

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

34

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

MONDAY, AUGUST 16, 1971

PAUL CROCKETT

APPEARANCES:

(See Volume 1)

VOLUME 34:

Pages 4481 - 4588 incl.

Reported by:

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-and-

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Official Reporters

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1 PEOPLE v. STEVE GROGAN  
2 NO. A-267861

VOLUME 34 - Pgs. 4481 - 4588  
Monday, August 16, 1971

3  
4 I N D E X

5  
6 PEOPLE'S WITNESS

7 CROCKETT, Paul  
8 (Cont'd.)

DIRECT

CROSS

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4537

1 LOS ANGELES, CALIFORNIA, MONDAY, AUGUST 16, 1971

2 9:40 A.M.

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

6 THE COURT: Now we are in chambers. I have asked counsel  
7 to step in and the defendant and the reporter and sheriff and  
8 the clerk.

9 Now, basically speaking to Mr. Weedman, although  
10 I want to take time on this, I have, Mr. Weedman, your request  
11 here and affidavit and order for the removal of prisoners.

12 Now, I haven't put my name on this yet. I am  
13 disturbed. I am putting everything right on the table here.  
14 I am disturbed basically because the folks that you asked to  
15 subpoena, Taylor, Houston and Sheppard, unfortunately are men  
16 that are in San Quentin, Chino and Folsom.

17 Now, if it were just a question of subpoenaing  
18 these men in here and returning them, that is one thing.

19 I am very disturbed about the escape prospects of  
20 these men. In the newspapers, I believe, 30 or 60 days ago,  
21 or so, -- not one of these men, as far as I know -- but when  
22 they were subpoenaed from the state prison one man was shot  
23 dead attempting to escape. I can't name his name. I don't  
24 know. It is a matter of record. The other made good on it.

25 In other words, I am awfully disturbed about the  
26 custody situation, bringing them over to this courthouse here  
27 or even in the other courthouse, the Hall of Justice.

28 And the fact that the problems arise concerning

1 escape. Now, you see, we can't go with the standard I have  
2 set in this case here. I have acquired a certain amount of  
3 confidence in Mr. Grogan. That is why I am not worried.

4 I suppose there is an element of worry. But that  
5 awful worry is not here. I have developed confidence in him.

6 I have exercised and allowed a great deal of  
7 liberty. I took on, if I can use a callous expression, the  
8 sheriff's department. They wanted to cut down. I said, "I  
9 am running this courtroom, not you. When a prisoner comes  
10 in here you are out of this picture."

11 I am not talking about the bailiff here. This is  
12 the headquarters.

13 "I am running this, and not you, and you do as I  
14 tell you in this courtroom as the law provides, or you will  
15 be in trouble."

16 That is exactly what I said, and I will follow it  
17 up with Pitchess if necessary.

18 I am just showing you -- but that is only because  
19 I have a certain amount of confidence in Grogan, that I will  
20 do that.

21 But I am in trouble here. There is my problem.  
22 Now, can you make a showing by an offer of proof as to the  
23 absolute materiality of these men.

24 MR. KATZ: Certainly outside my presence. I know you  
25 wouldn't ask for an offer of proof in my presence.

26 I am not entitled to know, and I wouldn't ask  
27 Mr. Weedman to make an offer of proof in my presence.

28 MR. WEEDMAN: I have forgotten who is there. I submitted

1 a subpoena for several witnesses.

2 Is that Taylor and --

3 THE CLERK: Sheppard and Houston.

4 MR. WEEDMAN: We had requested Houston while he was still  
5 in the county jail, but apparently that wasn't processed  
6 rapidly enough by the sheriff's department. So we lost him,  
7 and he ended up in Chino.

8 Now, in connection with your Honor's request, I  
9 would ask that the matter be deferred perhaps until a little  
10 later in the day. I would like to talk to my client.

11 THE COURT: I wish you would. First of all what you are  
12 entitled to, I am the last person in God's world to prevent  
13 you from having.

14 MR. WEEDMAN: Yes, your Honor.  
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1 THE COURT: I have to balance things here and I'm worried  
2 about the elements of escape. Unfortunately, let's say they're  
3 in trouble, they get out of there, and they will take any kind  
4 of a chance. Like I say, one of them was shot dead.

5 MR. WEEDMAN: Not in connection with our case.

6 THE COURT: No, no. I'm showing you the overall problem.  
7 And the other man did make good. That is what worries me.  
8 There is a problem.

9 So I wish you would talk to your client --

10 MR. WEEDMAN: Yes, I will.

11 THE COURT: -- to see if it is absolutely essential. If  
12 it isn't, let's have another discussion on this.

13 MR. WEEDMAN: All right, your Honor. I will discuss it  
14 with him a little bit later in the morning.

15 THE COURT: Yes.

16 MR. WEEDMAN: And we can come back in and approach the  
17 matter again.

18 THE COURT: Right.

19 The People have another witness now?

20 MR. KATZ: Yes, I do.

21 THE COURT: Let's go then.

22 (The following proceedings were had  
23 in open court outside the presence  
24 of the jury:)

25 THE COURT: Well now, gentlemen, we will go right ahead.  
26 People against Grogan.

27 The defendant is here, both counsel are here.

28 You can bring in the jury, Sheriff, we will go

1 ahead.

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

5 THE COURT: Is this gentleman your witness?

6 MR. KATZ: Yes, your Honor.

7 THE COURT: You can step around, please, and we will  
8 swear you to be a witness in this case.

9 Raise your right hand and be sworn, please.

10  
11 PAUL CROCKETT,

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

13 THE CLERK: You do solemnly swear the testimony you may  
14 give in the cause now pending before this court shall be the  
15 truth, the whole truth and nothing but the truth, so help you  
16 God?

17 THE WITNESS: I do.

18 THE CLERK: Thank you, sir.

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

20 THE COURT: Sit right here and pull your chair up a  
21 little -- that's it -- so you can talk in there like a  
22 telephone. Keep your voice up so all the jurors can hear  
23 everything you say. Keep that right close to your mouth.

24 THE CLERK: Will you be kind enough to state your name?

25 THE WITNESS: My name is Paul Crockett.

26 THE CLERK: Will you spell the last name.

27 THE WITNESS: C-r-o-c-k-e-t-t.

28 THE CLERK: Thank you.



1 THE COURT: Now we have all the jurors and alternates.

2 You may proceed.

INDEX

3  
4 DIRECT EXAMINATION

5 BY MR. KATZ:

6 Q Mr. Crockett, because the jurors were not seated  
7 when you stated your name, will you state it once again so  
8 the jury knows who you are.

9 A My name is Paul Crockett.

10 Q Mr. Crockett, calling your attention to the time  
11 period in August and September of 1969, where were you living?

12 A I was living at the Barker Ranch in Goler Canyon.  
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1 Q All right.

2 Paul, you have a tendency to lower your voice.  
3 Would you speak right into that microphone just like a tele-  
4 phone.

5 A Okay.

6 Q That's much better.

7 THE COURT: That is better.

8 Q BY MR. KATZ: Thank you.

9 And were you living with some other people at the  
10 Barker Ranch in August and September of 1969?

11 A Yes, I was.

12 Q And with whom?

13 A There was Brooks Poston. And Paul Watkins. And  
14 there was a girl by the name of Juanita Wildbush.

15 THE COURT: Talk up.

16 THE WITNESS: Juanita Wildbush. And a boy by the name  
17 of Bob Berry.

18 Q All right. And in August and September of 1969  
19 what were you doing for a living?

20 A I was working up there with some business associates.

21 THE COURT: Talk up.

22 THE WITNESS: I was -- excuse me, sir.

23 THE COURT: All right. Keep your voice up.

24 THE WITNESS: I was working with some business associates,  
25 and at that particular time I was playing the part of pros-  
26 pector.

27 Q BY MR. KATZ: You say you were playing the part.  
28 Were you too successful in connection with the finding of gold?

1 A Well, not too successful.

2 Q I take it you didn't make a lot of money from that,  
3 is that correct?

4 A That's right.

5 Q Once again calling your attention to the last part  
6 of August or the very beginning of September, did you become  
7 aware of the presence of Charles Manson in the Barker and  
8 Myers Ranch area?

9 A I did.

10 Q Had you ever met Charles Manson before that date?

11 A No.

12 MR. WEEDMAN: I am sorry. Excuse me, your Honor. I'm  
13 not quite sure of the time period.

14 Forgive me for the interruption.

15 MR. KATZ: Yes.

16 Q Mr. Crockett, could you at this time fix in our  
17 minds the approximate time period you first met Charles Manson  
18 in the Barker and Myers Ranch area?

19 A It was approximately September the 1st.

20 THE COURT: Of what year?

21 THE WITNESS: 1969.

22 Q BY MR. KATZ: All right.

23 And before that date I believe you told us you had  
24 never met Charles Manson, is that correct?

25 A That's right.

26 Q And before that date, other than having met  
27 Juanita Wildbush and Paul Watkins and Brooks Poston, had you  
28 met any other members of the so-called Manson family?

1 A One girl we called by the name of Bo.

2 Q Barbara Rosenberg?

3 A I am not sure --

4 Q Don't guess.

5 A -- about that.

6 Q All right.

7 Where had you met her?

8 A She came up there with Paul Watkins.

9 Q I see. Now, after having met Charles Manson  
10 around September 1, 1969, did you have some conversations with  
11 him -- and you can answer this yes or no.

12 A Yeah, I had quite a few, yes.

13 Q All right.

14 And can you tell us whether or not sometime in  
15 September of 1969 the defendant, Mr. Grogan, came up to the  
16 Barker and Myers Ranch area?

17 A He sure did.

18 Q When was it that you were first aware of the  
19 presence of the defendant, Mr. Grogan?

20 A When I was first aware of him?

21 Q Yes.

22 A Was there at the Barker Ranch.

23 THE COURT: Set the date.

24 Q BY MR. KATZ: Now, can you set the date for us?

25 A I would say it was somewhere in the neighborhood  
26 of the middle of the month.

27 THE COURT: Of when?

28 THE WITNESS: Middle of September.

1 Q BY MR. KATZ: What year?

2 A 1969.

3 Q All right.

4 And this is a rough approximation, is that  
5 correct?

6 A Right.

7 Q And --

8 MR. WEEDMAN: Excuse me, your Honor. I think counsel --  
9 I think we are entitled to a date of this conversation.

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1 THE COURT: Yes.

2 MR. WEEDMAN: If the witness knows the date, fine. I  
3 don't think it is fair for counsel to say, "Now, this is an  
4 approximation, right."

5 THE COURT: Well, set it as close as you can.

6 THE WITNESS: Oh, I would say in the neighborhood of  
7 about the second week of September.

8 THE COURT: The second week of September?

9 THE WITNESS: Right.

10 THE COURT: Of 1969?

11 THE WITNESS: 1969, right.

12 Q BY MR. KATZ: Where did the conversation take  
13 place?

14 A At the main house of the Barker Ranch.

15 Q This is where you were living in September 1969?

16 A No. At that time there was a little house outside  
17 of the ranch that I was staying at.

18 Q But you were staying at Barker Ranch as opposed  
19 to the Myers Ranch, is that correct?

20 A Right.

21 Q Do you recall who was present, if anyone, during  
22 this conversation in the second week of September, 1969?

23 A Oh, there was Clem --

24 Q Who was Clem?

25 A Steve Grogan.

26 Q Is he in the courtroom today?

27 A That is him right over there (indicating).

28 Q Would you point him out so we know for the record?

1 A Right over there. (Indincating.)

2 MR. KATZ: May the record reflect the witness pointed to  
3 the defendant in this case?

4 THE COURT: That's right, yes.

5 Q BY MR. KATZ: Who else was present, if you know?

6 A Well, at that time there was -- the most outstand-  
7 ing part in my memory is the fact of what was said instead of  
8 who was present.

9 THE COURT: But the first thing -- you've got the cart  
10 ahead of the horse a little. I want to know -- counsel are  
11 entitled to know who was there. The jury must know, first,  
12 so we will know who we are talking to and who was there.

13 THE WITNESS: Clem was there.

14 THE COURT: You have said that Clem was there, and you  
15 were there. Who else?

16 THE WITNESS: Well, nearly all the members of the Manson--

17 THE COURT: Talk in the phone.

18 THE WITNESS: Nearly all the members of the Manson  
19 family were there. But you are talking about in the general  
20 area.

21 THE COURT: About the conversation.

22 Q BY MR. KATZ: We are talking about in the immedi-  
23 ate vicinity of the conversation as opposed to being in the  
24 general area, that is, the Barker and Myers Ranch area.

25 A Charlie was inside.

26 Q Charlie who?

27 A Manson.

28 Q He was inside where?

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1 A The house.

2 Q Just fix where the conversation took place. Was  
3 this inside or outside?

4 A It was on the outside of the building.

5 Q I see. What part of the building?

6 A It would be out in front of it.

7 Q In the front of the building, is that correct?

8 A Yes.

9 Q Charlie is inside this large ranchhouse, or this  
10 ranchhouse at Barker's Ranch, is that correct?

11 A Yes.

12 Q All right. But who was there in the vicinity of  
13 the conversation, if you recall?

14 A The only party I remember is Clem.

15 Q Do you recall whether or not there were other  
16 people but you don't remember specifically who it was, or are  
17 you stating -- let me finish the question, Paul, if I can --  
18 are you stating that you just don't recall other people being  
19 present?

20 A Well, some of them I didn't know.

21 Q So you are telling us there were some people that  
22 were in the vicinity of the conversation but you don't recall  
23 who they were, is that correct?

24 A Right.

25 Q Is there anybody else you can think of that you  
26 can identify as having been in the vicinity of the conversation?

27 A There was a couple of the girls there but I don't  
28 recall offhand which ones they were.



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1 Q When you say "the girls," what do you have  
2 reference to? Just strangers?

3 A Most of the time Brenda and Gypsy and the one I  
4 knew as Ruth were around quite a bit.

5 Q Ruth?

6 A Right. And Barbara and Sherry.

7 Q Sherry Cooper. Do you know whether or not they  
8 were present or are you just saying these are the people you  
9 saw around quite a bit at that time?

10 A That particular time, yes.

11 Q So have you told us as best you can recall the  
12 people you believe that may have been in the vicinity of the  
13 conversation?

14 A At that time, yes.

15 Q What did Clem say, if anything, and what did you  
16 say?

17 A Well, Clem said, "It was groovy sticking knives  
18 in people."

19 THE COURT: Keep your voice up. Clem said what?

20 THE WITNESS: Said, "It was groovy sticking knives in  
21 people," and that "it was sure hard to kill a man when you  
22 brought him to now."

