

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 52

HON. JOSEPH L. CALL, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

v.)

NO. A 267861

STEVE GROGAN,)

Defendant.)

REPORTERS' DAILY TRANSCRIPT

TUESDAY, AUGUST 3, 1971

LUBY EARL

APPEARANCES:

(See Volume 1)

VOLUME 25

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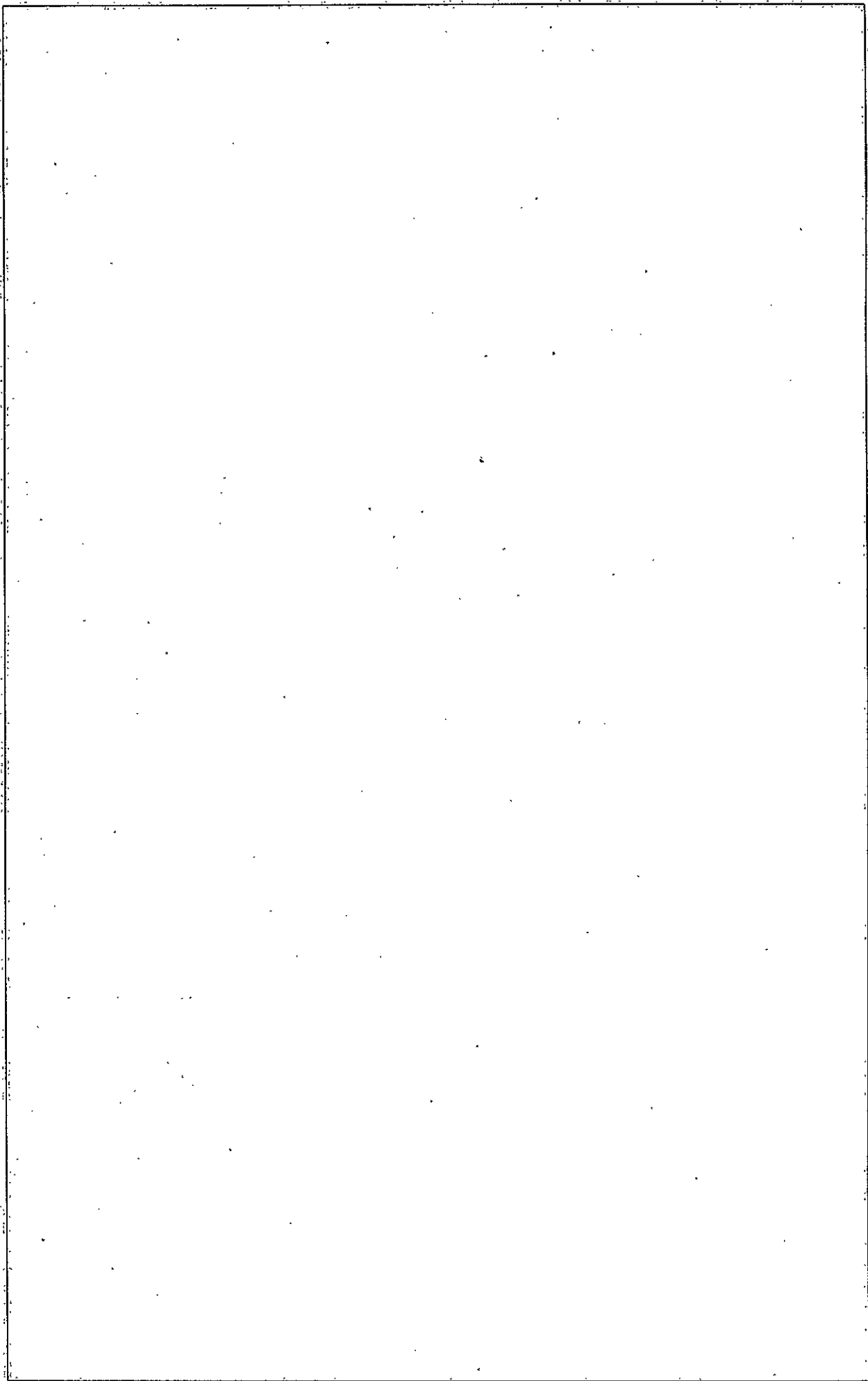
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1 PEOPLE v. STEVEN GROGAN
2 NO. A 267861

VOLUME 25 - Pgs. 3193-3347 incl.
Tuesday, August 3, 1971

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4 I N D E X

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6 PEOPLE'S WITNESS

DIRECT

CROSS

7 PEARL, Ruby (Con't.)
8 (Con't.)

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13 E X H I B I T S

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15 PEOPLE'S EXHIBITS

FOR IDENT.

16 31-A through 31-H

Color photographs

3257

1 LOS ANGELES, CALIFORNIA, TUESDAY, AUGUST 3, 1971

2 9:40 A.M.

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

6 THE COURT: All right. We are in chambers. Make your
7 statement, Mr. Grogan.

8 THE DEFENDANT: All the statement is, is asking the court
9 for a court order so I can bring my street clothes, court
10 clothes to court and change in and out of my blues so I don't
11 get my street clothes dirty.

12 People versus -- no, there is no case law on that.

13 MR. KATZ: People versus Grogan, your Honor.

14 THE COURT: Now, let me get it straight. They want a
15 minute order from me, is that it?

16 THE DEFENDANT: Yeah.

17 THE COURT: That you can bring over here --

18 THE DEFENDANT: This and my court clothes.

19 THE COURT: Uniform you have on?

20 THE DEFENDANT: Yeah, jail blues.

21 THE COURT: Plus your court clothes to wear in court?

22 THE DEFENDANT: Court clothes, right.

23 THE COURT: Have they made any objections on this?

24 THE CLERK: Yes, they have, sir. The sheriff sent a
25 representative down this morning to notify the court of the
26 situation and they said they give Mr. Grogan the choice this
27 morning, they gave him the choice of which set of clothes he
28 wanted to wear to court. But they are not going to be having

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1 the two sets of clothes coming over.

2 They said he can wear whatever he likes from the
3 jail.

4 THE COURT: Well, I tell you, you have another suit of
5 clothes, is that right?

6 THE DEFENDANT: No, I just have one black set. It is not
7 the matter that I can't wear them, it is that they get dirty.
8 I keep wearing them from the jail and back, going through the
9 dust department a lot and the clothes get sweaty and the clothes
10 are going to get funky day after day.

11 THE COURT: Why can't we put his clothes in the closet
12 here and let him change right here?

13 MR. WEEDMAN: I think it is a good idea. Then I can get
14 them cleaned, Clem. Take them down and get them cleaned.

15 THE COURT: They have their own rules and regulations.
16 I can't direct them and say, "You change your rules." I can't
17 do that because they operate as a separate institution just
18 like I do.

19 If you want to leave them here -- I would rather
20 not have them in chambers because I would be subject to
21 criticism. But you can put them in the hall.

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1 THE DEFENDANT: It is just the idea if I wear them from
2 the jail to here, they are going to get dirty.

3 THE COURT: Well, give them to Mr. Woodman and have him
4 put them in the hallway.

5 THE DEFENDANT: I have to have an order that I can bring
6 both sets here to get them here.

7 THE COURT: You bring the others, and put them in the
8 hallway.

9 If you want to put them in there, that is all right.

10 THE DEFENDANT: Well, as I understand it, it can only be
11 one set, my blues or my court clothes.

12 THE COURT: Well, I am telling you if you give them to
13 your lawyer we will put them in the hallway here.

14 THE DEFENDANT: I will have to do that outside.

15 THE COURT: Then you can change there; if you want to do
16 that, I have no objection.

17 THE CLERK: Your Honor, that is the exhibit closet. That
18 is a special key that nobody has except me. That is a special
19 closet.

20 THE COURT: We won't go in that closet.

21 There are other places there they can put them.

22 Put it in the hallway here. How about the reporters'
23 room down the hall?

24 Are they using that?

25 THE CLERK: Yes, sir.

26 THE COURT: There is a closet in the jury room. If
27 you stipulate on it, he can keep them in there and change in
28 the hallway.

1 MR. KATZ: I don't have any preference. It would depend
2 on the policies of the sheriff's office.

3 I personally have no objection.

4 THE COURT: I'm not trying to direct the sheriff on this.
5 I am trying to see if we can hang them around here some place.

6 I don't care. I mean, what difference does it make
7 as far as I'm concerned?

8 If he wants to put on his other suit, I don't care.
9 I am not trying to tell the sheriff how to run his office.

10 If we find a place here, let him shift into them.

11 THE CLERK: If you leave his clothes in an unguarded --

12 THE COURT: Where can we put it? I won't care if we put
13 it in here, as far as I am concerned, but somebody is going to
14 say I am showing some kind of partiality having the defendant's
15 clothes in here.

16 Why am I doing that any more than the People or
17 the sheriff?

18 If I have some third room, if I can put them in
19 there --

20 THE CLERK: It would be easier if we just make a minute
21 order letting him use the same method we have been doing, Judge.
22 Let him change upstairs.

23 THE COURT: All right. Let's go ahead.

24 All right, make an order.

25 THE CLERK: The way we have been doing it.

26 THE COURT: Yes, make an order.

27 MR. WEEDMAN: Your Honor, with respect to the ruling
28 yesterday, I was thinking about it over the recess period.

1 Mr. Katz offered several bits of evidence from this witness
2 who is now on the stand, Ruby Pearl. One of those was
3 apparently a conversation which merely says, "They are trying
4 to kill me."

5 THE COURT: Yes.

6 MR. WEEDMAN: And I am trying to figure out whether or
7 not your Honor has made a ruling with respect to that parti-
8 cular discrete bit of conversation.

9 THE COURT: I have overruled the objection. That may be
10 answered.

11 That may be answered.

12 MR. KATZ: I think we have discussed this fully, your
13 Honor.

14 MR. WEEDMAN: Well, your Honor, I am very disturbed about
15 this.

16 Your Honor has consistently denied the prosecution--

17 THE COURT: I know. There are serious questions. I have
18 conceded that.

19 MR. WEEDMAN: But your Honor has always denied the
20 prosecutor that opportunity, and I am sorry I just fail to,
21 I guess, understand why your Honor is now permitting it to come
22 in when your Honor refused to permit it to come in before.

23 I don't think the situation has changed any. I
24 will again cite Finch, Mercouris and the comment to 1250 of
25 the Evidence Code where they seriously object to this and they
26 require all kinds of stringent requirements before they will
27 permit this kind of evidence to come in.

28 Now, those have been met in this case, your Honor.

1 I am very concerned about this. As far as I am concerned at
2 this point, if this is permitted to come into evidence, we
3 virtually don't have a trial left.

4 We are permitting hearsay. We are permitting this
5 jury to know through this statement that someone threatened
6 to kill Shorty and it is only -- if he had said Charles Manson
7 threatened to kill me, it is the same thing as his saying
8 "They are trying to kill me," because "they" obviously refers
9 to members of the Manson family.

10 That has been the whole import of Mr. Katz's
11 testimony here, your Honor.

12 I must say, your Honor, that I have always abided
13 by your court's rulings, and will continue to do so, and I
14 realize your Honor has already ruled in this matter, but to
15 allow in what has not been permitted to come in before, and
16 when it flies in the face of Finch, of the Lew case where this
17 very thing has been discussed over and over and over again in
18 this very serious case, just absolutely perplexes me, your
19 Honor.

20 I guess I just don't -- I guess I just don't
21 understand where suddenly you are permitting it to come in,
22 and I say that with all due respect, needless to say, in this
23 matter.

24 There was other evidence, of course, about the
25 comments relative to racial prejudice that had nothing to do
26 with this, and I am not seeking to discuss those again today.

27 My objection has already been noted for the record,
28 but I am concerned about this statement that "They are trying

1 to kill me."

2 Now, that is being offered only for Mr. Shea's
3 state of mind, but what state of mind?

4 Why is his -- his fear, if it is fear that is being
5 shown as his state of mind, it is only relevant if someone
6 threatened him, and if someone threatened him, then that is
7 going to be used by the jury substantively.

8 It is going to be used as hearsay to prove that
9 someone threatened to kill Mr. Shea, and it is the worst kind
10 of hearsay, your Honor.

3 fls

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1 THE COURT: Go ahead, Mr. Katz.

2 MR. KATZ: Your Honor, I don't -- unless the court
3 really wants me to respond, I think you analyzed it well
4 yesterday. I argued the points in connection therewith and
5 your Honor made a value judgment, and I think a very careful
6 one that in this case under 1250 of the Evidence Code, your
7 Honor, where it indicates that evidence is not inadmissible by
8 the hearsay rule where the evidence is offered to prove the
9 declarant's state of mind, emotion or physical sensation at the
10 time -- and I underscore that -- at the time or at any other
11 time when it is itself an issue in the action or, too, the
12 evidence is offered to prove or explain acts or conduct of the
13 declarant.

14 Now, Mr. Weedman, merely because he characterizes
15 the statement as showing prior threats and claims they are
16 offered for the truth of the assertions does not render such
17 evidence in fact offered for the truth of the assertions as
18 such.

19 Indeed, it is not, as we indicated before. There is
20 no reference to any prior acts nor are they made under condi-
21 tions which are prohibited by 1252 of the Evidence Code or
22 under the Hamilton doctrine as being made under conditions in
23 which they are untrustworthy.

24 Here there wasn't a parade of police officers, for
25 example, as in the Hamilton case, in which the woman was being
26 arrested for possession of a deadly weapon. At that time she
27 had a motive to fabricate and she said the reason she had the
28 deadly weapon is because "My husband or my boyfriend is trying

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1 to kill me."

2 Thereafter they brought in about 10 or 12 police
3 officers, as I recall, one after another, successively testify-
4 ing that this is the reason why she was carrying this gun.
5 She had a motive to fabricate.

6 There is no motive here to fabricate. This is an
7 oldest and dearest friend, Ruby Pearl. Forget about fear.
8 This is a manifestation of his intent not to abandon his
9 friends but rather on the contrary to seek help from his
10 friends at or about the time in which he disappears.

11 This is the last time Ruby Pearl sees Shea alive.
12 Bear in mind this precedes this very important event which
13 she will testify to, namely, Clem, meaning Mr. Grogan, Charles
14 Manson and Tex Watson and Bruce Davis and perhaps Bill Vance
15 got out of the car before she left and surrounded him, fanning
16 out in a half circle, and he had never been seen alive since.

17 I think your Honor analyzed it very well under
18 1250 of the Evidence Code it is admissible, your Honor.

19 MR. WEEDMAN: Your Honor --

20 MR. KATZ: Excuse me.

21 Your Honor had analyzed it very well but for us to
22 go back and forth, back and forth, I think is really productive
23 of nothing. We can't move forward in this trial, and I think
24 once your Honor has ruled we should respect that ruling.

3a

3a-1

1 MR. WEEDMAN: That, of course, has been my concern here,
2 your Honor, because your Honor will recall of course that we
3 spent many hours here in chambers after a thorough analysis
4 of the Finch case, of the Hamilton limitations and of People
5 v. Lew, of Mercuris, of the comment to 1250 of the Evidence
6 Code.

7 And when counsel says that this is being shown,
8 that is the statement "They are trying to kill me" that is
9 being shown for Mr. Shea's state of mind, that he didn't
10 intend to leave, it absolutely doesn't follow. It is a
11 nonsequitur. It doesn't follow from that even remotely that
12 Mr. Shea did not intend to leave, that he intended to stay
13 with his friends and as a matter of fact it flies in the face
14 of the evidence that this witness offered a place to Mr. Shea
15 to stay, and he wouldn't even go there with his dear friend
16 Ruby Pearl.

17 THE COURT: Well now, I am disturbed. I have been all
18 along here. Your whole case can stand or fall on the decision
19 I make right here.

20 MR. WEEDMAN: That's right, your Honor.

21 THE COURT: It could fall right on this point here.

22 Now, I am very disturbed. I am willing to take
23 time on it. We can do well to spend time on this. I am very
24 disturbed on the statement. It bothers me a great deal.

25 Your point is, as I get it, Mr. Katz, that it
26 shows -- the statement shows the state of mind of Shea and the
27 state of mind as Mr. Weedman has posed a number of times, what
28 state of mind do you want to show, he says,

3a-2

1 Your answer is the state of mind that -- the state
2 of mind of Shea that he wanted to stay at the ranch and not to
3 go.

4 MR. KATZ: No, that isn't what I said, your Honor.

5 THE COURT: All right. What is your state of mind you
6 are attempting to show then by Shea?

7 MR. KATZ: The intent not to permanently abandon his
8 friends. Certainly he wanted to get out of the danger zone.

9 THE COURT: That is what I am saying.

10 MR. KATZ: No, there is a difference because you are
11 saying that his intent is not to leave the ranch. Well, that
12 is one thing. I am not saying that.

13 His intent is to repair to a position of safety
14 whereafter he would have contacted his friends, as he had
15 always done in the past --

16 THE COURT: But he didn't do that.

17 MR. KATZ: That is the whole point, your Honor. And that
18 is the probative value.

19 Look, if he did not voluntarily absent himself from
20 the ranch because of the fear that he had and because of his
21 state of mind because of what was going on at the ranch at
22 that time, if he did not do that voluntarily, then the infer-
23 ence is that because of his not having contacted his friends
24 over the past two years, is that he is dead by reason of a
25 criminal agency.

26 Let's assume he was -- this is motive evidence,
27 too, on the part of the declarant here, the decedent -- his
28 motive would be to leave that ranch. It is explanatory of a

3a-1

1 subsequent conduct.

2 Now, Mr. Weedman is going to present evidence and
3 has been arguing by way of cross-examination and presenting
4 evidence to the effect this guy is an itinerant. This guy
5 could go anyplace. He will go all over the United States and
6 won't contact friends.

7 That isn't his intent and that wasn't his motive
8 at the time he disappeared. It is just the opposite. He had
9 the specific intent to get out of the zone of danger.

10 But that didn't mean he intended to abandon his
11 friends. So the evidence which we have which shows his state
12 of mind is the statement to Ruby that "Look, something weird
13 is happening here." And it is not offered for the truth of
14 the assertions at all.

15 THE COURT: Well, if his state of mind was to go to a
16 place, repair to a place of safety -- that is your position,
17 is that right? ~~THE COURT: Yes.~~

18 MR. KATZ: Of course it is.

19 THE COURT: All right.

20 Then why didn't he go with the woman?

21 MR. KATZ: Well, she explains it here in the full
22 statement. You can't take this statement out of context, your
23 Honor.

24 And I just don't understand it. We discussed this
25 thing so fully. It is so clearly admissible under 1250 of the
26 Evidence Code. This nowhere falls in the doctrine of
27 Hamilton. Nowhere falls in the Mercouris doctrine because
28 this is not offered as memory of past events for proof of the

3a-4

truth of those past events.

There is no reference to past events as such. There is no statement such as "Charlie threw a knife at me. Charlie said he was going to kill me. Clem said he was going to kill me."

There is no such statements of memory of past events offered for the truth of those past events. All we are showing are statements that are contemporaneous to the time he was last seen alive by Ruby Pearl.

It is so significant to explain the conduct that happens immediately following when he is surrounded by the defendant and these other people. Your Honor, this is good solid state of mind evidence offered under 1250, wherein subsection 2 of paragraph (a) it says the evidence is offered to prove or explain acts or conduct of the declarant, and this is certainly offered to prove and explain the acts or conduct of the declarant, namely, his disappearance and his intent at the time of his disappearance not to permanently abandon his friends.

Surely he didn't intend to stay at Spahn Ranch. If he didn't intend to stay at Spahn Ranch, your Honor, he must have gone some other place. If he went some other place, based upon the close ties he had with these people over the years, he certainly would have contacted them. And if he didn't, he must be dead.

These are reasonable inferences, your Honor, in light of the other evidence. And your Honor understood this yesterday and we argued this fully yesterday.

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I just think to stop this at this time is to not only cut off one arm, you are cutting off both arms of the People's case at this time. And merely because Mr. Weedman -- and I know in all sincerity as a fine trial lawyer says "My God, you just can't do it, you have consistently ruled in the past. You haven't been able to do this." This is true for two reasons. One, the posture of the evidence was different at the time, and secondly, the other statements that I attempted to elicit at the time related to events that occurred in the past by way of his memory statement.

And in that connection it might have been inadmissible, though I didn't think so under the doctrine of Hamilton. Here we do not have any memory of past events offered for the truth of the assertions. Clearly it is a classical kind of state of mind evidence.

If state of mind evidence is to have any meaning in a circumstantial evidence case in this court it must be admissible, your Honor.

