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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 52

HON. JOSEPH L. CALL, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

NO. A 267861

STEVE GROGAN,

Defendant.

REPORTERS' DAILY TRANSCRIPT

WEDNESDAY, AUGUST 4, 1971

PEARL
BARBARA KOET

APPEARANCES:

(See Volume 1)

VOLUME 26

Pgs. 3348 - 3523 incl.

REPORTED BY:

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Official Reporters

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1 PEOPLE V. STEVE GROGAN
2 NO. A 267861

WEDNESDAY, AUGUST 4, 1971
VOLUME 26 - Pgs. 3348 - 3523

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5 I N D E X

6
7 PEOPLE'S WITNESSES:

8 PEARL, Ruby (Con't.)

9
10 HOYT, Barbara

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LOS ANGELES, CALIFORNIA, WEDNESDAY, AUGUST 4, 1971

9:30 A.M.

THE COURT: Now, let's see, gentlemen. We will go ahead.
People against Grogan. Defendant and both counsel
are here.

You can bring in the jury, Sheriff.

RUBY PEARL,

resumed the stand and testified further as follows:

THE COURT: You can state your name again, please. You
have been sworn.

THE WITNESS: My name is Ruby Pearl.

THE COURT: Thank you.

Talk right into the microphone so the jury can
hear you. That's right.

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

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

You may proceed, gentlemen. Cross-examine.

MR. WEEDMAN: Thank you, your Honor.

CROSS-EXAMINATION (Continued)

BY MR. WEEDMAN:

Q Mrs. Pearl, we left off yesterday with my asking
you if you knew where Benny Dittrich was, and you were kind

1 enough to provide us with the address that you had.

2 A Pardon me. That wasn't Benny, was it? Wasn't
3 that Richard?

4 Now, there is two brothers.

5 Q No, I am sorry. I believe that my inquiry --

6 THE COURT: You want a reading of the question?

7 Q BY MR. WEEDMAN: -- was with respect to Benny.

8 Do you know where Benny Dittrich is?

9 A Yes. He is in Texas.

10 Q Oh. I see.

11 Well, perhaps you would be good enough to give the
12 district attorney or myself his address, if you have that, Mrs.
13 Dittrich -- I mean Mrs. Pearl, after you finish testifying.

14 A I think I could remember.

2-1

1 Q All right. Thank you so much.

2 Did you know or were you aware that there was a
3 Negro, a young black man, by the name of Larry Jones that was
4 living at Spahn Ranch?

5 A Yes, I know Larry Jones.

6 Q Is Larry Jones, in fact, a Negro?

7 A Well, I didn't ever classify him as such.

8 Q You did not?

9 A No.

10 MR. WEEDMAN: May I confer with my client for a moment,
11 your Honor?

12 THE COURT: Yes.

13 MR. KATZ: I am going to ask to have stricken any
14 reference to Mr. Jones being Negro. It assumes facts not in
15 evidence.

16 (Short pause.)

17 Q BY MR. WEEDMAN: As far as you were concerned
18 certainly by his appearance you are indicating that he was not
19 a Negro?

20 Is that correct?

21 A Right, yes.

22 Q In any event, to your knowledge, was he associated
23 with or was he a member of the so-called Charles Manson family?

24 A Yes, he was.

25 Q Now, Mrs. Pearl, you told us yesterday that after
26 you met Shorty's new wife, Nikki, Magdalene Shea, there was
27 some conversation there between the girls relative to the chair
28 that she had sat in and some comments that the girls had made,

2-2

1 apparently, about Shorty marrying Nikki.

2 My question to you now, Mrs. Pearl, is was my
3 client present?

4 A No.

5 Q Did my client ever say anything to you, Mrs. Pearl,
6 about Nikki having sat in a particular chair at the ranch?

7 A No.

8 Q Did my client ever discuss with you the fact that
9 Shea had married this particular girl, Nikki?

10 A No.

11 Q Did my client ever say anything derogatory to
12 you --

13 A No.

14 Q -- at all.

15 Well, I will finish the question.

16 Did my client ever say anything derogatory to you
17 at all about Nikki or Magdalene Shea?

18 A No.

19 Q Do you know where my client was at the time you met
20 Nikki or Magdalene Shea at the ranch?

21 A He was definitely on the ranch.

22 Q Do you know whether or not my client met Nikki
23 that day?

24 A No.

25 Q Do you know whether or not other persons at the
26 ranch were introduced or met Nikki the day that you met her?

27 A The evening I met her, the Manson boys saw her.
28 Whether they were introduced to her, I don't know.

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Q Do you know which Manson boys they were?

2

A I know one was Charlie.

3

Q Do you have any knowledge that Charles had met

4

her about a week before at the ranch?

5

A He saw her.

6

Q Sometime before you met her, as far as you know?

7

Is that so?

8

A It could have been. I can't say.

9

Q Well, did anything unusual transpire between

10

Charles Manson and Nikki when you met her at the ranch, or at

11

least on that day that you met her at the ranch?

12

A No.

13

Q Now, was it following your meeting Nikki, that is --

14

Mr. Shea's wife, that Mr. Shea came to stay at the ranch to

15

save money?

16

A Yes.

17

Q And where was his wife at that time, if you know?

18

A Out of town.

19

Q Did he tell you she was out of town?

20

A He told me they broke up.

21

Q That they broke up?

22

A Yes.

23

Q And he indicated to you in that connection, that

24

is in connection with his being at the ranch, that he was

25

going to stay at the ranch to save money?

26

Is that so?

27

A Yes.

28

Q Now, you indicated that the last time you saw

2-4

1 Mr. Shea was approximately two weeks after August the 16th?

2 A Yes.

3 Q Is that still your best recollection?

4 A Approximately two weeks.

5 Q All right. Was it on that occasion, that is that
6 last time that you saw Mr. Shea, that you saw these various
7 men walking toward Mr. Shea as you were driving away in your
8 automobile?

9 A Would you say that again, please?

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Q Yes. This last time that you saw Mr. Shea, was that the time that you saw the men walking towards him as you were driving out of the Spahn Ranch?

A Yes.

Q As you described for us yesterday?

A Yes.

Q That is the very last time you saw Mr. Shea?

A Yes.

Q Now, you are orienting your recollection of this to the August 16th -- to the August 16th date, isn't that correct?

A Yes.

Q That was the date as far as you know of a raid by the police on the ranch, is that correct?

A Yes.

Q When did you return to the ranch again after you last saw Mr. Shea?

A The very next morning.

Q When did you return after that?

A Next morning. Every morning I appeared at the ranch.

Q Did you appear there on weekends as well?

A Yes.

Q Did you work there seven days a week?

A Yes.

Q What kind of money were you earning working at the ranch, Mrs. Pearl?

A I wasn't collecting any wages.

1 Q What were you doing for a living in those days,
2 Mrs. Pearl? What were you doing for money to live on?

3 A I got everything I needed.

4 Q Did you own your own home at that time?

5 A Yes.

6 Q Outright?

7 A Yes.

8 Q Do you drive an automobile?

9 A No, I drove one of the company trucks.

10 Q What company trucks?

11 A Spahn Ranch company trucks.

12 Q Did they pay for the gas and oil and so on?

13 A Yes.

14 Q What did you do for clothing?

15 A When we went shopping Mr. Spahn wrote the checks.

16 Q Mr. Spahn wrote checks despite the fact that he
17 was blind in 1969?

18 A Oh, yes.

19 Q All right.

20 Did Mr. Spahn ever give you any cash?

21 A Oh, if I needed any I would ask for some.

22 Q But apart from that, asking if you needed some--
23 by the way, how much did you ask him for, if you can give us
24 any idea, in 1969?

25 A I haven't any idea.

26 Q Were these in the form of checks?

27 A No.

28 Q Are you telling us, then, in substance, Mrs. Pearl,

1 that you worked at that ranch seven days a week and for that
2 you received a car to use to get to and from your home, you
3 received food and clothing when Mr. Spahn would perhaps take
4 you shopping with him, and also he would give you some money
5 if you asked him for it. Does that pretty well sum it up?

6 A Yes. And I also had outside jobs.

7 Q That is what I want to know about, Mrs. Pearl.
8 Tell us about the outside jobs.

9 A I was on the payroll in wrangling in many occasions.

10 Q Does that mean a movie company would give you
11 some money?

12 A Yes.

13 Q When is the last time you received any money of
14 that kind?

15 A It is hard to say exactly.

16 Q Did you receive any such money in July or August
17 of 1969?

18 MR. KATZ: To which there is an objection on the grounds
19 it is immaterial and out of the scope of the direct.

20 THE COURT: I rather think so.

21 MR. WEEDMAN: Well, your Honor, this lady is telling us
22 that she went to that ranch every single day, and I am probing
23 the likelihood of that in view of the fact that she apparently
24 wasn't making any money there.

25 THE COURT: I don't think it would make any difference.
26 I don't think it is material.

27 MR. WEEDMAN: Your Honor, it is the last time she saw
28 Mr. Shea.

1 I will withdraw that. I will submit to the court's
2 ruling.

3 THE COURT: Very well. Sustained.

4 Q BY MR. WEEDMAN: As a matter of fact, you recall
5 testifying before the grand jury, don't you, Mrs. Pearl?

6 A Yes.

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Q You recall making these questions -- or rather these answers to this question by Mr. Katz in --

MR. KATZ: Please give me the page and line number now.

MR. WEEDMAN: Page 357, line 25.

MR. KATZ: Thank you.

Q BY MR. WEEDMAN: Question by Mr. Katz to you now, Pearl:

"Q Do you recall whether or not it was one or two days" --

Well, here. Let me back up for some clarification.

I will withdraw that. I have lost my place. I'm sorry.

THE COURT: Take your time.

MR. WEEDMAN: All right.

Q Looking now at page 360, beginning at line 22. Again a question by Mr. Katz to you, Mrs. Pearl:

"Q All right. When is the last time you remember seeing Shorty?

"A Well, one evening I was going home

"Q Let's first, Pearl, first try and get the approximate time.

"It was in the evening --

"A It was in the evening.

"Q How soon after the raid of August 16, 1969 was it that you believe you last saw Shorty?

"A A week.

3a02

1 "Q And roughly a week from the date
2 of the 16th?

3 "A Right."

4 Do you recall making --

5 A That's -- could be easily. As I say, every day and
6 every day at work our time went to fast.

7 Q Okay.

8 A I had no way of definiting it.

9 Q All right.

10 Mrs. Pearl, I want you to understand --

11 A Yes.

12 Q -- I am a defense lawyer.

13 A Right.

14 Q And cross-examining a witness in a case like this,
15 I am apt to be a little loud or coarse.

16 A Yes.

17 Q And I hope you will forgive me for that, Mrs.
18 Pearl. We are just trying to find out your best recollection.

19 A Yes.

20 Q So, Mrs. Pearl, would it be fair then to say that
21 you are not really sure, that is, within a week or so of when
22 you really did last see Shorty?

23 A I didn't think the day mattered. That was the last
24 time, that incident was the last time.

25 Q And could it then, so far as you now recall, indeed,
26 have been a week after August the 16th, 1969?

27 A It could have been.

28 Q Now, during the month of August are you sure you

1 went out to the ranch every single day, Mrs. Pearl?

2 A Oh, yes. I never missed a day.

3 Q Is there any reason that you can perhaps be so
4 sure of that, Mrs. Pearl? Here it is 1971. We are really
5 thinking back quite a period of time.

6 A Well, I know that. I never missed a day.

7 Q Now, was Mr. Shea there every single day that you
8 were there during the month of August up until the date that
9 you last saw him?

10 A No, not every day.

11 Q Well, does that mean he wasn't there every day,
12 or does that mean that you didn't see him every day?

13 MR. KATZ: I am going to object. That would call for
14 speculation. How would this witness have personal knowledge
15 if she didn't see him?

16 MR. WEEDMAN: Counsel is correct.

17 THE COURT: All right.

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

19 THE COURT: All right.

20 Restate it. Go ahead.

21 Q BY MR. WEEDMAN: Mrs. Pearl, were the days in
22 August, up to the time that you last saw Mr. Shea, when you
23 did not see Mr. Shea at the ranch?

24 A Will you repeat it again, please.

25 Q Yes. Were there days during August --

26 A During August.

27 Q -- up to the time of course that you last saw
28 Mr. Shea -- in other words, we are talking about from August

3a-4

1 the 1st up to sometime after August the 16th.

2 Were there days when you did not see Mr. Shea at
3 the ranch?

4 A Oh, yes, of course.

5 Q Now, you say "of course." What does that mean?

6 A I saw him off and on all the time. No definite
7 series there.

8 Q All right.

9 But so we will be clear about it, were there indeed
10 then days when you did not see Mr. Shea during the month of
11 August?

12 A Yes.

Q How many acres, approximately, composed the Spahn Ranch in those days, Mrs. Pearl?

A 27.

MR. KATZ: I'm sorry, may I just hear the last question and answer?

THE COURT: You want it read?

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

(The reporter read the record as follows:

"Q How many acres, approximately, composed the Spahn Ranch in those days, Mrs. Pearl?

"A 27.")

MR. KATZ: Thank you, your Honor.

THE COURT: All right.

Q BY MR. WEEDMAN: Now, was this conversation that you had with Mr. Shea about his perhaps taking advantage of your offer to stay in the shed, and so on, did that conversation occur that last time you saw Mr. Shea?

A Yes.

Q That was, apparently, we have established either a week or two weeks or thereabouts after August 16th?

Is that correct?

A Yes.

Q Can you tell us whether or not it was cold at that time?

I ask you that in view of your testimony that Mr. Shea said that it was a little cold in there.

A Yes, he said that.

1 It could have been in that shed, because it was
2 in a damp location.

3 It was under the trees. It never got any sun.
4 It was damp there.

5 Q Where was that shed located, Mrs. Pearl?

6 A That was in the very rear of my lot, and we fixed
7 it over for a sitting room and storage room.

8 Q By "sitting room," do you mean that there was
9 furniture and so on in there?

10 A There was a table and a sink in there.

11 Q Was anyone living with you at that time, Mrs. Pearl?

12 A Not that I recall.

13 Q Was there any particular reason in view of your
14 friendship for Shorty that you would offer to let him use the
15 shed in the back, but not perhaps offer to let him use the
16 interior of your home?

17 A None of the boys came down ever went in my house
18 to stay.

19 Q Is it your best recollection that it would have
20 perhaps been cold in the shed in August?

21 A Yes.

22 Q Of 1969, for Mr. Shea to sleep?

23 A Yes.

24 Q Would Mr. Shea, to your knowledge, have had bed-
25 ding with which to use in sleeping in the shed?

26 A He never carried a bedroll like the other fellows.

27 Q Now, as a matter of fact, Mrs. Pearl, wasn't
28 Shorty actually sleeping in his car during the times that he

1 was at Spahn Ranch in August?

2 A Yes.

3 Q Did you ever actually see him have any bedding or
4 blankets in the car?

5 A No.

6 Q So far as you know, he was sleeping in his car
7 without any bedding or blankets or pillows or sheets or
8 anything of that sort?

9 A It is possible.

10 He never asked me for any.

11 Q Did he have any, to your knowledge, in his posses-
12 sion?

13 A No, not that I know of.

14 Q So far as you knew, then, was Shorty sleeping in
15 his clothes in his car?

16 A Yes.

17 Q Where was his car at the Spahn Ranch during August,
18 if you can tell us?

19 A It was usually parked up at the main house.

20 Q Was Shorty wearing the same clothes every day
21 that you saw him during August at the ranch, or was he wearing
22 different clothes from day to day?

23 A He was wearing different clothes.

24 Q Do you know where he kept his clothes?

25 A Mostly in the suitcase in his car.

26 Q Did you ever see him take any clothes out of that
27 suitcase?

28 A Yes, he had his trunk open many times, and was

1 searching for clothes.

2 Q Do you recognize these two green footlockers that
3 are here?

4 One is People's 20-F for identification, and the
5 other is 20-G for identification.

6 A They look familiar.

7 Q Was Mr. Shea taking clothes from either of those
8 footlockers during the time he was there in August of 1969?

9 A I couldn't definitely say, but it is possible.

10 Q Did he have another suitcase that you do not see
11 here in the courtroom?

12 A Yes.

13 Q He had clothes in that, did he not?

14 A Yes.

15 Q And he would take clothes from that suitcase?

16 A Yes.

17 Q And he would wear them, wouldn't he, Mrs. Pearl?

18 A Yes.

19 Q Have you ever seen that suitcase again, Mrs. Pearl?

20 Let me put it this way --

21 A I don't recall.

22 Q You haven't seen that suitcase again, have you,
23 Mrs. Pearl?

24 A I don't recall.

25 Q Now, this last time you saw Mr. Shea you indicated
26 that he was awfully nervous and unsettled.

27 Was Shorty drinking at all that night, Mrs. Pearl?

28 A Yes, he was.

1 Q As a matter of fact, we don't wish to be unkind
2 to Mr. Shea, but he used to drink quite a bit, didn't he,
3 Mrs. Pearl?

4 MR. KATZ: I will object to that as a conclusion and
5 speculation of this witness.

6 THE COURT: Well, if she knows.

7 From her knowledge, the question can be answered.

8 THE WITNESS: I would say no.

9 Q BY MR. WEEDMAN: But that night he was drinking?

10 A He had a little on his breath.

11 Q Now, Mrs. Pearl, about what time of the evening
12 was it that you last saw Shorty Shea?

13 A It was late, around 11:00 o'clock.

14 Q 11:00 o'clock?

15 A Yes, because that is the time I went home.

16 Q 11:00 o'clock at night?

17 A Usually.

18 Q Are you pretty sure about that time?

19 A Yes.

20 Q That it was about 11:00 o'clock?

21 A Yes. I know it was late.

22 Q Were there any exterior lights along the boardwalk
23 where Mr. Shea apparently was?

24 A No.

25 Q When you last saw him that night?

26 A No.

27 Q In other words, were there any street lights?

28 A No.

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Q Were there any light bulbs outside in the location?

A No.

Q Now, in order for you to have seen the things that you told us you saw, that is, Mr. Shea standing there, and the men walking towards him, you would have to look out the rear window of your car, wouldn't you, or not?

A No, I stretched my head around and watched as I went out.

Q Where did you stretch your head around to?

A I had a little car that night, my own, and I --

Q Excuse me, what kind of car was that, Mrs. Pearl?

A It was a little car. I think it was a Rambler.

Q Did you own that Rambler?

A Yes.

Q Who paid for the gasoline for that Rambler, Mrs. Pearl?

A George Spahn.

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4A

Q Did you ask him for gasoline money?

A No, but many times when the truck was out of order I used my car.

Q Well, how did it come that Mr. Spahn would give you money to run your own automobile?

A Oh, every night I had to take him to dinner somehow.

Q And you took him to dinner in your car?

A A few times.

I wouldn't say many times, but often.

Q But on this particular occasion, then, you weren't driving a company car?

A No.

Q You had your own car?

A Yes, I had my own car.

Q Was anyone with you at this time, Mrs. Pearl?

A No.

Q Now, can you tell us just somehow -- that is, what position you were in when you looked back and saw Mr. Shea for the last time?

A Well, on the picture I showed where I went and I stuck my head out the window as long as I could, watching.

Q I will show you People's 31 -- I believe it was 31-C for identification.

Now, 31-B for identification, Mrs. Pearl.

MR. KATZ: 31-C, counsel, is the one that was marked.

THE WITNESS: That is the marks.

MR. WEEDMAN: I was looking for another one. Oh, yes.

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1 Q I show you 31-A, Mrs. Pearl. Now I have got it
2 straight.

3 I will ask you on 31-A if this shows the road
4 that you used to exit the location?

5 A Yes.

6 Q Perhaps we can put it up here. It is rather a
7 small photo.

8 So this is the road, then, is it not, that you
9 used to exit the location?

10 A Yes, the dirt road enters onto the cement road.

11 Q Am I pointing now generally to where Mr. Shea
12 was standing when you saw him for the last time?

13 A Yes.

14 Q Now, you were actually driving out along this road
15 at some point when you looked back and you saw Mr. Shea, isn't
16 that so?

17 A Yes, but I was parked over at the extreme edge of
18 those buildings when I first started off.

19 Q You were over here (indicating), is that so?

20 A Yes.

21 Q About how far, in feet, were you from where you
22 started your car to where Mr. Shea was standing?

23 A Well, he was standing right by my car when I started
24 to pull away.

25 Q Then did he turn and walk back towards the board-
26 walk?

27 A Yes.

28 Q And you started driving your car along, isn't that

1 so?

2 A Yes.

3 Q How far out here did you get before you started
4 your car to look back?

5 A I didn't stop it.

6 I always drive out real slow, and I just was look-
7 ing back.

8 Q Are you telling us, Mrs. Pearl, that the things
9 that you saw, that is, the men and Mr. Shea on the boardwalk,
10 you actually saw while your car was moving forward, and you
11 were looking back?

12 A Yes.

13 Q Did you ever stop your car during the course of
14 this looking back?

15 A Shifting. Just hesitating and shifting.

16 Q Now, are you telling us that as you were looking
17 out the driver's side of your car in order to look back where
18 Mr. Shea was at the boardwalk?

19 A Yes.

20 Q Were there any lights back here at all illuminating
21 that scene, Mrs. Pearl?

22 A No.

23 Q Did you have your headlights on?

24 A No, I didn't turn them on until I hit the highway.

25 Q Okay. So there wasn't any illumination, then, back
26 here that could conceivably have come from your headlights?

27 Is that so?

28 A No.

1 Q Mrs. Shea, you had seen this group of men --

2 MR. KATZ: Excuse me, counsel. You referred to the
3 witness as Mrs. Shea.

4 MR. WEEDMAN: Excuse me, counsel.

5 Q You had seen this group of men more or less
6 together on the ranch, hadn't you?

7 A Yes.

8 Q You had seen them many times, more or less together
9 on the ranch?

10 A Yes.

11 Q You had seen them more or less together during
12 evening hours and daytime hours, hadn't you?

13 A Yes.

14 Q There wasn't anything unusual about their having
15 been together on that particular night, was there, Mrs. Pearl?

16 MR. KATZ: Excuse me, that calls for a conclusion and
17 speculation as to their intent and purpose at that time.

18 MR. WEEDMAN: I will withdraw the question.

19 THE COURT: All right. It is withdrawn.

20 Q BY MR. WEEDMAN: Now, Mrs. Pearl, you indicated,
21 I believe, on direct examination yesterday that these men as
22 they approached Mr. Shea as you were looking back, formed a
23 sort of a half-circle around Mr. Shea.

