I have reference
20 to the guns? If you know.

21 A Oh, no, the only thing he ever carried them in was
22 the holster.

23 Q All right.

24 That you knew?

25 A Right.

26 Q Now, can you tell us how he treated those guns,
27 what he said about the guns?

28 A He -- he treated them like they were gold, you know.

7-3

1 'Cause he says, "Look at this." He says, "I finally got these."
2 And he would polish them, you know. And then when he would
3 ride off a scene or something, or work a scene, he would take
4 a rag and wipe them off.

5 He always kept them nice.

6 Q Did you ever see him abuse those guns?

7 A Oh, I never did.

8 Q And would he make any other comments about those
9 guns with reference to his work, his stunt work?

10 A Will you repeat, please.

11 Q Yes.

12 May the reporter read the question.

13 THE COURT: Yes. Read the question back to the witness.

14 (The question was read by the reporter
15 as follows:

16 "Q And would he make any other
17 comments about those guns with reference to his
18 work, his stunt work?")

19 THE WITNESS: No, he just took very good care of them.

20 Q BY MR. KATZ: All right.

21 May I approach the witness, your Honor?

22 THE COURT: Yes, sir.

23 Q BY MR. KATZ: Showing you 9-A and 9-B for identi-
24 fication, would you please look at these two Dakota revolvers
25 and tell me whether you recognize them as having seen them
26 before. (Handing.)

27 A Yes, those are Don Shea's.

28 Q How do you know they are Don Shea's?

7-4

1 A Because I have seen them before.

2 Q I notice you looked underneath and looked at
3 serial number 2421. Had you known the serial number at all?

4 A No, I didn't. I was just looking at it.

5 Q I see. Now, with reference to the condition of
6 the guns as you now see them, did Shorty keep them in this
7 condition, or are they in a better condition or a worse con-
8 dition at the present time?

9 A They was in a better condition when I seen them.

10 Q In other words --

11 A Like these handles here, see where the scratches
12 are -- (Indicating.)

13 Q Yes.

14 A That was more done over like a mahogany type. And
15 it was better, newer.

16 Q How about the bluing on the gun, was the bluing the
17 same, or was it in better shape when you saw Shorty with these
18 guns?

19 A The bluing was in a little bit better shape. This
20 was darker in through here (indicating).

21 Q What part of the gun are you referring to now?

22 A The part where the hammer goes right in here.

23 Q The conical area just behind the cylinders, is
24 that correct?

25 A Right.

26 Q And right next to the hammer, is that correct?

27 A Yes, sir.

28 Q Other than telling you that Shorty wanted to go to

1 the Leslie salt mines, did he ever tell you that he intended
2 to leave California permanently?

3 A No.

4 MR. KATZ: If I may have just one moment, your Honor.

5 THE COURT: Yes, sir.

6 Q BY MR. KATZ: Now, when you returned on that Friday
7 to give Shorty the \$30 you promised him, you indicated that he
8 was not there, is that correct?

9 A That's right.

10 Q Did you return to Spahn Ranch again in an attempt
11 to locate Shorty?

12 A Yes. It was about a week or so afterwards.

13 THE COURT: What date? Your date, again?

14 MR. KATZ: Yes.

15 Q Can you tell us approximately when it was?

16 A It was -- in '68,

17 Q All right.

18 You indicated that it was in August of 1968?

19 A Yes.

20 Q When you last saw Shorty, is that correct?

21 A Right.

22 Q And this was at Spahn Ranch?

23 A The Spahn Ranch.

24 Q Excuse me. '69.

25 Now, using that as a frame of reference, August,
26 1969, at Spahn Ranch, can you tell us when it was that you
27 next returned to Spahn Ranch looking for Shorty following the
28 Friday?

7-6

1 A I returned and then -- oh, Pearl was there.

2 Q All right.

3 But -- that doesn't answer my question.

4 Approximately how many days or weeks was it before
5 you returned following the Friday when you went to Spahn Ranch
6 to give him the money?

7 A I went there Friday and I couldn't find him.

8 Remember when I had the money for him. And then,
9 so I didn't go back after that because I figured that he had
10 taken off already.

11 So then I went back about a week after that again
12 and that's when I talked to Pearl.

13 Q All right.

14 And can you just kind of give us the rough time.
15 We are talking about, the end of August, for example, first
16 part of September?

17 A It was at the end of August.

18 Q And you talked with Ruby on the last occasion you
19 went to Spahn Ranch looking for Don?

20 A Yes, I did.

21 Q I take it you were unable to locate him?

22 A I couldn't find him anywhere.

23 MR. KATZ: Your Honor, I have a few exhibits I would like
24 to show the witness at this time.

25 THE COURT: All right.

26 Q BY MR. KATZ: Showing you, first of all, People's
27 Exhibit No. 1 for identification (handing). Would you tell us
28 whether you recognize that individual as having seen him before?