3b

1 MR. WEEDMAN: Your Honor, you cannot get hearsay in
2 merely because you make a claim that it is offered for state
3 of mind only. Hamilton of course pointed out that even if
4 state of mind is relevant -- and of course I am absolutely
5 convinced it is not relevant in this instance -- but even if
6 it is relevant they point out that a major difficulty -- and
7 I quoting now:

8 "With these declarations it is that
9 while they are admissible only to show the
10 state of mind of the declarant victim, they
11 nearly always contain damaging recitals of
12 fact about the defendant. And for the jury
13 to separate mental state from truth of the
14 charges is a psychological impossibility."

15 That's even conceding that this is relevant.
16 But, your Honor "They are trying to kill me" only shows one
17 state of mind, and that is fear. And it's precisely that fear
18 state of mind that Lew, Hamilton and the Evidence Code
19 condemn. They don't permit that.

20 MR. KATZ: We are talking about intent.

21 MR. WEEDMAN: Because the jury will accept it as proof
22 of the matter stated, that is to say, in this instance "They
23 are trying to kill me" that could only mean members of the
24 Manson family so-called, and it is just the same as if Shea
25 had said "Charles Manson is trying to kill me, or Mr. Grogan
26 is trying to kill me, or the girls are trying to kill me,"
27 et cetera, et cetera.

28 And for Mr. Katz to constantly come in here and

3b-2

1 say that it is just state of mind --

2 THE DEFENDANT: No, he changed it to the intent.

3 MR. WEEDMAN: Merely just brings us back to the point
4 that your Honor thoroughly considered before.

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1 THE COURT: I take a somewhat different view of this
2 than I have. I am disturbed about it.

3 Let's go back to your thesis here that you want to
4 show a state of mind, "They are trying to kill me." It is
5 fear.

6 Your state of mind is one of fear, isn't that right?

7 MR. KATZ: It is three-pronged; fear, motive and intent.

8 Now, they are all inextricably bound up with one
9 another, your Honor. It is not just the element and mental
10 state of fear, as such. Now, it is more importantly to show
11 the intent and the motive for wanting to repair to a place of
12 safety.

13 THE COURT: Well, suppose he does.

14 How is that going to change the situation? Suppose
15 he gets in the auto with this woman and goes away. What have
16 you proved, that he has a fear?

17 All right, you have a fear. He is scared to death
18 of these people.

19 MR. KATZ: I can answer this.

20 THE COURT: All right.

21 MR. KATZ: And I think I have answered it so clearly as
22 I did yesterday.

23 Look, if he did repair to a place or a position
24 of safety, isn't it reasonable under all of the evidence that
25 we have produced thus far that he would have been in contact
26 and sought the help of his other friends?

27 Isn't that the most reasonable inference from the
28 evidence?

1 Look, from Lance Victor to Robert Bickston, with
2 whom he was going to make a movie, to Ruby Pearl, to George
3 Spahn, Arch Hall, to the Babcocks, Sharon Babcock and Jim
4 Babcock, and all of the friends that we have produced by way
5 of testimony, and Mrs. Dawn Quant who is going to be testifying.

6 These are dear friends with whom he was in contact
7 over the last fifteen years on a very frequent and consistent
8 basis. Now, having repaired to a position of safety, your
9 Honor, this is what I am saying. He would have obviously lived.

10 He would have obviously been in contact with his
11 other friends. Now, that is a reasonable inference to be drawn
12 from the facts.

13 THE COURT: But right there, there is a fallacy in your
14 argument, because I don't know, and you don't know, whether he
15 has repaired.

16 You see, you have theoretically a dead person as
17 part of your proof, and he may be alive.

18 In other words, suppose he has repaired to a place
19 of safety under your own argument. "I want to get out of here.
20 I'm scared of these fellows. I'm getting out. I'm moving.
21 I'm scared to death." So he goes. Maybe he is still gone.

22 You see, your argument works both ways. It may work
23 for you, and it may work against you.

24 MR. KATZ: That goes to the weight, your Honor. It
25 doesn't go to the admissibility. That is the important point.

26 Certainly counsel may argue that his life still was
27 so inconsistent and manifested an itineracy that this man may
28 not have maintained his contact with his friends over fifteen

1 years. I think that is an unreasonable inference. It is an
2 inference that can be drawn, however.

3 I think based upon the evidence when you take the
4 fact that he loved his guns so dearly, and yet the guns find
5 themselves in the possession of the Manson family. His auto
6 and his clothes and personal property is abandoned. Isn't the
7 reasonable inference that he didn't repair to a place of
8 safety but met his death at the hands of a criminal agency?

9 There is your corpus.

10 THE COURT: That would sustain the defense case, actu-
11 ally.

12 If he says, "I am scared of these people. I want
13 to get out. I want to repair to a place of safety." What is
14 your next step, that he did do so?

15 He left here. He had gone. He had left the state.
16 He may be in Alaska.

17 I mean, that is what he is repairing to, place of
18 safety, under your argument there.

19 MR. KATZ: Again, let me get back to the issue.

20 THE COURT: All right.

21 MR. KATZ: The issue is, what does it show.

22 It shows his intent through motive and fear. Now,
23 his intent is simply not to abandon his friends, your Honor.
24 It is not to permanently abandon his friends.
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1 Now, we can assume by way of the evidence because
2 he has not contacted his friends, that he did permanently
3 abandon them if he is alive, or on the contrary, that he must
4 be dead, and based upon the other evidence in the People's
5 case, the only rational conclusion which cannot be resolved with
6 any other rational conclusion is that he is dead by reason of
7 a criminal agency.

8 His intent by reason of the state manifested
9 contemporaneous with the time of his immediate disappearance
10 in the latter part of August, 1969, is not to abandon his
11 friends but rather to seek their help, and yet we know that his
12 friends never saw nor heard from him again.

13 The intent there is not to take off and go around
14 the world on a jaunt and abandon everything that he has known
15 by life style and his friends.

16 This state of mind under 1250 is admissible to
17 show it, your Honor. Counsel can scream about the fact that,
18 well, they have some statements about these people giving me
19 the creeps, and they are acting awfully weird. This is the
20 best manifestation of his state of mind, not to abandon his
21 friends permanently.

22 It is the intent that is important here. His mo-
23 tive for not wanting to leave his friends. This is so important.

24 THE COURT: All right. What statement do you expect the
25 woman to testify to that is made by Shea that shows that he
26 doesn't want to abandon the ranch or abandon his friends?

27 What statement?

28 MR. KATZ: Well, you were talking about abandoning the

1 ranch, the living quarters.

2 THE COURT: All right.

3 MR. KATZ: All right. He says to Ruby, "Gee, I would
4 like to stay down at your house tonight. These people are
5 giving me the creeps. They are acting awfully weird."

6 Ruby replied, "They won't bother you."

7 Shorty said, "Oh, they are after me. They are out
8 to get me, Pearl."

9 Ruby said, "Oh, no. They ain't." Ruby said, "Well,
10 I don't know. You can come home and stay in the shed."

11 Ruby will indicate she had a little spare guest-
12 room which she called the shed.

13 Shorty replied, "Oh, I don't know. It is kind of
14 cold in there," to which Ruby said, "Suit yourself."

15 Shorty then said, "Oh, I guess I will stay there."

16 Then as Ruby started to leave, a car pulled up
17 very quickly and four or five men got out of it.

18 MR. WEEDMAN: Excuse me.

19 MR. KATZ: I want the whole context.

20 MR. WEEDMAN: Well, that is why I came in here this
21 morning.

22 MR. KATZ: May I finish?

23 MR. WEEDMAN: Forgive me, except that you are starting to
24 talk about things now which are not part of this conversation,
25 and I -- that is why I got so confused last night.

26 THE COURT: Finish your statement. I will listen to you
27 both.

28 MR. WEEDMAN: Very well, your Honor.

1 MR. KATZ: So as Ruby started to leave immediately
2 following this conversation I previously read to you, a car
3 pulled up very quickly and Clem and Bruce -- Bruce Davis, that
4 is, and Charlie Manson, and she believes Bill Vance and Tex
5 Watson, got out of the car and she will testify they got out
6 real fast, which was unusual, and started over towards the
7 boardwalk.

8 They surrounded Shorty, at which time she had never
9 seen Shorty alive since that particular incident.

10 MR. WEEDMAN: Your Honor, may I make --

11 THE COURT: Just one minute.

12 MR. WEEDMAN: Well, I want to interject this, your Honor,
13 because the grand jury testimony by Ruby Pearl does not say
14 that they surrounded him at all. That was Mr. Katz's words.

15 She said no, "I saw them in"-- I have forgotten the
16 precise language but it is like they are in a single file,
17 one after the other.

18 There was nothing said about surrounding Mr. Shea.

19 But I think to go into this is to confuse the
20 problem of Hamilton, Finch, Marcouris --

21 THE COURT: Where is the statement in there, "they are
22 trying to kill me"?

23 Where is that?

24 MR. KATZ: There is no statement that they are trying
25 to kill me. That is the whole point.

26 MR. WEEDMAN: "They are trying to get me," then.

27 THE COURT: Well, where is the statement?

28 MR. KATZ: "I would like to stay down at your house

1 tonight, Ruby. These people are giving me the creeps. They
2 are acting awful weird."

3 Ruby replied, "They won't bother you."

4 Here's the statement. Shorty said, "Oh, they are
5 after me. They are out to get me, Pearl."

6 THE COURT: Well, that is what I want.

7 MR. KATZ: Ruby said, "Oh, no, they ain't."

4B

4B-1

1 THE COURT: I am still unable to, in my own mind, see
2 the materiality of a state of mind.

3 If we assume that you are correct, and I am not
4 asking for the defendant to concede it, but assume without
5 conceding that you are correct, that Shorty Shea is scared to
6 death at that time, this moment, and he is talking to Pearl,
7 and he makes statements, "They are out to get me. I am afraid
8 of them. I am scared of them."

9 I still am unable to apply a state of mind -- that
10 is, a state of fear as proving one thing or another so far as
11 the defendant is charged with murder here, or I can't see
12 where your state of mind affects the situation.

13 Assuming you have fear in Shea. I don't follow
14 your deducements after that point that it shows, as I understand
15 it, that he desired to stay or adhere to the ranch or to his
16 friends.

17 I don't think that that follows, a state of mind
18 of fear.

19 That is what I can't get at.

20 MR. KATZ: Well, again, you always go back to fear. This
21 is intent.

22 THE COURT: All right.

23 MR. KATZ: It is his emotional thinking, his intent, not
24 to abandon his friends but rather to seek their help. That is
25 awfully important evidence, your Honor.

26 We are entitled to show the thinking, and the
27 emotional attitude of the defendant contemporaneous with his
28 disappearance.

4b-2

1 THE COURT: He is not the defendant.

2 MR. KATZ: I am sorry, your Honor, the victim, the
3 alleged victim, in this case.

4 Now, if we don't produce this evidence, the
5 argument is going to be made very forcibly by Mr. Weedman that,
6 "Oh, Shorty had this job. He had that job. He had 10 other
7 jobs. He had 15 other jobs, and over the years this guy
8 would go anyplace at any time, and we don't know whether he
9 is still alive or not, and just because he hasn't contacted
10 his friends is no evidence that he is, in fact, dead."

11 Well, I submit where we have evidence contemporaneous
12 with his disappearance that he has the intent not only to
13 abandon his friends but tries to seek the help of Ruby Pearl.
14 This is the most direct evidence of his state of mind, your
15 Honor, and merely because he expresses in terms of weird
16 things are happening at the ranch, should not prohibit the
17 introduction of this kind of evidence.

18 THE COURT: Well, if Shea would tell Pearl that this
19 incident here, "I want to stay on this ranch. I have
20 contracts coming up. My place is here. I like the place. I
21 have made movies before. I want to stay here. I want to
22 live here. I want to go to your house and live," something
23 of that nature, I could readily conceive that you would have
24 a state of mind of Shea that -- the last thing in the world
25 as far as he is concerned is to get away from the Spahn Ranch,
26 that he wants to stay, that he wants to stay in California,
27 that he has contracts, but this steps way out from the intent
28 to stay, and brings in all factions, fearful allegations, that

4b-3

1 the gang, or whatever you want, family, is after him, and about
2 to kill him, which may or may not be true.

3 I am not arguing that point, but it is definitely
4 hearsay statements of Shea that are accusatory, very damaging,
5 hearsay, accusatory and conclusional on the part of Shea that
6 you can't disregard. You can't disregard the impact of those.

7 There is no way to rebut it. You can cross-
8 examine Shea even if they were or were not hearsay. You have
9 got very strong -- you have got some statements -- some of
10 those statements that Shea makes could be admissible. I am
11 not deciding on any of it.

12 I am very disturbed about it. I mean I am not
13 satisfied in my own mind. Some of the statements that you
14 have of Shea could be admissible to the point of Shea
15 indicating, "I want to stay here. I don't want to get out.
16 I like this place. I like the desert. I want to get these
17 movie contracts going. It is a great place to live."

18 There are some of those statements in there, I
19 think, but you branch out from that. Not you, but Shea
20 branches out from that, and you have got him -- he is finger-
21 ing the clan, whether they did or didn't, I am not arguing
22 that, but he has his fingers on these fellows as a state of
23 mind, and I think it is far from a state of mind or motive,
24 whatever you want to call it, motive to stay, state of mind to
25 stay.

26 The motive to stay is being attempted to be
27 offered by three or four statements in there that are deadly.
28 You can't get away from it. There may be -- you might be, at

4b-4

1 a later time -- they could or could not be admissible. I am
2 not saying that. I am reaching out too far.

3 I can only pass on the situation at the moment.
4 I am fearful of some of those statements.

5 Some could be admissible.

6 Would you read again what you expect her, Pearl,
7 to say again?

8 MR. KATZ: Yes, your Honor.

9 Shorty said to Ruby, "I would like to stay down
10 at your house tonight."

11 THE COURT: Well, I think that is a state of mind,
12 whether you want to call it a motive or a state of mind. I
13 think that much is admissible.

14 MR. KATZ: That is only part of the sentence, your Honor.

4c

4c-1

1 THE COURT: Go ahead.

2 MR. KATZ: The complete sentence is, "I would like to
3 stay down at your house tonight. These people are giving me
4 the creeps. They are acting awfully weird."

5 That is the first sentence.

6 THE COURT: Now, you have two separate and distinct
7 thoughts here.

8 Here you have -- half of that statement, "I would
9 like to stay down at your house tonight," is a definite state-
10 ment. It gives his thinking.

11 "I want to stay," is a state of mind. "I want to
12 stay at your house" is a state of mind. I want to stay.

13 Now, he points his finger. Here is where the
14 damage comes in. Here is your hearsay.

15 These people over here are giving me the creeps,
16 They want to kill me, or I am fearful of them, whatever it is
17 there.

18 You have two distinct situations in the one
19 sentence.

20 I am inclined to think that the statement as a
21 whole constitutes reversible error, and I make my rulings on
22 what I think is right.

23 I am very fearful of the statement. I think they
24 are very accusatory, and inflammatory, and hearsay. Segments
25 of them that reach out and show more than a state of mind --

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

27 THE COURT: Certainly.

28 MR. KATZ: Hearsay, as we once again said, is an extra-

4c-2

1 judicial statement offered not for the truth of the assertion.

2 Now, you are assuming that the content of these
3 statements are offered as truth of the contents contained
4 therein. They are not. That is an exception.

5 First of all, if they were, then we would say that
6 this was an exception to the hearsay rule, but in fact this is
7 not hearsay at all. It is circumstantial evidence of the man's
8 intent.

9 You will instruct the jury if such statement comes
10 in that you are not to consider any statements made by Mr.
11 Shea as offered for the truth of the subject matter therein
12 contained, and are to disregard it for such purpose, but may
13 consider it only for whatever value, if any, it may have on
14 the state of mind, motive, and intent of the declarant at the
15 time the statement is made.

16 That is a form instruction commonly made.

17 THE COURT: Well, you can give it, but here you are
18 asking for a capital penalty. Any jury will get inflamed on
19 such a statement. You can't take the poison out under any
20 condition.

21 MR. KATZ: The rules don't change whether it is a capital
22 case or a petty theft case.

23 THE COURT: If you tell the jury -- if you have a witness
24 on the stand saying that the deceased man charged with being
25 murdered, deceased, killed at the hands of the defendant, have
26 him saying -- the last conversation held with him, these people
27 here are out to get me, you have got -- you have definitely
28 got inflammatory statements here. That reaches further than

1 the state of mind.

2 You have a damaging effect. You are a jury there.
3 You have got laymen on the jury. If you tell them, "Don't pay
4 any attention to this, this is going only to a state of mind,"
5 a layman on there says, "What is a state of mind, anyway."

6 You think a fellow uneducated as far as the law
7 is concerned, and you tell him that these statements are not
8 to be considered for the inflammatory effect, the inflammation
9 is not to be considered, they only go to the deceased's state
10 of mind, and you tell that to a jury, how much are you going
11 to impress them?

12 How much are you going to impress a layman? That
13 is the same situation that disturbs me, although I ruled with
14 you on the question of the Negro girl.

15 The conversation, the Negro girl sat there, the
16 wife, don't anybody sit in the chair, and then you tell the
17 jury that well, don't pay any attention to it as far as the
18 truth of it is concerned, it only goes to a state of mind or
19 motive or state of mind.

20 MR. WEEDMAN: Well, Witkin points out --

21 MR. KATZ: If we analyze *People v. Alcala*, and we
22 analyze *Mutual Life Insurance Company v. Hillman*, which is
23 145 U.S. 285 --

24 MR. WEEDMAN: A civil case?

25 MR. KATZ: No, as a matter of fact it dealt with an
26 alleged murder. It was a U. S. Supreme Court case, counsel.

27 MR. WEEDMAN: Not a civil case?

28 MR. KATZ: It was dealing with an alleged murder for

1 purposes of insurance payoff.

2 MR. WEEDMAN: A civil case.

3 MR. KATZ: However, it was picked up by our California
4 Supreme Court in People v. Alcalde, and followed in People v.
5 Whetherford, a California Supreme Court case at 27 Cal.2d 401.

6 Now, the important thing here is that this kind of
7 evidence that we seek to elicit at this time is really showing
8 of a state of mind, and a present intent to commit a future
9 act.

10 Indeed, some of the cases say it is not hearsay at
11 all, and may be offered for the truth of the assertions,
12 because it is circumstantial evidence of two things. It shows
13 his intent here not to abandon his friends, and it shows that
14 if his intent was to go to a specific place, then it is offered
15 to show that, in fact, he went to that place.

1 Now, in Whetherford we can show that the statement
2 indicating that the woman was going -- or the victim was going
3 to go to a certain place, was not admissible because she in
4 fact did not go some place, because she was found dead, as I
5 recall, in her apartment.

6 And the defense there in Whetherford sought to
7 introduce statements showing that she wanted to voluntarily
8 leave the place for not only the truth of the assertions that
9 she went to that place, but really to show the intent. You
10 see, to show that she intended to leave the place. It had
11 nothing to do with whether or not she went to the place under
12 the Alcalde doctrine, or not.

13 Whetherford allowed to come in for the proof of
14 the intent. Here this is offered not to go to show that he
15 would have gone some place as such, it is shown as his intent
16 not to abandon his friends. This other evidence silent this
17 kind of contemporaneous statement with respect to his disap-
18 pearance, would indicate that he did in fact abandon his
19 friends and didn't contact them.

20 THE COURT: Well, if you leave your inflammatory
21 statements out, I see you have a position there. But you are
22 throwing it in here with accusations of murder. Accusations
23 affecting his life.

24 MR. KATZ: You know, the Finch case, your Honor, and
25 the Scott case --

26 THE COURT: That doesn't tell you --

27 MR. KATZ: Look at the Finch case, for example. Let's
28 look at some of the statements here in the Finch, right here,

1 then .

2 MR. WEEDMAN: You cannot read Finch unless you also
3 consider all of the problems involved in Mercouris, Hamilton
4 and Law.

5 Your Honor, in response to counsel's citing Mutual
6 Life Insurance versus Hillmon and the Alcalde case, those are
7 cases absolutely not in point here. They deal with the most
8 unprejudicial kind of intent on the part of the decedent to
9 go somewhere.

10 And as a matter of fact, I am sure as your Honor
11 has already noted, I have not objected to Mr. Shea's intent
12 to make a motion picture in Phoenix. That is offered for his
13 state of mind. I haven't objected to that because I don't
14 feel it is proper to object to it.

15 MR. KATZ: Mr. Weedman hasn't objected to that because
16 he is going to try and argue strenuously he probably went to
17 Phoenix or went to the salt mines and probably met his death
18 up there and away from the Spahn Ranch.