24 Is that your best recollection now, Mrs. Pearl?

25 A Yes.

26 Q Looking at page 365, Mr. Katz.

27 MR. KATZ: Thank you, counsel.

28 Q BY MR. WEEDMAN: Do you recall making these answers

1 to these questions for Mr. Katz when you testified before the
2 grand jury:

3 "Q Well, can you tell us whether or not
4 they kind of surrounded him?

5 "A They went in that direction.

6 "Q Well, now, when you saw them were
7 they all in a bunch or did they spread out or what
8 did they do?

9 "A They walked right behind one another."
10 Do you recall making those answers to those
11 questions?

12 A Oh, yes. They walked behind one another when they
13 got out of the car.

14 Q Well, the question was as follows:

15 "Q Well, can you tell us whether or not
16 they kind of surrounded him?

17 "A They went in that direction.

18 "Q Well, now, when you saw them were
19 they all in a bunch or did they spread out, or
20 what did they do?

21 "A They walked right behind one another."

22 A They had quite a ways to go before they got to him.

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Q And while they were walking this quite a ways to go, Mrs. Pearl, were you driving your automobile out without stopping it; isn't that so, Mrs. Pearl?

A But I didn't leave until I thought he would be all right.

Q When you left you thought he would be all right, didn't you, Mrs. Pearl?

A Yes, I did.

MR. WEEDMAN: I have nothing further. Thank you.

THE COURT: Is that all?

MR. KATZ: No, your Honor.

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REDIRECT EXAMINATION

BY MR. KATZ:

Q Let's see. You testified before the grand jury, is that correct, as previously indicated to counsel?

A Yes.

Q And you indicated, did you not -- counsel, page 364;

They came around the west side of him.

As far as I could see it was the west side.

And there was no place for him to go either way" --

referring to Shea, is that right?

A Yes.

Q So, as I understand it then, when you said they first got out and walked in a bunch behind one another, it was before they had actually reached the approximate place where

5-2

1 Shea was standing, is that right?

2 A Yes.

3 Q After, they fanned out and assumed the configuration
4 of a half circle, is that right?

5 MR. WEEDMAN: I will object to that as leading and
6 suggestive, your Honor.

7 MR. KATZ: She already testified to that.

8 MR. WEEDMAN: Leading and suggestive, your Honor.

9 MR. KATZ: I will withdraw the question.

10 THE COURT: It is leading. You can reframe it.
11 Sustained.

12 MR. KATZ: Certainly.

13 Q After they got out of this little bunch formation--

14 MR. WEEDMAN: I am going to object to counsel saying
15 "little bunch formation." If that is in evidence I don't
16 recall it.

17 On the grounds --

18 THE COURT: Well, the question would be "What happened?"

19 MR. KATZ: I will withdraw it, your Honor.

20 THE COURT: The question is leading.

21 Q BY MR. KATZ: Pearl, let's go to 31-C for
22 identification. I want to see if I understand you.

23 Now, with respect to 31-C, when you finally saw
24 Steve Grogan and Charlie Manson and Tex Watson and Bruce Davis
25 and perhaps the man you believed to be Bill Vance -- you saw
26 them end up in this relationship to Mr. Shea where you have
27 S.S.-2, indicating Mr. Shea and the X's which indicate the
28 approximate places where they were standing in relation to

5a-3

1 Mr. Shea -- is that correct?

2 A Yes.

3 Q You positively saw that, is that correct, before
4 you left?

5 A Yes. I saw that.

6 Q Now, as you indicated to Mr. Weedman, you had
7 seen, for example, Mr. Grogan on numerous occasions at the
8 Spahn Ranch, is that correct?

9 A Oh, yes.

10 Q Had you seen Mr. Grogan on numerous occasions at
11 night?

12 A Yes.

13 Q Have you seen Mr. Manson on numerous occasions at
14 night?

15 A Yes.

16 Q Had you seen Mr. Watson on numerous occasions at
17 night?

18 A Yes.

19 Q Had you seen Mr. Davis on numerous occasions at
20 night?

21 A Yes.

22 Q Had you seen Mr. Bill Vance on numerous occasions
23 at night at Spahn Ranch?

24 A Yes.

25 Q When there was no lighting?

26 A Never was any lights.

27 Q Had you watched them walk at night?

28 A Yes.

5-4

1 Q Had you seen their silhouettes at night?

2 A Yes.

3 Q Had you seen their characteristics, their physical
4 characteristics?

5 A Yes.

6 Q Is there any doubt in your mind as you sit here
7 now on the witness stand that the people who got out of the
8 car on the occasion you indicated were Steve Grogan, Charles
9 Manson, Bruce Davis, Tex Watson; is there any doubt?

10 A No.

11 Q All right.

12 And the other man you say you are not sure, but
13 you believe to be Bill Vance, is that correct?

14 A Yes.

15 Q Did you derive most of your income or support from
16 Mr. Spahn?

17 A Yes.

18 Q That was in return for everything you were doing
19 for Mr. Spahn, is that correct?

20 A Yes.

21 Q And you worked for him on a daily basis, is that
22 right?

23 A Yes.

24 MR. KATZ: Thank you. I have no further questions.

25
26 RECROSS-EXAMINATION

27 BY MR. WEEDMAN:

28 Q Mrs. Pearl, do you understand that my client is

INDEX

5-5

1 here on trial for his life?

2 MR. KATZ: Excuse me, your Honor. I will object to the
3 melodramatic play by counsel.

4 This is argumentative in form.

5 MR. WEEDMAN: I don't take it very calmly, your Honor.
6 He is on trial for his life here.

7 THE COURT: Read the question, please.

8 (The question was read by the reporter
9 as follows:

10 "Q Mrs. Pearl, do you understand
11 that my client is here on trial for his life?"

12 THE WITNESS: Yes, I understand.

13 THE COURT: Wait a minute, lady. Give me a chance, if
14 you don't mind.

15 THE WITNESS: All right.

16 THE COURT: Well, I don't think it is an improper
17 question. You can answer it.

18 The answer is yes. The answer may stand.

19 MR. WEEDMAN: Thank you, your Honor.

20 Q Now, are you telling us, Mrs. Pearl, that there is
21 absolutely no doubt in your mind as to what you saw or think
22 you saw back on August 16th, despite the fact that there was
23 no lighting in this area, despite the fact that you were
24 driving your automobile out here without stopping it, despite
25 the fact that while your automobile was actually moving you
26 are looking out of the driver's side of the window back at
27 these things?

28 MR. KATZ: Excuse me. There is an objection on the

5-60

grounds it assumes facts not in evidence.

Counsel referred to the incident as having occurred August 16th.

MR. WEEDMAN: I am sorry. Counsel is correct.

I will start over again.

THE COURT: All right. Withdraw it and restate it.

MR. WEEDMAN: Yes, I will. Thank you, your Honor.

THE COURT: All right. Go ahead.

Q BY MR. WEEDMAN: Are you telling us there is absolutely no doubt as to those things you claim to have seen a week or two weeks, or whenever it was, Mrs. Pearl, after August the 16th, despite the fact that there was no lighting back here, despite the fact that you were actually in a moving automobile presumably starting the car and at the same time craning your neck out of the driver's side of the window and in view of all of that, are you telling us that there is absolutely no doubt in your mind as to what you saw that night?

A There is no doubt. That was my job to look after everything.

5a

5a-1

Q How do you see in the dark, Mrs. Pearl?

MR. KATZ: Excuse me. I am going to object on the grounds that question is clearly argumentative.

MR. WEEDMAN: I would like to know how she sees in the dark.

MR. KATZ: It is relative. What does "dark" mean, your Honor.

THE COURT: She could say "I could see or I couldn't see."

You can ask the question.

It is an argumentative question the way it is framed. "How could you?"

If the question is "Could you see in the dark? Could you see?", if it's asked in that fashion I think it is entitled to be answered.

MR. KATZ: Yes. Objection on the grounds it is argumentative in form as presently stated.

THE COURT: It is somewhat argumentative. I will sustain it on that ground. You can ask it if you rephrase it.

THE WITNESS: I would like to say something.

THE COURT: Well, wait till the question is asked, lady.

Q BY MR. WEEDMAN: One time during the direct examination you said you suggested to Mr. Shea that he go up and live at Fountain of the World. What is Fountain of the World?

MR. KATZ: Objection. Out of the scope of redirect.

MR. WEEDMAN: I think, your Honor --

MR. KATZ: I did not touch on the Fountain of the World

5a-2

1 on redirect.

2 THE COURT: I thought that came out on the direct.

3 MR. KATZ: On the direct, and this is recross.

4 MR. WEEDMAN: This witness' credibility is always in
5 issue as would the credibility of any witness, including my
6 client, be in issue.

7 THE COURT: Wait a minute.

8 It was brought out on direct.

9 MR. KATZ: On direct, and this is recross.

10 THE COURT: The testimony would be out of order under
11 your theory? Is that right?

12 MR. KATZ: That's correct.

13 MR. WEEDMAN: All I can say, your Honor --

14 THE COURT: Wait a minute, gentlemen. I want to take my
15 time on these rulings.

16 I would say that you should be in a position --
17 the court should grant permission to allow the question. The
18 materiality there, if there is, is for the jury. You can ask
19 your question.

20 Now, repeat your question, please, unless it is
21 clear.

22 MR. WEEDMAN: Yes.

23 Q What was located at the Fountain of the World,
24 Mrs. Pearl?

25 A It was a place where people could go if they were
26 hungry and didn't have a place to stay.

27 Q Was Mr. Shea welcome there as far as you know?

28 A Yes, he had been there before.

5a-3

1 Q Do the people that stay there belong to some kind
2 of -- at least loosely speaking, a religious order?

3 A Yes.

4 Q Did Mr. Shea, so far as you know, adopt any of the
5 tenets of that particular group?

6 A I don't know about that.

7 Q Did those people wear robes of some kind there?

8 A I haven't been there myself.

9 Q I take it you don't know whether they did or not?

10 A No.

11 Q Did you ever see Mr. Shea wearing a kind of long
12 monk-sort of religious robe?

13 A No.

14 Q With respect to these dishes, didn't Mr. Shea --
15 MR. KATZ: Excuse me, your Honor. Once again this
16 subject matter was covered fully on direct examination.
17 Counsel sought not to go into those matters on cross-
18 examination.

19 This is not recross and it is limited to the scope
20 of the redirect examination. And I object on the grounds it
21 is out of the scope of redirect.

22 MR. WEEDMAN: Your Honor, on redirect he sought to
23 rehabilitate this witness, therefore the credibility of all
24 of her testimony remains very much in issue, and these are the
25 very reasons for the matters I am going into at this time.

26 MR. KATZ: Your Honor, please, in no way is there any
27 question to rehabilitate the witness.

28 THE COURT: Read the question, please.

5a-4

(The question was read by the reporter
as follows:

"Q With respect to these dishes,
didn't Mr. Shea --")

THE COURT: That was covered on cross. I will sustain
the objection. Sustained.

MR. WEEDMAN: Your Honor, then may I reopen on this
question.

MR. KATZ: I have no objection. I withdraw my objection.

THE COURT: All right. Objection withdrawn.

Go ahead.

MR. WEEDMAN: Thank you, Mr. Katz.

Q Mrs. Pearl, did Mr. Shea tell you these dishes
didn't belong to him but belonged to the man that owned the
car, John Enfield?

A No, he didn't tell me.

5b

5b-1

1 Q Did Mr. Shea tell you they were his wedding
2 dishes?

3 A I assumed that.

4 Q You told the grand jury they were his wedding
5 dishes.

6 A I assumed they were.

7 Q So Mr. Shea treated these dishes as though they
8 were his very own?

9 A Yes.

10 Q As far as you knew they were his own?

11 A As far as I know they were.

12 Q Would you be surprised if I told you those dishes
13 belonged to John Enfield and not Shorty at all?

14 A No.

15 MR. KATZ: Excuse me.

16 Well, all right.

17 Q BY MR. WEEDMAN: That wouldn't surprise you?

18 A No.

19 Q Okay.

20 A He only told me to keep them.

21 Q Now, you left the dishes in the dining room,
22 didn't you, Pearl?

23 A Yes.

24 Q In a box?

25 A Yes.

26 Q And you came in one day and the dishes were being
27 used?

28 A Yes.

5b-2

1 Q Did you tell anybody that they are not to use
2 dishes that were in the dining room?

3 A They knew they weren't to use those.

4 Q How did they know they weren't supposed to?

5 A When Shorty first brought them in I said they will
6 be in safekeeping. No one will use them.

7 Q Where were the girls when you were telling Shorty
8 this, Pearl?

9 A They were in and out.

10 Q But they weren't right there listening to your
11 telling Shorty that they were going to be kept in the dining
12 room for safekeeping, were they?

13 A The girls never took anything like that before.

14 Q Now, was my client there using the dishes?

15 A No.

16 Q Was my client there at all during this conversa-
17 tion that you had with the girls?

18 A No.

19 Q About the dishes?

20 A No.

21 Q By the way, did you know John Enfield?

22 A No.

23 Q When Shorty gave you these dishes for safekeeping,
24 Pearl, he wanted you to keep them until he got back, isn't
25 that so?

26 A Yes.

27 Q Got back from where, Pearl?

28 A I never asked him.

5b-3

1 Q Did you understand, though, that he was going
2 somewhere?

3 A He indicated he was.

4 Q But you didn't know where he was going?

5 A Not right at the moment. Don't recall.

6 Q Okay. You mean right now you don't know where he
7 was going?

8 A He just said that, to keep them, "until I get
9 back." Could have been a day or two days, or a month. I
10 still would have kept them.

11 Q So far as you know, Mr. Shea -- as far as you
12 know Mr. Shea's intentions were to go away and return at some
13 later time?

14 A Well, he didn't have any room to keep them if he
15 was going for an hour. He didn't have any room to keep them
16 in his car. It was a big box.

17 Q So when he said "until I get back" he might have
18 wanted you to just keep them there for an hour?

19 A That could be.

20 Q And then he would come back and get the dishes
21 in an hour maybe?

22 A Yes.

23 Q Or two hours?

24 A Yes.

25 Q Or two weeks?

26 A Yes.

27 Q Or a month?

28 A Yes.

5b-4

1 Q What about six months?

2 A He just said, "Keep them till I get back."

3 Q Okay. Now, you indicated that you told the girls
4 to put the dishes away. Isn't it true that it was Squeaky --
5 Lynn Fromme that said to the girls "Put the dishes away" after
6 you had spoken to Lynn about this?

7 A She could have said it, too.

8 Q So nobody made any -- the girls didn't make a fuss
9 about that, did they?

10 A No.

11 Q You said in effect "Those are Shorty's dishes, and
12 I would rather that you not use them"?

13 A Right. It's a friendly gesture.

14 Q And Squeaky said, "Put them away."

15 A Right.

16 Q So they put them away?

17 A Right.

18 Q Nothing unusual about that, was there, Pearl?

19 A No.

20 Q Now, with respect to these knives, didn't almost
21 everyone at the ranch carry a knife of some kind?

22 A Yes.

23 Q Weren't the knives used for cutting corn, among
24 other things around?

25 A Only our cowboys. Not the so-called Manson
26 family, didn't cut corn. Only our ranch boys, cowboys, we
27 called them, cut corn.

28 Q And the people, the so-called Manson family never

5b-5

1 cut corn?

2 A No.

3 Q Your cowboys were all carrying knives, weren't
4 they, if not all then most of them?

5 A No. No, only when they went for corn.

6 Q This kind of knife that you identified earlier as
7 being similar to the -- looking at People's 24 for identifica-
8 tion, this knife with the broken handle you have identified as
9 being similar to the knife -- knives, rather, that you saw in
10 possession of the Manson family, this is Mr. Shea's knife,
11 isn't it?

12 A Could be.

13 Q Don't you know that it is Mr. Shea's knife?

14 A No.

15 Q Let me show you the rest of the handle.

16 A Never handled a knife.

17 Q You recognize that, Mrs. Pearl?

18 A It looked familiar when I saw it.

19 Q As belonging to Mr. Shea?

20 A I don't know if it was Mr. Shea's.

21 Q Okay. Did you ever see Mr. Shea carrying a knife?

22 A Occasionally.

23 Q Was he using it to cut corn with?

24 A Yes. He went on corn.

25 Q Nothing unusual about that?

26 A No.

27 Q Did Juan Flynn cut corn there?

28 A Yes.

5b-6

1]

Q He was a member of the Manson family, wasn't he?

2

A Yes. We occasionally took him.

3

Q What about Larry Jones, did he cut corn there?

4

A Yes.

5

Q He was with the Manson family, wasn't he?

6

A Yes.

7

Q Was there a Chuck Green there, Pearl?

8

A Yes.

9

Q He cut corn, didn't he?

10

A Well, cutting corn wasn't necessarily going after

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corn. There was only certain days we cut corn.

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#6

x

1 Q Was there someone there by the name of Chuck
2 Lovette?

3 A Yes.

4 Q Did he appear to be a so-called member of the so-
5 called Manson so-called family?

6 A Yes.

7 Q Did he have a knife?

8 A Yes, he had a knife.

9 Q Did he ever use it to cut corn with?

10 A No, he went after corn but he didn't cut corn.

11 Q What is the difference between going after corn
12 and cutting corn?

13 A Well, it is hard to explain.

14 We had a concession -- agreement with a corn
15 concessionaire to pick up all the extra corn left over daily
16 certain months of the year, and sometimes he said we could
17 come and cut the stalks.

18 Otherwise, we used to pick it up off the pile.
19 You needed no knives.

20 So sometimes we took some of the boys, if they
21 wanted to go after corn, to scoop it up, and if we went on a
22 corn-cutting excursion we very seldom, if ever, took any of
23 the Manson family.

24 Q Very seldom?

25 A Very seldom. I can't remember any of the times we
26 did to cut it. I will clarify that.

27 MR. WEEDMAN: Thank you. That is all I have. Thank
28 you, Pearl.

1 MR. KATZ: Just a few questions.

2
3 REDIRECT EXAMINATION

4 BY MR. KATZ:

5 Q Now, before the last time you saw Shorty and after
6 you had been given the box of dishes, did you ever see any
7 member of the Manson family use those dishes?

8 A No.

9 Q Is it fair to say that the one and only time you
10 ever saw the Manson family with dishes was after you last saw
11 Shorty alive?

12 A Yes.

13 MR. KATZ: May I approach the witness, your Honor?

14 THE COURT: Yes.

15 MR. KATZ: I would like to confer with the witness for
16 a moment.

17 (Short pause.)

18 Q BY MR. KATZ: Pearl, there is something that you
19 said that you wanted to tell us when Mr. Weedman was asking
20 you the question whether or not you could see in the dark.

21 Is there anything you would like to now tell us
22 about your ability to see in the dark, and in particular
23 recognize Mr. Grogan in the dark?

24 A Yes. We did chores every night in the dark, and
25 I was out in that area getting hay, sorting hay, getting grain,
26 putting horses out, doing everything in the dark.

27 There was light from the sky.

28 Q All right. Now, Pearl, before you would retire

1 from your job at Spahn Ranch each day, would it be dark before
2 you got home?

3 A Yes.

4 Q It would be dark before you left the ranch?

5 A Yes.

6 MR. KATZ: No further questions.

7 THE COURT: Is that all, gentlemen?

8 MR. WEEDMAN: No. Thank you, your Honor.

9
10 RECROSS EXAMINATION

11 BY MR. WEEDMAN:

12 Q How long did you work that day that you last saw
13 Mr. Shea?

14 MR. KATZ: I'm going to object on the grounds that that
15 has been fully covered, your Honor, on cross examination and
16 recross.

17 MR. WEEDMAN: Counsel went into her ability to see in
18 the dark, and I would like to know how long she worked that
19 day.

20 THE COURT: Ask her a question.

21 Q BY MR. WEEDMAN: Yes.

22 A The usual work went on that day. I took Mr. Spahn
23 to dinner.

24 We shopped for groceries every night. I brought
25 him back, and I went down to the barn, checked the horses that
26 were used, and so forth.

27 Q Excuse me, Mrs. Pearl, but what time did you go
28 to work that day?

1 A The same time as usual. There was no difference
2 in time.

3 Q What was the usual time?

4 A I got there sometimes noon, sometimes before noon.

5 Q Would it be fair to say that on this day that you
6 worked no less than, then, twelve hours, or not?

7 A No less than twelve hours?

8 Q I say no less than twelve hours.

9 A Possible, yes. I would say it was about twelve
10 hours.

11 Q I mean is that a fair statement or not?

12 I don't want to mislead you.

13 A Yes, I always worked twelve hours at least.

14 Q So that as you saw the things in the dark that
15 you have told us that you saw, you had been working that day
16 twelve hours?

17 A It could have been.

18 Q Weren't you a little tired?

19 A No, I never was tired.

20 Q Are you telling us finally, Mrs. Pearl, that
21 because you have done chores in the dark that you are able to
22 see a distance of at least fifty feet in the dark?

23 A Yes.

24 MR. WEEDMAN: All right, Mrs. Pearl.

25 THE COURT: Is that all, gentlemen?

26 MR. KATZ: Yes, nothing further.

27 Thank you, Mrs. Pearl.

28 MR. WEEDMAN: Your Honor, I would like to request that

1 Mrs. Pearl be instructed to remain on call as a defense
2 witness, your Honor.

3 THE COURT: All right. It is possible the court may
4 call you back, or one of the counsel may. I do not know.
5 But you may expect that, please.

6 THE WITNESS: Yes.

7 THE COURT: All right. Thank you. You are excused now.

8 Let's take a short recess, and we will go ahead
9 in a few minutes.

10 Do not discuss the case, ladies and gentlemen,
11 and we will proceed in a few minutes.

12
13
14 7 fls

7-1

1 THE COURT: Well now, gentlemen, let's go ahead.

2 People against Grogan. We have defendant and both
3 counsel.

4 We can bring in the jury, Sheriff.

5 THE BAILIFF: Yes, sir.

6 THE COURT: We will get the next witness.

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

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

12 People may call your next witness.

13 MR. KATZ: Yes. People wish to call Barbara Hoyt.

14 THE COURT: All right.

15
16 BARBARA HOYT,

17 called as a witness by the People, testified as follows:

18 THE COURT: Now, please raise your right hand and be
19 sworn.

20 THE CLERK: You do solemnly swear that the testimony you
21 will give in the cause now pending before this court shall be
22 the truth, the whole truth and nothing but the truth, so help
23 you God?