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A Yes, that's Don Shea.

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Q All right.

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And quickly showing you the exhibit series 16 for identification, which shows this white Comet, would you quickly look through these photographs, 16-A through 16-J (handing), and tell me whether or not this is Donald Shea's car which you observed at Spahn Ranch?

8

A Yes, it is.

9

10

Q Incidentally, did Shorty own a special pair of boots?

11

A Yes, he did.

12

Q What kind of boots?

13

14

A They were Western type boots that was high. And they were brown and yellow.

15

Q And what was Shorty's attitude toward these boots?

16

A He wouldn't give them up for the world.

7A

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1 MR. KATZ: All right.

2 Your Honor, I have at this time a series of black
3 and white photographs, and I ask that they be respectively
4 marked 21-A through 21-N.

5 THE COURT: They may be so marked. Have you marked them?

6 MR. KATZ: Yes, your Honor. They are already marked.

7 THE COURT: They may stand so marked.

8 MR. KATZ: And I also have a series of photographs, 22-A
9 through 22-F. They are black and white photographs.

10 And I ask that these be marked respectively 22-A
11 through 22-F.

12 THE COURT: They may be so marked.

13 MR. KATZ: Thank you, your Honor.

14 May I approach the witness?

15 THE COURT: Yes, sir.

16 MR. KATZ: Thank you.

17 Q BY MR. KATZ: All right.

18 Mr. Victor, let's start out with this photograph
19 21-A.

20 This is apparently a portrait of a number of
21 individuals, and in the front of it it says, "R. West Produc-
22 tions."

23 Do you recognize this photograph as having seen it
24 before?

25 A Yes, I do.

26 Q Do you recognize any of the people in particular
27 in that photograph?

28 A Yes. There is Bob Bickston, and there is Don right

Peo 21-A-N
Id

22-A 0
22-F Id

7A-2

1 over there, Don Shea.

2 Q All right.

3 Talk loudly.

4 A Don Shea right over here (pointing).

5 Q Are you depicted in that picture?

6 A Yes, I am.

7 Q Where are you?

8 A Right there (pointing).

9 Q All right.

10 Now, I notice that there have been previous mark-
11 ings made. Were these made by yourself at some other proceed-
12 ing?

13 A Yes.

14 Q All right.

15 So that the encircled face here with the initials
16 B.B. refers to Bob Bickston, is that correct?

17 A Bob Bickston.

18 Q The encircled face here with the initials just
19 above it, D.S., refers to Donald Shea, is that right?

20 A Yes, sir.

21 Q The right-hand portion of the picture, the en-
22 circled face is yours, and the initials look like the rubbed
23 off L.V., that is you, is that correct?

24 A Yes, sir.

25 Q When was the picture taken?

26 A '66.

27 Q What did this show, what was the purpose of this
28 picture?

7A-3

1 A Oh, it was a -- it was a Wyatt Earp -- it was a
2 documentary story on Wyatt Earp.

3 Q This was a documentary. Who produced that docu-
4 mentary?

5 A Bob Bickston.

6 Q Where was it produced?

7 A It was produced at Spahn Ranch.

8 Q Was it filmed at the Spahn Ranch?

9 A Yes, it was.

10 Q Going on to 21-B for identification, do you recog-
11 nize this photograph as depicting something you have seen
12 before?

13 A Yes.

14 Q And what does this show us?

15 A This shows Don standing there and Bob Bickston.

16 MR. KATZ: May we have a grease pencil, your Honor,
17 with your permission.

18 THE COURT: All right.

19 MR. KATZ: Yes. Thank you, your Honor.

20 Q Using this blue pen would you please encircle in
21 21-B, the face of Donald Shea, and put his initials above his
22 face so that the jury can identify it later. (Handing.)

23 A (Marking.)

24 Q And is there a picture of Bob Bickston in this
25 movie?

26 A Yes, there is.

27 Q Would you encircle his face and place his initials
28 above the face.

7A4

1 A (Marking.)

2 MR. KATZ: May the record reflect the witness has
3 complied, your Honor.

4 THE COURT: Yes.

5 MR. KATZ: Thank you.

6 Q And going on to 21-C for identification (handing),
7 there is a picture of a gentleman in a hat. He looks like a
8 good-looking chap. Who is that?

9 A I am not good-looking, but that's me.

10 Q All right.

11 And I notice that there are the initials on the
12 top of that, the crown of the hat, L.V. And that indicates
13 that that is you, Lance Victor, is that right?