19 That is just what I have to right at this point,
20 your Honor, to show his intent was not to abandon his friends.

21 MR. WEEDMAN: "They are out to get me" doesn't show that
22 he did not intend to abandon his friends. It shows someone
23 was out to get him, and that is a most damaging, improper,
24 prejudicial kind of hearsay.

25 THE DEFENDANT: Judge, could I tell you something right
26 now?

27 MR. WEEDMAN: Clem, don't interrupt this, please.

28 (Short pause.)

1 THE COURT: You see, even though your Hamilton case
2 which I have in front of me, and I am reading again, they
3 have a discussion in the references there to past statements.
4 The court puts it this way on 896.

5 I actually -- in the opinion of the court they
6 discuss statements of the deceased person respecting past
7 acts of the accused. The broad statement of the rule is
8 applicable, in my opinion, to the very situation we have here.

9 You take syllabus 11 here.

10 Start in with 8, syllabus 8.

11 Start with 5.

12 (Short pause.)

13 THE COURT: Trying to cull down my statement a little
14 further, in Hamilton, while there is a discussion in syllabus
15 9; 9, 10 and 11, has to do with statements of the deceased
16 person respecting past matters, past situations or past
17 conditions affecting the fear or the state of mind of the
18 deceased person.

19 The analysis given by the court is right on point
20 here. It is what constantly disturbs me.

21 "Reasons for the rule not permitting such declara-
22 tions" -- now, that again is declarations respecting past
23 acts or past events -- "not permitting such past declarations
24 to be admitted are well illustrated in the instant case. By
25 these declarations the prosecutor was able to tell the jury
26 through the minds of law enforcement officers" -- we don't
27 have that situation here at all -- "that on innumerable
28 occasions the defendant had brutally beaten his ex-wife and

1 otherwise assaulted her.

2 "In a not very subtle way it told the jury what
3 kind of man it was that was before them on trial. It will not
4 do to say, as does the attorney general, that" -- the jury
5 was told -- here is the effect of the court talking to the
6 jury now -- "that these declarations were not to be con-
7 sidered for their truthfulness."

8 That is what I would be doing now to the jury out
9 here.

10 "But merely as verbal acts casting right on
11 Estella's" -- that would be Shorty Shea's -- "state of mind.
12 It's difficult to believe that even the trained mind of a
13 psychoanalyst" -- put a question mark after that statement,
14 "trained mind of a psychoanalyst" -- "would thus departmental-
15 ize itself sufficiently to obey the mandate of the limiting
16 instruction."

17 In other words, the court is saying that even a
18 trained mind can't throw out the jargon or the accusatory
19 effect, damaging effect, of this witness' saying the deceased
20 said, "They are out to get me," or whatever the statement is
21 there.

22 "Certainly a lay mind" -- and here you come up
23 against your major problem again -- "Certainly a lay mind
24 could not do so."

25 That is the statement I made. I did not couch it
26 in quite as nice discernment as the court has.

27 "Certainly a lay mind could not do so. It must
28 be remembered that the theory upon which such evidence is

1 admitted is that the declarations are evidence of the real
2 state of mind of the declarant. The state of mind, 'fear of
3 defendant,' could only reasonably exist when based not on
4 threats but on conduct of the accused when the declarations
5 contained a description of the conduct causing that state of
6 mind."

7 Now, you have some of that in your statement of
8 Pearl, I would think, is admissible. "I saw the family out
9 there. I saw them circle the defendant. I saw certain things.
10 That's the last I saw of Shea," whatever it is.

11 That is why I say there are segments in there I
12 think are very vital and can be testified to. It is the hear-
13 say realizations of the deceased person that I am terribly
14 disturbed about. In other words, in such case it must be
15 inferred "that the declarant had this mental state of fear
16 only because of the truthfulness of the statements contained
17 in the assertion. In the present case it must inevitably
18 follow that if the jury believe that Estella" -- that would
19 be Shorty Shea -- "was in fear of her life" -- his life -- "it
20 was only because defendant had in fact beaten and otherwise
21 assaulted her."

5A

1 Now, to our own case. Logically it is impossible
2 to limit the prejudicial and inflammatory effect of this type
3 of hearsay evidence.

4 I don't see how it can be testified to even under
5 your Hamilton case which -- and the strength of it speaks of
6 declarations of past conduct. But under the logic of the
7 court, it covers inflammatory statements of any kind, I think.

8 MR. KATZ: I can answer that, your Honor.

9 THE COURT: Go ahead.

10 MR. KATZ: Okay. And I do appreciate your giving me
11 time to discuss this.

12 THE COURT: It is all right. I think your whole case
13 stands or falls on this point more than anything. I am not
14 trying to single out and say this is the lawsuit at all. This
15 is a vital point.

16 MR. KATZ: There were at least two limiting factors in
17 the Hamilton case which have absolutely no application in this
18 case, and therefore we can easily distinguish the Hamilton
19 case.

20 Point number one was the statements made by the
21 declarant were made under conditions in which they were not
22 trustworthy. And that was discussed fully in the Hamilton
23 case because she had a motive to fabricate and lie as to why
24 she was in possession of a deadly weapon, which was the subject
25 of her arrest. That is point number one.

26 Point number two, those statements of justification
27 for possession of the gun related to statements of memory as
28 to past brutal acts inflicted upon her by the defendant in that

1 case.

2 And thirdly, even though a limiting instruction
3 was given in that case by the court, the prosecutor abused
4 that evidence, misused the evidence and argued affirmatively
5 that she would have never had any fear unless the acts that
6 she referred to in her statements had actually occurred.

7 So he was actually arguing that the statements
8 were offered for the truth of the assertions. Now, let's see
9 if I am correct in my analysis.

10 1252 of the Evidence Code says:

11 "Evidence of a statement is inadmissible
12 under the article if the statement was made
13 under conditions such as to indicate its lack
14 of trustworthiness."

15 And that is exactly what happened in Hamilton.
16 They go on to discuss Hamilton. They say -- and I am referring
17 now to Section 1252 limits the admissibility of hearsay state-
18 ments that would otherwise be admissible under Sections 1250
19 and 1251:

20 "If a statement of mental or physical state
21 was made with a motive to misrepresent or to
22 manufacture evidence" --

23 such as in the Hamilton case, your Honor --

24 "the statement is not sufficiently reliable to
25 warrant its reception in evidence. The limitation
26 expressed in Section 1252 has been held to be a
27 condition of admissibility in some of the California
28 cases" --

1 They then say see for example People versus Hamilton 55 Cal.2d,
2 881, at page 893 and 895.

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1 They then go on to discuss, and they also cite
2 the Alcalde case, your Honor, 24 Cal. 2d, 1787 at 187.

3 They state the Hamilton case mentions some addition-
4 al limitations on the admissibility of statements offered
5 in a criminal action to prove the declarant's mental state.
6 These additional limitations do not appear in the Evidence Code.

7 In the Hamilton case the court was concerned with
8 the murder victim's statements that she was afraid of the
9 accused, that the accused threatened to kill her, and that
10 the accused had beaten her.

11 Now, here is the key. The statements were osten-
12 sibly offered to prove that the victim feared the accused,
13 and therefore to cast doubt on the accused testimony that the
14 victim had invited him to her house on the night of the
15 murder.

16 As the case was tried, however, the victim's
17 declarations were used repeatedly, and I underscore this, your
18 Honor, were used repeatedly in argument as a basis for the
19 prosecution's claim that the beatings actually occurred, that
20 the threats were actually made, and the threats were carried
21 out in the murder.

22 The court said, and this is referring to the
23 Hamilton court, that the testimony as to the state of mind of
24 the declarant is admissible but only when such testimony
25 refers to threats as to future conduct on the part of the
26 accused, and when such declarations show primarily the then
27 state of mind of the declarant and not the state of mind of
28 the accused, but such testimony is not admissible if it

1 refers solely to alleged past conduct on the part of the
2 accused.

3 First of all, our statements do not refer solely
4 to past conduct on the part of the accused. They are not
5 made under --

6 THE COURT: But that resume there, that resume in our
7 Evidence Code, doesn't give any strength or credence to the
8 further statements of the court of the dangerous impact that
9 can lie by relating accusatory statements, statements respect-
10 ing an alleged state of mind of the deceased person, the
11 impact on the jury that the court consistently points out
12 in here.

13 MR. KATZ: But the reason is, your Honor, that the
14 prosecution improperly prosecuted and improperly argued that
15 because she was in fear, these events must have happened.
16 I can't do that in this case, and I wouldn't attempt to.

17 I would even instruct them further as I am arguing
18 the case that they can in no way be considered or used for
19 the truth of the subject matter contained.

20 THE COURT: That merely accentuates the statement that
21 appears in Shea's testimony that these people are after me,
22 or whatever the statement is.

23 MR. WEEDMAN: Well, your Honor, that is much the same
24 kind of statement that was found in Ireland -- People versus
25 Ireland. It was condemned there.

26 People versus Lew, and it was condemned as the
27 same kind of statement, and so on.

28 There is an abundance of recent --

1 THE COURT: What is your Ireland citation again?

2 MR. WEEDMAN: Yes, your Honor. That is -- I'm unfortun-
3 ately looking at Witkin, but it is 70 Cal. 2d.

4 I don't have the page number.

5 THE COURT: Now, let's see. 70 Cal. 2d.

6 What is the page?

7 MR. WEEDMAN: I don't have it, your Honor. You will
8 have to look in the index.

9 THE COURT: All right.

10 MR. KATZ: I am well familiar with the Ireland case. It
11 is a second degree murder case, I think, emanating from San
12 Diego, and has absolutely no application to this fact situation
13 at all.

14 There the prosecution, I believe, improperly
15 introduced the statements of the decedent referring to past
16 beatings by the defendant in a case in which fear or self-
17 defense was in no way in issue, and accordingly, it was improper
18 to bring such statements in.

19 MR. WEEDMAN: The statement that the court found reversi-
20 ble error was, speaking of the victim -- of the defendant,
21 "I know he is going to kill me."

22 THE COURT: Just a minute. I'm trying to find it.

23 You say that is 70 Cal. 2d.?

24 MR. WEEDMAN: Yes, your Honor.

25 THE COURT: I don't find it -- People versus -- oh, here
26 it is, 522.

27 I have worked the case over pretty well. I have
28 an unfortunate habit of underscoring in these books.

(Short pause.)

THE COURT: Well, you take your Ireland case, 70 Cal. 2d, page 532, and the annotation syllabus of paragraph 4.

Now, here is your statement again on 4, page 532.

The error was prejudicial. They allow the statement of Ann in there.

The statement in question not only reflected Ann's state of mind at the time of utterance -- Ann is the deceased.

Just a minute, now, Ann is the deceased.

Ireland is charged with killing his wife, Ann, murdering his wife, Ann.

Now, the statement in question not only reflected Ann's state of mind at the time of utterance -- now, let's back up again.

The statement was made the day before the death.

The victim, that is, the wife, had a telephone conversation with the witness on the morning of the killing to the effect that the wife, the victim, knew the defendant was going to kill her.

Now, we turn to page 532 again.

The statement in question not only reflected Ann's state of mind at the time of utterance, it also constituted an opinion on her part as to conduct which defendant would undertake at a future time.

Now, in part I made that -- that thought came to me at the start of our discussions here, Statements of Shea, "I want to get out of this place. I want to go to your home. I want to sleep there all night." There is no question --

1 that is a state of mind, if you want to call it a state of
2 mind, or motive to stay on the premises or stay in California.

3 I don't think it makes any difference, but the
4 thing that is disturbing me is the prophecy.

5 You get into the prophecy here in Pearl's statements
6 of Shea. They, and I forget the exact wording, but they are
7 after me.

8 MR. WEEDMAN: "They are out to get me."

9 THE COURT: I don't want to misquote it.

10 They are after me, whatever the statement is.

11 There is a prophecy by a person that goes to a
12 state of what the defendant -- it would have to apply to him
13 more than anybody, because he is the one charged. All of the
14 rest of these folks are not charged so far as this court is
15 concerned.

16 It is a statement and conclusion of future conduct
17 of defendant, "They are after me."

18 That is future conduct. It is in part because the
19 auto hadn't rolled up when he made the statement.

6A

6a-1

1 Now, "Ann's state of mind at the time of uttering
2 it constituted opinion on her part as to conduct which the
3 defendant," that in this case would be Grogan, "would undertake
4 at a future time," or his accomplices, either way you want to
5 figure it.

6 "On the basis of this hearsay opinion the jury
7 might reasonably have inferred that Ann several hours before
8 the homicide had concluded that the defendant husband had
9 then formed the intention to kill her. The next logical infer-
10 ence, to wit, that Ann's assessment" -- now, here we go,
11 "that Ann's assessment," that Shea's assessment, "of defendant's
12 then intention was accurate."

13 The jury could say that. That is what bothers me
14 all the time.

15 "The next logical inference," now here is the jury
16 at work, "that Ann's assessment," that would be Shea's assess-
17 ment to Pearl, "of defendant's intention," that is Grogan's
18 intention and to the actions of the confederation there, "was
19 accurate." Shea's assessment was accurate, "They want to kill
20 me. They are after me."

21 "And defendant had, in fact, formed an intention
22 to kill several hours before the homicide, strikes directly
23 at the heart of the defense. The judge must, therefore, be
24 reversed."

25 I can't help but feel that those segments of the
26 statement that go to the conclusional future operations,
27 opinion statements, are not admissible.

28 MR. KATZ: Your Honor, may I just cite for you -- I am

6a-2

1 not -- I appreciate your Honor's very serious consideration of
2 the matter.

3 THE COURT: I am not going half-cocked. I may be wrong.

4 I want to tell you I have been wrong an awful lot
5 in my life, but whatever decision I make it is being made with
6 an open mind, and I am still disturbed about it but I can't
7 help but feel they could -- the court points out in Hamilton,
8 that you can tell the jury to disregard certain statements,
9 but you get a layman -- they use the word "layman" there. They
10 even have a psychiatrist mixed up there. The only psychiatrist
11 I have ever seen here wouldn't do much credit to the jury, but
12 anyway that we don't have to fight at this time.

13 Anyway, it is -- the poison -- strike the word.
14 Maybe it is the truth.

15 The inflammatory effect of Shea speaking through
16 the words -- in the words of Pearl, "They are after me," or
17 "They are going to get me," I don't think you can eradicate it
18 by just telling the jury to forget it, and it has nothing to do
19 with the case other than it might illustrate a motive for
20 actions or state of mind for Shea.

21 MR. KATZ: May I cite two cases?

22 THE COURT: Go ahead.

23 MR. KATZ: People v. Whetherford, California Supreme
24 Court case, 27 Cal.2d 401, which the court described as the
25 converse of the Alcalde case.

26 "Defendant was convicted of a murder of
27 a tenant of his cafe. At the trial evidence
28 was introduced showing that the defendant wanted

6a-3

1 the tenant to vacate, but that she refused to
2 do so. The prosecution relied on her refusal
3 as a possible motive for the murder. Defendant's
4 attempt to introduce statements of the deceased
5 indicating that she was preparing to leave were
6 not allowed by the trial court because there
7 was no evidence that she had gone anywhere.
8 In holding that the trial court unduly
9 restricted the hearsay rule exception."

10 The California Supreme Court stated at page 422 in
11 the Whetherford case as follows:

12 "The declarations of the intent are
13 admissible not only as evidence of the probable
14 doing of the act, but also as evidence of the
15 intent,"

16 and I underscore the intent,

17 "itself even if the act has not been done."

18 The foregoing statement of the court is interpreted
19 as follows in Witkin, California Evidence, Volume 2 at Section
20 569 wherein Witkin stated, referring to Whetherford, "It holds
21 the declarations of intention to do an act are admissible not
22 only to prove that the act was done but any other purpose for
23 which any declaration of intent or state of mind may be
24 relevant."

7

#7

1 "While the declarations of the intent are
2 admissible not only as evidence of the probable
3 doing of the act, but also as evidence of the intent
4 itself even if the act has not been done."

5 Let's stop there for a moment, or let me just continue, if I
6 can;

7 "The court in Whetherford concluded at
8 page 493 thus, 'The intention here of the deceased
9 bearing on the matter of motive was clearly
10 relevant to the issue of guilt. And the ruling
11 of the trial court excluding evidence of such
12 intention was prejudicial.'"

13 Now here we are showing the intent of the defendant
14 not to abandon his friends --

15 THE COURT: Not defendant. He is the deceased.

16 MR. KATZ: Excuse me. Yes, the alleged decedent, the
17 victim in this case.

18 THE COURT: All right.

19 You have got an intent of the deceased man not to
20 leave the ranch.

21 MR. KATZ: Right.

22 THE COURT: Or you may say the county or anyway, his
23 present residence.

24 MR. KATZ: Exactly.

25 THE COURT: All right.

26 MR. KATZ: And the point is that the contemporaneous
27 statements of the decedent-declarant, the alleged decedent-
28 declarant, are admissible on the issue of motive and intent

1 of the decedent-declarant --

2 THE COURT: To stay there?

3 MR. KATZ: Not to stay there, but not to abandon his
4 friends.

5 THE COURT: That is to stay there.

6 MR. KATZ: Not necessarily. He could move to Ruby's or
7 he could repair to another location of safety where he would
8 thereafter reasonably contact his friends for help or just to
9 remain in continued contact as he had done for the past fifteen
10 years.

11 THE COURT: This is where we have issue right there.
12 I say that statements of Shorty through Pearl on the stand,
13 whatever they may be, "I like my friends; I want my friends;
14 I want my contracts; I want my movie work; I like this ranch;
15 it is a great place; I am a cowboy; I like my horses; I like
16 my guns."

17 Fine. That shows intent to stay. But you are
18 reaching out and you are prophesying -- not you, Shea speaking
19 through Pearl is reaching out and is accusing now Grogan of
20 intent or engaging in the practice of getting him. He is
21 reaching out.

22 I can't quote it, "I am afraid. These people are
23 going to get me" or whatever the statement is there. I can't
24 recall it.

25 MR. KATZ: Yes, your Honor.

26 THE COURT: Something to that effect. So that doesn't
27 go to intent, in my opinion. That goes to accusatory state-
28 ments that can't possibly be cross examined on. The jury can't

1 be instructed to -- in fact, they can't read intent in it.
2 There is the thing that disturbs me.

3 MR. KATZ: Did your Honor read *People versus Watson*,
4 198 Cal. Ap. 2d, 707, at 721, wherein the court said on the
5 merits it should be recognized that the frame of mind of a
6 missing person is an important factor in determining whether
7 his disappearance was voluntary or brought about by some
8 criminal agency?

9 This man's absence of motive for disappearance was
10 material to the problem. What he knew or thought he knew and
11 what he intended to do were important items of evidence bearing
12 upon the intervention of a criminal agency as the cause of his
13 unexplained and extended absence, once again, citing *People*
14 *versus Alcalde*, stating at page 185 of the *Alcalde*, the
15 declared intent to do a particular thing, and inference that
16 the thing was done, may fairly be drawn.

17 Such declaration is deemed admissible where they
18 possessed a high degree of trustworthiness, where they are
19 relevant to an issue in the case, and the declarant is dead or
20 otherwise unavailable, the necessity for their admission has
21 been recognized, citing *Mutual Life Insurance Company versus*
22 *Hillmon*, 185 U.S. 285.

23 And I just once again submit that the man's absence
24 of motive for disappearance was material to this problem of
25 whether or not he is missing by reason of a criminal agency.

26 You know, this goes to the corpus. This particular
27 statement I am attempting to elicit from Ruby Pearl goes to the
28 corpus of the crime of murder. It has nothing else -- we are

1 not talking about connecting evidence. It goes to the corpus
2 to show prima facie that this man disappeared by reason of a
3 criminal agency.

4 MR. WEEDMAN: Your Honor, the cases cited by Mr. Katz
5 are illustrative of your Honor's observation that, for example,
6 had Shea said, "I want to stay at the ranch; I love my guns;
7 I intend to go to Phoenix to make a movie; I love the movies;
8 I want to be with my friends;" there has been no quarrel here
9 about the admissibility of such statements.

10 Now, the cases that Mr. Katz is now citing support
11 that. And we have no quarrel with that just as your Honor has
12 observed.

13 Mutual Life versus Hillmon merely -- and succeeding
14 cases, merely talks about a decedent quoted by someone else
15 as saying, "I intend to go to Texas; I intend to remain here;
16 I intend to take a vacation; I intend to drive my automobile."
17 Those kinds of things.

18 No question about the admissibility of those.
19 No question at all. That is not what is in issue here.

20 The Hillmon case, by the way, is an 1892 case and
21 it is interesting that they cite this case repeatedly, because
22 that rule has been largely unbroken since 1892. And we have no
23 quarrel with that at all.