24 THE WITNESS: Yes.

25 THE CLERK: Thank you, ma'am.

26 Will you take the stand and be seated, please.

27 THE COURT: Now, you please be seated here, and you tell
28 us your name first. What is your name?

7-2

1

THE WITNESS: Barbara Hoyt.

2

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

3

THE WITNESS: H-o-y-t.

4

THE CLERK: H-o-y-t?

5

THE WITNESS: Yes.

6

THE CLERK: Thank you.

7

THE COURT: Now, you must talk right in here and keep your voice up because all of these jurors and counsel must hear you.

10

So speak right up. Just talk in there like a telephone, if you will.

11

12

Now, you go ahead.

13

MR. KATZ: Thank you, your Honor.

14

index

15

DIRECT EXAMINATION

16

BY MR. KATZ:

17

Q Barbara, I am over here. And I am going to be asking you some questions, and the gentleman who is seated in front of you is going to take down everything I ask and everything you answer. You understand?

19

20

21

A Yeah, I know.

22

Q All right.

23

So you have got to talk right into the microphone clearly because sometimes your voice drops.

24

25

Now, Barbara, did you join a group of persons who referred to themselves as the family?

26

27

A Yes.

28

Q Just so we are clear, is that the so-called Manson

7-3

1 family?

2 A Yes.

3 Q When did you join this group of persons?

4 A In April 1969.

5 Q And were you taken to some location where you
6 began living with some members of the family?

7 A Yes.

8 Q And what location did you go to?

9 A A house on Gresham Street.

10 Q Do you know who owned that house?

11 A No.

12 Q All right.

13 Who was living in April of 1969 at that house on
14 Gresham Street?

15 A Want me to name all the people?

16 Q Yes. All the people that were there at the time
17 you first arrived at Gresham Street in April of 1969.

18 A Squeekers.

19 Q Is that Lynn Fromme?

20 A Yes.

21 Gypsy, Sadie, Leslie, Charlie.

22 THE COURT: Talk up. Now, speak up.

23 THE WITNESS: Charlie. Bill Vance. Ella.

24 Q BY MR. KATZ: Ella Jo Bailey?

25 A I don't know her last name.

26 Q All right.

27 A Sandy.

28 Q That Sandy Good?

7-4

1 A Yes. Clem.

2 Q Who is Clem?

3 A Him (pointing).

4 THE COURT: Talk up now.

5 MR. KATZ: May the record reflect when I asked the
6 witness "Who is Clem?" she pointed to the defendant Steve
7 Grogan.

8 THE COURT: Yes. To the defendant Mr. Grogan, right.

9 Q BY MR. KATZ: Who else?

10 A Stephanie.

11 Q Stephanie Rowe?

12 A Rowe.

13 Q Rowe.

14 A Dave. Danny.

15 Q Danny De Carlo?

16 A Yes. Patty.

17 Q Is this Little Patty Baldwin?

18 A Little Patty. I don't know the last name.

19 THE COURT: Talk right up. Now, you are just barely
20 speaking. Talk right in there.

21 Put it up to your mouth like a telephone. Just
22 like a phone.

23 All right.

24 THE WITNESS: Tex Watson.

25 Q BY MR. KATZ: Do you know a person by the name of
26 Paul Watkins?

27 A Oh, he was there too.

28 Q All right.

7-5

1 Now, with respect to some of the people that you
2 mentioned, did you see these people at the Vance house -- we
3 will just call it the Vance house on Gresham Street in April
4 of '69?

5 A Yes.

6 Q All right.

7 Did you meet other members of the family whom you
8 have not mentioned, later at Spahn Ranch?

9 A Well, I met them at the house on -- in -- think it
10 was Malibu Mountains.

11 Q How long did you stay at the Gresham Street house
12 in April of '69?

13 A Couple days.

8

#8

1 Q All right. So you, yourself, stayed only one or
2 two days?

3 Is that right, at the Gresham Street house?

4 A About three or four, I think.

5 Q All right. Now, did you go to some place?
6 Did you move to some other location with the
7 family?

8 A Yes.

9 Q Where did you go then?

10 A House in Malibu.

11 Q Do you know where the house was located in Malibu?

12 A No.

13 Q Who went to that location?

14 A All of us.

15 Q Do you know a person by the name of Brenda McCann?

16 A Yes, she was there, too.

17 Q She was also at the Gresham Street house?

18 A Yes.

19 Q Do you know a person by the name of Ruth Morehouse
20 or Quish?

21 A Yes.

22 Q Was she also there, if you know?

23 A Yes.

24 Q Do you know a person by the name of Sherry Cooper,
25 Simi Valley Sherry?

26 A Yes.

27 Q Was she also there?

28 A Yes.

1 Q How long did you stay at this Malibu address?

2 A About a week.

3 Q Three to four days after you came to the Gresham

4 Street address in April of 1969, you then came to the Malibu

5 address?

6 Is that right?

7 A Yes.

8 Q What part of April was it when you first came to

9 the Gresham Street house?

10 A April 1st.

11 Q That is April Fool's Day?

12 A Yes.

13 Q Three to four days later, around April 5th of 1969,

14 you went to the Malibu address?

15 Is that right?

16 A Yes.

17 Q As I understand it, you stayed there about a week?

18 Is that correct?

19 A Yes.

20 Q Some of the people that you have previously men-

21 tioned frequented that location?

22 Is that correct?

23 A They were there, yes.

24 Q Now, did you move to some other location after the

25 Malibu address?

26 A Yes.

27 Q Where?

28 A Spahn's.

1 Q When you say "Spahn's," do you mean Spahn's Movie
2 Ranch?

3 A Yes.

4 Q That would be, once again, sometime in April of
5 1969?

6 Is that correct?

7 A Yes.

8 Q According to your calculations, that would be
9 roughly the second or third week in April?

10 Is that right?

11 A Yes.

12 Q We are talking about 1969?

13 A Yes.

14 Q All right. Now, when you moved to the Spahn
15 Ranch at that time, who was living there?

16 A The same people that I already said.

17 Do you mean the ones in the family?

18 Q Yes.

19 A The same ones, only while we were at the one in
20 Malibu, but Katie came and a few other girls.

21 I don't remember -- I remember Katie coming then.

22 Q You mean Katie Krenwinkel?

23 A Yes.

24 Q Did the family live at one or more locations at the
25 same time?

26 A Yes.

27 Q All right. So, in other words, you didn't all
28 stay at the Spahn Ranch or all at the Gresham Street house,

1 but fanned out to different locations?

2 Is that correct?

3 A Yes.

4 Q Now, I want to direct your attention to August 16,
5 1969, and ask you whether or not you were living at the Spahn
6 Ranch at that time.

7 A Yes.

8 Q Were you arrested in the so-called Spahn Ranch
9 raid?

10 A Yes.

11 Q Were you taken to jail?

12 A Yes.

13 Q Were you sometime released following the arrest?

14 A Yes.

15 Q How long did you stay in jail before you were
16 released?

17 A A couple of days.

18 Q Upon being released, did you return to some loca-
19 tion?

20 A Yes.

21 Q Where?

22 A Spahn's Ranch.

23 Q All right. Now, do you know who else was arrested
24 at that time?

25 A Yes.

26 Q All right, before you tell us, is it fair to say
27 that all the persons who were arrested were released?

28 A Yes.

1 Q All right. They were all released without charges?
2 Is that right?

3 A Yes.

4 Q All right. Now, tell us who was arrested at
5 Spahn Ranch during the raid of August 16, 1969, if you know?

6 A Charlie.

7 Q By "Charlie," you mean Charlie Manson?

8 A Yes.

9 Q All right.

10 A Clem.

11 Q Meaning the defendant?

12 A Yes.

13 Q All right.

14 A Danny De Carlo, Ruth Morehouse, Sherry Cooper,
15 me, Gypsy, Squeaky, Kitty, Stephanie -- it was another Stephanie,
16 Schram.

17 Q Stephanie Schram?

18 A Yes.

19 There were some other street satans there. I don't
20 know who they were. Sandy.

21 Q Sandy Good?

22 A Yes.

23 Q Cathy?

24 A Yes, Cathy.

25 Q Is that Cathy Meyers?

26 A Yes.

27 Q All right. Is she also known as Cappy?

28 A Yes.

1 Q And also known as Cathy Gillies?

2 A Yes.

3 Q All right. Let's stop there for a moment.

4 Now, were all the members of the family arrested
5 on the 16th, or just part of the family arrested on the 16th?

6 A Everyone was except Tex and --

7 Q Tex Watson?

8 A Yes.

9 Q How about Bruce Davis?

10 A No, I don't think he was.

11 Q All right.

12 A And Snake wasn't.

13 Q And Snake is Diane Bluestein?

14 A Yes.

15 Q Or Diane Lake?

16 A Yes.

17 Q Do you know where Tex Watson was at that time?

18 A He was at Olancho.

19 Q That is O-l-a-n-c-h-a?

20 A Yes.

21 Q All right. Is there something located in Olancho,
22 California?

23 A Is there something there?

24 Q Yes.

25 A Well, there is a ranch, and they have a post office
26 and a store and a gas station.

27 It is a small town.

28 Q Can you tell us where this small town is located

1 in relation to other towns?

2 A It is in the desert.

3 Q After you returned two or three days following
4 your arrest of August 16, 1969, did you stay at the ranch or
5 did you go some other place?

6 A I went to Olancho.

7 Q All right. Now, how many days did you stay at
8 Spahn Ranch following your return to Spahn Ranch before going
9 to Olancho?

10 A A couple of days.

11 Q All right. Now, let's stop here for a moment.
12 Following August 16, 1969, and upon your return
13 to the Spahn Ranch, did you see a person by the name of Shorty
14 Shea?

15 A Yes.

16 Q Would you see him often at that time period?

17 A Yes.

18 Q By "often," what do you mean?

19 A He was at the ranch.

20 Q Was he living at the ranch as far as you knew at
21 that time?

22 A Yes.

23 Q Following the raid?

24 A Yes.

25 SA

26

27

28

8A

1

Q All right. Now, who did you go to Olancha with?

2

A Brenda, Ruth Morehouse, Sherry. I think Kitty.

3

Q Kitty Lutesinger?

4

A Yes.

5

Q Did you go with any males?

6

A No.

7

Q All right. How long did you stay at Olancha?

8

A Couple of days.

9

Q Did you go some place after you stayed a couple of days at Olancha?

11

A Back to Spahn Ranch.

12

Q You went back to Spahn's Ranch?

13

Is that correct?

14

A Yes.

15

Q Who did you go back to Spahn's Ranch with?

16

A Brenda, Tex, Snake -- well, everybody was there.

17

Brenda came back.

18

Q All right. Brenda McCann?

19

A Yes.

20

Q You said Tex -- that is Tex Watson?

21

A Yes.

22

Q Who else?

23

You said Snake. That is Diane Lake?

24

A Yes.

25

Q Who else?

26

A Ruth Morehouse, Sherry and Kitty.

27

Q All right. Is Ruth Morehouse known by the nickname

28

Quish?

1 A Yes.
2 Q O-u-i-s-h?
3 A Yes.
4 Q Now, when you went to Olancha with these people,
5 had other members of the family remained at Spahn Ranch?
6 A Yes.
7 Q Was Charlie in Olancha at that time, or was he
8 back at the ranch?
9 A He was back at the ranch.
10 Q Now, upon returning to Spahn Ranch, did you con-
11 tinue to stay at Spahn Ranch in August of 1969 for a period of
12 time?
13 A Yes.
14 Q Now, did something unusual occur within a few days
15 following your return from Olancha to the Spahn Ranch?
16 A Yes.
17 Q What part of August would this be, as best you
18 recall?
19 A Late August.
20 Q All right. Late in August of 1969?
21 Is that correct?
22 A Yes.
23 Q Did this unusual event happen during the morning
24 or the afternoon or the evening?
25 A It was late at night.
26 Q All right. Approximately what time at night did
27 this event happen?
28 A Around 11:00 or 12:00, maybe later.

1 Q All right. So in other words, from, say, 11:00 p.m.
2 12:00 a.m., or in the early morning hours or shortly there-
3 after -- is that right?

4 A Yes.

5 Q Where were you when this event happened?

6 A In the parachute room.

7 Q Where is the parachute room?

8 A It is in back of the row of buildings at the ranch.
9 It is above the creek.

10 Q All right. Now, are you familiar with the build-
11 ings that have a boardwalk and on which there are signs such
12 as the Longhorn Saloon?

13 A Yes.

14 Q All right. Are these the row of buildings you
15 are talking about?

16 A Yes.

17 Q So the parachute room was located behind that
18 front row of buildings?

19 Is that correct?

20 A Yes.

21 Q Were you alone or were you with somebody at the
22 time this event occurred?

23 A Yes, I was alone.

24 Q All right. What was it that happened?

25 A I heard screaming.

26 Q Tell us exactly what you heard.

27 A Well, I was getting into bed, and I heard a scream
28 and I sat up and at first I thought, you know -- I didn't.

1 hear anything after that.

2 So I thought I imagined it. Then I lay down again
3 and then the screaming started again and then it kept going
4 for a long time.

5 Q All right. Who did you hear screaming, if you
6 know?

7 A It was Shorty.

8 Q How would you characterize those screams, Barbara?

9 A They were long, and they were like -- they were
10 painful-like.

11 You know, like in those horror movies only more
12 agonizing, like.

13 Q All right. Now, Barbara, you have heard screams
14 of joy, for example, have you not?

15 A Yes.

16 Q Was this a scream of joy?

17 A No.

18 Q How long did you think the screams lasted?

19 A A long time. I don't know.

20 Q It seemed like a long time to you?

21 Is that correct?

22 A Yes.

23 Q All right. Now, can you tell us the approximate
24 direction from which the screams were coming?

25 A It was coming from the creek, but I wasn't really
26 thinking about the direction.

27 Q You say you think it was coming from the creek
28 area?

1 Where is that located in relation to the main
2 front row of buildings at Spahn Ranch?

3 A The creek is behind them.

4 Q Where is that in relation to the parachute room?

5 A It is behind the parachute room.

6 The parachute room is on a cliff-like, and the
7 stream is below.

8 Q All right. Now, did you do anything as a result
9 of those screams?

10 A No.

11 Q All right. The same day you heard the screams,
12 had you seen Shorty?

13 A Yes.

14 Q When was the last time you saw Shorty, using the
15 date of the screams as a frame of reference?

16 A That day.

17 The day earlier, you know, before the screams.

18 Q All right. Now, just so we understand you, when
19 you returned from Olancha to Spahn Ranch, Shorty was still
20 there?

21 Is that right?

22 A Yes.

23 Q Would you see him daily?

24 Is that correct?

25 A Yes.

26 Q Then the same day you heard the screams, that was
27 the last time you saw Shorty?

28 Is that correct?

1 A Yes.

2 Q Now, I want to direct your attention to the same
3 day you heard the screams, and ask you whether or not you
4 were present during a conversation --

5 MR. WEEDMAN: May we approach the bench, if counsel is
6 going to be talking about conversations, your Honor?

7 THE COURT: Yes.

8 MR. KATZ: I am only establishing the fact of the con-
9 versation,

10 THE COURT: Let's get the question first.

11 MR. WEEDMAN: I will withdraw the request, your Honor.

12 THE COURT: I will listen to you.

13 Get your question in.

14 Q BY MR. KATZ: Were you present during a conversa-
15 tion in the afternoon while you were sitting on a rock in
16 front of the Longhorn Saloon?

17 A Yes.

18 Q Tell us who was present during that conversation.

19 A Gypsy, Clem, Lynn Fromme and Brenda.

20 Q Now, when you say Clem, do you mean the defendant
21 in this case?

22 A Yes.

23
24
25
26
27
28
8B

Q All right. Where is the Longhorn Saloon in relation to these front row of buildings?

A It is next to the kitchen, and the kitchen is the last one on the row.

Q Let me set up the 31 series photographs, if I may, for a moment.

THE COURT: Yes, you can stick it up there.

Q BY MR. KATZ: Now, Barbara, I want to show you what has been denominated the 31 series of exhibits which includes 31-A through 31-H.

If you will get off the witness stand and look at these photographs, I will ask you whether or not you recognize what is depicted in these photographs.

A Yes.

Q What is depicted in these photographs?

A Spahn's Ranch.

Q Now, you had referred to a group of front buildings at Spahn Ranch.

Are they depicted in these photographs?

A Yes.

Q All right. Now, we had been talking about the Longhorn Saloon, and there is another place that is designated as the Rock City Cafe.

Where is it that you were sitting on a rock during which the defendant, Steve Grogan, was present and these other people, the day you heard the screams?

A Well, it was sort of between the saloon and --

THE COURT: Now, what is the number, Mr. Katz, on that?

1 MR. KATZ: Yes, the witness has pointed to a photograph
2 which is 31-E for identification.

3 THE COURT: Well, make an X where you say you were
4 seated, will you please, and put your initials there.

5 MR. KATZ: Your Honor, may I ask her to use this black
6 pen? I think it will make a clearer point of designation.

7 THE COURT: Yes, all right.

8 Q BY MR. KATZ: Now, if you do not wish to use 31-E,
9 and if there is a better photograph in the 31 series that
10 depicts the approximate area where you were seated at this
11 time, you may use that picture if you desire.

12 A Well, right about here where the --

13 Q Why don't you place an X on 31-E at the approxi-
14 mate location where you were seated on the day of the screams
15 in the presence of Mr. Grogan.

16 THE COURT: Put your initials there. Let's get the
17 initials.

18 All right.

19 MR. KATZ: All right. May the record reflect that the
20 witness has placed an X in the approximate vicinity of a red
21 truck, which is depicted in 31-E, between the Longhorn Saloon
22 and Rock City Cafe, and with the initials B.H., indicating
23 Barbara Hoyt?

24 THE COURT: Very well.

25 Q BY MR. KATZ: All right. Now, tell us again who
26 was present while you were in this vicinity as depicted in
27 31-E for identification.

28 A Clem, Gypsy, Brenda, Squeaky and I.

8b-3

Q All right. Now, while you were seated there did you see Shorty?

A Yes.

Q You can resume the stand at this point.

THE COURT: Step up here and speak in the telephone, please.

Q BY MR. KATZ: Where did you see Shorty?

A He was next to George's house by the bathrooms.

Q What did you observe and what was said and done at that time?

A He was coming out from between the bathrooms and the house, you know.

The house is sort of on a hill like. It was sort of under it, and he was looking around -- was looking around the corner, you know, of the wall.

Q Who was?

A Shorty.

Q All right.

A And then somebody said --

MR. WEEDMAN: Your Honor, excuse me. If we are going to have any conversation I would like to go in chambers. I don't know what it is going to be.

THE COURT: All right, step in chambers.

(The following proceedings were had in chambers:)

THE COURT: Would you give us an offer of proof, Mr. Katz.

MR. KATZ: Oh, certainly, your Honor.

8b-4

1 If I can backtrack for one moment so we have a
2 frame of reference here, this event occurred on the day
3 preceding the evening she heard the screams.

4 THE COURT: That is right.

5 MR. KATZ: So we are in this 24-hour period, and she
6 would testify that she was sitting on a rock during which
7 Gypsy, who is Catherine Share, Brenda McCann, who is known as
8 Nancy Pitman, Squeaky, whose name is Lynn Fromme, and Clem who
9 is the defendant in this case, Steve Grogan, were on a rock
10 between the Longhorn Saloon and the cafe, which is depicted
11 in 31-B, that they were looking in the direction of George
12 Spahn's house at which time they saw, and in particular
13 Barbara, who will testify that she personally saw --

14 THE COURT: Now, just a minute.

15 MR. KATZ: Yes, Shorty coming around the corner of
16 Spahn's house in the area in which the bathroom is located.

17 THE COURT: All right.

18 MR. KATZ: All right. Now, she will further testify
19 that one of the persons in the group stated "Shorty is snooping
20 again," and then Squeaky said, "Shorty will be taken care of."

21 She will further testify that Clem, meaning the
22 defendant, and the entire family, including Charlie Manson
23 and Squeaky had previously discussed the fact that Shorty was
24 a nuisance, and was trying to get them off the ranch, and will
25 testify to the tremendous antagonism that they had towards
26 Shorty Shea as a family and as a unit and that Clem was a loyal
27 member of the family, and of course Clem was present during
28 this event.

8b-5

1 THE COURT: Now, the objection, Mr. Weedman?

2 MR. WEEDMAN: Well, yes, your Honor. I will certainly
3 object to it.

4 Number one, I will object on the grounds that there
5 is no showing that my client adopted or joined in any of
6 these -- well, I will tell you what, your Honor, it is
7 impossible for me to really make a record here.

8 Mr. Katz, as usual, is talking about a great many
9 things here. I can only suggest, your Honor, that the only
10 orderly way to proceed is to bring this witness in here and
11 let her testify outside the presence of the jury, and let me
12 make my objections at that time.

13 I cannot possibly answer everything Mr. Katz has
14 talked about. He is talking about several conversations. He
15 is talking about things that went on during the conversation.

16 He is talking about attitudes, opinions,
17 conclusions.

18 My client, apparently, was present at one time and
19 not present at another time. It is impossible for me to
20 adequately object to it, your Honor, except to say that I will
21 object on the grounds that it seems to smack of conspiracy and
22 no conspiracy has been shown.

23 It is hearsay as to my client. There is no showing
24 that he adopted or joined in any of these conversations.

25 The mere fact of his presence is not sufficient.
26 Of course, it is so inflammatory and prejudicial, because here
27 we have -- we are listening, your Honor, and I hope I make
28 myself clear -- we are listening to Barbara Hoyt.

8b-6

1 Now, Barbara Hoyt has testified many, many times.
2 She is an experienced witness. She was a member, if you will,
3 of the so-called Charles Manson family.

