

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. 2005

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

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1 LOS ANGELES, CALIFORNIA

THURSDAY, JUNE 11th, 1970

2 10:40 A.M.

3 - - -

4 THE COURT: People vs. Charles Manson and Susan Atkins.

5 MR. REINER: Ira Reiner appearing for Susan Atkins
6 specially today in the absence of Mr. Quinn.7 THE COURT: Miss Atkins, is that agreeable with
8 you?9 (Defendant Atkins rises from her seat and turns
10 her back on the Court.)11 THE COURT: Mr. Reiner, I suggest you advise Miss
12 Atkins if she does not sit down and face the Court she will
13 be removed from the courtroom.14 MR. REINER: Yes, your Honor. I previously advised
15 Miss Atkins on that. Miss Atkins, would you please turn
16 around.17 DEFENDANT ATKINS: If your Honor doesn't respect Mr.
18 Manson's rights, you need not respect mine. I have nothing
19 further to state in this courtroom.20 THE COURT: The bailiff will remove Miss Atkins from
21 the courtroom.22 MR. REINER: Your Honor, may I have one more word
23 with her?24 THE COURT: Mr. Fitzgerald, I suggest that you confer
25 with your client also.26 The record will show that all three of the
defendants, Van Houten, Kramwinkel and Atkins, are now

2.

1 standing with their backs to the Court.

2 MR. REINER: Your Honor, I have conferred with Miss
3 Atkins and Miss Van Houten. I advised them they should
4 turn around and face the Court.

5 They have indicated they will not do so.

6 MR. FITZGERALD: I will make substantially the
7 same statement on behalf of Miss Krenwinkel.

8 THE COURT: Very well. I order each of you ladies
9 to turn around, face the Court and sit down, or you will be
10 removed from the court for the balance of the proceedings.

11 Very well, having failed to do so, the bailiffs
12 will remove the three defendants from the courtroom. ✓

13 Mr. Kanarek, has Mr. Manson affirmed to you
14 his desire to return to the courtroom and conform to the
15 Court's order regarding decorum and conduct while he is in
16 the court?

17 MR. KANAREK: I cannot make that representation to
18 the Court, your Honor.

19 THE COURT: Have you talked to him this morning?

20 MR. KANAREK: I have not talked to him specifically
21 about that point, your Honor.

22 THE COURT: All right, would you confer with him
23 at this time.

24 MR. KANAREK: Yes, your Honor.

25 MR. REINER: Excuse me, your Honor. With respect to
26 defendant Atkins, although I indicated to Mr. Shinn I would

3.

1 appear on her behalf specially today, Miss Atkins had
2 indicated previously it is agreeable to her. Since she
3 did not acquiesce in open court, I think her matter will
4 have to go off calendar.

5 I don't know I can properly represent her
6 today. I certainly am willing to.

7 THE COURT: We won't take any action in that case
8 until Mr. Shinn is present.

9 MR. STOVITZ: Will the Court contact Mr. Shinn and
10 advise him to be present?

11 THE COURT: Do you know where he is, Mr. Reiner?

12 MR. REINER: No, I don't, your Honor.

13 (Mr. Kanarek reenters the courtroom from
14 the holding room.)

15 MR. KANAREK: Yes, your Honor, Mr. Manson, your Honor,
16 asks respectfully the Court to allow him to discuss the
17 matter with your Honor. He would like --

18 THE COURT: There is nothing to discuss, Mr. Kanarek.
19 When the defendant affirms to you that he is willing to
20 come back into the court and conform to the Court's orders,
21 he may return. Until such time he will remain in the hold.

22 MR. KANAREK: Your Honor, I do make the motion -- I
23 believe it's already made, but out of an abundance of
24 caution I make the motion that Mr. Manson be my co-counsel
25 in this case, your Honor, referring, your Honor, to the
26 statements that are in the record by the Honorable Joseph

4.

1 Bail, indicating Mr. Manson's intellectual capacity and his
2 ability to even be in pro per, so a fortiori Mr. Bugliosi
3 has made much about the seriousness of these offenses, it
4 would seem like we would be doing the best we can in
5 protecting his legal position by allowing him to be co-
6 counsel.