23 Q BY MR. KATZ: What did you say, if anything?

24 A I don't recall saying anything. I was rather  
25 startled --

26 THE COURT: No, don't tell us that. The question is:  
27 What did you say, if anything, at that point?

28 A I didn't say anything.

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Q BY MR. KATZ: Did Clem continue to talk?

A Yes.

Q What else did he say?

A He said, "He wouldn't die, so we had to chop his head off."

Q Now, at the time that Clem made that statement, did you ask any questions of Clem as to particular details?

A No.

Q Why?

A Well, there had been quite a bit of discussion that I had heard from Charlie Manson --

Q But there was a particular reason as to why you did not ask any further questions of Clem or any questions of Clem, is that correct? You can answer that yes or no.

A No, I didn't have any particular reason to do it.

5 fls

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1 Q Well, am I correct in stating that you did not  
2 want to ask Clem some questions at that time; is that correct?

3 A I didn't.

4 Q Is that correct?

5 A Right.

6 Q All right.

7 I wanted to make sure we understand one another.

8 Now, I want to ask you whether or not you ever saw  
9 a .45 caliber single-action frontier-type of revolver at the  
10 Barker and Myers Ranch area in the vicinity of September 1969?

11 A I did.

12 Q And who did you see with it?

13 A Charles Manson.

14 Q And who was present when you saw that gun?

15 A We were sitting inside at this particular time, in  
16 the cabin that I was staying in.

17 Q That's the outshack?

18 A Right.

19 Q At Barker Ranch?

20 A Right.

21 Q Or the outbuildings?

22 A Yeah.

23 Q Is this a bunkhouse?

24 A It's kind of a bunkhouse, yes.

25 Q Who was there?.

26 A Well, Clem was there. And Bruce Davis was there.

27 And there was a group, you know, that moved in and  
28 out.

1 But at that particular time there was about four  
2 or five of us in there.

3 Q All right.

4 And under what circumstances did you see the gun?

5 A Well, I saw it pointed at my face, cocked.

6 Q You saw the gun pointed at your face?

7 A Yes.

8 Q Who had it?

9 A Charlie.

10 Q And did you see anybody else in possession of that  
11 gun?

12 A Well, Danny De Carlo had it. And Bruce Davis had  
13 it.

14 Q Did you see each of these individuals with it,  
15 Danny De Carlo and Bruce Davis?

16 A Yes.

17 Q Now, I want to call your attention to the last part  
18 of September 1968 --

19 THE COURT: '68?

20 MR. KATC: Excuse me. '69.

21 THE COURT: All right.

22 Q BY MR. KATZ: -- and ask you whether or not you  
23 talked with a Deputy Pursell in the Goler Wash area.

24 A I did.

25 Q And sometime following talking with Deputy Pursell  
26 did you leave Barker Ranch with somebody?

27 A Yes, I did.

28 Q Approximately when was it that you left the Barker

1 Ranch?

2 A Well, it was October the 2nd.

3 Q And who did you leave with?

4 A Brooks Poston.

5 Q Where did you go?

6 A We went to Shoshone.

7 Q And did you see anybody there?

8 A I went straight to the deputy sheriff there.

9 Q And the following day did you see a Deputy Ward?

10 A I did.

11 Q Incidentally, at the time that you left Barker  
12 Ranch with Brooks Poston, on or about October 2nd, 1969, where  
13 was Paul Watkins?

14 A He had gone into Las Vegas to get some supplies.

15 Q And was Juan Flynn at the ranch at that time, or  
16 had he previously left?

17 A No, he was gone.

18 MR. KATZ: Excuse me, your Honor, for stepping in front  
19 of the bench.

20 THE COURT: All right.

21 MR. KATZ: We have some exhibits here.

22 THE COURT: All right.

23 Q BY MR. KATZ: Showing you People's 9-A and 9-B for  
24 identification, I want you to take a careful look at these  
25 revolvers.

26 Would you look at these, Mr. Crockett (handing).

27 Have you seen them? What I am asking you, have  
28 you seen exhibits 9-A and 9-B in front of you?

1 A Yeah. I looked at them, yes.

2 Q All right.

3 I am going to ask you whether or not either 9-A  
4 or 9-B looks similar to the gun that Charles Manson, Bruce  
5 Davis and Danny De Carlo displayed in September of 1969.

6 A Well, I only saw one but it's very similar to the  
7 ones that I saw.

8 Q All right.

9 When you say similar, what do you mean by similar?

10 A When I say similar --

11 Q In other words --

12 A Well, I don't have any way of stating positively  
13 that that is the exact gun, but it's pretty close.

14 Q All right.

15 I understand that. But with reference to the  
16 style and shape of the gun, that is what I have reference to.

17 Was it similar in all respects to the gun that you  
18 saw Manson, Davis and De Carlo with? In terms of the size and  
19 shape and the model.

20 A Right.

21 MR. WEEDMAN: I will object to the question, your Honor.

22 THE COURT: Talk in the phone.

23 THE WITNESS: Yes, sir. I would say --

24 MR. WEEDMAN: Excuse me, your Honor.

25 THE COURT: Strike the answer.

26 MR. WEEDMAN: I will object to the question as leading  
27 and suggestive, your Honor, and it is also overly broad in all  
28 respects.

1 I think we are entitled to have this witness --  
2 after all it is an important piece of evidence -- tell us what  
3 he remembers about the gun that he saw.

4 THE COURT: Overruled.

5 But it is a matter you can ask on cross.

6 The question is, "Is it similar?" I believe. He  
7 is entitled to an answer.

8 MR. KATZ: Thank you, your Honor.

9 THE COURT: Whether it carries strength and force, that  
10 is for the jury.

11 THE WITNESS: Well, I couldn't positively say that it's  
12 exactly the same gun, but it sure looks like it.

13 MR. KATZ: Thank you.

14 Q I would like to show you 32-R for identification.  
15 Do you recognize this individual?

16 A Yes.

17 Q As having seen him before?

18 A Yes, sir.

19 Q Who is that?

20 A That is Bruce Davis.

21 Q Bruce Davis, you say, is one of the individuals  
22 you saw with the gun similar to exhibit 9-A and 9-B, is that  
23 correct?

24 A Yes.

25 Q And incidentally showing you this gentleman, who  
26 is that?

27 A That is Charlie Manson.

28 Q And showing you -- I should identify that exhibit.

1 That is People's 5.

2 THE COURT: Thank you.

3 Q BY MR. KATZ: That is Charles Manson depicted in  
4 People's 5?

5 A Yes.

6 Q And showing you 32-M, do you recognize that?

7 A That's Clem.

8 Q By Clem who do you mean?

9 A The defendant.

10 Q Incidentally, I believe you said that Danny De Carlo  
11 also had a gun similar to the one that Manson and Davis had,  
12 is that correct?

13 A That's true.

14 Q Showing you 32-F for identification, do you  
15 recognize this individual?

16 A It looks like Danny De Carlo.

17 Q All right. That's 32-F for identification.

18 Mr. Crockett, I would like to show you some photo-  
19 graphs in the 38 series which show Barker's Ranch.

20 And can you tell us whether or not, as we look at  
21 38-C, there is visible the place where you were sleeping at  
22 Barker's Ranch?

23 A That would be the little hut in the right.

24 Q Is that the building which is presently encircled  
25 and bears the initials P.W.?

26 A Right.

27 Q That is reflected on 38-C for identification, is  
28 that correct, Mr. Crockett?



1 A True.

2 THE COURT: Thank you.

3 Q BY MR. KATZ: Incidentally, do these photographs  
4 truly and accurately depict Barker's Ranch as you knew it in  
5 August and September of 1969?

6 A Well, I never -- wasn't at the same place, but  
7 it's -- I can recognize it as Barker Ranch without any problem.

8 I just never was at the viewpoint from which these  
9 pictures were taken.

10 Q I see. With reference to the building here, for  
11 example in 38-B, is this the main house?

12 A Right.

13 Q Again, the building which is in the left lower  
14 portion of 38-C, is that the main house?

15 A That is.

16 MR. KATZ: If I may have a moment, your Honor.

17 THE COURT: Yes, sir.

18 MR. KATZ: I think I have concluded.

19 THE COURT: All right.

20 MR. KATZ: All right. No further questions.

#6

1 MR. WEEDMAN: Your Honor, I wonder if I might have just  
2 a moment, perhaps about five minutes, before I start cross?

3 THE COURT: Yes, you may.

4 Ladies and gentlemen, we will take a short recess.  
5 Please do not discuss the case or come to any opinion. We  
6 will go right ahead in just a minute.

7 You can step down if you want to. Don't go away,  
8 but you can step down.

9 (Recess.)

10 (The following proceedings were had in  
11 chambers, outside the presence and  
12 hearing of the jury.)

13 THE COURT: We are in chambers, the defendant, his  
14 counsel, the clerk, the sheriff, and the reporter.

15 Go ahead, Mr. Weedman.

16 MR. WEEDMAN: Your Honor, with respect to those three  
17 witnesses, Taylor, Sheppard, and Houston, whom we requested,  
18 I feel that their testimony is extremely important here in  
19 light of the People's theory of helter-skelter, and in light  
20 of the People's apparent theory that one of the motives for  
21 the killing of Shorty Shea was the fact that he was married to  
22 a colored woman, Magdalene Shea. These three witnesses are  
23 black.

24 THE COURT: They are Negro, black?

25 MR. WEEDMAN: Yes, closely known by my client, and he to  
26 them, during a substantial period of time in the county jail.

27 It is unfortunate for our purposes, frankly, that  
28 we find it necessary --

1 THE COURT: Now, these are all up in -- they haven't  
2 been moved down here at all into our county facilities, at all;  
3 they are all up North?

4 MR. WEEDMAN: They are now.

5 THE COURT: They are now, yes.

6 MR. WEEDMAN: But they were not always there.

7 THE COURT: If I issued a subpoena, I would want to  
8 make it very clear in the presence of everybody -- I wouldn't  
9 hesitate for one minute to attempt to put restrictions on the  
10 Sheriff's Department in bringing these men in here fully  
11 cuffed so that they can't raise hell, if I can put it bluntly,  
12 just speak candidly, with my policies, but I would put them  
13 in cuffs. Now, the question that you and the defendant have  
14 to determine -- and now I may be acting in a partisan manner  
15 when I say this -- is the effect of these men cuffed in front  
16 of the jury. These are your decisions, they are not mine.  
17 If I bring them in here, these are things you have to decide.

18 THE DEFENDANT: Handcuffed? Oh, man!

19 MR. WEEDMAN: I think that perhaps a perusal of their  
20 respective records and their deportment while in custody,  
21 these things may have some bearing on whether --

22 THE COURT: It could be.

23 MR. WEEDMAN: In other words, it may not be necessary to  
24 handcuff them.

25 THE COURT: I won't make a closed-door decision, but  
26 I'm saying the door is awfully close to being closed.

27 MR. WEEDMAN: I might add, we are well aware that these  
28 men have serious felony convictions, which, of course,

6-3

1 counsel can present to the jury. They are not the world's  
2 best witnesses, but since my client didn't have breakfast  
3 on this occasion with the President of the United States, we  
4 are stuck with these kinds of witnesses. They are not the  
5 world's greatest witnesses, except they are black. They will  
6 testify generally to my client's well-known attitude toward  
7 the black people, and we feel it is important.

8 I'm sorry that the case got into this area, but  
9 it has very definitely, and the only way we can counter it  
10 is by producing black people. We have others, but --

end 6

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1 THE COURT: I would want to make my position very clear.

2 MR. WEEDMAN: I appreciate that, your Honor.

3 THE COURT: There is an instance where I may have, as I  
4 have indicated before, told the sheriff with respect to  
5 Mr. Grogan I am going to allow certain privileges and liberties.  
6 But I wouldn't carry that into these witnesses.

7 MR. WEEDMAN: No, at all. They are not my clients.

8 THE COURT: I will be satisfied beyond a doubt, or I am  
9 going to cuff them.

10 MR. WEEDMAN: I appreciate that, your Honor.

11 THE COURT: There is no question about it in my mind. I  
12 am not closing the door because it is possible I may say "Well,  
13 here is a man that I can put on the stand there without danger  
14 to everybody or without making a break for the door, or  
15 somebody flip him a six-shooter or something," I don't know.

16 MR. WEEDMAN: Well, I think the security should be  
17 appropriate, whatever it is.

18 THE COURT: But I think this is something you ought to  
19 think over. These are your problems, not mine.

20 Do you want to talk, Mr. Katz, before I sign these  
21 orders here?

22 MR. KATZ: Well, the only comment perhaps I should make  
23 or would be even entitled make is this: that I had conferred  
24 with some people in our office, some of my superiors, and  
25 they were vitally concerned about bringing down what they  
26 regarded as possible dangerous witnesses, where there might  
27 not be a showing of materiality.

28 I know Mr. Weedman is a very fine, competent lawyer,

1 and I am sure that he is in very good faith in stating to the  
2 court --

3 THE COURT: Yes.

4 MR. KATZ: -- that these witnesses would be material. The  
5 only thing my office had suggested -- I will throw this out to  
6 your Honor as a conduit, if you will --

7 THE COURT: Yes.

8 MR. KATZ: Mr. Weedman perhaps might submit an affidavit  
9 which would not be available to me or to advise your Honor the  
10 facts or basis of the so-called materiality so that your Honor  
11 is satisfied.

12 I can tell you that Sheppard has been convicted of  
13 first degree murder and serving life imprisonment.

14 THE COURT: What is the setup, for instance, on -- I  
15 don't know. Now, let's see. Sheppard.

16 How about Houston and Taylor?

17 MR. KATZ: Now, as I understand Kenneth Houston I don't  
18 know what his latest arrest is. I think he is serving time  
19 for a 245 P.C., conviction which I believe to be assault by  
20 means of force likely to produce great bodily harm. And is  
21 presently in the state prison system as a result of that.

22 THE COURT: What escapes, if any, on Houston?

23 MR. KATZ: Well, I have no information concerning that.

24 Now, there was a witness, for example, Kenneth  
25 Daniel Como, C-o-m-o, who was to be subpoenaed by the defense,  
26 and he actually effected a successful escape.

27 THE COURT: Is he out now?

28 MR. KATZ: I don't think he is even available to defense

1 counsel at this point.

2 THE COURT: No, but he hasn't been brought back into  
3 custody?

4 MR. KATZ: That is correct.

5 He has not been brought back into custody, and  
6 indeed he is a friend of a person who may be a defense witness,  
7 George Evans Harp, H-a-r-p, who had attempted escape with  
8 this Daniel Kenneth Como on one prior occasion..

