

SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff-Respondent,

vs.

CHARLES MANSON, SUSAN ATKINS, LESLIE
VAN HOUTEN AND PATRICIA KRENWINKEL,

Defendants-Appellants.

NO. 2003

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HON. CHARLES H. OLDER, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

APPEARANCES

For Plaintiff-Respondent:	THE STATE ATTORNEY GENERAL 600 State Building Los Angeles, California 90012
For Defendant-Appellant Charles Manson:	IRVING KANAREK, Esq.
For Defendant-Appellant Susan Atkins:	DAYE SHINN, Esq.
For Defendant-Appellant Leslie Van Houten:	LESLIE VAN HOUTEN In Propria Persona
For Defendant-Appellant Patricia Krenwinkel:	PATRICIA KRENWINKEL In Propria Persona

PT VOLUME 3

Pages 612 to 794

J. Hollombe, CSR
Murray Mehlman, CSR
Official Reporters
211 West Temple Street
Los Angeles, California 90012

1 LOS ANGELES, CALIFORNIA; MONDAY, MARCH 30, 1970, AT 2:08 P.M.

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3 (The following proceedings were had in
4 Department 107 before the Honorable William B.
5 Keene, Judge presiding, at side bench:)

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7 THE COURT: In this case of People versus Kasabian,
8 I'll have the record reflect the appearance of the Deputy
9 District Attorney and counsel for Miss Kasabian, both
10 Mr. Fleischman and Mr. Goldman.

11 MR. STOVITZ: I think the record should reflect that
12 these proceedings are outside the presence and hearing of the
13 entire courtroom at the bench with the clerk and the
14 reporter present.

15 THE COURT: Yes, for the obvious reason that we are
16 selecting a jury in another matter and there is no reason
17 to handle this matter in front of this particular jury panel.

18 It is further my understanding that Judge Lucas
19 permitted the defendant in this case to file a waiver of
20 personal appearance.

21 MR. STOVITZ: That is correct, filed in open court.

22 THE COURT: The Court has continued this matter to
23 April the 20th insofar as the other defendants are concerned.
24 Is there any objection to my ordering this matter continued
25 to that date insofar as your client is concerned?

26 MR. FLEISCHMAN: I believe it might be advisable if we

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1 saw your Honor in chambers on this matter for just a moment.

2 THE COURT: Off the record.

3 (A conference was had between counsel and
4 the Court which was not reported.)

5 THE COURT: Back on the record.

6 If it is agreeable with all counsel, let's set
7 the matter down in this department as far as this defendant
8 is concerned on April 20th for trial setting only.

9 Is that agreeable?

10 MR. FLEISCHMAN: Yes.

11 MR. GOLDMAN: That is for the trial date?

12 MR. FLEISCHMAN: Trial setting only.

13 THE COURT: Yes.

14 MR. FLEISCHMAN: That is agreeable to counsel for the
15 defendant.

16 (Whereupon, proceedings were continued
17 to Monday, April 20, 1970.)
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(The following proceedings were had in Department 107 before the Honorable William B. Keena, Judge presiding, the defendant Susan Atkins being present with counsel, Daye Shinn, the People being represented by Vincent Bugliosi, Deputy District Attorney of Los Angeles County:)

THE COURT: Good morning, ladies and gentlemen.

We have some matters set on our calendar this morning. We'll take this case of People versus Susan Atkins first.

I'll have the record reflect the appearance of the defendant here in court, represented by her attorney, Mr. Daye Shinn.

Mr. Shinn, you filed in this court on behalf of this defendant a notice of motion for pretrial inspection of statements of defendants and witnesses, points and authorities and a supporting declaration. You indicated in it that you wanted it set for a hearing. We set the matter for a hearing at this time.

Do the People have any objection as to the request of the defendant?

MR. BUGLIOSI: No opposition, your Honor, with the

1 exception of the addresses and phone numbers of the witnesses
2 for the prosecution. We see no need whatsoever why the
3 defense has to have access to that information. ✓

4 THE COURT: Motion, Mr. Shinn, will be granted by the
5 Court in its entirety. The request that you have made in
6 your notice, motion for pretrial inspection of these
7 various items that you request, is granted with the exception
8 that the request that you be given the present addresses and
9 telephone numbers of potential witnesses, I see no point
10 at this time for any need in granting that request.

11 Do you want to be heard further?

12 MR. SHINN: No, your Honor.

13 THE COURT: All right. That will be the order, then.

14 MR. SHINN: Thank you.

15 THE COURT: And you can make arrangements with the
16 District Attorney's Office as far as obtaining these
17 various documents that you want to see, if you haven't
18 already seen them.

19 Have you seen them?

20 MR. SHINN: I saw parts of them.

21 THE COURT: Are you ready to proceed to trial, as I
22 understand it, on the 20th?

23 MR. SHINN: Yes, your Honor.

24 THE COURT: As far as you know, are all co-counsel
25 ready to proceed on that date?

26 MR. SHINN: That I couldn't advise the Court.

1 THE COURT: Do you have any information in that
2 regard?

3 MR. BUOLIOSI: No, your Honor. As far as I know, it
4 is ready to start April 20th.

5 THE COURT: Matter will remain set for trial in this
6 department April 20th.

7 MR. SHINN: Thank you.

8 THE COURT: Thank you, gentlemen.

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10 (Whereupon, the proceedings were concluded
11 this date; further proceedings to be had on
12 April 20, 1970.)
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1 LOS ANGELES, CALIFORNIA; FRIDAY, APRIL 10, 1970, AT 11:20 A.M.

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3 (Upon the above date, the defendant
4 Patricia Krenwinkel appearing in court with
5 her counsel, Paul Fitzgerald, the People
6 being represented by Vincent Bugliosi, Deputy
7 District Attorney of Los Angeles County, the
8 following proceedings were had in Department
9 107 before the Honorable William B. Keene,
10 Judge Presiding:)

11
12 THE COURT: All right. In this case of People versus
13 Patricia Krenwinkel, I'll have the record reflect the
14 appearance of the defendant, represented by her attorney,
15 Mr. Paul Fitzgerald.

16 Mr. Fitzgerald, you have filed in this court
17 two motions, one of which was filed this date. There is an
18 affidavit on file which has not been signed by the defendant.
19 I assume that you want to have her sign it.

20 MR. FITZGERALD: Yes, may I, your Honor?

21 THE COURT: Yes.

22 (Another matter was called on the Court's
23 calendar.)

24 THE COURT: Now, back to this case of People versus
25 Patricia Krenwinkel. I'll again have the record reflect
26 the appearance of the defendant and the presence of both

1 Mr. Fitzgerald and Mr. Bugliosi.

2 This matter is here at this time, Mr. Fitzgerald,
3 on a motion that you filed with this court dated April 6th,
4 and another one dated April 10th, in which you have noticed
5 a motion for the appointment of an investigator, a finger-
6 print expert, an expert in the field of blood analysis, a
7 clinical psychologist, a handwriting expert, and the appoint-
8 ment of a photocopy service. The motion is signed by you.

9 There is on file a declaration of Patricia
10 Krenwinkel in each motion signed by her.

11 In addition, there is a points and authorities
12 signed by you in which you set forth as your authority two
13 sections of the California Evidence Code 730 and 1017.

14 Do you wish to be heard further in this regard,
15 Mr. Fitzgerald?

16 MR. FITZGERALD: No, I don't believe so, your Honor.

17 THE COURT: Do the People want to be heard in this
18 matter?

19 MR. BUGLIOSI: Just that I believe that all of these
20 motions are well taken, your Honor. I believe they are
21 all calculated to insure that Miss Krenwinkel receives a
22 fair trial. So the People have no opposition to the
23 granting of these motions.

24 THE COURT: What is your position, Mr. Fitzgerald,
25 insofar as the affidavit of this defendant that she is
26 unable to employ the investigator, for example? Are you

1 satisfied, or do you believe, that this affidavit is
2 sufficient?

3 MR. FITZGERALD: I would say that the affidavit is
4 conservative in respect to her assets. I have discussed
5 with her any assets she might have in real or personal
6 property. I have conducted an investigation with her
7 family. I have attempted, in a thorough and comprehensive
8 fashion, to locate any moneys or assets she might have, and
9 I haven't discovered any, your Honor.

10 THE COURT: Well, Mr. Fitzgerald, I don't want to
11 breach the attorney-client relationship, but it seems to me
12 that it is relevant in this situation to ascertain just
13 what financial arrangements, if any, have been made
14 between you and the defendant for your representation of
15 her, now that you have resigned from the Public Defender's
16 Office.

17 Are you in a position to advise the Court as
18 to that?

19 MR. FITZGERALD: Yes. And I am in a position to
20 subject myself to questioning by the Court, if the Court
21 should feel that is necessary.

22 I might briefly state that I am a retained
23 attorney in the sense that I am representing Miss Krenwinkel
24 as a private member of the California Bar. I have not, to
25 this date, received any moneys or any property, nor have I
26 received any promises of any money or any property whatsoever

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1 in connection with any aspect of her investigation, the
2 investigation concerning her case, nor the litigation or any
3 subsequent appeal. Nor have I been promised any future
4 rights, any literary rights, any publishing rights, any
5 future benefits that may inure to Miss Krenwinkel have not
6 been placed at my disposal. Nor has there been any conver-
7 sation or any agreements or contracts in that connection.
8 So far, I have received nothing and I anticipate that in the
9 future I will receive nothing.

10 THE COURT: You anticipate and it is your desire to
11 continue representing this defendant on that basis without
12 any compensation whatsoever?

13 MR. FITZGERALD: It is.

14 THE COURT: And it is your position, then, and your
15 theory, that in this kind of a situation it is incumbent
16 upon the County of Los Angeles to appoint and pay for all of
17 these experts that you asked for?

18 MR. FITZGERALD: Well, if I might, first of all, I
19 think that it is the duty and obligation of any member of
20 the Bar to represent a person who may not have sufficient
21 money or property with which to retain counsel. I think
22 that's the basic duty and obligation of every member of the
23 Bar.

24 In addition to that, I would be happy to actually
25 pay for the services of an investigator and pay for these
26 various experts. If I had the funds, I would personally do

1 so. It is simply that I do not have the funds.

2 Miss Krenwinkel is indigent. I think she is in
3 the same status that many, if not most, of the defendants who
4 pass through the Los Angeles County Superior Court are in.
5 she does not have the money or property with which to
6 adequately defend herself in terms of investigation and in
7 terms of certain areas of expertise.

8 THE COURT: But you consulted with your client at the
9 time that you decided that you would leave the Public
10 Defender's Office and go into private practice and represent
11 her, did you not?

12 MR. FITZGERALD: Actually, I think your question
13 assumes facts not in evidence. I did not discuss with
14 Miss Krenwinkel in advance of my leaving the Public
15 Defender's Office the circumstances and details of my
16 resignation. That was a personal decision.

17 THE COURT: No, I'm talking --

18 MR. FITZGERALD: Subsequent --

19 THE COURT: I'm talking about the ramifications of
20 your going into private practice and having Miss Krenwinkel
21 as your client.

22 MR. FITZGERALD: That is correct.

23 THE COURT: You discussed the ramifications with her?

24 MR. FITZGERALD: I did, indeed.

25 THE COURT: Now, do you recall the discussion that you
26 had with Judge Lucas at the time that he permitted you to

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1 substitute in as attorney of record in this matter and
2 relieve the office of the Public Defender?

3 MR. FITZGERALD: I recall having a conversation with
4 Judge Lucas, yes.

5 THE COURT: Let me read to you from the transcript of
6 that proceeding which occurred on the 24th day of March,
7 1970. At that time when you asked that you be substituted
8 in as the attorney of record, Judge Lucas inquired of Mrs.
9 Krenwinkel as to her understanding of what the ramifications
10 of that request would be.

11 And reading now from the transcript of that
12 proceeding:

13 "THE COURT: You understand by having
14 Mr. Fitzgerald as your private attorney, you
15 will no longer have the resources, financial
16 and otherwise, of the Public Defender's Office
17 to assist you in the trial of your case?

18 "MRS. KRENWINKEL: Yes, I understand that.

19 "THE COURT: And have you discussed the
20 ramifications of this with Mr. Fitzgerald?

21 "MRS. KRENWINKEL: Yes, I have.

22 "THE COURT: Do you understand that, if
23 you wish, the Public Defender's Office could
24 appoint another attorney to represent you from
25 the Public Defender's office and to continue
26 with them, rather than proceeding with Mr.

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1 "Fitzgerald as a private attorney?

2 "Do you understand that?

3 "MRS. KRENNINKEL: Yes.

4 "THE COURT: And should the Public Defender's
5 Office at a subsequent date declare a conflict of
6 interest, if there was that determination, you
7 could have at that time a private attorney
8 appointed for you.

9 "Do you understand that also?

10 "MRS. KRENNINKEL: Yes, I do.

11 "THE COURT: All right, then, understanding
12 these matters, is it still your wish to substitute
13 the Public Defender's Office out of the case and
14 substitute Mr. Paul Fitzgerald into the case as a
15 private attorney?

16 "MRS. KRENNINKEL: Yes.

17 "THE COURT: Thank you.

18 "Mr. Fitzgerald, do you wish to
19 add anything?"

20 And then you made a statement in reference to
21 you having tendered your resignation to the Office of the
22 Public Defender.

23 What is your position insofar as these state-
24 ments made by your client at the time that you were in front
25 of Judge Lucas, as far as waiving any rights to the financial
26 resources of the Public Defender's Office?

1 MR. FITZGERALD: Those were correct statements on my
2 part and I am informed and believe that the statements
3 Miss Krenwinkel made were also correct.

4 My position is this: The prosecutor in this
5 case has conducted numerous scientific examinations con-
6 cerning voluminous items of evidence. That it is absolutely
7 necessary in the preparation of this case that I be
8 provided the assistance of certain experts to review and
9 analyze aspects of the physical evidence and also to advise
10 and inform me concerning possible defenses.

11 Miss Krenwinkel does not have money to hire those
12 experts, nor do I have money to hire those experts out-of-
13 pocket. So I am asking the Court, inasmuch as I think we
14 made a showing of Miss Krenwinkel's indigency, I'm asking
15 the Court to appoint these experts.

16 I do not think this motion is unprecedented in
17 Los Angeles County, I think it is frequently the case. And
18 it's frequently been the case in this court before your
19 Honor that private members of the Bar had petitioned the
20 Court for similar services and those motions have been
21 granted.

22 If my client is forced to choose between her
23 constitutional right to counsel of her own choice, and the
24 right to a fair trial, we contend that that is an imper-
25 missible sort of a determination to be foisted on the
26 defendant. But we are prepared, Miss Krenwinkel is

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1 prepared, if your Honor is disinclined -- or if your Honor
2 wants to barter my services as an attorney against the
3 services of an investigator, she is willing to make a
4 decision in my favor.

5 THE COURT: Well, Mr. Fitzgerald, you undertook to
6 represent this defendant to the very best of your ability,
7 which I'm sure that you will do. And since you have chosen
8 to leave the Public Defender's Office and prepare this
9 matter for trial, why can't you do your own investigation?

10 MR. FITZGERALD: Well --

11 THE COURT: I mean, that was your choice,
12 Mr. Fitzgerald.

13 MR. FITZGERALD: Indeed, it was. I felt I had a duty
14 to Miss Krenwinkel and I still feel that I have a duty to
15 Miss Krenwinkel and I will pursue that duty, even if it
16 results in enormous expense to myself. But I think I'd be
17 remiss in my duty if I didn't first petition this Court for
18 the appointment of such experts.

19 Perhaps I can persuade ethical members of these
20 various professions to volunteer their services on behalf of
21 Miss Krenwinkel, and certainly I will make that sort of a
22 request to members of these various professions in the event
23 your Honor denies these motions for the appointment of these
24 experts.

25 Furthermore, I'd like to point out to this Court
26 that this motion was originally filed in Department 106 of
the Superior Court in front of Judge Malcolm Lucas. That

1 was done pursuant to an agreement that I had with Judge Dell,
2 that pretrial motions may be made in Department 106.

3 I had, and I caused to be filed and executed, an
4 application for a writ of prohibition and mandate in this
5 case on behalf of Patricia Krenwinkel in the District Court
6 of Appeal on April the 7th contesting your Honor's juris-
7 diction to hear any of these matters. And I don't want my
8 presence here today to be construed as any sort of
9 acquiescence of your Honor's jurisdiction. It is my
10 intellectual and legal position that your Honor does not
11 have jurisdiction to entertain these motions.

12 THE COURT: Well, Mr. Fitzgerald, let me ask you this
13 in reference to your -- is your motion for an appointment of
14 a psychiatrist, or is your motion for an appointment of a
15 clinical psychologist? It is not clear in the motion as to
16 what you have in mind in regard to that one request.

17 MR. FITZGERALD: Well, I would ask -- or I had
18 intended to ask the Court for the appointment of a clinical
19 psychologist and I wanted that appointment to be made
20 pursuant to Evidence Code Section 730, 1017 and 950 through
21 954, et seq., of the California Evidence Code.

22 THE COURT: And you are not asking the Court for the
23 appointment at this point, then, of a psychiatrist; is that
24 correct?

25 MR. FITZGERALD: That is correct.

26 THE COURT: Is there any problem that you wish to

1 advise the Court of in that regard as to the possibility
2 of a 1368 problem, insofar as this defendant is concerned?

3 MR. FITZGERALD: There is none at this time. There
4 is none at this time. It's just that in my experience, in
5 practicing criminal law, and particularly in serious cases,
6 and having been involved in numerous trials where there has
7 been psychiatric or psychological evidence, I've come to
8 the conclusion that an attorney is usually in a better
9 position if he has a clinical psychologist interview someone
10 before any psychiatrist is appointed. Clinical psychologist,
11 that's an expert in the field of diagnosis, particularly of
12 mental and emotional disorders. He might be allowed to give
13 the witness or the defendant, as the case may be, a whole
14 series of psychological tests that would be of immeasurable
15 value to a psychiatrist who might at some subsequent time
16 examine the defendant or the witness, or analyze the
17 material, as it may be.

18 THE COURT: All right.

19 Mr. Fitzgerald, your motions, in their entirety,
20 are denied at this point without prejudice to renewing these
21 motions when I'm satisfied that the documents before the
22 Court in support of these motions indicate a necessity to
23 grant the request.

24 I would clarify the record in one regard,
25 insofar as your statement as to other motions filed before
26 this Court along these lines in that they are not unprece-
dented.

1 The entire year that I was in Department 100 and

2 heard these motions asked for by private counsel, I have

3 steadily taken the position it is not incumbent upon the

4 County of Los Angeles to finance the lawyers of individuals

5 who are charged with crimes who are represented by private

6 attorneys such as this defendant finds herself in.

7 Now, insofar as my feelings as to what is

8 necessary, you have indicated that the affidavit of the

9 defendant is conservative. I'm not so sure that it is.

10 I would inquire and ask that an additional affidavit be

11 filed in that regard. I would also ask that an affidavit

12 be filed by you, in light of your statements made to the

13 Court, insofar as the anticipation of any remuneration for

14 your representation of this defendant.

15 I would also, in light of your statement that

16 you have not at this point exhausted the possibility of all

17 of these activities that you request being donated by various

18 ethical members of these various professions, I want the

19 affidavit on file that you have, in fact, exhausted those

20 possibilities as well.

21 Mr. ATTORNEY: Well, in the event those affidavits

22 are filed, is your honor inclined to grant the motion?

23 THE COURT: I would take a look at your supporting

24 affidavits at that time and rule on it accordingly.

25 And, as I say, I am denying your motion without

26 prejudice to renewing it when I'm satisfied that the

1 request is not supported sufficiently by the documents that I ⁶²⁹
2 am asking for.

3 So file those documents with the Court and I'll
4 reconsider the matter when they are on file.

5 At this point your supporting declaration and
6 the documents on file are, in this Court's opinion,
7 insufficient to warrant this Court subjecting the County of
8 Los Angeles to this type of expenditure at this point.

9 MR. FITZGERALD: Well, so that I might be in a position
10 to advise my client, is it your Honor's position that if
11 Miss Kremwinkel wants these services provided her and paid
12 for by the County of Los Angeles, that she should dismiss
13 me as her counsel and have the Court appoint an attorney,
14 in which case your Honor would routinely appoint such
15 experts?

16 THE COURT: No, that is not my position at all. I
17 think I've stated my position. I think the record is clear.

18 If you wish to continue representing this
19 defendant, as I'm sure that you do, and based upon the
20 information that is before me, then that is certainly fine
21 with the Court. If I'm satisfied that a legally-sufficient
22 motion is made to this Court, supported by appropriate
23 affidavits, and it is incumbent upon me to order the
24 expenditure of these funds that you are asking for, then
25 I will certainly rule on it.

26 So file with the Court the additional affidavits

1 as I've outlined them.

2 (Whereupon, the above proceedings were
3 concluded as to this data.)
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DEPARTMENT NO.106

HON. MALCOLM M. LUCAS, JUDGE

LOS ANGELES, CALIFORNIA, MONDAY, APRIL 13, 1970

10:00 A. M.

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THE COURT: We will call the matter of Susan Denise Atkins.

Let the record show that the defendant is present with her counsel and the People are represented by Deputy District Attorney Vincent T. Bugliosi.

Let the record further reflect that the Court has read and considered the motion to set aside the indictment under Section 995 of the Penal Code submitted by counsel for the defendant as well as the People's answer to defendant's motion under 995 together with the points and authorities.

Let the record further reflect that the Court has read and considered the Reporter's transcript of the Grand Jury proceedings of December 5, 1969 and December 8, 1969.

You may be heard, Mr. Shinn.

MR. SHINN: Thank you, your Honor.

The question is whether the defendant here, Susan Atkins, was denied due process in such a manner as would make her testimony at the Grand Jury incompetent.

Now, regardless of how conclusive the evidence

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1 of the guilt of the defendant, I believe under the consti-
2 tution there is a guarantee of procedural due process.

3 At any time this procedural due process is
4 violated, I believe it is the duty of the Court to look
5 into the matter to see whether or not it will admit into
6 court the testimony of certain witnesses, whether that
7 testimony should be admitted, if the Court feels by ad-
8 mitting that testimony it would substantially violate the
9 rights of the defendant. I believe the Court should rule
10 on this matter.

11 Now, I received Mr. Stovitz's answer in the
12 mail this morning and I feel that he is unaware of what I
13 am speaking of.

14 He is stating that on a motion for 995,
15 argument must be within strictly what is in the covers
16 of the transcript.

17 But here where there is a violation or a
18 suspected violation of due process, I feel the Court and
19 the cases that I have cited to the Court, that the Court
20 has a right to look into the facts to determine whether
21 or not there was a violation.

22 I believe this case here is a classic example
23 of that, as set forth in the 995 part of my motion which
24 alleges the contracts made by her attorney Caballero, I
25 believe it is on December 9, with Lawrence Schiller to
26 release her story.

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1 Even the face of the contract states there
2 were prior oral agreements and it would be very difficult
3 for me to say that since the contract was signed on the 9th
4 that they would be able to release the story on the 14th
5 without any prior arrangements, your Honor.

6 So I feel that the interest here of the
7 attorney, I think it pointed more and more to the monetary
8 aspects of the case, and I think because of the monetary
9 aspect, the attorney was blinded by the monetary aspect
10 when he advised the defendant to go to the Grand Jury
11 hearing to testify.

12 I feel that was not done in the best interests
13 of the defendant.

14 I have set forth the ground on which the motion
15 should be set aside and one of the grounds is to the effect
16 that she was denied effective counsel, and the other ground
17 there was no effective waiver of her constitutional right
18 to remain silent.

19 If we look at the whole picture and try to
20 determine whether or not there was a denial of due process,
21 and I think the Court should be well aware of what went on
22 in this case, your Honor, and I feel under these facts that
23 there was a strong denial of due process for Susan Atkins,
24 and I feel because of that this Court should consider all
25 aspects of this case, not only what went on between the
26 covers of the Grand Jury transcript in determining that

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1 her testimony at the Grand Jury was incompetent for the
2 various reasons I stated.

3 I will submit it on that basis.

4 THE COURT: Thank you, Mr. Shinn,

5 Mr. Bugliosi?

6 MR. BUGLIOSI: Yes, as the Court knows, under the
7 law when a defendant makes a motion under Section 995 under
8 the Penal Code to set aside a Grand Jury indictment, the
9 defendant under the law has to confine himself to the Grand
10 Jury transcript, to the evidence presented to the Grand
11 Jury. He cannot go outside of the four corners of that
12 document.

13 Mr. Shinn in his 995 at no time addressed
14 himself, as the law requires him to do, to the Grand Jury
15 transcript. Instead of that, he made allegations which
16 are totally extrinsic to the Grand Jury transcript.

17 I might add, by way of a footnote, that the
18 allegations which he made are totally unsupported. They
19 are wild. They are naked. They are totally erroneous,
20 and I think it clearly shows the desperation Susan Atkins
21 feels in attempting to recant her Grand Jury testimony.

22 The brief was literally dripping with tears.
23 She is unhappy about the fact that she testified to the
24 Grand Jury. I can only tell her that the bell has already
25 rung. She did testify in the way she did. Her testimony
26 was completely voluntary and given completely freely.

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1 She was not coerced to testify at the Grand Jury proceed-
2 ings. This is shown in the Grand Jury proceedings itself.
3 On page 7 which contains Susan Atkins' own testimony before
4 the Grand Jury she was testifying freely and voluntarily
5 and she stated that she was giving up her right against
6 self-incrimination.

7 Those are Susan Atkins' own words.

8 DEFENDANT ATKINS: Who put them there?

9 MR. BUGLIOSI: It is your testimony.

10 DEFENDANT ATKINS: Who put them there?

11 MR. BUGLIOSI: A Court Reporter.

12 I would ask in that respect that the Court
13 summarily deny Mr. Shinn's 995 motion because it is totally
14 without foundation and it is totally erroneous and totally
15 out of the margins permitted by the law.

16 THE COURT: Do you wish to respond, Mr. Shinn?

17 MR. SHINN: Yes, sir. Mr. Bugliosi stated that
18 there was a waiver by Susan Atkins in the Grand Jury tran-
19 script. I believe the Court is well sophisticated to know
20 that the mere recitation of giving up a right is not
21 sufficient, your Honor.

22 Also I believe, your Honor, that where we
23 have a procedural due process, a violation of procedural
24 due process, I think it is the state of the law that the
25 Court can go outside of the transcript to decide whether
26 or not that testimony was voluntary or involuntary.

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1 I believe I have cited People versus Elliott
2 and People versus Byer, and those cases state that the
3 Court has the right to go beyond the transcript to determine
4 whether or not there was a violation of procedural due
5 process.

6 All of the allegations that have been made
7 under 995 written motion, your Honor, these have been
8 substantiated and I allege that the contracts that were
9 entered into, and I do believe that Mr. Bugliosi would
10 admit that he did go down to Mr. Caballero's office and
11 had a conversation with the defendant the night before
12 the Grand Jury hearing.

13 I allege that in my 995. I'm not speculating.
14 I looked up the removal order which is signed by Judge Keene,
15 which he signed on December 1st to have Susan Atkins re-
16 moved to her attorney, Mr. Caballero's office on the 4th,
17 that is the night before the Grand Jury hearing, and Mr.
18 Bugliosi was there rehearsing the questions and answers which
19 were to be asked at the Grand Jury hearing.

20 I would like to see Mr. Bugliosi deny that
21 right now for the record.

22 MR. BUGLIOSI: If you could pronounce my name cor-
23 rectly, Mr. Shinn, I might dignify what you said with a
24 reply. But as far as your lack of ability, my name is pro-
25 nounced Bugliosi.