14 A Yes, sir.

15 Q This is in the same documentary, is that correct?

16 A Yes, sir.

17 Q When was this filmed, approximately?

18 A In 1966.

19 Q All right.

20 And going on quickly to the photograph 21-B
21 (handing), it shows a gentleman with a badge of some sort.
22 Who is that?

23 A That's me again.

24 Q Would you put your initials above this so we know
25 that it's Lance Victor.

26 A (Marking.)

27 Q In what production was that picture taken?

28 A That was The Lawmen.

7A5

1 THE COURT: May I see those that you have already?

2 MR. KATZ: Yes, your Honor. (Handing.)

3 Q Did you make a picture called Billy the Kid?

4 A Yes, I did.

5 Q Did you play a certain character in that?

6 A Yeah, I played Pat Garrett.

7 Q Looking at this, is this the shot that was taken

8 in connection with that documentary (handing)?

9 A Yes, it is.

10 Q Who made that documentary?

11 A Bob Bickston.

12 Q Was Shorty Shea in that documentary, if you know?

13 A I don't -- he -- I don't remember if he was or not.

14 Q All right.

15 Don't guess if you don't know. When was this filmed,
16 approximately?

17 A '66.

18 Q About the same time?

19 A Same time.

20 Q All right.

21 Now, going on to 21-E -- we will pass these on to
22 his Honor (handing).

23 THE COURT: Thank you.

24 Q BY MR. KATZ: Do you recognize this photograph as
25 indicating an R. West Production?

26 A Yes, it is.

27 Q What did this relate to?

28 A I believe that's the -- it looks like Billy the

7A6

1 Kid. I'm not sure about that.

2 Q All right. It's one of the documentaries?

3 A It is one of the documentaries.

4 Q That Bob Bickston made, is that correct?

5 A Yes, sir.

6 Q Approximately how many documentaries did he show
7 at Spahn's Movie Ranch in the period 1965-66?

8 A It was two, and then we shot a couple over at
9 Iverson's.

10 Q Iverson, right across the street, is that right?

11 A Right across the street.

12 Q Would you encircle Don once more and place his
13 initials above his head so we know that's Donald Shea.

14 A (Marking.)

15 MR. KATZ: Your Honor, may the record reflect the witness
16 has complied.

17 THE COURT: Thank you. Yes.

7B

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1 MR. KATZ: Thank you.

2 Going on to 21-F, here is another R. West
3 Production photograph. And there are several individuals
4 depicted here. (Handing)

5 Q Can you identify those persons? In other words,
6 the gentleman on the left and the gentleman in the center.

7 A Yes. It's Don Shea and Bob Bickston.

8 Q All right.

9 Would you put the initials D.S. at the head of
10 Donald Shea and the initials B.B. at the head of Bob Bickston
11 so the jury can later identify them.

12 A (Marking.)

13 MR. KATZ: Thank you, Mr. Victor.

14 May the record reflect the witness complied.

15 THE COURT: Yes. Thank you.

16 Q BY MR. KATZ: Going on to 21-G for identification,
17 showing you another R. West Production photograph, do you
18 recognize whether or not -- can you tell us whether or not
19 Shorty Shea is depicted in that picture?

20 A Yes, he is.

21 Q Would you place his initials at his feet since the
22 area above his head is rather dark.

23 A (Marking.)

24 Q Is Mr. Bickston depicted in that picture?

25 A Yes, he is.

26 Q Would you please place the initials of Mr. Bickston,
27 B.B., at his feet.

28 A (Marking.)

7b-2

Q And this again was taken in connection with one of the documentaries made by Mr. Bickston at Spahn Ranch, is that right?

A Yes, sir.

MR. KATZ: May the record reflect the witness has complied with respect to 21-G.

THE COURT: Yes.

MR. KATZ: Thank you, your Honor.

THE COURT: Thank you.

Q BY MR. KATZ: Going on to 21-H for identification, do you recognize the person who is apparently powdering his nose?

A That's Don Shea.

Q All right.

Put the S on his sleeve so we know that's Donald Shea.

A (Marking.)

Q And incidentally, we can see in the background the saloon and it says -- you can read some of the words l-o and then you can see an "n" there. Was that taken at Spahn's Movie Ranch?

A Yes, it was.

Q All right.

This was shot in the boardwalk area of Spahn's Movie Ranch?

A Yes, sir.

THE COURT: May I see it, too.

MR. KATZ: Yes, your Honor.

7b-3

Again may the record reflect the witness complied.

THE COURT: Thank you.

MR. KATZ: Thank you.

Q Going on to 21-I for identification, you can get a good shot of Longhorn Saloon. Do you recognize this particular backdrop as being at a specific movie ranch?

A Yes, it is at Spahn.