9 And with respect to Mr. Houston -- not Houston,  
10 but I think Mr. Taylor, I have no information concerning  
11 Mr. Taylor at this time.

12 But once again I want to reiterate, it is not the  
13 People's position we have any right --

14 THE COURT: Well, I want you to be heard.

15 MR. KATZ: Yes. We want to emphasize that we do not feel  
16 that we are entitled to any discovery or information --

17 THE COURT: Well, I think as defense counsel advises me  
18 they have a materiality, as a reputable counsel at this bar,  
19 I will take his statement.

20 And I will issue with the caution I have injected  
21 into it -- those are decisions actually which fall upon your  
22 shoulders and on the defendant more than for me -- but I am  
23 saying that is what I would do unless I should definitely be  
24 satisfied to the contrary.

25 I say the probabilities are I would bring them in  
26 under full security. I would want that to be the prevailing  
27 thought.

28 The other would be the exception. But I will

1 issue and bring them down, then see where we go.

2 MR. WEEDMAN: Very well, your Honor, thank you.

3 THE COURT: I will do it now.

4 MR. WEEDMAN: Thank you.

5 MR. KATZ: Thank you.

6 THE COURT: All right.

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(The following proceedings were had in  
open court.)

THE COURT: Now, gentlemen, People against Grogan. The  
defendant is here, both counsel are here.

You can bring in the jury, Sheriff, please.

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

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

You may proceed with cross.

MR. WEEDMAN: Thank you, your Honor.

#### CROSS EXAMINATION

BY MR. WEEDMAN:

Q Mr. Crockett, when did you first go up to Barker  
Ranch to live?

A It was back in March, 1969, the first week in March.

Q What were you doing for a living in March of 1969?

A I was working with my business associates.

Q In what capacity were you working with your  
business associates?

A Well, I was a partner in the -- there were three  
of us in it.

Q Who are the other two?

A There was Stan Berry and Jack Diggs.

THE COURT: Let's see if I can help you. When you talk,  
let's take our time here. Now, talk like this were a  
telephone.

All right. Go ahead.

1 Q BY MR. WEEDMAN: What was the business that the  
2 three of you were engaged in at that time, that is, in March  
3 of 1969?  
4

5 A We were in mining.

6 Q What in mining? What were you doing in mining?

7 A Well, we were trying to, at that particular time,  
8 trying to develop some claims that we had.

9 Q Now, what did you do for a living from March of  
10 1969 up to the time that you allegedly had this conversation  
11 with my client wherein he confessed? What were you doing for  
12 a living during that period of time, that is, from March of  
13 1969 up to the middle of September, 1969?

14 A I was going over those mountains every day, climb-  
15 ing the mountains and checking out different places that I  
16 felt would make a good potential for mining.

17 Q Did you make any money during this period of time  
18 from the mining work?

19 A No.

20 Q What were you doing for money in that period of  
21 time, that is to say, money to live on?

22 A It didn't take very much up there.

23 Q Did you have an automobile during this period of  
24 time, March to September of 1969?

25 A Did I have an automobile?

26 Q Yes.

27 A I had this '64 Chevrolet four-wheel drive for a  
28 while, and then they took it and went to other places around

1 the country that they were looking at at that time.

2 Q You mean Diggs and Berry took the vehicle?

3 A Right.

4 Q Pardon me?

5 A Yes.

6 Q And you remained behind by yourself, is that what  
7 happened?

8 A Well, I wasn't necessarily by myself. I mean  
9 there were other people there.

10 Q Who else was there? You were talking about the  
11 Barker Ranch?

12 A Right.

13 Q Who else was there?

14 A There was Paul Watkins and Stan's brother and the  
15 girl that I mentioned, and Brooks Poston.

16 Q Did you make any money at all from March 1969  
17 to September 1969?

18 A You mean personally?

19 Q Yes.

20 A No.

21 Q You indicated that it didn't cost very much money  
22 to live up there. Did it cost anything at all during that  
23 period of time to live at Barker Ranch as you were doing?

24 A Did it cost anything at all?

25 Q Yes.

26 A They were bringing supplies to me.

27 Q Who was bringing you supplies?

28 A I have already stated, Stan Berry and Jack Diggs.

1 Q When you say they took the vehicle, did they go  
2 to some other location, or did they just use that to haul  
3 supplies with?

4 A They were using it to haul supplies with.

5 Q Who was paying for the supplies during this period  
6 of time?

7 A Mr. Jack Diggs.

8 Q What was Mr. Diggs doing for money in those days,  
9 if you know?

10 A He owned a string of Dairy Queen -- well, whatever  
11 you want to call them. They are little cafes-drive-ins.

12 MR. KATZ: I'm having a difficult time here and I'm  
13 sure other people are, too. Could we have Mr. Crockett speak  
14 up a little bit?

15 THE WITNESS: At this time Mr. Diggs owned, and I  
16 presume he still does, Dairy Queens, and this was his source  
17 of money at that time.

18 Q BY MR. WEEDMAN: Did he pay you any money at all  
19 for your efforts on behalf of the prospecting venture?

20 A In other words, my part was, if I found something,  
21 then we would develop it, and then I would have one-third  
22 of it.

23 Q Did Mr. Berry -- excuse me. Was it Berry that  
24 was financing this venture and paying for the supplies?

25 A No. I said Mr. Diggs was.

26 Q Mr. Diggs. All right. Did Mr. Diggs give you any  
27 money during this period, March to September of 1969?

28 A Yes.

1 Q When did you meet Paul Watkins the very first  
2 time?

3 A It would be in the latter part of May 1969.

4 Q What, if anything, was he doing for a living at  
5 that time?

6 A Nothing that I know of.

7 Q Did he come to live with you in the latter part of  
8 May of 1969?

9 A I don't know whether he came to live with me or  
10 not. But --

11 Q Did he begin to live with you in May of 1969?

12 A Well, we stayed in that same hut there that I  
13 identified in the picture.

14 Q You wouldn't characterize that, then, as living  
15 with you? Just sharing the same quarters, would that be a  
16 fair statement?

17 MR. KATZ: I will object on the grounds it is argumenta-  
18 tive and ambiguous.

19 THE COURT: You can answer the question. All right.

20 THE WITNESS: Well, we lived under the same roof, yes.

21 Q BY MR. WEEDMAN: When did you meet Brooks Poston?

22 A When he first came there.

23 Q For the first time.

24 A The first week of March 1969.

25 Q What, if anything, was Mr. Poston doing for a  
26 living at that time?

27 A Nothing that I could see.

28 Q Did Mr. Poston then live with you from March of

1 1969?

2 A No, sir. It was some time later. He stayed in  
3 the big house.

4 Q When did he begin to live with you, that is,  
5 Mr. Poston?

6 A I think it was about two or three weeks later.

7 Q Now, what were Mr. Poston and Mr. Watkins doing  
8 for money, if anything, during this period of time, March to  
9 September of 1969?

10 A Nothing that I know of.

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1 Q Where did their food come from, if you know, during  
2 this period of time?

3 A During that period of time?

4 Well, they had some supplies there. But --

5 Q Excuse me. Like what?

6 A Well, there was flour and several cases of bean  
7 sprouts.

8 And then there was canned stuff. A few canned  
9 objects. Some potatoes. Some powdered milk.

10 And some of the things that you would classify as  
11 a commodity list.

12 Q Did you furnish either Mr. Poston or Mr. Watkins  
13 with food during this March to September 1969 period?

14 A Some.

15 Q How much in terms of their overall needs did you  
16 supply?

17 A Well, you can't really say that I supplied. They  
18 were living with me and I was getting supplies from Mr. Diggs.

19 Q Well, was Mr. Diggs supplying them, that is,  
20 Mr. Poston and Mr. Watkins, with food during this period of  
21 time we have been talking about?

22 A Some, yes.

23 Q In terms of their overall needs, how much was it?  
24 Half, or a third or 80 percent or what?

25 A I think half would be.

26 Q Okay. And what, if anything, were Mr. Watkins and  
27 Mr. Poston doing in exchange for this food?

28 A What were they doing in exchange for it?

1 Q Yes.

2 A You mean by agreement?

3 A Yes. By agreement or otherwise.

4 MR. KATZ: Well, I will object. Compound then "By  
5 agreement or otherwise."

6 THE COURT: I will sustain the objection to the last  
7 question.

8 Q BY MR. WEEDMAN: Was there any understanding  
9 between Mr. Diggs, Mr. Poston and Mr. Watkins relative to  
10 services or payment for the food Mr. Diggs was supplying them?

11 A He never came up, so I would say no.

12 Q Was there any understanding between yourself and  
13 either Mr. Poston or Mr. Watkins relative to services or  
14 payment for the food that you were supplying them?

15 A None that I know of.

16 Q Did you supply either Mr. Poston or Mr. Watkins  
17 or both with anything other than food by way of living  
18 necessities?

19 A Not that I recall offhand.

20 Q Did there come a time eventually, Mr. Crockett,  
21 when newsmen, people in the publishing business and the like,  
22 came to the Barker-Myers Ranch area?

23 A Not that I know of.

24 Q Did there come a time when you, that is, during  
25 the year 1969, sold a story or stories to a publishing house  
26 or to any journalist?

27 A Yes.

28 Q How much money did you get as a result of that



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1 sale?

2 A How much money did I get?

3 Q Yes.

4 A Approximately \$1100.

5 Q Would it be fair to say that that was the first  
6 money that you had earned, at least from May of 1969 until you  
7 were paid?

8 A That's right.

9 Q Would it be fair to say that that money was pretty  
10 important to you, Mr. Crockett?

11 A I don't think so.

12 Q Do you have any of that money today?

13 A Not now. But I had most of it up until the time  
14 I bought a pickup truck, which was approximately a year later.

15 Q All right.

16 Do you have any background in a philosophy referred  
17 to as Scientology?

18 A Some.

19 Q And where did you acquire that background, Mr.  
20 Crockett?21 MR. KATZ: Objection on the grounds it is out of the  
22 scope of the direct and immaterial.

23 THE COURT: I think so.

24 Read the question, please.

25 MR. WEEDMAN: Well, I would like to be heard before your  
26 Honor ruled.

27 THE COURT: All right.

28 Read the question, please.

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(The question was read by the reporter  
as follows:

"Q Do you have any background in a  
philosophy referred to as Scientology?

"A Some.

"Q And where did you acquire that  
background, Mr. Crockett?"

THE COURT: What did you want to say? Did you want to  
be heard, Mr. Weedman?

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1 MR. WEEDMAN: Well, yes, your Honor. It goes, however  
2 tenuously at this point, to relationship between Mr. Crockett,  
3 Mr. Poston and Mr. Watkins. I think it has some bearing on  
4 the credibility of all three.

5 THE COURT: Well, I think it would be immaterial. I  
6 will sustain the objection.

7 Objection sustained.

8 Q BY MR. WEEDMAN: Did you ever discuss Scientology  
9 with Mr. Watkins and/or Mr. Poston?

10 A Yes, I did.

11 Q And would it be fair to say that you were in those  
12 discussions acting as teacher, and they were acting as your  
13 students?

14 A I would say that is true.

15 Q Would you describe your knowledge of this particular  
16 field of Scientology as rather extensive?

17 A Well, I don't know whether you would call it  
18 extensive or not.

19 MR. KATZ: Excuse me, your Honor. There is an objection  
20 on the grounds it would first of all call for conclusion and  
21 speculation by this witness, and, secondly, it is immaterial  
22 and not relevant.

23 THE COURT: Well, you have got two objections.

24 Read the question again, please.

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

27 "Q Would you describe your knowledge  
28 of this particular field of Scientology as

1           rather extensive?

2           "A       Well, I don't know whether  
3           you would call it extensive or not.")

4           THE COURT:   Well, I will sustain the objection to his  
5           knowledge of the philosophy of Scientology. Sustained.

6           Q           BY MR. WEEDMAN:  When you met Brooks Poston  
7           sometime in March of 1969 was there anything unusual about his  
8           appearance?

9           A           Anything unusual?

10          Q           Yes.

11          A           Yes.  I would say so.

12          Q           And what was that, Mr. Crockett?

13          A           That he didn't do very much.

14          Q           What about Mr. Watkins, whom you met in May of  
15          1969, was there anything unusual about his appearance?

16          A           I would say so in that way.

17          Q           When did you first meet Charles Manson?

18          A           Probably the -- was around the first of September.

19          Q           And where was that, Mr. Crockett?

20          A           At the Barker Ranch.

21          THE COURT:  Now, pardon me.  September, what was the date?

22          THE WITNESS:  I would say the 1st or 2nd, right at the  
23          first of September.

24          THE COURT:  Of '69?

25          THE WITNESS:  Right.

26          THE COURT:  Go ahead.

27          Q           BY MR. WEEDMAN:  You indicated on direct examina-  
28          tion that you had a conversation with Charles Manson.  When

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did that conversation occur?

MR. KATZ: Excuse me, your Honor. I will object on the grounds it assumes facts not in evidence. He indicated he had several conversations.

I don't know which conversation he has reference to.

THE COURT: Now, wait a minute. I will check my notes.

MR. WEEDMAN: I will withdraw the question, your Honor. Perhaps we can speed it up.

THE COURT: Wait a minute. He testified he met Charles Manson September 1 of '69. This is direct. Conversation September the 15th.

Give me the question again, please.

(The question was read by the reporter as follows:

"Q You indicated on direction examination that you had a conversation with Charles Manson. When did that conversation occur?"

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1 THE COURT: You may answer the question. Overruled.

2 The date he is calling for.

3 THE WITNESS: On September 1st or approximately  
4 September the 1st.

5 MR. KATZ: Excuse me, your Honor. This is the problem:  
6 There were several conversations and counsel has just alluded  
7 to a conversation. That is why I objected on the ground it  
8 is ambiguous, and asked that the question be reframed.

9 THE COURT: He is calling for a conversation, as I  
10 understand it now, about the 2nd, is that right, of September?

11 Read the question again, please, Mr. Reporter.

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

14 "Q You indicated on direct examination  
15 that you had a conversation with Charles Manson.  
16 When did that conversation occur?")

17 THE COURT: And the answer?

18 THE REPORTER: There is no answer.

19 THE COURT: Answer the question. Overruled.

20 THE WITNESS: In other words, when the question was  
21 asked of me to start with --

22 THE COURT: Let me put it this way. I'm not trying to  
23 interrupt.

24 You told us a few minutes ago that you had a  
25 conversation with Manson. You told the district attorney that,  
26 didn't you?