4 She was a runaway, so far as I know. She had
5 sexual intercourse with many members of the family, including
6 my client, Mr. Grogan. That is well known.

9

9-1

1 She is unreliable in many, many respects, your
2 Honor. And to just allow her to launch into these wild
3 accusatory conversations -- by the way, I don't have any
4 reports in my possession and nothing that I can recall in her
5 grand jury testimony that touches upon many of the things that
6 Mr. Katz is now coming up with, your Honor.

7 I think that we should proceed very cautiously in
8 this area. I ask only that she be brought into chambers and
9 let Mr. Katz question her and let me make any objections as
10 the testimony comes in, your Honor, outside the presence of
11 the jury.

12 THE COURT: I am inclined to overrule the objection. You
13 may proceed.

14 If you have objections to offer at the time, I will
15 rule on them as the question is asked.

16 MR. WEEDMAN: Well, your Honor, I think we are entitled
17 to a foundation hearing, an evidentiary hearing with respect
18 to this conspiracy. These are statements presumably of
19 alleged conspirators, and they should not be attributable to
20 my client, your Honor, in the absence of a prima facie showing
21 of a conspiracy.

22 There has been no such showing here, your Honor.

23 THE COURT: Well, this testimony, I think, goes to the
24 very situation, is there a conspiracy or is there not, either
25 by words, direction, indirection, conduct.

26 I think it is part of it. It is part of the proof
27 the jury must have in order to arrive at that conclusion.

28 MR. WEEDMAN: Well, your Honor, absent -- because of the

9-2

1 extremely delicate nature of this testimony, I would urge that
2 the court exclude those portions of the testimony which amount
3 to purported threats or plans against Mr. Manson being used
4 against my client on the ground that particularly because of
5 the source of this testimony, it being Barbara Hoyt, that its
6 prejudicial value far outweighs any probative value that it
7 may have.

8 I suggest, your Honor, that it is highly unreliable
9 testimony. That pretty young girl that you see out there, your
10 Honor, is not the girl that really exists underneath that
11 pretty clothing.

12 THE COURT: Well, of course, those are matters for the
13 jury to determine. What extent they want to rely upon her
14 credibility or reject it all, they may under the jury instruc-
15 tions.

16 I am inclined to overrule the objection.

17 Now, you may propound as we go along any specific
18 objection that you have. I will give you a specific ruling in
19 the matter.

20 MR. WEEDMAN: All I will do then, your Honor, and I hope
21 to salvage something of a record, is to perhaps from time to
22 time respectfully request that I be allowed to take the
23 witness on voir dire, especially as to times, places, persons
24 present, her ability to hear, understand and remember before
25 she is permitted to go ahead with these statements.

26 I frankly don't believe 99 percent of her
27 testimony, and I feel as an officer of this court that I have
28 good reason for adopting that attitude separate and apart from

the fact that I obviously am representing Mr. Grogan in this case.

THE COURT: Well, that is for the jury to pass upon. If you have specific objections I will certainly consider them.

MR. KATZ: Thank you, your Honor.

THE COURT: All right. Let's go ahead, gentlemen.

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

THE COURT: All right. We are back in court.

Oh, yes, the witness.

(Short pause.)

THE COURT: You be seated. You have been sworn.

State your name again, please.

THE WITNESS: Barbara Hoyt.

THE COURT: All right.

People may proceed.

MR. KATZ: Yes.

Q Barbara, you were telling us about an incident which occurred on the afternoon preceding that evening in which you heard some screams, is that correct?

A Yes.

Q All right.

And I believe you designated the place where you and Gypsy and Brenda and Squeeky and the defendant Clem, or Steve Grogan, were sitting, is that correct?

A Yes.

Q All right.

Now, I want you to tell us what you observed and what was said or done at that time.

A I saw Shorty coming out from the wall by the bathroom and then looking, turning and looking under the house.

Q Under whose house?

A Oh, George's house.

Q All right.

A And then someone says, "That is Shorty sneaking around again."

And then someone else said, "Yes. But he'll be taken care of."

Q Who said that, the last statement?

A I think it was Brenda.

Q You think it was what?

A I think it was Brenda.

Q Brenda McCann?

A Yes.

Q All right.

Now, prior to -- that is, before this incident occurred had you and other family members, including Charles Manson and particularly including the defendant, Steve Grogan, discussed Shorty Shea and his presence at Spahn Ranch?

MR. WEEDMAN: Forgive me, your Honor. I am sorry. In view of the earlier discussion, your Honor is forcing me to object as we go through this witness' testimony.

I hereby object to and move to strike the witness'

1 testimony that she heard someone say in effect or in substance,
2 "There is Shorty snooping around again."

3 And someone else saying, "He'll be taken care of"
4 on the ground that -- well, I don't want to argue this in front
5 of the jury, your Honor.

6 THE COURT: Well --

7 MR. WEEDMAN: Unless I am forced to.

8 THE COURT: I overrule the objection.

9 MR. WEEDMAN: I haven't made an objection.

10 THE COURT: I want to say to the jury you must remember
11 at all times that counsel for defendant or the counsel for the
12 People -- and now we are talking about defense counsel -- has
13 an absolute right and if not a duty, and a right to make any
14 objection that he feels is proper to make.

15 And it is his duty to do that. The fact that I
16 should sustain him or the fact that I overrule the objection
17 doesn't in any way change or demean the status, his right to
18 make the objection. It is his duty to that.

19 Some of the questions, some of the objections made
20 are very close objections. We have been in chambers yesterday
21 for a considerable length of time discussing legal questions
22 that go to objections that are made on very close points.

23 However, I overrule the objection. And the motion
24 to strike is denied.

25 The testimony may stand. It will later be codified
26 by instructions by the court to the jury respecting the law
27 that is applicable in this case in its ultimate analysis.

28 The credibility, the truth, the veracity to be

9-7

1 given to the answers of the witness are for the jury not the
2 judge. The jury, you are the judges of the strength of the
3 testimony. The credibility to be given. Parts may be
4 accepted. Parts may be rejected. All may be rejected. You
5 may accept all.

6 Those matters are for you. You just the
7 credibility and the factual strength or no strength that is to
8 be given to the answers of this witness or any other witness.

9 I deny the motion. Motion denied.

9a

1 MR. WEEDMAN: Well, your Honor, I do want to make a
2 record.

3 THE COURT: Go ahead.

4 MR. WEEDMAN: Well, if your Honor wants me to argue it
5 in front of the jury, I will be happy to.

6 MR. KATZ: Your Honor, I would rather not have any
7 argument in front of the jury.

8 THE COURT: No, I will take the objection. You may make
9 your objection.

10 Don't argue in front of the jury.

11 MR. WEEDMAN: I don't mean really argue, but state the
12 grounds for the objection, your Honor.

13 The grounds are to those purported statements in
14 substance, "There is Shea sneaking around again." And
15 someone else saying, "He'll be taken care of" -- I will object
16 to those and move to strike them on the ground that there is
17 no showing that my client either adopted those statements or
18 joined in those statements in any way.

19 And to permit those statements from someone else
20 to be used in this trial against my client, your Honor, is the
21 grounds for my objection.

22 THE COURT: The motion is denied. Objection overruled.

23 MR. KATZ: Thank you.

24 THE COURT: Now ask your next question.

25 MR. KATZ: Yes.

26 Q Now, Barbara, between the -- this time period immedi-
27 ately following the August 16th raid and the time you last saw
28 Shorty at Spahn Ranch, had you had numerous conversations with

1 various members of the family including the defendant Clem,
2 concerning the presence of Shorty Shea on the ranch?

3 MR. WEEDMAN: Leading and suggestive, your Honor.
4 Particularly counsel's use of the word "numerous."

5 Why can't counsel ask the witness, "Have you had
6 conversations at the ranch?"

7 MR. KATZ: I will be happy to.

8 MR. WEEDMAN: Yes. Then ask her what the conversations
9 were.

10 I am frankly, your Honor, under a great deal of
11 pressure in this case, and I am sick and tired of counsel
12 leading these witnesses.

13 I don't know what I have to do in this case, your
14 Honor, to ask counsel to please stop leading these witnesses.

15 THE COURT: Well, overruled. The answer is yes or no.

16 Read the question, please.

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

19 "Q Now, Barbara, between the -- this
20 time period immediately following the August 16th
21 raid and the time you last saw Shorty at Spahn
22 Ranch, had you had numerous conversations with
23 various members of the family including the
24 defendant Clem, concerning the presence of Shorty
25 Shea on the ranch?"

26 THE COURT: First answer yes or no.

27 THE WITNESS: Yes.

28 THE COURT: Now, set your time.

1 MR. KATZ: All right.

2 Q Now, we are talking about this broad time period,
3 if I am correct, immediately following the August --

4 MR. WEEDMAN: Excuse me, your Honor. Why can't counsel
5 ask this witness for the times instead of telling the witness
6 what the answer is supposed to be?

7 Why can't counsel say to this witness, "Would you
8 please tell us, Barbara, the dates of the conversations?"

9 THE COURT: Well, reframe the question.

10 MR. KATZ: I will reframe it.

11 THE COURT: Re-ask your question. Reframe it.

12 Q BY MR. KATZ: Can you tell us the time period in
13 which these conversations took place?

14 A After we got out of jail.

15 Q Following the August 16 date?

16 A Yes.

17 Q And up until what time?

18 A Until I saw -- till the last time I saw Shorty.

19 Q All right.

20 And can you tell us what was said during those
21 conversations?

22 THE COURT: Set the parties present.

23 Q BY MR. KATZ: All right.

24 Who was present during these conversations?

25 MR. WEEDMAN: Which conversations? He says "these conver-
26 sations," your Honor.

27 There is no showing as to what "these conversations"
28 refers to.

1 THE COURT: Well, all right.

2 I will sustain your objection.

3 MR. WEEDMAN: Thank you, your Honor.

4 THE COURT: Let's set the approximate time of the first
5 conversation and the parties present. Then see where we are.

6 MR. KATZ: All right, your Honor.

7 Q First of all, let me establish, was there one or
8 more conversations concerning Shorty Shea with the family?

9 A Yes.

10 Q What does that mean, there was or there wasn't?

11 A There was.

12 Q All right. Can you give us the approximate time
13 when the first conversation took place regarding Shorty Shea
14 in this time period?

15 A A couple days after we got out of jail, or day
16 after, he was there.

17 Q And was this before or after you went to Olancha, the
18 first conversation?

19 A Before.

20 Q All right.

21 And can you tell us where the conversation took
22 place?

23 A I don't remember the specific conversations. I
24 just remember like generally, you know, the general attitude
25 towards him.

26 MR. WEEDMAN: May I have the witness' answer read, your
27 Honor? I couldn't catch the first words.

28 THE COURT: Yes. Read the answer.

(The reporter read the record as follows:

"A I don't remember the specific conversations. I just remember like generally, you know, the general attitude towards him."

9a

1 MR. WEEDMAN: Then I am going to object, your Honor, to
2 counsel eliciting purported conversations. Bear in mind, your
3 Honor, this is the reason I want counsel to stop leading this
4 witness. She just told us she doesn't remember conversations,
5 after all.

6 MR. KATZ: She didn't say that. She said she didn't
7 remember specific words, your Honor.

8 Counsel is arguing in front of the jury.

9 THE COURT: Let's get the question again.

10 MR. KATZ: May I rephrase it? I have been interrupted
11 so many times by counsel and his conduct.

12 THE COURT: All right.

13 Q BY MR. KATZ: Let me first ask you, do you remember
14 the specific exact words in the exact sequence in which they
15 were made during the conversations?

16 A No.

17 Q Do you remember the general substance of the conver-
18 sations concerning Shorty Shea?

19 A Yes.

20 Q All right.

21 And when you say the general substance, are you
22 referring to attitudes or what people said by way of groups of
23 words with respect to Shorty Shea?

24 A Yes.

25 Q All right.

26 And did Clem make some of those groups of words in
27 regards to Shorty Shea?

28 A Yes.

1 MR. WEEDMAN: May I take the witness on voir dire, your
2 Honor?

3 THE COURT: I think it is a matter of cross examination.
4 She has testified the defendant was in the conversation to
5 some extent.

6 MR. WEEDMAN: But, your Honor, we don't know when, where,
7 who was present and whether my client actually participated
8 in more than one conversation.

9 THE COURT: The question hasn't been asked yet. Let's
10 get to that point.

11 MR. KATZ: I am trying to, your Honor.

12 THE COURT: Go ahead with the foundation.

13 MR. KATZ: Yes.

14 Q I had asked you the question before we were inter-
15 rupted where this first conversation took place.

16 Can you tell us the general area, in what part of
17 the city?

18 A It was at Spahn's Ranch.

19 Q All right.

20 That is what I was getting at.

21 Now, during the first conversation regarding Shorty
22 Shea, was Clem there?

23 A I don't remember if he was there during that one.
24 I remember he was there during some of them.

9b

9b-1

Q All right.

When did these other conversations take place amongst the family members concerning Shorty Shea in relation to the first conversation, before or after you returned from Olancho?

A Well, after I got back from Olancho they started discussing him oftener.

Q All right.

Now, let's go to these other conversations after you returned to Spahn Ranch from Olancho. Was Clem or the defendant present during those conversations?

A Yes.

Q And who else was present during those conversations?

A Different people at different times.

THE COURT: Name them.

Q BY MR. KATZ: Name them.

A Charlie.

Q Charlie Manson?

A Yes.

THE COURT: Charlie.

THE WITNESS: Gypsy. Squeaky. Brenda. Bruce.

Q BY MR. KATZ: Bruce Davis?

A Yes. Cathy.

Q Is that Cathy Gillies?

A Yes.

Danny, I think.

Q Danny De Carlo?

9b-2

A I think, yes. Ouish.

Q That is Ruth Morehouse?

A Yes. Sandy.

Q Sandy Good. All right. Let's stop there.

Now, do you remember the general substance of the conversation without remembering the specific words?

A Yes.

MR. WEEDMAN: I will object to any testimony, your Honor, about general substance. We are entitled to a conversation. We are entitled to words.

I don't expect her to remember exact words. That would be impossible.

But general substance, your Honor, permits this witness to start testifying to her conclusions, her opinions, her feelings about it.

THE COURT: Well, objection overruled.

You may answer the question.

Q BY MR. KATZ: As best you recall now during these latter conversations following your return to Spahn Ranch from Olancho, and in the presence of the defendant Steve Grogan, what do you remember having been said?

MR. WEEDMAN: Your Honor, may I take the witness on voir dire? We don't know when these conversations took place. We don't know at which conversation my client is claimed to have been present. We don't know who else was present at individual conversations.

We are permitting this woman to testify to a broad period of time involving, as I count it -- I may have lost

1 count -- at least nine persons present in all of these
2 conversations, your Honor.

3 I can't imagine anything more unfair. It is unfair
4 because we can't answer it.

5 THE COURT: On cross-examination you can answer these
6 questions. Overruled.

7 MR. WEEDMAN: Your Honor, once she is permitted to start
8 this kind of thing in the record --

9 THE COURT: Objection overruled.

10 MR. WEEDMAN: I couldn't expect anybody to separate it
11 out after that, your Honor.

12 THE COURT: Overruled. Ask your question.

10-1

1 Q BY MR. KATZ: Barbara, what was said?

2 A That Shorty was hired to get them off the ranch,
3 keep the family off the ranch, that he was telling -- was an
4 informant to the pigs, that he -- that he was just a threat to
5 them.

6 Q All right. Now, you used the word "pigs". Did
7 the family use the word "pigs"?

8 A Yes.

9 Q Did you use the word "pigs"?

10 A Yes.

11 Q What did that mean?

12 A Police.

13 Q Now, with respect to the statement you told us
14 about, can you tell us whether or not Clem, himself, had
15 expressed those statements and those views, the defendant
16 here?

17 A Yes.

18 MR. WEEDMAN: Your Honor, I will object to that and move
19 to strike her answer on the grounds that these views -- these
20 are conclusionary on the part of the witness. Can't we have
21 this conversation here?

22 That is all I am asking for, your Honor.

23 THE COURT: The answer may stand.

24 You can cross-examine and ask her those questions.

25 MR. WEEDMAN: Thank you, your Honor.

26 Q BY MR. KATZ: Now, I want to go back to the first
27 conversation in the presence of some members of the family
28 before you went to Olancha.

10-2

1 This is following the raid of August 16, 1969.

2 Do you have that in mind?

3 A Before.

4 Q Yes.

5 A Yeah, okay.

6 Q Now, do you know whether or not Mr. Grogan or
7 Clem, as you call him, was present during the first conversa-
8 tion before you went to Olanchoa?

9 A I don't remember.

10 Q All right. Now, I believe you stated that follow-
11 ing your return to Spahn Ranch from Olanchoa, Mr. Grogan was
12 present during some of the conversations?

13 Is that correct?

14 A Yes.

15 Q Now, how many conversations do you think you had
16 with members of the family concerning Shorty Shea and his
17 presence at the Spahn Ranch?

18 A They talked about it all the time.

19 Q By "they" who do you mean?

20 A The family.

21 Q By "the family" who do you mean?

22 A Charlie, Clem, Bruce, Tex, Gypsy, Squeaky, Brenda,
23 Sandy, Cathy, Quish,

24 Q How about Bruce Davis?

25 A Yes, I think I said him.

26 Q All right. Let me ask you this question, Barbara.
27 Did you eat dinner with the family at Spahn Ranch?

28 A Yes.

1 Q Was this a daily routine?

2 A Yes.

3 Q Can you tell us how it came to pass that you
4 would eat at Spahn Ranch together as a family?

5 A How it came to pass?

6 Q Yes. How did it come to happen that you just
7 started eating together as a family at the Spahn Ranch?

8 Did somebody cause this to happen?

9 A Well, the girls would cook dinner.

10 Whenever Charlie said they would go to a particular
11 place and eat.

12 THE COURT: You mean Charlie Manson?

13 THE WITNESS: Manson, yes.

14 Q BY MR. KATZ: So if Charlie did not give the word
15 to eat, would you go eat?

16 A No.

17 Q You waited to hear from Charlie?

18 Is that right?

19 A Yes.

20 Q All right. Now, after Charlie gave the word that
21 it was time for dinner, would you go someplace to eat?

22 A Yes.

23 Q Would you eat at the same or different locations?

24 A Well, for a while we were eating at the back house,
25 and then for -- before that we were eating in the saloon.

26 Generally it would be about the same, you know,
27 place for a while, you know.

28 Q All right. Now, in the period of August 1969,

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1 and particularly following the raid of August 16, 1969, did
2 Clem, that is the defendant, eat with other members of the
3 family?

4 A Yes.

5 Q In other words, all of the members of the family
6 ate together?

7 Is that correct?

8 A Yes.

9 Q During the dinners was there any specific routine
10 that was followed?

11 A Yes.

12 Q What routine was followed?

13 A Charlie would talk, and sometimes he would sing.

14 Q Would anybody else talk while Charlie was talking?

15 A Just to, like, agree or, you know, laugh at one of
16 his jokes.

17 Q Now, during any of these dinners do you recall --
18 we are talking about the period between August 16, 1969 and
19 the last time you saw Shorty.

20 Did Charlie discuss Shorty's presence at the
21 ranch?

22 A Yes.

23 Q This was in front of all of the members of the
24 family?

25 A Yes.

26 Q That includes the defendant?

27 A Yes.

28 MR. WEEDMAN: Your Honor, why can't counsel say who was

10-5

1 present?

2 Why can't he ask the witness instead of telling
3 this witness, again, how she is supposed to testify?

4 I don't know how long this is going to go on,
5 your Honor.

6 THE COURT: Overruled. Either he was or wasn't.

7 MR. WEEDMAN: I respectfully move for a mistrial at this
8 time, your Honor. Counsel is leading this witness, this young
9 girl, in the most critical part of this case, your Honor.

10 THE COURT: I don't think unnecessarily so. You can
11 cross-examine her.

12 The objection is overruled.

13 MR. WEEDMAN: I don't think that is going to do much
14 good, your Honor.

15 Q BY MR. KATZ: Barbara, tell us who was present
16 during that period.

17 MR. WEEDMAN: No need for that. Counsel has already
18 said who was present.

19 I will object to that as having been asked and
20 answered.

21 THE COURT: All right. Now, your next question.

22 MR. KATZ: Fine, your Honor.

23 Q What would Charlie say?

24 A He would talk about how Shorty was trying to get
25 us off the ranch, and how he was -- I think he was an ex-policeman
26 or something, and that he was telling the police everything
27 that we were doing, you know, like a spy.

28 And he would talk about his wife.

10-6

Q Whose wife?

A Shorty's.

Q What did he say about Shorty's wife?

A That she was a Negro.

Q What else in that regard?

A Well, that he didn't know to stick to his own kind,
and all that stuff.

Q Who is he referring to, to stick to his own kind?

A Shorty.

Q Now, during these conversations I think you
indicated that Clem was there together with the family?

A Yes.

Q Did anybody disagree with Charlie at that time?

A No.

10a

10A

1 Q Did anybody contradict him at all?

2 A No.

3 MR. WEEDMAN: At what time, your Honor?

4 Q BY MR. KATZ: During these same conversations you
5 were telling us about at dinner.

6 A Nobody ever contradicted him.

7 Q By "him" you mean Charlie Manson?

8 Is that right?

9 A Yes.

10 Q Now, you told us you knew a girl by the name of
11 Lynn Fromme, also known as Squeeky?

12 Is that right?

13 A Yes.

14 Q Did she spend time with one of the non-members of
15 the family quite a bit at the Spahn Ranch?

16 A Yes.

17 Q Who did she spend time with?

18 A George Spahn.

19 Q When you were there at the Spahn Ranch, did you see
20 her with George Spahn daily?

21 A She was always with him.

22 Q All right. During the dinners between the period
23 of August 16, 1969, and the last time you saw Shorty, were you
24 present during any of the conversations between Squeeky and
25 Charlie Manson?