Q Once again there is a good-looking chap here with a mustache. Who is that?

A That's me again.

Q That was in connection with one of the documentaries filmed by Mr. Bickston, is that correct?

A Yes, sir.

Q Would you please place your initials, perhaps, on the hat, the 10-gallon hat, L.V.

A (Marking.)

MR. KATZ: May the record reflect the witness has complied.

THE COURT: Yes.

MR. KATZ: Thank you.

Q Going on to 21-J for identification, here is a picture of a single gentleman. Can you tell us who that person is?

A Yes. That's Don Shea.

Q This is in connection with another R. West Production, is that correct?

A Yes, sir.

Q Would you please put the initials D.S. indicating

7b-4

1 Don Shea on his shirt.

2 A (Marking.)

3 MR. KATZ: Again may the record reflect the witness has
4 complied.

5 THE COURT: Yes, indeed.

6 Q BY MR. KATZ: Quickly going on to 21-K for
7 identification, here's a picture of a man with a 10-gallon hat
8 shaking hands with somebody next to a horse. Who is that
9 gentleman?

10 A That is me again.

11 Q All right. This once again is in connection with
12 an R. West Production documentary, is that correct?

13 A Yes, sir.

14 Q Where was this shot?

15 A It was at Spahn's again.

16 Q Would you please put your initials on your 10-gallon
17 hat.

18 A (Marking.)

19 MR. KATZ: May the record reflect the witness has
20 complied.

21 THE COURT: Yes.

22 Q BY MR. KATZ: And showing you 21-L for identifica-
23 tion, there is a gentleman that is situated rather prominently
24 in the foreground and behind him there is another gentleman who
25 is visible. Who is that person?

26 A That is Don Shea again.

27 Q All right.

28 Would you put the initials D.S. to indicate that is

7b-5 1 Donald Shea.

2 A (Marking.)

3 Q Again this is part of the R. West Productions in
4 connection with a documentary produced at Spahn Movie Ranch,
5 is that correct?

6 A Yes, sir.

7 MR. KATZ: May the record reflect the witness has
8 complied.

9 THE COURT: Yes.

10 MR. KATZ: Thank you.

11 Q Going on to 21-M, here is a picture, another
12 R. West Production photograph. Would you please tell us who
13 the gentleman is in the left portion of the photograph.

14 A That is me again.

15 Q All right.

16 Would you please place your initials on the
17 10-gallon hat.

18 A (Marking.)

19 Q And lastly in this series (handing).

20 THE COURT: Thank you.

21 MR. KATZ: Thank you, your Honor.

22 May the record reflect the witness has complied
23 with my request.

24 THE COURT: Yes.

25 MR. KATZ: Thank you.

26 Q Going on to 21-N which shows a picture of three
27 people, can you tell us whether or not you recognize the
28 individual on the left and the individual on the right?

7b-5

1 A The individual on the left is Bob Bickston, and
2 the one on the right is Don Shea.

3 Q All right.

4 Would you please place their initials, respectively,
5 on their blouse, or some lighter portion of their body.

6 A (Marking.)

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1 MR. KATZ: May the record reflect that the witness has
2 complied?

3 THE COURT: Yes. Thank you.

4 Q BY MR. KATZ: Incidentally, with respect to those
5 productions, I take it that acting in these documentaries, you
6 are required to dress a certain way, and assume certain facial
7 characteristics?

8 Is that correct?

9 A Yes, sir.

10 Q With respect to mustaches and beards, if they
11 appear, that was part of the role to be played in connection
12 with that documentary?

13 Is that correct?

14 A Yes, sir.

15 Q Do these photographs truly and accurately reflect
16 how the individuals therein depicted in the photographs looked
17 at or about the time the photographs were taken?

18 A Yes, sir.

19 MR. KATZ: Your Honor, I do have a photograph that is
20 mounted on apparently a 16x20 backing, and it depicts a
21 gentleman with some -- at least with one revolver.

22 I ask that that be marked People's 23 for iden-
23 tification.

24 THE COURT: Did you show it to the defendant?

25 MR. KATZ: I will.

26 THE COURT: It will be marked for identification.

27 MR. KATZ: Thank you.

28 May I approach the witness?

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THE COURT: Does it have the marking on it?

MR. KATZ: Yes, it does already.

Showing you People's 23 for identification, do you recognize the individual that is depicted therein?

A Yes, it is Don Shea.

Q Where was this photograph taken, if you know?

A That was at Spahn's Movie Ranch.

Q Do you recognize the revolver that appears in the picture?

A Yes, that is Don's. That is the Dakota.