24 But when you say, "They are out to get me," that
25 isn't what Hillmon is talking about, or Alcalde. That isn't
26 what Alcalde is talking about here, or Hillmon. That low case,
27 your Honor, that I opened up on your desk, is really --

28 THE COURT: I am inclined to feel, whether I refresh

1 myself or not, I think those statements are inflammatory.
2 They don't show a state of mind or motive that the declarant
3 wanted to stay there, intended to stay there, Whether you want
4 to bisect it as a state of mind or motive to state or a state
5 of mind to stay.

6 There are segments or portions of the answer that
7 could be admissible. I think they ought to be broken down
8 there before they are delivered. I would sustain the objection
9 to their delivery as a whole.

10 Whether I may be changing or reversing myself, it
11 is not uncommon practice. If the Supreme Court can do it,
12 I can do it, too. I think it is right that I change my
13 opinion insofar as it refers to these particular statements,
14 incriminating statements.

15 I am fearful of this, I am fearful of them. If
16 you want to, I think you better instruct your witness if you
17 desire to give segments of the testimony.

18 She should be instructed not to bring in the
19 accusatory or conclusional or incriminating statements of Shea.
20 It may be best to take her testimony right in chambers here
21 so that she can be advised what to eliminate as accusatory
22 under the rulings of the court.

23 Now, if defendant wants to cross examine on that,
24 that is his pitfall. I am not arguing that.

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1 MR. WEEDMAN: I appreciate that very much, your Honor.
2 The editing be done.

3 THE COURT: I think she better be advised --

4 MR. KATZ: I would obviously advise her in accordance
5 with your Honor's ruling. I submit this respectfully. I hope
6 you take it in the spirit in which I made it.

7 I think the People are denied due process of law.
8 No question you are knocking out, and properly so, the most
9 critical part of our case at this point, showing exactly what
10 his state of mind was precisely at the time he disappeared in
11 August of 1969.

12 I am just appalled at this ruling, and with all
13 due respect to the court I don't know what to do at this point.

14 MR. WEEDMAN: Your Honor, People have a lot of evidence
15 yet. Maybe -- and I don't say this by way of argument --
16 perhaps if we will just get to that evidence, why then we will
17 get down to business here. There are confessions and admis-
18 sions here, your Honor.

19 THE COURT: The testimony will have to be divisible and
20 taken in chambers, and the court sustain the objection to what
21 I think is inflammatory statements.

22 MR. KATZ: Well, your Honor, I can just state to the
23 court in accordance with your Honor's ruling again I have so
24 much respect for the court, I am not going to try and get in
25 that which I am instructed not to.

26 THE COURT: I just want to --

27 MR. KATZ: I will discuss what the statements are. Read
28 to you the statements.

7a-2

1 THE COURT: I know you have read it many times. We have
2 argued here all morning. Read the statement again, if you
3 will, so I can show you what the objections are as we go
4 through.

5 MR. KATZ: I know exactly, your Honor. I will state
6 that she cannot make any reference to the following statement:
7 "Gee, I would like to" -- forget about that.

8 Reference to "These people are giving me the
9 creeps. They are acting awfully weird." That I will not
10 attempt to elicit.

11 I will not attempt to elicit the fact that Shorty
12 said, "Oh, they are after me. They are out to get me, Pearl."
13 And I won't ask with respect to those statements.

14 THE COURT: If that is eliminated, and I make it very
15 clear, we fortunately have our reporter here, you have objected
16 to the same, I consider my ruling objected to very properly so.
17 You have a very close point.

18 But there will be no question that that ruling of
19 this court is fairly, cautiously, properly objected to by the
20 People.

21 MR. KATZ: Now, your Honor, I do intend to elicit from
22 her, as I have done in the past, and as you have permitted me
23 to do, because you have knocked out some very important
24 evidence, his attitude and his demeanor at the time. In other
25 words, what she observed.

26 THE COURT: If you can keep statements --

27 MR. KATZ: No statements at all.

28 THE COURT: No accusatory statements, I see no objection.

7a-3

1 MR. KATZ: Whether he was calm, agitated, upset,
2 whatever. That I do intend to elicit.

3 THE COURT: Make your objection, if you have one.

4 MR. WEEDMAN: Oh, no, your Honor. Thank you very much,
5 your Honor.

6 THE COURT: All right. Let's go ahead. We will take a
7 recess at this time.

8 (Recess.)

8

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

THE COURT: Now, gentlemen, let's proceed here.

People against Grogan. The defendant is here,
both counsel are here.

The witness is on the stand. Please state your
name again.

THE WITNESS: My name is Ruby Pearl.

THE COURT: Thank you, Miss Pearl.

You have to talk to the jury. Kind of talk right
in there, if you will, please.

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

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

I should say to all of you jurors, ladies and
gentlemen, that the court and counsel have been in chambers for
at least two hours on some legal matters, legal aspects of the
case.

That is the reason we just didn't get going at the
regular time.

The People may proceed.

MR. KATZ: Thank you, your Honor.

RUBY PEARL,
resumed the stand and testified further as follows:

DIRECT EXAMINATION (Continued)

BY MR. KATZ:

Q Ruby, once again I am over here.

Do you remember me?

A There you are.

Q You have to speak right into that microphone, or we are not going to be able to hear your testimony.

THE COURT: How was that?

THE WITNESS: How was that?

Q BY MR. KATZ: Much better.

A Very good.

Q Now, Pearl, yesterday at the conclusion of the afternoon session we were talking about the last time you said you saw Shorty in the latter part of August 1969, following the August 16th raid at Spahn Ranch.

Is that correct?

A Yes.

Q As you use August 16, 1969, the date of the Spahn Ranch raid as a frame of reference, approximately how many days or weeks was it that you last Shorty at Spahn Ranch?

A From the date of the raid, the time of the raid, about two weeks.

Q Roughly two weeks?

A Roughly two weeks.

Q That would put it at the very end of August?

Is that correct?

A Yes.

Q When was it that you saw Shorty?

8-3

1 Approximately what time, that is?

2 A It was about 11 o'clock at night.

3 Q Where was it that you saw Shorty?

4 A In the middle of the Spahn Ranch yard.

5 Q All right.

6 A Near the rear of the entrance.

7 Q This is the entrance which leads from the Santa
8 Susana Pass Road on to Spahn Ranch proper?

9 Is that correct?

10 A Yes.

11 Q And that is where the main buildings are located,
12 such as the Loghorn Saloon and other picturesquely named rooms?

13 Is that correct?

14 A Yes.

15 Q Did you specifically have a conversation with
16 Shorty concerning his staying with you?

17 A Yes.

18 Q Tell us that conversation.

19 A I got in my car.

20 I was going to go home. He came over to the car.

21 Q All right, now, Pearl, you are talking fast.

22 A Too fast?

23 Q You have to slow down and just tell us what
24 happened.

25 All right?

26 A Yes. He said -- let's see.

27 He said, "Pearl, have you got anyplace over to your
28 house I could stay tonight," and I said, "Yes, I have got a

A He said, "It is a little cold in there." I said, "Why don't you stay at the Fountain."

9-1

1 Q Where did you have reference to when you said
2 "Why don't you stay at the Fountain"?

3 A There is what we call a Fountain of the World
4 religious cult on Simi Valley Road. He has been there many
5 times.

6 Q That's located approximately how far from the Spahn
7 Ranch?

8 A About two miles.

9 Q All right.

10 And what else did you say and what else did Shorty
11 say in regards to his staying at your place that night?

12 A He acted awfully nervous, and he said, "I don't
13 know what to do. Guess I'll stay here," he said. At the
14 ranch, meaning.

15 Q All right.

16 What did you say, if anything?

17 A I said, "Well, suit yourself, Shorty. You know
18 you are welcome if you want to come down."

19 Q All right.

20 Was anything else said at that time?

21 A Can't recall anything.

22 Q All right.

23 Now, Pearl, how would you characterize Shorty's
24 demeanor when he was talking to you at that time?

25 A He was very nervous and unsettled. Didn't know
26 what to decide.

27 Q Had you ever seen him in this state in the 15 years
28 that you had known him?

9-2

1 A No. Never bothered him before.

2 Q Now, after you had this conversation with Shorty
3 what did you do and what did you observe?

4 A I started slowly moving the car towards the
5 entrance, the rear, to depart.

6 Q In other words, to go to Santa Susana Pass Road?

7 A Yes.

8 Q Where were you going?

9 A I was going home.

10 Q All right.

11 Did you observe anything unusual at that time?

12 A Yes.

13 Q What did you see?

14 A I saw a car pull in real fast, cutting ahead of
15 me, pull over to the side, stop. Bunch of men got out.

16 And I strained my neck to look back, see what was
17 going on. I saw them get out and go towards the boardwalk.

18 Q Who did you see get out of the car?

19 A I saw Bruce Davis. I saw Clem --

20 Q Who is Clem?

21 A Clem is Steve Grogan.

22 Q The defendant in this case?

23 A Yes.

24 Q All right.

25 Who else?

26 A Tex Watson. Charlie.

27 Q Charlie who?

28 A Charlie Manson.

1 Charlie, Tex, Bruce, Steve. I don't know. That's
2 just about it.

3 Q All right.

4 Do you recall whether or not Bill Vance was there?

5 A There was a tall man there, yes. I guess it was
6 Bill Vance.

7 Q I don't want you to guess if you don't know.

8 A If I stopped to figure it out, it was Bill Vance.

9 Q All right.

10 In any event, what happened when Clem and Bruce
11 Davis and Charlie Manson and Tex Watson got out of the car
12 with this tall man?

13 A I wanted to turn around and come back. And I
14 thought "Well" --

15 Q Tell us what you observed.

16 A That is what I was doing. Slowing down the car
17 and looking.

18 They spread out and approached the boardwalk where
19 Shorty was standing.

20 Q All right.

21 Now, where was Shorty facing in relation to the
22 buildings on the boardwalk at Spahn Ranch?

23 A Facing out towards the road.

24 Q Would his back be towards the boardwalk and the
25 buildings?

26 A Yes.

27 Q All right.

28 And where did you see Steve Grogan, the defendant

9-4

1 in this case and Charlie Manson and Bruce Davis and Tex Watson
2 and this other man go, in relation to Shorty?

3 A They just walked in kind of a V down towards the
4 western street.

5 Q All right.

6 And tell us specifically, if you can, describe
7 specifically where they were in relation to Shorty.

8 A Well, on both sides.

9 Q All right.

10 You know what a half circle is, do you not?

11 A Yes.

12 Q And can you tell us whether or not they were in a
13 half circle in relation to Shorty?

14 A Yes.

15 Q And what else did you observe?

16 A Well, I thought in my mind that --

17 THE COURT: Don't tell us what you thought.

18 THE WITNESS: Unusual.

19 THE COURT: Tell us what you saw or what you heard.

20 THE WITNESS: Yeah.

21 THE COURT: At that time, if anything.

22 THE WITNESS: I --

23 Q BY MR. KATZ: I can't hear you.

24 A I just saw them gather around.

25 Q All right.

26 How close were they to Shorty?

27 A They were about 10 feet.

28 Q All right.

9-5

1 And as you observed this did you do anything?

2 A Yes. I hesitated. I wanted to turn around. Then
3 I thought well, Shorty, big man, he can take care of himself.

4 Q Then what did you do?

5 MR. WEEDMAN: Excuse me, your Honor. I think we will
6 object and move to strike what the witness thought.

7 MR. KATZ: I have no objection to that.

8 THE COURT: Is it stipulated all the answer may go out?

9 MR. KATZ: Not all the answer, just that which relates
10 to the thought.

11 THE COURT: Read the answer, please.

12 (The answer was read by the reporter
13 as follows:

14 "A Yes, I hesitated. I wanted to
15 turn around. Then I thought" --

16 THE COURT: All right. "I wanted to turn around". That
17 probably can stand.

18 The balance is stricken. The jury will disregard
19 it.

20 MR. WEEDMAN: Thank you, your Honor.

21 MR. KATZ: Thank you, your Honor.

22 THE COURT: I think that covers it.

23 MR. KATZ: Yes, your Honor.

24 THE COURT: All right.

25 Q BY MR. KATZ: Now, Pearl, did you stay there and
26 continue to watch, or did you do something else?

27 A I continued to go on slowly.

28 Q And where did you go?

9-6

A I went on home then, around the bend there, down Santa Susana Pass.

Q Did you ever see Shorty again?

A No.

Q Did you ever hear from Shorty again?

A No.

MR. KATZ: Your Honor, I have a series of color photographs that I ask be marked 31-A through 31-H. And I will show them to counsel.

THE COURT: Show it to defendant, if you will, please.

They will be so marked.

Show it to defendant.

(Short pause.)

MR. KATZ: May I confer with the witness, your Honor,

THE COURT: Yes, you may.

(Conference between counsel and witness,
not reported.)

MR. WEEDMAN: Thank you. We have had an opportunity of examining them.

THE COURT: Yes. That's all right. Take your time. I think they want to mark it.

MR. KATZ: No objection. May I ask some questions?

THE COURT: Well, it is all right with me if counsel can follow you. I have no objection.

MR. WEEDMAN: Yes. Go ahead. Thank you, Mr. Katz.

MR. KATZ: Thank you, Mr. Weedman.

Q Pearl, now, you indicated after this incident you just described for us you had never seen nor heard from Shorty

9-7

1 again, is that correct?

2 A Yes.

3 Q Now, you returned on a daily basis to Spahn Ranch
4 as you usually did it, is that correct?

5 A Yes.

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9A

1 Q Now, did you, however, see Charles Manson and
2 Bruce Davis and Clem, meaning Steve Grogan, and Tex Watson at
3 the ranch?

4 A Yes.

5 Q Now, shortly after this incident did you -- strike
6 that. Let me withdraw the question.

7 Shortly after this incident that you described for
8 us did the majority of the family leave and depart from Spahn
9 Ranch?

10 A Yes.

11 Q How many days, if you know, from that incident?

12 A Three, four or five days.

13 Q All right.

14 That's just a rough estimate, is that correct?

15 A Yes.

16 Q I want to show you some exhibits and ask you whether
17 or not you recognize these photographs as depicting a subject
18 with which you are familiar.

19 They are out of order, so we will try and get them
20 in order again.

21 THE COURT: All right.

22 Q BY MR. KATZ: All right.

23 Pearl, perhaps you can step down, with your Honor's
24 permission, and I will hold these up so we can understand the
25 evidence as it unfolds.

26 (At the board.)

27 Q I am going to hold up 31-A for identification. This
28 is a photograph which depicts apparently some buildings and a

1 partially paved road.

2 What is this?

3 A This is the Spahn Ranch, Western town area.

4 THE COURT: Now, pardon me, Pearl.

5 Now, talk up. You have lost your microphone here.
6 So these -- I want all these jurors to hear you. Go ahead.

7 THE WITNESS: Yes.

8 MR. KATZ: All right.

9 Q And the road that apparently leads to these build-
10 ings which you refer to as the front town area of Spahn Ranch,
11 which road is this? From which direction does it enter onto
12 the Spahn Ranch property?

13 A Enters to the east.

14 Q In other words, this is the easternmost portion of
15 the Spahn Ranch in this area, and this is the eastern exit or
16 entrance to Spahn Ranch, is that right?

17 A Yes.

18 Q All right.

19 We will just put this to the left, then, And we
20 will go on to 31-B for identification.

21 And I am going to ask you to tell me what this
22 photograph depicts.

23 A The extreme end of the boardwalk. The road being
24 east, out.

25 Q All right.

26 Now, with reference to some buildings which are
27 partially visible in the right center portion of the photograph,
28 is this the eastern end of the boardwalk?

1 A Yes.

2 Q Of Spahn Ranch?

3 A Yes.

4 Q All right.

5 Then we will put this down here.

6 And going on to 31-C for identification, can you
7 tell us what this photograph shows?

8 A The same eastern end of the boardwalk looking from
9 a little farther up Simi Pass.

10 Q In other words, looking from a more westerly
11 direction, is that right?

12 A Yes, farther up the pass.

13 Q And as you look across or into the center of the
14 picture, you are still looking at the eastern portion of the
15 front buildings at Spahn Ranch, is that correct?

16 A Yes.

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1 Q Going on to 31-B for identification.

2 What does that photograph show us?

3 A The far westerly end of the boardwalk buildings.

4 Q Now, I notice that there are some signs here which
5 indicate the Rock City Cafe, and the Longhorn Saloon.

6 Were these in existence during August of 1969?

7 A Yes.

8 Q With respect to the boardwalk area alone, does this
9 depict, and referring to 31-D, the most western portion of that
10 boardwalk?

11 A Yes.

12 Q Going on to 31-E for identification.

13 What does this photograph show?

14 A The very center of the boardwalk.

15 Q All right. Now, as you look towards the right
16 center of the picture, does it show you also the westernmost
17 portion of the end of the boardwalk?

18 A Yes.

19 Q And that would be just beyond the Rock City Cafe?
20 Is that correct?

21 A Yes.

22 Q Going on to 31-F for identification.

23 What does this show us?

24 A The extreme end view of the easterly side.

25 Q The easterly side?

26 A I can't read so good.

27 Q That is the Rock City Cafe.

28 A Rock City Cafe. That would be the westerly side.

Q All right. Now, did George Spahn live in a house some place in relation to the western end of the boardwalk?

A Yes.

Q Where -- is that house depicted in this picture, or portion of it?

A Yes.

Q Where is it?

Would you point it out to us?

A It would be this one (indicating).

Q All right. Indicating this white structure which appears to be covered with some corrugated aluminum?

Is that correct?

A Yes.

Q That is at the right center portion of the picture, 31-F for identification?

Is that correct?

A Yes.

Q Now, just so we understand these pictures, as you look from left to right, that is, 31-A, -B, -C, -D, -E, and -F, we are going from east to west across the boardwalk and across the road which enters the Santa Susana Pass paved road?

Is that correct?

A Yes.

Q Now, going on to 31-G for identification.

What does that photograph show us?

A That is almost identical to the one there, from a little farther west.

Q All right. So, in other words, we are looking

from a westerly vantage point in an easterly direction?

Is that correct?

A Yes.

Q And this road here is the western exit or entrance from Santa Susana Pass Road to the Spahn Ranch?

Is that correct?

A Yes.

Q Whereas, in 31-A for identification, this is the eastern exit or entrance onto the Santa Susana Pass Road?

Is that correct?

A Yes.

Q Now, once again, are you able to view George Spahn's house, if it is visible in 31-G for identification?

A Yes.

Q Where is that?

A Right there (indicating).

Q All right. And this is the structure, this house-like structure which is in the extreme right center portion of the photograph?

Is that right?

A Yes.

Q Now showing you lastly the photograph 31-H for identification.

What does that depict?

A Yes, that is the very -- that is the easterly end.

Q All right, but was this taken from across the Santa Susana Pass Road?

A Yes, right sort of in the center.

1 Q So in other words, we are looking from the north
2 side of Santa Susana Pass Road in a southerly direction at
3 which time we can see the boardwalk, which is directly across
4 the street at Spahn Ranch?

5 Is that correct?

6 A Yes.

7 Q Now, with respect to the incident you described
8 wherein Clem, or Steve Grogan, and Tex Watson and Charlie
9 Manson and Bruce Davis and the tall man you believed to be
10 Bill Vance, got out of the car and approached Shorty Shea,
11 is there a picture in this series which can illustrate the
12 approximate place this occurrence happened?

13 A The first one is very good. The end of the
14 boardwalk is down here (indicating).

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1 THE COURT: You can go up if you want to.

2 MR. WEEDMAN: Thank you so much, your Honor.

3 I will stand behind Mr. Katz and hope I can stay
4 out of the way.

5 THE WITNESS: The end of the boardwalk is where my car
6 was usually parked.

7 Q BY MR. KATZ: You say the end of the boardwalk?

8 Which end, the east end?

9 A The east end.

10 Q All right.

11 A And that is where our conversation took place,
12 about ten feet from the buildings.

13 Q All right. Let's look for a moment at 31-C for
14 identification.

15 Does this better show the approximate area where
16 you had the conversation with Shorty and where he was thereafter
17 approached by the people you told us about?

18 A Yes. This is the entrance to the last building.

19 Ten feet from there to the side was where we
20 conversed.

21 Q All right. Now, the record isn't going to be
22 too clear, so I'm going to get a marking pen at this point and
23 have you mark some designations, if you will.

24 THE COURT: All right.

25 Q BY MR. KATZ: Now, first of all, I want you to
26 put the location where you and Shorty had your conversation
27 at approximately 11:00 p.m., in the latter part of August of
28 1969 before the incident occurred.