26 A Yes.

27 Q Were other members of the family present during
28 these conversations?

1 A Yes.

2 Q Who was present during these conversations?

3 A Well, again, it would be different people at
4 different times.

5 Q Tell us some of the people that would be present
6 during these different times.

7 A Gypsy, Brenda -- do I have to name them all again?

8 Q Please do.

9 A Ouish, Sherry, Bruce, Clem, Tex, Danny, Cathy,
10 Stephanie, Kitty, Snake --

11 Q That is, once again, Diane Lake or Diane Bluestein?

12 A Yes.

13 Q All right.

14 Now, Barbara, did you know Frank Retz?

15 A Yes.

16 Q Did you ever see him conversing with George Spahn,
17 if you recall?

18 A I don't remember.

19 Q All right. Can you tell us whether or not Squeaky,
20 and I don't want you to tell us at this point what the conver-
21 sation was, if there was any, talked about what was happening
22 between George Spahn and the outsiders with Charlie Manson in
23 your presence?

24 A Yes.

25 Q That was also in the presence of other family
26 members?

27 Is that correct?

28 A Yes.

10A-3

1 Q Now, on the day following the night you heard the
2 screams, that is, the morning following the night you heard
3 the screams, did you go down to the creek area at Spahn Ranch?

4 A Yes.

5 Q Approximately what time did you do so?

6 A It was in the afternoon.

7 Q Who was there?

8 A Danny and Charlie -- well, first me -- I went down,
9 and then me and Danny and Kitty sat down, and then Charlie came
10 up.

11 Q This is Danny De Carlo?

12 A Yes.

13 THE COURT: You speak of the word "Charlie." Do you mean
14 the defendant?

15 THE WITNESS: Charlie Manson.

16 THE COURT: Oh, Charlie Manson.

17 You mean Charlie Manson?

18 THE WITNESS: Yes.

19 THE COURT: That is who you constantly refer to as
20 "Charlie"?

21 THE WITNESS: Yes.

22 THE COURT: Try to give the full name so there won't be
23 any confusion.

24 Q BY MR. KATZ: All right. So present were yourself,
25 Kitty Lutesinger, Charlie Manson and Danny De Carlo?

26 Is that correct?

27 A Yes, and Danny's baby.

28 Q How old was the baby?

1 A About a year and a half.

2 MR. KATZ: All right. May we approach the bench at this
3 time, your Honor?

4 THE COURT: All right, come in chambers.

5 (The following proceedings were had in
6 chambers out of the presence of the jury.)

7 THE COURT: We are in chambers. The defendant and his
8 counsel and the sheriff are present.

9 All right. Now, give me the question.

10 (The reporter read the record as follows:

11 "Q BY MR. KATZ: All right. So present
12 were yourself, Kitty Lutesinger, Charlie Manson
13 and Danny De Carlo? Is that correct?

14 "A Yes, and Danny's baby.

15 "Q How old was the baby?

16 "A About a year and a half.")

17 THE COURT: Now, where was this?

18 MR. KATZ: The creek area, which is just behind the main
19 buildings at Spahn Ranch, and I will develop it further.

20 THE COURT: Now, here she apprehends them at this point?

21 MR. KATZ: Yes, she is with these people.

22 THE COURT: Now, go ahead.

23 MR. KATZ: Now, I asked to come into chambers because I
24 know, and counsel has given me notice, that he is going to
25 vigorously object to the following testimony I seek to elicit.

26 THE COURT: Give your question just the way you would
27 ask it.

28 MR. KATZ: I will tell you what I expect to offer.

10A5

1 THE COURT: Yes.

2 MR. KATZ: This witness would testify that Charlie Manson
3 said to Danny De Carlo, in the presence of herself and Kitty
4 Lutesinger, "Shorty committed suicide with a little help from
5 us, ha, ha, ha."

6 And then he asked Danny De Carlo --

7 THE COURT: By "he" you mean Charlie Manson?

8 MR. KATZ: Yes, Charlie Manson asked Danny De Carlo in
9 substance, "Hey, will lye or lime get rid of a body," to which
10 Danny De Carlo replied, "Lime will preserve a body and lye
11 will get rid of a body."

12 Charlie then responded, according to this witness,
13 that -- or asked Danny De Carlo, "Where do you get lye?"

14 That would be the basic sum and substance of that
15 conversation.

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1 THE COURT: That is that particular conversation?

2 MR. KATZ: Yes, your Honor.

3 THE COURT: Now, Mr. Weedman?

4 MR. WEEDMAN: Well, your Honor, yes, thank you.

5 I would object, of course, to the alleged statement
6 that was made by Mr. Manson, "Shorty committed suicide with
7 a little help from us," on the ground that that is a confession
8 or tantamount almost to a confession.

9 It is a confession or near confession from a co-
10 defendant in this case, and as such should not be, obviously,
11 received against my client, your Honor, because it is hearsay.

12 It is not necessary to say that it is highly
13 prejudicial.

14 THE COURT: Well, you get into many legal questions.
15 The People's theory is that of a conspiracy, actions, conduct,
16 declarations of the co-conspirators that are binding one upon
17 the other.

18 That is the substance of it.

19 MR. WEEDMAN: Only during the course of the conspiracy.

20 Now, if Mr. Shea had been murdered, the conspiracy
21 would have been to murder him.

22 THE COURT: Well, the law is that there is holdings
23 during the course or after, following the conspiracy.

24 MR. WEEDMAN: Well, your Honor, you can't admit the con-
25 fession of a codefendant against the defendant. You can't do
26 that. That is elementary.

27 THE COURT: Well, this is not a confession or admission
28 given to a law enforcement officer. It is somewhat of a

10A7

1 statement during the course or fulfillment of an alleged
2 conspiracy. I think it is admissible.

3 MR. WEEDMAN: Well, your Honor --

4 THE COURT: It is a voluntary statement. Nobody is
5 interrogating him, forcing him, asking him, "Did you kill
6 Shorty Shea, what did you do," it is not an interrogation.

7 It is a voluntary statement.

8 MR. WEEDMAN: But, your Honor --

9 THE COURT: Go ahead. I'm not trying to bug you. I
10 don't mean it that way.

11 I'm just speaking out loud.

12 MR. WEEDMAN: No, of course not, your Honor. We are all
13 working here. We are all working here.

14 If Mr. Katz were to seek to introduce a statement
15 from Charles Manson which says, "I, Bruce Davis and Steve
16 Grogan killed Shorty Shea." Suppose Manson had made that
17 statement. That wouldn't be admissible against my client, your
18 Honor, under any rule of law, under any possible consideration.

19 That is why we have the Aranda rule, for example,
20 which requires that if the prosecution introduces confessions
21 which implicate a codefendant, then you have to have a separate
22 trial simply because such confessions may not be received against
23 a codefendant.

24 It is a denial of the right of confrontation. It
25 is a denial of due process.

26 The law in that regard, your Honor, I can't imagine
27 is any more clearly established. It is hornbook law, as a
28 matter of fact.

1 So what Mr. Katz wants to do is admit an admission
2 implicating my client, but not made by my client, but made by
3 a codefendant.

4 He can't do that. He shouldn't be permitted to do
5 that under any theory of law, your Honor.

11 fls

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1 MR. KATZ: Your Honor, if I may respond briefly, I think
2 Mr. Weedman has raised some salient points that are worthy of
3 consideration.

4 However, in researching this law, it is clear
5 first of all that an exception to the Aranda rule is a state-
6 ment is made during the course and scope of the conspiracy
7 and in furtherance of the object and design of the conspiracy.

8 Now, the cases hold that the conspiracy does not
9 necessarily end with the accomplishment of the substantive
10 act but rather continues on through efforts of the members of
11 the conspiracy team to conceal the fruits of the crime.

12 Now, we are stating that this statement was made
13 during the course and scope of the conspiracy to conceal the
14 body. Here he is asking -- I am referring to Manson -- he is
15 really asking De Carlo "Hey, we just killed somebody. I have
16 to get rid of the body. How do I get rid of the body? Will
17 lime or lye get rid of the body?"

18 MR. WEEDMAN: Forgive me for interrupting, Mr. Katz.
19 Can't we stick to one thing at a time? I can't possibly make
20 a record if you are going to be talking about that latter half
21 of that conversation.

22 I am only talking about Manson saying "Shorty
23 committed suicide with a little help from us." Can't we stick
24 to that and not talk about the balance of the conversation?

25 MR. KATZ: Well, your Honor, I think --

26 THE COURT: Just a minute.

27 (Short pause.)

28 MR. KATZ: Mr. Weedman was asking me to separate the two

11-2

1 aspects of the statement, namely, the first part which says
2 "Shorty committed suicide with a little help from us." From
3 the latter part of the statement.

4 THE COURT: Well now, to that point right there I don't --
5 a voluntary statement, if a defendant in a case makes a
6 voluntary statement without interrogation whatsoever, I don't
7 think there is any question that those statements are admissible.

8 MR. KATZ: Well, your Honor, excuse me. I think Mr.
9 Weedman has raised a serious question here.

10 First of all, we have to analyze it in this way.
11 Mr. Grogan did not make the statement --

12 THE COURT: I am disturbed about that.

13 MR. KATZ: What we are saying is this, and the People's
14 theory is this, that the only theory of admissibility for the
15 entire statement is that it is a statement which is made in
16 furtherance of the object and design of the conspiracy which
17 includes acts following the commission of the substantive
18 crime, namely, the murder, to dispose and conceal the fruits
19 of the crime.

20 THE COURT: Now, let me stop you there.

21 MR. KATZ: In this case which would be the body. I have
22 got cases --

23 THE COURT: Wait a minute.

24 MR. KATZ: All right.

25 THE COURT: Did the girl say Grogan was there at the
26 time, again?

27 MR. KATZ: No. Grogan definitely was not there. I want
28 that clear.

11-3

1 THE COURT: So you have got statements of Manson without
2 Grogan being there in any respect.

3 MR. KATZ: That's right.

4 In People v. Davis, 210 Cal.App.2d 721 citing
5 People v. Wells, W-e-l-l-s, 187 Cal.App. 324, the Wells
6 doctrine was applied to hold one member by the name of De Louiza,
7 D-e L-o-u-i-z-e, responsible for the declaration of another
8 defendant whose name was Davis, made out of his presence, that
9 is, De Louize's presence.

10 THE COURT: All right.

11 MR. KATZ: Some five days after the robbery had occurred
12 in which the declarant Davis told another about De Louize's
13 part in the robbery and what had been done to conceal the
14 identity of the perpetrators.

15 The court in quoting from Wells stated at page 735:

16 "While it may not be expressly so
17 agreed, it is obviously tacitly understood
18 by the persons who conspired to commit a
19 criminal offense and the law is justified
20 in assuming that the conspiracy includes
21 the evading and resisting of arrest and
22 acts done to that end."

23 Now, there are further cases that are cited such
24 as --

25 THE COURT: Well, I want to cut in.

26 MR. KATZ: All right.

27 THE COURT: I am not trying to disrupt you any more than
28 I do Mr. Weedman.

1 MR. KATZ: I understand.

2 THE COURT: Let's go back to Manson, where Manson says --
3 discusses the lye and the other business.

4 MR. KATZ: Yes, your Honor.

5 THE COURT: Here, and his specific statement was, what
6 was that now, once again? You gave it to me.

7 MR. KATZ: The first part or the second part?

8 THE COURT: Yes, "We don't need to worry about Shorty.
9 He won't be here any more," what was that?

10 MR. KATZ: Yes. The statement was "Shorty committed
11 suicide with a little help from us."

12 THE COURT: Now, let's stop right there.

13 MR. KATZ: All right.

14 THE COURT: Now, forgetting Grogan.

15 MR. KATZ: Yes.

16 THE COURT: Let's say you are trying Manson. Now, we
17 are trying Manson for the purpose of this argument here, and
18 you put this witness on the stand.

19 Manson is on trial and you have his voluntary
20 statement now of Manson in which Manson makes this statement,
21 "Shorty committed suicide. We don't need to worry about him
22 any more," whatever it is there.

23 MR. KATZ: Right.

24 THE COURT: Now, that is a voluntary statement, is it not?

25 MR. KATZ: That's correct. And it is clearly admissible.

26 THE COURT: It is not the result of any interrogation of
27 any kind that I can see.

28 MR. KATZ: Clearly admissible.

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MR. WEEDMAN: Your Honor, may I --

THE COURT: Wait a minute. I will listen to you.

MR. WEEDMAN: Forgive me. Excuse me, your Honor. I am
sorry.

THE COURT: I see no reason that -- I am talking about
Manson and not --

MR. KATZ: Mr. Grogan.

THE COURT: Not the defendant.

MR. KATZ: Right.

THE COURT: That that statement is not -- I know of no
reason that that is not admissible as against Manson. We are
talking about Manson.

MR. KATZ: That's correct, your Honor.

THE COURT: Do you have any argument on that?

MR. KATZ: No. There is no question that is admissible.

11a

1 THE COURT: All right.

2 Now, the objection comes in that it is not admis-
3 sible as against Grogan because it is a statement or admission
4 or a confession of Manson that can't be applicable as against
5 Grogan. One reason is, I would assume it is a frank admis-
6 sion or confession of Manson attributable to the -- the
7 consequences of which are attributable to Grogan.

8 Grogan was not there. That is one answer.

9 Number two, let's take this assumption. Suppose
10 Grogan was there. What is your position as to the admissibi-
11 lity of Manson's statement against Grogan if Grogan was there
12 at the time the voluntary statement is made?

13 Now, I am sidestepping my thinking. I will get to
14 that in a minute.

15 What is your position on that?

16 MR. KATZ: Well, once again, for the same reasons it
17 would be clearly admissible and for the additional reason that
18 he is present and by circumstantial evidence is adopting and
19 ratifying --

20 THE COURT: Forget your conspiracy proposition for a
21 minute. Just suppose now that Grogan and Manson are present.

22 Put your conspiracy to one side for a moment and
23 take the statement in which -- suppose Grogan is charged here.

24 MR. KATZ: Yes.

25 THE COURT: Charged as he is. Manson says, "Shorty
26 committed suicide." Here's Grogan: "Shorty committed suicide.
27 Don't have to worry about him any more."

28 Voluntary statement. Here is Grogan.

11A2

1 Is that admissible as against Grogan here?

2 MR. KATZ: Only on the theory of adoptive admission.

3 THE COURT: What is that?

4 MR. KATZ: Only on the theory of adoptive admission, but
5 the point is --

6 THE COURT: I know your point. I am taking other issues
7 here.

8 MR. KATZ: No, I am just talking about the adoptive
9 admission point.

10 Unless the statement by Manson was sufficiently
11 accusatory with respect to Mr. Grogan so as to require in the
12 normal course of human affairs a response, it could be used as
13 an adoptive admission.

14 When you talk about the statement, "Shorty committed
15 suicide with a little help from us" under your situation it
16 may or may not be an accusatory statement requiring Mr. Grogan
17 to respond. I can't answer that, and that is not our theory
18 under which we are proceeding.

19 THE COURT: I understand that.

20 All right.

21 Now we will get down to your theory. We will get
22 down to your theory or the theory in the case, and that is
23 that you have a conspiracy. You have established a conspiracy,
24 or it is part of the establishment or it has been established,
25 and it is in fulfillment of the conspiracy that these conver-
26 sations took place, an act, declaration or statement of a
27 conspirator is admissible as against co-conspirators, and that
28 is either in pursuance of the conspiracy as part of the original

1 plan to dispose of the body or pursuant to the purpose of the
2 conspiracy. Therefore, the admissions --

3 MR. KATZ: Yes, your Honor.

4 THE COURT: -- of Manson are in effect admissions or
5 confessions of Grogan.

6 There is your position in substance, is it not?

7 MR. KATZ: Yes. The statements can be used against
8 Mr. Grogan having once been established as a member of the
9 conspiracy.

10 THE COURT: Now, to what extent again is that, if at all,
11 altered by the fact that it is -- embodies a statement of
12 Manson which is, you may say, a confession or admission of
13 the murder of Shorty Shea?

14 I may stretch my statement there. I don't mean
15 to be so fulfilling as that. But a statement of Manson,
16 "Shorty Shea committed suicide. We don't have to worry about
17 him any more. What is best to dispose of the body?"

18 Words to that effect.

19 MR. KATZ: That is covered right in People versus Davis,
20 210 Cal. App. 2d., 721.

21 THE COURT: What does it say there again?

22 MR. KATZ: There Mr. Davis, five days after the robbery,
23 made statements about Wells, his alleged accomplice and co-
24 conspirator.

25 THE COURT: Was he there then?

26 MR. KATZ: No, it was out of the presence of Wells and
27 admitted against Wells in his trial, in which Davis told
28 De Louize's part in the robbery and what had been done to

conceal the identity --

THE COURT: Wait a minute. You are too fast for me.

Statements in which --

MR. KATZ: In which Davis told another outside the presence --

THE COURT: All right.

MR. KATZ: -- of De Louize.

THE COURT: Yes.

MR. KATZ: De Louize's part in the robbery and what had been done to conceal the identity of the perpetrators.

The court in quoting from the Walls case I previously referred to at page 735, said:

"While it may not be expressly so agreed it is obviously tacitly understood by the persons who conspired to commit a criminal offense and the law is justified in assuming that the conspiracy includes the evading and resisting of arrest and acts done to that end."

And then they cite a host of cases. And they discuss Supreme Court cases, and they discuss Cleaver v. United States, C-l-e-a-v-e-r, 238 Fed. 2d., 766. And Ferris, F-e-r-r-i-s, v. US, 40 Fed. 2d., 837, among many other cases.

In other words, what they say is that acts which are done to facilitate escape or concealment of the identity of the perpetrator of the offense, even though not expressly discussed amongst the various members of the conspiracy, are understood to be in furtherance of the object and design of the conspiracy.

1 Now, the statements that Manson makes -- and let's
2 bring it right home to the facts we have here -- if he just
3 makes a statement to Danny De Carlo, "Will lye or lime get rid
4 of a body," this is meaningless, taken out of context unless
5 you bring in the entire conversation which is "Shorty committed
6 suicide with a little help from us."

7 And he is saying thereafter in effect, "Well, how
8 do you get rid of a body? Will lye get rid of it or will lime
9 get rid of it? Where do you get lye?"

10 This is in furtherance of the design to conceal
11 the identities of the perpetrators and to get rid of the body
12 so it cannot be recovered.

11B

11B

1 THE COURT: All right.

2 Let me ask you this question again. Take it
3 under two theories. Let's say -- let's change Manson's state-
4 ment.

5 "We finally killed Shorty." Let's put it this way.

6 Now, number one, let's put Grogan there when that
7 statement is made. It is a voluntary statement.

8 Here is my question again. To what extent is that
9 statement of Manson's admissible as against Grogan from your
10 standpoint, if at all?

11 MR. KATZ: Well, on two bases right.

12 THE COURT: I am taking my new hypothetical statement.

13 MR. KATZ: Yes. Certainly on the theory of adoptive
14 admission.

15 THE COURT: What does the law say is necessary for adop-
16 tive admission?

17 MR. KATZ: You would definitely have to have a sufficient-
18 ly identifying and accusatory statement so that a person in
19 the normal course of human affairs would respond to the contrary.
20 In other words, deny it.

21 And unless you can say that that statement suffi-
22 ciently identifies and accuses Mr. Grogan from the circumstances
23 surrounding the making of the statement, that he helped kill
24 Shorty, he wouldn't be required to respond, and accordingly
25 his silence would not be admission, on an adoptive admission.

26 So once again based upon the sparse facts that you
27 have given, I don't think I would seek to introduce that as an
28 adoptive admission, absent other circumstances.

11B2

1 So I still go back to my theory --

2 THE COURT: I know it. I am branching away as I talk
3 here.

4 MR. KATZ: Yes. I'm sorry, your Honor.

5 THE COURT: Now, let's repeat my statement in this
6 position. And you may have answered it already in your theory.

7 Suppose Grogan -- suppose Manson says, "Well, we
8 finally got rid of Shea," and Grogan is there. Now, the case
9 is against Grogan, charging him with murder.

10 To what extent is that statement of Manson admis-
11 sible as against Grogan, in your position?

12 I changed the statement of Manson. Manson, instead
13 of saying, "We won't be bothered with Shea any more," Manson
14 says, "We finally got rid of Shea" and Grogan is present.

15 MR. KATZ: Well, once again, your Honor, unless it is
16 sufficiently meaningful to identify Grogan as one of the
17 perpetrators of the crime so as to accuse him of that crime,
18 there would be no responsibility on Grogan's part, in my opin-
19 ion, to respond and deny "Hey, Charlie, that's not true. I
20 didn't say that."

21 THE COURT: No.

22 MR. KATZ: Accordingly, the statement that you gave me,
23 absent other circumstances, I think would be inadmissible
24 against Grogan.

25 THE COURT: Yes. That is what I want to get at.

26 MR. KATZ: I think that would be a fair conclusion.

27 Under your theory, your Honor, you would have to
28 have a statement such as "Grogan and I and some others killed

1 Shorty Shea.*

2 THE COURT: Right.

3 MR. KATZ: And if Grogan is there and there are no
4 police officers around as such, and he fails to deny the
5 accusation --

6 THE COURT: You have an adoptive admission.

7 MR. KATZ: Then that is a classical kind of an adoptive
8 admission.

9 The first two statements you talked about are
10 not clearcut at all. I would not want to proceed on the
11 theory of admissibility based upon adoptive admission if
12 that answers your question, Your Honor.

13 THE COURT: Yes. Now, well, we are getting way after
14 12:00 o'clock.

15 Let's go over until 2 o'clock, gentlemen.

16 Let's go to 2 o'clock. I will listen to you
17 very carefully.

18 (At 12:05 noon recess was taken until
19 2 p.m. of the same day.)
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12-1

LOS ANGELES, CALIFORNIA, WEDNESDAY, AUGUST 4, 1971

2:00 P.M.

(The following proceedings were had
in chambers:)

THE COURT: Now, we are back in chambers here at 2
o'clock.

I want to reconstruct some of these questions I
have asked.

I know they are repetitions, and that they have
been discussed already. I am disturbed in my mind.

I want to revisit the situation starting from
scratch here, and therefore I am not -- the reason I am talking
to the D.A. is because I am taking his position. I am not
pointing a finger at you. I am asking the D.A. in respect to
his position.

You will have plenty of time to talk.

MR. WEEDMAN: Thank you, your Honor. I won't say a word.
I promise you.

I am going to be quiet.

THE COURT: Now, let's start from scratch here.

Let us say that Barbara, our witness, the witness,
goes down in back of this stream here, wherever, and as she
says, Charlie Manson is there, and the other parties she
mentioned are there, two, three other people, the baby, the
other two people.