27 THE WITNESS: Yes.

28 THE COURT: When did that conversation take place? When?

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1 THE WITNESS: When I was speaking with him?

2 THE COURT: Yes. When is the date of the conversation  
3 that you told the district attorney you had with Manson?  
4 I'm trying to find the date of it. What was the date?

5 THE WITNESS: That was about the second week in Septem-  
6 ber.

7 THE COURT: All right. Now, the second week has seven  
8 days. Can you fix it any closer than that?

9 THE WITNESS: At the end of the second week.

10 THE COURT: That would be around the 14th?

11 THE WITNESS: Somewhere in there.

12 THE COURT: Of September, right?

13 THE WITNESS: Right.

14 THE COURT: Of 1969?

15 THE WITNESS: Right.

16 THE COURT: All right.

17 MR. KATZ: Excuse me, your Honor. May we have a clari-  
18 fication as to whether we are talking about Manson or the  
19 defendant?

20 THE COURT: Who was it with?

21 THE WITNESS: This was with Manson, what I understand.

22 THE COURT: All right.

23 MR. KATZ: Thank you, your Honor.

24 THE COURT: Go ahead with your cross.

25 Q BY MR. WEEDMAN: Was this conversation with Charles  
26 Manson before or after the conversation that you allegedly  
27 had with my client wherein he confessed killing Shorty Shea?

28 A Before.

1 Q And did you discuss with Charles Manson the  
2 killing or the death of Shorty Shea?

3 A At this particular time?

4 Q At any time.

5 A Oh, yes.

6 Q Was that conversation --

7 A Let me clarify that. I didn't discuss it with him;  
8 he told me.

9 Q And was that conversation with Charles Manson  
10 before or after the conversation that you had with my client  
11 relative to Shorty Shea?

12 A Before.

13 Q How long had you known Charles Manson then before  
14 you had a conversation with Charles Manson or he with you?

15 A How long did I know of him?

16 Q How long had you known Charles Manson prior to the  
17 conversation that you had about Shorty Shea?

18 A I would say in the neighborhood of about a week.

19 Q Now, had you ever known Charles Manson beyond, that  
20 is, prior to this one-week period?

21 A I had never known Charles Manson before he came  
22 to the Barker Ranch, no.

23 Q How long had you known my client, Mr. Grogan, prior  
24 to this alleged conversation with him wherein he confessed  
25 killing Shorty Shea?

26 A I had seen him a few times.

27 Q How well did you know my client prior to this  
28 conversation?



1           A       I think I had talked to him one time previous  
2 to that.

3           Q       Do you know who else was present, if anyone, at  
4 this conversation that you had with my client in which my  
5 client confessed killing Shorty Shea?

6           A       You mean positively?

7           Q       Well, I will have to leave that to you,  
8 Mr. Crockett. Who was present, if anyone, at that conversa-  
9 tion?

10          A       I would say that there were other people that  
11 Clem was talking to, and that I was rather in the background,  
12 more or less to speak, and at that particular time I wasn't  
13 paying too great of an attention to the fact that all of  
14 this was going on, as far as I was concerned.

15          THE COURT: No, don't --

16          MR. WEEDMAN: I would like him to finish that answer.

17          THE COURT: Let's get the answer. He is not answering  
18 it.

19          MR. WEEDMAN: I'm satisfied with the answer.

20          MR. KATZ: I think he is trying to answer. I think  
21 counsel is correct.

22          THE COURT: Read the question, please.

23               (The record was read back by the  
24 reporter as follows:

25           "Q       Do you know who else was present,  
26 if anyone, at this conversation that you had  
27 with my client in which my client confessed killing  
28 Shorty Shea?

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"A You mean positively?

"Q Well, I will have to leave that to  
you, Mr. Crockett. Who was present, if anyone,  
at that conversation?"

THE COURT: Strike the answer.

Who was present at that time?

MR. WEEDMAN: Excuse me, your Honor. I very much want  
that answer in. Forgive me.

10A

10A

1 THE COURT: Let's get the answer. He hasn't answered  
2 it. Give us the answer. Who was present? That is the  
3 question.

4 THE WITNESS: The only positive statement that I will  
5 make there is I know I was there and I know Clem was there.

6 MR. WEEDMAN: Your Honor, may we have the witness --

7 THE COURT: Do you want that other answer read?

8 MR. WEEDMAN: Yes, your Honor.

9 THE COURT: All right. I'm not trying to argue with you.  
10 I will give you the reason for my ruling.

11 Read the answer I struck out.

12 MR. WEEDMAN: Forgive me, your Honor. I urge that that  
13 answer not be stricken.

14 THE COURT: Let's get the answer again. Wait a minute.  
15 Read the answer.

16 (Whereupon the reporter read the answer  
17 as follows:

18 "A I would say that there were other  
19 people that Clem was talking to, and that I was  
20 rather in the background, more or less to speak,  
21 and at that particular time I wasn't paying too  
22 great of an attention to the fact that all of  
23 this was going on, as far as I was concerned.")

24 THE COURT: Now, my reason for my ruling is, he doesn't  
25 answer your question. The question is: "Who was present,"  
26 and he goes on and narrates about other people and other  
27 conversations. That is the reason I made that ruling.

28 I think the ruling should stand. If you want to

1 repeat your question, I have no objection.

2 MR. WEEDMAN: Your Honor, I would urge that traditionally  
3 it is the examiner who has the right to move to strike the  
4 answer as nonresponsive, although, of course, we have come to  
5 the practice of having opposing counsel also enjoy that  
6 objection. But I am satisfied with the answer thus far and  
7 I want it to remain.

8 THE COURT: The matters, the issues, the questions and  
9 answers should be material, should be relevant.

10 I stand right by my ruling. If you want to repeat  
11 the question, that I have no issue with. You can narrow it  
12 down, get the witness to specify it more particularly.

13 Q BY MR. WEEDMAN: Mr. Crockett, who was present,  
14 if anyone, at the conversation that you had with my client  
15 wherein he allegedly said he chopped off Shorty's head?

16 THE COURT: Who was there? Who was talking? Who was  
17 in the circle of the conversation? That is what counsel  
18 wants.

19 THE WITNESS: Well, I answered the question the best  
20 way I knew how. In other words, I said I know I was there  
21 and I know Clem was there.

22 THE COURT: Now, who else was there?

23 MR. KATZ: If he knows, your Honor.

24 THE WITNESS: In other words, as many people changed  
25 positions and places at that particular time, to go back and  
26 pinpoint and say that I could positively say exactly who was  
27 there -- the only two that I will say that I know that was  
28 exactly there is myself and Clem.

1 Q BY MR. WEEDMAN: Were others present, even though  
2 you don't know their names at this time?

3 A Right.

4 Q And by "present," were they present in such a way  
5 as to be participating in this conversation?

6 MR. KATZ: I will object to that on the ground it calls  
7 for a conclusion and speculation, "to be participating."

8 THE COURT: Let's have the question, Mr. Reporter.

9 (Whereupon the reporter read back the question  
10 as follows:

11 "Q And by 'present,' were they present  
12 in such a way as to be participating in this  
13 conversation?")

14 THE COURT: It calls for a fact, were they participating.

15 MR. KATZ: That wasn't the question, your Honor.  
16 Were they in a position to participate? That was the question.

17 MR. WEEDMAN: That is not my question. My question was,  
18 to ask the witness --

19 THE COURT: You can answer it.

20 MR. WEEDMAN: -- what the word "present" means.

21 THE COURT: You can answer the last question, if you  
22 desire.

23 That is your question?

24 MR. WEEDMAN: Yes, your Honor.

25 THE COURT: All right. Is the question clear?

26 THE WITNESS: The question is clear in my mind, yes.

27 THE COURT: Now, try to answer the question.

28 THE WITNESS: In other words, I answered the question.

1 I said I know that I was there, and I know that Clem was there.

2 THE COURT: But that is not quite / new question.  
the

3 Now, listen carefully.

4 THE WITNESS: He asked if there were other people there,  
5 and I said yes, but I don't know at this particular time who  
6 they were.

7 THE COURT: Were there other people that were talking  
8 in the conversation, chiming in on it?

9 THE WITNESS: Clem was not talking directly to me.

10 Q BY MR. WEEDMAN: Okay. Who was he talking to,  
11 if you know?

12 A I don't think I know.

13 Q Was it someone who you had met while you were at  
14 Barker Ranch?

15 A Well, at that particular time there were a lot of  
16 changes going on and a lot of new faces that I had never seen  
17 before, and some that I never saw again.

18 Q Where were you physically in relation to where  
19 Mr. Grogan was when he apparently was talking with someone  
20 else?

21 A I was just -- if you were going into the place up  
22 the front steps, it was on the right, which would put you out  
23 in front of the building facing the canyon.

24 Q How far away were you in feet from Mr. Grogan  
25 during this conversation that you have told us about?

26 A I would say eight or ten feet.

11-1

1 Q Now, during this conversation did Mr. Grogan  
2 speak to you as distinguished from your overhearing him speak-  
3 ing to someone else?

4 A You mean by calling me by name or something like  
5 that? No.

6 Q Well, bear in mind, for example, that even though  
7 I don't use your name at this particular moment, nonetheless  
8 I clearly am talking with you and you with me. You understand  
9 that, I am sure.

10 Was Mr. Grogan speaking to you during this conver-  
11 sation, even though he may not have been using your name, of  
12 course?

13 A At one point there, yes.

14 Q And when was that?

15 A When he was looking at me, we will say that when  
16 he said it.

17 Q When he said what?

18 A When he said it was groovy to stick knives in  
19 people.

20 Q And how far away were you from Mr. Grogan when he  
21 was looking at you and saying these things?

22 A Little closer than you are standing now.

23 Q Well, in that event, since I am the measuring  
24 stick I will move a little closer.

25 Let me know when I am about the same distance from  
26 you as you were from Mr. Grogan when he spoke looking in your  
27 duremention.

28 A Oh, I would say approximately within the range you

1 stand now.

2 Q All right.

3 MR. KATZ: May we have a record on that, Mr. Weedman.

4 THE COURT: Well, 10 feet.

5 MR. WEEDMAN: I don't know. It looks to be 10 feet, your  
6 Honor.

7 MR. KATZ: Yes. I think that is a fair assessment.

8 THE COURT: Is that about right?

9 Q BY MR. WEEDMAN: What time of day or evening did  
10 this occur, that is, this conversation?

11 A It was late evening.

12 Q About what time?

13 A I had no watch, so I couldn't give you about the  
14 time.

15 Q Had the sun gone down yet?

16 A It was still light.

17 Q How many times, prior to this conversation, had  
18 you seen my client, whether you spoke with him or not?

19 A Oh, I would say a dozen or so.

20 Q How many times, if any, had you had any conversa-  
21 tions with my client prior to the conversation in question?

22 A Once.

23 Q About how many persons were present at the  
24 conversation wherein Mr. Grogan said he cut Shorty's head off  
25 or words to that effect?

26 A Oh, I would say two or three.

27 Q Were those men or women, or both?

28 A Both.



1 Q And were they standing about the same distance  
2 as you from Mr. Grogan, or sitting, as the case may be,  
3 during this conversation?

4 A They was more like they was talking to each other.

5 Q Did it appear as though Mr. Grogan was really  
6 speaking to you in the sense of having a conversation with  
7 you on this occasion as distinguished from your overhearing  
8 a conversation?

9 A It was as though I was there and so I becmae a part  
10 of the conversation, yes.

11 Q Have you told us everything that you heard Mr.  
12 Grogan say on this occasion?

13 A I told you the part that was put in my mind, that  
14 I remembered real well.

15 Q Following your hearing my client say this did you  
16 discuss it with anyone else?

17 A No.

18 Q Did you discuss it with Mr. Watkins?

19 MR. KATZ: Well, excuse me. Objection.

20 At which time are we talking about? Talking about  
21 up at Barker's and Myers Ranch, or sometime thereafter?

22 Objection on the grounds it is ambiguous.

23 MR. WEEDMAN: It is not ambiguous.

24 THE COURT: Well --

25 MR. KATZ: Your Honor, "following" can mean the day after,  
26 it can mean the minute after, five minutes after. We don't  
27 know what counsel has reference to.

28 MR. WEEDMAN: Well, I don't care if it is 10 years

1 afterwards.

2 THE COURT: Well, the question is clear.

3 MR. KATZ: Well, if counsel explains that to the witness  
4 I have no objection.

5 THE COURT: Read the question, please.

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

8 "Q Following your hearing my client  
9 say this did you discuss it with anyone else?

10 "A No.

11 "Q Did you discuss it with Mr.  
12 Watkins?")

13 THE COURT: You can answer the question. Calls for a yes  
14 or no first,

15 THE WITNESS: In what time period?

16 Q BY MR. WEEDMAN: Pardon me?

17 A Did I discuss it with Mr. Watkins?

18 Q Yes.

19 THE COURT: Listen to the question. I have no objection  
20 to your question.

21 You might refine it a little bit. It is a little  
22 ambiguous.

23 Restate it, if you will. There is a question in  
24 it.

25 Read it again, please.

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

28 "Q Following your hearing my client

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say this did you discuss it with anyone else?

"A No.

"Q Did you discuss it with Mr.  
Watkins?")

THE COURT: All right. You can answer it.

THE WITNESS: Yes.

MR. WEEDMAN: Your Honor, I wonder if we might have a  
brief recess.

THE COURT: Yes, surely. Let's take a short recess.

Do not discuss the case. We will proceed in just  
a few minutes.

We are at recess. You can step down. Thank you.

(Recess.)

#12

LOS ANGELES, CALIFORNIA MONDAY, AUGUST 16, 1971; 1:52 P.M.

(The following proceedings were had  
in open court.)

THE COURT: All right, gentlemen. Let's go right ahead.  
People against Grogan. The defendant is here and  
both counsel.

You may bring in the jury.

PAUL CROCKETT,  
resumed the stand.

THE COURT: You have been sworn. Please be seated and  
state your name again. Tell us your name.

THE WITNESS: My name is Paul Crockett.

THE COURT: Thank you. And remember, pull your chair  
right up so you can talk right in the phone.

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

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

You may proceed, Mr. Weedman.

CROSS EXAMINATION (Cont'd.)

BY MR. WEEDMAN:

Q Mr. Crockett, we left off with my asking you if  
you had discussed the conversation you had with Mr. Grogan  
with Paul Watkins, and I believe your answer was "Yes."

A Yes.

1 Q So my question to you now is, when did you discuss  
2 that conversation with Paul Watkins?

3 A Well, it wasn't directly a conversation directly  
4 with Paul Watkins. It was in the police car on the way to  
5 Independence from Shoshone.