26 MR. SHINN: Bugliosi?

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1 MR. BUGLIOSI: You never heard it pronounced before
2 over television?

3 THE COURT: Let's proceed. Have you completed your
4 reply?

5 MR. SHINN: I don't know where I was when I was
6 interrupted so rudely by the District Attorney.

7 THE COURT: You may continue, Mr. Shinn, if you have
8 additional comments.

9 MR. SHINN: I don't know what I was responding to
10 when I was interrupted.

11 THE COURT: Mr. Koliner, you may reread Mr. Shinn's
12 last statement.

13 (The record was read as follows:

14 "I looked up the removal order which is
15 signed by Judge Keene, which he signed on
16 December 1st to have Susan Atkins removed to
17 her attorney, Mr. Caballero's office on the 4th,
18 that is the night before the Grand Jury hearing,
19 and Mr. Bugliosi was there rehearsing the
20 questions and answers which were to be asked
21 at the Grand Jury hearing.

22 "I would like to see Mr. Bugliosi deny
23 that right now for the record.")

24 MR. SHINN: I think the best way to get this settled
25 is to have an evidentiary hearing which I requested in my
26 995. The Court can hear evidence and determine whether

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1 Susan Atkins gave up her constitutional right to remain
2 silent. That is the only way. I can argue until my face
3 is blue and the District Attorney can still argue, but if
4 we have an evidentiary hearing, where it is testified to
5 under oath, then I believe I can get to the bottom of this,
6 your Honor.

7 THE COURT: All right, is your motion pursuant to
8 Section 995 submitted, Mr. Shinn?

9 MR. SHINN: Yes, your Honor.

10 THE COURT: Mr. Bugliosi, do you wish to be heard
11 further as to the limited inquiry made by Mr. Shinn?

12 MR. BUGLIOSI: Yes, your Honor. Of course, on the
13 evening newspaper of December 4 I did interrogate Miss
14 Atkins for the purpose of preparing to have her testify
15 at the Grand Jury.

16 Attorneys don't present strangers to testify.
17 Prosecutors and attorneys interview witnesses so they will
18 know what the witness will testify to. They are entitled
19 to do that. I intended to call her the next morning, and
20 in addition I interviewed about nine other witnesses I also
21 intended to call the next morning.

22 The testimony of Susan Atkins was completely
23 free and voluntary. There was not one ounce of pressure
24 that was entered into against Susan Atkins to testify at
25 the Grand Jury. She testified willingly and those were her
26 own words before the members of the Grand Jury on the

1 following morning, December 5, 1969.

2 THE COURT: Is the matter submitted?

3 MR. BUGLIOSI: Submit it, your Honor.

4 MR. SHINN: Submit it, your Honor.

5 THE COURT: The Court, of course, has examined the
6 transcript in this matter. Beginning on Page 4, I'm not
7 reading it in its entirety, but there is some testimony
8 by Richard Caballero who was called as a witness and who
9 was sworn and testified as follows: On Line 1,

10 "Q Now, have you advised Susan Atkins
11 as to her constitutional rights?

12 "A BY MR. CABALLERO: Yes, I have."

13 Then further down on the same page:

14 "Q Now, have you advised Susan Atkins
15 as to her constitutional rights?

16 "A Yes, I have.

17 "Q And is that not only pertaining
18 to the so-called Gary Hinman case where
19 Mr. Hinman is the victim but as to all matters?

20 "A Yes, I have.

21 "Q And have you advised her that she
22 has the right to remain silent and not testify
23 before this Grand Jury or any other court
24 proceeding?

25 "A Yes, I have.

26 "Q And has she indicated to you what
her feelings were?

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"A Yes, she will testify and I have so advised her also.

"Q To your knowledge has anyone exerted any pressure or any coercion on her to cause her to testify?

"A No.

"Q To your knowledge, has anyone exerted any coercion upon any close friends or members of her family to cause her to testify?

"A No.

"Q Have any threats at all been made to her to cause her to testify?

"A No..

"Q To your knowlege, is she testifying freely and voluntarily?

"A Yes.

Then on Page 7 where Susan Denise Atkins is called as a witness and sworn and she testifies:

"THE FOREMAN: Will you state your name, please?

"THE WITNESS: Susan Denise Atkins.

"THE FOREMAN: I want to give you this admonition first.

"You have a right, at your own request, but not otherwise, to be sworn and make any statement on your own behalf that

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that you may desire.

"You are informed, however, that if you are sworn and make any statement, such statement, together with any questions that may be asked of you by the members of the Grand Jury or the District Attorney, will be taken down and become a matter of record, and in the event an indictment is filed against you in this charge, that record may be used either for or against you at the time of your trial.

"You are not obliged, however, to make any statement whatsoever, unless you desire to do so.

"Any statement that you make must be completely voluntary on your part, and with this admonition in mind.

"Now that you have been informed of this right, do you still want to be sworn and testify?

"THE WITNESS: Yes."

Then she was asked by Mr. Stovitz:

"Q Miss Atkins, did you understand the statement of Mr. Bishop, the foreman of this Grand Jury?

"A Yes, I did.

"Q Did your attorney, Mr. Caballero,

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explain to you your constitutional rights?

"A Yes, he did.

"Q And are you freely giving up your right to remain silent?

"A Yes, I am.

"Q And are you freely willing to testify before the Grand Jury?

"A Yes.

"Q Now, do you understand that if you do testify that you may incriminate yourself?

"A Yes, I know that.

"Q Do you understand what the word 'incriminate' means?

"A Yes, I do.

"Q Are you still willing to testify knowing that you are not being given immunity and you are not being freed of any of the charges that you may incriminate yourself about?

"A I understand this, and my life doesn't mean that much to me, I just want to see what is taken care of."

It appears from the examination of the record that there was a clear and rather consistent waiver of the constitutional right and the privilege against self-incrimination by this witness.

Whether or not there are other factors not

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1 consistent with what is within the transcript, the Report-
2 er's transcript of the Grand Jury proceedings, is not an
3 issue to be decided or determined by this Court.

4 I will agree with you, Mr. Shinn, that this
5 ^{not} is/an appropriate proceeding to have an evidentiary
6 hearing. The evidentiary hearing may be more appropriately
7 heard by the trial Judge, either before the selection of
8 the jury or after the selection of the jury and outside of
9 the presence of the jury.

10 The trial Judge should and will determine the
11 admissibility of the particular statements in issue here
12 at the appropriate time.

13 A 995 proceeding is not to determine the
14 guilt or innocence of the defendant and it is not to attack
15 or to suppress evidence, but simply to determine whether
16 there is any competent substantial evidence set forth
17 within the transcript itself which will cause a reasonable
18 man to have a strong suspicion of the commission of a crime
19 and the defendant's connection therewith.

20 Certainly based on the very lengthy statement
21 made by Miss Atkins there is sufficient within the tran-
22 script itself, and therefore the Court is going to deny
23 the motion to set aside the indictment pursuant to Penal
24 Code Section 995.

25 You may renew your general line of attack
26 on this particular statement, as indicated by the Court,

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before the trial Judge himself who will have an evidentiary hearing and will make a finding one way or the other as to the voluntariness of the statement by Miss Atkins.

MR. SHINN: May I ask something, your Honor?

THE COURT: You may be heard.

MR. SHINN: I have reviewed the cases and under certain circumstances a Court in a 995 motion could take evidence and testimony, your Honor, and if the defendant is to wait until the trial date and then request an evidentiary hearing and it is denied, at that point then I will have no recourse. I will be forced to go to trial.

Now, I could approach this in a different manner but it would take time and I feel that the Court should allow me to have the evidentiary hearing. My other resource is for a writ of habeas corpus with the Court of Appeals and then up to the State Supreme Court and that is a long way around.

I feel it is the duty of this Court at this level to hear and to have this evidentiary hearing and not to push it on to the other courts.

I can't see why we can't have an evidentiary regarding this issue. I will submit it would take about a day if we get into that here to determine whether or not she was denied her constitutional rights, and then we can go to trial at that point.

But to wait until the trial time and request

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1 an evidentiary hearing and its denial, at that point I
2 would have no recourse.

3 I have got to do this before the trial date.

4 THE COURT: Your recourse would be a general appeal
5 from the case in chief. However, the Court does not agree
6 as to your position that you are entitled to, in a 995
7 proceeding, to attack the validity of the indictment and
8 to have an evidentiary hearing.

9 The Court has not indicated you are not
10 entitled to an evidentiary hearing, period, but that simply
11 you are not entitled to an evidentiary hearing on this
12 motion.

13 MR. SHINN: Your Honor, I would like to file a
14 pretrial motion to suppress the testimony of Susan Atkins.

15 THE COURT: Well, a demurrer is more appropriately
16 heard by the trial Judge and there is no question in this
17 Court's mind that the Trial Judge will at the proper time
18 have an evidentiary hearing and hear the merits of the
19 position you are advancing and it certainly will be outside
20 the presence of the jury, if the jury has been selected,
21 or it may even be before the selection process has begun
22 with the jury.

23 But there probably will be a full and complete
24 hearing by the trial Judge. You still have your rights of
25 appellate review from that particular hearing and the trial
26 itself.

1 Is there anything further?

2 MR. SHINN: Nothing further, your Honor.

3 MR. STOVITZ: Counsel, do you intend to file this
4 today?

5 I've just been handed a notice if pretrial
6 motion to suppress admissions and confessions of Susan
7 Atkins.

8 The trial is set for the 20th of April.
9 Counsel, would you want to try to get this matter heard
10 on the 17th of April or do you want to have the hearing
11 on the 20th of April continued? We do have some forty or
12 fifty witnesses --

13 MR. BUGLIOSI: Nearer eighty or ninety.

14 MR. SHINN: Before you came in, Mr. Stovitz, I had
15 a discussion with your assistant and Mr. Paul Fitzgerald
16 and your assistant had no objection to a continuance.

17 MR. STOVITZ: Is it the intent of your client and
18 yourself to move for a continuance on the 20th, then?

19 MR. SHINN: Yes.

20 MR. STOVITZ: All right, with that in mind, I feel
21 we will have adequate time to hear this pretrial motion.

22 THE COURT: You may file that motion, and I'm sure
23 the trial Judge will set a time for the hearing on it,
24 and the Court will rule on it at the appropriate time.

25 We will be in recess.

26 --- O ---

LOS ANGELES, CALIFORNIA; FRIDAY, APRIL 17, 1970, At 11:27 AM

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(Upon the above date, the defendant
Manson appearing in court with his counsel,
Ronald Hughes, the defendant Aronwinkel
appearing in court with her counsel, Paul
Fitzgerald, the defendant Atkins appearing
in court with her counsel, Lyle Shinn, the
defendant Van Houten appearing in court with
her counsel, Ira Reiner, the People being
represented by Aaron Stovitz, Deputy District
Attorney of Los Angeles County, the following
proceedings were had in Department 107 before
the Honorable William D. Reene, Judge Presiding:)

THE COURT: All right. In this case of People versus
Manson, et al, I'll have the record reflect the appearance
of Defendant Manson represented by his attorney, Mr. Hughes,
Defendant Susan Atkins represented by her attorney, Mr.
Shinn, and we have Defendant Aronwinkel represented by
her attorney, Mr. Fitzgerald, and we have Defendant Leslie
Van Houten represented by her attorney, Mr. Reiner, and
I'll have the record reflect the appearance of all those
parties.

MR. STOVITZ: I'm Mr. Stovitz, your Honor.

THE COURT: Excuse me, and Mr. Stovitz from the

L2
1 Office of the District Attorney. The record will so
2 reflect, Mr. Stovitz.

3 This matter was set for trial in this
4 department on Monday morning, the 20th day of April.
5 However, I was advised by Judge Lucas that in a hearing
6 held in his court there was some indication that there
7 were going to be motions for a continuance made on behalf
8 of one or all of the defendants. As a consequence, I
9 ordered the matter calendared in this court at this time
10 so that those motions could be heard and ruled upon in
11 the event that a continuance was indicated in this matter
12 rather than doing it on the trial date.

13 Subsequent to setting the matter in this
14 court for that hearing, various documents have now been
15 filed in this court that require the attention of the Court.

16 There is a motion on behalf of Defendant
17 Susan Atkins entitled A Notice of Pretrial Motion to
18 Suppress Admissions and Confessions of Susan Atkins, with
19 a memorandum brief in support of the motion setting forth
20 various points and authorities. That was filed on April
21 13th.

22 Also, on April 13th a peremptory challenge
23 against me pursuant to Section 170.6 was filed in this
24 court signed by Defendant Hanson.

25 Then on April 16th a notice of motion for
26 hearing on petition to proceed in propria persons was

1 filed in this court. This was filed by -- on behalf of
2 Defendant Manson by Ronald Hughes, and also an attorney
3 who is not an attorney at this point of record in this
4 matter, David T. Alarson has also signed this document,
5 along with Defendant Manson.

6 MR. HUGHES: Your Honor, in regard to the notice
7 of motion for hearing on petition to proceed in propria
8 persona, I would request that Mr. Alarson be allowed to
9 argue that motion specially this morning, to appear on
10 the record specially for that motion.

11 THE COURT: Where is David T. Alarson? Is that
12 your name?

13 MR. ALARSON: Here, your Honor. Yes, sir.

14 THE COURT: You are here in court and you partici-
15 pated, I take it, in the preparation of this motion; is that
16 correct?

17 MR. ALARSON: That's correct, your Honor.

18 THE COURT: And in this motion you set forth an
19 offer to file with the Court a plan whereby the orderly
20 progress of the trial shall be insured through a definite
21 division of responsibility for various functions during
22 the pretrial and trial stages of the proceedings.

23 MR. ALARSON: That is correct, your Honor.

24 THE COURT: Now, in addition to these documents
25 filed, we have also filed, April 17th, and I have no
26 objection, Mr. Alarson, to you arguing that matter if we

1 get to that this morning, April 17th Mr. Fitzgerald has
2 filed a notice to prepare a Reporter's Transcript of the
3 oral proceedings had in this court on April 10th, along
4 with a declaration of Mr. Fitzgerald.

5 Those are the various documents on file.

6 Let me first inquire, before we take up
7 any other matters, what is the situation insofar as the
8 trial date on Monday as it now sets, Mr. Stovitz?

9 MR. STOVITZ: If I may speak on behalf of all
10 attorneys, I have consulted with all of the four defendants'
11 attorneys and I believe that there is going to be a motion
12 on behalf of Mr. Fitzgerald to move for a continuance. I
13 believe that this motion will not be opposed and I believe
14 that the tentative date has been set for June the 15th.
15 I see no --

16 MR. BUGHES: Your Honor, Mr. Hanson informs me
17 that he feels that he is ready for trial and wishes that
18 I object to a continuance to June 15th.

19 From a personal standpoint, if I am to be
20 the -- if I am to continue as the attorney of record,
21 which I would not want to do if it went to trial on April
22 20th, I personally am not ready.

23 THE COURT: Mr. Fitzgerald, what is your situation?

24 MR. FITZGERALD: I wasn't aware that I was going
25 to make the motion. It was my understanding that Mr. Shinn
26 was going to make the motion and I had indicated both to

1 Mr. Shinn and to my respective attorneys and Mr. Stovitz
2 that I had no objection.

3 But I would at this time make a motion to
4 advance this case from April 20th to today for the
5 purposes of making a motion. And I would ask this Court
6 to entertain a motion to continue this case until the
7 date suggested in June, your Honor.

8 MR. HUGHES: May I suggest to your Honor that
9 first we hear the pro per motion, and if your Honor then
10 were to grant Mr. Hanson having his pro per back, that
11 Mr. Hanson could proceed at whichever trial date he
12 wanted.

13 THE COURT: Well, there is another matter, Mr.
14 Hughes, I have to get to before we hear that.

15 MR. REIMER, what is your situation?

16 MR. REIMER: I would not oppose the motion to
17 continue, your Honor.

18 THE COURT: To June? Into June?

19 MR. REIMER: That is correct.

20 THE COURT: And what is your situation, Mr. Shinn,
21 insofar as your client is concerned?

22 MR. SHINN: There is no objection, your Honor.

23 THE COURT: There will be no objection?

24 MR. SHINN: No objection.

25 THE DEFENDANT HANSON: I have always objected to a
26 continuance and I still hold that objection.

THE COURT: Just a minute, Mr. Hanson.

1 Mr. Slovitz, as far as the People are
2 concerned, you have no objection?

3 MR. SLOVITZ: No. June 15th would be a suitable
4 date.

5 THE COURT: All right. Now, before we get to
6 any motion to proceed, on this petition, again, for the
7 defendant to proceed in propria persona, Mr. Hughes, as
8 I've indicated, Mr. Hanson has filed a declaration of
9 prejudice in this matter pursuant to Section 170.6 of
10 the C.C.P. against me and I assume that you are aware of
11 that document on file. ✓

12 MR. HUGHES: Yes, I am, your Honor.

13 THE COURT: And do you want that document to
14 stand?

15 THE DEFENDANT HANSON: Certainly.

16 MR. HUGHES: Yes, Yes, your Honor.

17 THE COURT: In other words, you want me to rule
18 at this time on the declaration of prejudice pursuant
19 to Section 170.6?

20 MR. HUGHES: Yes, your Honor.

21 THE COURT: And it is the intention of the
22 defendant to have that document stand on file?

23 MR. HUGHES: Yes, your Honor.

24 THE COURT: All right.

25 The Court has previously concluded in this
26 matter that Defendant Hanson is unable to represent him-

1 self in this case acting as his own attorney. It there- 653
2 fore logically, I think, and legally follows from that
3 that certainly he is unable to represent himself, as I
4 have concluded and ruled, certainly he also was unable
5 to exercise the peremptory challenge that the Code of
6 Civil Procedure gives to him within a timely fashion,
7 or within the timely period within which that document
8 should be filed.

9 I have previously stated that there are
10 137 judges on this court, any one of which is capable of
11 trying this case. I also indicated it is not important
12 who tries this case, it is only important that the case
13 be brought to trial in the manner which will reflect
14 well upon the legal profession.

15 I therefore will accept the affidavit filed
16 against me pursuant to Section 170.6 by Defendant Hanson. ✓

17 By accepting that affidavit at this time,
18 this defendant does not have any future right to file a ✓
19 170.6 affidavit against any other judge of this court.

20 This matter is now transferred forthwith
21 to the Master Calendar Department of this court,
22 Department 100, for immediate assignment to a trial judge.
23 All of the motions that are now before the Court, which
24 I have indicated have also been filed, will not be heard
25 by this Court. They will also be transferred forthwith
26 to whatever judge Judge Ball assigns this case to. All
defendants and all counsel are ordered immediately to go

1 to Department 100 of this court for reassignment.

2 (Whereupon, the proceedings in the above-
3 entitled cause were transferred forthwith to
4 Department 100 this date.)
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LOS ANGELES, CALIFORNIA, FRIDAY, APRIL 17, 1970

11:55 A.M.

THE COURT: People versus Manson, Krenwinkel, Atkins, Kasabian and Van Houten.

Mr. Manson is here. Is counsel Mr Hughes here?

MR. HUGHES: Present, your Honor.

THE COURT: Miss Krenwinkel and her counsel Mr. Fitzgerald are present?

MR. FITZGERALD: Present.

THE COURT: Both of them are here. Very good. Miss Atkins and her counsel, Mr Chinn, are they present?

MR. CHINN: Yes.

THE COURT: I don't believe Miss Kasabian is present. Miss Van Houten and her attorney Ira Rainer are present.

On behalf of the People Mr. Stovitz is present.

I have been informed by Department 107 that a motion was made in that court on behalf of Mr. Manson pursuant to Section 170.6 of the Code of Civil Procedure to disqualify the trial judge, Judge Keene, and that Judge Keene under the circumstances of this case ruled that the motion was timely made and granted the motion and returned the matter to the Master Calendar Department for resetting

1 for trial. That being the case, I will reset the matter
2 before another judge, for trial.

3 MR. STOVITZ: I believe your Honor should know a
4 motion has been made orally, for a continuance by three of
5 the defendants and their attorneys have agreed on a
6 continuance. The tentative date of June the 15th has been
7 arrived at. Mr. Manson made a statement to the Court that
8 he is not agreeing to a continuance. Mr. Hughes made a
9 statement to the Court that he personally wanted the
10 continuance but that he would not be prepared to go to
11 trial on April the 20th. However, Mr. Manson then again
12 objected for the record to any continuation.

13 MR. HUGHES: Actually, your Honor, I would like to
14 restate that position and that is--

15 MR. FITZGERALD: Before Mr. Hughes does that, so
16 the record is clear I will make the motion, your Honor.

17 THE COURT: Well, I suspect I am going to have to
18 take control of these proceedings and if this is the way
19 it is going to go I may have to set it in front of myself.
20 Let's start from scratch.

21 Who made the motion?

22 MR. FITZGERALD: Apparently I was selected as the
23 spokesman. I asked that this matter be advanced from the
24 trial date of April the 20th to today for the purpose of
25 making a motion.

26 The motion is, your Honor, to continue the

1 matter to an agreeable date in the month of June, 1970.

2 THE COURT: Very well. From what I understand,
3 Mr. Shinn at least was not in disagreement with that
4 motion. Is that correct, Mr. Shinn?

5 MR. SHINN: That is correct, your Honor.

6 THE COURT: Is that likewise correct as to you, Mr.
7 Reiner, and your client?

8 MR. REINER: Yes, it is.

9 THE COURT: If I miss some of you, I am looking
10 around to find you.

11 The People, I trust, don't object?

12 MR. STOVITZ: That's right, your Honor.

13 THE COURT: Might I know what your position is,
14 Mr. Hughes?

15 MR. HUGHES: My position, your Honor, is the first
16 motion for Mr. Manson having his pro per status being
17 argued before a continuance be granted. Mr. Manson is
18 against a continuance and I believe that he should have
19 the right to go to trial on April 20th if he so desires.
20 However, I am not in any position to proceed on April 20th.

21 THE COURT: When would you be ready to go to trial,
22 Mr. Hughes?

23 DEFENDANT MANSON: 1984.

24 THE COURT: He is your lawyer, Mr. Manson. He isn't
25 mine.

26 DEFENDANT MANSON: This is your courtroom.

1 THE COURT: Mr. Manson, I do not intend to avail
2 myself of the new principle set forth in Allen v. Illinois,
3 but don't tempt me. Let's proceed.

4 When do you feel you will be ready to go,
5 Mr. Hughes? Would you be ready in June, say the 15th or
6 about that time?

7 MR. HUGHES: I would try to be ready.

8 DEFENDANT MANSON: Your Honor, I would like to
9 disbar this man as counsel.

10 THE COURT: When do you want to hire instead?

11 DEFENDANT MANSON: I would like to defend myself.

12 THE COURT: I will put my ruling on the record. We
13 went through this yesterday and I will put my ruling on
14 the record in just a moment. You are not going to be
15 permitted to go pro per in this Court or any other court.
16 I will advise you of that right now.

17 Mr. Hughes, you took this case with your eyes
18 open. No one was forcing you to take the case. I think
19 this case has been continued considerable times. I don't
20 think the defendant should be deprived of due process
21 because you are not ready to go. But I feel that if you
22 can't be ready before mid-June you certainly should be
23 ready by then.

24 Now, before I rule on the motion I am going to
25 rule on the pro per matter. I have had presented to me and
26 I have had the time to read a Notice of Motion for hearing

1 on petition to proceed in propria persona. This motion
2 unlike many of those presented on Mr. Manson's behalf is
3 well typed, literate, intelligible, is obviously not
4 prepared by Mr. Manson. I am not referring to your motions,
5 Mr. Ehin, with the vague allusion I made. I am referring
6 essentially to the motions prepared by the Society of
7 Infinite Soul and other individuals who helped Mr. Manson.

8 MR. HUGHES: Your Honor, that motion was brought up
9 in Judge Keene's court and Mr. David Aberson's name also
10 appears on that motion and we would request at this time
11 that he be allowed to appear especially to argue the motion.

12 THE COURT: He is not going to argue the motion.
13 We have just had enough of people arguing matters in this
14 Court. I simply want to indicate on the record that as
15 far as I am concerned Mr. Manson has demonstrated
16 conclusively his inability to properly either appreciate
17 the risk of representing himself or to demonstrate any
18 type of ability with which he could effectively represent
19 himself.

20 This may sound like a rerun of yesterday's
21 proceedings and indeed I suppose it is. I want to indicate
22 that I am relying on the fact that a defendant is entitled
23 to some effective representation and the more serious the
24 charges are the more carefully a Court must weigh the
25 equities in determining whether or not a defendant may be
26 permitted to represent himself.

1 I am referring particularly to the following
2 cases which I cited yesterday. The citations are not
3 necessary, but I refer first to the case of People against
4 Daniels and Simmons which held it was not error for the
5 trial judge to refuse to permit the defendant to represent
6 himself.

7 Secondly, People against Floyd and Milton which
8 made a similar determination, and finally I have referred
9 most recently to the case of People against Robles wherein
10 a defendant was permitted to represent himself at the
11 penalty phase of the case after he had been represented by
12 counsel. At his own insistence he was permitted to
13 represent himself and he not only represented himself but
14 he had two attorney advisors which approximately is what
15 Mr. Manson has wanted in this case.

16 Notwithstanding the existence of the two
17 attorney advisors the Supreme Court held that it was
18 prejudicial error to permit Mr. Robles to represent himself
19 and not surprisingly he received the death penalty after
20 representing himself and a new penalty trial was granted.

21 I incorporate by reference in this ruling that
22 has transpired in this case with reference to Mr. Manson's
23 desire to represent himself that I have read the transcript
24 of those proceedings. I was personally present in
25 Department 107 when Judge Keene revoked Mr. Manson's pro per
26 status. There is absolutely nothing that is stated in

1 this Notice of Motion that is new at all. It is simply a
2 rehash, although stated much more fluently and intelligently
3 than anything Mr. Hanson has stated on his own behalf, and
4 I compliment Mr. Aberson for presenting the argument, but
5 there is no reason for me to change my view on this matter
6 and I won't hear further. The defendant will not be
7 permitted to represent himself.

8 Now, as far as discharging Mr. Hughes, I
9 think there is a practical limit to what the Court has to
10 put up with. Initially the Public Defender was appointed
11 to represent Mr. Hanson; Mr. Hanson declined the services
12 of the Public Defender.

13 The former president of the State Bar and a
14 leading criminal lawyer in this State was appointed
15 especially under 987a, although I am sure he neither sought
16 nor received any compensation, solely for the purpose of
17 interviewing Mr. Hanson and I refer to Joseph A. Ball.
18 Mr. Ball reported back to the Court. Mr. Hanson neverthe-
19 less continued to wish to represent himself.

20 DEFENDANT HANSON: What did he report to the Court?

21 THE COURT: He reported his observations, sir.

22 DEFENDANT HANSON: What were they?

23 THE COURT: Mr. Hanson; you aren't representing
24 yourself and I am not the witness.

25 To continue, he reported his observations
26 which at this point from hindsight I strongly disagree with.

1 But the point of the matter was Mr. Ball did present to
2 Mr. Manson at least some of the pitfalls of representing
3 himself.

4 Thereafter Mr. Manson elected to represent
5 himself and did a most abominable, dilatory, ineffective
6 job which established conclusively his inability to
7 represent himself.

8 Thereafter his pro per privileges and status
9 were revoked and another outstanding criminal lawyer was
10 appointed to represent him; namely, Charles Hollopeter.