1 Make the designation by putting S.S., indicating
2 Shorty Shea, and 1, indicating his position No. 1.

3 Then put the designation, R.P., meaning Ruby Peal,
4 and the number 1 indicating where you were for that first
5 situation.

6 A Yes.

7 MR. WEEDMAN: Excuse me, your Honor, may I inquire what
8 exhibit this is?

9 MR. KATZ: 31-C, Mr. Weedman.

10 THE COURT: As soon as she finishes, we will take care
11 of that.

12 Q BY MR. KATZ: Put a little 1 right below the last
13 S.

14 A Yes.

15 Q All right. That is where Shorty was standing when
16 you had the conversation with him?

17 A Yes.

18 THE COURT: Does she have her initials there now?

19 Q BY MR. KATZ: Now, I want you to put your initials
20 there.

21 Now, that is indicating where you were when you had
22 the conversation with Shorty?

23 A Yes. There's a telephone pole there.

24 Q Now, would you put a little 1 there indicating that
25 that is your position No. 1.

26 Your Honor, rather than having the witness place
27 her initials below these designations, I think that would con-
28 fuse the picture.

1 May the record reflect at this time that Miss
2 Pearl has designated the following on the photograph 31-C for
3 identification. R.P.-1, and S.S.-1 indicating the approxi-
4 mate area at Spahn Ranch wherein she had the conversation
5 with Shorty Shea.

6 Is that correct, ma'am?

7 A Yes.

8 THE COURT: You have to get your identification number
9 clear.

10 Do you have that?

11 MR. KATZ: Yes, I do, your Honor.

12 THE COURT: On the rear side?

13 MR. KATZ: Yes, I do, your Honor.

14 THE COURT: Are you satisfied?

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

16 Q BY MR. KATZ: Now, Pearl, would you place once
17 again referring to 31-C for identification and indicate --

18 THE COURT: Gentlemen, I think we are after 12 o'clock.

19 Let's go until 2 o'clock, ladies and gentlemen.

20 Kindly return promptly, as you have been, and do
21 not discuss the case or come to any opinion or conclusion.

22 Thank you.

23 (At 12 noon adjournment was taken until 2 p.m.,
24 of the same day, Tuesday, August 3, 1971.)
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11 1 LOS ANGELES, CALIFORNIA, TUESDAY, AUGUST 3, 1971; 2:00 P.M.

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3
4 THE COURT: Now, gentlemen, we have People against Grogan.
5 Defendant and both counsel are here.

6 You can bring in the jury, sheriff, please.

7 THE BAILIFF: Yes, sir.

8
9 RUBY PEARL,
10 resumed the stand.

11 THE COURT: Lady, you have been sworn. State your name
12 again, please.

13 THE WITNESS: My name is Ruby Pearl.

14 THE COURT: Thank you.

15 Now, remember to kind of talk up. There you are.
16 Thank you.

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

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

21 So you may proceed with your questions.

22 MR. KATZ: Thank you, your Honor.

23
24 DIRECT EXAMINATION (Resumed)

25 BY MR. KATZ:

26 Q Pearl, if you will step down once again from the
27 witness stand and we will look at Exhibit 31-C for identifica-
28 tion. So far, if you will just stand there for a moment so

1 the jury will be able to have a view of 31-C -- you have placed
2 two designations, first of all, P.R.-1 indicating where you
3 were standing with Shorty who was standing at point S.S.-1;
4 is that correct?

5 A Yes.

6 Q Now, I'm going to ask you to now use the same pen
7 and indicate where Shorty ended up when he was approached by
8 the defendant, Mr. Grogan, by Tex Watson, by Bruce Davis, by
9 Charles Manson and a tall man whom you believed to be Bill
10 Vance; is that correct?

11 A Yes.

12 fls

1 Q Would you please now use the pen and put S.S.-2 at
2 the approximate location where he would have appeared in this
3 picture?

4 A Yes.

5 Q All right. Approximately how -- you have made a
6 designation S.S.-2 on 31-C for identification.

7 Approximately how far was Shorty from the boardwalk?

8 A I'd say about 10 feet.

9 Q All right. Where was his back facing?

10 A Towards the building.

11 Q All right. Towards the buildings that are in the
12 center portion of 31-C?

13 Is that correct?

14 A Yes.

15 Q Now, would you please indicate by five X's, or
16 four X's, if you will, the approximate positions that Mr. Grogan,
17 Mr. Manson, Mr. Davis, Mr. Watson and Mr. Vance assumed.

18 A Yes. Can you see those?

19 Q Yes. Would you complete the X's, please.

20 A Yes.

21 MR. KATZ: All right. Your Honor, may the record reflect
22 at this time that the witness in compliance with my request has
23 made a designation in ink on 31-C "S.S.-2" indicating the
24 place where Shorty was observed, at which time the five named
25 individuals were approaching Mr. Shea, and she has further
26 placed X's, and there are five X's, indicating the approximate
27 places where these persons were in relation to Shorty at
28 point S.S.-2 on exhibit 31-C.

12-2

1 THE COURT: That is correct.

2 MR. KATZ: You may resume the stand.

3 Q Approximately how close were those individuals you
4 have named to Shorty Shea at point S.S.-2?

5 A Four or five feet.

6 Q From Shorty?

7 A Yes.

8 Q Were they facing him or what?

9 A Facing him.

10 Q Now, after that incident did you ever see Shorty
11 again?

12 A No.

13 Q Did you ever hear from him again?

14 A No.

15 Q Now, within a few days following -- strike that.
16 Had Shorty given you some dishes for safekeeping?

17 A Yes.

18 Q Where had you kept them?

19 A In the main house at the Spahn Ranch.

20 Q Where is the main house at the Spahn Ranch?

21 A That is on the very west end of the boardwalk.

22 Q All right. Once again, is there some picture in
23 the 31 series that points to the main house?

24 A Yes.

25 Q Would you please point it out to us.

26 A Right there (indicating).

27 Q All right. You have referred to a white building
28 that appears in the right center portion -- the extreme right

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margin in the center of 31-F?

Is that correct?

A Yes.

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THE COURT: Make an X on the main house there, if you will.

MR. KATZ: Yes.

Q Would you please use this black pen (handing) and make an X and place your initials below that so we know you made that designation.

A (Marking.)

Q Now, this building that you have marked here in 31-F, is that part of the boardwalk, or is that opposite the boardwalk?

A It's opposite. There is a space between.

Q All right.

You may resume the stand at this time.

Now, within a couple days of the incident you described and depicted in 31-C for identification, did something occur with respect to Shorty's dishes?

A Yes.

Q What happened?

A I came to work one morning, and the dishes were all over the table, being used. And I was so surprised.

I says, "Why are you using Shorty's dishes?"

And the girls were all around.

And Lynn spoke up and she says --

MR. WEEDMAN: Well, excuse me, your Honor. Again I wonder if we might approach the bench in connection with this.

THE COURT: All right.

Better bring the reporter. And step in here.

(The following proceedings were had

1 in chambers out of the hearing of the jury.)

2 THE COURT: All right.

3 Now we are in chambers. Defendant and counsel.
4 Before you speak, read the question and the answer as much as
5 we have there, Mr. Reporter.

6 (The record was read by the reporter as
7 follows:

8 "Q Now, within a couple days of the
9 incident you described and depicted in 31-C for
10 identification, did something occur with respect
11 to Shorty's dishes?"

12 "A Yes.

13 "Q What happened?

14 "A I came to work one morning, and the
15 dishes were all over the table, being used. And I
16 was so surprised.

17 "I says, 'Why are you using Shorty's
18 dishes?'

19 "And the girls were all around. And
20 Lynn spoke up and she says" --

21 THE COURT: Go ahead.

22 MR. WEEDMAN: Your Honor, I don't know what the answer is
23 going to be, your Honor.

24 THE COURT: Go ahead.

25 MR. WEEDMAN: May be calling for hearsay and just out of
26 a sense of --

27 THE COURT: Let me stop you for a minute.

28 Who is it that spoke up there? This is what I

1 don't get from the answer.

2 MR. KATZ: Lynn. Squeeky.

3 THE COURT: Oh. All right.

4 All right. Now, go ahead.

5 MR. WEEDMAN: Well, the conversation, of course, may

6 well call for hearsay. I don't know, your Honor.

7 THE COURT: You don't know what the answer is going to be?

8 MR. WEEDMAN: Yes, your Honor. It does open the door

9 hearsay.

10 THE COURT: What do you expect her to say?

11 MR. KATZ: First of all, your Honor, I will read to you

12 what I expect the answer to be and then I will tell you the

13 purpose for it.

14 THE COURT: Sure, go ahead.

15 MR. KATZ: Two to three days after Pearl last saw Shorty

16 alive, she went to the house at Spahn Ranch and observed the

17 girls with Shorty's dishes. And she will describe who the

18 girls are, Squeeky, Sue -- and that's Sue Bartell -- Gypsy,

19 who is known as Catherine Share -- had the dishes all over

20 the table and Ruby Pearl said, "Why did you take them dishes

21 out of that box? That is my responsibility. They are Shorty's."

22 Shorty had asked Ruby to take care of his dishes

23 for him.

24 THE COURT: Now, wait a minute. Wait just a minute.

25 Now, go on.

26 MR. KATZ: All right.

27 THE COURT: Pardon my interruption. Go ahead.

28 MR. KATZ: Squeeky replied, "He won't --" and then stopped

1 short. "And we stared at one another" after which Ruby said,
2 "Oh, well, put them away." And the girls put the dishes away.

3 THE COURT: That is what you expect the answer to be?

4 MR. KATZ: Yes, your Honor.

5 THE COURT: All right. Now, your statement.

6 MR. WEEDMAN: Well, first of all, your Honor, I will
7 object to that on the ground that they are statements -- they
8 are Shorty's dishes, first of all, coming from this witness
9 is certainly hearsay. She can testify directly that she saw
10 dishes there and that subject to cross examination, I suppose,
11 and some foundation, that they were in fact Shorty's dishes.

12 But for her to relate back a conversation wherein
13 she told someone else "Those are Shorty's dishes," I think is
14 hearsay.

15 And also this reply from Squeaky -- that's Lynn
16 Fromme -- where she says, "He won't --" and then doesn't finish
17 the sentence seems to me not to be probative of any issue
18 or relevant to anything in this case. "He won't" doesn't
19 mean anything, your Honor, and if it is being offered for an
20 example, an inference, "He won't mind because he is dead," of
21 course I will object that that is hearsay, and it would be
22 improper to draw such an inference.

14 fls

14-1

1 THE COURT: Well, it would be a statement from one of
2 the alleged conspirators, would it not?

3 MR. WEEDMAN: I don't believe she is a conspirator here,
4 your Honor. She is not charged.

5 THE COURT: Mr. Katz?

6 MR. KATZ: Yes, your Honor. First of all once again
7 Mr. Weedman apparently presses the panic button every time we
8 seek to elicit a statement not made by Mr. Grogan. This is not
9 offered for the truth of the assertions. It is offered as
10 circumstantial evidence going to establish the corpus delicti
11 that Shorty is missing by reason of a criminal agency.

12 It is the same kind of evidence in which we showed
13 that Danny De Carlo, following the disappearance of Shorty,
14 appropriated the guns to his own use, and the family members
15 came into possession thereafter.

16 It is the same kind of evidence we show in connec-
17 tion with the abandonment of the car and the recovery of the
18 car near the Gresham Street address.

19 The statement is not offered for the truth of any
20 assertions.

21 Pearl said that the dishes were given to her by
22 Shorty, and that she was entrusted to safeguard them. All she
23 has testified to is what she has perceived.

24 "What are you doing with the dishes? These are
25 Shorty's dishes."

26 She is asking, in effect, to which Squeaky says,
27 "He won't" -- and then stops.

28 Now, the conduct of the girls, and in particular

1 Squeeky, in connection with the use of Shorty's dishes, there
2 being obviously no permission, and secondly, "He won't," and
3 then stopping there is a manifestation, is circumstantial
4 evidence, that there is knowledge of the death at this time.

5 Now, this is not offered to connect Grogan to this
6 crime. It is offered for the establishment of a corpus delicti.
7 It is one of the pieces in the circumstantial chain, your
8 Honor.

9 MR. WEEDMAN: Your Honor, suppose this witness were to
10 testify that Squeeky said, "Shorty doesn't need these dishes
11 any more. He is dead." That is inadmissible hearsay.

12 Now, I rather suspect that Mr. Katz is going to
13 try to draw the inference from the mere phrase "He won't," and
14 my suspicions, of course, are affirmed by Mr. Katz' candor.

15 THE COURT: Well, I will rule against you on that. I
16 will permit the testimony.

17 MR. WEEDMAN: Well, your Honor, supposing Squeeky said,
18 "Mr. Shea is dead." That wouldn't be admissible.

19 THE COURT: Well, if she did, I might revamp myself,
20 but that is not what she is testifying to.

21 MR. WEEDMAN: But it is what Mr. Katz is going to argue,
22 your Honor.

23 THE COURT: I rule against you.

24 MR. WEEDMAN: He just said he was going to say that,
25 your Honor.

26 THE COURT: Objection overruled. The record may note
27 your exception, and very properly so.

28 The objection is overruled.

14-3

1 MR. WEEDMAN: Thank you, your Honor.

2 May I inquire, then, of course pursuant to your
3 Honor's ruling --

4 THE COURT: Go ahead.

5 MR. WEEDMAN: Is this statement from Lynn Fromme, "He
6 won't," is that going to be received for a permissible infer-
7 ence that Shorty Shea is dead?

8 THE COURT: Well, I can't say as to that. I will only
9 permit the question at this time. The objection is overruled
10 as stated. The answer may go in.

11 MR. KATZ: Thank you, your Honor.

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1 MR. WEEDMAN: Well, I certainly will abide by the court's
2 ruling.

3 With respect to Mr. Katz, however, and his offer
4 of proof, he has indicated to us that he believes that this
5 phrase "He won't" is an indication that Mr. Shea is dead.

6 THE COURT: Well, as I understand it, without retreating
7 from my position, I think the question is a proper question and
8 answer. It is part of your establishment of a corpus of the
9 crime as against the defendant Grogan.

10 Is that correct?

11 MR. KATZ: Yes, your Honor. It is not an attempt to
12 connect any person to the given offense, to wit, the murder of
13 Shorty Shea.

14 THE COURT: I think the testimony comes very close at
15 this time by which the inferential deducement may be made that
16 there is a death of Shea.

17 I feel that the facts are there.

18 Now, the jury may say, "No, we are not satisfied
19 with this." That is the jury.

20 MR. WEEDMAN: Well, of course, your Honor, I have no
21 objection to Mr. Katz putting into evidence the business about
22 the dishes.

23 I have no objection to Ruby Pearl's testimony that
24 she was surprised to see them there. I have no objection to
25 her testimony that Shorty told her to take care of the dishes.

26 I have no objection to any inference or testimony
27 that the girls did not have permission to use those dishes.
28 I believe that in all candor that this is something which could

14a-2

1 be used as a part of the circumstantial chain to establish
2 Mr. Shea's death.

3 It is certainly relevant on that issue, but it is
4 this conversation stuff again, your Honor. If Squeaky had
5 said "Shea doesn't need these dishes, he is dead,"

6 THE COURT: Well, of course --

7 MR. WEEDMAN: That is hearsay.

8 THE COURT: Well, if you have a conspiracy established,
9 acts or declarations of the conspirators are admissible under
10 your jury instructions.

11 MR. WEEDMAN: Not after the conspiracy, your Honor.

12 THE COURT: I don't know.

13 He can't do it all at once. I have been very
14 cautious about disallowing statements that are very accusatory.
15 There is some latitude given to the court that you don't
16 absolutely have to establish a corpus.

17 I have been very careful not to allow counsel to
18 put statements in ahead.

19 MR. WEEDMAN: I know you have, your Honor.

20 THE COURT: Statements that could be decidedly
21 prejudicial, damaging, crucify the defendant.

22 I have attempted to eliminate them, but there is
23 some latitude left there for the court still to act in the
24 matter.

25 MR. WEEDMAN: But, your Honor, Lynn Fromme is not
26 charged with this crime. There is no evidence that I am aware
27 of, and the district attorney has turned over everything that
28 he has to me. There is no evidence that links this girl to

14a-3

1 the alleged murder of Shorty Shea on any theory.

2 To permit a statement of hers now to come in, even
3 on a theory of conspiracy, should not be proper because she is
4 no part of the conspiracy. There is no showing that she is
5 even an alleged co-conspirator under any theory, your Honor.

6 I realize that these arguments here are very
7 tedious, and I want to express sincerely my appreciation to
8 you, Judge Call, in hearing both counsel out on these critical
9 matters, but I still feel that if we allow a total stranger to
10 testify -- a total stranger's hearsay statement to come in,
11 and then to permit Mr. Katz to say that that statement means
12 that that person had knowledge that Mr. Shea was dead, it is
13 just blatant hearsay, your Honor, and inadmissible under any
14 theory.

15 THE COURT: I will permit the question and the answer.

16 MR. KATZ: Thank you, your Honor.

17 MR. WEEDMAN: Finally, for the record, would your Honor
18 permit me, in view of that, so as to save time, and again it
19 is for the record, your Honor, certainly, to respectfully move
20 for a mistrial relative to Squeaky's testimony in connection
21 with the dishes -- I mean Squeaky's alleged statements in
22 connection with the dishes, your Honor?

23 THE COURT: The record may so show.

24 I rule the motion is denied.

25 MR. WEEDMAN: Thank you very much, your Honor.

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

14a-4

1 THE COURT: We are back in court.

2 The jury is in the box. The defendant is in the
3 courtroom. Both counsel are here.

4 The witness is on the witness stand. You may
5 proceed.

6 MR. KATZ: Thank you, your Honor.

7 Q Pearl, you were about to tell us of a conversation
8 you had approximately two or three days after the incident you
9 described in which you last saw Shorty concerning some dishes?

10 Is that right?

11 A Yes.

12 Q Now, I want you to tell us what you observed and
13 what was said and done in your presence.

14 A I came to work and found the dishes out being used.

15 Q Talk slow.

16 A And I was so surprised.

17 I said, "What are you doing with Shorty's dishes?"
18 I looked at all the girls, and Lynn says, "Well, he won't --"
19 and then she stopped and we looked at each other a full minute.

20 THE COURT: Now, I want to get who was present at the
21 time you had this conversation.

22 Who was there? You tell the jury.

23 THE WITNESS: Gypsy, Sue Bartell, Lynn Fromme, Cappy.
24 That is all.

15

#15

1 THE COURT: What time of the day or night was this?

2 THE WITNESS: It was in the morning. I just arrived, say,
3 9:00 o'clock approximately.

4 THE COURT: In the morning?

5 THE WITNESS: In the morning.

6 THE COURT: And where did that conversation take place?

7 THE WITNESS: Right in the kitchen at the Spahn's house.

8 THE COURT: All right.

9 Now, have you answered the question of the People?
10 Have you answered their question fully?

11 I don't know. I cut in on it. Was it answered?

12 Q BY MR. KATZ: Yes. Would you continue your answer?
13 What happened after you stared at one another for almost a
14 minute?

15 A After the remark?

16 Q Yes.

17 A I says, "Put them away."

18 Q And did somebody put them away?

19 A Yes.

20 Q Who did?

21 A Lynn.

22 Q All right.

23 Now, you said that Shorty had entrusted you with
24 those dishes, is that correct?

25 A Yes.

26 Q Approximately when was it that he gave you those
27 dishes?

28 A Well --

1 Q Was this before or after his marriage?

2 A Well, after the marriage.

3 Q All right.

4 THE COURT: Of what year?

5 THE WITNESS: Of '69.

6 THE COURT: All right.

7 Q BY MR. KATZ: all right.

8 And did you give permission to any of the girls
9 to use those dishes?

10 A No.

11 Q Did Shorty tell you that anybody was free to use
12 those dishes?

13 A No.

14 Q Did he tell you anything to the contrary?

15 A Yes. He says, "Take care of them, Pearl, for me,
16 till I get back."

17 Q Now, you mentioned a girl by the name of Cappy,
18 is that correct?

19 A Yes.

20 Q You said she was present during this conversation
21 about two to three days after the incident in which you last
22 saw Shorty, is that right?

23 A Yes.

24 Q Showing you 32-X for identification, who is that?

25 A That is Cappy.

26 Q Is that also known as Cappy Gillies?

27 A Yes.

28 THE COURT: Did you identify that?

MR. KATZ: Yes. 32-X for identification.

Q Showing you this picture, 32-P, do you recognize that girl?

A Sue Bartell.

Q She was there, also?

A Yes.

Q And showing you this picture, 7 for identification. Do you recognize that girl?

A That is Gypsy.