7 THE COURT: The motion will be denied.

8 MR. STOVITZ: Your Honor, may counsel approach the
9 bench?

10 I believe these proceedings, the defendants
11 not being present, could not be harmed by our conference at
12 the Bar, or perhaps in chambers.

13 MR. FITZGERALD: We would agree and join in that
14 request.

15 MR. REINER: Join on behalf of the defendant
16 Van Houten.

17 THE COURT: We will have a brief conference in
18 chambers then. The Court will recess for about five minutes.

19 (Recess, followed by the following proceedings
20 in chambers, all counsel with the exception of Mr.
21 Shinn being present with the Court.)

22 MR. FITZGERALD: So the record may be clear, your
23 Honor, at least on behalf of Patricia Krenwinkel, and I
24 speak on behalf of the other defendants, we would object to
25 the Court's procedure.

26 Before we get into the objection, I think
counsel on both sides would like to discuss with you a

3. 1 matter that is obviously of mutual concern.

2 Your Honor saw us talk with our clients. I
3 have been privy not only to the conversation I had with
4 Miss Krenwinkel, but conversations Mr. Reiser had with Miss
5 Atkins and with Miss Van Houten, and we have obviously
6 communicated to the defendants your Honor's directive in
7 terms of their courtroom conduct.

8 MR. REISER: Perhaps, if I might interrupt, I should
9 make some indication on behalf of my client, Miss Van
10 Houten.

11 I was given prior notice of her intention to
12 act as she has acted today.

13 I attempted to dissuade her. I was first
14 notified of this today.

15 I made every argument I thought would be
16 effective with her. / In all candor I did not think any
17 argument would be effective with her because there is a
18 minimum amount of client control in this case. / In any
19 event I tried to point out that her conduct not only would
20 be contemptuous, but apart from that it would be futile in
21 any event.

22 She was determined to go ahead and do what
23 she did.

24 Now, having acted in the manner in which she
25 did, there is no way I could have prevented or that I can
26 prevent it. Unfortunately, since there is a minimum amount

6.

1 of client control, I think now the issue we have is whether
2 the Court may properly exclude them from the court.

3 I am not terribly concerned about their absence
4 while we are arguing matters of law, although I would like
5 them there at all times in the event I do want to confer
6 with Miss Van Houten.

7 But when we get to that portion of these pro-
8 ceedings where we are taking evidence, and litigating matters
9 of fact and jury selection, of course, but I am thinking
10 even prior to that, hearings held on pre-trial, perhaps on
11 a 1538.5 motion, it is essential, of course, that the client
12 be there so that I might confer with her.

13 Now, I would hope that having made a small
14 show of whatever it was that she was attempting to
15 illustrate, she will then behave properly the rest of the
16 time. But I am not confident she will; I cannot guarantee
17 she will. She may or may not from time to time.

18 I am terribly concerned that while we are at
19 that portion of the trial where I do want her present, that
20 she may act in some disrespectful manner such as she did
21 today by standing up and turning around and showing her
22 back to the Court. The Court may once again remove her
23 from the courtroom.

24 Now, I don't think the Court may properly
25 remove a defendant from the courtroom who is acting in a
26 contemptuous and disrespectful manner unless that
contemptuous conduct in some way disrupts the proceedings.

27.

1 Now, if the conduct in no way affects the
2 normal conduct of the proceedings, then I think the only
3 remedy that the Court has for the affront is to hold the
4 individual defendants in contempt each time they misbehave.

5 But since the defendants are not guilty of
6 screaming or creating a disturbance of any sort, they are
7 standing mute, silent, simply with their backs to the
8 Court, the removing them from the court is improper and I
9 don't think *Allen vs. Illinois* authorizes it.

10 I think *Allen vs. Illinois* specifically
11 indicates that the Court may take this rash action of
12 removing the defendants from the court only in the event
13 they are preventing the Court from continuing.

14 MR. STOWITZ: On behalf of the People we have
15 seventy-five witnesses subpoenaed for June 22nd. We
16 anticipated the trial would get under way on the 15th of
17 June, and the jury selection would start either that day
18 or the next day, and we would then schedule our witnesses
19 accordingly.