81A

1 Q All right.

2 Now, with respect to this holster, is this the
3 holster which he secured from Arch Hall, if you know?

4 A Yes, it looks like the same one.

5 Q Was this taken in connection with a movie
6 production by Bob Bickston?

7 A Yes, it was.

8 MR. KATZ: If I may have one moment, your Honor, I
9 think I am done.

10 Thank you, nothing further.

11 THE COURT: Cross?

12 MR. WEEDMAN: Excuse me, your Honor, I'm just looking
13 for those photographs, exhibits 21 and 22.

14 Thank you, Mr. Victor.

15 THE WITNESS: Yes.

16 MR. KATZ: Here is 22, Mr. Weedman. I haven't shown
17 him any, but that is all right.

18

19 CROSS EXAMINATION

20 BY MR. WEEDMAN:

21 Q Now, Mr. Victor, you have been shown a series
22 of photographs, People's 21 for identification.

23 8-2 fsl

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1 You have gone through these with grease pencil and
2 you have identified yourself.

3 A Yes, sir.

4 Q And, of course, Shorty Shea, when he does appear
5 in these photographs.

6 A Yes, sir.

7 Q Can you tell us what year these photographs were
8 taken, if there was just one year involved -- well, let me
9 start over again. That is entirely too awkward.

10 What years are involved in these photographs?
11 That is, when were they taken, yearwise?

12 A They were 1966.

13 Q Were they all taken in 1966?

14 A Yes, sir.

15 Q Pardon me?

16 A Yes, sir.

17 Q Is that the last time you worked with Shorty in any
18 movie work?

19 A 1966 was the last time -- the big times that we had,
20 yes.

21 Q All right. Now, I take it, then, Mr. Victor, that
22 after 1966 Shorty just wasn't doing much, if any, movie work?

23 MR. KATZ: I object to that as calling for a conclusion
24 of this witness.

25 MR. WEEDMAN: If you know, Mr. Victor.

26 MR. KATZ: That is again calling for conclusion and
27 speculation.

28 THE COURT: Well, so far as you know. You could possibly

8-3

phrase it that way. I think you have.

MR. WEEDMAN: Thank you, your Honor.

THE COURT: As far as you know. Now, read the question.

(The reporter read back the question
as follows:

"Q All right. Now, I take it, then,
MR. Victor, that after 1966 Shorty just wasn't
doing much, if any, movie work?"

THE WITNESS: Yes, sir.

Q BY MR. WEEDMAN: In other words, my statement is
correct, isn't it, Mr. Victor?

A No, he wasn't doing too much.

Q Now, with respect to some fourteen photographs
that are a part of People's Exhibit 21 for identification.

A Yes.

Q How many separate productions are involved there
in those fourteen photographs?

A I believe there is three.

Q Can you tell us, Mr. Victor, approximately how
many days Mr. Shea worked totally with respect to those
three documentary pictures back in 1966?

A Oh, I don't know how many days it was, how long
it took.

I don't remember that.

Q Well, can you tell us how long it took overall
to shoot each documentary?

A Well, yes. It would take about a week and a half.

Q How many days would Shea appear to work in each

8-4

documentary, if you remember?

A Whenever he was needed.

Q Now, if Mr. Shea was needed every single day of the given documentary, that means he would work about a week or week and a half?

A Yes, depending on how long his part was that he had.

Q Did he have any parts that extended all through a given documentary?

A Yes, the one that he worked on with me, Joaquin Murrieta.

Q About how long did it take to shoot that picture?

A That took about a week and some odd days.

Q So that for that period in 1966 Shorty worked a week plus a few days?

Week and a half, maybe as much as two weeks?

A No, it was about a week and a few days.

8A fls

8a-1

1 Q All right, with respect to the other two documents
2 reflected in those photographs in front of you, did they each
3 take about a week and a half to shoot?

4 A Depending on the story, you know, how they would
5 do.

6 Q Yes.

7 A And how much film they had to waste, you know,
8 if they had to shoot a scene over.

9 Q Can you give us an idea how long it would take to
10 shoot each one of those documentaries?

11 A It would be a week, a week and a half.

12 Q For each one?

13 A Yes.

14 Q Did Shorty have continuing roles through those
15 other two documentaries?

16 A No, not continuing, just -- well, it would have a
17 role up to a certain point, and then if he was -- like his
18 role was finished, then he would go working in the backdrops
19 where you couldn't tell who it was.

20 He would put on some other clothes and a different
21 type of hat.

22 Q How many days would you say Shorty worked in those
23 other two documentaries, the ones that are not Joaquin Murrieta?

24 A I don't remember.

25 Q Would he have worked every single day that each of
26 those other two documentaries was in production?

27 A If his part was that, you know, long, drawn out --

28 Q Well, do you remember whether or not his part was

8a-2 1 that drawn out or not?