6 THE COURT: Read the question to the witness, please.  
7 Wait a minute.

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(The record was read by the reporter  
as follows:

"Q So my question to you now is,  
when did you discuss that conversation with  
Paul Watkins?"

THE COURT: When? Let's get the date.

THE WITNESS: I don't know exactly the date.

Q BY MR. WEEDMAN: Was this in a police unit?

A Yes.

Q Who else was present in the police car?

A Brooks Poston.

Q And there, of course, was a policeman. Who was  
that?

A Don Ward.

Q Is that the very first time that you discussed this  
with Mr. Watkins?

A Yes, 'cause we were all surprised --

Q That's all right. I think you can just answer that  
yes or no.

A Yes.

Q Now, following this conversation with Mr. Grogan  
that you told us about, did you discuss that conversation with  
Brooks Poston?

A Same place, yes.

Q And was that conversation then discussed in the  
police car?

A Yes.

Q And was that the very first time that you had

1 discussed this with Brooks Poston?

2 A Yes.

3 Q Had you, Mr. Watkins and Mr. Poston, continued to  
4 live together following your conversation with Grogan?

5 A Yes.

6 Q So I take it following the conversation that you  
7 allegedly had with my client, you saw Mr. Watkins and you saw  
8 Mr. Poston?

9 A Yes.

10 Q Did you see them on a daily basis up to the time  
11 that you found yourselves -- found yourself, rather, in this  
12 police unit?

13 A Not every day. But practically every day.

14 Q How many days elapsed, approximately, from the  
15 time that you had this alleged conversation with my client and  
16 the time that you and Mr. Poston and Mr. Watkins were in the  
17 police car?

18 A Approximately a month.

19 Q Now, going back to the time that you heard state-  
20 ments made by my client relative to Shorty Shea, were you --  
21 if you can answer this question -- an active participant in  
22 this conversation?

23 A I said earlier, no.

24 14 fls

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14-1

1 Q Did you ever hear Paul Watkins say anything about  
2 his assuming rather than hearing it with his own ears that my  
3 client had something to do with Shorty Shea?

4 A No.

5 Q Do you recall something being said by Mr. Watkins  
6 relative to my client proving himself?

7 MR. KATZ: I'm going to object to that as assuming facts  
8 not in evidence. The question actually assumes facts not in  
9 evidence.

10 THE COURT: Read the question as framed, Mr. Reporter.

11 (The question was read by the reporter  
12 as follows:

13 "Q Do you recall something being  
14 said by Mr. Watkins relative to my client  
15 proving himself?")

16 THE COURT: You can answer the question. Overruled.

17 MR. KATZ: Then I will object on the ground it is  
18 ambiguous. Prove himself in what regard?

19 THE COURT: Overruled.

20 Do you understand the question?

21 THE WITNESS: Not really.

22 THE COURT: All right. Read it to him again.

23 (The question was reread by the reporter  
24 as follows:

25 "Q Do you recall something being  
26 said by Mr. Watkins relative to my client  
27 proving himself?")

28 THE WITNESS: Proving himself to what?



1 THE COURT: Is the question -- do you understand the  
2 question or not?

3 You better restate it, I think, Mr. Weedman. I  
4 don't think he understands it.

5 Q BY MR. WEEDMAN: Does that question have any  
6 meaning for you at all, Mr. Crockett?

7 THE COURT: Do you want to state it again?

8 MR. WEEDMAN: That's all right.

9 THE WITNESS: Not really.

10 Q BY MR. WEEDMAN: Do you recall having an interview  
11 with Sgt. Steuber relative to statements purportedly made to  
12 you by Mr. Manson as well as my client?

13 A Yes.

14 Q When did that interview take place?

15 A I had several interviews with Mr. Steuber.

16 Q Was one of those interviews recorded on tape, if  
17 you know?

18 A I know that one was recorded on tape, and possibly  
19 two.

20 Q Do you know when the interview that you positively  
21 know was on tape was had?

22 A You mean the date?

23 Q Yes.

24 A No.

25 Q Was that before or after you were riding in this  
26 police vehicle with Mr. Poston and Mr. Watkins?

27 A It was after.

28 Q Who was present at this taped interview between

1 yourself and Officer Steuber?

2 A At the time that the tape was made?

3 Q Yes, sir.

4 A I was by myself with him.

5 Q Where was Mr. Watkins, if you know?

6 A I didn't know his exact location, no.

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1 Q I take it that you mean that Mr. Watkins at least  
2 was not present during the interrogation of you by Sgt. Steuber?

3 A Right.

4 Q Was there ever a time when Paul Watkins was present  
5 with you when you were being interviewed by Sgt. Steuber?

6 A That would be hard to say because I was inter-  
7 viewed so much.

8 Q Were you ever interviewed then by any police  
9 officers in the presence of Paul Watkins?

10 A I would say yes.

11 Q During that interview did you state substantially  
12 what you have said in this courtroom about what my client  
13 purportedly told you relative to Shorty Shea?

14 A Yes.

15 Q Was Mr. Poston present during any of your interro-  
16 gations by police officers?

17 A In some of them, yes.

18 Q Was he present at any interview of you by  
19 Sgt. Steuber?

20 A No.

21 Q With respect to the gun that you saw in the  
22 possession of Danny De Carlo and Bruce Davis and Charles  
23 Manson, do you know where my client was?

24 A At that time?

25 Q Yes.

26 A Yes. He was sitting by Charlie Manson.

27 Q And did my client have the gun in his possession?

28 A Not that I recall.

1 MR. WEEDMAN: Your Honor, I wonder if we may approach  
2 the bench for just a moment?

3 THE COURT: Sure. Do you want the reporter?

4 MR. WEEDMAN: Yes, please.

5 THE COURT: All right. Step right up here.

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

8 THE COURT: We are in chambers. Defendant and counsel.

9 Go ahead, Mr. Weedman.

10 MR. WEEDMAN: Your Honor, there was testimony by this  
11 witness from the grand jury proceedings in connection with  
12 this case wherein the witness states that Charles Manson told  
13 him that he --

14 THE COURT: Manson?

15 MR. WEEDMAN: Yes, your Honor. He, Manson --

16 THE COURT: He, Manson --

17 MR. WEEDMAN: Had chopped off Mr. Shea's head.

18 THE COURT: Then this is testimony that this witness  
19 on the stand stated at the grand jury?

20 MR. WEEDMAN: Yes, your Honor.

21 THE COURT: Is that right?

22 MR. WEEDMAN: Yes, your Honor.

23 I would respectfully seek to offer this solely  
24 as possible impeaching material.

25 THE COURT: I don't think you can limit it.

26 MR. WEEDMAN: Because it is a --

27 THE COURT: I don't think the court can limit it to that.

28 MR. WEEDMAN: It is a confession, of course, of

1 Charles Manson.

2 THE COURT: It can be considered by the jury as a matter  
3 of law under the Green case either -- as a matter of law, it  
4 either attacks credibility and/or may be considered for sub-  
5 stantive value.

6 Now, I don't think you can limit it. I mean assum-  
7 ing you want to, you can't. It's in there.

8 MR. WEEDMAN: Well, of course, why the United States  
9 Supreme Court ever ruled as they did in Green is beyond me,  
10 and of course, a great many other attorneys, because of this  
11 very kind of problem.

12 Because we are really talking about hearsay on  
13 hearsay now.

14 And I'm afraid the justices of the Supreme Court  
15 haven't had much trial practice. Certainly --

16 THE COURT: Well, let's just wait a minute here. I mean  
17 let's just analyze this. I have read this.

18 You can see my interlineations in here.

19 Let's take their statement here.

20 Now, this is People against Green. This is the  
21 California Supreme Court which takes on Green after the ruling  
22 in the U. S. Supreme Court.

23 All right.

24 MR. WEEDMAN: Where they overrule People versus Johnson.

25 16 fls  
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1 THE COURT: Right.

2 Let's just wait a minute now.

3 Now, can I amplify my ruling, gentlemen? Let's  
4 take this slowly here.

5 Green -- I'm reading it again here -- let's just  
6 back up to our simple beginning with Green here. Green has  
7 reference -- and then we'll pick it out of this case -- Green  
8 has reference to where their chief witness for the People,  
9 Melvin Porter, at a preliminary hearing testified in a certain  
10 fashion respecting furnishing marijuana. Now, then Porter  
11 at the trial testifies in a contrary fashion. In other words,  
12 he eliminates -- I'm pulling now a segment out of this from  
13 memory; I don't want to go through the whole opinion -- he  
14 denies or refuses to admit certain statements that he made at  
15 the preliminary hearing. In other words, at the preliminary  
16 hearing there were clear admissions of the purchase of  
17 marijuana. At the trial he doesn't state that; he cuts it out  
18 of the testimony.

19 Now, the substance of Green is that the prior  
20 statements of Porter at the preliminary hearing are admissible  
21 at the trial for two purposes; to impeach Porter, one, plus now  
22 the truth of inconsistent statements of Porter, because they  
23 vary from his statements at the preliminary hearing.

24 So they held, they being inconsistent statements,  
25 they were admissible for their truth.

26 Do you follow me there?

27 MR. WEEDMAN: Yes, your Honor.

28 THE COURT: Now, in our case here the witness, our witness

1 on the stand, theoretically testifies as to statements of  
2 Manson.

3 Now, let's try it again. In the case at trial,  
4 the witness does not tell us of alleged statements of Manson.  
5 That is correct, right here?

6 MR. KATZ: That's right.

7 MR. WEEDMAN: Only that he had a conversation with Charles  
8 Manson was established on direct by Mr. Katz. I had objected,  
9 of course, to that sort of thing with other witnesses and the  
10 court has consistently overruled me. That is the only reason  
11 I didn't object this time.

12 THE COURT: All right.

13 MR. WEEDMAN: So we do have evidence that he had a  
14 conversation with Charles Manson, but the contents were not  
15 brought out.

17-1

1 THE COURT: Did the People bring out -- I am going back--  
2 the conversation with Manson, or didn't he remember it?

3 MR. WEEDMAN: It wasn't asked other than the fact of the  
4 conversation.

5 Maybe Mr. Katz can help us.

6 MR. KATZ: Yes, your Honor. I did not elicit the contents  
7 of the conversation at all. I merely asked him whether or not  
8 he had talked and had conversations with Charles Manson at  
9 Barker Ranch, to which he answered, "Yes."

10 I did not bring out the conversation.

11 THE COURT: Now, I want to ask you again, what did he say  
12 again when you said to him, "Did you have a conversation with  
13 Manson?" What was his answer?

14 MR. KATZ: Said, "Yes," and stopped there.

15 THE COURT: Did not?

16 MR. KATZ: No. He said, "Yes."

17 THE COURT: Yes. But it was a vague answer, wasn't it?

18 MR. KATZ: No, it wasn't vague.

19 THE COURT: He said, "Yes," period?

20 MR. KATZ: Yes. But I did not ask for the conversation.

21 THE COURT: You didn't go after it, after he said, "Yes."

22 MR. KATZ: Yes.

23 But I wouldn't be permitted to do so. It would be  
24 hearsay.

25 THE COURT: Now, wait a minute. I will give you plenty  
26 of time to object.

27 Now, you propose to impeach the witness, am I  
28 correct, by the statement? Now, have you asked the witness,



1 "Did you have a conversation with Manson?" to the witness, and  
2 did the witness give you an answer, Mr. Weedman?

3 MR. WEEDMAN: No, I have not asked him yet, your Honor.

4 THE COURT: All right. Then you have got to ask him  
5 that before you go any further.

6 MR. WEEDMAN: That's right.

7 THE COURT: He may say, "Yes."

8 "What's the conversation?" And he will tell it  
9 to you, right?

10 MR. WEEDMAN: Yes, your Honor.

11 THE COURT: Now, your disturbment, or your concern is  
12 that he may make a statement from the stand in a fashion  
13 different than he made at the grand jury?

14 MR. WEEDMAN: No, your Honor.

15 THE COURT: No. All right.

16 What is your concern then?

17 MR. WEEDMAN: My concern is that it would be received  
18 substantively, and I don't want it received substantively.

19 THE COURT: All right. Fine.

20 MR. WEEDMAN: Only for possible impeachment.

21 THE COURT: Your statement is then that he will give the  
22 substance -- your statement is he will give the substance in  
23 relation of what Manson said, but it is only admissible for  
24 purposes, as I know, of contradiction. You can't put it in  
25 until there is a contradiction. Until there is a variation.

26 You see, you can't read the grand jury testimony  
27 unless there are purposes of impeachment. If the witness is  
28 there to tell you the story then your statement to the grand

1 jury is obviously hearsay. Can only be admissible for  
2 impeachment or for substantive value in the event he denies  
3 it. Unless there is a conflict there.

4 So you can't get into your grand jury.

5 If he said to you, "No, I didn't have any con-  
6 versation with Manson," then you come into your grand jury  
7 testimony for impeachment for substantive value.

8 MR. KATZ: That is the point. Your Honor has well  
9 analyzed it.

10 You see, there can be no impeachment as such or  
11 raising this issue because we never brought it out on direct.

12 THE COURT: Yes, I don't think you can move it in until  
13 he tells you, "No, I didn't have a conversation" or recites  
14 something at variance to the grand jury testimony.

15 MR. WEEDMAN: Well, your Honor, it is factually  
16 inconsistent. In other words, he claims that my client told  
17 him that my client cut Mr. Shea's head off. We also know  
18 that he said that Charles Manson told him that he, Charles  
19 Manson, cut Shea's head off.

20 MR. KATZ: Charles Manson may very well have told him  
21 that. That is not impeachment in any manner, shape or form.

22 THE COURT: Well, my ruling would be that it would have  
23 to be admitted for both substantive value as well as impeach-  
24 ment. If it goes in.

25 THE DEFENDANT: He didn't testify to that here on the  
26 stand right now.

27 MR. WEEDMAN: What, Clem? Say it again.

28 THE DEFENDANT: He said, "Clem said he had to kill him,

1 Sticking people with knives was groovy." He didn't say nothing  
2 about cutting anybody's head off.

3 MR. WEEDMAN: I am sorry. I thought he did.

4 MR. KATZ: He did. He said, "The defendant, Grogan, said  
5 he had to cut off Shorty's head."

6 He didn't refer to a machette, but he said, "The  
7 defendant said he had to cut Shorty's head off."

8 THE COURT: Let me me make this one addenda, Mr. Weedman.

9 MR. WEEDMAN: Yes, your Honor.

10 THE COURT: Suppose you ask the witness, "Now, Mr. Witness,  
11 you have told us you had a conversation with Manson. Relate  
12 the conversation."