Now, let us assume -- well, Grogan was not there.

We will put him out of the picture for a minute.

12-2

1 We have Charlie Manson talking, and Manson says,
2 "Well, we have got rid" -- I may change the context entirely,
3 but it is done pointedly.

4 "We got rid of Shorty. Now, we have to get rid of
5 his body." That is pretty much an accusatory statement, way
6 of putting it.

7 We have to get rid of Shorty, and we have to get
8 rid of his body. What are we going to do. Just take that
9 statement.

10 MR. KATZ: Is that in the presence of Grogan?

11 THE COURT: Stop right there for a minute.

12 Now, the witness is relating this on the witness
13 stand, but let us assume and turn the tables entirely and say
14 that the defendant is Charlie Manson and not Grogan.

15 Now, at that juncture we have a voluntary self-
16 admission of Manson that undoubtedly is admissible as against
17 Manson through the mouth of the witness.

18 Is that correct?

19 Do you concede that?

20 MR. KATZ: I concede that is one of the bases for
21 admission of that statement.

22 THE COURT: Take it no further than that one statement.

23 MR. KATZ: Well, as you have set it out, that would be
24 one of the --

25 THE COURT: Manson voluntarily makes a statement, "Well,
26 we have gotten rid of this man Shorty. What are we going to
27 do with the body?"

28 MR. KATZ: No question about it.

12-3

1 THE COURT: All right. Now, we at that moment -- we will
2 back up again.

3 We have Barbara relating it from the stand -- I
4 am changing the whole context here. She goes down and she
5 says that Manson and -- she sees these other two parties or
6 three parties, and she sees Grogan there, right there. Grogan
7 is in the -- I am injecting him in here for the moment.

8 Grogan is there. Now, we have Manson making the
9 statement, the same statement, "Well, we got rid of Shorty.
10 What are we going to do with Shorty's body?"

11 Now, the witness Barbara testifies to that from
12 the witness stand, and Manson is not on trial. He is not here
13 before this court, but Grogan is the defendant in a murder
14 case.

15 Now, to that statement she says Grogan made no
16 reply. Grogan just sat there. Grogan didn't say anything.

17 Now, at that juncture is the People's position
18 that because Grogan did not protest the comment of Manson,
19 that that statement through the lips of the witness is
20 admissible?

21 I am putting it to one side, the question of
22 conspiracy. I am not debating that at this moment.

23 MR. KATZ: Yes, your Honor.

24 THE COURT: Conspiracy is out for the moment.

25 Is it the People's position that that statement
26 of Manson through the lips of the witness in which she
27 incriminates Grogan is admissible as against Grogan through
28 the lips of this witness on the stand?

12-4

1 MR. KATZ: Assuming for the moment it could be
2 unequivocally construed as accusatory with respect to Grogan's
3 involvement in the alleged murder, then it would be an
4 adoptive admission by reason of Grogan's silence.

5 THE COURT: Let me stop you right there.

6 Let me stop you here. Your position is -- the
7 People's position is that the statement of Manson through the
8 lips of this witness of a statement -- statements related by
9 Manson as I have theorized where Grogan was present, those
10 statements would be admissible as against Grogan basically
11 because Grogan did not protest, he accepted the statements?

12 Is that your position?
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1 MR. KATZ: Well, your Honor, again I hate to back off
2 but unless those statements can be unequivocally established
3 to indicate an accusatory statement which concerns Mr. Grogan--

4 THE COURT: All right.

5 MR. KATZ: And implicates him as a perpetrator of --

6 THE COURT: All right.

7 MR. KATZ: I can't say how he would be under any duty
8 in the eyes of the law to respond.

9 So, in other words, you have given me somewhat of
10 an equivocal statement.

11 THE COURT: Then, therefore -- well, it would become a
12 question of materiality if Manson's statement in no way
13 incriminated Grogan. They would be totally immaterial to
14 Grogan's trial, then, wouldn't they?

15 MR. KATZ: In that isolated situation, I would say yes.

16 THE COURT: All right.

17 Now, stop again. Now, let's say Manson says this:
18 "Well, Grogan and I got rid of Shorty. What are we going to do
19 with the body?"

20 And Grogan says nothing. Grogan just sits there.

21 Now, in the event the witness should relate it in
22 that fashion, to what extent are those admissible, such a
23 statement admissible against Mr. Grogan because he said nothing
24 at that theoretical meeting?

25 MR. KATZ: Well, I am assuming that we are putting aside
26 any conspiracy theory.

27 THE COURT: Yes. And I am not demeaning it, I am just
28 talking about a different situation.

1 MR. KATZ: I would say there is a clear, unequivocal
2 accusatory statement made towards Mr. Grogan and which would
3 require in the eyes of the law a response denying such involve-
4 ment.

5 THE COURT: All right.

6 MR. KATZ: And in the absence thereof, the silence would
7 constitute by conduct an adoptive admission.

8 THE COURT: Let's take it both ways now.

9 Now, Grogan says nothing. He says nothing to that
10 statement of Manson's. No response at all.

11 Therefore, there is under the People's theory,
12 there would be a theoretical acquiescence of Grogan in the
13 statement because he didn't protest the accusatory nature of
14 Manson's charge that he has more or less acquiesced under your
15 position to Manson's charge.

16 MR. KATZ: Yes, your Honor.

17 THE COURT: That's correct?

18 MR. KATZ: Yes, your Honor.

19 THE COURT: And therefore it is admissible to whatever
20 extent the jury might want to consider it as against Grogan,
21 who is charged for murder.

22 MR. KATZ: As an adoptive admission, yes.

23 THE COURT: All right.

24 Now, let's say Manson makes that same statement.
25 "Grogan, I have got rid of Shorty. What are we going to do
26 with the body?"

27 Now, Grogan says, "Wait a minute. I haven't got
28 anything to do with that at all. I protest. Don't put me in

1 the picture."

2 Now, to what extent can the witness on the stand
3 relate that conversation or statement that she heard at that
4 time and place, as I have indicated?

5 MR. KATZ: I would think under the law as I understand
6 it, that that statement would be wholly inadmissible.

7 THE COURT: Inadmissible?

8 MR. KATZ: Yes. Because there would be no theory which
9 would permit its introduction into evidence since it could not
10 come in as an adoptive admission.

11 THE COURT: Because of the protest.

12 MR. KATZ: If Grogan had protested the accuracy of such
13 a statement, since we are putting aside conspiracy for the
14 moment,

15 THE COURT: Yes. Put that to one side.

16 MR. KATZ: No basis for the introduction of the statement.
17 It would be inadmissible.

18 THE COURT: Because of the protest of Grogan, the state-
19 ment becomes inadmissible.

20 MR. KATZ: Correct.

21 THE COURT: Even though -- now, we will add Barbara's
22 statement. Even though Barbara may further relate -- you see,
23 you get into factual matters for the jury.

24 Grogan may say as far as Barbara's testimony is
25 concerned, Grogan says nothing, just says, as I first indicated,
26 Manson charges, Grogan says nothing.

27 At a later time Grogan denies the statement.
28 Denies the statement as related by Barbara of what Manson stated.

13-4

1 What is your position at that juncture? Do you
2 follow me or not?

3 MR. KATZ: No.

4 THE COURT: I don't blame you. I have thought through
5 this so many angles.

6 Barbara says, "I went down to the stream and Grogan
7 was there and Manson was there and two other people were there.
8 Manson says, 'Grogan and I got rid of Shorty. What are we
9 going to do with the body?'"

10 Now, at that moment Grogan says nothing.

11 Now, there you have an acquiescence, theoretically,
12 by Grogan that would permit the admission of the statement
13 for such consideration that the jury may want to give to it.

14 MR. KATZ: Yes, your Honor.

15 THE COURT: Now, you got the statement in evidence, don't
16 you, theoretically?

17 I don't mean to point my finger at you when I say
18 that. The statement is in evidence.

19 MR. KATZ: Yes, your Honor.

20 THE COURT: All right.

21 A little time later Grogan gets on the stand, and
22 his counsel says to him, "Well, People's witness Barbara has
23 related here that in the conversation in which Manson said
24 that you and he got rid of Shorty and you didn't protest, you
25 didn't say anything, you stood there, you sat there; is that
26 right?"

27 Grogan says, "Why no, it isn't right. I protested.
28 I said, 'Don't put me in the picture. I haven't got anything

1 to do with this.'"

2 Now, at that juncture, you have got a statement of
3 Barbara as to what she says happens, and you have got state-
4 ments of Grogan protesting or to the effect that he protested
5 Manson's alleged statement.

6 Do you follow me now?

7 MR. KATZ: Surely.

8 THE COURT: All right.

9 Now, how are you going to get your statement out
10 of there? What are you going to do? Throw it to the jury
11 there as to decide on the veracity or credibility of the
12 witnesses?

13 MR. KATZ: Of course. It doesn't go to the admissibility,
14 it goes to the weight. All you are doing is offering evidence
15 on both sides of the coin.

16 THE COURT: All right.

17 And then it is for the jury to determine on the
18 credibility and strike out the statement -- not strike out but
19 accept the statement, either the version of Barbara or the
20 version of Manson.

21 MR. KATZ: Absolutely.

22 THE COURT: There is your point. In the meantime, the
23 statement would be in evidence, wouldn't it?

24 MR. KATZ: Of course.

25 THE COURT: All right.

26 Now we will take our next step. Now, when we get
27 to the position where we are substantially at this point, where
28 Barbara testifies she goes down to the stream, Manson is there.

1 Grogan is not there. And there is two other witnesses and this
2 baby.

3 And Manson says, as is indicated -- I can't remember
4 it. But "Shorty Shea won't bother us any more." Substantially
5 that, I believe.

6 MR. KATZ: It was -- I will give you the exact statement.

7 THE COURT: All right. You can make it exact.

8 MR. KATZ: "Shorty committed suicide with a little help
9 from us. Ha, ha, ha."

10 THE COURT: All right.

11 Now, and Grogan's not there. Let us assume -- let
12 us assume that -- let's have it again. Give me those exact
13 words because this is important.

14 What is his statement? What do you expect her
15 statement to be, again?

16 MR. KATZ: Can I give you the whole context?

17 THE COURT: All right.

18 Give the whole statement.

19 MR. KATZ: All right. The whole statement is --

20 THE COURT: Now, Grogan is not there.

21 MR. KATZ: Right. That is right.

22 THE COURT: The girl is talking.

23 MR. KATZ: "Shorty committed suicide with a little help
24 from us. Ha, ha, ha."

25 Then Manson asked De Carlo, "Will lye or lime get
26 rid of a body?"

27 To which De Carlo replies, "Lime will preserve a
28 body and lye will get rid of a body."

1 And Manson replies by way of a question to De Carlo,
2 "Where can you get lye," or "Where do you get lye?"

3 And that's basically the entire context of the
4 conversation I seek to elicit.

14 fls

14-1

1 THE COURT: Now, we will put Grogan in and out of this
2 conversation.

3 Let us suppose for the moment Grogan is there.

4 Let us assume it is an accusatory statement. I
5 would think it is an accusatory statement.

6 If Grogan is there, obviously it would seem to me
7 it is an accusation or a comingling in guilt, whatever you
8 want to call it, of Grogan, if he is there, because Manson
9 speaks of "we". "We", which would have to be Grogan again,
10 if he were there, for the minute.

11 Now, if Grogan remained silent in this hypothetical
12 situation, again, and says nothing, by acquiescence this
13 statement of Manson would be admissible.

14 Again, we go right back to where we were a few
15 minutes ago, isn't that right?

16 MR. KATZ: Yes, your Honor.

17 THE COURT: Grogan again is not there and the statement
18 of Manson, I believe, can be called an accusatory statement,
19 "we."

20 MR. KATZ: But Grogan is there?

21 THE COURT: No.

22 MR. KATZ: Are you saying Grogan is there or is not
23 there?

24 THE COURT: No, Grogan is not there in this new
25 structure.

26 MR. KATZ: All right.

27 THE COURT: It is accusatory of whoever "we" is comprised
28 of.

14-2

1 "We," the statement is a statement, I think, and
2 is clearly an accusatory statement or an admission of guilt,
3 however you want to put it, whether you want to say you killed
4 John Smith or we killed John Smith, it is an admission or
5 accusation, probably more of an admission.

6 Now, Grogan is not there, so the People's theory
7 is again, getting back to what we have discussed so many
8 times here in the past month or so, that the admissions or
9 statements or acts of a co-conspirator are the admissions,
10 acts, or statements of the other co-conspirators, either
11 jointly or severally.

12 Is that correct?

13 MR. KATZ: Yes, if committed in the furtherance of the
14 object and design of the conspiracy.

15 THE COURT: Committed in the perpetration of the crime
16 or in the furtherance of the crime.

17 MR. KATZ: Yes, your Honor.

18 THE COURT: I believe that is the way the jury instruc-
19 tion reads.

20 MR. KATZ: That is correct, your Honor.

21 THE COURT: So boiled down in its final essence, it
22 means this, according to the People's position, that an
23 accusatory statement is admissible in this case if you have
24 a conspiracy as against Grogan.

25 MR. KATZ: If you have prima facie evidence of a
26 conspiracy.

27 THE COURT: Although Grogan is not there, Grogan can't
28 rebut it, can't say "No, that is not true, Manson. I have

14-3

1 nothing to do with this."

2 He can't rebut it. It becomes an accusatory
3 statement that is admissible as against Grogan in Grogan's
4 severance or Grogan's trial for murder because of the theory
5 of the People -- I am not demeaning you when I talk this way.

6 MR. KATZ: Yes, your Honor.

7 THE COURT: The theory of the People that they are
8 co-conspirators acting in the furtherance of a conspiracy to
9 commit this murder or public crime, as the code section says.

10 Now, this is where we are, isn't that about it?

11 MR. KATZ: That is exactly where we are.

12 THE COURT: We have gone around the circle two or three
13 times getting there.

14 Now, I am getting to repeat this last statement
15 again, because I think this is a very critical situation.

16 The admissions -- I am revamping it. I am coloring
17 it to fit -- the outright admissions or confessions, if they
18 may be called that --

19 MR. KATZ: Or declarations, your Honor.

20 THE COURT: Declarations? All right, we'll put
21 declarations.

22 The declarations or statements of Manson incriminating
23 himself and other conspirators in the commission of murder, we
24 got away with, we killed -- I am overplaying it to bring in
25 the potency of it, "We got rid of Shea. What will we do with
26 the body?"

27 Therefore, under the People's theory that is
28 admissible as against Grogan, allegedly a co-conspirator who

was not present at the time of statements of Manson as related
by the witness.

MR. KATZ: That is correct, your Honor.

14-5

1 THE COURT: I am repeating the same situation.

2 MR. KATZ: Our answer to that is that it is admissible
3 under the conspiracy theory.

4 The secrecy and concealment are its main ingredients
5 with respect to the conspiracy.

6 THE COURT: What is the closest case you have, if any?

7 Not as distinguished from kind of mild admissions
8 or "Let's commit a crime" or "Let do something" or "You get
9 an automobile and I'll get a gun" of co-conspirators.

10 What is the nearest thing that you have that touches
11 upon an actual admission or statement by an alleged conspirator,
12 "I killed John Smith." My co-conspirator, "We killed Joe
13 Doakes."

14 What is the closest you have as to the admissibility
15 of such statements as that?

16 MR. KATZ: Your Honor, I think I have a case just in
17 point.

18 THE COURT: All right, let's have it.

19 MR. KATZ: This is People v. Davis, 210 Cal.App.2d 721.

20 THE COURT: Now, wait a minute. 210?

21 MR. KATZ: 210.

22 MR. WEEDMAN: Here it is, your Honor.

23 MR. KATZ: 210 Cal.App.2d 721.

24 THE COURT: Now I have it.

25 Thank you, Mr. Weedman.

26 MR. KATZ: May I briefly refer to it?

27 THE COURT: Yes.

28 MR. KATZ: They talk about the Wells doctrine, 187 Cal.

1 App. 324, and they were discussing the scope of the conspiracy.

2 THE COURT: Yes.

3 MR. KATZ: And the court in Davis indicated that the
4 Wells doctrine was applied to hold one robber by the name of
5 De Louize responsible for the declaration of another accomplice
6 robber, Davis, which was made out of his presence, meaning
7 De Louize's presence, some five days after the robbery had
8 occurred in which the declarant Davis told another about
9 De Louize's part in the robbery.

10 Obviously, if I may interject, an accusatory
11 statement.

12 THE COURT: That is all right.

13 MR. KATZ: And what had been done to conceal the
14 identity of the perpetrators.

15 The court in admitting that statement against
16 De Louize into evidence, even though he was not present during
17 the conversation five days after the commission of the
18 robbery, stated at page 735, quoting from the Wells case:

19 "While it may not be expressly so
20 agreed, it is obviously tacitly understood
21 by the persons who conspired to commit a
22 criminal offense, and the law is justified
23 in assuming that the conspiracy includes
24 the evading and resisting of arrest, and
25 acts done to that end."

26 And then they cite a bunch of cases.
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Now, going on one step further, your Honor.

In Nassif v. United States, and the citation is 370 Fed. 2d 147, a 1966 case, they stated at page 151, the following:

"A conspiracy is not born full grown. It grows by successive stages. Secrecy and concealment are its main ingredients."

In People v. Tinnin, and this is a California case, 136 Cal. App. 301, defendants were convicted of first degree murder of an elderly woman. Evidence was introduced showing that defendants plotted to escape punishment by making the killing appear to be a fatal traffic accident. The court found that the purpose of the criminal enterprise went beyond the killing of the victim, and extended to the attempt to escape punishment for the killing by inducing the authorities to believe that the deceased had been the unfortunate victim of a traffic accident.

"/?

At page 306 the court held, and I am now quoting, your Honor, as follows:

"It is well settled that where the commission of the crime grows out of a conspiracy, and the unlawful enterprise is established, either by direct or circumstantial evidence, every act or declaration of each member of the confederacy in pursuance of the original concerted plan and with reference to the common object, is in contemplation of law the act and declaration of them all, and it is, therefore, original evidence against each of them,

1 it being deemed in law that one who thus enters into
2 a common purpose or design is a party to everything
3 which may be done or said by the others in further-
4 ance of the conspiracy."

5 They cite People v. Sampsell, 104 Cal. App. 431,
6 People v. Lorraine, and they go on to state as follows:

7 "Furthermore, that the common design of the
8 criminal enterprise may extend," and I underscore
9 this, your Honor, "may extend beyond the point of
10 the commission of the act constituting the crime
11 for which the alleged conspirators are on trial."

12 In our case, your Honor, which is murder, People v.
13 Opie, 123 Cal. 294, a Supreme Court case, People v. Mazurko,
14 49 Cal. App. 273, People v. Holmes, 118 Cal. 44, another
15 California Supreme Court case, and finally they cite People v.
16 Rodley, another California Supreme Court case at 131 Cal. 340.

17 They go on to state as follows:

18 "And that the question as to when the
19 design is accomplished and abandoned depends on
20 the facts and circumstances of each case, and the
21 nature and purpose of the conspiracy and is one
22 for the determination of the jury."

23 Now, here we are contending that obviously conceal-
24 ment of the fruits of the crime and the identity of those who
25 participated in the crime is part of the foreseeable consequences
26 of the engagement into a conspiracy to commit murder.

27 They had to get rid of the body, Charlie Manson
28 was making an act and declaration in the furtherance of the

1 concealment -- to conceal his identity and the identity of the
2 others by removing any evidence of the crime, i.e., the body.

3 You couldn't have a clearer case of a co-conspira-
4 tor trying to get rid of the body or trying to find out how to
5 get rid of the body.

6 It was in furtherance of the object and design of
7 the conspiracy. It must be contemplated, your Honor, if we are
8 to rationally look at this, that if somebody enters a conspiracy
9 to commit murder, they certainly intend to conceal their
10 identity and will take all reasonable measures and efforts to
11 hide the body.

12 It may be recovered and be later identified by way
13 of evidence as connecting them to the offense. This is a fore-
14 seeable consequence, so this is the basis for the admissibility
15 of Manson's statement to De Carlo.

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1 MR. KATZ: And this is why when he says, for example,
2 "Shorty committed suicide with a little help from us. Ha, ha,
3 ha." This places in context the next important statement which
4 immediately follows, "Hey, Danny," and I am paraphrasing this
5 in substance, "how do you get rid of a body? Will lye or lime
6 get rid of it?"

7 And De Carlo gives him advice and De Carlo tells
8 him, "Well, lime won't get rid of it. That will preserve it
9 but lye will."

10 Then Manson says, "Well, where do you get this
11 lye?" These are acts clearly in furtherance of the object and
12 design of the conspiracy to conceal the fruits of the crime
13 and to hide the body.

14 And I think you couldn't have a clearer case of
15 that, your Honor.

16 THE COURT: Thank you.

17 Now, let me check this momentarily.

18 (Short pause.)

19 THE COURT: All right. Now, go ahead, Mr. Weedman.
20 Did you want to speak?

21 MR. WEEDMAN: Oh, yes, I do. Thank you, your Honor.

22 THE COURT: Go ahead.

23 MR. WEEDMAN: First of all, your Honor, there are really
24 two parts to Barbara Hoyt's testimony concerning statements
25 made by Charles Manson.

26 The first part of her testimony appears to be that
27 Charles Manson said, "Shorty committed suicide with a little
28 help from us."

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1 Now, that is virtually a confession. And it is
2 a confession which by fair implication involves my client.

3 Citing People v. Aranda with which I am sure your
4 Honor is abundantly familiar. 63 Cal.2d 518. People v.
5 Gonzales, a 1967 case, at 66 Cal.2d 482. People v. Massie,
6 M-a-s-s-i-e, 66 Cal.2d 899.

7 Those cases, your Honor, and a legion of other
8 cases hold that a confession by a co-defendant which implicates
9 the defendant is inadmissible against the defendant and indeed
10 in Aranda, our own Supreme Court laid down the rule that
11 should such confession emerge in a trial, a limiting instruc-
12 tion by the court, that is to say that the confession is to
13 be used only against the person making it, is ineffectual.
14 And they hold now that that is without any further showing
15 reversible error. It cannot be cured in any way.