11 Mr. Hollopeter for a time was able to continue
12 representing Mr. Manson and then finally Mr. Manson decided
13 that he would select another counsel and without any dis-
14 respect to Mr. Hughes because none is intended, I think
15 Mr. Manson must have deliberately picked the attorney with
16 the least experience he could find in the entire Los Angeles
17 area. I think it is a matter of record that Mr. Hughes
18 had never tried any case, let alone a criminal case at
19 that point. That was his selection.

20 Mr. Hughes voluntarily came into this case
21 with his eyes open. Now, at this point, having managed to
22 disqualify the trial judge, Mr. Manson says he wants to
23 represent himself. I think that this sort of request is
24 not made with any expectation that the Court will grant it,
25 nor do I expect that Mr. Manson would ever expect to go to
26 trial if he represented himself.

1 The Court is not required to wait on this
2 matter in violation of the rule against perpetuus while
3 Mr. Manson gets the equivalent of a law school education.

4 DEFENDANT MANSON: I haven't asked to wait, Judge.
5 I'm asking to go to trial. Will you let me go?

6 THE COURT: Of course, Mr. Manson, you are not
7 capable of representing yourself. Your are not prepared.
8 Counsel says he is not prepared.

9 In the interest of Justice it is essential
10 that one more continuance be granted and this one will be
11 the last one I assure you which will be granted in this
12 matter.

13 What is the tentative date that other counsel
14 have agreed upon other than Mr. Manson?

15 MR. STOVITZ: June 15th.

16 THE COURT: Very well. This matter is continued
17 until June 15th, assuming, of course, there has been an
18 express agreement by all counsel other than -- all
19 individuals other than Mr. Manson, but I will verify that
20 with each defendant and I will even ask Mr. Manson about it.

21 Miss Krenwinkel, is that date personally
22 agreeable to you, June the 15th?

23 DEFENDANT KRENWINKEL: Let me ask Mr. Fitzgerald
24 first.

25 THE COURT: I think that would only be appropriate.

26 (Defendant Krenwinkel and counsel conferring

1 off the record.)

2 THE COURT: Is that date personally agreeable to you?

3 MR. FITZGERALD: Yes.

4 THE COURT: Is that date agreeable to you as well,
5 Miss Krenwinkel?

6 DEFENDANT KRENWINKEL: Yes.

7 THE COURT: Is your representation that, that period
8 of time is necessary for you to proceed with this matter
9 and to be prepared? Is that correct, Mr. Fitzgerald?

10 MR. FITZGERALD: It is, your Honor. May the record
11 so reflect.

12 THE COURT: It does.

13 Mr. Shinn, is that date personally agreeable
14 to you on behalf of your client Miss Atkins?

15 MR. SHINN: Correct.

16 THE COURT: Miss Atkins, is that date likewise
17 agreeable to you, June the 15th?

18 Is it not agreeable if it isn't agreeable?

19 I hear no response but I have heard no
20 objection to that date. Do you want to talk to her briefly,
21 Mr. Shinn, and see if she intends to make a response?

22 (Defendant Atkins and counsel conferring
23 off the record.)

24 DEFENDANT ATKINS: All right.

25 THE COURT: Very well. Do you represent, Mr. Shinn,
26 as far as you are concerned that this additional period of

1 time is necessary for you to complete your preparation for
2 trial in this case?

3 MR. SHINN: That is correct, your Honor.

4 THE COURT: Mr. Reiner, may I inquire whether that
5 date is personally agreeable to you?

6 MR. REINER: Yes. June the 15th is agreeable.

7 THE COURT: Is it necessary for you to have this
8 additional time to prepare?

9 MR. REINER: Yes, it is, your Honor.

10 THE COURT: Is that date agreeable to you, also,
11 Miss Van Houten? Do you have any objection to it?

12 DEFENDANT VAN HOUTEN: No.

13 THE COURT: The Court finds that the continuance as
14 to those defendants is necessary in the interests of
15 Justice and a continuance is for good cause, and may I just
16 conclude this matter by inquiring again of Mr. Hughes; is
17 there any possibility that you could be prepared for trial
18 before June the 15th if you remain in the case, sir?

19 MR. HUGHES: I don't know of any possibility.

20 THE COURT: Very well. I find notwithstanding the
21 desire of Mr. Panson to proceed as he states, the alleged
22 desire of Mr. Manson to proceed as he states to trial next
23 Monday, April the 30th, that counsel is not ready. The
24 defendant is not ready and a continuance is essential in
25 the interests of Justice as the continuance is granted.

26 Now, I want to --

1 DEFENDANT MANSON: You didn't ask me.

2 THE COURT: I haven't asked you because you already
3 told me, Mr. Manson.

4 Now, the next matter is the matter of
5 assignment to a trial judge. I have taken the position
6 previously with respect to the motion originally made by
7 Mr. Fitzgerald, a position which I believe to be correct,
8 that acting as the Master Calendar Judge, I may assign to
9 a given judge and any challenge under 170.6 must be made
10 in this courtroom upon the assignment of the case for trial.
11 That was the reason I struck Mr. Fitzgerald's motion and
12 affidavit as not timely. Judge Keene, and I happen to
13 agree with Judge Keene, feels in this particular instance
14 of Mr. Manson as to whom the case was assigned over his
15 objections, and as to whom a plea was entered over his
16 objections, and as to whom it was later ascertained that
17 he was incompetent to represent himself, it would be
18 anomalous to conclude that an individual could not properly
19 represent himself but still waive his right to assert the
20 challenge in the Master Calendar Court. Therefore, I agreed
21 that the challenge as filed by Mr. Manson, Mr. Hughes, on
22 his behalf, was timely.

23 At this time I am assigning the case to
24 Judge Adolph Alexander in Department 101.

25 MR. SHINN: Your Honor, may we have a minute?

26 THE COURT: Yes, you may.

(Counsel conferring off the record.)

MR. SHINN: Your Honor, in this matter, your Honor, I think there will be an affidavit of prejudice filed on behalf of Susan Atkins.

THE COURT: You will file it?

MR. SHINN: Yes, your Honor.

THE COURT: Although I do like to follow Supreme Court decisions it is my impression that the case of *Duggan v. The Superior Court* will probably not be controlling in this case. So I will permit any defendant to file a challenge, one challenge.

MR. HUGHES: Your Honor, while that is being filed, may I ask this Court order a transcript of these proceedings being made on behalf of Defendant Charles Hanson?

THE COURT: I am not entertaining any further orders at this time.

MR. FITZGERALD: I received that in the regular and ordinary course of business at my office the day before yesterday, your Honor. Your position was sustained on Appeal.

(Judge perusing document.)

THE COURT: Well, I am the last to know. Okay, we won't be assigning it to Judge Alexander.

In lieu thereof the Court will assign the case to -- I suppose I better have my lineup to make sure I have got all the assignments in order. It looks like

1 we might need them all.

2 Judge Charles H. Older, Department 104,
3 June the 15th.

4 Do you gentlemen want to huddle again? Go
5 again.

6 (Counsel conferring off the record.)

7 MR. REINER: Thank you, your Honor. That will be
8 acceptable.

9 THE COURT: I take it there will be no challenge?
10 Very well. That assignment is final. I don't think Judge
11 Older has any idea about this but he will be advised. It
12 is a bit of a surprise to me. I expect at least a
13 couple more.

14 There have been some other motions that have
15 been presented. I feel that those should in all propriety,
16 most of them at least, be referred to Judge Older. In fact,
17 I think I am going to refer all of them to Judge Older.

18 MR. FITZGERALD: Would your Honor consider
19 entertaining what I might categorize as a routine motion
20 in regard to the oral proceedings held before --

21 THE COURT: Is this one of the written ones? I
22 will order a transcript of the oral proceedings on April
23 the 10th and also today to be prepared. Let's see. I
24 have no objection. That is the proceedings of April the
25 10th in Department 107 and does anyone want today's
26 proceedings? I think we might as well have them. The

1 proceedings in 107 and today's proceedings in Department 100,
2 and an original and sufficient copies so each defendant
3 will have one made on his behalf.

4 Are there any other motions?

5 MR. SHINN: Your Honor, I have a pre-trial motion
6 which I filed in 107, your Honor.

7 THE COURT: That will be transferred.

8 MR. SHINN: There is no date on it, your Honor.

9 THE COURT: I think you better notice it, Mr. Shinn.

10 MR. SHINN: I noticed it already, your Honor, with
11 a blank date.

12 THE COURT: Well, that is one way to practice law.

13 All matters pending in 107 are transferred
14 to Judge Older in Department 104. So ordered.

15 We will take a short recess while everyone
16 disperses.

17 (Whereupon proceedings on this date were concluded.)

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for Tass, May 19, 1970 -
excluded from
numbers 669-1

1 LOS ANGELES, CALIFORNIA,

FRIDAY, MAY 22nd, 1970

2 - - -

3
4 THE COURT: People vs. Patricia Krenwinkel.

5 MR. FITZGERALD: Miss Krenwinkel is present with
6 counsel, Paul J. Fitzgerald.

7 THE COURT: Are the People represented?

8 MR. BUGLIOSI: Yes, your Honor.

9 THE COURT: Are both sides ready to proceed on the
10 motions?

11 MR. BUGLIOSI: Yes, sir.

12 MR. FITZGERALD: Defendant Krenwinkel, the moving
13 party, is ready.

14 THE COURT: Very well.

15 Mr. Fitzgerald, there are two motions, a
16 Notice to Prepare the Reporter's Transcript, and a Motion
17 with regard to Mr. De Carlo's testimony, in the Beausoleil
18 case, and a further motion for sanctions and further
19 discovery.

20 I would like to hear the motion with regard
21 to the reporter's transcript first.

22 MR. FITZGERALD: I believe that accompanying the
23 request for the preparation of the transcript there is a
24 declaration of counsel.

25 THE COURT: Yes, I have read your declaration.

26 MR. FITZGERALD: My position is essentially that

1 Mr. De Carlo testified in the case of the People of the
2 State of California vs. Robert Beausoleil concerning
3 matters that will be in issue in this case, and it is
4 necessary for the preparation of Miss Krenwinkel's defense
5 to review that testimony.

6 It is also necessary that a transcript be
7 made available to counsel in order that my direct
8 examination of other witnesses might be prepared, and also
9 that I might impeach Mr. DeCarlo, should it be necessary,
10 should his testimony in this case vary from the testimony
11 given in People vs. Beausoleil.

12 In regard to the impeachment, that obviously
13 is only one of several ways in which Mr. DeCarlo can be
14 impeached. But if Mr. DeCarlo is to be impeached by a
15 previously inconsistent statement, it would require that
16 I personally require the attendance of the court reporter
17 with his or her original notes.

18 On the other hand if your Honor would order a
19 transcript of his testimony, the prosecution has
20 indicated to me should the matter of impeachment come up
21 they would be willing to stipulate the transcript is a
22 true and accurate copy of Mr. DeCarlo's previous testimony.

23 THE COURT: You are talking about a copy of the
24 transcript at the defendant's expense?

25 MR. FITZGERALD: No, I am asking that the Court
26 provide that for the defendant.

1 THE COURT: Why should that be done? Why is this
2 different from any other part of your investigation or
3 any case where a defendant is privately represented?

4 MR. FITZGERALD: I think the practice in Los Angeles
5 County is to provide counsel with the transcript of
6 testimony of witnesses in previous cases, whether they are
7 represented by privately-retained counsel or whether they
8 are represented by Court-appointed counsel.

9 In any event, if your honor feels it is
10 necessary --

11 THE COURT: There are several alternatives open to
12 you.

13 I don't know who Mr. Deansoleil's counsel was.
14 He apparently would have a copy of the transcript which
15 you could borrow a copy.

16 MR. FITZGERALD: That is a problem.

17 THE COURT: The District Attorney has a copy of the
18 transcript, I am sure, which they may or may not be willing
19 to let you use and copy.

20 I just don't see the reason for the County to
21 stand the expense for it in this case. I don't think it is
22 necessary.

23 MR. FITZGERALD: Well, if the Court please, Miss
24 Krenwinkel has on numerous previous occasions executed
25 declarations to the effect that she is indigent and unable
26 to provide funds for various aspects of her defense.

1 If the Court feels that it is necessary I
2 will be happy to have Miss Krenwinkel execute a further
3 declaration.

4 THE COURT: I am not aware of any of those
5 declarations, but they very well could be in the file.

6 Have they been filed in this case?

7 MR. FITZGERALD: They have, your Honor.

8 THE COURT: Do I take it from that, as counsel you
9 are not receiving any compensation in this case?

10 MR. FITZGERALD: That is correct.

11 THE COURT: From any source?

12 MR. FITZGERALD: From any source.

13 THE COURT: Are you aware of affidavits of indigency
14 on behalf of this defendant, Mr. Bugliosi?

15 MR. BUGLIOSI: No, I am not, your Honor, but if Mr.
16 Fitzgerald makes that representation I accept it.

17 THE COURT: I am not questioning Mr. Fitzgerald.
18 I am just wondering if you are familiar with the contents
19 of such documents.

20 MR. BUGLIOSI: No, I am not.

21 THE COURT: They have been filed in this case, is
22 that correct?

23 MR. FITZGERALD: They have, your Honor.

24 THE COURT: And you have no reason to believe that
25 the situation has changed?

26 MR. FITZGERALD: No, the situation has not changed.

1 It is difficult for me to predict the future.

2 I certainly don't want to represent to this
3 Court that I will not or would not in the future accept
4 moneys for my representation of Miss Krenwinkel, but to
5 this date I have not nor have I entered into any contractual
6 agreements concerning compensation, nor have I entered
7 any agreements concerning any literary or publication
8 properties, or anything of that nature.

9 THE COURT: I still think before the County stands the
10 expense of the transcript that you should explore the
11 possibility of either borrowing or copying one of the
12 transcripts in the possession of either Mr. Beausoleil's
13 attorney -- who is that?

14 MR. FITZGERALD: The Public Defender represents
15 Mr. Beausoleil, by Deputy Public Defender Leon Salter.

16 It is my understanding that the Office of the
17 Public Defender will not represent Beausoleil on his
18 automatic appeal, but that counsel will be appointed on
19 appeal, and the daily transcripts prepared in the matter
20 will be transmitted to the Supreme Court for transmittal
21 to appointed counsel on appeal.

22 THE COURT: But counsel for defendant in that case
23 will have a copy of the transcript.

24 MR. FITZGERALD: It is my understanding that he
25 does now have a copy of the transcript.

26 In terms of the District Attorney providing me

1 with a trans-ript, I think that is remote and unlikely.

2 THE COURT: I am not suggesting that they are going
3 to turn over their copy to you. What I am saying is they
4 may well be willing to let you inspect it and copy it.

5 MR. FITZGERALD: And also I have the subpoena of
6 the court reporter, and I will avail myself of the court
7 processes in that regard.

8 THE COURT: I would suggest, Mr. Fitzgerald, you
9 explore the possibilities of either borrowing or copying
10 one of the transcripts in the possession of either the
11 District Attorney or Mr. Beaussolail's counsel. If that
12 does not work out, put the matter back on the calendar in
13 this court and I would then be inclined to grant your
14 request.

15 So I will deny the motion at this time without
16 prejudice to renew it.

17 Now, do you wish to be heard on your motion
18 for sanctions and further discovery?

19 MR. FITZGERALD: Well, I have heretofore filed a
20 motion with the Court asking for an order adjudicating the
21 District Attorney of Los Angeles County in contempt of
22 court for violation of a valid court order.

23 As I set out in my declaration, Judge Malcolm
24 Lucas of Department 106 of the Superior Court on March 24th,
25 ordered into effect the Court order directing the
26 prosecution to make available for inspection and copy

certain items of physical and documentary evidence.

I contend and represent to the Court that the items set out in the declaration have not been made available to me for inspection and copying. In regard to certain items of evidence they have made these items available to me for inspection but have denied me the opportunity to copy them.

I am referring in this regard to photographs I have set out in the declaration.

In regard to the statements of persons and witnesses who have information concerning the alleged perpetration of the offenses before the Court by persons other than the defendant, and the defendants now presently standing trial, the prosecution has refused to me the right to even inspect those statements.

Additionally it is set out in the declaration that they have refused to make available to me six or seven other items that I contend are material, relevant and necessary.

THE COURT: Well, I have read your motion papers and the supporting exhibits.

I read the minute order. I read the order of Judge Lucas and I read the transcript of March 24th.

Now, I am now reading from page 73 of the transcript, which you may not have before you, but this follows a discussion between the Court and counsel regarding

1 your motion for discovery.

2 Then the Court says, "Mr. Fitzgerald, are
3 these deletions satisfactory with you?"

4 Your answer is, "No, but I don't want to make
5 an issue over everything, so perhaps I won't rely on the
6 order as authority for the proposition that I am entitled
7 to what Mr. Stovitz has just announced. If there are some
8 other items that he doesn't feel I am entitled to, and I
9 feel I am entitled to it, and there are items of informa-
10 tion I think I am entitled to, I will petition the Court."

11 Then Judge Lucas said, "May I suggest, Mr.
12 Fitzgerald, that I will sign the order making the deletions
13 as indicated by Mr. Stovitz. If you, upon examination of
14 the various evidentiary matters find that you must again
15 petition for, for example, for the names of all witnesses
16 interviewed and/or copies of the photographs, for example,
17 you may then renew your motion and it will be considered
18 in this Department. Is that satisfactory?"

19 "MR. FITZGERALD: That is satisfactory."

20 So I don't consider on the basis of that
21 transcript that the People have failed to comply with any
22 order. Apparently it was left in a rather flexible
23 condition.

24 MR. FITZGERALD: If I may respond?

25 THE COURT: Yes.

26 MR. FITZGERALD: The Court had before it an order

1 that was signed by Judge Lucas ordering the prosecution
2 to turn over certain items of evidence.

3 The only deletions that were made on that
4 Court order were items 13 and 15.

5 I am contending that, serially, the
6 prosecution has refused to turn over to me all written state-
7 ments made by witnesses, as provided in the Item No. 3, all tap
8 recordings made of statements or conversations of
9 witnesses as provided in Item 4; any and all photographs
10 taken of the defendants as provided in Item 7; and any and
11 all photographs taken at the scene of the crime and/or the
12 victims of the crime otherwise relating to the case as
13 provided in Item 8.

14 Any photographs that have been exhibited to
15 the prospective witnesses for the purpose of establishing
16 the identity of the perpetrator of the crime.

17 All notes, memoranda, handwritten or typed
18 by police officers or other investigating officers of
19 their conversations with persons pertaining to the
20 investigation in this matter as provided in Item 10.

21 Record of arrest and convictions of witnesses
22 named pursuant to Paragraph 13 hereof as provided by
23 Item 15.

24 THE COURT: Repeat that, please, I did not hear you,
25 the last item. What about item 13, that was one of the
26 items stricken, wasn't it?

1 MR. FITZGERALD: Well, my understanding was, that
2 what Judge Lucas ruled, without prejudice, subject to a
3 renewal at a later date, was that the names and addresses
4 of all persons and people -- excuse me, I believe your
5 Honor is correct.

6 THE COURT: In the order signed, Items 13 and 18 were
7 stricken.

8 MR. FITZGERALD: Your Honor is correct.

9 THE COURT: That is an order signed by Judge Lucas
10 on March 24th.

11 MR. FITZGERALD: That is true.

12 THE COURT: Going back to Item 3, isn't that
13 included in Item 13?

14 MR. FITZGERALD: Well, that turns on how the term
15 "witness" is defined.

16 The prosecution arbitrarily takes the position
17 that a person they interview but do not intend to call as
18 a witness is therefore not a witness. Consequently I am
19 not entitled to any written statement or any notes of
20 statements or tape recordings, et cetera, that the
21 prosecution may have in its possession.

22 I am not only asking for the statements of
23 witnesses, I am asking for statements of persons inter-
24 viewed in connection with the offenses.

25 THE COURT: Well, I would include that within the
26 description in Item 13, although they are not exactly

1 identical.

2 Well, let's hear from Mr. Bugliosi.

3 MR. BUGLIOSI: On what point, your Honor, on all of
4 them?

5 THE COURT: With respect to the matters raised by
6 Mr. Fitzgerald.

7 MR. FITZGERALD: If I might be heard just for a
8 moment.

9 THE COURT: All right.

10 MR. FITZGERALD: Would your Honor consider, as I
11 have indicated on the notice of motion, that this is a
12 motion for further discovery?

13 THE COURT: Yes.

14 MR. FITZGERALD: In the event there is some question
15 about whether or not Judge Lucas ruled that I was entitled
16 to certain items of information.

17 THE COURT: Yes, I want to get the matter resolved.

18 Apparently Mr. Fitzgerald contends that you
19 have not complied with Item No. 3 of the order, Mr.
20 Bugliosi.

21 MR. BUGLIOSI: May I see Item 3, your Honor,
22 I don't have a copy.

23 All written statements made by witnesses
24 whether signed or unsigned.

25 I would submit, your Honor, that a witness is
26 someone who testifies in court under oath. I will concede

1 that the term "witnesses" would include prospective
2 witnesses.

3 However, if the police interview someone whom
4 they do not intend, or the District Attorney does not
5 intend to call as a witness, I don't believe the defense
6 is entitled to that particular interview.

7 Incidentally, in Mr. Fitzgerald's Memorandum
8 of Points and Authorities he does set out authority for
9 several discoverable items, but he does not set forth any
10 case which says that the prosecution has to turn over
11 to the defense interviews or police reports concerning
12 people whom they interviewed, whom the prosecution does
13 not intend to call as a witness.

14 THE COURT: Do you have any authority for that,
15 Mr. Fitzgerald?

16 MR. FITZGERALD: Yes. As I said under my declaration,
17 it is my position that one of the essential cardinal aspects
18 of pre-trial discovery is so that counsel may properly
19 investigate as well as prepare and impeach, and those
20 other sorts of trial functions, I think the law is clear
21 in California that an attorney who represents a defendant
22 in a criminal case owes to his client a duty to investigate
23 critical defenses that in fact may be available.

24 The attorney's inexcusable failure to do so
25 constitutes denial of effective representation. It is
26 counsel's duty to investigate carefully all defenses that

1 in fact and in law may be available to the defendant and if
2 his failure to do so results in withdrawing a crucial
3 defense from the case, the defendant does not have the
4 assistance of counsel to which he is entitled.

5 I think People vs. Riser, a 1956 case,
6 contained in 47 Cal. 2d., 566, page 585, sets out authority
7 for the proposition.

8 I think language in Gordon vs. United States
9 and People vs. Chatman as well as United States vs.
10 Reynolds, sets out authority for the proposition that
11 counsel must be provided with information in the hands of
12 the prosecution by way of statements of persons interviewed
13 in connection with the offenses, in order that he may properly
14 investigate, properly prepare, properly litigate the lawsuit.

15 The prosecution has no interest in withholding
16 or withdrawing that information.

17 The prosecution has a duty to see that justice
18 is done. They have a duty to make these items available.

19 Absent some overriding governmental considera-
20 tion or privilege, I think the state of the law in
21 California is that the prosecution must turn over to the
22 defendant anything in their possession that may A, mitigate
23 the offense; B, point to any defense of law or fact; or,
24 C, point to the commission of the offense by other possible
25 perpetrators.

26 I think the state of the law indicates that I

1 am entitled to the names of all witnesses in connection
2 with this case, I mean all persons interviewed in
3 connection with this case.

4 As I set out in my declaration, there are
5 people available. The prosecution has information that
6 people have confessed to the events before the Court, and
7 the confessants are not these defendants.

8 I have set out other information in my
9 declarations concerning the background and history of the
10 victims, and the background and history of certain cardinal
11 suspects in the perpetration of this offense, and I did not
12 coin the word "suspects."

13 The quoted portions contained in the
14 declaration of counsel come from official reports of the
15 Los Angeles Police Department.

16 The Los Angeles Police Department interviewed
17 numerous people in regard to this case, and they have
18 numerous suspects in regard to this case, and they have
19 numerous items of documentary and physical evidence and
20 statements and interviews that point to other persons as
21 the perpetrators of these offenses.

22 And merely because the prosecution does not
23 intend to call them as a witness, they cannot deny me the
24 opportunity of access to this information.

25 If I am allowed to ascertain their identities,
26 and I am allowed to ascertain the content and scope of their

1 previous statements, I may well call them as witnesses.

2 But the cases set out that I need not
3 represent that they are material witnesses for the defense
4 or possible material witnesses for the defense in order
5 to review the statements.

6 The cases in regard to pretrial criminal
7 discovery point out that counsel need not establish in
8 advance the materiality or relevancy of the material in
9 terms of a request for a Court order ordering the prosecu-
10 tion to turn such information over to the defense.

11 The Court has pointed out on numerous
12 occasions that such would be impossible because the nature
13 of discovery is to discover.

14 I am in the dark somewhat as to some of the
15 information the prosecution has because I have been denied
16 access to it. I would be in a better position had I seen
17 it and been able to represent to the Court the precise
18 materiality and relevance, and my intention to call those
19 people as witnesses.

20 THE COURT: Mr. Bugliosi.

21 MR. BUGLIOSI: Your Honor, Mr. Fitzgerald says the
22 nature of discovery is to discover. I agree with him on
23 that.

24 However, the issue is what is discoverable.

25 I submit that what he is seeking to discover
26 falls outside the permissible margins of discovery.

1 I think the underlying purpose of discovery
2 is to furnish the defense information prior to trial which
3 the prosecution intends to offer at the trial so that
4 during the trial the defense will not be caught by surprise.
5 They will be able to prepare their defense and hopefully
6 on the defense rebut the prosecution's case.

7 I don't think they are entitled to information
8 or evidence which the prosecution does not intend to
9 offer at the trial because if the Court were to hold that,
10 that would be tantamount to saying that the District
11 Attorney and the Los Angeles Police Department have the
12 ex officio duty to investigate a case for the defense.

13 Somehow they are agents of the defense and
14 are investigating the case. I don't think the law has gone
15 that far yet.

16 The Los Angeles Police Department investigates
17 a case for their own purpose. When their information and
18 reports are turned over to the District Attorney, if we
19 intend to offer it in evidence, at that time the defense
20 is entitled to full discovery.

21 However, if the police investigate twenty
22 suspects and they all turn out to be dead-ends, I am not
23 so sure that the law of the State of California says that
24 the defense is entitled to those dead-end investigations.

25 THE COURT: All right, let's take Mr. Fitzgerald's
26 motion here on Page 5 of his declaration.

1 He talks about copies of photographs requested
2 in Items 7, 8 and 9. What about those?

3 MR. BUGLIOSI: The photographs of these victims,
4 your Honor, taken at the scene, are incredibly ghastly.

5 Apparently to some segments of the population,
6 particularly over in Europe, apparently there is a
7 tremendous commercial value being placed on these photo-
8 graphs. I understand one German magazine has offered as
9 high as \$100,000 for the photographs of these victims
10 at the scene.

11 I am also in possession of information that
12 is uncorroborated that third parties have offered one or
13 more of the defendants or the defense attorneys substantial
14 sums of moneys for these photographs.

15 If these photographs are released commercially
16 there is a substantial likelihood that some or all of the
17 survivors of the victims will see these photographs in
18 print.

19 If that happens I think it is fair to assume
20 that this could cause a tremendous psychological trauma to
21 the victims' survivors.

22 THE COURT: Is there any reason why Mr. Fitzgerald
23 should not be permitted to view the photographs?

24 MR. BUGLIOSI: No opposition to that at all, your
25 Honor, but I believe that every purpose and objective
26 which the defense is seeking to achieve in this case can
just as well be served by his looking at these photographs.