13 Now, if he relates the same conversation that he  
14 did to the grand jury -- some of my statements are repetitious,  
15 but I get on the level here -- you have no impeachment, in my  
16 opinion. There is nothing to impeach. Therefore, there would  
17 be no purpose in reading from the grand jury transcript.

18 If he says to you, "No, I didn't have a conversa-  
19 tion with Manson" or if you say, "Relate your conversation with  
20 Manson" and he testifies to something contrary to your grand  
21 jury testimony, you can impeach by saying in substance, "Well,  
22 all right. Isn't it true you stated so and so at the grand  
23 jury hearing?" That is impeachment.

24 (Short pause.)  
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1 THE COURT: Now, there is a serious question at that  
2 very juncture because the statements of Manson -- see if you  
3 follow me -- the statements of Manson, alleged statements of  
4 Manson, to the witness, "I killed Shorty Shea," or whatever  
5 they are, those are hearsay; they are not substantive state-  
6 ments of the witness.

7 MR. WEEDMAN: That's right.

8 THE COURT: Do you follow me?

9 MR. WEEDMAN: I most certainly do, your Honor.

10 MR. KATZ: It could be a statement against penal interest.

11 THE COURT: You are in kind of a position, the statements  
12 of Manson to the witness, "I, Manson, killed Shea," you see,  
13 that could be used for credibility. In other words -- if you  
14 follow me -- it isn't a statement of the witness saying, "I  
15 bought marijuana today," and two months later saying -- you  
16 see, he is speaking of himself all the time.

17 MR. WEEDMAN: It is first-hand knowledge.

18 THE COURT: "I," the witness, "bought marijuana." "I,"  
19 the witness, "did not buy marijuana."

20 That is where you have a statement by the witness  
21 himself that are statements of the witness, what the witness  
22 did.

23 Do you see what I'm trying to tell you? That is  
24 substantive. But this case we have here would have reference  
25 to statements of the witness respecting what Manson said, you  
26 see. That is hearsay. It could go to credibility. He could  
27 say, "Manson said this to me at one time; another time Manson  
28 said this." This is credibility. But what Manson said, Manson

1 said to the witness is hearsay. It would go to credibility,  
2 but it wouldn't go to substantive, because it is not what the  
3 witness did do or didn't do.

4 I am probably stating it awkwardly --

5 MR. WEEDMAN: No, you have stated it very well and we  
6 don't find an answer to that problem in People versus Green  
7 because Green is not a case involving a witness stating  
8 hearsay.

9 THE COURT: No. Green involves the witness himself:  
10 "I did buy marijuana," "I didn't buy marijuana."

11 MR. WEEDMAN: Exactly.

12 THE COURT: It goes to the witness himself.

13 MR. WEEDMAN: Exactly.

14 THE COURT: So Green says that it attacks credibility  
15 and what he said he did once is substantive testimony.

16 MR. WEEDMAN: The Evidence Code, Section 1235, says, of  
17 course, that prior inconsistent statements of a witness may  
18 be received substantively as well as for impeachment, but the  
19 rule is too broad --

20 THE COURT: Aren't you fighting shadows until you get  
21 the witness' answer? He may say it, if you ask him, "What  
22 did Manson say to you," he may say exactly what he told the  
23 grand jury. You see what I mean?

24 MR. WEEDMAN: I merely take the position that the  
25 witness on the one hand says that Charles Manson told him  
26 that he chopped Shea's head off and then he also says that  
27 it was my client -- my client told him that my client chopped  
28 Shea's head off.

1 I think they are merely inherently inconsistent  
2 and properly the subject for impeachment.

3 MR. KATZ: May I be heard, your Honor?

4 THE COURT: Yes.

5 MR. KATZ: All right. Number one, merely because  
6 Charlie Manson may have told this witness that he himself had  
7 chopped the decedent's head off in no is impeaching of any  
8 later testimony of this witness that Clem had told him the  
9 same thing. Both of them could have indeed told him that,  
10 whether or not it is true or not. We don't know if it is  
11 braggadocio on the part of Charles Manson, for example.

12 We know that this witness has told us on other  
13 occasions that Charles Manson had Clem cut his head off, and  
14 if Mr. Weedman was allowed to go into this hearsay matter,  
15 I can bring in a tape which was made on 12/19/69 that goes  
16 on for some hour or beyond the time of an hour in which he  
17 lays out the whole Manson philosophy, and indeed Manson's  
18 entire confession.

19 I think we are getting into collateral issues.  
20 The only theory that I can see that this would be admissible  
21 under at the present time would be a statement against penal  
22 interest, that is, against Manson's penal interest, admitting  
23 that he had committed a crime. However, the rules are such  
24 that it is not admissible unless the declarant, namely,  
25 Manson, is unavailable as a witness.

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Now, Mr. Manson may indeed be unavailable because he has a right to assert the privilege against self-incrimination--

THE COURT: Very definitely.

MR. KATZ: -- in which case it might come in under that theory. However, I am informed that it might be possible that Charles Manson will indeed testify for the defense, willingly and voluntarily.

MR. WEEDMAN: I must represent to the court that it is a possibility at this posture of the case, so that I cannot candidly state that Charles Manson is unavailable. I think the only way we could show unavailability would be for him to go on the record and refuse to testify.

MR. KATZ: I think counsel is correct. But once again what we must ask ourselves is, what is the relevancy of asking--

THE COURT: I'm worried about that again, if we may back up again. It's awful easy to branch out.

Your position again is that if you say, for instance, to the witness, "What did Manson say in this conversation?" "Manson said, 'I, Manson, killed Shea.'" "

Now, I'll ask you again, where your impeachment would be? That is where I have difficulty following you. Where would your impeachment come in at that point?

MR. WEEDMAN: The impeachment comes because it seems clear in context that only one person cut Mr. Shea's head off, if indeed it did happen, which, of course, we in nowise admit. But for the witness --

THE COURT: But it wouldn't be an impeachment of the witness because the witness is not impeaching himself. He is



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1 stating a series of -- he is stating what he says was done.  
2 There is where the impeachment is.

3 MR. WEEDMAN: But we don't necessarily have to believe  
4 him when he tells us that it was my client who told him that  
5 it was Mr. Grogan who cut Mr. Shea's head off. We don't have  
6 to accept that, and I do not accept that.

7 So, therefore, I feel that it is proper impeach-  
8 ment to point out that at one time this witness stated that  
9 Charles Manson told him that it was he, Charles Manson, who  
10 cut Shea's head off.

11 THE COURT: I'll stop you right there.

12 Couldn't the witness very well say "Grogan," which  
13 he has -- "Grogan said he cut Shea's head off." And, on  
14 another date Manson says he cut Shea's head off. Now, both  
15 statements, from what was told to him, could be true. I'm  
16 not saying that is what happened.

17 MR. WEEDMAN: No.

18 THE COURT: I'm talking about what he heard.

19 MR. WEEDMAN: I understand.

20 THE COURT: He could be testifying, "Grogan said some-  
21 thing; Manson said something else." He still hasn't impeached  
22 himself because he hasn't attempted to pass on the veracity  
23 of what was said. He simply said, "Grogan said this; Manson  
24 said this."

25 MR. WEEDMAN: That is one way of looking at it. But I  
26 can also look at it in this way: I can look at it by saying,  
27 here's a witness who claims that my client confessed to him  
28 and that my client said that he, my client, chopped Mr. Shea's



1 head off.

2 But I don't have to accept that, and I can argue,  
3 you see -- I can argue that the witness is confused as to who  
4 told him what and who cut Mr. Shea's head off.

5 THE COURT: Isn't that more a matter of argument to the  
6 jury? You can say to the jury --

7 MR. WEEDMAN: Whether it is impeachment or not is a  
8 matter for argument, I agree, but I think we have a prima  
9 facie showing of impeachment.

10 THE COURT: Well, I would be inclined to rule that it  
11 isn't an impeachment as far as the veracity of the witness is  
12 concerned, but it is a matter more that goes to the weight,  
13 or the inferences that the jury should want to infer, and that  
14 would come to argument, argument to the jury.

15 What about this witness? He says here, "Manson  
16 says Grogan," the defendant, "said he did this." Manson --  
17 you still run into questions of hearsay in there because --

18 MR. WEEDMAN: That is why I don't want to offer --

19 THE COURT: You've got hearsay there because the plain-  
20 tiff can say it's a hearsay statement. Shea wasn't there.

21 So you bump into the question of hearsay the  
22 moment you really -- the People didn't go into it. The  
23 People didn't say to the witness, "What was said? What did  
24 Manson say?" Then the door is open to cross-examination. But  
25 how can you get a statement, under what theory could you get  
26 a statement -- putting aside your other argument -- under what  
27 theory could you ask the witness, if an objection is made,  
28 "Mr. Witness, what did Manson say about who killed Shea?"

1 Suppose the People say it's hearsay now.

2 MR. WEEDMAN: Your Honor, supposing the witness, just in  
3 a hypothetical situation, says "The defendant told me that he  
4 shot the victim."

5 THE COURT: All right. Grogan said he shot the victim.

6 MR. WEEDMAN: Then later the witness goes on and says,  
7 "Yes, and Mr. X told me that he shot the victim." Of course,  
8 you can say that both persons made those statements, but I  
9 don't have to accept that proposition. I can say that those  
10 statements are inherently inconsistent and go to the credibility  
11 of the witness.

12 And I would like to add, your Honor, that we now  
13 have developed on cross-examination with Mr. Crockett that he  
14 really was not a real substantial participant in this conver-  
15 sation. In other words, we have an impression now that is  
16 totally different than that which was left on direct examina-  
17 tion. We have a man who is really just overhearing a conver-  
18 sation, and I think that we should be permitted some latitude  
19 in impeachment.

#19

1 THE COURT: Now, can I put -- without sidestepping your  
2 particular argument, first let me say this -- I would think  
3 under ordinary conditions a statement of Manson to the witness  
4 where Shea is not present --

5 MR. KATZ: Do you mean Shea?

6 THE COURT: "I, Manson, killed him," would be hearsay.  
7 It would be hearsay.

8 However, there is another serious question that  
9 enters into it and that is this situation, that the People as  
10 a main factor in their case have undertaken to show a family  
11 community, community of family interests, or purpose. To go  
12 to the desert, for instance.

13 And I was very serious in my examination of the  
14 witness on the stand there as to what was the intention of  
15 Manson to go there. There was nothing intended to be facetious  
16 about that at all. I meant every word of that.

17 MR. WEEDMAN: I welcome that testimony, your Honor.

18 THE COURT: That I was interested to show whether there  
19 was a concert of interest to go to the desert, a concert of  
20 interest to kill Shea.

21 Now, Manson is a ringleader of this. Declaration  
22 of one man are declarations of another, are binding on  
23 another, may be considered as another.

24 Now, if the purpose of the People, which is  
25 obviously through the transcript that they are showing a  
26 concert of interest -- and I have ruled with them on a  
27 principle that an action of -- we will call it a conspiracy,  
28 a prima facie showing of conspiracy has been shown -- if the

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1 declarations of Manson of what the purpose of the conspiracy  
2 is, are declarations, are admissible to show the purpose I  
3 would think other voluntary admissions, if they are of Manson  
4 respecting who killed Shea, would also be admissible.

5 MR. KATZ: No, there is a restriction, your Honor. It  
6 has to be in furtherance of the object and design of the  
7 conspiracy. That is the reason I didn't put in the so-called  
8 "last supper" rights of Juan Flynn wherein Charles Manson  
9 completely confessed to the killing of Shorty Shea. I can't  
10 put that in because presumably the conspiracy had ended.

11 THE COURT: Your point is that the conspiracy has been  
12 completed.

13 MR. KATZ: Absolutely.

14 THE COURT: That is your point.

15 MR. KATZ: And therefore, the statement of Charles  
16 Manson made in September of 1969 after Shorty Shea had long  
17 been killed and buried, would not be admissible on conspiracy  
18 theory. It would only be admissible as an admission against  
19 Mr. Manson in his own trial.

20 Possibly, and I underscore possibly, as an asser-  
21 tion or declaration against penal interest if the foundation  
22 is properly laid.

23 THE COURT: The statements of a conspirator respecting  
24 the fulfillment of the conspiracy are admissible. That is  
25 the basis that I let in testimony as to what was said about  
26 disposing of the body of Shea.

27 MR. KATZ: That's correct.

28 THE COURT: It was in fulfillment of the conspiracy,

1 if I can state myself correctly.

2 Now, the purpose of the conspiracy is to kill  
3 Shea. Now, theoretically, Manson theoretically says in effect,  
4 "Well, we finished our conspiracy. I killed Shea. I killed  
5 Shea."

6 Well, let's -- you have -- it's a little deeper  
7 than you think it is. Suppose Manson says, "I killed Shea."

8 Suppose he says that. "I killed Shea."

9 And this case, of course, is directed -- this  
10 specific trial is directed against Grogan.

11 "I killed Shea." There is a confession. A  
12 voluntary confession. Let's say it is -- or an admission,  
13 let's put it that way.

14 Here is an admission without police movement  
15 directed to what Manson said. "I killed Shea. I killed Shea."

16 There must be some law to the extent as to how  
17 far a co-conspirator can go in his declarations. In other  
18 words, I realize the general statement of the jury instruction,  
19 a statement of the -- one of the co-conspirators, respecting  
20 the performance of the conspiracy, the acts and declarations  
21 are admissible on the other co-conspirators.

22 Let's get that basic instruction again out.

23 Now, here --

24 MR. KATZ: Chuck, you are not suggesting it is admissible  
25 under conspiracy theory, are you?

26 MR. WEEDMAN: No, of course not.

27 Your Honor, I think both counsel are agreed that  
28 these statements are outside --

1 THE COURT: Well, I think they are --

2 MR. WEEDMAN: Yes, and we are not offering them under  
3 any theory of conspiracy.

4 THE COURT: I know it, but that thought came to me that  
5 if those statements are in fulfillment, it would be a proper --  
6 I think it would be a proper matter of interrogation if it is  
7 permitted.

8 MR. WEEDMAN: But they are not.

9 THE COURT: I am not so sure.

10 MR. KATZ: They are not, your Honor. I think both  
11 counsel agree.

12 THE COURT: All right. All right.

13 Let me just take a check here on what disturbs  
14 me.

15 MR. KATZ: I could say one thing, your Honor, I have no  
16 objection if Mr. Weedman wants to elicit the entire conversa-  
17 tion that Mr. Crockett had with Mr. Manson. The only problem  
18 is Mr. Weedman cannot limit that statement for impeaching  
19 purposes only. It comes in for all purposes which would be  
20 substantive purposes.