16 And People v. Aranda and subsequent cases hold
17 that very clearly indeed, your Honor. So that, let's just
18 suppose in this case Charles Manson were being tried right
19 along with Mr. Grogan right here in your Honor's courtroom.
20 And let's suppose then that Mr. Katz sought to introduce this
21 evidence, to wit, Charles Manson said, "Shorty committed
22 suicide with a little help from us."

23 If that were received in evidence here it would be
24 according to People v. Aranda, reversible error, prejudice
25 being assumed. And that has been the rule in California.

26 THE COURT: Let me stop you there. Suppose it is said
27 without any protest or comment from Grogan that he protested
28 in no way. Assume Grogan is there, that he protested in no

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1 way such an accusation or confession of Manson.

2 MR. WEEDMAN: Mr. Grogan is not there, your Honor.

3 THE COURT: I know that. I concede that.

4 Would your position be changed?

5 MR. WEEDMAN: It might be. I don't know.

6 THE COURT: All right.

7 Go ahead. Now, I am not trying to disrupt you,

8 MR. WEEDMAN: But of course as your Honor has repeatedly
9 pointed out Mr. Grogan is not there.

10 THE COURT: I appreciate that.

11 MR. WEEDMAN: Therefore the situation your Honor has to
12 deal with is one where a confession, almost, is made by
13 Charles Manson outside the presence of my client which
14 implicates my client. And I would cite Aranda, Massie,
15 Gonzales and point out that it is a very common rule of law
16 indeed that prohibits the use of a confession by a co-defendant
17 against a defendant.

18 It is inadmissible. Aranda goes even further,
19 of course and establishes the firm rule that you can't even
20 admonish the jury to use it in a limited way. If it comes in
21 evidence at all it is reversible error. No prejudice need be
22 shown. It is reversible error, period.

23 I suppose the only exception to that ipso facto
24 reversible error would be if the defendant thereafter took
25 the stand and confessed. But that's not going to happen in
26 our case, and we certainly can't even consider such a thing,
27 your Honor.

28 So as to the first part of Barbara Hoyt's

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1 testimony, that is that Charles Manson said, "Shorty committed
2 suicide with a little help from us" I submit that this is
3 virtually a confession made outside the presence of my client
4 and therefore could in no way be adopted by him as a vicarious
5 admission and therefore is absolutely inadmissible against my
6 client.
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1 Now, there is a second part to Barbara Hoyt's
2 testimony, and it is that Charles Manson went on to ask Danny
3 De Carlo about the efficacy of lime versus lye for disposing
4 of a body.

5 Now, Mr. Katz does not seek to introduce this as
6 a confession as such. Does not seek to introduce it other than
7 as being a statement of a co-conspirator made during the course
8 and scope of the conspiracy. Therefore making it admissible
9 against my client on the theory that my client is a member of
10 that conspiracy.

11 So we really have two separate problems. The
12 first problem is whether or not a confession from Charles
13 Manson implicating my client is admissible against my client
14 if he wasn't there.

15 The second problem is whether or not this latter
16 statement from Barbara Hoyt is admissible under a theory of
17 conspiracy.

18 As to the latter point I submit number one, there
19 is no prima facie showing here of a conspiracy. And as your
20 Honor has observed earlier in this trial declarations of
21 alleged co-conspirators which tend to show the existence of a
22 conspiracy cannot be used against an accused until the
23 conspiracy is established. Citing Simmons v. Superior Court,
24 245 Cal.App.2d 704.

25 Now, in more direct reply to Mr. Katz, Mr. Katz
26 as I understood his citation, cited a federal circuit court
27 case which in turn cited California cases which date back to
28 1900. I would submit that that citation is highly misleading

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1 in this situation.

2 You see, Mr. Katz' argument constantly reiterates
3 the hornbook rule re conspiracy. I have no quarrel with that.

4 I think I appreciate what the law of conspiracy
5 is, and I accept the law in that regard. It is a matter of
6 factual determination now.

7 In the cases that Mr. Katz cites, for example he
8 cited *People v. Davis*, a fairly recent California case, a
9 1962 case, for the proposition that a co-defendant could under
10 a theory of conspiracy thoroughly implicate almost by way of
11 a confession, the defendant.

12 But Davis doesn't say that. The statements in
13 Davis that were made by the co-defendant, co-conspirator,
14 were on their face largely innocuous statements. As I read the
15 case they were merely statements made outside the presence
16 of the defendant by the co-defendant, to the effect that he
17 was going to meet the defendant at a certain location which,
18 of course, had some bearing on the commission of the crime.

19 It certainly didn't amount to anything approaching
20 a confession or admission or anything of that sort. And
21 certainly Davis is good law on its facts. And certainly Davis
22 follows hornbook law with respect to conspiracy.

23 Statements, declarations and acts of co-conspirators
24 are admissible against a defendant if they are made in the
25 furtherance of the conspiracy even though they are made in his
26 absence. I have no quarrel with that rule of law. I am only
27 saying that in this case there is no prima facie evidence of
28 a conspiracy and Mr. Katz I suggest may not be permitted to

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1 prove a conspiracy by the alleged declarations of alleged
2 co-conspirators. He has to prove it apart from declarations
3 of alleged co-conspirators, your Honor.

4 Now, going back over the evidence I fail to see
5 where a conspiracy has been shown, even circumstantially, in
6 this case. After all I would submit that at this point even
7 for evidentiary purposes we would have to spend a lot of time
8 analyzing whether or not a corpus delicti for the crime of
9 murder has indeed been shown.

10 But even if we got over that hurdle we would have
11 to go beyond that and show that two or more persons actually
12 agreed, either directly or indirectly, to commit this murder.
13 And there is no showing, absolutely none, your Honor, in the
14 record. And therefore Mr. Katz should not be permitted to
15 introduce anything at this point which relies upon a theory
16 of conspiracy.

1 Finally, your Honor, there is certainly nothing
2 which shows that my client is a conspirator. Even if we had
3 a prima facie showing of conspiracy, it's fundamental to an
4 admission of something against him that he be shown to be a
5 conspirator. This may not be shown by his own admissions for
6 purposes of this rule, again citing *Simmons v. Superior Court*.

7 In other words, Mr. Katz may not indulge here in
8 a bootstrap approach. In other words, he may not be permitted
9 to lift himself by his own shoestrings. He is going to have
10 to prove in my judgment a conspiracy circumstantially or
11 otherwise without using alleged statements of alleged
12 co-conspirators to do so.

13 Because to do so, as the courts have pointed out
14 with great frequency, is to permit the jury to use such
15 statements to show substantive guilt, and that is of course the
16 reason for the rule that prohibits the use of extrajudicial
17 statements by alleged co-conspirators to prove the conspiracy.

18 We do not permit the corpus delicti to be shown
19 by evidence of alleged statements made by the alleged
20 participants. We only allow such statements to come in after
21 there has been a prima facie showing of the corpus delicti.

22 Therefore Mr. Katz must show a corpus delicti by
23 slight evidence, I understand, but he has to do something to
24 show the corpus delicti of a conspiracy here before he can be
25 permitted to introduce statements of alleged co-conspirators
26 against my client, and further must show that my client is a
27 conspirator by some evidence before even that should be admitted
28 against him, your Honor.

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1 So we have two parts to the question. The first
2 part is whether or not the confession of a co-defendant
3 implicating my client may be used against him. I submit that
4 Aranda, Gonzales and so on absolutely prohibit that.

5 And secondly, your Honor, I urge that no
6 conspiracy has been shown here sufficient or at all in order to
7 permit the prosecution to use acts and declarations of someone
8 else against my client when he is not present and there is no
9 adoptive admission, there is no vicarious admission, your
10 Honor.

11 MR. KATZ: If you wish, your Honor, I can easily answer
12 counsel's questions that he raised.

13 THE COURT: Well, I will listen to you.

14 MR. KATZ: He raised, for example, the Aranda problem
15 making a statement that where a co-conspirator's declarations
16 implicate a co-defendant they cannot be used on the theory of
17 conspiracy against that co-defendant because Aranda so
18 proscribes.

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1 THE COURT: Well, that is --

2 MR. KATZ: That is not true, because People v. Brawley,
3 which is a very recent California Supreme Court case, 1 Cal. 3d,
4 277, discussed this specific problem concerning Aranda, and
5 concludes that where the statements, whether they are admissions,
6 whether they are confession, whether they implicate a co-
7 conspirator or not, if they, in fact, are made in furtherance
8 of the object of the conspiracy, they are admissible.

9 So that the conspiracy rule is an exception to
10 Aranda, and Bruton v. United States, a recent United States
11 Supreme Court case, which discussed the Aranda problems, and
12 that is at 391 U.S. 123, acknowledged in their very learned
13 opinion that where statements are made in furtherance of the
14 object and design of the conspiracy, the rules concerning
15 Aranda, i.e., statements which implicate a codefendant, are not
16 applicable, and the statement will come in against all parties
17 to the conspiracy whether or not such statements constitute a
18 confession or admission.

19 That is the law, and here is People v. Brawley.

20 THE COURT: Let me see that again.

21 Is this my --

22 MR. KATZ: Yes, your Honor. I made no notations in your
23 book.

24 THE COURT: Well, let me put this together here.

25 MR. KATZ: It is quite obvious, your Honor, you have done
26 a lot of homework in this area.

27 (Short pause.)

28 THE COURT: Let me ask you some questions because this

1 thing leads to so many various ramifications.

2 I'm directing my question to the People here for a
3 minute.

4 It is probably a restatement of what I have stated
5 many times in various ways.

6 Suppose you have X and Y. Let's suppose you have
7 a conspiracy. Let's assume a situation, X and Y conspire to
8 kill John Smith. John Smith is killed.

9 Now they arrest X. X is arrested, and the officers
10 upon the arrest of X proceed to interrogate him. "Did you kill
11 John Smith." They say this to X. They don't give him Aranda.
12 They don't give him his rights.

13 X says, "Yes, X and Y, my partner and I, X and Y,
14 we killed John Smith."

15 Now you have a situation where no rights are given
16 to X, and you have a situation to -- X says, "We killed John
17 Smith and we took the body out on a row boat and we dumped it
18 in the ocean." No rights are given to X.

19 Those are statements, are they not, respecting Y,
20 who is charged with murder, made out of his presence and in
21 furtherance of a conspiracy.

22 Theoretically, they would be admissible.

23 MR. KATZ: No, your Honor, because as a matter of fact,
24 they are not made in furtherance of the conspiracy.

25 THE COURT: Go ahead. I know what you are going to say.
26 Go on.

27 MR. KATZ: May I answer?

28 THE COURT: Yes.

1 MR. KATZ: First of all, whether or not the Aranda
2 admonition was given is wholly immaterial because in the
3 circumstances you have constructed, it would be clearly in-
4 admissible against the codefendant.

5 THE COURT: Who was not there.

6 MR. KATZ: Yes, who was not there. Because, your Honor,
7 the statement clearly was not made in furtherance of the object
8 and design of the conspiracy.

9 That is the whole key to your case.

10 THE COURT: There is the question I am getting at. This
11 is what bugs me.

12 X in his confession -- he says, X and Y, "We
13 killed John Smith and we got a boat and in furtherance of the
14 killing, we -- so the body wouldn't be found, we took it out
15 and dumped him in the ocean."

16 Isn't that a statement in furtherance of the
17 conspiracy?

18 MR. KATZ: All that is, is a confession as to why the
19 person did something in the past.

20 You see, a statement in furtherance -- I think I
21 can distinguish it.

22 I see your Honor's problem. May I show you the
23 difference?

24 THE COURT: All right.

25 MR. KATZ: Distinguish two situations. Situation A is
26 where a conspiracy is still going on and it is necessary to
27 conceal the body, so in furtherance of the concealment aspect
28 of the conspiracy, A out of the presence of the co-conspirator B

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1 says, "Hey, how can I get rid of this body. Will I get rid
2 of the body or will I get rid of the body."

3 This is clearly an act, declaration, statement in
4 furtherance of the ultimate object to conceal the body.

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1 THE COURT: Well, just change the facts.

2 MR. KATZ: We will take your situation.

3 THE COURT: Take X and Y here.

4 MR. KATZ: Your situation is something that has happened
5 after the entire termination of the conspiracy.

6 You have a man in custody now. He is being ques-
7 tioned by the police, and he is asking, in effect, "Well,
8 aren't you involved, sir? Why don't you tell us why you did it.
9 Why don't you tell us what you did with the body."

10 That is nothing more than a confession.

11 THE COURT: Well, now, wait.

12 MR. KATZ: It is inadmissible.

13 It is inadmissible against the co-conspirator who
14 is not present or a party to the conversation, and --

15 THE COURT: Because under your theory it is not a part
16 of the consummation of the conspiracy.

17 MR. KATZ: Exactly. That is the precise issue.

18 THE COURT: All right, Well, now, my point is that I am
19 attempting to distinguish between your statement there that
20 it is not admissible against the co-conspirator, and in our
21 present case where they -- where Manson makes the statement.
22 Well -- I can't remember, where he says, "Well --"

23 MR. KATZ: "Shorty committed suicide."

24 THE COURT: Yes, "and we helped him commit suicide, ha ha,"
25 or something. "How are we going to dispose of the body."

26 The only structural difference is that instead of
27 the statement being made in the presence of an arresting officer,
28 it is made without any officer being there. It is nevertheless --

1 it is definitely a confession of a murder, is it not?

2 Isn't Manson's statement that?

3 MR. KATZ: I think your Honor has confused the issue.

4 The statement is made for the purpose of consum-
5 mating the conspiracy. It hasn't been completed yet, so it
6 doesn't matter whether or not it constitutes a confession,
7 whether it is an admission.

8 THE COURT: I agree to that, but what is the difference
9 between whether a co-conspirator says X and Y -- "I and X,
10 we killed John Smith," and he is under arrest.

11 "I killed John Smith," and X and Y, "We killed
12 John Smith."

13 Now, there is your murder. We are looking around
14 for a place to dispose of the body, and he is under arrest.

15 Now, you have got a conspiracy. You have him
16 making a statement to an officer to that effect.

17 To what extent is that admissible as against the
18 co-conspirator that is not there?

19 MR. KATZ: Wholly inadmissible, because the conspiracy
20 has terminated.

21 He has been apprehended. There is nothing more
22 to be done in connection with the conspiracy.

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1 THE COURT: What about the body? He is trying to get
2 rid of the body. He is arrested and haven't found the body
3 yet.

4 MR. KATZ: That isn't the point. The statement has to
5 be made to persons or under circumstances in which it becomes
6 clear and apparent that the co-conspirator is trying to con-
7 summate the conspiracy. You are not talking about a statement
8 that occurs after the fact. He has been apprehended.

9 Insofar as it concerns that conspirator who has
10 been apprehended the conspiracy really ends at this point.
11 There is nothing that he can do about it.

12 But here we have Manson before the body apparently
13 has been disposed of, and he is asking advice from De Carlo,
14 "My God, we have got a body on our hands." In essence. I am
15 paraphrasing. "How do we get rid of it? Do you have any sug-
16 gestions, Danny? What about lye? What about lime?"

17 These are statements continuing in the course and
18 scope of the conspiracy to conceal the fruits of the crime.

19 THE COURT: To crystallize the thinking there, suppose
20 an officer at that moment comes in and says, "You are under
21 arrest, Manson. You are under arrest."

22 "What have you done here? I am arresting you for
23 the murder of Shorty Shea."

24 What is the effect of it?

25 MR. KATZ: Before or after he made the statement?

26 THE COURT: During the course or after this immediate
27 conversation, or during the conversation related by the witness
28 on the stand. Suppose an officer came in at that very moment

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1 that Manson is talking, and the officer says, "Here, I heard
2 a little bit of that. Let me have the rest of it. What
3 happened here?"

4 Now, you have a statement there. You have a state-
5 ment that, it is your position, that such a statement to an
6 officer at that juncture without advice as to Miranda, would
7 be admissible as against the codefendant who is not there,
8 Grogan.

9 MR. KATZ: It would be --

10 THE COURT: You see you are cutting it off. I am trying
11 to put an officer in there before. You are shutting it off
12 and saying in your argument, "Well, the crime is committed.
13 A confession is made. And the statements are not in further-
14 ance of the conspiracy."

15 That is what you are saying. I am trying to inject
16 to show, crystallize the thinking that disturbs me. Suppose
17 you put an officer in there, make an arrest right during that
18 statement being related by the witness on the stand.

19 MR. KATZ: You would have to segment it or compartmental-
20 ize with respect to that part of the statement which Manson
21 made to his friends, which the officer overheard. It would
22 be clearly admissible against all members of the conspiracy
23 whether or not they are there.

24 With respect to his interrogation after the
25 statement was made, it would be inadmissible. And, your Honor,
26 here is a case, United States v. Amon, 363 Fed. 2d 385.

27 They held that conversations were acts in further-
28 ance of the conspiracy. And the court in that regard stated

at page 401:

"Appellant seemed to argue that conversation cannot be an act and that in any event this conversation was not in furtherance of the conspiracy. However, much talk is 'action' with direct legal consequence. As an example, people decide, promise and reject. Here we have a warning to co-conspirator Hedges by defendant Amone after the conspirators had gone to the trouble of tracing the source of the counterfeit bill. We hold that this conversation qualified as an 'act.' Moreover, the jury could find that Amone was attempting to stave off investigation of the conspiracy by warning Hedges of the dangers of passing counterfeit money among the conspirators. The trial court left the issue of furtherance of the object and design of the conspiracy to the jury. They said, 'We cannot say as a matter of law that the jury could not reasonably have concluded that this conversation viewed in the context of the other evidence, was in furtherance of the conspiracy or not in furtherance of the conspiracy.' In the present case the object of the conspiracy, importation, distribution of narcotics had not been completed at the time of the conversation and we cannot say that the successful accomplishment of the crime did not necessitate concealment."

Now, here we have Manson, his statements are acts.

1 They are declarations in furtherance of the conspiracy.

2 "How are we going to conceal this? How do we get rid of the
3 body?"

4 It doesn't matter whether Grogan is here. This is
5 circumstantial evidence, number one, of the conspiracy. And,
6 number two, it can be used against Grogan as part of the
7 concealment aspect of the conspiracy.

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1 THE COURT: Now, at that very point there is another
2 situation that arises and has probably been discussed many
3 times in the various ways the questions are put.

4 Isn't the crime completed when Shorty is killed?
5 What difference does it make what happens to the body, whether
6 they bury it or throw it away as a matter of cold and
7 caloused fact?

8 The conspiracy is to kill, the conspiracy isn't
9 to hide the body, is it? Isn't the conspiracy to kill, get
10 Shorty dead?

11 MR. KATZ: Your Honor, I am glad that you asked that
12 question.

13 THE COURT: All right. Let's have the answer to it.

14 MR. KATZ: I have cases that say the opposite. As a
15 matter of fact they indicate that it goes far beyond the mere
16 consummation of the crime.

17 Here is Fricke on Criminal Law, 7th Edition. This
18 is cited incidentally from People v. Wells, W-e-l-l-s, 187
19 Cal.App. 324. They are discussing the scope of conspiracy in
20 detail at page 330 of the opinion. They state: "Quoting Fricke
21 on Criminal Law, 7th Edition, pages 123 to 124 states the
22 following": "It does not follow that when the declared object
23 of a conspiracy has been accomplished" -- and that would be,
24 your Honor, the murder that you are talking about here --
25 "The conspiracy is at an end and there is no further liability
26 to any of the conspirators because of an act of one of its
27 members. In a conspiracy to commit a crime the conspiracy
28 continues not only until that crime has been committed."

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1 Let me interject the Shea murder -- " But until the ultimate
2 object of the crime has been accomplished and the liability
3 of the conspirators as such extends beyond the mere consumma-
4 tion of the crime" which in this case would be the actual
5 killing of Mr. Shea.

6 Now, they cite People v. Tinnin, a case I cited to
7 you before, T-i-n-n-i-n, 136 Cal.App. 301. People v.
8 Cavanaugh, C-a-v-a-n-a-u-g-h, 107 Cal.App. 571. People v.
9 Wagner, W-a-g-n-e-r, 133 Cal.App. 775. People v. Lorraine,
10 L-o-r-r-a-i-n-e, 90 Cal.App. 317.

11 The court goes on to state "Thus a conspiracy to
12 commit the crime of robbery for example is not ended until
13 the spoils of the robbery have been divided" and they cite
14 People v. Dean, D-e-a-n, 66 Cal.App. 602, "Or if the crime be
15 kidnaping for ransom, until the ransom has been paid," citing
16 once again People v. Wagner, 133 Cal.App. 775.

17 They go on to state -- and this is the last of my
18 citations -- "While it may not be expressly so agreed " --
19 and this answers your question directly -- "it is obviously
20 tacitly understood by the persons who conspired to commit a
21 criminal offense, and the law is justified in assuming that the
22 conspiracy includes the evading and resisting of arrest and
23 acts done to that end 'the common design of conspiracy may
24 extend in point of time beyond the actual commission of the
25 act constituting the crime for which the accused is being
26 tried'" which is the murder here, "such as for the purpose of
27 concealing the crime, securing the proceeds thereof or bribing
28 or influencing witnesses. Of course it must reasonably

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1 appear that such acts were committed in furtherance of the
2 common design of the conspiracy" which is what I have been
3 arguing, People v. Suter, S-u-t-e-r, 93 Cal.App. 2d, 444.

4 So clearly these cases say that it's not -- the
5 conspiracy does not automatically end once the substantive
6 crime has been committed, namely, robbery or burglary or
7 murder, but it extends to those foreseeable acts that will
8 occur in the course and scope of the conspiracy which relate
9 to the concealment aspect.

10 Now, they certainly don't -- it is not contemplated
11 in the conspiracy, and it must be tacitly understood that they
12 are going to try and escape being identified as perpetrators
13 of the offense. I think that is reasonable, your Honor. It
14 is also reasonable, is it not in the foreseeable scope of the
15 conspiracy to conclude they are going to try and hide the
16 body as carefully as they can so any act or any declaration
17 that is done in furtherance of that contemplated tacit
18 agreement to get rid of the body so that the officials won't
19 find it would be in furtherance of the object and design of
20 the conspiracy, and accordingly that statement of De Carlo is
21 clearly admissible.