2 A The one that he worked with me, it took a week.

3 Q Yes, he was there almost every day on Joaquin
4 Murrieta?

5 A Yes, that is right.

6 Q But for the others, was it your recollection that
7 he was not there every day?

8 A Well, he was there. He would show up and if they
9 didn't get to his part, he would be held over until the next
10 day.

11 Q Would he be paid for each day of the production
12 whether or not they shot his part if he was on the set?

13 A Oh, yes, sir.

14 Q Would it be fair to say that in 1966 you worked
15 on three documentaries with Mr. Shea, and that Mr. Shea
16 worked a maximum total of three weeks to three and a half
17 weeks in connection with all of those motion pictures?

18 A Yes, that would be close.

19 Q What other movies did you make with Mr. Shea, if
20 any, in 1966?

21 A Well, we did the Wyatt Earp series.

22 Q How many days would you say Mr. Shea worked in
23 connection with that?

24 A About a week.

25 Q Did you make any other films with Mr. Shea in
26 1966?

27 A Yes, Joaquin Murrieta.

28 Q Well, we have already talked about that. I am

8a-3

1 sorry, Mr. Victor.

2 A Yes.

3 Q In addition to those we have already talked about.

4 A Just the three.

5 Q Plus the Wyatt Earp?

6 A Yes.

7 Q Well, in addition to the three that we have already
8 talked about, Joaquin Murrieta, Wyatt Earp and the one addi-
9 tional one that I don't know the name of, did you work in any
10 other movies with Mr. Shea?

11 A No, I didn't.

12 Q How about in 1968, the next year. Did you work in
13 any movies with Mr. Shea?

14 A No.

15 Q Was Mr. Shea making any movies in 1968, to your
16 knowledge?

17 A Yes. I wasn't, but he was -- had something lined
18 up with Mr. Bickston.

19 Q All right, so you know that Mr. Shea had some work
20 in a picture with Bob Bickston in 1968?

21 A Yes, sir.

22 Q What about 1969?

23 Did you work in any movies with Mr. Shea?

24 A No.

25 Q So the last time that you had personal knowledge
26 with respect to Mr. Shea's actually working in a motion picture
27 was 1966?

28 A Yes, sir.

8a-4 1

2 Q And in 1966 you worked approximately three weeks
in connection with the motion pictures that you talked about?

3 A Yes, that is close.

4 Q Was Mr. Shea a member of the stuntmen's union?

5 A I don't recollect if he was or not.

6 I never did ask.

7 Q When did you last appear in a motion picture,
8 Mr. Victor?

9 A It has been about three years, two years.

10 Q Would you consider yourself to be a pretty good
11 friend of Mr. Shea?

12 A Yes, sir.

13 Q And as a pretty good friend of Mr. Shea's, would
14 you fairly characterize his general occupation as that of
15 being a stuntman in the movies?

16 A Yes, he could do it.

17 Q He could do it?

18 A Yes, he could do it.

19 Q But he didn't do that primarily for a living?

20 A No, he didn't.

21 Q Now, when you had that conversation with Mr. Shea,
22 and he told you that he was going up to Vallejo to work in the
23 salt mines, again there wasn't anything unusual about that,
24 was there, Mr. Victor?

25 That is, that he would go up to the salt mines and
26 work?

27 A No, he -- well, he wanted to get some extra money.

28 Q Surely.

8a-5

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A Because he wasn't working at the time.

Q For the record, tell us where Vallejo is.

A It is 32 miles this side of San Francisco. It is near Napa and Mendocino.

Q There wasn't anything unusual about Mr. Shea traveling from Los Angeles to Northern California in order to work the salt mines in Vallejo?

A No, he would do it.

Q As a matter of fact, you told us you and he had been up there the year previous?

A The previous year.

Q Just about the same time, in August 1968?

A Yes, because it is seasonal.

Q It runs from late August through early September to December?

A To December.

8b

8B

1 Q When you went back to the ranch with the money,
2 you figured Mr. Shea had taken off?

3 Is that correct?

4 A Yes.

5 Q By "taken off," you mean you figured he had gone
6 up to Vallejo to work in the salt mines?

7 A Yes. I figured maybe he had come up with some
8 money.

9 Q Just so we will be clear about it, I take it you
10 were still a good friend of Mr. Shea's at this time?

11 A Oh, yes, sir.

12 Q Are you married, Mr. Victor?

13 A No, not now.

14 Q Were you married at that time?

15 A Yes.

16 Q Were you living with your wife at that time?

17 A Yes.

18 Q Is it true that Mr. Shea bought these guns we
19 have been talking about here, People's 9-A and Peoples 9-B
20 for identification, that he bought those just before he went
21 up to work in the salt mines in 1968?