21 Now, this is the narrow issue with which  
22 Mr. Weedman is obviously concerned.

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1 THE COURT: Suppose you throw in an objection, suppose  
2 Mr. Weedman says, "What did Manson tell you?"

3 MR. KATZ: I won't object. I would love to hear what  
4 Manson told this witness because I know the answer, your Honor.

5 But I tell you it wouldn't be fair to the  
6 defendant because that confession is going to come in as  
7 substantive evidence, and it is going to be binding on the  
8 jury if they accept it.

9 THE COURT: There is the question again. I don't know  
10 to what extent it would be binding because it isn't an  
11 admission -- you have no -- you have no conflict. The  
12 witness -- there is the disturbing factor, it isn't that the  
13 witness said, "On such and such a day Manson stated thus and  
14 thus. And then repudiated in further testimony the impeach-  
15 ment." It isn't -- there is no direct impeachment of the  
16 witness that is on the witness stand testifying.

17 MR. KATZ: That is absolutely correct.

18 THE COURT: There is the thing that bothers me, you see.

19 MR. KATZ: You see, what Mr. Weedman is saying, he is  
20 well aware of this. The fact that assuming the statement  
21 comes in, the statement of Manson to Paul Crockett, the witness  
22 who is presently on the stand, if I do not object whether or  
23 not it is indeed hearsay makes no difference because now it  
24 comes in for all purposes.

25 In other words, if there is no objection and  
26 hearsay testimony comes in, it may be used for all purposes,  
27 substantive purposes, impeachment of the truth of the state-  
28 ments made in the declaration.

1 Mr. Weedman is a good lawyer, obviously, and he  
2 does not want to have that come in as substantive evidence.  
3 I would not object if he would attempt to elicit it for all  
4 purposes.

5 He came in here to ask you whether or not he  
6 could bring in the statement on the theory of impeachment.  
7 Your Honor has rightly concluded there is no impeachment of  
8 the witness at this point. The witness didn't say, "Charlie  
9 Manson didn't say that."

10 I didn't bring out the conversation. So there is  
11 no impeachment.

12 If Mr. Weedman wants to use the conversation for  
13 all purposes I would not interpose any objection. He can go  
14 into the conversation entirely.

15 You analyzed it right on the head of the pin, if  
16 I may be so crass in referring to it as such. You said at  
17 this posture of the questioning there is nothing to impeach  
18 the witness with because I didn't bring out the conversation  
19 between Manson and Crockett on direct examination. I just  
20 established there was a conversation.

21 THE COURT: Well, I feel as I did. I just don't think  
22 there is impeachment. And it would be very hazardous to ask  
23 the witness the question. The People say they won't object,  
24 but it would be a very damaging statement.

25 MR. WEEDMAN: Supposing we had a hypothetical situation  
26 where the witness takes the stand. He says, "I had a conver-  
27 sation with A, and A told me he shot the victim."

28 THE COURT: All right.



1 MR. WEEDMAN: Then, "I had a conversation with B, and he  
2 told me <sup>he</sup>/shot the victim."

3 "Then I had a conversation with C and he says he  
4 shot the victim."

5 "Then I had a conversation with the defendant.  
6 The defendant told me he shot the victim."

7 He goes all through the alphabet. He says 26  
8 people told him they each one shot the victim.

9 THE COURT: All right.

10 MR. WEEDMAN: Seems to me we would be entitled to bring  
11 that out, your Honor.

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2 THE COURT: There you have got it again. The witness  
3 theoretically has told the truth of what the confessors have  
4 stated. He hasn't -- his statements are simply a statement of  
5 what A, B, C and D told him.

6 MR. WEEDMAN: Yes, but I can -- it seems to me that I  
7 don't have to accept that. I can argue that he is mistaken  
8 when he includes my defendant in that bunch. He has  
9 mistakenly included my defendant.

10 THE COURT: Well, I would be inclined to rule against  
11 you. Now, I think you have made a pretty fair statement here  
12 of your purpose for the purpose of a transcript to a higher  
13 court. If you desire to elaborate on it you go ahead.

14 I do think that there is no question about your  
15 position. I would be inclined to rule against you and hold  
16 there is no impeachment there. There is no basic impeachment.

17 MR. WEEDMAN: Well, I will accept the ruling, your Honor,  
18 of course. I will accept it insofar as obviously I am not  
19 going -- I won't urge my point any further. I will assign  
20 it as error of course for the record naturally.

21 THE COURT: I want you to. I ask you to. There is no  
22 issue on that.

23 MR. WEEDMAN: Your Honor, I apologize in advance, I am  
24 somewhat undecided now as to whether I am going to pursue the  
25 conversation with Manson.

26 THE COURT: Now, I want to get into that with you.

27 MR. WEEDMAN: To be used substantively.

28 THE COURT: I make the ruling I do. However, let me ask  
you a question. There is no jury here.

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1 Suppose you were to ask -- these are your  
2 decisions. I mean it's like the subpoenaing in a man from the  
3 state prison.

4 MR. WEEDMAN: Yes, your Honor.

5 THE COURT: These are your opinions. But here is the  
6 thing. Suppose you were to ask the witness -- the People say,  
7 "We won't object."

8 "Mr. Witness, you talked to Manson? Yes."

9 Forget your grand jury. You don't have to go into  
10 it for the moment. Maybe not at all.

11 MR. WEEDMAN: Yes.

12 THE COURT: "What did Manson tell you?"

13 "Manson said he killed Shea."

14 All right. That's all. I mean fine. Redirect  
15 or something.

16 Now, haven't you got a very fine position to argue  
17 to the jury at that juncture, "Well, here is Manson says he  
18 killed this man, and here is Shea said he killed him. Manson  
19 said he killed him. Do you find beyond a reasonable doubt on  
20 this?" I mean there is your argument at that point. Now, what  
21 have you got to worry about -- talking frankly, from in front  
22 of the D.A., what have you got to worry about cross-examination  
23 there? What is there disturbing about that?

24 MR. WEEDMAN: Nothing. Quite frankly, there isn't a  
25 thing.

26 But we have got this problem, if that is received  
27 substantively then of course we are past a corpus delicti  
28 problem. Because it could be used --

1 THE COURT: There is the point again, there is that  
2 substantive position. I don't think it -- under the Green  
3 case that what Manson said could be considered substantively.  
4 What the witness says he did.

5 "I, the witness, did this. I, the witness, did  
6 this." And then at some other time he contradicts it and says,  
7 "I, the witness, did this and I did this, or I didn't do this."  
8 Those are statements of substantive position of the witness  
9 himself.

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

11 THE COURT: You see, here we go into statements not of  
12 what the witness did or did not do, but what --

13 MR. WEEDMAN: Somebody else.

14 THE COURT: What somebody else did.

15 So you are bound to get into hearsay. That is my  
16 point.

17 MR. WEEDMAN: That is what is wrong of course with  
18 People v. Green.

19 THE COURT: That is Green, yes.

20 MR. WEEDMAN: It creates a huge problem which of course  
21 it doesn't even purport to answer.

22 THE COURT: But there --

23 MR. WEEDMAN: Well, you see, your Honor, we of course  
24 have taken the position all along that there is no corpus  
25 delicti established for the crime of murder or homicide. And  
26 of course for the record we have also taken the position  
27 throughout that there is no corpus delicti for a conspiracy.

28 THE COURT: I understand that.

1 MR. WEEDMAN: I am sure the record is clear in that  
2 respect.

3 If I do ask the question, and it is received  
4 substantively, why, then of course, it is going to feed back  
5 and support the corpus delicti. If I can be permitted at  
6 least for the record to be understood as offering it not  
7 tactically, but offering it with the understanding that I  
8 still do not concede that there is a corpus delicti, then  
9 chances are I will seek to ask the witness this question.  
10 That is about a conversation with Charles Manson.

11 THE COURT: Well --

12 MR. WEEDMAN: Now, the prosecutor is not going to like  
13 that.

14 THE COURT: Stop right there. Let me stop you again.  
15 Let me ask this again. Re-pose the same argument.

16 If the witness testifies "Manson told me he,  
17 Manson, shot Shea", now, if that cannot, as a matter of law,  
18 be received for a substantive purpose you are not helped at  
19 all, are you? You see, this is not the witness testifying  
20 what he, the witness, did one day and didn't do the next.  
21 It is a statement of hearsay.

22 You see, you wouldn't have substantive statements  
23 by the witness.

24 MR. WEEDMAN: Well, I don't want to take the position  
25 that it is a declaration against penal interests unless I am  
26 forced to do that. I am hoping to avoid that. That is all,  
27 and merely cast doubt on the credibility of the witness  
28 insofar as he implicates my client.

1 I am not going to say "Well, we have a confession  
2 here from Charles Manson. Therefore Charles Manson did it."

3 And the reason that I say that is because I don't  
4 want to concede, and I don't want to build up any evidence  
5 tending to show a corpus delicti beyond what we have already  
6 of course argued about here.

7 THE COURT: Well, let me ask you another question. Let  
8 me ask you another question here.

9 Let me see if I can express it in an easy way here.  
10 Now, here is what I want to say.

11 I know -- I think I can answer what your argument  
12 will be, but let me put it this way.

13 The People contend a conspiracy exists. Where the  
14 co-conspirators, one of the major purposes of the conspiracy  
15 is to eliminate Shea or kill Shea. And they work in unison  
16 for that purpose, the commission of the crime.

17 That crudely, but basically is it. You can correct  
18 me if I am mistating your position. It isn't done purposely.

1 Now, the People are putting on testimony directed  
2 to that point, that Grogan killed Shea.

3 All right. This is a conspiracy unfolding itself.  
4 Now, in the commission of the conspiracy, the statements, acts,  
5 or declarations of one conspirator in the fulfillment of the  
6 conspiracy -- the statements or declarations of one conspira-  
7 tor are the statements and declarations of the other  
8 conspirator or conspirators. That is true. I'm asking you  
9 to assume the basic premise --

10 MR. WEEDMAN: If they are in the course and furtherance  
11 of the conspiracy.

12 THE COURT: I'm not asking you to stipulate to any  
13 conspiracy at all. That is your basic jury instruction.

14 MR. WEEDMAN: But you have to add, if it is done in the  
15 course and furtherance of the objects of the conspiracy.

16 THE COURT: In furtherance of the object of the con-  
17 spiracy.

18 Now, here's what disturbs me. The People have  
19 put on statements of the alleged conspirators respecting the  
20 fulfillment of a conspiracy, or the carrying on of a conspiracy  
21 to kill Shea. The very statements of the conspirators have  
22 been admitted in evidence as being made during the course of  
23 the conspiracy or in fulfillment of the conspiracy.

24 Now, let's say the People rest and the defendant  
25 puts on this witness.

26 "Mr. Witness, did you have a conversation with  
27 Charles Manson?"

28 "Yes."

1 "Did he tell you -- what did he say?"

2 "Well, Manson said he killed Shea."

3 Now, the People immediately say that is a state-  
4 ment that is not -- it is not in the course of the fulfill-  
5 ment of the conspiracy. It is not admissible.

6 I'm wondering if as a matter of law such a  
7 statement is or is not admissible as a rebuttal testimony,  
8 or not a rebuttal, because you have affirmative statements of  
9 members of the conspiracy directed to the fulfillment of the  
10 conspiracy. Would not the statement of Manson, "I, Manson,  
11 killed Shea," is that not a statement that goes to the  
12 fulfillment of the conspiracy in the sense that it is a  
13 statement that Manson killed Shea and not other members of  
14 the conspiracy, and that goes to the fulfillment of the  
15 conspiracy?

16 MR. KATZ: No.

17 MR. WEEDMAN: No, your Honor.

18 MR. KATZ: I think counsel agrees, in no way does it  
19 go to the fulfillment of the conspiracy. The statement could  
20 only be offered if, number one, the subject matter was  
21 brought out on direct somehow so that it would be within the  
22 scope of cross and thereby invited the kinds of questions  
23 that Mr. Weedman would like to ask the witness concerning the  
24 subject matter, or if it falls within a sufficiently-laid  
25 foundation of a declaration against penal interest, meaning  
26 that the declarant, Mr. Manson, is unavailable as a witness.

27 Now, I don't think we have that foundation at  
28 this point, and accordingly, I say that at this point it is



1 immaterial and would not be relevant and there would be an  
2 objection to that line of questioning on the ground that it  
3 is irrelevant and immaterial and would call for hearsay.

4 Now, once again I invite Mr. Weedman to put on  
5 the entire conversation for all purposes, and I will be very  
6 happy and I will not in any manner, shape or form interpose  
7 an objection.

8 But that is Mr. Weedman's decision to make  
9 tactically as a lawyer, and he is a fine lawyer, and I'm sure  
10 he would not accept my invitation.

11 MR. WEEDMAN: Of course, it is more than just a tactical  
12 decision. I feel compelled at this point to introduce such  
13 testimony if I can get it in because our backs are really to  
14 the wall here, in a manner of speaking.

15 THE COURT: Well, I'll tell you, at this juncture I  
16 would rule that, as presented, which is very clearly and  
17 fairly stated what the witness says Manson said to him, the  
18 witness; and what the witness said Grogan said to him, I don't  
19 think it constitutes an impeachment. That would be my ruling  
20 at this juncture.

21 MR. WEEDMAN: I take it, then, that the only theory  
22 would be a declaration against penal interest then, and --

23 MR. KATZ: I would concede that if counsel laid the  
24 full foundation, it would be admissible under that theory.

25 MR. WEEDMAN: I am unable to do so at this time because  
26 I don't know that Charles Manson is unavailable, and I'm not--

27 THE COURT: I do not think Manson is available at this  
28 time. He is charged with the murder and, of course, charging

1 him, too, with the co-conspirator in there.

2 I don't want to take a technical advantage. If  
3 you want to revisit it and could convince me -- I really think  
4 there is no impeachment. I don't want to mislead you, but I  
5 wouldn't close you off on a technicality. If, as we go  
6 through the trial here, the issue should present itself in  
7 some other fashion, I will bring you in chambers and discuss  
8 it with you.

9 MR. WEEDMAN: I think that a foundational requirement  
10 for the admission of a statement which is against penal  
11 interest is that the declarant be unavailable.

12 MR. KATZ: That is correct, Mr. Weedman.

13 MR. WEEDMAN: Let me take a look at it.

14 MR. KATZ: The problem with that, under the Spriggs  
15 doctrine -- S-p-r-i-g-g-s, I believe -- the requirement is  
16 that not only must -- well, it must be shown that the declar-  
17 ant is unavailable.