22 I think I have answered your Honor's question.

23 MR. WEEDMAN: Well, that would be an answer, I submit,
24 if counsel were correctly citing and stating the law. Mr. Katz
25 of course has come up with a great many citations and I submit
26 that none of those citations, to the best of my knowledge,
27 supports the position, I think it is one which should be
28 discussed here, supports the position that even if there was

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a conspiracy to commit murder once the murder has been committed the object of the conspiracy has ended.

Bear in mind that when you are talking about robbery, the division of the spoils is obviously part and parcel of the robbery since the robbery makes no sense unless the participants profit from the robbery.

That is not the situation with respect to murder. I would respectfully ask Mr. Katz if he has any cases in California which directly hold that concealment of the body following a conspiracy to commit murder is part of the conspiracy. There may be such cases. I don't know of any offhand, but there may well be such cases, your Honor.

MR. KATZ: As a matter of fact, in response to Mr. Weedman's question, I have a case directly on point, and I previously cited it to the court.

MR. WEEDMAN: What is that case, Mr. Katz?

MR. KATZ: Excuse me, Mr. Weedman. I am just looking through my brief now, and I will give it to you in just one second.

MR. WEEDMAN: Surely.

(Short pause.)

MR. KATZ: Yes. Mr. Weedman and your Honor, the case is People v. Tinnin and they cite quite a number of other cases.

17b

17B

1 MR. WEEDMAN: What is the citation?

2 MR. KATZ: Tinnin 136 Cal. App. 301.

3 This was a murder case. And this did not relate,
4 Mr. Weedman, to a concealment of the body as such. It was an
5 attempt to alter the apparent circumstances surrounding the
6 killing and change the -- move the body from one location to
7 another.

8 MR. WEEDMAN: A 1934 case.

9 MR. KATZ: Yes. It has been Shepardized and brought up
10 to recent cases.

11 (Short pause.)

12 THE COURT: Well, to restate your position again, I put
13 this in many, many forms. Repeat it again, the transcript
14 shows I have asked the question many times because I am dis-
15 turbed about it.

16 Changing the hypothesis of the answer expected to
17 be elicited from the witness, possibly aggravate the answer
18 that will be given. It is the People's position that if the
19 witness should say, "Yes, I heard what was said there between
20 Manson and the other parties there. Grogan was not there.
21 Manson said, 'We killed --'" I am changing your factual
22 structure a little -- "'We killed Shea last night. We killed
23 him. Now we have got to get rid of the body.'

24 "That is the statement from Manson. Let's assume
25 that. Now, under the People's contention that is clearly a
26 statement of a co-conspirator either in the performance of
27 the conspiracy or in a continuing performance of the conspiracy
28 or in a consummation of the purpose of the conspiracy.

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1 And therefore, as such, a confession. I am going
2 to assume it a confession whether you want to call it in
3 performance or not --

4 MR. KATZ: Doesn't matter, your Honor. That's right.

5 THE COURT: I am assuming the statement is a confession.
6 "We killed Shorty Shea." That under such a factual structure
7 on the basis that it is in performance or as is stated here
8 in the code section and also in Bradley, in furtherance of
9 the conspiracy. It is admissible as against Grogan. That's
10 right?

11 MR. KATZ: Clearly, your Honor. Clearly.

12 MR. WEEDMAN: Well, your Honor --

13 THE COURT: Go ahead.

14 MR. WEEDMAN: Where is the conspiracy? You can't show
15 a conspiracy by statements of alleged co-conspirator. Now,
16 if my client had made some statements then, that might be
17 another matter, and now we haven't come to any such problem
18 yet. So I am not trying to anticipate that.

19 But after all, these are statements made when my
20 client is nowhere around. Now, the cases I have cited, the
21 cases, and I cannot do any more than that. They make it
22 abundantly clear that a conspiracy may not be established
23 by statements of other defendants or other alleged co-
24 conspirators. There has to be a prima facie showing of a
25 conspiracy without the use of such statements.

26 Now, a confession, of course, has nothing to do
27 with the furtherance of a conspiracy. After all, when you say
28 to somebody, "Yes, I killed him," that doesn't further the

1 conspiracy one bit. That is not made in the furtherance of a
2 conspiracy.

3 So I am not talking about that. I am talking
4 about the latter part of Barbara Hoyt's testimony when she
5 says that Manson asked De Carlo about the use of lye or lime.

6 Now, that statement tends to establish the fact
7 that Mr. Manson had knowledge. My argument only, of course,
8 had knowledge that there might be a body that had to be dis-
9 posed of. But even that statement standing alone. And I
10 most strenuously, of course, object to it.

11 But even that statement alone is not going to show
12 a conspiracy even by prima facie evidence.

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1 I am urging that it not be received, even for that
2 purpose, because after all Mr. Katz may take a different view
3 of it than I do.

4 I am urging that it not be received, because the
5 law is quite clear, and I would like to quote again.

6 "Declarations," of which this is of Mr. Manson,
7 "of alleged co-conspirators," and Mr. Manson is an alleged
8 co-conspirator, "which tend to show the existence of a
9 conspiracy," and that is the reason Mr. Katz is offering it,
10 of course, "cannot be used against an accused," and that is
11 my client, cannot be used against my client, "until the
12 conspiracy is established."

13 Of course, I am saying the rather obvious thing,
14 that Mr. Katz has not established a conspiracy.

15 People v. Massie, "The fact of conspiracy cannot
16 be proved by evidence of extrajudicial statements of the
17 co-conspirator."

18 Another case, People v. Goldberg, 152 Cal.App.2d
19 562. "The proposed testimony of a witness," that would be
20 Barbara Hoyt, "who relates a conversation had with an alleged
21 co-conspirator, is hearsay until after the conspiracy has been
22 established," and so on.

23 THE COURT: Well, I think the People through a culmina-
24 tion of either statements among co-conspirators, acts or
25 declarations, have indicated a prima facie showing of
26 conspiracy.

27 Now, the strength of it is another matter.

28 MR. WEEDMAN: Your Honor, may I ask you respectfully so

1 I can be guided in my own thinking --

2 THE COURT: Yes, surely.

3 MR. WEEDMAN: Where such evidence lies in the evidence
4 which has been produced before your Honor?

5 THE COURT: I can't pinpoint it. I'm only speaking of
6 a culmination, a grand culmination, would seem to indicate it.

7 MR. WEEDMAN: Your Honor, we don't even have a corpus
8 delicti, really, for the fact that Mr. Shea is dead.

9 But let's assume that we have a prima facie
10 showing, however then, that Mr. Shea is dead. I submit that
11 we do not have even a prima facie showing from the evidence
12 that we have heard that he was murdered.

13 THE COURT: Well, you have got either factual structure,
14 connotations, that may be drawn, or inferences that may be
15 drawn for acts or conduct sufficient to place it before the
16 jury.

17 Now, I don't pass as a judge on the strength of
18 the testimony, how impressive it is, whether it meets the
19 boundaries of beyond a reasonable doubt or even a preponderance.

20 I pass on a skeleton of a situation.

21 In any event, I would make this observation. I
22 think the answer of the witness is permissible.

23 Now, I am putting a great deal of question marks
24 around it. I can do that. We are out of the presence of the
25 jury. We are not in open court here.

26 We have spent a great deal of time, and I think
27 fruitfully, even though I may be ruling as I am.

28 We are up to 3:30 here from 2 o'clock. We have

1 spent most of the morning -- a great deal of it -- substantial
2 portion of it in here, a portion of it in here anyway.

3 I am not altogether satisfied on the wisdom of
4 what I think the holdings may indicate. I will follow the
5 holdings. I am not arguing that. I am talking about the
6 wisdom, what a court may want to do, to what extent.

7 These are questions, assuming but not conceding,
8 that the jury would bring in a verdict of guilty.

9 I am showing you my ultimate thinking here, and
10 the case would go up to a higher court.

11 I think a very serious situation could be
12 presented as to what extent -- what is, in effect, a confession
13 or an admission of a co-conspirator, "We have killed or we
14 have accomplished the death of John Smith," the alleged
15 deceased man. "We have accomplished that."

16 To what extent, and apply that as to a nonpresent
17 conspirator, I think that could be very well such an ultimate
18 situation that could be reviewed by the court in the face of
19 convictions.

20 I am not here to pass on that question.

21 I think the law will sustain the answer. Those
22 questions present serious matters for further decision, but I
23 do think the law will sustain it.

24 Now, I am going to overrule the objection of the
25 defendant.

26 I am not unmindful of your position.

18-A

1 MR. WEEDMAN: Is your Honor really going to let a confes-
2 sion from a codefendant in, and my client is not there?

3 THE COURT: Well, I can't answer that. I say you have a
4 serious question.

5 MR. WEEDMAN: Well, your Honor, it is reversible error.
6 I submit that in all humility to your Honor.

7 I know what happens. We all get into chambers and
8 we start thinking about all the ramifications, and you especi-
9 ally, I think, in a very fertile way consider the thing from
10 so many directions -- I mean you come up with considerations
11 that Mr. Katz and I, quite frankly, and I think that I speak
12 for Mr. Katz, haven't really considered.

13 I submit that sometimes we can get so close to the
14 problem that we really ought to pull back away from it a little
15 bit.

16 And we submit in the final analysis of what we are
17 ending up with here is the receipt into evidence of a confes-
18 sion from Charles Manson which implicates my client, and my
19 client is not present and such confession is not made in the
20 furtherance of or within the scope of a conspiracy.

21 THE COURT: I am not belittling your position or demean-
22 ing your position.

23 In my opinion, it is a serious question, but I do
24 think the law sustains the answer being given.

25 I am going to overrule the objection, and I would
26 say that the same position can be renewed at other times. The
27 same situation on the grounds of corpus may be re-presented.

28 MR. WEEDMAN: Well, your Honor, at this time I would

1 respectfully make the following observations, and I think I
2 should state it for the record.

3 THE COURT: All right.

4 MR. WEEDMAN: First of all, I believe in all sincerity
5 that the admission of Charles Manson's confession in this case
6 under these circumstances constitutes, without any other
7 aspect or without any showing of my prejudice to my client,
8 reversible error, and I am absolutely confident that any
9 conviction, should it be had here against my client, would be
10 reversed on the ground, and my observation is as follows:

11 I do not wish to be forced into a tactical posi-
12 tion where I am, because of my objection to this evidence,
13 precluded from cross examining with respect to this evidence,
14 and I want the record now to reflect --

15 THE COURT: I understand that, and I will see that any --
16 that you will not be restricted if you desire to the extent
17 of cross examination, I will see that you are not restricted.

18 I understand that from your statement.

19 MR. WEEDMAN: In other words, the court would --

20 THE COURT: I will see that you are not restricted.

21 MR. WEEDMAN: In other words, the court will understand
22 that I am objecting to the receipt in evidence of the testi-
23 mony.

24 THE COURT: Yes, sir. I certainly do, and I think it is
25 a forceful objection.

26 MR. KATZ: I think counsel is stating that his cross
27 examination, however full it may be, is not to be a concession
28 that he is admitting that this is admissible.

1 Is that correct?

2 MR. WEEDMAN: Yes.

3 MR. KATZ: I would so stipulate that that would be your
4 position.

5 THE COURT: All right.

6 MR. WEEDMAN: I appreciate that very much, Mr. Katz,
7 and in that way we won't have an eager deputy attorney general
8 up there saying, "Well, Mr. Weedman cross examined, and there-
9 fore he must have waived all of this."

10 THE COURT: I think your position is very fruitful, but
11 that will cover it.

12 We have had no recess. The reporters haven't quit.
13 We are going to be right up against 4:00 o'clock.

14 I am willing to -- it is 25 minutes to 4:00.

15 MR. WEEDMAN: Your Honor, may I add in connection with
16 this that I have not felt well this afternoon at all, and I
17 would appreciate it if we could recess at this time, because
18 by the time we have a recess --

19 THE COURT: Well, we are certainly entitled to the
20 recess. That would take it up to ten minutes to 4:00.

21 MR. KATZ: Your Honor, I beg you --

22 MR. WEEDMAN: I would appreciate very much, your Honor,
23 being permitted to adjourn this matter.

24 I'm going directly home. I had, indeed, scheduled
25 a joint conference between my client and witnesses tonight, and
26 I am not going to be able to attend that, your Honor.

27 MR. KATZ: I beg you to give me the opportunity to
28 present this statement at this time.

1 We have been arguing for almost three hours now.
2 I want the opportunity, and I earnestly entreat the court to
3 give me the opportunity to put this statement on at this time.

4 THE COURT: Do you want to get the statement, and then
5 recess?

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

7 I think I should have the opportunity to do so.

8 MR. WEEDMAN: Well, your Honor, I am representing to the
9 court that I do not feel well. I have a headache.

10 My doctor prescribed some medication for me, quite
11 frankly.

12 THE COURT: I will take the statement and recess.

13 I think the People are entitled to the statement.
14 There may be reasons of their own that they have.

15 MR. KATZ: Thank you, your Honor.

18b-1

1 MR. WEEDMAN: I certainly feel that in addition to the
2 seriousness of this evidence, because I feel now that it is by
3 far the most serious decision that your Honor has made, I feel
4 that it is not going to hurt the People to at least start with
5 that tomorrow morning, and to permit me to cross-examine.

6 THE COURT: I agree with you.

7 I think I will take the statement and stop, and
8 then you can cross-examine tomorrow.

9 Let's go ahead and take the statement only,
10 gentlemen.

11 MR. WEEDMAN: Your Honor, while I realize that we have
12 discussed this matter for about two hours, I feel very, very
13 strongly, as I said earlier, that the receipt in evidence, as
14 your Honor already has ruled, would constitute not only error
15 because of the cases I have cited, but I respectfully request
16 at least, despite the fact that I hardly feel like it -- I
17 would respectfully request an opportunity to go to the law
18 library, and produce additional points and authorities.

19 I am absolutely convinced, your Honor, that the
20 court, and again I am going to abide by the court's ruling
21 certainly in the final analysis, but in defense of my client,
22 and after all that is the only reason I am here, in defense of
23 that client, I feel that I should be -- I think it is proper
24 for me to submit further authorities to the court only on the --
25 I will abide by the court's ruling with respect to the
26 conspiracy. I made a record for that.

27 I grant that the court is right in that it is a
28 matter of some equivocation.

18b-2

1 It is a matter which is not abundantly clear, but
2 with respect to the first part of Barbara Hoyt's testimony,
3 the confession of Charles Manson, your Honor, I feel very
4 strongly that I can produce for your Honor, and I will do it
5 very quickly tomorrow morning, evidence that will convince you
6 that it would be reversible error to permit that into evidence.

7 I can only say now that to hurry out there and
8 compel this witness to launch into this particular testimony,
9 your Honor, will make it, no matter what I come up with
10 tomorrow morning, it will be too late.

11 THE COURT: Well, I deny the motion.

12 Let's take the statement. Then we will recess.

13 (The following proceedings were had
14 in open court out of the hearing of
15 the jury.)

16 THE COURT: We are in open court. The defendant is here.
17 Both counsel are here. The witness is here.

18 State your name again.

19 THE WITNESS: Barbara Hoyt.

20 THE COURT: Bring in the jury, Sheriff.

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

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

26 Now, Mr. Katz, the witness had gotten to the point
27 where she related she had gone to a little spring, and she
28 saw certain people there.

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Bring that out again.

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MR. KATZ: Yes, your Honor.

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THE COURT: Ask your question.

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Q BY MR. KATZ: Barbara, you were telling us that the day following the night that you heard the screams you went down to the creek area at Spahn Ranch?

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Is that correct?

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A Yes.

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1 Q And I believe you told us present were Charles
2 Manson, yourself, Kitty Lutesinger and Danny De Carlo, is that
3 correct?

4 A Yes.

5 Q Would you tell us what Mr. Manson said to
6 Mr. De Carlo, and what Mr. De Carlo said to Mr. Manson.

7 A Charlie said, --

8 MR. WEEDMAN: Oh, excuse me, your Honor.

9 Q BY MR. KATZ: The entire conversation --

10 MR. WEEDMAN: No, excuse me, your Honor. May we approach
11 the bench just for a moment?

12 THE COURT: Well, I think I have ruled on it.

13 MR. WEEDMAN: Your Honor, the reason is that Mr. Katz's
14 question is a little different than the one we had discussed
15 in chambers.

16 THE COURT: Motion denied.

17 MR. WEEDMAN: Just so I can pinpoint it, your Honor, he
18 is asking now about what Mr. De Carlo said.

19 THE COURT: Well, you want the full conversation, is
20 that what your point is?

21 MR. WEEDMAN: No, Mr. Katz is asking about conversations
22 from Mr. De Carlo as well, you see. I quite frankly don't
23 think that's been discussed, your Honor, by Mr. Katz.

24 MR. KATZ: Excuse me, your Honor. It has been discussed.
25 We talked about the responses Mr. De Carlo gave.

26 THE COURT: Ask for the full conversation she heard at
27 the time between everybody.

28 MR. KATZ: Yes.

1 THE COURT: Objection overruled.

2 I will consider that objected to and overruled.

3 MR. WEEDMAN: All right.

4 Thank you, your Honor.

5 THE COURT: Ask for the full conversation.

6 Q BY MR. KATZ: Just give us the conversation you
7 heard at the time and tell us who said what.

8 A Charlie said that they -- oh, that Shorty had
9 committed suicide with a little help. And that they stabbed
10 him. And that they cut him up into nine pieces. And that they
11 buried him under some leaves. And then he pointed with his
12 thumb, you know, down the creek.

13 MR. WEEDMAN: Well, your Honor, I am certainly going to
14 abide by the court's ruling.

15 But this is not what we heard.

16 THE COURT: Well, overruled. You may give this conver-
17 sation.

18 Q BY MR. KATZ: Would you continue --

19 THE COURT: I understand your position.

20 Q BY MR. KATZ: Who was talking?

21 A Charlie.

22 Q All right.

23 What else was said?

24 A Then Charlie asked Danny if lye or lime would get
25 rid of the body. And Danny said lime would preserve it and
26 lye would get rid of it.

27 And then Charlie asked where he could get some lye.

28 THE COURT: Now, is that the full conversation, Barbara?

1 That is what -- that is what you heard there? Speak up, please.

2 THE WITNESS: Yes.

3 MR. KATZ: All right.

4 THE COURT: That is the conversation now?

5 MR. KATZ: Yes, your Honor.

6 THE COURT: Let's recess, then, till -- is there anything

7 else on the conversation?

8 MR. KATZ: I just want to establish the approximate time

9 of day or evening that that conversation took place.

10 THE COURT: All right.

11 Go ahead.

12 THE WITNESS: Early evening. Or late afternoon.

13 Q BY MR. KATZ: Of the day following the night you

14 heard the screams, is that correct?

15 A Yes.

16 MR. KATZ: All right.

17 I will stop there, at this point.

18 THE COURT: Now, you can stop there. Let's go home.

19 Now, ladies and gentlemen, we will recess. We

20 have been in chambers constantly since I recessed you here

21 or told you to go to the jury room.

22 We will recess till 9:30 tomorrow morning.

23 Now, do not discuss the case with anybody or come

24 to any opinion or conclusion till it is finally placed in your

25 hands.

26 We will recess till 9:30 tomorrow. And if you

27 will kindly return promptly, we will proceed. Thank you very

28 much.

1 And you return by 9:30.

2 We will proceed tomorrow. Thank you.

3 We are at recess, gentlemen.

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(The following proceedings were had
in chambers:)

THE COURT: At the request of defendant's counsel we are
in chambers, to be heard in chambers with the reporter.
Defendant is here.

Go ahead, Mr. Weedman.

MR. WEEDMAN: Your Honor, on the basis of the testimony
that we have just heard from Barbara Hoyt relative to conver-
sations had with Charles Manson and Danny De Carlo, I would
respectfully move at this time for a mistrial on the grounds
that of course such statements are clearly inadmissible
against my client, do him irreparable harm and put him in a
position which is a gross denial of due process.

In addition to that, your Honor, I also will add
that we heard from -- we heard testimony from Miss Hoyt which
was not what Mr. Katz told us she was going to testify to.
It went way beyond that. It amounts to a horrendous confession
clearly not within the scope of any alleged conspiracy.

I charge Mr. Katz with bad faith in the matter.
I charge him with misrepresenting what he proposed to show,
not only to counsel, but to the court.

I think it is regrettable. I don't know why
Mr. Katz felt compelled to do this.

But in fact it has been done. And in order to
defend my client I most strenuously object to it, your Honor,
and add that to my grounds for mistrial.

MR. KATZ: Your Honor, I would just like to say one
thing.

THE COURT: Well --

MR. KATZ: I think the record can't remain silent with respect to the latter statement Mr. Weedman made. And I don't blame him for being upset.

I am totally surprised by the additional information that she added in her statement. However, once again I think it is obviously made in the furtherance of the object and design of the conspiracy.

I would like to say in good faith, as an officer of the court, I did not anticipate that further testimony would come out.

MR. WEEDMAN: I am going to warn Mr. Katz right now so he may procure assistance from his office I intend to call Mr. Katz as a defense witness. I am putting Mr. Katz on notice right now I am going to ask him precisely what conversations he had with Barbara Hoyt before she testified.

Mr. Katz just told us she did not say what he expected her to say. I charge her at this point with a prima facie showing of perjury, your Honor.

THE COURT: Well, gentlemen, motion denied.

Let's get your motions in proper sequence, Mr. Weedman. You can state your motion.

MR. WEEDMAN: It was just a motion for mistrial, your Honor, based on my objections already noted in the record plus the additional evidence that we heard from Barbara Hoyt which was unexpected evidence.

THE COURT: Motion is denied.

MR. WEEDMAN: Thank you, your Honor.

19a-3

1 THE COURT: I might say on questions of misconduct, I
2 can't help but add I think you have a rather heatedly
3 contested lawsuit here. I recognize it, and it is a serious
4 problem and serious case.

5 I put both counsel in the same basket, I consider
6 both of you highly ethical and outstanding and good practitioners
7 qualified in the law.

8 And I consider you highly ethical, both of you. I
9 will put you both together on it. Both highly ethical. That
10 is all I can say on it.

11 Motion denied.

12 We will go over to 9:30 tomorrow. Thank you.

13 MR. WEEDMAN: Thank you.

14 MR. KATZ: Thank you.

15 (An adjournment was taken to Thursday,
16 August 5, 1971, at 9:30 a.m.)
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