1 He can look at them for ten hours if he wants,
2 but I don't see any necessity why he has to receive
3 copies of these photographs.

4 I would respectfully ask the Court to deny
5 the defendant's motion to have these photographs copied.
6 There's too much of a danger, and there is just no overriding
7 necessity.

8 THE COURT: Do you wish to be heard further on the
9 matter of the photographs, Mr. Fitzgerald?

10 MR. FITZGERALD: I think my declaration in that
11 regard is ample, your Honor.

12 I would like to make a distinction, perhaps,
13 to be able to assist the Court.

14 Mr. Bugliosi's objection apparently relates
15 only to photographs of the decedents. There are hundreds
16 of other photographs, including photographs of physical
17 items of evidence.

18 THE COURT: I am talking now about your own request,
19 Items 7, 8 and 9.

20 If I understand what Mr. Bugliosi just said,
21 he has no objection to your viewing the photographs embraced
22 within the description of those items, is that right,
23 Mr. Bugliosi?

24 MR. BUGLIOSI: In fact, your Honor, the defense has
25 already viewed the photographs.

26 MR. FITZGERALD: That is correct, I have viewed some

1 photographs.

2 MR. BUGLIOSI: They are all available for every
3 defense attorney to examine at their leisure.

4 MR. FITZGERALD: One of the problems is this; I
5 want to be clear that if Mr. Bugliosi's objection has any
6 merit, it has merit only insofar as the photographs of
7 the decedents are concerned.

8 I asked for other items, photographs of
9 physical items of evidence, photographs of the scene of the
10 crime without the decedents present, photographs of finger-
11 prints, photographs of blood spots, photograph -- aerial
12 photographs of the scene of the crime, et cetera, et cetera.

13 There are literally thousands of photographs
14 taken in this case.

15 THE COURT: Of course, that is the difficulty with
16 your request, Mr. Fitzgerald, it is so broad, and there is
17 so much material embraced within the description, it is
18 difficult for the Court to formulate an order that makes
19 any sense, or one which could be enforced.

20 Now that you have viewed the photographs I
21 think it would be incumbent upon you if you want to be
22 more specific to make a specific request.

23 If you want the actual receipt or delivery of
24 photographs, describe them with some particularity so that
25 the Court can rule upon it.

26 But the mere fact that the People have hundreds

1 of photographs in their possession is not sufficient ground.
2 Apparently you have already seen them.

3 Now is the time for you to become particular
4 as to your request, if you want something more than mere
5 inspection.

6 MR. FITZGERALD: I do want something more than mere
7 inspection.

8 THE COURT: Then I suggest you file a new request
9 specifying exactly and precisely what photographs you were
10 talking about.

11 MR. FITZGERALD: I am not representing to the Court
12 that I have seen the photographs. I don't know what the
13 photographs are. That is why I want an order directing the
14 Los Angeles Police Department to turn over to me all the
15 photographs they have taken.

16 I have been shown a selective sample of
17 photographs. That sample has been determined by agents of
18 the prosecution.

19 THE COURT: Let's stop right here, Mr. Fitzgerald.
20 I understand what you said.

21 The People have offered to let you see what
22 they have. Now, if that is not sufficient then make another
23 request specifying with particularity exactly what
24 photographs you wish to have delivered to you, or copies
25 of them, and I will rule on that.

26 That takes care of Items 7, 8 and 9.

1 I understand, Mr. Bugliosi, this inspection
2 by Mr. Fitzgerald may be taken upon reasonable notice to
3 the People of any kind.

4 MR. BUGLIOSI: He does not have to give notice.
5 He can walk into my office, your Honor. I know Paul very
6 well; I have all the confidence in the world in him. I
7 will walk out of my office if he wants and let him look at
8 my file for as long as he wants.

9 THE COURT: Let's continue with your declaration,
10 Mr. Fitzgerald, items other than what have been talked
11 about.

12 MR. FITZGERALD: Yes. Essentially interviews,
13 statements, tape recordings, concerning persons other than
14 and concerning thrusts of culpability in points and
15 directions other than the defendant Patricia Krenwinkel and
16 other named defendants.

17 The prosecution, as I set out in my
18 declaration, has taken the position I am only entitled to
19 interviews, documents, et cetera, that point to the
20 defendants as perpetrators of the offense.

21 Generically that is essentially any further
22 request that I have is in that nature and category.

23 THE COURT: Anything further?

24 MR. BUGLIOSI: No, your Honor, submit the matter.

25 THE COURT: The motion for further discovery with
26 respect to the statements of persons other than witnesses

1 and prospective witnesses as set forth in Items 3 and 13,
2 which I understand has already been complied with, is
3 denied.

4 Is there anything further, Mr. Fitzgerald?

5 MR. FITZGERALD: So I may be clear, it may be my
6 own problem -- is your honor ruling that I am not entitled
7 to notes, memoranda, handwritten or typed by police officers
8 or other investigating officers in their conversations
9 pertaining to the investigation in this matter?

10 THE COURT: In that form, yes. Yes, I mean I am
11 denying your request in that form.

12 MR. FITZGERALD: And your honor is ruling that I
13 am entitled only to statements, interviews and investigatory
14 leads directed to persons the prosecution intends to call
15 as witnesses?

16 THE COURT: Well, I am not going to put it in that
17 form.

18 You are making the request. On the basis of
19 the request that you have made I have indicated to you from
20 my understanding of what has been said here this morning,
21 the People have complied with this discovery order.

22 To the extent that you are seeking something
23 further beyond that I am denying it except as otherwise
24 indicated with respect to the photographs.

25 MR. FITZGERALD: Yes, I am asking for information,
26 interviews, statements, tape recordings, notes, and written

1 memoranda concerning persons interviewed in connection with
2 this case.

3 I am asking for confessions of other people,
4 and the materials I have set out in my declaration.

5 THE COURT: To that extent the request is denied.

6 MR. FITZGERALD: I have a further request of the
7 Court that is not in writing.

8 I wonder if the Court would direct the
9 prosecution to deliver to me at their convenience either
10 orally ^{or} in writing a list of physical items of evidence the
11 prosecution intends to introduce into evidence.

12 I might point out to the Court there have been
13 numerous seizures of evidence in connection with this case
14 both in the County of Los Angeles and in other counties
15 located in Central and Northern California.

16 These seizures were made pursuant to search
17 warrants. Seizures were made pursuant to searches conducted
18 pursuant to arrest. Those searches were made ostensibly
19 consensually in many different areas, so that counsel might
20 prepare a motion pursuant to 1538.5, and motions in
21 connection with quashing search warrants from Mendocino
22 County, Inyo County and Los Angeles County, and motions to
23 traverse said warrants would be helpful indeed; and would
24 save my time and the Court's time, if I knew which items
25 of evidence were going to be attempted to be introduced
26 at the time of trial.

1 In the absence of such information I think
2 I am duty-bound to make a wholesale notion of all these
3 various search warrants, all these various seizures of
4 evidence.

5 I think it is time-consuming and it is
6 unnecessary.

7 THE COURT: Do you wish to respond?

8 MR. BUGLIOSI: Every physical item of evidence
9 involved in this case, your Honor, the defense is aware
10 of, they already got search warrants, police reports
11 concerning every physical item of evidence. Now, for me
12 to sit down and prepare one document setting forth each
13 item of evidence would probably take me two or three days,
14 which I don't happen to have unless the Court orders me
15 to do so.

16 I will say that every speck of physical
17 evidence that is involved in this case has been furnished
18 to the defense, not the actual item of evidence, but the
19 information about them, either photographs or a police
20 report with respect to them.

21 They asked for separate documents setting forth
22 all of them. That would take quite a bit of my time right
23 now.

24 THE COURT: Apparently Mr. Bugliosi is not willing
25 to accede to your request, Mr. Fitzgerald, and I will not
26 order him to do so in view of the statements that you are

1 already aware of the physical evidence.

2 Anything further?

3 MR. FITZGERALD: I only know what I know. I don't
4 know what I don't know. I only know what Mr. Bugliosi has
5 provided me with.

6 I am interested in totality. Would your Honor
7 also request that Mr. Bugliosi provide me as indicated in
8 the request with a list of witnesses intending to be called
9 at the time of trial.

10 May I also request the rap sheets and records
11 on witnesses intended to be called by the prosecution.

12 THE COURT: Mr. Bugliosi?

13 MR. BUGLIOSI: I will give Mr. Fitzgerald a list of
14 witnesses whom I intend to call. I think there are
15 approximately eighty right now.

16 I will give him that within a half hour from
17 now. He will walk down to my office.

18 With respect to the rap sheets, I think he is
19 presupposing they all have a prior criminal history.

20 I will give him whatever I have, unless the
21 Court is going to order me to order rap sheets on all these
22 people if they do exist. I can only say that I do have
23 some makesheets on several of the witnesses, unfortunately
24 for us, but I will give him those.

25 If the Court wants me to order makesheets on
26 everyone, I will do that also.

1 THE COURT: Well, I understand that you will
2 voluntarily disclose this information to Mr. Fitzgerald
3 to the extent that you have it.

4 MR. BUGLIOSI: Yes, your Honor.

5 THE COURT: All right, let's set a date.

6 MR. BUGLIOSI: That will be done when we leave the
7 court right now.

8 THE COURT: Fine. In any event no later than May
9 25th, that is Monday. Anything further, Mr. Fitzgerald?

10 MR. FITZGERALD: Not at this time.

11 THE COURT: Very well. The reporter will prepare
12 a transcript of today's proceedings with copies to all
13 counsel and a copy to the Court.

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1 LOS ANGELES, CALIFORNIA, WEDNESDAY, MAY 27th, 1970

2 10:21 A.M.

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4 THE COURT: People vs. Susan Atkins.

5 MR. KANAREK: Ready, your Honor.

6 MR. STOVITZ: Ready, your Honor.

7 MR. KANAREK: Your Honor, may I address the Court?

8 THE COURT: Yes, Mr. Kanarek.

9 MR. KANAREK: I understand, your Honor, that your
10 Honor was going to take up last the purported substitution
11 of myself for Mr. Hughes.

12 I believe, your Honor, that the substitution
13 is effective upon the filing of the substitution. I would
14 refer your Honor to the -- if there is any question about
15 it -- to the Code of Civil Procedure, which provides that
16 when there is a substitution by mutual consent, that the
17 substitution takes place upon the filing of the substitution
18 with the Clerk, which has occurred, so I believe that at
19 this time I am attorney of record in these proceedings.

20 THE COURT: Well, that is not true, sir, but we will
21 take the matter up later.

22 I am familiar with Section 284 of the Code of
23 Civil Procedure. We will take the matter up later, Mr.
24 Kanarek.

25 Mr. Shinn, I have your notice of a pretrial
26 motion to suppress admissions and confessions of Susan

1 Atkins.

2 MR. SMITH: Yes, your Honor.

3 THE COURT: I have read and considered that Motion
4 as well as the People's Points and Authorities in
5 opposition, and I believe that the motion is premature at
6 this time.

7 MR. SMITH: Your Honor, this motion is based upon
8 the motion to suppress, your Honor. It is not by statute.

9 I believe the Court is well aware of the fact
10 that on these pretrial motions that the defendant and the
11 People have an advantage in the event that at the pretrial
12 motion hearing the motion is granted, the People have an
13 opportunity to file another information or indictment.

14 The advantage to the defendant is that the
15 defendant does not have to go through the expense of a
16 trial, if that is the only evidence the People have, your
17 Honor, and the cases have held, your Honor, that it is
18 discretionary upon the Court, upon the Judge, to grant
19 this pretrial motion hearing, and I have subpoenaed about
20 seven or eight witnesses. I am prepared to go ahead.

21 I believe in the interest of justice, your
22 Honor, to save time, that we should go ahead with this
23 pretrial motion to suppress.

24 Now, once we start trial, your Honor, and
25 have this motion, then jeopardy will attach and I believe,
26 your Honor, that motions of this type, to expedite cases,

1 should be heard before trial.

2 MR. STOVITZ: Your Honor, I agree with counsel,
3 it is discretionary with the Court.

4 However, the Court in the sound exercise of
5 its discretion should know that in the event we do go to
6 trial in this matter, the cases of People vs. Aranda and
7 People vs. Bruton would bar the People from using Susan
8 Atkins' testimony before the Grand Jury in the People's
9 case, either in chief or by way of cross-examination or
10 by way of impeachment, or in rebuttal, and I can make
11 the representation to the Court that at this time that
12 because of the cases of Aranda and Bruton we will not use
13 Susan Atkins' testimony before the Grand Jury in any way,
14 directly or indirectly.

15 MR. SMITH: May I be heard further, your Honor?

16 THE COURT: Yes.

17 MR. SMITH: We had a 995 motion, your Honor, to
18 set aside the indictment and we had this hearing in
19 Department 106 in front of Judge Lucas. At that time
20 I requested a hearing as to whether or not Susan Atkins'
21 testimony was admissible or inadmissible, and Judge Lucas
22 at that time said to me that, "Counsel, you have a right
23 to go into that on motion to suppress," and I believe
24 the District Attorney was present at that time when the
25 Judge made that announcement.

26 Now, our whole point here is trying to set

1 aside the Indictment on the grounds that Susan Atkins'
2 testimony was not voluntary, your Honor.

3 Now, if we cannot have it at this hearing,
4 what hearing can we have it in?

5 We tried it at the 995. I believe this is
6 the only means for attacking the Indictment. We have no
7 other recourse except to file a habeas corpus probably.
8 That will consume more time. The trial date is getting
9 closer and closer.

10 So I believe the Court in its discretion should
11 grant us a hearing.

12 MR. MANASSIS: Mr. Manson joins in the motion, your
13 Honor.

14 MR. MANSON: Your Honor, may I be heard?

15 THE COURT: Not at this time, sir.

16 The Court will --

17 MR. MANAREK: May I --

18 THE COURT: Mr. Manarek, this is not your motion,
19 so there is no need to join in it.

20 The Court will exercise its discretion, and
21 the pretrial motion to suppress the confessions and
22 admissions of Susan Atkins will go off calendar.

23 If and when the People offer to introduce such
24 matters it will be time enough to have our hearing out of
25 the presence of the jury in accordance with the provisions
26 of Sections 402 and 405 of the Evidence Code to determine

1 the necessary preliminary facts at that time.

2 MR. STOVITZ: Your Honor, I understand there are
3 various people who have been subpoenaed pursuant to that
4 motion to suppress.

5 Speaking as amicus curiae, and a friend of
6 the witnesses who have been subpoenaed, may the witnesses
7 be excused?

8 MR. SHINN: May I be heard, your Honor?

9 THE COURT: I think that is a matter for Mr. Shinn to
10 take care of. He was the one that subpoenaed them.

11 MR. SHINN: Your Honor, would the Court reconsider
12 its ruling, your Honor. We have prepared essentially for
13 this hearing, and we have subpoenaed witnesses, and I
14 believe the hearing won't take more than about, say, three
15 hours.

16 THE COURT: Well, I am sure your preparation will
17 not be wasted, Mr. Shinn, if in fact it becomes necessary
18 to have such a hearing. It is not necessary at this time
19 and there will not be a hearing at this time.

20 MR. SHINN: Thank you.

21 MR. HANAREK: Your Honor, if I may on behalf of Mr.
22 Hanton, your Honor, I do make a motion to associate Mr.
23 Hanson in as co-counsel, citing the Sixth Amendment to
24 the United States Constitution.

25 THE COURT: I will take up your matter a little
26 later, Mr. Hanarek. I have some other matters first.

1 MR. HANSEN: Certainly, your Honor.

2 THE COURT: People vs. Leslie Van Houten.

3 MR. REINER: Yes, your Honor, I'm Reiner appearing
4 for Miss Van Houten.

5 THE COURT: I understand you propose to make some
6 pretrial motions, Mr. Reiner?

7 MR. REINER: Yes, your Honor, say that go off
8 calendar, and notice of motion to the matters I indicated
9 to your clerk be set for next week, the discovery and 995
10 motion?

11 THE COURT: The 995 motion should be noticed in
12 Department 106 for June 6th and the motion for discovery
13 should be noticed in this Department accompanied by
14 Points and Authorities and the description of the sought
15 to be discovered articles.

16 People vs. Kronwinkel.

17 MR. FITZGERALD: Miss Kronwinkel is on this Court's
18 calendar today in order that she might join through her
19 counsel in the motions propounded by Mr. Shinn.

20 THE COURT: I indicated those motions are off
21 calendar.

22 Did I also understand, Mr. Fitzgerald, that
23 you wanted to join in Mr. Reiner's motions?

24 MR. FITZGERALD: No, that was not correct.

25 THE COURT: All right.

26 People vs. Charles Manson.

1 MR. KANAREK: Yes, your honor.

2 THE COURT: In that matter the defendant has
3 attempted to file in propria persona a petition for a
4 writ of habeas corpus at a time when he was represented
5 by counsel.

6 Is Mr. Hughes present?

7 MR. HUGHES: Yes, your honor, present.

8 THE COURT: Since the defendant was represented by
9 counsel at the time this motion was attempted to be filed,
10 it will be stricken without prejudice to Mr. Hughes to
11 file such a petition if he deems it necessary or desirable,
12 and with respect to Mr. Manson's objection to the vacation
13 of his status in propria persona, I will hear Mr. Manson
14 on that motion if he wishes to make such a motion.

15 MR. HUGHES: Your honor, could Mr. Manson speak
16 on behalf of himself in regard to this motion?

17 THE COURT: That is what I am saying.

18 DEFENDANT MANSON: Your honor, it has been my
19 position to represent myself ever since I first come to
20 your courtroom.

21 THE COURT: I am aware of that, Mr. Manson.

22 DEFENDANT MANSON: And I can see what is going on,
23 but I don't know how to get it to you.

24 I can see that we have started a ball game and,
25 like he says, you are the umpire, but you are pitching from
26 third base with evidence that you got in front of a Grand

1 Jury that belongs to you, that isn't true.

2 THE COURT: Perhaps you misunderstood me, Mr.
3 Manson. With respect to the ground of your petition, which
4 is based upon Miss Atkins' testimony before the Grand
5 Jury, that portion of the petition is stricken.

6 In fact, the entire petition is stricken.

7 DEFENDANT MANSON: Well, then, that is the indictment.

8 THE COURT: Just a moment, sir. I said I would let
9 you make an oral motion at this time or state your
10 objections with respect to the vacation of your status in
11 propria persona.

12 Now, do you wish to direct yourself to that?

13 DEFENDANT MANSON: Yes, I would like to be back as
14 my lawyer with the assistance of counsel.

15 THE COURT: All right --

16 DEFENDANT MANSON: With some help to get to the
17 legal confusion.

18 THE COURT: Do you wish to argue this motion?

19 DEFENDANT MANSON: In which direction?

20 THE COURT: Whatever direction you like.

21 DEFENDANT MANSON: I think it is written in the
22 Constitution that allows me entrance in the courtroom; it
23 is my justice; it is my life; it is my voice, and I feel
24 I have a right to defend myself.

25 I don't think there is anyone that understands
26 the position that I am in. I don't think anyone under-

1 stands the reality of a generation gap, or free-love society,
2 or a different breed of human being that is coming up to
3 look at you, and you've got to look at him. He is real,
4 and he has blood, the same blood that flows through your
5 veins.

6 I can prove that I did not break your law,
7 I haven't broken your law, and I can prove that if you
8 will give me a chance to prove it, and the authority and
9 wisdom to listen to me while I prove it.

10 I can go on and on and on, you know.

11 My qualifications are I am a man with a voice
12 and an awareness to see everybody in this courtroom for
13 what they are.

14 THE COURT: Go ahead, Mr. Manson.

15 DEFENDANT MANSON: We all judge ourselves, don't
16 we? You judge yourself. I judge me. In spite of what
17 dirt you may dig up, you see, you have started, me, I,
18 upon one girl's testimony, a frightened girl's testimony.

19 THE COURT: Well, address yourself to the question
20 of your status in propria persona. That is the only thing
21 before the Court at the moment.

22 DEFENDANT MANSON: Well, the whole thing is in front
23 of the Court at this moment, because this moment is all
24 there is, this moment, this is justice, this is fact, this
25 is truth, it's sure, and I can bring it forth, if you will
26 let me act as my own attorney.

THE COURT: Have you completed your argument?

1 DEFENDANT MANSON: Argument -- actually those were
2 facts, not argument.

3 THE COURT: Are you through?

4 DEFENDANT MANSON: Through? Are you going to give
5 me a judgment now? Am I in pro per?

6 THE COURT: I am going to rule on your motion when
7 you have completed your argument.

8 (Defendant sits down.)

9 THE COURT: I take it from the fact that you are
10 sitting down that you have completed your argument, is that
11 right?

12 DEFENDANT MANSON: Yes.

13 MR. KANAREK: May I be heard, your Honor?

14 THE COURT: Not at this time, Mr. Kanarek.

15 MR. KANAREK: Then, your Honor, may I make this
16 record.

17 It is my position, your Honor, that I am
18 attorney of record at this point in the proceedings in
19 conformance with CCP 284. It is my position on behalf of
20 Mr. Manson that he has a right to represent himself in
21 the way that is most effective for him. The law does not
22 contemplate that an in pro per be a lawyer, obviously,
23 otherwise there would never be an in pro per if he had to
24 come up to the qualifications of lawyer.

25 Mr. Joseph Hall, who is an ex-president of the
26 State Bar of California, after a long conference with Mr.

1 Manson decided -- he said, "I did not recommend that
2 Mr. Manson be his own lawyer, but he has intelligence. He has
3 the ability and if this is the way he sees fit to proceed,
4 he should be allowed to proceed that way."

5 And in this particular case he was his own
6 lawyer.

7 Judge Keene allowed it, and without a hearing,
8 just sua sponte he was removed, and the essence of this
9 petition for habeas corpus involves that.

10 Now, another matter --

11 THE COURT: Just a moment, Mr. Kanarek, I don't
12 want to hear from you at this time, sir, sit down,

13 MR. KANAREK: Very well, your honor.

14 THE COURT: Mr. Manson, on your motion to represent
15 yourself in propria persona, I have reviewed all of the
16 files, and I read all of the transcripts in the various
17 proceedings in which you participated. I have had a chance
18 to observe you this morning and to listen to your argument.

19 I find that you are incompetent to knowingly
20 and intelligently waive your constitutional right to counsel,
21 and I find that you are hopelessly inadequate to, in the
22 sense that you lack the knowledge, the skill, the judgment
23 and the experience, to effectively represent yourself in
24 a case of this complexity.

25 Accordingly I deny your motion.

26 Now, with respect to Mr. Kanarek's --

1 DEFENDANT MANSON: Now I have to accept this?

2 THE COURT: Yes, sir, you have to accept it.

3 DEFENDANT MANSON: And the authority that has been
4 passed to you, where does it come from?

5 THE COURT: We have disposed of that matter now,
6 Mr. Hanson.

7 DEFENDANT MANSON: You no longer have that authority.

8 THE COURT: With respect to the substitution of
9 attorneys which purports to substitute Mr. Kanarek in
10 place of Mr. Hughes, I have some questions before I permit
11 the substitution which I want to ask Mr. Kanarek.

12 I think, Mr. Kanarek, for the purpose of
13 these questions you should be sworn and take the stand.

14 MR. KANAREK: Well, your honor, I must object on
15 the basis of the Sixth Amendment. This is a most cavalier
16 approach to a substitution of attorneys.

17 It is a violation of Mr. Hanson's right,
18 probably a violation of the confidential communication
19 that he is entitled to.

20 DEFENDANT MANSON: what rights? Sit down. I hav
21 no rights here. Sit down. Are you my attorney? sit down.

22 (Mr. Kanarek sits down.)

23 THE COURT: Do you care to be sworn at this time,
24 Mr. Kanarek?

25 MR. KANAREK: I don't believe, your honor, that the
26 law contemplates a lawyer being sworn in order to become

1 an attorney. It is done, and as a matter of fact, CCP 284
2 contemplates that it be done in pro forma, the mere filing.

3 THE COURT: Yes, I am familiar with the Section.

4 MR. KANAREK: If I may quote from it, your honor:

5 "The attorney in an action, a special
6 proceeding, may change at any time before or after
7 judgment or final determination as follows:

8 "One, upon the consent of both client and
9 attorney filed with the clerk or entered upon the
10 minutes."

11 So I am now attorney of record most respectfully,
12 your Honor, I must decline to be sworn because our
13 law does not contemplate it, because Mr. Stovitz wants to
14 run for Judge of the Superior Court, because he wants to
15 become District Attorney, Mr. Stovitz has maligned me in
16 the Press, your Honor, he has personally maligned me for his
17 own personal ambitions, because of that.

18 THE COURT: What is that?

19 MR. KANAREK: Mr. Stovitz.

20 MR. STOVITZ: I will take an oath of office, your
21 Honor -- I will be sworn. I have not maligned Mr. Kanarek.
22 I do not want to run for District Attorney, and if I am
23 selected to the Superior Court, that is something in the
24 far, far future. I am not going to run for office. I will
25 take an oath on that, Mr. Kanarek, will you?

26 MR. KANAREK: It is a Fraudian slip when he said

1 "I'll take an oath of office," if ever I saw one.

2 The fact of the matter is I ask your Honor
3 to subpoena the news media records the last time we have
4 been in court, in Judge Dell's court, and have read back
5 into the record Mr. Stovitz's comments concerning me.

6 THE COURT: I am not concerned with Mr. Stovitz's
7 comments. Do you wish to be sworn?

8 MR. KANARUK: No, your Honor, I most respectfully
9 decline. This is a most cavalier proceeding. It invades
10 the right to counsel. I have never heard of it in any
11 proceeding of this type. I will ask, if I may, for an
12 adjournment of these proceedings so that I can research
13 and perhaps present to the Court some Points and Authorities
14 as to why this should not take place.

15 What you might call my "gut" reaction to it
16 is that it shouldn't take place under any circumstances.

17 Because I will refer the Court, if I may,
18 to Smith vs. Superior Court wherein the California Supreme
19 Court indicates there must be an independence of the Bar,
20 and the independence of the Bar is in jeopardy when one
21 must swear before the Court under oath as to facts before
22 he can become an attorney of record in a case.

23 And so therefore on behalf of Mr. Hanson's
24 right to effective counsel, which is guaranteed to him
25 under the Sixth Amendment, by way of the due process
26 clause of the Fourteenth Amendment, as well as by way of

1 California law, the California Constitution, I must with
2 greatest respect to the Court decline your Honor's
3 invitation, because it is my position, most respectfully,
4 that I am attorney of record.

5 CCP 284 could not make it any clearer, and
6 there is a reason for it.

7 A lawyer should not be beholden to the Court.
8 A lawyer, we have an adversary system of justice, a lawyer
9 on one side should not be beholden to the lawyers on the
10 other side, and so most respectfully I say I believe I am
11 attorney of record in this case, and I once again would
12 ask your Honor to associate Mr. Hanson in as my co-counsel.

13 MR. STOVITZ: Before your Honor rules on the motion
14 to substitute in, I have asked certain deputies in our
15 office to present to me cases in which Mr. Kanarek was
16 attorney of record, and I just want to point out that if
17 the trial is to proceed on the date scheduled, June 15th,
18 Mr. Kanarek has already scheduled himself for the entire
19 month of June for various other trials that have been
20 continued two or three times in the past, and I don't
21 believe Mr. Kanarek would be ready for June 15th if this
22 substitution is allowed.