22 A Yes, sir.

23 Q Was it your understanding that Mr. Shea bought
24 those guns in order to appear in a movie of some kind at that
25 time?

26 A No, he wanted them for a movie that was coming
27 up.

28 Q Do you know what movie that was?

1 A No, I don't.

2 Q Shortly after buying these guns, he didn't work in
3 a movie but rather went up and worked with you at the salt
4 mines?

5 A Yes.

6 Q I want to perhaps clear up one thing.

7 Who is this girl Arlene Marlatt that you told us
8 you went to the --

9 A The Binders.

10 Q Yes, the Binders with?

11 A Yes.

12 Q Who is she?

13 A That was my wife.

14 Q Well, were you married to her at that time?

15 A No.

16 Q Did this girl, Arlene Marlatt, stay at the Binders?

17 A Yes, she did.

18 Q That is why you and Don were there?

19 A Right.

20 Q When did you marry her?

21 MR. KATZ: I would object to that as immaterial.

22 MR. WEEDMAN: I didn't bring it up, your Honor. Counsel
23 brought up that name and I am just trying to find out who
24 this girl is.

25 THE COURT: You may ask the question.

26 MR. WEEDMAN: Yes, your Honor.

27 Q When were you married to her, Mr. Victor?

28 A That was 1967.

8-3

1 Q So were you married to her at the time that she
2 stayed with the Binders?

3 A Yes.

4 MR. KATZ: I would object to that. It has been asked
5 and answered.

6 THE COURT: It might be asked and answered.

7 Well, ask the question.

8 MR. KATZ: It is already in, the answer. I have no
9 objection.

10 THE COURT: You can ask her.

11 Q BY MR. WEEDMAN: How long did you stay at the
12 Binders?

13 That is, you and your wife and Donald Shea?

14 A It was just -- it was about a few weeks.

15 Q And then where did she go?

16 A Oh, she stayed at the Binders.

17 Q And did she stay there while you and Shorty went up
18 to work in the salt mines?

19 A Yes.

20 Q After you got back, did you and your wife move
21 some place else?

22 A Yes. I took her then back up to Vallejo.

23 Q You took her back to Vallejo with you?

24 A Yes.

25 Q Did you see Shorty during that period of time?

26 A Yes.

27 Q Where was Shorty?

28 A Well, he was up in Vallejo, too.

8-4

1 Q Did you come down and pick up your wife and take
2 her back to work in the salt mines with you, or after you
3 finished working at the salt mines?

4 A Well, I was still working at the salt mines, and
5 I came down and picked her up with another friend of mine.

6 Q All right.

7 And Shorty was then still up there working in
8 Vallejo?

9 A Shorty had by then come back down.

10 Q Did you see Shorty while you took your wife up to
11 Vallejo?

12 A Yes, I seen him, and then I phoned him once while
13 I was up there at the Wilcox.

14 Q At the what?

15 A At the Wilcox.

16 Q Is this the Wilcox Hotel which you are talking
17 about?

18 A Yes, that is the only one I know about, that one.

19 Q When did Shorty move into the Wilcox Hotel, do you
20 know, for the first time?

21 A That was when he came back down here.

22 Q Well, was that in 1968, right after you and --

23 A It would be in 1968.

24 Q Was Shorty married at that time?

25 That is, when he was living at the Wilcox?

26 A No.

27 Q To your knowledge, did he live at the Wilcox Hotel
28 more than once?

8-5 1

A No, just the once is all I know.

2

Q With respect to Shorty's wife, Magdalene Shea,
3 do you know when they were married?

4

A No, I do not, sir.

5

Q Do you know where they were living?

6

A No, I don't.

7

Q So I take it that in -- I take it, then, that in
8 August of 1969, you did not know where Mr. Shea was living?

9

A No, I didn't know where he was living at.

10

I know that he was living with his wife somewhere,
11 but I don't know where.

12

Q Did you know where he was living in July of 1969?

13

A No.

14

Q Did you know where he was living in May or June of
15 1969?

16

A Well, ne never did say.

17

Q Did you know what city Mr. Shea was in during
18 those months, May, June, July, August of 1969?

19

A Yes, he was down here.

20

Q Was he down here, to your knowledge, in May of
21 1969?

22

A As far as I know.

23

Q In June?

24

A Yes, sir.

25

Q And July?

26

A Yes.

27

Q Did you know that he had gone to Las Vegas during
28 a portion of those months, at least?

29

A No, I did not know that.

9-1

1 Q With respect to this \$2 that you apparently turned
2 over to Shorty the last day you saw him, was that all the money
3 that was available between you and the gentleman that was with
4 you, to give to Shorty, if you know?