Q She was there, too?

A Yes.

Q And the girl you refer to as Lynn Fromme, also known as Squeeky, is that the girl depicted in 8?

A Yes.

Q People's 8 for identification?

And Squeeky is the girl who made the remark, is that correct?

A Yes.

Q Now, being at the ranch every day did you note whether or not there was any specific person who remained with George Spahn almost constantly and was at his side?

A Yes.

Q Who was that?

A That was Lynn Fromme.

Q The girl known as Squeeky?

A Yes.

Q And did you know a person by the name of Frank Retz?

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A Yes.

Q And would Frank Retz frequent the Spahn Ranch on numerous occasions?

A Yes.

Q And were you present during any conversations between Frank Retz and George Spahn?

A Yes.

Q And was Squeaky present during these conversations?

A Yes.

Q And when outsiders, that is, people who did not live at the ranch, came to talk with George Spahn in your presence, was Squeaky again present?

A Yes.

Q Do you know whether or not any other persons stayed constantly at the side of George Spahn?

A No.

Q In other words, Squeaky was the one who stayed with George all the time, is that correct?

A Yes.

Q Now, in your presence was there a conversation between Frank Retz and George Spahn and in the presence of Squeaky, concerning hiring Shorty as a security guard?

A Yes.

MR. NEEDMAN: Well, for heaven's sake. First of all, it is leading and suggestive in the most blatant, outrageous fashion, your Honor. I am beginning to wonder if we are in a court of law, the way counsel is carrying on.

I object to the receipt of the conversation on the

3233
1 ground it is absolute hearsay and for counsel to seek to spill
2 the beans in front of this jury gives rise to very strong
3 feelings on my part, I must say, your Honor.

4 THE COURT: Let's step in chambers a minute.

5 Bring the reporter.

6 (The following proceedings were had in
7 chambers.)

8 THE COURT: Now, this calls for a conversation in which--
9 name the parties.

10 You can sit down.

11 Name the parties present there. There was Squeaky?

12 MR. KATZ: George Spahn.

13 THE COURT: George Spahn.

14 MR. KATZ: Frank Retz.

15 THE COURT: Wait a minute, now. George Spahn. Squeaky.
16 Pearl.

17 Who else now?

18 MR. KATZ: Frank Retz. A man who is negotiating to buy
19 George Spahn's property.

20 THE COURT: Now, this is a conversation as to what took
21 place, is that right?

22 MR. KATZ: Yes.

23 THE COURT: Now, what do you expect the conversation to
24 be?

25 MR. KATZ: I expect the conversation to show that Squeaky
26 overheard, not only one conversation, but numerous conversa-
27 tions in which Retz had discussions with Spahn concerning his
28 displeasure with the presence of the Manson family on the Retz

1 property which is located adjacent to the Spahn Ranch and on
2 the Spahn Ranch property.

3 During such conversations he made it emphatically
4 clear that he expected George Spahn to purge the ranch of the
5 Manson family, which included Steve Grogan.

6 THE COURT: Who made that statement?

7 MR. KATZ: Retz, in front of Squeaky. I expect to show
8 by further testimony of future witnesses that conversations
9 with George Spahn and Frank Retz and any outsiders were trans-
10 mitted in the presence of this witness by Squeaky to Charlie
11 Manson and other members of the family. That everything that
12 went on between George Spahn and people who visited him in
13 the ranch were transmitted to the Manson family and communicated
14 to the Manson family by Squeaky, who was a conduit and a
15 vehicle through which Manson gained knowledge of what was
16 happening.

17 And it is circumstantial evidence. It is not
18 offered for the truth of the assertions. We will put on direct
19 evidence of the security guard arrangement.

15A

15a01

1 MR. WEEDMAN: Well, I can only suggest if counsel has
2 such direct evidence that counsel put that on and not attempt
3 to prove these things up through conversations of other
4 persons.

5 My client isn't even present, your Honor. All of
6 this is clearly being used against my client.

7 Counsel has got a lot of evidence in this case, I
8 repeated this before. I wish Mr. Katz would get to the
9 evidence rather than constantly making me stand up and be the
10 bad guy in front of this jury.

11 Now, what has Lynn Fromme to do with my client or
12 with this case? Absolutely nothing. She is a stranger to
13 this case, your Honor. Except that she was at the ranch.

14 She is not a conspirator. She is not an alleged
15 conspirator. She is not charged in this case. She is not even
16 included under any theory of conspiracy as one of the
17 perpetrators of this alleged murder of Mr. Shea,

18 Here is counsel now, just because he is present,
19 saying he can get this stuff in, and it is not offered for the
20 truth of the matters asserted.

21 The truth of course is implicit in these statements,
22 is simply that the Manson family were doing something
23 undesirable on the premises and that she wanted to get rid of
24 them.

25 MR. KATZ: Your Honor, I can answer that.

26 THE COURT: Wait a minute.

27 MR. KATZ: All right.

28 THE COURT: It could be basis for a conspiracy to get rid

15a-2

1 of Shorty Shea, couldn't it?

2 The fact that the Manson family -- there is an
3 effort being made by either Spahn or the next door neighbor to
4 get the Manson family out of there and if that information is
5 conveyed to Manson could be a basis for a conspiracy to get
6 rid of Shea, couldn't it?

7 MR. WEEDMAN: All I can say, your Honor, is that is
8 unreliable and untrustworthy evidence because we know that the
9 Manson family -- and this comes from People's material furnished
10 to me -- that the Manson family left very, very few days later.
11 They weren't thrown off. They left. They wanted to leave.

12 MR. KATZ: They were told to get off.

13 MR. WEEDMAN: They had made elaborate plans to go to the
14 Barker Ranch in the desert, and they went.

15 THE COURT: Those are matters I think you have to argue
16 to the jury. It is testimony that is permissible testimony.
17 What the jury wants to say to it, they may disregard it all,
18 I don't know.

19 MR. WEEDMAN: It leaves Mr. Katz now in the position of
20 arguing the permissible inference that somehow Charles Manson
21 and the others were doing something which was undesirable
22 at the ranch. Now, that is all hearsay.

23 If the People have some direct evidence of it, fine.
24 Let's hear some direct evidence here. I haven't heard anything
25 in this trial thus far that even touches on conspiracy, on a
26 corpus delicti for murder or any evidence against my client,
27 and we have been at it for two weeks, your Honor.

28 THE COURT: Well, I think the testimony is permissible.

15-3

1 Now, I don't know where you ultimately will go on
2 a question of establishment of conspiracy. I don't know
3 because I can't tell what all is going to come in.

4 MR. WEEDMAN: May I inquire --

5 THE COURT: Now, let me again restate your position here.
6 First, the defendant is charged, Grogan is charged with the
7 murder of Shorty Shea. Just forget your conspiracy for a
8 minute. Get ourselves on fundamentals for a moment.

9 The testimony would seem to indicate, or the jury
10 could draw inferences that, I think, of the untimely death, the
11 fact that he is absent, the fact he is not there, there are
12 sufficient inferences that the jury could draw, the conclusions
13 if they saw fit, that Shea is dead at or about the time that
14 the complaint charges.

15 There could be strong testimony. I don't say
16 strong. There could be testimony that would justify the
17 inference that there could be a death by a criminal agency.
18 In other words, I think there is testimony that gets the People
19 by a prima facie case.

20 Now, I don't know what the jury is going to do
21 with this when they come to decide the question of have the
22 People established Grogan guilty beyond a reasonable doubt.
23 That is another story. That is another story.

24 I am passing on prima facie showings. I am putting
25 your conspiracy to one side for a minute. I think you have got
26 circumstantial evidence or direct testimony, probably is
27 circumstantial -- most of it, if not all, there is direct
28 testimony. It does wind up as circumstantial, from which the

15-4

1 inference could be drawn, Shea is gone. He is not here. He
2 has left.

3 There could be inferences that can be drawn
4 respecting a criminal agency in the matter. You can't do it
5 with one scoop.

6 Now, I again repeat, I can't say what the jury will
7 do. They may say there is nothing here beyond a reasonable
8 doubt. We can't convict this man. That is another picture
9 entirely.

10 But I think it is there. Now, that isn't -- I am
11 sidestepping your question for a minute. You have got so many
12 angles coming in on me.

13 Now, on questions of conspiracy it is the People's
14 position there is a conspiracy. Attempting to show the untimely
15 death of Shea. Now, if Spahn and his next door -- what is the
16 name again of the next door neighbor?

17 MR. KATZ: Frank Retz. R-e-t-z.

18 THE COURT: Frank. Spahn and Frank -- that is his first
19 name?

20 MR. KATZ: Yes.

21 THE COURT: Either jointly or severally attempt to get
22 Manson or the Manson family off the ranch, and this is a
23 conversation about to be related "You must get the Manson
24 family off this ranch," either by Frank or by Spahn or by both
25 of them. It is a strong element. It is an incident from
26 which the jury can draw conclusions or deducements respecting
27 other possible motives.

28 I think it has -- it should be admitted for the

15a5

1 jury. The jury can say that's too weak for us. We won't go
2 it. That's for the jury.

3 But it isn't for me to pass on that because I am
4 not trying the case, gentlemen. I am sitting as an arbitrator
5 and I can only say the testimony is there for the jury to
6 accept or to throw out. That is their duty.

7 I think the testimony is permissible testimony at
8 this juncture. The ultimate finding on the legal question of
9 a conspiracy is another situation. I am treating it as
10 distinct from a corpus against the defendant. I don't want
11 to confuse the fact that one stands or falls on the other.

12 I think you have got a corpus on the basic charge
13 against Grogan as distinguished from your conspiracy.

14 MR. WEEDMAN: Well, your Honor, may I also --

15 THE COURT: Yes.

16 MR. WEEDMAN: -- for the record object to the receipt in
17 evidence of any statements which are purportedly in the nature
18 of admissions or in the nature of confessions, not only
19 allegedly made by my client, but also allegedly made by any
20 other persons who are allegedly co-conspirators or not, on the
21 ground that there is no sufficient prima facie showing of a
22 corpus delicti for murder, and I would like to be heard on that
23 point, your Honor.

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THE COURT: Well, when the time comes, I don't think we have got to that point. I will give you plenty of time.

The record shows your objection at this time.

I'm going to overrule your objection but not without prejudice to your restatement if, as and when they should appear.

That is only for your protection there. Restate them at that time.

I am not asking you to cover it all at this time.

MR. NEEDMAN: I'm sorry, Your Honor --

THE COURT: That is how I feel in the matter at this time.

Go ahead.

MR. NEEDMAN: It appears as though Mr. Katz is seeking to introduce these statements in the nature of -- inferentially or otherwise but in the nature of admissions by an alleged co-conspirator, Lynn Fromme.

I will object further on the ground that there is no prima facie showing, even, of any conspiracy here, let alone any prima facie showing of a corpus delicti.

THE COURT: Well, I am overruling the objection. I am not ultimate ruling on the question has a conspiracy been established. That I am not ruling on at this moment.

I can take some testimony out of order. That is what I am doing at the moment.

The objection will be overruled at this time.

Now, this is without any prejudice to your constantly renewing of your objection.

1 MR. WEEDMAN: I will further object to the question on
2 the ground that it is leading and suggestive, your Honor.
3 I don't see any need -- Mr. Katz has spent hours with these
4 witnesses. I don't see any need for him to lead these
5 witnesses in such important areas.

6 THE COURT: Overruled.

7 MR. WEEDMAN: He is too good a lawyer to have to do that.

8 THE COURT: Well, objection overruled.

9 Let's go ahead, gentlemen.

10 MR. KATZ: Thank you, your Honor.

11 16 fls

16-1

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

THE COURT: Now, we are back in court. You may ask your
question.

MR. KATZ: May I approach the witness for a moment?

THE COURT: Yes, sir.

Repeat your question, please.

MR. KATZ: Yes, I am going to.

Q Now, following the raid in August of 1969, and
still within the month of August 1969, were you present during
conversations between Frank Retz, George Spahn and in which
Squeaky or Lynn Fromme was present?

A Yes.

Q Would you please tell us those conversations.

A Mr. Retz entered the house one afternoon, asked to
speak to George.

Lynn went in and got George, led him out.

Mr. Retz said, "You said you had a man that would
suit my night watchman job."

George said, "I have just the man."

He said, "You know, we want to get rid of those
people down below."

Q Referring to whom?

A Referring to the Manson family.

Mr. Spahn said --

MR. WEEDMAN: Well, your Honor, I am going to object to
that as a conclusion on the part of this witness.

16-2

1 There is no showing as to what this man may or may
2 not be trying to get rid of.

3 THE COURT: Well, the words are conclusional.

4 She can state anything that has been said. The
5 words referring to the Manson family, that may be stricken as
6 a conclusion on the part of the witness.

7 MR. WEEDMAN: I will object to the use of the phrase
8 "Manson family" on the grounds that there is no showing as to
9 what the means, your Honor,

10 THE COURT: That is overruled on that particular objection.

11 Referring to, that is conclusional to. That much
12 may go out.

13 The rest may stand.

14 Q BY MR. KATZ: You say that Frank Retz was talking
15 with George Spahn?

16 A Yes.

17 Q Tell us what Frank and George said in the presence
18 of yourself and Squeaky.

19 A Frank said we want to get these people out, and if
20 Shorty could do the job. George said, "Yes, he is a good man.
21 He will look after everything."

22 Q What else was said in this regard in the presence
23 of yourself and Squeaky?

24 A He said "Send him over to the house and I want to
25 talk to him."

26 Q Who said that?

27 A Mr. Retz.

28 Q And he said that to George Spahn?

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A Yes.

Q Now, in your presence have there been more than just one conversation between Retz and Spahn in the presence of Squeaky concerning Shorty getting rid of the Manson -- excuse me, getting rid of some people?

A Yes.

Q How many occasions?

A Another time on the phone.

On the phone, in the presence of Lynn.

Q By "Lynn" you mean Squeaky?

A Squeaky.

Q When you say these people, did Mr. Retz or Mr. Spahn specifically refer to the people by any name?

A Just the Manson family.

Q Did he refer to them as the Manson family?

A Yes.

Q Now, who referred to them as the Manson family?

A Mr. Retz.

Q Incidentally, you have identified numerous people in the 32 series exhibits as well as some other photographs, including Charles Manson and Tex Watson and Bruce Davis.

Did you know these people by any name as a group?

A The Manson family is the only group that was there.

Q Did you refer to them as such?

A Many times.

Q And this was while they were living at the ranch?

A Yes.

Q Now, during the same time period following the raid

16-4

1 of August 16, 1969 and before the last time you saw Shorty at
2 Spahn Ranch in August of 1969, did you have a conversation
3 with Shorty about his accepting a job with Frank Retz?

4 A Yes.

5 Q All right. Can you give us a better estimate of
6 the time and place when the conversation took place?

7 Using August 16th, the Spahn Ranch raid, as a
8 frame of reference.

9 A Yes. Shorty said to me --

10 MR. WEEDMAN: I'll object to that, your Honor.

11 MR. KATZ: That is all right.

12 Q Let's try and get how many days or weeks or
13 whatever it was after the August 16th raid that you discussed
14 the security job with Shorty.

15 A About two weeks.

16 Q This was, of course, before the last time you saw
17 him?

18 Is that correct?

19 A Yes.

20 Q Was this still in August of 1969?

21 A Yes.

22 Q Was anybody present during the conversation other
23 than you and Shorty?

24 A No.

25 Q What did Shorty say about the Frank Retz job, and
26 what did you say about it?

27 A He referred to the job as a money-making proposition.
28 He needed the money. He said, "I will be glad

1 when I can get going, get some money."

2 He had a certain reason he wanted that money.

3 Q All right.

4 Was there any discussion with him as to his
5 responsibilities in connection with that job?

6 A Yes.

7 Q What did he say, and what did you say about that?

8 A He said, "I won't have any trouble with them. I
9 will just ask them to leave."

10 Q With whom?

11 A With Charlie.

12 Q Did he say "Charlie"?

13 A Yes.

14 Q What else did he say?

15 MR. WEEDMAN: If anything.

16 Q BY MR. KATZ: If anything. Thank you.

17 A I don't recall anything else.

18 Q Now, during that same conversation was there any
19 discussion concerning borrowing some money to get his guns out
20 of hock?

21 A Yes. Oh, yes.

22 Q What did he say in that regard?

23 A He wanted to borrow \$20, and I said, "Well, I don't
24 know right now where I can get \$20."

25 I said, "Wait until you get your job, and you will
26 have some money."

27 Q Which job were you referring to?

28 A I was referring to the Frank Retz job.

16-6

1 Q I take it you did not on that occasion loan him
2 money to get his guns out of hock?

3 A No, I didn't.

4 Q Incidentally, had you ever seen Shorty with a
5 matched set of Frontier-style revolvers?

6 A Yes.

7 Q Had he ever left such a set with you?

8 A Yes.

9 Q Do you recall when he did?

10 A Before he went to Las Vegas he left the guns with
11 me, told me to put them in a safe place, don't let anyone
12 touch them for any purpose or reason.

13 Q All right. After he got married and returned from
14 Las Vegas to Los Angeles, did he take the guns from you?

15 A Yes.

16 Q And it was after that time that he asked to borrow
17 money to get his guns out of hock?

18 A Yes.

19 Q Now, had you seen him with those guns on numerous
20 occasions?

21 A Yes.

22 Q What was his attitude towards those guns?

23 How did he feel about them?

24 A Oh, they were a personal possession.

25 He never let anyone pull them out of the holster.
26 They were his.

27 Q Knowing Shorty as well as you did for the past 15
28 years, in your opinion would he have sold those guns?

16-7

A No.

Q Did Shorty ever tell you that he was going to leave town permanently?

A No.

16a

1 Q Now, incidentally, had you ever seen Squeaky or
2 Lynn Fromme, as you call her, and Charlie Manson, talk at the
3 ranch?

4 A Oh, yes.

5 Q On how many occasions would you say?

6 A Oh, many occasions. All the time.

7 Q You were there daily?

8 Is that right?

9 A Daily.

10 MR. KATZ: Your Honor, may we approach the bench?

11 THE COURT: All right, do you want the reporter?

12 MR. KATZ: Yes, I think so.

13 THE COURT: All right, step in chambers .

14 (The following proceedings were had in
15 chambers.)

16 THE COURT: Now, we are in chambers. The reporter and
17 counsel are here.

18 Go ahead, Mr. Weedman.

19 MR. KATZ: I was the one who asked for the conference,
20 your Honor.

21 MR. WEEDMAN: Yes, for a change.

22 MR. KATZ: I wanted to give Mr. Weedman the opportunity
23 to object before I went into the subject matter, and perhaps
24 get some guidance from court in this area.

25 As you know, just by way of background --

26 THE COURT: Is this your proposed --

27 MR. KATZ: I just wanted to preface my proposed testimony
28 with the following observations.

1 The confessions of Mr. Grogan, assuming they are
2 admissible, will show that Mr. Shea met his death by multiple
3 stab wounds and finally by decapitation by reason of a machete.

4 Now, this witness having been there at the ranch
5 every day for numerous years, and specifically in the critical
6 time period throughout August, 1969, is prepared to testify
7 that most of the family girls, and I refer to the Manson family
8 girls for want of a better designation at this point, and the
9 men, including the defendant here, carried very large buck
10 knives and sheaths on their hips, and that during the period
11 between August 16, 1969, this became more prominent, whereas
12 before that time period they did not exhibit such knives or
13 weapons.

14 The relevancy, your Honor, is twofold. It is
15 corroborative of Mr. Grogan's statement that Charlie and Bruce
16 Davis and himself and Tex Watson stabbed Shorty to death.

17 THE COURT: Now, who do you expect -- who is your witness
18 that will make that statement, that that is what Grogan said?

19 This Pearl?

20 MR. KATZ: You mean with reference to the admissions?

21 THE COURT: Yes.

22 MR. KATZ: Those will come from Paul Watkins, Paul Crockett--

23 THE COURT: I just want to clear myself.

24 MR. KATZ: Yes. The only thing this witness would testify
25 to would be that the family members, including Mr. Grogan --

26 THE COURT: Had what?

27 MR. KATZ: Had the weapons between the period August 16,
28 1969 and the first part of September, 1969, and had not used

1 or exhibited those knives in a period before that time.

2 I think, your Honor, I can see the relevancy, and
3 this is just a matter of perception.

4 THE COURT: Any objection?

5 MR. WEEDMAN: I don't have any objection, your Honor,
6 if she saw people carrying knives. That is fine.

7 The only thing is -- well, I will ask her, because
8 my client never had a knife there.

9 We will ask her the question.

10 THE COURT: All right, let's go ahead, gentlemen, and
11 then we will take our recess.

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

14 THE COURT: All right, now, go ahead. Rephrase your
15 question.

16 Q BY MR. KATZ: Pearl, I want to direct your atten-
17 tion to the time period between August 16, 1969, and around
18 September 1, 1969.