18 Now, the problem here is that I don't know of  
19 any case that interprets unavailability to the point that it  
20 defines unavailability as relating to a person who is seeking  
21 the privilege against self-incrimination. I think, assuming  
22 for a moment that that kind of foundation would be sufficient  
23 to raise a declaration against penal interest --

24 - THE COURT: The statement of the witness itself, I don't  
25 think it could come in through the --

26 MR. KATZ: Yes, it could. That is the whole theory of  
27 the declaration against penal interest.

28 THE COURT: Yes, you're right.

1 MR. KATZ: The declarant is unavailable.

2 THE COURT: What is your Code section? Where is that?  
3 Do you remember? Let me have that.

4 MR. KATZ: I think under 405 of the Evidence Code, or  
5 403 of the Evidence Code, the court must make a preliminary  
6 fact determination as to whether or not there is a sufficient  
7 foundation to warrant the admission of the statement by an  
8 absent declarant on the theory that he is unavailable in  
9 concept of law.

10 THE COURT: Let me look at it here.

11 MR. KATZ: Is that correct, Mr. Weedman?

12 MR. WEEDMAN: I'm sorry. I was reading.

13 THE COURT: 405?

14 MR. KATZ: I believe it is 403 or 405.

15 It is Section 1230.

16 THE COURT: 1230?

17 MR. KATZ: Yes, but I have reference to the preliminary  
18 fact determination which the court must make in order to  
19 determine whether or not a statement is admissible as a  
20 statement against penal interest.

21 MR. WEEDMAN: Counsel is right. I think 1230 of the Evidence  
22 Code specifically refers to that exception.

23 THE COURT: Wait a minute. I want to read this again.

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1 (Short pause.)

2 THE COURT: I think this is the answer to your question  
3 here.

4 (Short pause.)

5 THE COURT: Well, I think under the People against  
6 Spriggs, 60 Cal. 2d -- 68, I have just read this case. Parti-  
7 cularly on page 871 and basically on 873 -- no, not necessarily  
8 basically but on 873, here we are. 874, point 4; 875 on the  
9 so-called unavailability of the witness to reaffirm the  
10 statement "I, the witness, killed John Smith." His unavaila-  
11 bility to be there.

12 I think -- I think such statements as the witness  
13 on the stand -- now, whether it should come in at this time  
14 I'm not debating it -- are admissible statements on the basis  
15 that they are declarations against declarant.

16 The code, right into it, 1230, that the exception  
17 must exist that the witness is unavailable as a witness.

18 Now, let's go back and start with scratch. Your  
19 statement reads, 1230:

20 "Evidence of a statement by a declarant"--  
21 that is Manson, Charles Manson -- "having sufficient  
22 knowledge of the subject is not made inadmissible by  
23 the hearsay rule if the declarant" -- I read in  
24 Manson -- "is unavailable as a witness.

25 "And the statement" -- Manson's -- "when  
26 made was so contrary to the defendant's pecuniary  
27 or proprietary interest" -- Manson, which is 'I  
28 killed Shea' -- "or so far subject him to the risk

1 of civil or criminal liability" -- already he is  
2 being tried criminally -- "or so far tended to  
3 render invalid a claim" --

4 The statements would not have been made unless he  
5 believed it to be true.

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1 Now, the question in my mind at this point is  
2 this. Let's back up again. Suppose the defendant brings  
3 Manson in here. Manson makes statements, "I killed Shea."  
4 They are obviously admissible whether you want to call it an  
5 admission or confession, assuming they are admissible.  
6 "I killed Shea."

7 Now, Manson isn't here. These are statements  
8 allegedly made by Manson to the witness on the stand, "I  
9 killed Shea," or words to that effect.

10 Now, the question of unavailability is present.  
11 Is Manson unavailable or not? He is charged with the crime.

12 Under the reasoning carefully gone into in Spriggs,  
13 for instance, if Manson were insane in some respects, as the  
14 court points out here, for instance, reading from point 4 on  
15 page 875:

16 "The question remains whether the ad-  
17 missibility of hearsay declarations" -- now,  
18 this would be theoretically Manson's statement --  
19 "against interest depends on the unavailability  
20 of the declarant to testify at the trial. If  
21 Mrs. Roland was deceased" -- this is the one who  
22 theoretically made admissions of her own guilt  
23 exonerating the defendant Spriggs -- "if  
24 Mrs. Roland was deceased, insane, suffering from  
25 severe illness, absent from the jurisdiction, or  
26 otherwise unavailable,"  
27 the testimony would be admissible as being unavailable as a  
28 witness.

1 Now, the question -- and then the court says,  
2 "Such unavailability provided a necessity for the evidence" --  
3 I add, to be admitted.

4 Now, a footnote in Spriggs, page 875:

5 "The record does not disclose whether  
6 or not Mrs. Roland was available as a witness.

7 "If Mrs. Roland had taken the witness stand,  
8 but refused to testify regarding the possession  
9 of narcotics" -- that was the substance of her  
10 out-of-court statement -- let's read it again --  
11 "If Mrs. Roland had taken the witness stand, but  
12 refused to testify regarding the possession of  
13 narcotics, invoking her constitutional right not  
14 to incriminate herself, she would not have been  
15 available as a witness," and therefore her  
16 testimony would be permissible.

17 Now, let's get down to Manson here. Manson is  
18 brought over here. You stipulate to it -- I don't know --  
19 I'm not asking you to stipulate to anything -- if Manson is  
20 brought over here, for instance, somebody asks him that  
21 question, "Did you kill Shea," and immediately he says, or his  
22 lawyer says, Kanarek says, "I object to that question on the  
23 ground of a violation of his constitutional right and it tends  
24 to incriminate him and he is being prosecuted for murder, and  
25 advise the witness not to answer." It would be a perfect  
26 right of Kanarek to say that and a perfect right of the  
27 witness to refuse to answer.

28 He immediately complies with this proviso in

1 Spriggs.

2 Then you go back and tell Manson to go back to his  
3 own trial and you go ahead and call this witness on the  
4 stand. You say, "Now, Mr. Witness, did you have a conversa-  
5 tion with Manson?"

6 "Yes."

7 "When?"

8 "September 15, 1969."

9 "Was it about --" frame it any way you want to --  
10 "Was it concerning the death of Shea?"

11 "Yes."

12 "Was it concerning who killed Shea?"

13 "Yes."

14 "All right. Tell the jury what Manson told you."

15 "Manson said, 'I killed Shea.'"

16 Now, you have complied -- that statement could  
17 come in, in my opinion, there is nothing to stop it, in that  
18 fashion. The question is, when and where is the proper time  
19 to put it in?

20 MR. KATZ: Excuse me. I think there is no dispute  
21 between counsel for the defense and myself as to the admis-  
22 sibility of the statement assuming that Mr. Manson, outside  
23 the presence of the jury, indicates he is going to assert the  
24 privilege against self-incrimination. Obviously, the state-  
25 ment then made to Mr. Crockett could come in under 1230 of  
26 the Evidence Code.

27 But this is the problem that Mr. Weedman is  
28 confronted with at this time: We don't have the foundation.



1 He has Mr. Crockett on the stand, and once again I am not  
2 going to stipulate that, one, the foundation is made, namely,  
3 that Mr. Manson at this time is legally unavailable until we  
4 find that out in a hearing under 405 of the Evidence Code,  
5 outside the presence of the jury, and two, I will not stipu-  
6 late that any inquiry into the alleged statement of Manson  
7 made to Crockett in September, 1969, may be limited for  
8 impeaching purposes, but if gone into by the defense, comes  
9 in for all purposes, including substantive evidence.

22A

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1 THE COURT: I would say this in answer to your argument:  
2 if the defendant -- if, for instance, in his defense --  
3 probably it comes in to a better advantage -- the question,  
4 serious question, is whether it is proper cross-examination  
5 at this time, but I think as a matter of defense that total  
6 statements of Manson, which theoretically he would deny or  
7 would refuse to answer, would be admissible through the lips  
8 of this witness as substantive evidence under this holding.  
9 I don't think there is any question about it.

10 So I would say, why don't you -- I want to say  
11 because I happen to look like I'm briefing the law or advanc-  
12 ing the points of law, I'm doing nothing more than the  
13 Supreme Court will do if they get this case, if they get it.  
14 If the defendant is convicted, the first thing the Supreme  
15 Court will say is, "Why didn't the trial judge let the  
16 testimony in?" I'm not just opening the books here; I'm not  
17 advocating either party. I think the testimony is admissible.  
18 Right now I don't think it is proper cross-examination. There  
19 is a serious question that might enter there, but I do think  
20 it would be admitted and admissible as substantive evidence  
21 under this holding and under 1230 at a future time when the  
22 defendant puts on his case.

23 That is my feeling at this time. Somebody has got  
24 to convince me to the contrary. This goes right in -- the  
25 refusal of a criminal witness to testify.

26 So my ruling at the moment is, I don't think it  
27 is admissible. The question is admissible, or I don't think  
28 there is a -- I don't think there is a question of conflict

1 shown at this time in questioning that goes into credibility.  
2 That would be my finding at this time. I would say that I  
3 think if you comply with -- at a later time you could ask the  
4 questions as indicated. I think the law is there.

5 That is my feeling. At the present time I will  
6 stand by my ruling that the objection is sustained at this  
7 time.

8 MR. KATZ: May we have a recess now?

9 THE COURT: Do you want to go home? We have had no  
10 recess.

11 MR. WEEDMAN: That's right, we haven't.

12 THE COURT: Shall we go over to tomorrow?

13 MR. WEEDMAN: Your Honor, in that connection, I under-  
14 stand that juror No. 5 wanted to be with her husband tomorrow.  
15 He is going to the hospital, and I don't know -- Frank told  
16 me this, your clerk -- I didn't know how serious it was.

17 THE COURT: I think Frank mentioned that somebody was  
18 sick there. Let's find out.

19 With the agreement of everybody --

20 MR. KATZ: We have this one problem. I will bring it to  
21 the attention of the court. I don't feel strongly about it  
22 and I certainly want to accommodate the jurors as best we can.

23 I understand that tomorrow in Department 106, in  
24 the so-called Manson case, they will commence evidence in the  
25 Shea case, and as a result I'm most anxious to conclude this  
26 trial so that exhibits will be once again available to this  
27 department concerning the Shea case. I understand there is  
28 some arrangement between the clerk in Department 106 and

1 Mr. Hogan here in Department 52 as to the interchangeability  
2 and use of those exhibits, and if it won't mean any additional--

3 THE COURT: I won't let anything -- if there is any issue  
4 of any kind about our needing them, if there is such a thing  
5 as priority in needing the exhibits, we need them here.

6 MR. KATZ: I have no objection if it is in the best  
7 interests of the orderly pursuit of this trial to recess a day  
8 if everyone agrees.

9 THE COURT: I would like to find out what the status is  
10 because maybe the man is not going to the hospital.

11 MR. KATZ: I think that is a good idea.

12 THE COURT: I don't want to recess without some full  
13 reason. Let's find out what the condition is.

14 You can stay here.

15 (The juror, Rose Lampel, was ushered  
16 into the court's chambers.)

17 THE COURT: Now we are in chambers. Counsel are here,  
18 the defendant is here.

19 This lady now -- state your name again.

20 THE JUROR: Rose Lampel; Mrs. Murray Lampel.

21 THE COURT: Is your husband sick, lady?

22 THE JUROR: Yes. He is in the hospital. He is going to  
23 have an operation tomorrow.

24 THE COURT: When is he going to have the operation?

25 THE JUROR: Tomorrow morning at 10:30.

26 THE COURT: Is it pretty serious? I'm not asking you to  
27 describe it.

28 THE JUROR: It is not really terribly serious, but he is

1 concerned about it.

2 THE COURT: Do you feel that holding this case tomorrow  
3 while he is there is going to upset you, disturb you, in any  
4 way? If it is, I can, with the consent of counsel, put it  
5 over another day. I don't like to do that unless there is a  
6 real reason for doing it. That is why I'm asking you, talking  
7 to you right here.

8 THE JUROR: Yes. I would appreciate it very much if I  
9 could be there.

10 THE COURT: You think it would help him?

11 THE JUROR: Yes.

12 THE COURT: Tomorrow is Tuesday. So you would be ready  
13 Wednesday?

14 THE JUROR: Yes.

15 THE COURT: Is that agreeable, gentlemen?

16 MR. KATZ: Yes.

17 MR. WEEDMAN: We certainly agree.

18 THE COURT: Now, I wonder about telling -- I think maybe  
19 I'll state to the jurors that good cause exists for the case  
20 to recess from Monday to Wednesday. I do not think there is  
21 any need go go into detail, any purpose accomplished.

22 MR. WEEDMAN: I agree.

23 MR. KATZ: That's right, your Honor.

24 MR. WEEDMAN: The record may reflect that we certainly  
25 agree.

22B

1 THE COURT: Thank you, lady. You can go back.

2 (The juror excused.)

3 THE COURT: Then we'll go ahead and put it over to  
4 Wednesday morning.

5 MR. WEEDMAN: Wednesday morning.

6 MR. KATZ: Yes.

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

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

11 People against Grogan. The defendant is here,  
12 counsel are here.

13 Bring in the jury, Sheriff, please.

14 You take the stand.

15 You can bring in the jury, Sheriff.

16 Tell us your name again. You have been sworn.

17 THE WITNESS: My name is Paul Crockett.

18 THE COURT: Thank you.

19 (The following proceedings were had  
20 in the presence of the jury.)

21 THE COURT: Now, the jury is in the courtroom and so  
22 are the alternates.

23 With the consent of counsel, ladies and gentlemen,  
24 we are going to -- and for good cause -- we are going to  
25 recess or adjourn at this time until 9:30 Wednesday morning.  
26 In other words, we will not be in trial tomorrow, which is  
27 Tuesday. I'm putting this as simply as possible. We will  
28 not be in court tomorrow for trial in this case, but we will

1 be in trial Wednesday morning, 9:30.

2 So for tomorrow you are excused. Please remember,  
3 ladies and gentlemen, as you have been, kindly be here  
4 promptly and we will proceed at 9:30 Wednesday.

5 Do not discuss this case in any way whatsoever  
6 or come to any opinion or conclusion.

7 We are at recess until 9:30 Wednesday. Thank you  
8 very much, folks.

9 I must instruct the witness to return at that  
10 time for the rest of your testimony. Thank you very much,  
11 Mr. Crockett.

12 We are in recess.

13 (Adjournment was taken to Wednesday,  
14 August 18, 1971, at 9:30 a.m.)  
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