5 A You mean Mr. Bob Ferrin?

6 Q Yes.

7 A Yes. I had some money at home, but I just didn't
8 bring it with me. I had, you know, a couple bucks in the
9 drawer at home.

10 Q I see.

11 Did Shorty appear to really need that money, even
12 though it was apparently a small amount, only \$2?

13 A Yes, he did.

14 MR. KATZ: I am going to object on the grounds it is
15 argumentative and move to strike the answer.

16 MR. WEEDMAN: No, it is not argumentative at all, your
17 Honor. I am talking about Shorty Shea's financial condition
18 at this time.

19 THE COURT: The question may stand. The answer may
20 stand.

21 Q BY MR. WEEDMAN: Now, I take it that you are not
22 really sure of the date that you saw Mr. Shea at Spahn Ranch
23 other than that you know it was in August of 1969?

24 A Yeah, I know it was in August.

25 Q Okay. But I take it you can't tell us if it was
26 the first part of August or the latter part of August?

27 A It would be about the latter part of August.

28 Q Are you sure?

9-2

1 A Just about in the middle, toward the latter part,
2 about the middle part.

3 Q About the middle of August?

4 A Yeah.

5 Q Okay. And finally, did Shorty have a temper?

6 A Yes, he did.

7 Q Would you say that he was the kind of fellow that
8 would flare up? If that expression has a meaning for you.

9 A Yes, if someone agitated the living daylights out
10 of him, he would.

11 Q To your knowledge did he engage in fights, I mean
12 fistfight kind of fights?

13 A Yes, if he was slugged at first.

14 Q Well, my question to you is whether or not he had
15 engaged in such fighting?

16 A On occasions, yeah. You know, if he had to defend
17 himself.

18 Q Do you think that two people would scare him off,
19 for example, if two people challenged him to a fight?

20 A No, sir. Five would, but not two.

21 Q So two wouldn't scare him off?

22 A No, sir.

23 Q And are you telling us that five would?

24 A They could.

25 Q They could? Well, just so far as describing
26 Shorty, would you say that, you know, just by way of some kind
27 of, perhaps, casual description of Mr. Shea, that five people
28 would scare him off if they challenged him to a fight?

9-3

1 A Yes, they would, depending if they had, like, a
2 chain in their hand or a crowbar or something.

3 Q All right.

4 But just generally speaking would it be fair to
5 say that Shorty was the kind of a man who wouldn't back down
6 from a fight no matter whether there were five people or eight
7 people?

8 A He wouldn't back down from them, but he would fight.

9 Q He would fight?

10 A Yes.

11 MR. NEEDMAN: All right. Thank you, Mr. Victor.

12 That's all I have.

13 MR. KATZ: Thank you. I have no further questions of
14 Mr. Victor.

15 THE COURT: Thank you very much.

16 THE WITNESS: Thank you.

17 THE COURT: All right.

18 MR. KATZ: Your Honor, may we take a short recess to
19 ascertain whether there are other witnesses available.

20 THE COURT: How long a witness do you have there?

21 MR. KATZ: I am not certain whether we have any
22 witnesses left.

23 THE COURT: All right.

24 MR. KATZ: Your Honor, may Mr. Weedman and myself
25 approach the bench.

26 THE COURT: Yes, would you, please. Step right up here,
27 folks.

28 Do you want the reporter?

9-4

1 MR. KATZ: I don't think it is necessary.

2 THE COURT: All right.

3 MR. KATZ: Unless Mr. Weedman wants it later.

4 (Conference in chambers with counsel
5 and defendant present, not reported.)

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

9 THE COURT: Now, ladies and gentlemen, first of all we
10 are back in open court. The defendant Grogan is here.
11 Defendant's counsel is here. People's counsel is here. And
12 the jury is in the jury box and the alternates are all here.

13 Ladies and gentlemen, respecting the next two
14 witnesses that the People have subpoenaed and are ready for
15 testimony, there have very unusual circumstances occurred,
16 without going into the nature of them, that makes it very
17 difficult, extremely difficult to bring them here right now.

18 And the nature of that has been explained in
19 chambers with counsel and defendant there. And I am
20 absolutely convinced that there is difficulty there.

21 Now, without going into it I think therefore we
22 will have to recess until tomorrow morning at 9:30, and we will
23 proceed tomorrow morning at 9:30.

24 If you will all, as you have been, be here promptly
25 we will proceed at 9:30 tomorrow morning.

26 Do not discuss the case with anybody at all or come
27 to any opinion or conclusion. Thank you very much, ladies and
28 gentlemen.

(An adjournment was taken to Tuesday,
July 27, 1971, at 9:30 a.m.)