23 THE COURT: The reason for my suggesting that you be
24 sworn, Mr. Kanarek, is not an arbitrary one, but it has
25 come to my attention -- you can sit down, sir, I will give
26 you a chance to speak -- it has come to my attention that

1 there have been some highly questionable activities on
2 behalf of some of the attorneys who have come into this
3 case at one time or another.

4 It has come to my attention that there may be
5 very well one or more conflicts of interest between the
6 defendants and one or more counsel.

7 It has also come to my attention that, for
8 example, last week, I believe, you and Mr. Shinn made a
9 motion in another case to be substituted as attorneys of
10 record for Miss Atkins who is a defendant in this case,
11 and now you are seeking to become attorney of record for
12 Mr. Manson in this case.

13 Now, there may be other possible conflicts of
14 which I am unaware, and this is the reason -- just sit
15 down, Mr. Shinn, you will have an opportunity to speak --
16 there may be other possible conflicts of interest of
17 which I am now unaware that I want to explore for the
18 benefit of the defendants in this case, not for any personal
19 reason of my own.

20 It is the Court's duty to make sure that the
21 defendants are adequately and effectively represented, and
22 that there is no conflict of which they are unaware before
23 they start this trial.

24 I am not convinced that that is true at the
25 moment.

26 MR. SHINN: May I be heard, your honor?

1 THE COURT: Yes.

2 MR. SHINN: Your Honor, just to get the record
3 straight, your Honor, Mr. Kanarek and I were not sub-
4 stituting in for Susan Atkins, your Honor. We were
5 substituting in for Mr. Hanson.

6 THE COURT: Didn't you also represent another
7 defendant in that case?

8 MR. SHINN: Yes, Susan Atkins, your Honor.

9 THE COURT: You would have had a dual representation
10 in that case.

11 MR. KANAREK: Yes, your Honor, but I believe the
12 question of conflict should come from the defendants or
13 defense counsel, your Honor, and I believe in that hearing
14 Mr. Stovitz stood by as a citizen, your Honor, not as an
15 attorney, as a citizen and he stated there may be a
16 conflict.

17 Now, I don't see how Mr. Stovitz arrived at
18 that position, your Honor, because he does not know what
19 the defense is.

20 THE COURT: I don't know anything about what Mr.
21 Stovitz said. I am only doing this on my own, based on
22 what I know about the case -- don't interrupt me, Mr.
23 Shinn.

24 MR. SHINN: I am sorry, your Honor.

25 THE COURT: Now, I am perfectly willing, Mr. Kanarek,
26 to give you a few days to do whatever research you like,

1 but I propose to put some questions to you about the source
2 of your compensation in this case if you come into it,
3 any interviews you may have had with any of the other
4 defendants other than Mr. Hanson regarding the facts of this
5 case, and I would also want to know whether you would make
6 a motion for continuance of the trial, as it is now set
7 for June 15th, in the event you were permitted to substi-
8 tute into this case.

9 Do you want to put this matter over for a
10 few days?

11 MR. HANSEN: Yes, your Honor, I will be glad to
12 research the matter.

13 But in order -- I am sure your Honor well
14 realizes that both our Appellate Court in California as
15 well as the United States Supreme Court demand constitu-
16 tional issues be raised at the earliest possible time so,
17 therefore, there will be no question about it, I want the
18 record to reveal on behalf of Mr. Hanson that it is my
19 position that your Honor's doing this, the procedure that
20 your Honor has outlined, is an invasion of his right to
21 effective counsel, which he is guaranteed by the Sixth
22 Amendment, by way of the due process clause of the
23 Fourteenth Amendment, as well as the protections he is
24 guaranteed by the California Constitution.

25 And furthermore, your Honor, I would ask if
26 I may most respectfully, and I am not doing this facetiously,

1 and I am not doing it without respect for the Court, that
2 your Honor state, and I am not asking that your Honor be
3 sworn, I ask that your Honor state his sources of informa-
4 tion.

5 Your Honor, in connection with the Minneman
6 case, when matters are transmitted by word of mouth, and
7 that is the beauty of the hearsay law rule, things can
8 get twisted up.

9 Your Honor has been misinformed on at least
10 one vital point, so I ask your Honor --

11 THE COURT: It has been straightened out now, hasn't
12 it?

13 MR. RANDALL: But what I am saying is, what is in
14 your Honor's mind may be by way of telephone calls,
15 speaking with other judges, speaking with perhaps the
16 attorneys for the prosecution, and we would ask your Honor
17 to set forth, as I say, just as an abundance of caution
18 as to what factual information your Honor is alluding to,
19 and I am doing this without by any means indicating or
20 authenticating your Honor's procedure, or agreeing with it,
21 so, in fact, if I may couch it in a formal phrase, I
22 would move the Court to set forth the alleged factual basis
23 that your Honor is indicating, because, as I view it, a
24 conflict is determined by the defendant or defendant and
25 their attorneys.

26 For instance, in Department 100 many times

1 the Presiding Judge will assign the Public Defender to
2 four or five defendants and later on, if the Public
3 Defender's Office decides there is a conflict, the Public
4 Defender informs the Court.

5 The Court does not interfere.

6 Now, in this case, for some reason, this is
7 just another case except for the artificial publicity that
8 has been engendered by the District Attorney's office,
9 these people getting on TV and on the radio, and giving
10 interviews, discussing various matters.

11 Mr. Stovitz has been on that television many,
12 many times. He has had like a Press conference, already
13 to go after he has been in court.

14 And so, what I am saying, your Honor, is this
15 in effect, if I may verbalize it, and I do state it on
16 behalf of Mr. Manson, it is a violation of equal protection
17 of the laws under the Fourteenth Amendment in that Mr.
18 Manson has been singled out, singled out for this very
19 unusual procedure to determine whether there is a conflict
20 or not, purportedly.

21 So I will, however, research the point, because
22 your Honor is a Superior Court Judge duly constituted --

23 THE COURT: All right, we will put the matter down
24 for a hearing on Monday, June 1st, at 9:00 a.m. in this
25 Department.

26 MR. STOVITZ: Your Honor, may I make the Court aware

1 of certain cases. This is not to be considered as the
2 total number of cases that Mr. Kanarek has in trials, but
3 just from a few people who have called in and volunteered.

4 There is a Robert Jacobson case, charge of
5 assault with intent to commit either rape or robbery in
6 Van Nuys which has been continued three times and now
7 presently is set for trial on June 11th.

8 MR. KANAREK: Your Honor, may I object to this
9 procedure.

10 THE COURT: Wait until he finishes, sir.

11 MR. STOVITA: There is a case in Department 120,
12 Charles Taite, Case No. A201301, which I received from
13 Joe Orr, a message that this case has been continued
14 several times and it is now set for trial June 22nd.

15 Mr. Kanarek is attorney of record.

16 Larry R. Murphy, case No. A412078, which I
17 just received a message from a Pomona court -- no, I don't
18 know what court that is in. It is set for trial on the
19 25th of May, 1970.

20 It's previously been continued.

21 I received a call from the Pomona office today,
22 Dennis Alphonso Masters case, continued to June 23rd, 1970,
23 which Mr. Kanarek is attorney of record.

24 The Murphy case was continued from the 25th of
25 May to June 10th, 1970, in Department 114.

26 This is the second continuance in that case.

1 Charles Gary Waldo, case No. A250336, which
2 the last continuance was filed and the case is presently
3 set for trial in -- let's see -- I think it is Department
4 71 for June 30th, 1970.

5 Those are just a few of the cases that people
6 have volunteered to tell me that they are engaged in with
7 Mr. Kanarek.

8 There is another one here I notice, a Diaz
9 and Salandra, case No. A254114, four continuances have
10 been granted so far. Mr. Fuchs of our office reports the
11 trial date is July 15, 1970.

12 In each of these cases Mr. Kanarek is the
13 attorney of record and has given assurance to the Court
14 he would be ready for trial on those dates.

15 MR. KANAREK: Your Honor, I would like to inform
16 the Court at this time that on behalf of Mr. Hanson
17 we do intend to make a motion under 1538.5 of the Penal
18 Code. I would like to inform that to Mr. Stovitz of the
19 District Attorney's Office.

20 THE COURT: Notice it in the usual course, sir.

21 Anything further?

22 MR. KANAREK: Not at this time, your Honor, thank
23 you.

24 THE COURT: Mr. Fitzgerald?

25 MR. FITZGERALD: May I be heard?

26 THE COURT: Yes.

1 MR. FITZGERALD: On May 22nd of this year I noticed
2 and argued a motion.

3 THE COURT: When I said "notice in due course," I
4 meant assuming that you are substituted in as attorney
5 of record for Mr. Hanson in this case.

6 Whoever is the attorney, of course, may make
7 such a motion as a matter of right.

8 MR. KANAREK: Just by way of reiteration and
9 abundance of caution, it is our position, your Honor, that
10 CCP 484 -- we pride ourselves of being a government of laws,
11 and not of men, the Code Section makes it very clear that
12 I am now attorney of record for Mr. Hanson.

13 I don't believe there is anything further that
14 the Court can do by way of any purported motion because
15 there is no motion.

16 In fact, the form itself contemplates that it
17 be done by filing it when there is consent, and this is
18 to maintain the independence of the bar; it is to maintain
19 the integrity of counsel.

20 THE COURT: You can argue that further on Monday,
21 Mr. Kanarek.

22 Yes, Mr. Fitzgerald.

23 MR. FITZGERALD: On May 22nd I argued a motion for
24 further discovery before this Court, and one of the matters
25 I argued to the Court was the right of counsel to certain
26 information in the possession of the District Attorney.

1 I have subsequently had a conversation, as
2 a matter of fact this morning, with Mr. Bugliosi of the
3 District Attorney's Office and I would renew that motion
4 in respect that the prosecution make available to counsel
5 for the purposes of inspection all notes or memoranda,
6 handwritten or typed by police officers or other investigat-
7 ing officers of their conversations with persons pertaining
8 to the investigation into this matter, and be allowed to
9 review any statements, whether written or unwritten, signed
10 or unsigned, pertaining to the investigation concerning
11 persons other than the defendants before the Court.

12 MR. GIOVINE: With respect to that, your honor,
13 counsel serves our office, and now he wants the written
14 and notes of police officers.

15 We will turn over to counsel for his inspection,
16 but not for his copying purposes, investigations that the
17 police launched into, in which they filed written reports with
18 our office, other than those suspects before the Court.

19 And counsel can look at those, he can look
20 at those to his heart's content. He can make notes of
21 those.

22 But as far as the copying processes go, I
23 don't believe it would have any material value to the
24 defense in this case.

25 If he can show any material value, then of
26 course he can come forth to the Court and seek further

1 discovery.

2 As far as the handwritten notes of the police
3 officers, we do not have those.

4 The police officers may have them; they may
5 have destroyed them as they usually do after they have
6 dictated a final report.

7 THE COURT: Have you arranged the date and time with
8 Mr. Fitzgerald for the inspection of these matters?

9 MR. STOVITZ: At his convenience. We are always
10 at our office.

11 THE COURT: All right.

12 MR. FITZGERALD: That is agreeable.

13 MR. KANAROK: Your Honor, if I may, I would like
14 to move the Court to state for the record what occurred in
15 chambers.

16 Mr. Manson has a right to be present and to
17 know everything that goes on in any case involving him.
18 There was a conference in chambers to which I was not
19 invited, which Mr. Shinn, I believe, your honor and Mr.
20 Stovitz and Mr. Pugliesi were present.

21 We do move that be put on the record as to
22 what was stated and what happened in those proceedings.

23 THE COURT: It pertained to a motion made by Mr.
24 Shinn, Mr. Kanarok, and did not concern either you or Mr.
25 Manson.

26 Anything further, gentleman, before we

1 adjourn?

2 MR. SHINN: Yes, your Honor, may we have a transcript
3 of today's hearing, your Honor.

4 THE COURT: A transcript?

5 MR. SHINN: Yes.

6 THE COURT: Yes, the Court will order an original
7 and copies of the transcript for each of the defendants'
8 counsel.

9 MR. SHINN: Thank you, your Honor.

10 MR. STOVITZ: May it be clear, your Honor, that all
11 defendants and attorneys present be requested to come back
12 on June 1st? I was anticipating --

13 THE COURT: All defendants will be ordered to return
14 with their counsel on June 1st at 9:00 a.m. in this
15 department.

16 MR. FITZGERALD: I have a case set in Department 116
17 of the Superior Court. May I get some indication when on
18 the 9:00 o'clock calendar your Honor is likely to call that
19 matter so I may make arrangements.

20 THE COURT: I would be inclined to take it up as
21 soon as counsel are ready.

22 MR. FITZGERALD: Thank you, your Honor.

23 THE COURT: All right, we will adjourn at this time.
24

25 (Whereupon, an adjournment was taken to
26 reconvene Monday, June 1, 1970, at 9:00 a.m.)

1 LOS ANGELES, CALIFORNIA, MONDAY, JUNE 1, 1970, 10:04 A.M.

2 ---P---

3
4 THE COURT: People versus Charles Manson.

5 MR. KANAREK: Ready, your Honor.

6 I have filed Points and Authorities.

7 THE COURT: Yes, I have read your Points and
8 Authorities, Mr. Kanarek.

9 Before I hear from you I would want to ask
10 Mr. Manson:

11 Mr. Manson, last week a Substitution of
12 Attorneys was attempted to be filed by Mr. Kanarek and
13 Mr. Hughes in this case. Is it still your desire to have
14 Mr. Kanarek substituted in as your attorney of record?

15 DEFENDANT MANSON: It is my desire to be my own lawyer
16 with the assistance of counsel.

17 THE COURT: I understand that. We disposed of that
18 question, sir.

19 Now I want to know whether or not you want
20 Mr. Kanarek substituted as your attorney of record.

21 DEFENDANT MANSON: Your Honor, I disposed of that
22 question.

23 THE COURT: I am not going to have him substituted in,
24 if you do not indicate to the Court that that is your
25 desire.

26 MR. KANAREK: Yes I, your Honor --

1 THE COURT: I don't want to hear from you at this
2 point, Mr. Kanarek. I want Mr. Manson to answer my
3 question.

4 MR. MANSON: Your Honor, I have been forced into
5 every situation that is humanly possible within the power
6 of this Court to be silent, to be kept out of the news
7 media. I have not been able to say anything in any direc-
8 tion in my own defense.

9 THE COURT: Mr. Manson, what I want you to do now
10 is --

11 DEFENDANT MANSON: May I complete that thought?

12 THE COURT: -- is to tell me whether you want
13 Mr. Hughes to remain as your attorney or you want
14 Mr. Kanarek substituted in as your attorney.

15 Would you answer that question?

16 DEFENDANT MANSON: I would like to have Mr. Kanarek
17 help me act as my own attorney.

18 THE COURT: We have disposed of that question, and
19 you are not going to act as your own attorney.

20 Now, do you want Mr. Hughes or do you want
21 Mr. Kanarek?

22 DEFENDANT MANSON: If I am forced into a choice I
23 will take Mr. Kanarek.

24 THE COURT: That is your desire?

25 DEFENDANT MANSON: That is my desire.

26 THE COURT: All right, you may sit down, sir.

MA 30,70

jury selection
begin 2nd
BB trial

Dutton Katz
prosecutor

1 Now, Mr. Kanarsk, this case is presently set
2 for trial on June 15th. Will you be ready for trial on
3 that date?

4 MR. KANARSK: I can represent to the Court that --
5 may I put it in this context, your Honor:

6 I will be ready for trial. I will be ready for
7 trial, and I am willing to expedite it.

8 I have a motion here that Linda Kasabian be
9 examined, a psychiatric examination be made of her. I
10 believe --

11 THE COURT: I am not interest in that at the
12 moment --

13 MR. KANARSK: There may be no need for a trial, your
14 Honor. I think the District Attorney may be well advised --

15 THE COURT: Mr. Kanarsk-, you understand the language.
16 Now, would you answer the question: Will you be ready for
17 trial on June 15th?

18 MR. KANARSK: I would be ready for trial if certain --
19 I think under People vs. Crovadi, your Honor, which we have
20 set forth to the Court, that I will be ready for trial if
21 certain ingredients which are necessary are available.

22 I will be ready for trial, let's put it that way,
23 your Honor, I certainly will.

24 Mr. Manson wishes to proceed with this trial
25 as fast as possible. Mr. Manson does not wan issues on
26 appeal. Mr. Manson wants to walk out right now.

1 THE COURT: All right, I'm talking to you now at the
2 moment, Mr. Mahan. I understand from what you said you
3 are representing to the Court that you will be ready for
4 trial on June 10th.

5 MR. MAHAN: Yes, I have a motion here in connection
6 with Simon Kasabian. One has been made at least 300 times.

7 THE COURT: What motion that have to do with this?

8 MR. MAHAN: They have no case, your honor. In
9 other words, there may be no need for a trial, if we can
10 get our findings today. I will cooperate. I will assist
11 the Court in every way possible.

12 I have here a verified declaration as to the
13 fact, the only prosecution witness that they really have
14 purportedly is Simon Kasabian. They haven't even granted
15 him the immunity yet.

16 I have this motion, and if the can get examined
17 I think this case can be dismissed forthwith.

18 THE COURT: Are you representing to the Court that
19 you will be ready for trial on June 10th, without condi-
20 tions? Now, I don't want you to leave.

21 MR. MAHAN: Well, your honor, what I'm saying is --

22 THE COURT: Give me a straight answer, Mr. Mahan.

23 MR. MAHAN: As a lawyer, your honor, I'm giving your
24 honor the straightest answer --

25 THE COURT: What is the answer? I'm waiting for it.

26 MR. MAHAN: The answer is it is not only up to me.

1 If it were up to me --

2 THE COURT: I am asking you now are you going to be
3 ready?

4 MR. KENNEDY: Yes, I will be ready to proceed.

5 THE COURT: All right, for trial --

6 MR. KENNEDY: I will be ready to proceed for trial.
7 I have got this motion here --

8 THE COURT: -- on June 15th; is that right?

9 MR. KENNEDY: Well, your honor, what I am saying is
10 this:

11 I think your honor is asking me a question -- we
12 have here Mr. Kerner's motion on the 993. I don't know.
13 Are the People going to grant Linan Kasabian immunity or
14 not? So far it has not taken place.

15 THE COURT: You have not answered my question yet,
16 Mr. Kerner, and we are not going further until you do.

17 MR. KENNEDY: Yes, your honor, I think it is clear
18 that we are ready for trial.

19 But, your honor, I am not going to make any
20 representations to a court wherein the conditions --

21 THE COURT: You are not going to be substituted in
22 unless you do make such representations, Mr. Kerner.

23 MR. KENNEDY: Let me say this:

24 Under People vs. Crovedi, Mr. Kerner is entitled
25 to prepare his case. Now, I am sure your honor is familiar
26 with the Crovedi case, and I say that it is a denial of a

1 fair trial to Mr. Hanson to pinpoint this question to me.
2 Why not ask Mr. Reiner and Mr. Fitzgerald.

3 THE COURT: Because there is no issue involving those
4 gentlemen. They know what the trial date is as I assume
5 they will be ready.

6 I am now addressing the question to you.

7 MR. KAMAREN: I will be -- let's put it this way,
8 your Honor -- I will be ready for trial.

9 I have to inform the Court about this matter
10 concerning Linda Kasabian. I make a motion that the People
11 make an election, either they grant Linda Kasabian the
12 purported immunity they have spoken of, or else not.

13 THE COURT: Let's not get into that.

14 Now, just a moment, Sir. I take it from what
15 you have told me, and correct me if I am wrong, that you
16 will be ready for trial on June 13th.

17 You will be given an opportunity to file any
18 pretrial motions you wish to.

19 MR. KAMAREN: Certainly.

20 THE COURT: And as a condition to any such substitu-
21 tion, those motions must be noticed and heard on or before
22 June 10th.

23 MR. KAMAREN: Well, if the People will waive the 10-
24 day notice.

25 MR. PROVETZ: We will so waive, your Honor.

26 MR. KAMAREN: no problem, your honor.

1 THE COURT: You are talking now about the 1538.5
2 motion.

3 MR. KANAREK: Because today is the first --

4 THE COURT: Are you referring to the 1538.5 motion?
5 That is the only one that requires 10 days' notice.

6 MR. KANAREK: Very well, your Honor, I was thinking
7 they were going to say that 10 days was required in all
8 motions. But if it is agreeable to the Court and counsel,
9 certainly I will be more than glad to do all of that prior
10 to that time.

11 I have here, and I am now serving upon --

12 MR. SIGVITZ: Before your Honor acts on the substitu-
13 tion, we have certain information we would like to present
14 to the Court on behalf of Mr. Kanarek's representations to
15 other courts in this Los Angeles Superior Court Judicial
16 District as to the fact he would be ready for trial in
17 other matters, your Honor.

18 THE COURT: I am only concerned with Mr. Kanarek's
19 representations to this Court. I am not concerned with
20 what he told some other judge in some other court. I know
21 what was said here. The record will reflect it,
22 Mr. Kanarek, and I certainly intend to hold you to it.

23 MR. KANAREK: Thank you, your Honor, I understand.

24 May the record reveal that I am serving the
25 District Attorney with a Motion for psychiatric examination
26 of Linda Kasabian --

1 THE COURT: What is not a matter to be taken up at
2 this time. You will be given an opportunity to file your
3 pretrial motions.

4 At this time I want to take care of some
5 other matters.

6 MR. KANAREK: Very well, your Honor.

7 MR. HUGHES: Your Honor, may the record reflect that
8 I have turned over to Mr. Kanarek a copy of the Grand Jury
9 transcript?

10 MR. KANAREK: That is correct, your Honor.

11 THE COURT: Before I formally rule on the substitution,
12 does anyone else wish to be heard?

13 MR. STOVITZ: Yes, your Honor, I believe the record
14 should also reflect that Mr. Kanarek has stated on prior
15 occasions that he has read the Grand Jury transcript before-
16 hand, so the record should not now reflect that this is the
17 first time he has seen the Grand Jury transcript.

18 I would like to call your Honor's attention to
19 the fact that in Department 102 there is this case scheduled
20 for July 15th that has previously been continued four
21 times, in which Mr. Kanarek represented to Department 102
22 that he would be ready for trial on July 15th. That is
23 case no. A-254, 112.

24 In Department 114 there is a case of People vs.
25 Larry Murphy, A-412,078, which had been previously continued
26 twice. Mr. Kanarek represented to the Court that on June

1 10th, 1970, he would be ready for trial in that case.

2 In Department 120 there is the case of Charles
3 Talto, case Number A-251,801, which is now presently set for
4 trial on June 22nd, 1970. The case has been continued on
5 two prior occasions.

6 I believe that the last continuance was
7 necessitated due to the fact that the attorney failed to
8 appear on 4-17-70.

9 Department 74, there is a case of People vs.
10 Waldo, case No. A-250,336, which is now set for trial on
11 June 30th, 1970. This case has been previously continued
12 after demurrers were overruled.

13 In the Pomona area there is a Dennis Masters
14 case; I don't have the number, but it is set for June 23rd,
15 1970.

16 In Van Nuys there is a Robin M. Jacobson case
17 set for trial on June 26, 1970, with a 1538 motion set for
18 July 11, 1970.

19 This case has been previously continued on
20 Mr. Kanarek's representation to the Court that he would be
21 ready on that case as well.

22 THE COURT: Anyone else?

23 MR. KANAREK: Your Honor, I would like to state that
24 over the weekend I contacted people where I am the attorney
25 of record and I have made arrangements, your Honor, in
26 connection with many of the matters that Mr. Stovitz --

1 THE COURT: I assume you have, Mr. Kanarek. I accept
2 your representation to this Court that you will be ready on
3 June 15th, and whatever arrangements you make in your other
4 cases is not any concern of this Court.

5 MR. STOVITZ: Except this one case, Mr. Jacobson on
6 two previous occasions, where Mr. Kanarek did not show up
7 for court proceedings, Mr. Jacobson told the Court he hired
8 Mr. Kanarek; he wants Mr. Kanarek for his attorney, and he
9 is refusing to accept any other attorney other than
10 Mr. Kanarek.

11 MR. KANAREK: That is the case in Van Nuys, charge of
12 assault with intent to commit either rape or robbery,
13 Section 220 of the Penal Code, now set for 6-11-70 on 1538
14 motion, and trial for June 26th.

15 MR. KANAREK: I might state in that regard, your
16 Honor, that Mr. Jacobson, I am informed and believe and I
17 say this, Mr. Stovitz makes representations without having
18 ascertained all the facts.

19 Mr. Jacobson --

20 THE COURT: Mr. Kanarek, I am really not concerned
21 with that case. I am concerned only with the case in this
22 court.

23 MR. KANAREK: Very well, your Honor.

24 THE COURT: Now, with respect to pretrial motions,
25 I indicated to counsel the other day that their 995 motions
26 and their change of venue motions should be noticed in

1 Department 106, and this should be done so that these
2 motions will be heard on or before June 10th.

3 As to any other pretrial motions, and specifi-
4 cally any motions under Penal Code Section 1538.5, or any
5 discovery motions, they should be noticed in this Department
6 for hearing no later than June 10th.

7 And as to any search and seizure or discovery
8 motions, the moving party in each case should file and
9 serve a designation and description of the precise items
10 sought to be suppressed in the case of the search and
11 seizure motions, or the precise items sought to be dis-
12 covered in the cases of discovery motions on or before
13 June 5th, that is next Friday.

14 MR. FITZGERALD: I have a problem in that regard.

15 THE COURT: Yes, Mr. Fitzgerald.

16 MR. FITZGERALD: I asked this Court for an order
17 directing the prosecution to deliver to me a list of all
18 physical items of evidence the prosecution intends to
19 introduce during the course of the trial so we might ascer-
20 tain the source of those physical items of evidence, in
21 order to properly present a motion to suppress such evi-
22 dence.

23 I do intend to file with this Court a motion
24 pursuant to Penal Code Section 1538.5.

25 I also intend to present motions in connection
26 with Penal Code Section 1539, and 1540, in connection with

certain search warrants with this case.

But I will be unable to represent to the court

the items of evidence the prosecution intends to introduce.

THE COURT: Do you wish to respond to that,

Mr. Crowley?

MR. CROWLEY: I think Mr. Dugliotti handled that phase

of the proceedings.

MR. DUGLIOTTI: I think the court has already told

Mr. Fitzgerald that it would not be incumbent upon the

prosecution to enumerate a list of physical items.

Mr. Fitzgerald does have in his possession,

however, the results of every single police search in this

case, every physical item of evidence that the prosecution

has Mr. Fitzgerald has knowledge of at the present time.

THE COURT: Well, I understand from what was said the

other day there have been one or more conferences between

counsel, at which time there have been inspections of various

items of physical evidence, and attempts have been made to

work out some arrangements on the pretrial discovery, is

that right?

MR. STOVITZ: Yes, your honor, in fact Friday

Mr. Reiner was in my office and agreed for listening to

some recordings, which he delayed for his convenience, they

were made available to him.

Prior to that Mr. Hughes was there.

Mr. Fitzgerald has been there several times.

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1 Mr. Shinn, I believe -- it was Mr. Fitzgerald
2 that had the copy service at our office, copying practically
3 every report we have, and those included scientific investi-
4 gator's reports which included the physical evidence in the
5 case.

6 So the source of the physical evidence is
7 easily ascertainable by counsel.

8 THE COURT: Very well. Does any counsel have any
9 question as to the Court's order regarding pretrial motions?
10 They should be noticed for hearing on or before June 10th,
11 and the designation and description of any items sought to
12 be suppressed or discovered should be filed and served no
13 later than June 5th.

14 MR. KANAREK: Your Honor, Mr. Manson has a motion in
15 Federal Court in connection with certain matters, certain
16 events which have taken place.