19 Did you notice various family members as you have
20 referred to them as such, carrying any knives and sheaths
21 around their waists?

22 A Yes.

23 Q Who did you see carrying these knives?

24 A The defendant, Steve Grogan.

25 Q Go on.

26 A Bruce Davis, Tex Watson. Everyone I looked at
27 seemed to have a knife.

28 Q I can't hear you.

1 A Everyone I looked at seemed to have a knife.

2 Q What about Charlie Manson?

3 A Charlie.

4 Q You say everyone?

5 How about the girls?

6 A The girls started carrying, towards the last.

7 Q Now, "towards the last," means what time period?

8 Tell us.

9 A The last I had seen them, before they went to the
10 desert.

11 THE COURT: What time period, if you can set it.

12 THE WITNESS: The last of August.

13 Q BY MR. KATZ: 1969?

14 A Of 1969.

15 Q In other words, you had not seen the girls with
16 knives in a long time period before that?

17 Is that correct?

18 A No.

19 Q Is that correct?

20 A That is correct.

21 16B fls

16B

1 Q You first observed them with these knives towards
2 the last part of August, 1969?

3 A Yes.

4 Q With respect to the kind of knife that Mr. Grogan
5 had on his person, can you describe it for us?

6 A Well, they were those buck knives.

7 Q How large are they?

8 A The Daniel Boone type.

9 Well, they are six, seven inches long.

10 MR. KATZ: May I approach the witness, your Honor?

11 THE COURT: Yes.

12 Q BY MR. KATZ: I just want to show you People's 24
13 for identification.

14 I want you to note the size, the width, the thick-
15 ness of the blade, and the approximate length of the handle.

16 Can you see People's 24?

17 A Yes.

18 Q And of course the handle is broken, so you can't
19 see it.

20 A Yes.

21 Q Now, using this as a frame of reference, can you
22 tell us whether or not the knife that Mr. Grogan, for example,
23 carried in a sheath on his person, was larger or smaller, or
24 whether it differed in any material way from this kind of
25 knife?

26 A I would say it was the same.

27 Q The same in what regard?

28 A The length, the general appearance.

1 Q And these other people you said you saw with the
2 knives such as Charlie Manson and Tex Watson and Bruce Davis,
3 did they have similar or different knives?

4 A Similar. I didn't notice any difference.

5 Q With respect to the men such as Charlie Manson,
6 Tex Watson, Bruce Davis, Mr. Grogan, did you see him carrying
7 it continuously or did he carry it a few times?

8 A Continuously.

9 Q In other words, whenever you saw him, you saw him
10 with a knife?

11 A Right.

12 MR. KATZ: If I may have a moment, your Honor, I believe
13 I have concluded my examination.

14 (Short pause.)

15 Q BY MR. KATZ: Now, Pearl, did you see any dune
16 buggies at the Spahn Ranch in August, the August period of
17 1969?

18 A Yes.

19 Q Approximately how many dune buggies did you see up
20 there?

21 A Three or four.

22 Q Do you know who operated those dune buggies?

23 A Charlie Manson, Bruce Davis, Steve Grogan.

24 Q Do you know where they operated these dune buggies?

25 A They ran around the hills.

26 Q The hills where?

27 A On the Spahn Ranch and over in Devil's Canyon
28 across the road.

1 Q How about on the Frank Retz's property?

2 A That is on the Spahn Ranch down below, over the
3 hills.

4 MR. KATZ: Thank you.

5 I have no further questions.

6 THE COURT: Let's take a short recess, ladies and
7 gentlemen.

8 We will proceed in a few minutes. Do not discuss
9 the case or come to any opinion or conclusion.

10 Thank you. We are in recess.

11 (Short recess.)

12 17 fls

1 THE COURT: Now we are back in session. People against
2 Grogan. Defendant is here. Counsel are here.

3 You can bring in the jury, sheriff.

4 THE BAILIFF: Yes, sir.

5 THE COURT: We will go right ahead.

6 And the witness, where is our witness?

7 Now, you have been sworn. Will you state your name
8 again.

9 THE WITNESS: Yes. My name is Ruby Pearl.

10 THE COURT: Thank you. Talk right in that like a tele-
11 phone, if you will.

12 THE WITNESS: All right.

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

15 THE COURT: Now we have all of the jurors back in, plus
16 the three alternates.

17 The defendant may cross examine.

18
19 CROSS EXAMINATION

20 BY MR. WEEDMAN:

21 Q Mrs. Pearl, I am going to go back and ask you
22 probably many of the same questions that Mr. Katz has already
23 asked you. This is, of course, what is called cross examination.

24 And I am sure you will understand that we are
25 actually going to go back over much of the things that you have
26 already told us about. You understand that, Mrs. Pearl?

27 A Yes.

28 Q In other words, you may have already answered the

1 question, but I want you to answer it again, if you can.

2 A All right.

3 Q Okay.

4 About when did you meet Mr. Shea for the very first
5 time?

6 A Years ago. Fifteen years ago.

7 He came into the yard and asked for a job.

8 Q What yard was that, Mrs. Pearl?

9 A That was at Spahn Movie Ranch.

10 Q What were you doing at Spahn's at that time?

11 A Same as I have always done from the very beginning.
12 Take care of the horses, arrange the bookings, do the book work.
13 Take care of the rent horses. Take care of the customers.

14 Q Had you been doing that before Mr. Shea arrived
15 some fifteen years ago?

16 A Yes.

17 Q Okay. Were you married at that time, Mrs. Pearl?

18 A Let's see. At that time --

19 Q That is when you met Mr. Shea for the first time?

20 A Yes.

21 Q Are you married at the present time?

22 A No.

23 Q Were you married in 1969?

24 A Yes.

25 Q Were you living with your husband during 1969?

26 A No.

27 Q Okay. Where were you living in 1969, Mrs. Pearl?

28 A On De Soto Street in Chatsworth.

1 Q Were you living there all through 1969?

2 A Yes.

3 Q So particularly, then, for the months of June,
4 July and August and September, you were living at that Chats-
5 worth residence, were you not?

6 A Yes.

7 Q During 1969, can you tell us what Mr. Shea was doing
8 for a living?

9 A In 1969?

10 Q Uh-huh.

11 A Taking odd jobs. Picture work. Stunt work.

12 Q Do you know what some of those odd jobs were?

13 A He worked in the wood yard once, cutting trees.
14 Trimming trees.

15 He did stunt work on exhibition. He worked --

16 Q Excuse me. Where did he do that, Mrs. Pearl?

17 A The stunt work?

18 Q Yes.

19 A I never accompanied him on these stunt-work places.
20 Except heard about them in the grand openings because Randy
21 Starr, a worker of ours, went with him. Told us all about it.

22 Q Where did Randy Starr tell you they had been?

23 A They had been to some grand openings in Los Angeles.

24 Q How many days would one of these grand opening
25 jobs last for Mr. Shea, if you know?

26 A Just one or two days.

27 Q Was he doing anything else for a living during 1969?

28 A Yes. He worked in some picture parts there, moving

1 picture parts right on the ranch.

2 Q When was that, in 1969, Mrs. Pearl?

3 A Right, in August,

4 Q He was doing a picture part in August?

5 A Yes. He did bit parts.

6 Q What picture part was that, Mrs. Pearl?

7 A He did a fighting scene for -- let's see, his name--

8 Q Mr. Bickston?

9 A No, not for him right then. That was coming up
10 later.

11 I can't remember the name of the producer, but it
12 was a Mexican name.

13 Bud Cardoso.

14 Q Mr. Cardoso? What kind of a business was
15 Mr. Cardoso in?

16 A He was a director.

17 Q Where was this work done by Mr. Shea?

18 A Right there in the yard. I saw this.

19 Q This was done in August of 1969?

20 A Or previously.

21 Q When previously, Mrs. Pearl?

22 A Might have been June.

23 Q Well, in June, didn't Lance Victor and Shorty come
24 to your house.

25 A Oh, yes.

26 Q And you had some conversations there, as a matter
27 of fact, with Mr. Shea, didn't you?

28 A Yes.

1 Q Did Mr. Shea stay with you, that is, apart from
2 just visiting you; did he live at your house for a while at
3 that time?

4 A No, he didn't stay there at that time. He stayed
5 there previously.

6 Q Was he working at that time, if you know? That is,
7 in June of 1969?

8 A Not steady.

9 Q Well, was he working there at anything, even though
10 it might not have been steady at that time?

11 A Well, I believe that was the time he helped this
12 man trim trees.

13 Q In June of 1969?

14 A In June and July.

15 Q Can you tell us anything more about this motion
16 picture that you remember Mr. Shea working in?

17 A He just did one day's --

18 Q Excuse me. In August of 1969?

19 A The time is so vague on the picture work 'cause
20 they were coming in and out, different parts. But I saw Shorty
21 working. He did a tremendous fight scene.

22 Q How many days did Mr. Shea work in that connection?

23 A One day.

24 Q One day?

25 A One day.

26 Q What was he doing for a living, let's say, the day
27 or week before that time in August, Mrs. Pearl?

28 MR. KATZ: I would object unless she has personal knowledge.

1 I have no objection, if she knows.

2 MR. WEEDMAN: If she doesn't know, she can say she
3 doesn't know. It's easy.

4 THE COURT: Well, you can answer the question. Over-
5 ruled.

6 THE WITNESS: Would you repeat it again?

7 THE COURT: Read the question to the witness.

8 MR. WEEDMAN: I will withdraw the question.

9 THE COURT: All right.

10 Q BY MR. WEEDMAN: Do you know what Mr. Shea was doing
11 for a living immediately before he did that one day's work in
12 August?

13 A Yes. Yes.

14 Q What was that?

15 A He was working in a bar.

16 Q And do you know what month he was working in the
17 bar?

18 A No, I really don't know until I stop and figure it
19 out.

20 Q What was he doing in the bar?

21 A He was a bouncer.

22 Q Can you give us an approximate idea of the month or
23 months in which he was working as a bouncer?

24 A Before the raid. He was working as a bouncer.

25 Q Before August 16, 1969?

26 A Yes.

27 Q Do you know if he was working as a bouncer in June
28 of 1969, or not?

A He could have been.

Q What other odd jobs did Mr. Shea have during 1969 that you know of?

A Oh, he would come back and forth and help us.

Q And how much would you pay him when he would come back and forth and help you?

A Oh, he never asked for money. He just came back and helped. His wages would be parts in pictures.

Q You gave him wages, you gave him parts in pictures as wages?

A That was his opportunity to gain wages.

Q Would you tell us what wages you gave him, and does that mean you and Mr. Spahn?

A Yes. No, we didn't give him any wages. We helped him get in the pictures.

Q Well, in other words, you didn't give him any money?

A No.

Q But he would come back and forth and work for you?

A Yes.

Q And you didn't give him any money for doing that?

A No, nor did we charge him anything for food and lodging.

Q That is what you were giving him at your house?

A That is what we were giving him.

Q Food and what?

A Lodging.

Q Where did he lodge?

1 MR. KATZ: I will object on the grounds it is ambiguous
2 as to what time period we are talking about.

3 MR. WEEDMAN: I don't really know myself. So let's back
4 up a little bit.

5 Q Mrs. Pearl, when in 1969 did Shorty come back and
6 forth and do work for you at the ranch?

7 A He came back after the raid when we desperately
8 needed help.

9 Q Did he do some work around the ranch before the
10 raid of August 16, 1969, during 1969?

11 A Yes. He had worked in one of them scenes.

12 Q No, I am sorry. Work for you, Mrs. Pearl, at the
13 ranch?

14 A Well, that is for us, too, because we had to get
15 those horses ready.

16 Q And was he paid anything for helping you get the
17 horses ready?

18 A No, only what he was making, the wages from the
19 picture company.

20 Q What wages did he make in the picture company,
21 Mrs. Pearl?

22 A That I didn't ever ask.

23 Q Did he work more than one day on that particular
24 occasion?

25 A He could have.

26 Q You indicated a little while ago that you, of
27 course, didn't pay Mr. Shea any money. That you would provide
28 him with food and lodging?

29 A Yes.

17a-1

1 Q And that you would also provide him an opportunity
2 to do picture work as wages. Would you explain the latter part
3 of that for us, please.

4 In other words, what would you do as wages, by way
5 of helping Mr. Shea get picture work?

6 A Well, if he was down and out he could borrow a
7 little money. -- "borrow" -- it was given because we never
8 asked for it back.

9 If he didn't have any food money we would give him
10 five, \$6.

11 Q Who is "we," Mrs. Pearl?

12 A George or me. I would always ask George if I could
13 give him the money. Wasn't my money.

14 Q Now, these opportunities to appear in pictures as
15 part of his wages, would you explain that for us, Mrs. Pearl?

16 A Yes. When a director would come and select horses
17 and props for a picture they said, "Do you have any cowboys
18 that would like to help us?"

19 Instead of hiring actors they take our men.

20 Q Well, when in 1969 then did Mr. Shea appear in any
21 pictures for money that you and perhaps George Spahn helped him
22 to get?

23 A When did he appear?

24 Q Uh-huh.

25 A Well, like I say, I didn't keep track of the time,
26 but he was there working in and out on these scenes when the
27 picture companies were in there.

28 Q When were picture companies in there and Mr. Shea

17a-2

1 was being paid by the picture companies --

2 MR. KATZ: Objection on the grounds the question has been
3 asked and answered. The witness stated she doesn't remember.

4 THE COURT: Probably has, I believe.

5 THE WITNESS: See, I don't have any books.

6 THE COURT: Wait a minute, lady, please. I think it has
7 been covered. Sustained.

8 Q BY MR. WEEDMAN: How many times did Mr. Shea work
9 in a particular picture in 1969 to your knowledge, Mrs. Pearl?

10 A Just one or two times.

11 Q Once or twice in 1969, is that your testimony?

12 A Towards the latter part of 1969, like in August,
13 June or July or August.

14 Q Well, in those months, July and August -- and did
15 you say June? I am sorry, I couldn't quite hear you.

16 June, July and August?

17 A Could have. I don't remember the exact time.

18 Q Well, are you telling us that is the best approxi-
19 mation that you have, June, July and August?

20 A Yes.

21 Q In those months of June, July and August of 1969
22 was Mr. Shea coming back and forth and doing some work for you
23 at the ranch?

24 A He always would appear on weekends. He was also
25 helping George sell some horses.

26 Q Well, are you telling us then that perhaps your
27 answer to my question is yes? That he did come back and forth
28 and do work at the ranch for you?

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A Yes.

Q During June, July and August, approximately?

A Yes.

Q In 1969?

A Yes.

Q And how many pictures did he appear in during those months, if any?

MR. KATZ: Again, your Honor, there is an objection on the grounds that it has been asked and answered.

The witness indicated she did not remember specifically.

MR. WEEDMAN: This is cross-examination, your Honor.

THE COURT: I think it is covered. The objection is sustained.

MR. WEEDMAN: Your Honor, the witness has told us that he appeared in one or two pictures, and I want to find out when.

THE COURT: All right.

Q BY MR. WEEDMAN: When during those months did Mr. Shea appear in any motion pictures, to your knowledge, Mrs. Pearl?

A Well, in the latter part of July.

Q How many pictures?

A In one then.

Q One then?

Now, apart from his appearing in that picture, did he come out and -- was he coming back and forth and doing work for you?

A Yes.

18-2

1 Q I take it that this is the work you have already
2 told us about for which he received no moneys?

3 Is that correct?

4 A Yes.

5 Q Would he come out almost every weekend?

6 A Yes.

7 Q And he would work for you and he would not receive
8 any moneys?

9 Is that correct?

10 A Yes.

11 Q On these weekends, would you provide him with food
12 and lodging?

13 A Yes.

14 Q Where was Mr. Shea living -- that is, where was he
15 living during the balance of the week when you folks were
16 proving him with food and lodging on the weekends?

17 A That is when he was working at the bar, and he
18 would go home with Bridgett.

19 Q Who is Bridgett?

20 A Bridgett is the girl he was selling horses to, and
21 took her out to Newhall to see these horses for George.

22 Q How many horses did he sell Bridgett?

23 A Two that I know of.

24 Q To your knowledge?

25 A To my knowledge.

26 Q When was that, Mrs. Pearl?

27 A That was in the first part of August.

28 Q Did Mr. Shea receive any money as a result of

18-3

1 selling two horses to Bridgett?

2 A I never inquired.

3 Q Well, did anyone tell you?

4 A No.

5 MR. KATZ: Well, I would object on the grounds that it
6 calls for hearsay, your Honor.

7 MR. WEEDMAN: I will withdraw the question.

8 THE COURT: All right.

9 Q BY MR. WEEDMAN: These horses were sold under the
10 auspices of Mr. Spahn?

11 Is that correct?

12 A Yes.

13 Q You were working for Mr. Spahn in connection with
14 that, were you not?

15 A Yes.

16 Q Do you know if Mr. Shea was paid any moneys by
17 Mr. Spahn or through the Spahn Ranch as a commission for the
18 sale of either of these horses?

19 A Well, that I wasn't particularly interested in.

20 Q Didn't you keep the books there, Mrs. Pearl?

21 A If he were paid, he would have been paid by
22 George's daughter, who had the horses at her place, and who
23 was boarding them.

24 Q Well, I am sorry, then.

25 Where was that?

26 A That was in Newhall.

27 Q Were you at Newhall when this transaction took
28 place?

18-4

1 A No.

2 Q Were you present at all when any transactions
3 took place relative to Mr. Shea selling two horses to
4 Bridgett?

5 A No.

6 Q All right. Who told you that that happened?

7 A Shorty, himself.

8 Q All right. Did Shorty tell you that he had gotten
9 \$45 as a commission for the sale of one horse to Bridgett?

10 A No, he didn't tell me.

11 Q Was this before or after you met Shorty's wife,
12 Magdalene, otherwise known as Nikki?

13 A Before.

14 Q To your knowledge was Mr. Shea married at the time
15 he sold this horse or participated in the sale of this horse
16 to Bridgett?

17 MR. KATZ: I am going to object on the grounds that it
18 calls for a conclusion and speculation.

19 The witness has no personal knowledge of that
20 transaction.

21 THE COURT: It is probably speculation, I guess. I
22 believe so. The objection is sustained.

23 You can reframe it.

24 I think the objection is probably well taken.

25 MR. WREEDMAN: All right, your Honor.

26 Q Well, let's move on to something else, Mrs. Pearl.

27 When did my client, Steve Grogan, first come to
28 live at the Spahn Ranch?

18-5

1 A Sometime in 1968.

2 Q When did Charles Manson come to live at the Spahn
3 Ranch, Mrs. Pearl?

4 A About the same time.

5 Q The same time?

6 A Or first.

7 Q Pardon me?

8 A About the same time, it seems to me.

9 Q Mrs. Pearl, I would like you to think carefully,
10 as I know you are, about all of your answers to all of the
11 questions asked you here.

12 Isn't it true that Mr. Grogan lived there at the
13 Spahn Ranch for almost a year before Charles Manson ever
14 appeared?

15 A It could be.

16 Q What do you mean "could be," Mrs. Pearl?

17 That is true, isn't it?

18 A That Steve was there before Charles Manson?

19 Q Yes.

20 A I don't recall that.

21 Q Well, you said "could be."

22 I just was curious by what you meant by that.

23 I am sorry, I probably didn't make that very clear.

24 Can you tell us what you meant by your answer
25 "could be," when I asked you about how long Steve had been
26 there?

27 A Yes. I paid very little attention to these people
28 coming in and out all the time.

18-6

1 Steve never did work for me. He might have helped
2 the boys, but I didn't pay any attention to him.

3 Q So you don't know when Steve arrived, would that
4 be your best testimony?

5 A No, I couldn't say when he arrived.
6 He arrived and stuck right close to the Manson
7 family.

8 Q I am sorry, what?

9 A When he arrived I noticed that he was right with
10 the Manson family.

11 Q Where were you living at this time?

12 That is, when Mr. Grogan arrived at the ranch, if
13 you know.

14 If you know when he arrived at the ranch.

15 A I was always on De Soto Street.

16 Q In Chatsworth?

17 A In Chatsworth.

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

19 THE COURT: Yes.

20 (Short pause.)

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Q BY MR. WEEDMAN: Mrs. Pearl, were you aware of a man by the name of John, Farmer John, who lived in the vicinity of the Spahn Ranch?

A Yes.

Q When was he living there, Mrs. Pearl?

A Previously to the Manson family.

Q Weren't there some other hippies, we will call them hippies, living there at that time?