17 I would like to inform the Court of that.

18 THE COURT: What kind of a motion, when?

19 MR. KANAREK: Well, it was filed -- I believe it is
20 being filed today, your Honor.

21 It is Mr. Manson's personal -- in Federal
22 Court --

23 THE COURT: Mr. Kanarek, I notice that this document
24 that you handed to the Court, which is the motion regarding
25 Miss Kasabian, it is noticed for June 12th.

26 MR. KANAREK: I will change that, your Honor.

1 THE COURT: Will you take that back?

2 MR. KANAREK: Certainly.

3 THE COURT: And put in whatever date you like, but it
4 will have to be no later than June 10th.

5 MR. KANAREK: Certainly, your Honor.

6 MR. STOVITZ: If this motion is intended to be filed,
7 of course the doctor could examine Linda Kasabian if the
8 Court feels a doctor should be appointed for that purpose
9 while we are selecting the jury.

10 There is no need for holding up the jury selec-
11 tion in the case.

12 I take it that June 10th will be the date that
13 we will have a hearing on this matter as to whether or not
14 doctors should be appointed?

15 THE COURT: Whatever date Mr. Kanarek sets for his
16 motion.

17 MR. STOVITZ: June 10th, Wednesday, counsel?

18 THE COURT: I would suggest that all the pretrial
19 matters, if possible, be set on the same date.

20 MR. KANAREK: More than glad to cooperate with the
21 Court in that regard, your Honor.

22 THE COURT: Do you want to make it June 10th, then?
23 That is a week from Wednesday.

24 MR. KANAREK: Certainly, your Honor.

25 THE COURT: All right, then, will you change the date
26 on your motion, Mr. Kanarek, and all counsel now have notice.

1 Have you served copies?

2 MR. KANAREK: I don't know if the District Attorney --
3 I think Mr. Fitzgerald has a copy.

4 I am handing a copy, your Honor, by way of the
5 bailiff to Mr. Stovitz.

6 THE COURT: Very well, then, the Court will accept the
7 substitution of attorneys.

8 Mr. Kanarek is the attorney of record for
9 Mr. Hanson. Mr. Hughes is relieved as attorney of record.

10 For the record, Mr. Kanarek, this is a private
11 arrangement between you and Mr. Hanson, and is not an
12 appointment under 387a of the Penal Code.

13 Is there anything further, gentlemen?

14 MR. STOVITZ: Nothing except that on this motion I
15 have just read the first page. I want your Honor to know
16 that Miss Kasabian's lawyer is Mr. Fleishman. Would your
17 Honor notify Mr. Fleishman to appear or should our office
18 notify Mr. Fleishman to appear?

19 THE COURT: Would you do that, Mr. Stovitz. It is
20 set for June 10th at 9:00 a.m.

21 MR. KANAREK: Your Honor, I have researched the law
22 and I believe that the law provides that when you make a
23 motion to associate co-counsel, that is not deemed substitu-
24 tion. I make a motion that Mr. Hanson be associated as
25 co-counsel in this matter with me.

26 I make the motion and I predicate that upon the

1 Sixth Amendment and the Fourteenth Amendment.

2 He has a right to effective counsel, and I
3 believe that it would be most effective -- I can
4 represent to the Court that Mr. Manson is a man of intellect.
5 He is a man of, I am sure, higher I.Q. than most of us in this
6 room.

7 I make a motion that he be allowed to associate
8 with me as co-counsel.

9 What I am saying is this:

10 He is always before the Court. If there is any
11 untoward activities your Honor has the powers that your
12 Honor has. There is no reason why Mr. Manson cannot
13 actively participate in the defense.

14 Your Honor has this power to see that there is
15 decorum in the courtroom, and in the interest of letting
16 Mr. Manson have as fair a trial as possible, your Honor, it
17 is his personal wish to have this kind of association.

18 I urge the Court to allow us to do that.

19 MR. BUGLIOSI: Your Honor, before the Court rules on
20 that, may we approach the bench with counsel?

21 MR. KANARLIK: With Mr. Manson, he is entitled to be
22 present at all stages of the proceedings.

23 MR. BUGLIOSI: Would your Honor then let us have the
24 hearing in chambers with all counsel present?

25 THE COURT: Are you opposing this motion?

26 MR. STOVITZ: We want to make certain statements which

1 better would be said on the record but outside of the
2 hearing in the courtroom.

3 I think your chambers would accommodate all
4 counsel, Mr. Kanarek and Mr. Hanson, rather than have a
5 conversation at the bench.

6 THE COURT: Very well. We will take a brief recess,
7 then, and I will see counsel in chambers with the
8 defendants.

9 MR. HUGHES: May I be excused, your Honor?

10 THE COURT: Yes, you are excused, MR. Hughes.

11 (Recess.)

12 (The following proceedings were had in the
13 chambers of the Court, all defendants and all counsel
14 being present:)

15 MR. BUGLIOSI: Your Honor, I would like to make just
16 a few preliminary observations.

17 THE COURT: Before you start, the record will
18 indicate this conference is in chambers.

19 All of the defendants and their respective
20 counsel are present, and Mr. Stovitz and Mr. Bugliosi are
21 present.

22 All right, go ahead, Mr. Bugliosi.

23 MR. BUGLIOSI: I want to make a few preliminary
24 observations, and I am going to be very frank and very
25 candid.

26 I can afford to be candid and frank inasmuch as

1 the press is not hearing what is taking place here, and
2 there are no spectators.

3 This case, of course, is a case of tremendous
4 magnitude and complexity, and even with lawyers who have
5 a reputation for handling matters expeditiously, even if
6 they were on the case, this case would take probably three
7 or four months.

8 It is common knowledge amongst the legal pro-
9 fession that Mr. Kanarek is a professional obstructionist.
10 I believe the man is conscientious, I believe he is sin-
11 cere. But it is my opinion that if Mr. Kanarek is permitted
12 to represent Mr. Manson on this case, the case could last
13 several years, and I say that for this reason:

14 There is no way in my opinion for the Court to
15 stop Mr. Kanarek. Even holding him in contempt of court
16 will not stop this man, because he will gladly spend the
17 night in jail.

18 You cannot put a muzzle on him like you could
19 put a muzzle on the defendant because once you put the
20 muzzle on him, by definition the trial has to be suspended.

21 I am informed, and if I speak incorrectly now,
22 co-defense counsel can speak up and correct me, I am
23 informed that not only doesn't the prosecution want
24 Mr. Kanarek to represent Mr. Manson, but the co-defense
25 counsel in this case are not pleased with it.

26 I am not just making a statement without a

1 recommendation as a possible solution.

2 the recommendation is this:

3 In lieu of having Mr. Kanarek represent
4 Mr. Manson on this case, and transforming this case into
5 a baroque on justice, that will not only be harmful to
6 the prosecution, but I tell Mr. Manson it is going to insure
7 to his detriment because I believe Mr. Kanarek will
8 antagonize the jury to Mr. Manson's prejudice.

9 as a possible solution I think I can speak for
10 Mr. Levitz, the prosecution has no objection as an
11 alternative to permitting Mr. Manson to represent himself
12 as he desires throughout, and let him have an attorney of
13 his choice to advise him throughout the entire trial.

14 I believe he can get a fair trial. Mr. Manson
15 undoubtedly is a bright man; apparently he doesn't have too
16 much formal education but he is articulate, and furthermore
17 he will have an attorney at his side, and has three very
18 experienced attorneys, Mr. Fitzgerald, Mr. Kullner and
19 Mr. Shinn; they will help him out if Mr. Levitz or I ask
20 a question that is improper, if he doesn't see it or his
21 associate counsel doesn't see it, they are certainly going
22 to object.

23 I think his constitutional rights will be pro-
24 tected. The prosecution is entitled to a fair trial. I
25 don't think he can get a fair trial with Mr. Kanarek.

26 The co-defendants are entitled to a fair trial.

1 I don't think they can get a fair trial with Mr. Kanarek,
2 and I don't think Mr. Manson can get a fair trial with
3 Mr. Kanarek.

4 So, I beseech the Court at this late date to
5 permit Mr. Manson to represent himself with the assistance
6 of any counsel of his choice.

7 I think in view of the totality of the circum-
8 stances this is the wise thing to do, your honor.

9 Apparently, I was not present, but apparently
10 Mr. Manson did make a statement on the record --

11 Mr. BROVITZ: I was present and Mr. Manson did make a
12 statement that he does not want Mr. Kanarek; that he knew
13 Mr. Kanarek was the worst attorney in the State of California
14 for him, but rather than have an attorney that the Court
15 puts upon him, or to be denied his pro per status, he would
16 have Mr. Kanarek as his lawyer.

17 At the time Judge Bell believed this was an
18 attempt to blackmail, or blackjack the Court, and Judge Bell
19 told that to Mr. Manson on the record.

20 Mr. Manson said, "Well, if that is the way you
21 feel, you will have to do what is best for Mr. Manson."

22 If Mr. Manson still feels this way about it, I
23 would like him to make the statement for the record again.
24 Mr. Kanarek was not present at that time. Mr. Manson was
25 being represented by Mr. Hughes at the time.

26 MR. KANAREK: Your honor, may I say this on behalf of

1 Mr. Hanson:

2 This is probably the most blatant interference
3 of right to counsel by the prosecution that I have ever
4 heard.

5 The prosecution in this case is afraid that
6 Mr. Hanson is going to be found not guilty as he should be.

7 Mr. Stovitz is afraid to try cases against me.
8 Mr. Stovitz is afraid that because of his image, he is
9 afraid that Mr. Hanson will be found not guilty.

10 Mr. Stovitz wants to be a judge. He wants to
11 run for District Attorney; he wants to be District Attorney,
12 voted before the Board of Supervisors.

13 THE COURT: Mr. Kanarek, let's not get into personali-
14 ties now.

15 MR. KANAREK: This is an invasion of Mr. Hanson's
16 right to effective counsel.

17 THE COURT: What Mr. Stovitz is saying is, as I under-
18 stand what he is saying, that he is not convinced that
19 Mr. Hanson, in fact, wants you as his attorney, and that
20 is the reason why we are having this proceeding today.

21 I wanted to be sure that Mr. Hanson, in fact,
22 does want you. You are not without counsel, Mr. Hanson.
23 I think you have already declared your indigency, and, if
24 you like, the Court will appoint the finest lawyer available
25 to represent you so you are not without help.

26 On the other hand, you have the right to select

1 your own attorney, as you apparently have done with
2 Mr. Kanarek, if that is what you want to do.

3 Now, the things that Mr. Stovitz and
4 Mr. Bugliosi said about you, Mr. Kanarek, while they
5 might appear to be unfair, there certainly is, as a
6 matter of common knowledge among the judges in this court,
7 for example, there is a good deal of truth in what they
8 say.

9 I am not impugning your personal motives, but
10 you have a reputation for taking an inordinately long time
11 to do what someone else can do in a much shorter period of
12 time.

13 MR. KANAREK: In that regard, your honor, I would ask
14 your Honor to look at any record, any record that I have
15 been on, I would welcome the Court to view it.

16 The District Attorney's Office, Mr. Stovitz is
17 in this for as much publicity as he can get so he can
18 become a judge or take Mr. --

19 THE COURT: You are repeating yourself now.

20 MR. KANAREK: Yes, your Honor, I am, and I would like
21 to say this, I would like to say this:

22 That in connection with the District Attorney's
23 Office, for instance, the Birhan Birhan case was quite a
24 simple factual situation. Mr. Birhan did what he did in the
25 view of many people and they extended that out --

26 THE COURT: Let's not get into other cases.

1 MR. KANAREK: Because of the fact, your Honor, if
2 this is not so --

3 THE COURT: I did not ask you to agree to what he
4 said. I assume you object to what he said. Anybody would.

5 MR. KANAREK: It's not a matter of that. They are
6 trying to capture the mind of the defendant and invade his
7 right to counsel.

8 Mr. Stovitz is doing this. I allege that
9 Mr. Manson, his right to counsel is being invaded by
10 Stovitz and Bugliosi for their own professional advancement
11 to become a judge or District Attorney or something like
12 that.

13 THE COURT: You have covered that point, Mr. Kanarek,
14 what we are here for is not to interfere with Mr. Manson's
15 right to counsel, but to make sure that he is exercising
16 that right freely and voluntarily and with full knowledge
17 of what he is doing, and we are giving him one more oppor-
18 tunity if he wants it, to speak up.

19 MR. KANAREK: I object on the grounds of C.C.P. 284.
20 I have been made attorney of record.

21 The only way that I can be removed as attorney
22 of record pursuant to C.C.P. 284 is either by consent
23 signed by me, as attorney for Mr. Manson and Mr. Manson,
24 or by a motion on behalf of the proposition by me or
25 Mr. Manson.

26 These District Attorneys have no status to make

1 any notion to replace counsel. It is illegal; it is a
2 violation of the due process clause of the Fourteenth
3 Amendment.

4 THE COURT: All right, Mr. Kanarek, I don't want to
5 hear any more on that point.

6 DEFENDANT HANSON: Your Honor, I don't know much about
7 the legal profession. I do know you have different kinds of
8 lawyers, and I understand the power that these two men have.
9 They have quite a bit of power. In fact, they are in be-
10 tween the Constitution's checks and counterchecks, but
11 there is no check or countercheck on this man. He has the
12 power to put all my friends in jail, my witnesses in jail.
13 He has the power to intimidate an attorney; he has the
14 power to suggest to the Court what attorneys should be
15 granted, what would you call it, the way that they get
16 lawyers, they get different lawyers that the Judge will
17 appoint cases to.

18 They have a lot of power. They have almost as
19 much power as the Judge and sometimes I even think, and
20 this is not my fact statement, but sometimes I even think
21 they may have some power over you.

22 So, Mr. Kanarek, I think, in one respect, would
23 be the best attorney in town, and then in another respect
24 as I said the last time that we were in chambers, and I
25 spoke to Mr. Shinn and Mr. Kanarek about what I said, that
26 in a lot of respects he would be the worst attorney that I

1 could take.

2 I don't think there is any attorney in town that
3 can represent me as well as I can myself. I am smart enough
4 to realize I am not an attorney, and I will sit behind these
5 men, and I won't make a scene, and I'm not here to cause
6 trouble. I am not here to cause a scene.

7 I will sit behind these men and see what they
8 do, and then when it comes time to ask the questions, that I
9 would know how to ask, then I will ask the questions that I
10 know how to ask.

11 There is a lot involved here that does not meet
12 the eye. A person is born; he goes to school; he learns
13 what he is told in a book, and he lives his life by what he
14 knows. The only thing he knows is what someone has told
15 him. He is educated; he does what an educated person does.

16 But go out of this realm of reality, you go into
17 a generation gap, or a free-love society, or you get into
18 insane drugs or smoking marijuana, there is no way that you
19 can know the taste of water unless you drank it or unless it
20 has rained on you or unless you jumped in the river.

21 THE COURT: All we want to do, Mr. Manson, is to find
22 out if you are happy with Mr. Kanarek or if you have second
23 thoughts.

24 DEFENDANT MANSON: I thought I explained that to you
25 in court; I would not be happy with anyone but myself, no
26 man can represent me.

1 THE COURT: We covered that.

2 DEFENDANT HANSON: You covered it.

3 THE COURT: The question now is whether or not you
4 want Mr. Haneroh to be your attorney or whether you still
5 have second thoughts about that.

6 DEFENDANT HANSON: I don't want an attorney; that
7 is the first thought.

8 MR. SHINN: May I be heard?

9 MR. HANEROH: May I be heard?

10 THE COURT: I want to hear from Mr. Hanson.

11 MR. SHINN: That is not the issue before us.

12 THE COURT: Just a moment, Mr. Shinn, I don't want to
13 hear from you now.

14 MR. SHINN: We are confusing Mr. Hanson now --

15 DEFENDANT HANSON: You are not confusing me.

16 THE COURT: I don't want to hear from you now,
17 Mr. Shinn.

18 DEFENDANT HANSON: I maintained and took a position,
19 and I think your Honor can see the position I am taking,
20 and I am keeping that position.

21 THE COURT: Well, let me put it to you once more,
22 Mr. Hanson, so there isn't any question about why you are
23 in here at the moment.

24 MR. HANEROH: Before your Honor does that, I would
25 like to state on the record --

26 THE COURT: I don't want to hear from you.

1 MR. KANAREK: It is an invasion of the right of
2 counsel; there is no proper motion pursuant to C.C.P. 284,
3 your Honor; the District Attorney cannot make a motion at
4 this time.

5 THE COURT: Mr. Kanarek, I don't want to hear from
6 you now. This Court and at least two other Courts, after
7 hearing you and seeing you and seeing the documents that
8 you have filed in this case, Mr. Hanson, have concluded
9 that notwithstanding whatever native intelligence you may
10 have, you simply are not adequate to represent yourself in
11 a case of this complexity.

12 There are problems of which you haven't the
13 slightest conception, and it is for that reason and for that
14 reason alone the Courts have refused to let you represent
15 yourself.

16 Now, as I have stated to you before, and I
17 will state to you again, you have the right to select your
18 own counsel.

19 However, if you want the Court to use its
20 discretion in appointing a competent counsel to represent
21 you during this trial, the Court will do that.

22 DEFENDANT HANSON: Your Honor, let me explain some-
23 thing to you:

24 When I first took the position that I wanted
25 to maintain my voice in the courtroom, I explained in the
26 courtroom, if you read the transcript you will know this,

1 I explained to the courtroom that I don't wish to be an
2 attorney; that I am not an attorney; I am not an attorney;
3 that I wish to retain my own voice; that I be allowed to
4 question witnesses and respective jurors, and the Court
5 granted me pro per, and he said I either act as my attorney
6 or I get an attorney, so I was forced in the position to
7 obtain an attorney.

8 And as Judge Reese was pretty much right when he
9 said I had become a messenger boy for anyone who wanted to
10 write up a writ for me, it was necessary because most of
11 the time if I wasn't in solitary confinement I was being
12 marched up and down the hallways.

13 I am not saying this was done intentionally. I
14 am saying the procedure in the County Jail is so thick and
15 narrowed down with security that you cannot move. If you
16 stand in line for an hour and a half to make one phone call
17 and you are allowed 10-minute phone calls and you cannot get
18 to the telephone, you cannot get a witness in, you cannot
19 get a writ out, you cannot get anyone. In every bit of con-
20 fusion that comes down over there, you have to labor under-
21 neath all of that confusion.

22 Now, the writs and the motions, the writs and
23 the motions that were filed on my behalf were inadequate,
24 and I will agree with that, only because the Court neglected
25 to look all the way in the Constitution and see that it says
26 I am allowed to be assisted with counsel.

1 had I had the assistance of counsel, and had I
2 had a little cassette tape recorder which I asked to dictate
3 on, because I cannot type or spell too well, then the writs
4 would have been proper.

5 Instead I had to call on the only people I knew
6 now, people just learning, people that come down from Death
7 Row, maybe, to type out a piece of paper or to jam a thought
8 on a piece of paper, from a piece of toilet paper I had to
9 slide through a ventilator, it is not very easy to go into
10 the courtroom and try to maintain a position of a lawyer.

11 This man has a staff -- I couldn't even imagine
12 all of the people he's got. My legal runner could only see
13 me a half hour a day; then they cut my attorneys off. They
14 said, "You are your own attorney now; you cannot have any
15 other attorney."

16 THE COURT: Mr. Manson, you're getting off the
17 subject.

18 DEFENDANT MANSON: I am? I am showing you the con-
19 fusion I had to go through.

20 THE COURT: I can understand the problems you have as
21 a pro per, and when you are in the County Jail. But that is
22 not the question now.

23 DEFENDANT MANSON: That is the reflection that comes
24 before the Court.

25 THE COURT: The question is whether or not you are
26 satisfied with Mr. Manarok or you want to do something else.

1 DEFENDANT HANSON: The question is am I satisfied
2 with any of it. I have a judgment, too.

3 THE COURT: All right.

4 DEFENDANT HANSON: If you heard my judgment, I don't
5 think you would like it.

6 THE COURT: You understand the charges against you;
7 you understand that the possible punishment if you are con-
8 victed is the death penalty or, in the alternative, life
9 imprisonment, and all I can do is advise you to use your
10 best judgment in selecting an attorney to represent you.

11 DEFENDANT HANSON: How many degrees of the picture do
12 you see? Do you see all of it? Do you see the subliminal
13 effect in the street?

14 MR. KANAREK: Before you rule, there is no motion.
15 The only motion before the Court is to associate Mr. Hanson
16 in as counsel.

17 THE COURT: Mr. Kanarek, I don't want to hear from you
18 any more on that point. You made your point. Now just be
19 quiet.

20 MR. KANAREK: May I have the motion on co-counsel,
21 your Honor?

22 THE COURT: I will rule on it in due time.

23 MR. BUGLIOSI: Your Honor, inasmuch as you have not
24 raised the question of Mr. Hanson representing himself with
25 the assistance of counsel, maybe I am wrong to speculate on
26 what the California Supreme Court is going to do in the

1 future. I think that has proven to be a rather unprofitable
2 undertaking. I am not positive what they would do if the
3 Court permitted Mr. Manson to represent himself with the
4 assistance of counsel.

5 I am reasonably confident if he is convicted
6 they would not reverse this case on the grounds of violation
7 of due process if he were representing himself without
8 assistance of counsel if he were the only defendant in the
9 case. I would say in the case of this magnitude and com-
10 plexity, the Court following the Floyd-Hilton case, probably
11 would be reversed on the grounds of violation of due process.

12 But if he is permitted to have a competent
13 lawyer sitting at his side guiding him, and three other
14 attorneys, Mr. Reiner, Mr. Fitzgerald and Mr. Shinn also
15 guiding him --

16 THE COURT: They cannot guide him. There may be a
17 conflict of interests.

18 DEFENDANT MANSON: We already went through that.
19 There is no conflict of interest.

20 MR. BUGLIOSI: If they can resolve this among them-
21 selves and state on the record there is no conflict of
22 interest --

23 THE COURT: That may develop during the course of the
24 trial.

25 MR. BUGLIOSI: I would ask the Court to seriously
26 reconsider changing its position with respect to whether

1 Manson is competent to represent himself with the assistance
2 of counsel.

3 MR. STOVITZ: Mr. Manson filed through the offices of
4 Abernethy and Donald Hughes a motion to be pro per with the
5 assistance of counsel, and Mr. Manson in a very well-reasoned
6 brief by Mr. Abernethy said, "Should my position be
7 granted I will submit to the Court in advance of trial a
8 plan whereby the orderly progress of the trial shall be
9 insured through a definite division of responsibility for
10 various functions during the pretrial and trial stages of
11 the proceedings."

12 Now, we are in this chambers now to talk on
13 Mr. Manson's motion to be pro per with the assistance of
14 a legal adviser, and that is what we are here for, and we
15 wanted your honor to be aware of the District Attorney's
16 position. We wanted your honor to be aware of
17 Mr. Fitzgerald's position, Mr. Belner's position,
18 Mr. Shinn's position, as to whether or not this would be
19 a workable plan, as an alternate of having Mr. Kanarek as
20 the sole attorney for Mr. Manson.

21 MR. KANAREK: Your Honor, I would like to state this:

22 This is a violation, clearly, of Mr. Manson's
23 right to effective counsel by the Sixth Amendment, which is
24 incorporated in the due process clause of the Fourteenth.

25 Mr. Stovitz, in his zeal to put Mr. Manson in
26 the gas chamber, does not care a whit about the Constitution

1 of the United States.

2 He cares only about his own professional
3 advancement and his own political advancement.

4 Furthermore, your Honor, the brief that he is
5 speaking of is a brief in which I had an extensive part in
6 connection with it. I am stating this because --

7 THE COURT: All right, Mr. Kanarek, you have made
8 your point. You are objecting to this proceeding, and all
9 we are doing is discussing some of the problems.

10 MR. KANAREK: Your Honor --

11 THE COURT: All right, I don't want to hear any more
12 now. You made your objection.

13 MR. KANAREK: May I be heard in response?

14 THE COURT: No, you may not.

15 Mr. Hanson, did you understand what Mr. Stovitz just
16 said?

17 DEFENDANT HANSON: Sure, I also understand this --

18 THE COURT: Just a moment. You understand that what
19 he is suggesting, and this is only a suggestion, he has no
20 power to control this proceeding.

21 DEFENDANT HANSON: I understand --

22 THE COURT: The Court will have to make the decision,
23 whatever it is.

24 But he is making the suggestion that you be
25 permitted to proceed in pro per, with an attorney appointed
26 to advise you during the course of the trial.

1 MR. STOVITZ: That is, appointed or selected by his
2 own choice, whichever he sees fit.

3 MR. KANARAK: Your Honor, may I state, I would like to
4 state, just so the record will be clear --

5 THE COURT: Mr. Kanarak, I don't want to hear you any
6 more right now. I am talking to Mr. Hanson.

7 Now, what is your thinking about that,
8 Mr. Hanson?

9 DEFENDANT HANSON: I am not here to oppose you.

10 THE COURT: I am not suggesting anything to you. I
11 am asking you a question.

12 DEFENDANT HANSON: Well, yes, I'm trying to answer it
13 the best way I know how.

14 The laws that you have in those books are yours
15 as well as mine as well as anyone walking the street, and if
16 you work twenty-four hours a day to tear your own laws up,
17 you are not just hurting one person. I am just one little
18 guy that don't amount to too much; you are hurting yourself,
19 hurting your own establishment. I don't care one way or the
20 other. I'm not really a part of it. But I can see it, and
21 I can see the outcome of this trial is very important. It's
22 very important that you show the public and the people the
23 truth and not hide, and not be digging and threatening wit-
24 nesses and going through a lot of changes that have been
25 happening so far.

26 I am not here to cause confusion, but I'm only

1 here to see that the truth is brought out as much as you
2 might want the truth brought out or as much as you want the
3 truth brought out if you want the truth brought out.

4 Now, if you don't want the truth out --

5 THE COURT: Mr. Manson, we are talking now about your
6 representation, and some of the possibilities that exist
7 with respect to it.

8 DEFENDANT MANSON: Uh-huh.

9 THE COURT: Well, that's what I'm trying to say. I'm
10 not here to fight you; I'm just here to help you.

11 DEFENDANT MANSON: Look at it any way you want.

12 THE COURT: I'm only here to see that you are repre-
13 sented by effective counsel during the trial; that is my
14 sole interest in having you in here and talking to you at
15 this time.

16 MR. KAWARICH: I might state, your Honor, that if
17 Mr. Stovitz has any valid points -- he is so interested in
18 getting me out of this case that he doesn't care about ly-
19 ing; he doesn't care about misrepresenting to the Court; he
20 doesn't care about getting on TV --

21 THE COURT: You made your point now several times.

22 MR. KAWARICH: He wants to walk to higher public office
23 over the cadaver of Charles Manson and I have never seen a
24 more reprehensible invasion of a man's inviolate right to
25 counsel, your Honor, because the right to counsel, the
26 relationship between Mr. Manson and myself has been by State

1 action, by Stovitz and Eugliosi, by their putting their
2 heads together in order to advance themselves personally,
3 they have invaded the precious right that is guaranteed to
4 all of us when we are in trial, and they don't give a hoot
5 and a holler about Mr. Hanson.

6 THE COURT: All right, Mr. Kanarek, that will be
7 enough. Well, I am convinced, Mr. Eugliosi and Mr. Stovitz,
8 that notwithstanding your suggestion that this can be an
9 alternative, there really is not an alternative available to
10 the Court. I don't really think Mr. Hanson is capable of
11 representing himself even with a legal adviser.

12 DEFENDANT HANSON: Your Honor, would you tie your own
13 hands?

14 THE COURT: I would not agree to any such procedure.
15 He is simply going to have to make up his mind; if he wants
16 Mr. Kanarek, we will go ahead with Mr. Kanare. If he wants
17 someone else, now is the time for him to make that decision,
18 because we are going to go ahead and proceed with whatever
19 proceedings are necessary to bring this thing to trial,
20 as soon as possible.

21 MR. STOVITZ: Your Honor made it crystal clear that
22 this trial would proceed on June 15th. The public does
23 have a right to know if this trial is going to go ahead on
24 June 15th, and we, of course, have some 75 witnesses
25 scheduled to appear, we not having them come in on June
26 15th, we feel the selection of the jury will start then.

1 We feel that we should have a pretrial confer-
2 ence, perhaps on June 10th, that would be a good date, so
3 we can more or less schedule the time for the appearance
4 of witnesses, and to get all motions out of the way.

5 We are making all plans for the commencement of
6 this trial on June 15th. We are putting aside the next six
7 months of our time for this case.

8 I feel that this is a reasonable estimate at
9 this time, and we just feel that, as your Honor knows, if
10 it were just People vs. Manson and not et al., that your
11 Honor's ruling would be as fair as fair could be. But there
12 are three other defendants in this case with three other
13 attorneys, and any time that Mr. Kanarek wants to challenge
14 me on oath as to my motives in this case I will be glad to
15 do so.

16 I only have one motive right now and that is to
17 see that the Court appoints effective counsel for Mr. Manson,
18 and I am not using this case --

19 THE COURT: I am not appointing any counsel for
20 Mr. Manson. Mr. Manson has made a private arrangement.

21 MR. STOVITZ: I only want to see that whatever counsel
22 Mr. Manson chooses will be effective for his purposes. I am
23 not using this case for any political gains whatsoever. I
24 have been in the office 18 years and I intend to stay in the
25 office, and the day I retire and I don't have to see
26 Mr. Kanarek will be the day of my happiness.

1 MR. KANAREK: May I state this, your Honor,
2 Mr. Stovitz retired from the District Attorney's Office,
3 could not make it as a private practitioner and came back
4 to the District Attorney's Office and ever since I won a
5 995 in this very court against Mr. Stovitz --

6 THE COURT: I don't want to hear any more.

7 MR. SHILK: May I say something?

8 THE COURT: All right.

9 MR. SHILK: I have been observing this conference
10 here and I believe that Judges should be sitting there
11 impartially, your Honor, and I can see every time
12 Mr. Kanarek talks, maybe it's no, I don't know, you cut
13 him off, and when Mr. Stovitz and Mr. Bugliosi talk you let
14 them ramble on.

15 I believe that if they talk we should give
16 Mr. Kanarek equal time.

17 THE COURT: You made your position clear.

18 Well, gentlemen, Mr. Manson, do you have any-
19 thing further to say before we go back into court?

20 DEFENDANT MANSON: You have tied my hands.

21 THE COURT: You understood everything I said here this
22 morning?

23 DEFENDANT MANSON: Did you understand everything I
24 said here this morning?

25 THE COURT: You understand now we are giving you an
26 opportunity at this time to either confirm or to change your

1 selection of Mr. Kanarek as your attorney.

2 MR. BUGLIOSI: May I ask Mr. Hanson a question?

3 MR. KILBARK: I will object, your Honor.

4 DEFENDANT HANSON: Yes, what is it?

5 MR. BUGLIOSI: I am assuming, Mr. Hanson, that you do
6 value the judgment of Mr. Weiner, Mr. Fitzgerald and
7 Mr. Shinn; am I correct in assuming that?

8 DEFENDANT HANSON: I have my judgment.

9 MR. BUGLIOSI: Do you value their judgment, too?

10 DEFENDANT HANSON: Their judgment is for them.

11 MR. BUGLIOSI: Do you think they are interested in
12 your welfare?

13 DEFENDANT HANSON: I think they are interested in
14 their welfare as we are all interested in our own welfare.

15 MR. BUGLIOSI: Do you think they are concerned about
16 you?

17 DEFENDANT HANSON: I think it would be nice if they
18 won the case.

19 MR. BUGLIOSI: Have you asked them what their opinion
20 is as to whether you should be represented by Mr. Kanarek?

21 DEFENDANT HANSON: I don't ask other men's opinions.
22 I have my own.

23 MR. BUGLIOSI: Do you feel he can give you a fair
24 trial, Mr. Kanarek?

25 DEFENDANT HANSON: I do. I feel you can give me a
26 fair trial. You showed me your fairness already.

1 MR. BUGLIOSI: I will give you a fair trial, but I
2 am out to convict you.

3 DEFENDANT HANSON: How could that be fair?

4 THE COURT: I don't think we are getting anywhere,
5 gentlemen.

6 MR. BUGLIOSI: Are you satisfied that Mr. Kanarek can
7 give you a fair trial?

8 DEFENDANT HANSON: I don't understand "fair".

9 MR. BUGLIOSI: Do you think he can effectively repre-
10 sent you?

11 DEFENDANT HANSON: No man can effectively represent
12 me, no.

13 MR. BUGLIOSI: It is a matter of degree. Do you agree
14 with that?

15 DEFENDANT HANSON: Degree?

16 MR. BUGLIOSI: Yes.

17 THE COURT: All right, gentlemen --

18 MR. SHINN: I think we are going too far --

19 THE COURT: I don't have to hear from you, Mr. Shinn.
20 You are not in this.

21 DEFENDANT HANSON: Children, you are all children,
22 every one of you.

23 THE COURT: All right, Mr. Hanson, that will be
24 enough. I take it from your failure to tell me otherwise
25 that you do want Mr. Kanarek to be your attorney, and we are
26 going to proceed.

1 I will tell all counsel I expect them to conduct
2 themselves at all times as responsible, ethical attorneys.

3 I will not permit any dilatory tactics on the
4 part of anybody.

5 DEFENDANT MANSON: You're a little late on that.

6 THE COURT: In all respects the trial will be run to
7 the best of my ability as a trial should be run. I don't
8 direct these remarks to anybody in particular, but to all
9 counsel generally.

10 I might say that since this case has received so
11 much publicity, that the eyes not only of this county and
12 state, but the entire country, and some foreign countries,
13 too, are on this trial, and I think it is incumbent upon all
14 counsel to conduct themselves so that the trial will reflect
15 credit on our judicial system to the end that all defendants
16 will have a fair trial.

17 MR. BUGLIOSI: I agree, your Honor, but in all honesty
18 I think we are embarking on a tragedy. I think this case
19 will be a burlesque on justice.

20 THE COURT: I can assure you, sir, it will not be.

21 MR. BUGLIOSI: If there were some way to stop a lawyer
22 from talking, no one has ever been able to.

23 THE COURT: I have always been able to stop an attorney
24 from talking, at least up to a point. I can assure you,
25 Mr. Bugliosi, that nobody, and that goes for all counsel,
26 is going to make a burlesque out of this trial.

1 There are effective ways of maintaining the
2 decorum and dignity of the trial as it should be.

3 Is there anything further, Mr. Hanson, before
4 we go out again?

5 DEFENDANT HANSON: I don't know what I can possibly
6 say.

7 THE COURT: I just want to know again are you affirm-
8 ing Mr. Kanarek as your attorney?

9 DEFENDANT HANSON: Am I confirming him as my attorney?

10 THE COURT: Yes, are you affirming your selection of
11 him?

12 DEFENDANT HANSON: I am forced into a situation. My
13 second alternative is to cause you as much trouble as
14 possible.

15 THE COURT: Well, then, we will go back out, gentlemen.

16 MR. ETOVITZ: Before we do, your Honor, on this
17 motion Mr. Kanarek filed for the appointment of a doctor
18 for Linda Kasabian, I realize that there is a publicity
19 order on this thing. I just question as to whether or not
20 by the filing of the document with the Court, attaching
21 thereto a Declaration of somebody by the name of Kathryn
22 Louise Share, that that gives counsel the privilege to
23 communicate to the news media and the press the contents of
24 this motion, because we feel that this declaration, of
25 course, is completely erroneous, and this would be --

26 THE COURT: Who is the declarant?

1 MR. STOVITZ: A member of the family known as "Gypsy"
2 who goes under the name Kathleen Louise Share, S-h-a-r-e,
3 in which she contends that she personally saw Linda
4 Masobian take LSD on several occasions.

5 DEFENDANT HANCOX: Now Miss Share will probably be
6 arrested by tomorrow. This is your fairness.

7 MR. STOVITZ: I just feel that seeing as certain
8 counsel have used previous motions that they filed with the
9 Court as a means of getting to the press their defendants'
10 defenses, that this would be another means that defense
11 counsel might use, file a motion in court, say whatever you
12 want to say in the motion and then make a statement for
13 the press on the motion.

14 After all, it is a matter of public record; it
15 is a document filed with the court. That is the attitude
16 that some people take.

17 MR. KAMAREN: That is the most hypocritical statement
18 Mr. Stovitz can make. Every time these proceedings are
19 adjourned he makes a headline for the TV --

20 THE COURT: Are you aware of the publicity order?

21 MR. KAMAREN: I certainly am.

22 DEFENDANT HANCOX: We are aware of it. We wonder
23 if they are.

24 THE COURT: I assume all counsel are aware of it.

25 Anything further, gentlemen?

26 MR. KAMAREN: Not at this time, your Honor.

1 THE COURT: All right.

2 (The following proceedings were had in open
3 court, all parties being present:)

4 THE COURT: Is there anything further, gentlemen,
5 before we adjourn this case until -- I believe the next
6 date is June 10th -- for hearing on the pretrial motions?

7 MR. BLUMBERG: No, Your Honor.

8 MR. STOVITZ: Just for clarity's sake, if there is to
9 be a 305 motion on behalf of Miss Van Rosten, that that will
10 be in Department 105.

11 Have you selected a date yet, Counsel, in that
12 court?

13 MR. BLUMBERG: I will probably notice it for the 9th.

14 THE COURT: I suggest you check with the clerk in
15 that Department, Mr. Palmer, I believe June 6th was an
16 acceptable date.

17 Anything further?

18 MR. STOVITZ: That is all.

19 THE COURT: All right, we will adjourn at this time
20 until June 10th at 9:00 a.m. in this Department.

21 MR. STOVITZ: Thank you.

22 (Whereupon, proceedings were continued to
23 June 10, 1970, 9:00 a.m.)

1 DEPARTMENT NO. 106

255 A
HON. MALCOLM M. LUCAS, JUDGE

2 LOS ANGELES, CALIFORNIA, TUESDAY, JUNE 9, 1970

3 9:00 A. M.

4 --- 0 ---

5 THE COURT: I'll call the matter of Charles Manson,
6 Leslie Van Houten, and Susan Atkins.

7 I see Mr. Kanarek, Mr. Reiner, Mr. Bugliosi,
8 and Mr. Stovitz. Is Mr. Shinn here?

9 MR. STOVITZ: He is testifying in the other depart-
10 ment on the Beaumolell matter. He will be here in a few
11 moments.

12 THE COURT: I have been informed that it will be
13 at least a half an hour. I was told that he was still on
14 the stand. I think under the circumstances, despite the
15 inconvenience to you, Mr. Reiner, that we should proceed
16 in Mr. Kanarek's matter, and then we can proceed with
17 yours, and then with Mr. Shinn's.

18 MR. KANAREK: Your Honor, Mr. Shinn has requested
19 that he be present at all proceedings.

20 THE COURT: All right, we will take a brief recess
21 and then we'll begin the matter.

22 (Short recess.)

23 THE COURT: I'll call the matter of Charles Manson,
24 Leslie Van Houten, and Susan Atkins.

25 The record may show that Leslie Van Houten
26 is present with her counsel, Mr. Reiner; that Susan Atkins

2 a
1 is present with her counsel, Mr. Daye Shinn; and that Mr.
2 Kanarek is present without his defendant; and that the
3 People are represented by Deputy District Attorneys
4 Aaron Stovitz and Vincent Bugliosi.

5 MR. KANAREK: Your Honor, may I address the Court?

6 THE COURT: Yes, you may.

7 MR. KANAREK: Your Honor, Mr. Manson is joining in
8 this motion as to Leslie Van Houten. May we have him
9 present in the Court?

10 THE COURT: This is a motion for change of venue,
11 is that correct?

12 MR. KANAREK: That is correct, your Honor.

13 MR. SHINN: I understand that Mr. Manson is joining
14 in the motion.

15 MR. STOVITZ: For the record, Mr. Manson made a
16 motion while he was in pro per for change of venue; and
17 also while Mr. Hughes was his counsel, Mr. Hughes joined
18 with Mr. Fitzgerald in a well-presented motion to this
19 Court, a motion for a change of venue.

20 If there is any new evidence that counsel
21 wishes to offer on the motion for change of venue, we
22 would have no objection; but I think he has already made
23 two motions, one as in prop per and one with counsel.

24 THE COURT: Mr. Kanarek, is there any new evidence
25 you wish to present to the Court?

26 MR. KANAREK: Yes, there is, your Honor.

1 THE COURT: What is the character of the new evidence?

2 MR. KANAREK: The new evidence is a book called "Five
3 To Die," which I believe has information in it as a result
4 of the people from the prosecution performing -- which I'll
5 come to later -- a matter which I believe is violative and
6 contemptuous of the Court's order.

7 As I say, I have this book called "Five To
8 Die" here, and it is being disseminated in the Los Angeles
9 area.

10 I would like to make a discovery in connection
11 with it. Mr. Stovitz was on the radio this morning on
12 KABC and I heard him as he was being interviewed by, I
13 believe, a Mr. Henry Konysky, in which he stated that the
14 motion was pro-forma and that he had already adjudicated
15 it for the Court. It is a mere pro-forma motion that is
16 being done just to preserve the record.

17 In other words, Mr. Stovitz has already stated
18 to the world, to the press, to the radio world in any event,
19 that your Honor is going to rule against this motion.

20 I so represent to the Court. I heard Mr.
21 Stovitz's voice myself over KABC this morning.

22 In any event, Mr. Manson is entitled to be
23 present at all stages of the proceedings, and I would
24 request that he be brought in and that he be present at
25 this hearing.

26 THE COURT: In view of the fact that there is allegedly
new evidence, do you have any objection?

4 a

1 MR. STOVITZ: No, your Honor. That is what I had
2 in mind, if there was anything new.

3 THE COURT: All right, let's bring in Mr. Manson.

4 (The Bailiff then escorts Mr. Manson
5 into the courtroom and to his seat
6 at counsel table.)

7 THE COURT: All right, you may proceed now.

8 MR. KANAREK: I request that the record be read
9 back to Mr. Manson so he will know what was uttered in
10 the courtroom while he was not here.

11 THE COURT: The Court will allow you to explain
12 it to him. I don't think it needs to be verbatim. You
13 may explain it to him if you wish.

14 (Mr. Kanarek confers with Mr. Manson.)

15 THE COURT: All right, have you completed your
16 explanation, Mr. Kanarek?

17 MR. KANAREK: Yes, I have.

18 Could I have a chair?

19 THE COURT: Of course.

20 MR. KANAREK: Mr. Shinn and I are chairless.

21 MR. SHINN: I don't mind standing up.

22 (The Bailiff brings a chair to counsel
23 table for Mr. Kanarek, Mr. Stovitz brings
24 a chair to the counsel table for Mr. Shinn.)

25 THE COURT: The record should reflect that the
26 Court has read and considered the Notice of Motion and

5 a

1 Motion for Change of Venue and the Points and Authorities
2 and the Declaration of Leslie Van Houten in support
3 thereof, filed by Mr. Reiner.

4 Mr. Reiner, do you wish to be heard?

5 MR. REINER: Just very briefly. I indicated
6 that by stipulation there may be incorporated by reference
7 those exhibits that have been presented with respect to --
8 I believe that was in respect of defendants Krenwinkel
9 and defendant's Kasabian's motion for change of venue.

10 MR. STOVITZ: Your Honor, Mr. Reiner asked me to
11 enter into that stipulation, and on behalf of the People
12 I would so stipulated.

13 THE COURT: Do you so stipulate, Mr. Reiner?

14 MR. REINER: Yes, sir.

15 THE COURT: Mr. Shinn?

16 MR. SHINN: Yes, your Honor.

17 THE COURT: Mr. Kanarek?

18 MR. KANAREK: Yes, your Honor.

19 THE COURT: You may proceed then, Mr. Reiner.

20 MR. REINER: I will submit it based on what is now
21 before your Honor.

22 MR. SHINN: The only thing I can say is, as Mr.
23 Kanarek said, that this book came out, "Five To Die,"
24 and I have read that book thoroughly and I believe that
25 there are many things that are very derogatory to The
26 Family and to the defense in this case.

6 a
1 THE COURT: As yet, that book is not before the
2 Court.

3 MR. KANAREK: May we mark that as an exhibit next
4 in order?

5 MR. STOVITZ: May it be marked as Defendant's
6 Exhibit No. I in Roman numerals? I don't believe we have
7 used Roman numerals as yet.

8 THE COURT: Do you have any objection?

9 MR. KANAREK: No objection, your Honor.

10 THE COURT: All right, it will be so marked for
11 identification.

12 MR. KANAREK: May it be offered into evidence?

13 MR. STOVITZ: I believe, if Counsel would state
14 that you purchased it on a newsstand or someplace where
15 the public can buy it --

16 MR. KANAREK: I will be glad to accomodate Counsel
17 in that respect.

18 I bought the book at the newsstand on Victory
19 and Van Nuys Boulevards.

20 MR. STOVITZ: For how much, Counsel?

21 MR. KANAREK: For \$1.25.

22 MR. STOVITZ: We'll so stipulate that if Mr.
23 Kanarek were sworn and testified, that would be his
24 testimony.

25 THE COURT: Do you accept the stipulation, gentle-
26 men?

7 a. 1 MR. REINER: So stipulated.

2 MR. SHINN: So stipulated.

3 MR. KANAREK: So stipulated.

4 May the record reflect I am giving a copy
5 of the book to Mr. Manson to study.

6 THE COURT: Just a minute, Mr. Kanarek, will you
7 please instruct your client to face in the proper direct-
8 ion?

9 MR. KANAREK: Your Honor, my client wishes to
10 remain the way he is. He believe, your Honor, that he
11 should have a standing in this court and in that connect-
12 ion participate in these proceedings.

13 Now I can only tell the Court that is his
14 wish, your Honor.

15 THE COURT: All right, the record should reflect
16 that Mr. Manson is sitting facing the audience and the
17 press, with his back to the Court.

18 MR. MANSON: The Court is going to instruct
19 you to turn your chair around and face the Court.

20 (Mr. Manson stands and faces
21 the Court.)

22 DEFENDANT MANSON: Your Honor, I cannot --

23 THE COURT: You may address the Court, but only
24 through your attorney, Mr. Kanarek.

25 DEFENDANT MANSON: Only through my attorney?

26 THE COURT: That is correct, sir.

8 a
1 DEFENDANT: MANSON: Why did you drag me here?

2 THE COURT: If you wish to address the Court, you
3 may do so through your attorney, Mr. Kanarek.

4 DEFENDANT MANSON: Are you going to force me to
5 sit and face you?

6 THE COURT: You have to face the Court or you
7 will be removed from the court.

8 DEFENDANT MANSON: Okay, you can remove me.

9 THE COURT: When you are willing to face the
10 Court and show the proper respect for the Court, then you
11 may join in this motion and be heard; and until then,
12 you may not be present in this court.

13 DEFENDANT: MANSON: The Court has shown me no
14 respect, so I am going to show the Court the very same
15 thing.

16 THE COURT: It is entirely up to you. If you
17 wish to show the proper respect, not for me as an indi-
18 vidual, but for the Court as an institution, then you will
19 turn your chair around and face the Court and Mr. Kanarek,
20 your attorney, will be allowed to proceed in this matter.

21 If you choose not to show the proper respect
22 for the Court, in effect to be disrespectful, then the
23 Court is going to recess the proceedings insofar as you
24 are concerned until you indicate to the Court that you
25 are willing to be respectful to the Court and obey the
26 Court's orders insofar as your decorum in the courtroom

9 a
1 is concerned.

2 Mr. Kanarek, do you wish to converse with
3 your client?

4 DEFENDANT MANSON: There is no need.

5 THE COURT: At this time the Court is not going
6 to allow these proceedings to continue further until
7 Mr. Manson conducts himself properly.

8 DEFENDANT MANSON: I have some rights.

9 THE COURT: The Court will do the same thing
10 for any other defendant. If any other defendant showed
11 the same disrespect to the Court, the Court would do the
12 same thing.

13 Mr. Manson is not above the law, and if he
14 wishes to be present in court, he must show the Court the
15 proper respect.

16 Do you wish, Mr. Kanarek, an opportunity to
17 discuss this matter with your client?

18 MR. KANAREK: Yes, your Honor, if your Honor,
19 please.

20 DEFENDANT MANSON: Mr. Kanarek doesn't make up my
21 mind. I make up my mind, and it is made up.

22 THE COURT: We will have a short recess, Mr.
23 Kanarek, while you confer with your client.

24 (Short recess)

25 THE COURT: In this matter, let the record show
26 that all parties are present as heretofore.

10 a
1 You may proceed, Mr. Kanarek.

2 MR. KANAREK: Yes, your Honor.

3 In connection with this book which has been
4 marked -- it has heretofore been marked and received into
5 evidence as Petitioner's Roman numeral I, it is my believe
6 that based upon reading this book --

7 (At this point Mr. Manson turns
8 his back to the Court.)

9 -- that the law enforcement officers,
10 especially in view of Mr. Stovitz's eagerness to get on
11 the television and run for Judge by way of this trial,
12 there is no question in my mind, your Honor, -- I believe
13 that I may couch it in terms of probable cause.

14 I think there is certainly probable cause
15 to believe that Judge Keene's order has been violated in
16 a most contemptuous manner, and I would ask this Court
17 that the Court issue an order to show cause in re contempt;
18 and I will ask the Court to cite in the authors of this
19 book and ask them, Mr. Jerry Le Blanc and Ivor Davis,
20 whoever they may be, and ask them their sources of inform-
21 ation in connection with this book which certainly --
22 to say the least -- covers evidentiary matters, which is
23 specifically prohibited.

24 Your Honor will note that this book has a
25 printing -- and I am referring, your Honor, to page 8 of
26 the book -- where it says there, "April 1970," meaning that

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1 this book was published well after Judge Keene's order
2 of last winter.

3 I have nothing further, your Honor.

4 I join in, in connection with the motion,
5 and I believe it would be most difficult, if not impossible,
6 for Mr. Manson to get a fair trial anywhere -- perhaps
7 anywhere in the world because of what the prosecution
8 has done to poison the public's mind in order to get their
9 viewpoint across to the public.

10 THE COURT: Excuse me, again the record should
11 again reflect that Mr. Manson has turned his back to the
12 Court.

13 Please remove Mr. Manson from the courtroom.

14 (The Bailiffs begin escorting

15 Mr. Manson from the courtroom.)

16 DEFENDANT MANSON: You're the one that tied my
17 hands. I didn't tie yours.

18 (The Bailiff completes escorting

19 Mr. Manson from the courtroom.)

20 MR. KANAREK: On behalf of Mr. Manson, and I'm
21 sure your Honor -- perhaps -- Maybe I shouldn't say that
22 I'm sure -- but I believe your Honor has in mind the
23 recent Supreme Court decision.

24 I don't believe that Mr. Manson's conduct is
25 the kind of conduct that decision contemplates. He is
26 merely turning his physical body. That is a far cry from

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1 what happened in Chicago. It is a far cry from what I
2 recollect that the Supreme Court decision says.

3 My merely changing his body, your Honor, it
4 may affront your Honor, but it certainly doesn't interfere
5 with the processes of the Court; and on behalf of Mr.
6 Manson I would urge and I would like to present points and
7 authorities.

8 I would like to have the Supreme Court
9 decision before me, because it is my position that your
10 Honor's action has deprived Mr. Manson of due process, a
11 fair trial and a fair hearing, and the right to effective
12 counsel which is guaranteed by the Due Process clause of
13 the Fourteenth Amendment.

14 THE COURT: Mr. Kanarek, let me interrupt you
15 if I may. I am going to allow you to remain and join in
16 this motion, and you may continue to remain and represent
17 your defendant. I will order a transcript to be prepared
18 for your use and to the edification of Mr. Manson.

19 These are pretrial motions. This is not the
20 trial itself.

21 The Court feels there is no inherent right
22 that Mr. Manson has to be present, at least in the fashion
23 that he has conducted himself. I do not believe it would
24 be of any detriment for him to be absent at this time.

25 It will, however, preserve the decorum of
26 the courtroom, and any legal position that you wish to

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1 represent in his behalf, may be done by you. These are
2 legal motions only and only legal matters may be advanced.

3 However, in the absence of Mr. Manson, I will
4 order that a transcript of the proceedings be given to him
5 for his understanding of the proceedings that took place.

6 With that observation, do you have any
7 additional comments you wish to make as to the motion for
8 change of venue?

9 MR. KANAREK: No, I have no additional comments as
10 to the motion for change of venue.

11 THE COURT: Thank you.

12 MR. KANAREK: We ask this Court to move this trial.
13 It is a relative matter. I don't think that Mr. Manson
14 can get a fair trial anywhere in the world, because of
15 the prosecution's statements that have been made to the
16 press and the mass media, which they have made in connect-
17 ion with this and other matters.

18 But on a relative basis, comparing this
19 county with other counties in California, it's obvious
20 here we have the movie industry. We have here that love
21 of a people for their fellows, for their neighbors.

22 So on a relative basis there is no question
23 that we can get a fairer trial in some other county. The
24 movie industry permeates this community. It is an economic
25 factor in this community, and because of the nature and
26 occupation of at least one of the alleged victims, we ask ✓

1 your Honor exercise the power the Court has and allow
2 Mr. Manson to have as fair a trial as possible, in view
3 of the conduct of the prosecution in this case.

4 THE COURT: Well, in view of your remarks, do
5 you have any suggestion where in the State of California
6 he would get a fairer trial than in Los Angeles?

7 MR. KANAREK: San Francisco, your Honor.

8 THE COURT: Have you examined the various
9 exhibits that show there was a very extensive coverage of
10 this case in San Francisco County?

11 MR. KANAREK: I understand that, but I'm saying
12 this on a comparison basis.

13 It is only on a comparison basis. I believe
14 that we have the lack of the alleged victim's living in
15 this area. There is, as I said, I don't believe we can
16 get a fair trial anywhere in the world except -- perhaps--
17 well, I won't say that.

18 But I think your Honor would be making a
19 judicial order which would grant Mr. Manson a relatively
20 fair trial.

21 THE COURT: All right, thank you, Mr. Kanarek.

22 Mr. Shinn, do you wish to be heard?

23 MR. KANAREK: And, may I say, I didn't know your
24 Honor was going to ask me to comment; so if I might make
25 further study in cooperation with counsel and perhaps come
26 up with another county, but I'm saying that Los Angeles

15 a
1 County is certainly not the county to try this case.

2 THE COURT: Thank you, Mr. Kanarek.

3 Mr. Shinn, do you wish to be heard?

4 MR. SHINN: In view of the fact that, in view of
5 the numerous facts, in view of this book which has come
6 out, it is my understanding that the book has been publish-
7 ed and is now available; and I believe I am in accord with
8 what Mr. Kanarek has said, that San Francisco would be a
9 much better place to have this trial.