A Yes, they lived down at the lower end of the ranch.

Q Think carefully, now, Mrs. Pearl.

My client was with those people, isn't that so?

A Oh, that could be.

Like I say, it could be. I paid little attention. I seen Farmer John occasionally.

Q Okay. So just to back up for a moment, then, Farmer John was living in there in the back?

A Oh, yes.

Q And there were a bunch of hippies living there?

A Yes, there were some people down there.

Q Not the Manson family?

A No.

Q As far as you know, then, it could be that my client was with that first group of hippies?

A Yes, it could be.

Q Rather than having arrived with the Manson family?

THE COURT: Don't nod your head.

THE WITNESS: Could be. That is what I mean.

Q BY MR. WEEDMAN: We appreciate your giving that your

18a-2

careful though, Mrs. Pearl.

A Yes.

Q Thank you. Now, did you indicate that Manson did move there with numerous persons in July of 1969?

Is that your best recollection at this time?

A Well, I guess that would be right.

Q Well --

A The summer -- in the summer they came.

Q In the summer of 1969?

Is that so?

A 1968 or 1969. I am not so --

Q You are not sure whether it is 1968 or 1969?

A When they first came, I do not recall.

Q Any particular reason why you do not recall whether it was 1968 or 1969 when Charles Manson or some of these other persons arrived at the ranch?

A Well, when they came they all came in a bunch, and they were running in and out, and it was quite a while before I even learned their names.

Q Well, maybe we could fix it in this fashion.

You have already testified that you didn't see Mr. Shea after August of 1969.

A Right.

Q Had these persons that you named, including Charles Manson, been at the ranch any more than six months before that time, if you know?

A Well, the reason I can't pin myself down, you don't know how time flies.

18a-3

1 We were so busy there we didn't come to know what
2 day it was sometimes.

3 Q Well, I want to be sure about one thing.

4 As far as you know, then --

5 A It was in the summertime.

6 Q As far as you know, then, my client could have been
7 there?

8 That is, Mr. Grogan could have been there at the
9 ranch with this first group of hippies that came in, and this
10 is not part of the so-called Manson family?

11 A It could have been.

12 Q You are not sure, then, when Charles Manson and the
13 so-called Charles Manson family arrived?

14 Is that correct?

15 A It was in the summer.

16 Q Either --

17 A Either 1968 or 1969.

18 Q That is the best estimate you can give us?

19 A When they first arrived I paid no attention.

20 Q Your not paying attention to them, was that because
21 they weren't doing anything, perhaps, that caused you to pay
22 attention?

23 A That is right, they lived down below.

24 Q They didn't bother you?

25 A They didn't bother us.

26 They come and went.

27 Q They didn't bother Mr. Spahn, did they?

28 A No.

18a-4

1 Q They didn't bother you, did they?

2 A No.

3 Q We are talking about the so-called Manson family
4 now, aren't we, to be clear about it?

5 A Yes, when they first came there.

6 Q The Charles Manson family did not bother you?
7 Is that correct?

8 MR. KATZ: Excuse me, as to which time?

9 There is an ambiguity as to which time.

10 Q BY MR. WEEDMAN: Well, if they bothered her --

11 A No, when they first got there.

12 THE COURT: Does that answer the question?

13 Ask your next question.

14 MR. KATZ: Excuse me, your Honor. May I have the question
15 and answer read back?

16 THE COURT: Read the answer, please.

17 (The answer was read by the reporter
18 as follows:

19 "A No, when they first got there.")

20 Q BY MR. WEEDMAN: That is the reason you can't tell
21 us when they got there?

22 A Yes, because they didn't move up until later.

23 Q When was that, Mrs. Pearl?

24 A When they moved up?

25 Q Yes.

26 A Well, it seemed like they had been moved up about
27 a year.

28 Q By "moved up," you mean moved up --

18a-5

1 A Into the house, the main house.

2 Q All right. When did Squeaky, otherwise known as
3 Lynn Fromme, come to live at Spahn?

4 A The same time Charlie did.

5 Q And do you have a date for Lynn Fromme arriving at
6 Spahn Ranch?

7 A No, I don't have no date.

8 Q What did Squeaky do there at the ranch with
9 respect to George Spahn?

10 A Well, when they started to move up, they started
11 helping.

12 Q My question is --

13 A When they started to --

14 Q Excuse me, Mrs. Pearl.

15 My question is, what did Squeaky, otherwise known
16 as Lynn Fromme, do in connection with George Spahn?

17 A She first took over some of the cooking details,
18 helping the cowboys get their food and helping Mr. Spahn.

19 Q You didn't object to that, did you, Mrs. Pearl?

20 A No, not at all.

21 It was a relief,

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Q Certainly, and Mr. Spahn didn't object to Squeaky cooking for the cowboys and helping out around the ranch, did he?

A No, it give me more time to do my work.

Q And this girl is a member of the Charles Manson family, so called?

A Yes.

Q This girl was also more or less George Spahn's eyesight, wasn't she?

A She began to be more important to him.

Q She led him here?

A Yes.

Q And she led him through doors?

A Yes.

Q Out to the stable?

A Yes.

Q Fixed his lunch?

A Yes.

Q Escorted him?

A Yes.

Q Stayed with him and would care for him?

Is that so?

A That is so.

Q At any time did you feel, perhaps, a little jealous?

A No.

Q Of the role being played by Lynn Fromme, a member of the Manson family, with respect to George Spahn?

A No, I was happy.

1 Q Now, she stayed there in the house, didn't she,
2 with Mr. Spahn?

3 A Yes.

4 Q I take it, then, from your answer, that you had
5 no objection to that?

6 A I had no objection whatsoever.

7 Q Mr. Spahn had no objection to that?

8 A No, we were one happy family.

9 Q You were one happy family?

10 A Right.

11 Q Do you know a man by the name of Juan Flynn?

12 A Yes.

13 Q Was Juan Flynn a member of the family, or was he
14 with the family at one time there at the ranch?

15 MR. KATZ: I will object to it on the grounds that it is a
16 compound question.

17 MR. WEEDMAN: I will withdraw the question.

18 THE COURT: It is withdrawn.

19 Q BY MR. WEEDMAN: What was Mr. Flynn's relationship
20 to this so-called Manson family, if you know?

21 A He disappeared there.

22 Q He disappeared, or --

23 A He just appeared, and he took to them. He liked
24 them.

25 Q So he sort of --

26 A He sort of fit in with them.

27 Q And so far as you know, it would be fair to say that
28 he was friendly towards them?

1 A Yes, he was.

2 Q And they were friendly towards him?

3 A Yes.

4 Q He spent a lot of time with them?

5 A Yes.

6 Q Sort of rapped back and forth talking to them a
7 lot?

8 A Yes.

9 Q And the family to him?

10 A Right.

11 Q How long a period did this go on, approximately,
12 Mrs. Pearl?

13 A Two or three months.

14 Q Would it be fair to say that at least, generally
15 speaking, that he sort of became a member of the so-called
16 Manson family, then?

17 A You could call it that.

18 Q Did a time ever come when Juan Flynn went to live
19 with you in Chatsworth?

20 A Yes.

21 Q Was that at your invitation?

22 A No.

23 Q Did he force his way in?

24 A No.

25 Q What happened?

26 A He asked if he could come over.

27 Q Oh, I am sorry.

28 And then when he asked to come over, did you give

1 him permission to do that?

2 A Yes.

3 Q For how long a period of time did this Juan Flynn
4 live with you?

5 MR. KATZ: I am going to object unless we have a time
6 period here.

7 I will object on the grounds that it is ambiguous,
8 and irrelevant and immaterial.

9 MR. NEEDMAN: I will withdraw the question.

10 THE COURT: All right, it is withdrawn.

11 Q BY MR. NEEDMAN: When did Juan Flynn come to live
12 with you, Mrs. Pearl?

13 A After the raid.

14 Q After August 16, 1969?

15 A Yes.

16 Q How old is Juan Flynn?

17 A I am not sure, 22, 25.

18 Q How old are you, Mrs. Pearl?

19 A I am 51.

20 Q Do you know a girl by the name of Lee Sinooke or
21 Lee Sinooke, however it might be pronounced?

22 A Yes.

23 Q She is related to Mr. Shea, is she not?

24 A Related? Not that I know of.

25 Q Do you know where Lee Sinooke was living during
26 1969?

27 A Where she was living?

28 Q Yes.

1 MR. KATZ: Excuse me, your Honor. I'm going to object
2 to this. Number one, it calls for speculation. Number two,
3 it is out of the scope of direct examination. There is no
4 relationship made to Lee Sinooke. She will be called as a
5 witness.

6 THE COURT: The objection is overruled. Read the
7 question again.

8 MR. KATZ: I will withdraw any objection whatsoever.
9 Counsel can ask it.

10 THE COURT: All right. You ask the question.

11 MR. WEEDMAN: Well, let me withdraw the question in that
12 form.

13 THE COURT: Are you going to withdraw it?

14 MR. WEEDMAN: Yes, your Honor.

15 THE COURT: All right.

16 Q BY MR. WEEDMAN: Do you know where Lee Sinooke or
17 Sinooke, I'm not sure how it is pronounced, was living in 1969?

18 A On Independence Street, Canoga Park.

19 MR. WEEDMAN: Your Honor, may we have defendant's A for
20 identification, which was that rather crude diagram that I
21 had up on the board?

22 THE COURT: Yes, sir. Pin it up.

23 Q BY MR. WEEDMAN: I would like to direct your
24 attention, Mrs. Pearl, to this rough diagram, defendant's A
25 for identification.

26 I will ask you if you would, please, just note the
27 relationship here of these lines which purport to be streets,
28 this being independence street, this being Gresham Street.

1 This direction, at the top, of course, being north.
2 Here is Parthenia, Nordhoff, and Osborne.

3 I'll ask you if it was in the immediate vicinity
4 of Gresham and Independence that Lee Sinooke was living in 1969.

5 A Yes.

6 Q Thank you, you can sit down, Mrs. Pearl.

7 To your knowledge, did Shorty, knowing him as well
8 as you do, visit Lee Sinooke, or Lee Sinooke, from time?

9 A Yes.

10 Q I take it, then, knowing Mr. Shea as well as you
11 did, Mrs. Pearl, that there wouldn't be anything unusual, would
12 there, about Mr. Shea's automobile appearing in this vicinity
13 sometime during 1969?

14 MR. KATZ: I am going to object on the grounds that it
15 calls for a conclusion and speculation as an ultimate fact
16 to be determined by the trier of fact, namely, the jury.

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

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1 THE COURT: All right.

2 Q BY MR. WEEDMAN: Now, you were with Mr. Shea I
3 believe and Lance Victor in June of 1969 and during that time
4 Shorty took a bunch of your negatives, is that so?

5 A Yes.

6 Q When did he say he was going to bring the negatives
7 back to you?

8 A As soon as he could.

9 Q What was he going to do with those negatives?

10 A Make some pictures for his personal scrapbook to
11 use for publicity.

12 Q Where was it that you gave him these negatives or
13 you lent these negatives to him?

14 A Right in my home.

15 Q In Chatsworth?

16 A In Chatsworth.

17 Q Didn't Mr. Shea have an enlarger and means of
18 actually making photographic prints in your home in Chatsworth?

19 A Yes.

20 Q Is there any reason why he didn't make those prints
21 right there in your home at the time?

22 A There wasn't any room to set up that big enlarger.
23 It was outside.

24 Q I take it then, as far as you know, Mr. Shea made
25 no effort with respect to those particular negatives of yours
26 to make prints from them at your home in Chatsworth, is that
27 correct?

28 A He may have intended to make them somewhere else.

19-2

1 Q But as far as you know he at least didn't utilize
2 the photographic equipment there at your home in Chatsworth,
3 is that correct?

4 A No, he didn't get to it.

5 Q Without going back through all of those, I believe
6 they are marked People's 31 -- 33 for identification.

7 Did you tell us, or is it so, that these photo-
8 graphs, or rather negatives, were taken by Shorty so that he
9 could make prints with them, so he could use them for his
10 scrapbook so he could in turn use the scrapbook to gain
11 employment for movies?

12 A Yes, and also so he could make me some for the
13 privilege of using them.

14 Q You always found Shorty to be reliable sort of
15 fellow, didn't you?

16 A Yes.

17 Q How long did he have these negatives of yours,
18 up until the time that you last saw him in August?

19 A About two weeks.

20 Q He got them in June, didn't he?

21 When he and Lance Victor were over at your place?

22 A There were several times he got negatives from me.

23 Q He did that more than one time?

24 A Yes.

25 Q Didn't he get the first ones, at least some
26 negatives, in June of 1969?

27 A To tell you the truth I don't know just when he
28 did get them. He came over several times and got negatives.

19-3

1 Q When was Mr. Shea last at your house in Chatsworth?
2 A Oh, he was -- it's hard to say just when.
3 Q Well, I realize going back as far as --
4 A Last time he was at the house --
5 Q Pardon me?
6 A It is hard to say when he was at the house last.
7 Q Well, can you give us an idea at least, Mrs. Pearl?
8 A He came with Lance when Lance came back from Vegas.
9 Q Do you know where Shorty was working at the time,
10 if he was working at the time he last came to your house in
11 Chatsworth?
12 A Yes. He was working at the bar then.
13 Q Was this a beer bar?
14 A Yes.
15 Q He was working there as a bouncer, is that the
16 reference?
17 A Yes.
18 Q And is that when he took the negatives?
19 A Yes, that is when he took one bunch.
20 Q Well, was there another time that he took another
21 bunch?
22 A Previously, yes.
23 Q Oh, previous to that?
24 A Previous to that, yes.
25 Q Okay. Now, if Mr. Shea was working as a bouncer
26 in a bar in June of 1969 and I take it that it would have been
27 in June of 1969 that he was last at your home?
28 A Yes, that could have.

19-4

1 Q Following that then it would have been at least
2 two months that he had your negatives in his possession without
3 returning them, is that correct?

4 A Yes.

5 Q Okay. Now, there wasn't anything unusual about
6 his keeping those negatives that long was there, Mrs. Pearl?

7 A Yes, the first ones he got I asked him, I says,
8 "You didn't return the first ones."

9 He said, "I have been so busy I haven't had time
10 to make them yet."

11 Q Well, when you say he was reliable, though --

12 A I know he would keep them and give them back to
13 me.

14 Q You knew he would give them back to you?

15 A Yes.

16 Q My question to you really, in light of that, there
17 wasn't anything unusual about Shorty, your friend, keeping
18 these negatives for at least two months, was there?

19 A No.

20 Q Okay. I believe you identified someone in the
21 photographs which are part of People's 33 for identification as
22 Benny Dittrich?

23 A Yes.

24 Q Can you spell his last name for us, please.

25 A D-i-t-t-r-i-c-h.

26 Q Where is Mr. Dittrich today, if you know?

27 A He is up north.

28 Q Have you received any communications from him?

19-5

Answer that yes or no, if you will.

A Yes.

Q Would those communications, or did they rather, tell you his address or where he may be located?

A Yes.

Q Do you have those in your possession or do you have those perhaps where you live now, Mrs. Pearl?

A Yes.

Q Okay. Would you be good enough to supply the district attorney or myself with Mr. Dittrich's address?

A He requested no one to know.

MR. WEEDMAN: Well, your Honor, I wonder if we might approach the bench in this matter just for a moment.

THE COURT: Yes. Do you want the reporter?

MR. WEEDMAN: Yes, please, your Honor.

(The following proceedings were had in chambers;)

THE COURT: We are in chambers. Defendant and counsel are here. Better give us the last question and the answer.

(The record was read by the reporter as follows:

"Q Have you received any communications from him? Just answer that yes or no, if you will.

"A Yes.

"Q Would those communications, or did they rather, tell you his address or where he may be located?

19-6

1 "A Yes.

2 "Q Do you have those in your possession,
3 or do you have those perhaps where you live now,
4 Mrs. Pearl?

5 "A Yes.

6 "Q Okay. Would you be good enough to
7 supply the district attorney or myself with
8 Mr. Dittrich's address?

9 "A He requested no one to know.")

10 THE COURT: All right.

11 MR. WEEDMAN: I would request at this time that the
12 district attorney supply us with that address if the district
13 attorney has it, your Honor.

19a

19A

1 MR. KATZ: I will unequivocally state I do not have the
2 address.

3 THE COURT: Any objection by the People?

4 MR. KATZ: Number one, on the grounds that in no way
5 goes to any of the issues in this case; and number two, I have
6 never been in possession of that address nor has the sheriff's
7 office nor any prosecution agency whatsoever, police or other-
8 wise.

9 MR. WEEDMAN: Your Honor, in that connection, then, I
10 would request that this witness be instructed to provide that.

11 THE COURT: What would be the materiality of this
12 party's address?

13 MR. WEEDMAN: Because he is a witness, your Honor. He
14 was there at the Spahn Ranch apparently all during this period
15 of time.

16 I realize -- I am really taking opportunity --
17 really of this -- I am taking advantage of this opportunity
18 because Dittrich is a man that we have been trying to locate.

19 THE COURT: Suppose I would have to have a disclosure
20 in chambers just between two counsel here?

21 MR. WEEDMAN: Certainly would be satisfactory, your Honor.
22 If she knows the address offhand, fine. If not, she could be
23 instructed to supply it.

24 MR. KATZ: Your Honor, all I can tell you is that assuming
25 that Miss Pearl will divulge it to me, I have no objection to
26 giving the address to Mr. Weedman.

27 THE COURT: Let's bring her in here and get the address.

28 MR. WEEDMAN: Fine, your Honor.

1 THE COURT: All right.

2 Ask her to step in here a minute, will you, please.

3 THE BAILIFF: Yes, sir.

4 (The following proceedings were in chambers,
5 outside the presence of the jury.)

6 THE COURT: Just sit down, lady, will you please.

7 THE WITNESS: All right.

8 THE COURT: Madam, I am instructing you to give the
9 address in chambers here out of the presence of the other
10 people in the courtroom.

11 Well, now, the question was -- read the question to
12 the witness.

13 Repeat your question.

14
15 EXAMINATION

16 BY MR. WEEDMAN:

17 Q Well, I just wanted to know Mr. Ditttrich's
18 address; that is all, your Honor.

19 Mrs. Pearl, will you be kind enough to supply to the
20 district attorney's office the address, and we would certainly
21 be grateful for that.

22 THE DEFENDANT: Wait a second. Does Benny want to come
23 down here, or what?

24 THE WITNESS: I haven't heard from Benny.

25 MR. WEEDMAN: That is all I wanted, your Honor, was the
26 address so we can write him a letter and contact him.

27 THE COURT: Does that answer your question?

28 MR. WEEDMAN: Yes, your Honor.

1 THE COURT: All right, we will go back then.

2 MR. WEEDMAN: Would you inquire of Mrs. Pearl if she has
3 the address?

4 THE COURT: Do you have it?

5 THE WITNESS: In my head.

6 THE COURT: Is the answer yes or no?

7 THE WITNESS: Yes.

8 THE COURT: Then state the address, if you will.

9 THE WITNESS: It would be General Delivery, Grant's Pass,
10 Oregon.

11 MR. WEEDMAN: What is the name of the town?

12 THE COURT: Read the statement.

13 (The record was read by the reporter
14 as follows:

15 "THE WITNESS: It would be General Delivery,
16 Grant's Pass, Oregon.")

17 THE COURT: Is that the closest you have to it?

18 THE WITNESS: That is the closest.

19 MR. WEEDMAN: Do you have a telephone number for him,
20 Mrs. Pearl?

21 THE WITNESS: No.

22 MR. WEEDMAN: Thank you.

23 MR. KATZ: Your Honor, it is five minutes of 4. Perhaps
24 we can adjourn for the day.

25 THE COURT: quit till tomorrow?

26 MR. KATZ: If it is all right with Mr. Weedman.

27 THE COURT: Let's go over to tomorrow. We can't finish
28 today anyway.

1 I will take the bench and instruct the jury.

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

4 THE COURT: Now we are back in the courtroom. The
5 defendant is here, the jury is here, counsel are here, the
6 witness is back on the stand.

7 Ladies and gentlemen, we have just a few minutes
8 before 4:00 o'clock. I think we will recess until 9:30
9 tomorrow morning. Kindly be here promptly.

10 Do not discuss the case or come to any opinion or
11 conclusion.

12 Thank you all.

13 And you kindly I will have to ask you back tomorrow
14 morning at 9:30 to finish up. Thank you.

15 THE WITNESS: All right.

16 THE COURT: We are at recess.

17 (At 3:55 p.m., adjournment was had until 9:30 a.m.,
18 the next day, Wednesday, August 4, 1971.)
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