10 Because here, your Honor, where we call it --
11 it concerns the movie colony. I do feel, if your Honor
12 cannot at this time grant the motion for change of venue,
13 you at least could continue this matter until a later date,
14 until the publicity and the dissemination of this book
15 dies down.

16 This book came out three or four days ago,
17 and it came out at a time when the trial is supposed to
18 start on June the 15th.

19 I believe, your Honor, that this book will
20 have some impact on the trial; and under the conditions,
21 it will result in further prejudice to the defendants.

22 So I would request at this time to either
23 have this trial continued, or move it to a different county.

24 THE COURT: Thank you, Mr. Shinn.

25 Mr. Reiner, do you wish to be heard?

26 MR. REINER: No, your Honor; I will submit it.

1 MR. STOVITZ: Your Honor, I would like to take
2 exception to Mr. Kanarek's statement that our office
3 cooperated with the publisher of this book. The first time
4 I ever knew that this book existed was when Mr. Ivor Davis
5 called me -- I think about eight or ten days ago -- and
6 told me that the book was in the hands of a literary
7 reviewer and that he would attempt to get me a copy.

8 He did mail me a copy in the main, and I did
9 read the book.

10 As your Honor will undoubtedly want to read
11 the book, as your Honor has read the other exhibits in
12 this case, and your Honor will see that the authors did
13 what they did from independent investigation and there was
14 no cooperation with the Police Department, the Sheriff's
15 Department, or the District Attorney's office at all.

16 I, unlike counsel, will take an oath on that
17 and be sworn as a witness if necessary to testify.

18 I want your Honor to know that this case was
19 originally set for trial on February the 9th, and at that
20 time the People were ready. The trial was continued to
21 March 30th, and at that time the People were ready to
22 go to trial.

23 Had the trial gone on March 30th, when it
24 was originally scheduled, this book of course would have
25 come out at some time later, maybe that is why they chose
26 the title, "Five To Die," referring to the five defendants

that would have been on trial at that time.

The trial was then continued to June the 15th, and the book was just published.

I doubt very much whether any of the Los Angeles audience of prospective jurors would have had a chance to read the book in that time. Of course, since Counsel has made the book an issue and an exhibit in this case, perhaps many more residents of Los Angeles County will read it.

But I heard no testimony at all, nor do we have an understanding that this book is not available in San Francisco or in other major counties.

I believe that the book, similar to other literary publications, will be carried up and down the state, and we believe that the defendant can receive a fairer trial here in the County of Los Angeles, and that the working of this book will in no way influence the trial in this case.

MR. KANAREK: If I may respond?

THE COURT: Yes, you may.

MR. KANAREK: I would say that the way to take evidence is by taking testimony, and I would ask your Honor to issue an order to show cause in re contempt; and your Honor, I'll ask your Honor to set that down for a hearing. and I will ask your Honor to subpoena and use the processes of the Court, because the contempt order flows from the

1 Court -- it flows from the Court itself -- and the Court
2 can issue that process, and your Honor can see to it that
3 these men are brought before the Court; and we can have a
4 discovery and an evidentiary hearing wherein we would
5 actually get it on the line under penalty of perjury,
6 rather than any other way.

7 I think that is in order because this book
8 speaks for itself.

9 THE COURT: All right, that is a motion for the
10 trial judge to determine. Should the trial judge in his
11 discretion feel that it is necessary, then he can do so.

12 Do you wish to respond further, Mr. Shinn?

13 MR. SHINN: No, your Honor.

14 THE COURT: Mr. Reiner?

15 MR. REINER: The matter is submitted, your Honor.

16 THE COURT: The Court has scanned the book in question
17 It is the usual, shall we say, scurrilous piece.

18 However, the Court does feel as it has
19 indicated in the past, that there will be a fairer trial
20 under the County of Los Angeles. There is not a reason-
21 able likelihood, in the absence of the relief requested
22 by the defendant, a change of venue, that a fairer trial
23 cannot be had and that the defendant will not receive a
24 fair trial in the County of Los Angeles.

25 This matter has previously been litigated.
26 The Supreme Court has affirmed this Court, and the motion

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for change of venue is denied.

MR. SHINN: Are you going to rule on the motion for continuance?

I made a motion for tinuance.

THE COURT: Pardon me, Mr. Shinn, I didn't understand you.

MR. SHINN: Based on this very book I made a motion for a contiuance.

THE COURT: I do not at the present time have any motion for continuance. Did you file that with the trial judge?

MR. SHINN: I am making a motion for continuance on the basis of this book, until the impact of this book does down and quiets down, and that goes along with the change of venue motion.

THE COURT: That is a matter that may be had before the trial judge also.

That is not before the Court at this time.

Now, Mr. Kanarek, is there anything further on your motion for a change of venue?

MR. KANAREK: Nothing further, but I would like to make the statement so that the record will be clear, that Mr. Manson desires to proceed to trial as soon as possible. We are ready to go to trial, and we oppose any continuance, your Honor, for the trial.

THE COURT: All right, the record will so reflect.

1 MR. KANAREK: So there can be no question, in view
2 of Mr. Shinn's motion.

3 THE COURT: Mr. Kanarek, you have a motion to
4 dismiss on behalf of Mr. Manson. Now if Mr. Manson wishes
5 to be present and conduct himself properly, the Court will
6 certainly find that to be satisfactory.

7 Do you wish another recess so that you may
8 discuss his deportment with him and then proceed with the
9 995 motion?

10 MR. KANAREK: We would welcome that. We would
11 ask that Mr. Manson be here.

12 Your Honor, my position is that Mr. Manson
13 should be here regardless of whatever juxtaposition his
14 body may be with respect to other people in the Courtroom.

15 What I am saying is that the removal of the
16 defendant is very, very drastic, and if you balance it on
17 both sides -- on one side the affront to the dignity of
18 the Court, and you look on the other side, the benefit of
19 the defendant being present -- I can't see that there is
20 any balance -- it just balances out in favor of the
21 defendant here.

22 Now, in the United States Supreme Court
23 decision that your Honor spoke of --

24 THE COURT: I don't speak of any decision. If
25 you are referring to Illinois vs. Allen, I believe you
26 referred to it. I have never referred to it.

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1 MR. KANAREK: I am sorry.

2 What I believe perhaps your Honor had in mind
3 is that case.

4 Now the circumstances that the Court contem-
5 plates are circumstances of disruption, and I think that
6 when we are lawyers or when we are judges, that the
7 personal affront that we may take -- well, that is a part
8 of the job.

9 THE COURT: I am not taking any personal affront.
10 You misapprehend me, Mr. Kanarek.

11 I just feel that Mr. Manson's conduct in a
12 court of law is not appropriate.

13 This is not the trial itself. In the trial
14 itself, the Court may very well take different measures,
15 such as physical measures by the Bailiff to insure he is
16 seated and conducts himself properly.

17 These pretrial motions and his presence,
18 particularly when there has already been a motion for a
19 change of venue where he was represented by counsel and
20 where he has represented himself, and where Mr. Manson has
21 made a 995 motion where he has represented himself and it
22 has been heard, the Court does not feel that his presence
23 is essential.

24 The Court feels that a 995 motion should be
25 decided on the legal issues that are presented to the Court.

26 The Court does not feel that the presence of

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1 Mr. Manson is necessary for the hearing of this motion,
2 but the Court will order a copy of the proceedings and
3 your remarks will be drawn up and submitted to him for
4 his understanding of the procedures that have taken place
5 in his absence.

6 Now, I will take a five-minute recess at
7 this time. If he promises you, as an attorney, that he
8 will conduct himself properly in the Court, of course he
9 may then be returned to court.

10 If he indicates he is not going to conduct
11 himself properly, he may remain absent from the court and
12 you may proceed to argue the matter.

13 MR. STOVITZ: Before your Honor takes the recess, I
14 wanted to correct the counsel.

15 The case, the Darling case, and all of those
16 other cases were prior to the time when our code was
17 changed. Our code now provides for a written waiver of
18 the defendant's personal appearance on these pretrial
19 motions. That has been since November of last year.

20 By the defendant's continual violation of
21 the Court's order, that is tantamount to a waive of his
22 personal appearance, which wasn't allowable prior to the
23 enactment of this new statute.

24 So I think Counsel should be made aware,
25 that all the cases he is talking about, were prior to the
26 enactment of this new statute.

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MR. KANAREK? May I respond to this briefly?

THE COURT: Yes you may, Mr. Kanarek.

MR. KANAREK: Mr. Stovitz is reading a lot into a statute with which I just cannot agree. In any event, whether they have this statute which he has interpreted in the way he has, the fact is that we have the Constitution of the United States and the Constitution of California over the statutes.

A man's right to be present, the right to effective counsel, and the right to be there at all stages of the proceedings transcends any type of interpretation on the language, as Mr. Stovitz may give to that statute.

Now, if I may state this: At first I did not understand what your Honor is referring to. However as I understood your Honor, your Honor is not personally affronted, but I gather your Honor feels that the dignity of the Court as an institution is being affronted.

Am I correct, your Honor?

THE COURT: Yes.

MR. KANAREK: Now, if you balance the dignity that the Court is entitled to against Mr. Manson's presence, to be present during all the stages of the proceedings, I think the balance is in favor of Mr. Manson being here.

Even if we look at it from the standpoint of the dignity of the Court being affronted, the Court being

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1 an institution, I think it is just as important for
2 litigants to be present when things that are vital to
3 them are going on.

4 THE COURT: I quite agree. I could not agree more.
5 However, the Court is reluctant to use physical restraints
6 on Mr. Manson such as binding him or gagging him. I don't
7 feel that is necessary in these pretrial motions.

8 I am not taking any position as to what any
9 other Judge might do in the trial of the case. I think,
10 considering the posture of the case at the present time,
11 and the fact that this is a repetition of prior motions
12 made when Mr. Manson represented himself and was also
13 represented by counsel -- that all of these factors taken
14 into consideration, if Mr. Manson does not wish to
15 cooperate and wishes to continue to be contemptuous as
16 far as the Court is concerned, contemptuous of the Court
17 as an institution, then he may get a second-hand view of
18 the proceedings through a transcript, which you may give
19 to him and explain what happened during the proceedings.

20 Now, do you wish an opportunity to discuss
21 again with him his conduct in the courtroom?

22 MR. KANAREK: Well, your Honor, I will speak with
23 him.

24 THE COURT: I assume you have some control over
25 your client, Mr. Kanarek.

26 MR. KANAREK: May I say this, your Honor -- that --

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1 I don't believe that a client should be a eunuch. I don't
2 believe that a client should be subservient to a lawyer.
3 A lawyer is a lawyer, and Mr. Manson -- Mr. Manson is here
4 before this Court charged with some very serious crimes.

5 THE COURT: Is it your position that Mr. Manson
6 would be reduced to a eunuch and would be subservient, if
7 he conducted himself properly in court?

8 MR. KANAREK: No.

9 THE COURT: I suggest to you, Mr. Kanarek, you talk
10 to Mr. Manson and that you suggest to him that his conduct
11 is not proper and he should conduct himself properly, and
12 if he will indicate that he will do so, then he may return
13 to court and the Court will proceed.

14 MR. KANAREK: I will be glad to speak with him.

15 THE COURT: Thank you. We will have a five minute
16 recess.

17 (Short recess.)

18 THE COURT: Let the record show that all the parties
19 are present as heretofore, except aht Mr. Manson is not
20 present and that Mr. Shinn is not here.

21 We will proceed on the motion made by Mr.
22 Kanarek to dismiss the case on behalf of Mr. Charles
23 Manson under the provisions of Section 995.

24 Let the record reflect that the Court has
25 read and considered the documents submitted on behalf of
26 the defendant, Charles Manson.

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And let the record further reflect the Court has read and considered the entire transcript of the Grand Jury proceedings of December 5 and December 8, 1969.

Preliminarily, Mr. Kanarek, have you spoken with Mr. Manson?

MR. KANAREK: I have spoken with Mr. Manson, and Mr. Manson says, "You don't recognize him, so he doesn't recognize you."

Mr. Manson says, "It's just like the District Attorney said on the radio, that everything was done is only pro forma."

THE COURT: I see you reading from something.

MR. KANAREK: That is correct.

THE COURT: Are those exact quotes from Mr. Manson.

MR. KANAREK: Yes, your Honor.

Mr. Manson does not wish to change what has happened in the courtroom as far as his physical relationship with counsel table in the court.

THE COURT: All right, Mr. Kanarek, the Court thanks you. The Court appreciates your having a conference with Mr. Manson in that regard.

You may proceed and be heard on your 995 motion.

MR. KANAREK: Your Honor, we have filed written points and authorities referring to the record. I think there is no question, your Honor, that this record shows

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1 no corroboration, and nothing that the law contemplates --
2 and nothing such that Mr. Manson could be bound for trial,
3 for a felony trial.

4 And now Mr. Manson, as is discussed in this
5 indictment of a series of crimes -- it may be difficult
6 for the District Attorney not to have a case. As far as
7 Mr. Stovitz and Mr. Bugliosi are concerned, they may be
8 unhappy that they don't have a case.

9 But in every lawsuit that is filed -- that
10 doesn't mean that you cannot get past the demurrer. You
11 cannot get past the 995. And many civil lawsuits are filed
12 and the people just couldn't prove their case. They just
13 have no case.

14 Now the District Attorney has chosen to go
15 by way of Grand Jury indictment. The District Attorney
16 has chosen to go by way of a course wherein the defendant
17 is not present at the proceedings.

18 It is clear -- It is clear that a truly
19 adversary proceedings, which the District Attorney doesn't
20 seem to want or like -- when the proceedings are to be
21 sort of on both sides of the fence -- that isn't what he
22 wants -- it is clear, your Honor, that if we would view this
23 on a preliminary hearing standpoint, let us say there was
24 a preliminary hearing instead of a nonadversary proceeding --
25 -- there is no question about it whatever that this
26 matter would have been thrown out and dismissed at the

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1 preliminary.

2 They just -- They just don't have it.

3 The course of Susan Atkins testimony is
4 completely and absolutely uncorroborated. There is nothing
5 there but a burden to the taxpayers by way of all of the
6 Reporter's Transcript, and a burden by way of all of the
7 other expenses which are incident to this case.

8 We ask your Honor to dismiss it. We ask
9 your Honor to dismiss this matter as to Mr. Manson. You
10 cannot bootstrap a seven - or eight count Indictment,
11 including conspiracy, without having the evidence to
12 do it with.

13 And now the Civil Code says that you cannot
14 breathe life into a nullity. This is certainly a nullity.

15 We ask your Honor to dismiss on what is
16 filed with the Court.

17 THE COURT: Mr. Reiner, you likewise have
18 noticed a motion to set aside pursuant to Penal Code 995.

19 Do you wish to be heard?

20 MR. REINER: Yes, your Honor. We are going to
21 address the thrust of our argument to Count VIII, the
22 conspiracy count which charges that seven people were
23 killed in the crimes that occurred on two separate occasions,
24 August 8th and August 10th.

25 We appreciate that there is no testimony of
26 corroboration, but we recognize this is an Indictment

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1 rather than a trial, and we do not join in Counsel's
2 objections to that, as it is not required as to an
3 Indictment.

4 But we do feel that the testimony before
5 your Honor on Count VIII, as it relates to one of the
6 defendants -- that, Mr. Van Houten -- is insufficient.

7 There is evidence -- Strike that.

8 The only evidence presented to the Grand
9 Jury relating to Count VIII is the testimony of Susan
10 Atkins. So Count VIII of this Indictment must fall or
11 stand, depending on whether her testimony was sufficient.

12 This was a single conspiracy to go out on
13 two separate occasions to kill several people, then
14 Miss Van Houten, although she did participate only on the
15 second occasion, would be more or less accountable for all
16 the prior acts of the conspiracy.

17 If in fact there were two conspiracies; one
18 relating to all August 8th and the second conspiracy that
19 runs on the 10th, then Miss Van Houten could be charged,
20 according to the testimony before the Grand Jury, with a
21 conspiracy with respect to the La Bianca homicide but
22 could not be charged with a conspiracy as relating to the
23 Tate homicides.

24 A conspiracy may be obviously proved
25 directly -- that is it may be some words of agreement --
26 but if it is not proved directly, we realize it may be

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1 proved indirectly and inferentially where two people act
2 in some manner to indicate that they have a like mind --
3 and that may be considered as a conspiracy.

4 Now as to that aspect of the conspiracy
5 relating to the Tate homicides, the only evidence that is
6 before the Grand Jury is now before the Court, and that
7 is the evidence of Susan Atkins that she was given certain
8 instructions by a certain individual, Charles Manson.

9 Pursuant to those instructions she went out
10 on the evening of the 8th and the early morning hours of
11 the 9th, then returned to her home on the early morning
12 hours of the 9th.

13 Now that is all of the evidence that is before
14 the Grand Jury with respect to the Tate homicides.

15 And then she picks up the tale the next
16 evening and relates how she was given certain instructions
17 to get into a car and go to a certain place and find certain
18 people and certain acts that occurred then.

19 Now there is no evidence, direct or indirect,
20 that there was any overriding conspiracy to go out on the
21 two separate occasions. In fact, there is no direct
22 evidence of a conspiracy on either occasion.

23 But there is sufficient evidence, at least
24 sufficient for an indictment, to show a conspiracy as to
25 the conduct of certain persons on the first occasion; and
26 there is sufficient inferential evidence to show a conspir-

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1 acy with respect to certain other individuals on the
2 second evening.

3 But we're not dealing here with the nature
4 of the sufficiency or the insufficiency of the evidence
5 for that charge.

6 If there were any evidence, no matter how
7 indirect, that there was a connection between the two
8 evening, then we can discuss whether the evidence was
9 sufficient even for the purpose of the indictment.

10 But where there is a total lack of evidence
11 there is no evidence presented to the Grand Jury whatso-
12 ever, the situation that we have is that they were two
13 groups of individuals and they may have been made up in
14 part of the same membership; but there are two distinct
15 groups going out on two separate occasions to two separate
16 places, and there is no evidence that the two are connect-
17 ed, and there is no evidence to show that the defendant
18 Ban Houten should be put in the position to explain and
19 try to prove that she is connected with these two separ-
20 ate occasions.

21 Now had Miss Atkins indicated even in passing,
22 in some slight way, that Charles Manson had given certain
23 instructions to cover more than one evening; more than
24 he had said "Are you going out tonight?" and "Perhaps
25 another night," or anything along that line, anything to
26 indicate a connection between the two nights and the two

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1 events, then it possibly be that there might be some
2 evidence which is sufficient for the 995, even though in-
3 sufficient for the purposes of trial.

4 We agree that if there were such evidence,
5 it would be sufficient for the purposes of indictment.

6 Where the testimony of the Grand Jury comes
7 to a complete halt upon the return to the ranch, and then
8 picks up again the next morning where they are sent out --
9 we have two separate conspiracies.

10 Now the reason that becomes terribly
11 important for the defendant Van Houten is that she is not
12 charged with the substantive crimes in the homicides in
13 the Tate residence. That being the case, if the conspiracy
14 in Count VIII is to include all seven homicides instead of
15 being limited to participation with respect to the La Bianca
16 homicides, then all of the overt acts, all the other
17 evidence would be admissible solely to the other defendants
18 and that would also be admissible as to Miss Van Houten.

19 So I feel in summary the evidence before the
20 Grand Jury which is perhaps sufficient, as to the indict-
21 ment as to the two substantive crimes, with respect to
22 the conspiracy that the conspiracy that Mr. Van Houten
23 is charged with should be limited only to the La Bianca
24 homicide and not to the other homicide.

25 THE COURT: Thank you, Mr. Reiner.

26 Do the People wish to reply?

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MR. BUGKIOSI: Very briefly, your Honor. First of all I respond to Mr. Reiner's contention that Count No. VIII, the conspiracy count, does not denominate who the victims of the conspiracy are. It is simply a conspiracy to commit murder. It doesn't allege who these seven are.

I don't believe that Mr. Reiner's point is well-taken.

This was a continuing conspiracy to commit murder, which originated on the evening of August 8th per the testimony of Susan Atkins, and it continued over until the evening of August 9th, until the early morning hours of August 10th.

The testimony was clear to the Grand Jury that this was a continuing and existing conspiracy on the evening of August 9th, and pursuant to this conspiracy they went to the home of the La Blanca's, where Mr. Manson dropped them off in front of the La Blanca residence and they proceeded inside and participated in the murder of Mr. and Mrs. La Blanca.

I don't think there is any question that there is certainly sufficient evidence for the Grand Jury to indict Mrs. Van Houten on those two counts of murder and on the eighth count of conspiracy to commit murder.

With respect to Mr. Kanarek's 995 motion, Mr. Manson has already brought a 995 motion, while he was

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1 in pro per.

2 Mr. Kanarek does not have standing to re-raise
3 that issue, your Honor.

4 There is no provision in any case law or
5 any statute that once a motion is denied on a 995 motion
6 that he can keep on repeating this motion ad infinitum.

7 Assuming that he does have standing to raise
8 this issue a second time, even though the issue has already
9 been raised and decided previously by this Court, I can
10 only say that when Mr. Kanarek says there is no evidence
11 in respect to Mr. Manson in the Grand Jury transcript that
12 when he read the Grand Jury transcript he must have read
13 that transcript blindfolded, because the transcript is
14 replete with evidence not only showing that Mr. Manson
15 was a member of the conspiracy to commit these seven murders,
16 but that he was moving force behind these murders.

17 There was corroboration at the Grand Jury
18 to corroborate the testimony of Susan Atkins, who was an
19 accomplice.

20 But assuming, even arguendo, that there was
21 no corroboration of Susan Atkins, I think Mr. Kanarek
22 should know, as even a first law school student knows,
23 and Mr. Reiner has stated, it is not necessary for the
24 return of the Indictment that the testimony of an accomp-
25 lice be corroborated.

26 I cite to the Court the following cases

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among many in California that stand for that same proposition:

In Re Tannenbaum, 115 Cal. App. 2d 394

People versus Chrisman, 256 Cal. App. 2d 425

People versus McClellan, in 71 A.C.A. 831

All three of those cases, among others, clearly state that at a Grand Jury it is not necessary to corroborate the testimony of an accomplice, and the Grand Jury may return an Indictment on this uncorroborated testimony of an accomplice.

So I don't agree with Mr. Kanarek, and he raises that point ten or twenty times in his brief.

Now he referred to Section 1111 -- Section 1111 is a trial statute. It does not pertain to the Grand Jury, and I assume that Mr. Kanarek knew that, but for some reason he raises that issue before this Court.

Why does he do that? I really do not know.

We will submit the matter, your Honor, on our previous argument and on previous briefs in opposition to Mr. Manson's motion under 995. We filed that brief back on February 5, 1970.

On the 6th of February, the Court denied Mr. Manson's 995 motion, and it is a 17 page brief which we submitted to the Court in opposition to his motion under 995.

We respectfully ask the Court to incorporate

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that into our argument at this time.

THE COURT: Thank you, Mr. Bugliosi.

THE COURT: Mr. Kanarek, do you wish to respond?

MR. KANAREK: The point is that when someone is indicted before the Grand Jury they are not present, and it is not an adversary proceeding, and corroboration is necessary. Otherwise if you take what Mr. Bugliosi says, and he has cited those cases but he didn't serve those cases upon me. He didn't let me know what cases he was going to cite.

But if the law is, as Mr. Bugliosi says, then I could take the witness stand and accuse someone of killing John Kennedy and then that person could then be prosecuted for killing John Kennedy.

This is absolutely not the law. It is manifestly improper and illegal.

Mr. Bugliosi knows well that you have to have something further -- something other than the bare statement of the person.

Otherwise, your Honor, why did they go to the tortures of this -- I don't know how many witnesses there are here -- let's count them up -- some 20 witnesses.

You see, what the District Attorney is doing, they are trying to make up for the lack of the case by way of Susan Atkins, by using reams and reams of testimony.

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1 The testimony that is before the Grand Jury
2 is uncorroborated, and there is no probable cause, no
3 legal probable cause to bind over and force Mr. Manson
4 to go through the rigors and the expense of a trial for
5 these alleged seven murders and this conspiracy.

6 The District Attorney depends on the notoriety
7 he depends on the publicity, he depends on the Grand
8 Jury having heard this case before; that is the reason
9 the District Attorney got this Indictment.

10 This indictment has no legal basis. There
11 is no question that Susan Atkins is absolutely uncorroborated,
12 and it is a denial of due process when you force a
13 man -- when you force a man into the status of a criminal
14 defendant and then do as they have done with the radio
15 and the mass media that they have stretched this all out
16 of proportion; and that is why this 995 motion should
17 be granted.

18 The Court should scrutinize the Grand Jury
19 with greater particularity than a preliminary
20 transcript, because in a preliminary hearing you have
21 an adversary proceeding.

22 Here the defendants are not present. Anything
23 the District Attorney wishes to be uttered is uttered,
24 and put that down in this transcript for your Honor to
25 read.

26 Let us see if the District Attorney would
dare to refile this in an adversary proceeding -- they

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wouldn't dare, because they have no case.

Mr. Manson is innocent of these charges, and Mr. Bugliosi and Mr. Stovitz know that.

THE COURT: Thank you, Mr. Kanarek.

Do you wish to be heard urther, Mr. Reiner?

MR. REINER: Although, as Mr. Bugliosi indicated, Count VIII of the INdictment does not specifically name the victims of the conspiracy to commit murder, they do mention several overt acts, and these overt acts relate to the Tate homicides. So clearly Count VIII is limited to the Tate homicides.

Mr. Bugliosi said there was a continuing conspiracy. If there was in fact a continuing conspiracy that began on the 8th and was concluded on the 10th, I would not argue this motion for Miss Van Houten.

But then notwithstanding the allegations that this conspiracy was based on the instructions of Charles Manson who gave certain instructions as to the Tate homicide case, it seems to me that on the 10th we have a completely different conspiracy, one that is separate and apart from the Tate conspiracy.

But it is simply a conclusion to state that it was a continuing conspiracy, and the question perhaps means restating so that we all understand it.

The issue here is not whether in fact there was a conspiracy, but the issue is whether there is any evidence of a conspiracy before the Court.

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1 It is our position that we are not dealing
2 here with a sufficiency of the evidence. We are dealing
3 with an absence of evidence. There is no evidence
4 whatsoever before the Court inferentially or otherwise
5 relating to a conspiracy; and I might digress just to
6 say that I know it isn't necessary for the Court, but
7 with the press present, when I am arguing as to Miss
8 Van Heuten that there is insufficient evidence that
9 she participated in the certain homicides, I am not taking
10 the position she did, but I am talking about the suf-
11 ficiency of the allegations, which must stand or fall
12 on the evidence that is before the Court.

13 For the purpose of this hearing, for the
14 purpose of this motion, we must assume as true and
15 accurate everything that is testified to before the
16 Grand Jury. So assuming that everything that is testified
17 to before the Grand Jury is true and accurate, and giving
18 it the best possible interpretation, our position is
19 that they have proved up two conspiracies and that there
20 is absolutely no evidence of any connection between the
21 two conspiracies.

22 With that I will submit it.

23 THE COURT: Do you also submit the matter, Mr.
24 Kanarek?

25 MR. KANAREK: Submitted, your Honor.

26 MR. STOVITZ: The People also submit it.

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1 THE COURT: Thank you, gentlemen. The Court feels
2 that the transcripts are sufficient, that the evidence
3 contained therein is sufficient for the purposes of a
4 995 proceeding.

5 The motions to dismiss are denied.

6 We will be in recess.

7 (Whereupon, proceedings concluded.)

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