20 We feel that *Allen vs. Illinois* does require
21 more than merely disrespect for the Court. In other words,
22 a person can show disrespect for the Court by putting his
23 head down on the table.

24 However, if the defendant does not do anything
25 to actually disrupt the court proceedings, then the
26 constitutional requirements have been met.

8.

The defendant is there in court. He is given an opportunity to face his accusers; he is given an opportunity to be present. If he sees fit to put his head down on the table, that may be disrespectful to the Court, but it does not disrupt the court proceedings.

We are interested in getting the case under way. We feel whether or not this is a contrived action by the defendants or not, that although the Court may be insulted by the conduct of the defendants, that it is to be weighed on the scales of justice with all things else being equal.

Once the actual jury selection commences, I think the defendants will realize that they are acting to their own detriment, and their scorn and contempt for the Court will be transferred to the jury, and they will change their position.

Right now we want to get these preliminary motions heard.

We feel that under the present state in California law, unless the defendants expressly sign a written waiver not to be present, or unless they are told expressly that by them doing this they are in effect waiving their right to be present in court, that these proceedings would be a nullity, and might be considered error on appeal.

I earnestly hope that your Honor would give

9.

1 the defendants an opportunity to be present in court.
2 If they do not make any outbursts or cause any disruption
3 in the court, that we might proceed with the motions.
4 We do want to start on the 15th, your Honor.

5 THE COURT: Anyone else want to be heard?

6 MR. BUGLIOSI: I agree with Mr. Stovitz and Mr.
7 Reiner.

8 THE COURT: I disagree with all of you gentlemen.

9 I think that, first off, what they are doing
10 is disruptive. It is not only disruptive, it is distractive;
11 it is an insult to the dignity and decorum of the court.

12 It is a direct violation of the Court's order,
13 and it would be a great distraction and disruption if
14 continued during the course of the trial, which I don't
15 intend to permit.

16 It is entirely in the hands of the defendants.
17 All they have to do is comply with the Court's order,
18 and --

19 MR. BUGLIOSI: May I suggest an alternative?

20 THE COURT: -- they will be permitted to return at
21 any time.

22 As far as conferring with their counsel, I
23 already said and I will say again that counsel may confer
24 with them whenever they care to during every recess and
25 after court hours.

26 We have fixed up the holding room for Mr.

10.

1 Manson with a loudspeaker. He can also see what is going
2 on. I tested it personally myself this morning, and
3 observed everything in the courtroom from where he is
4 except, possibly, my profile which is hidden by the doorway.

5 But he can see counsel; he can see the jury and
6 he can see the spectators and he can hear everything that is
7 going on there.

8 I already ordered our jury room fixed up for
9 the young ladies in the same manner. When they are removed
10 from the courtroom they will have the same opportunity
11 to hear, although not see, what is going on.

12 The jury room is upstairs, above the courtroom;
13 the holding room is immediately adjoining the courtroom.
14 It is going to be entirely up to them.

15 I do not propose to try this trial with the
16 defendants standing up in court with their backs to the
17 Court.

18 MR. BUGLIOSI: May I suggest an alternative, your
19 Honor. At these stages of the proceedings right now it
20 isn't important. But, like I said yesterday, I am reasonably
21 confident that if the Court were to exclude the defendants
22 from the courtroom during the trial itself, or even during
23 the selection of the jury, I am very, very confident this
24 would constitute reversible error on the grounds that it is
25 denying them the right to consult with their attorneys
26 during the trial.

11.

1 THE COURT: They have that right. All they have to
2 do is exercise it by complying with the Court's order.

3 MR. BUGLIOSI: I think Illinois vs. Allen clearly
4 says the conduct has to be so disruptive that the trial
5 cannot progress. What I would suggest for the Court's
6 consideration, it is a rather harsh alternative, but at
7 least we can eliminate error, strap them to their chairs,
8 bind them.

9 Now, Allen mentions that as a possibility,
10 make them sit there and face the Court.

11 THE COURT: Allen also indicates that is the least
12 desirable of the alternatives available to the Court, and
13 I am inclined to agree.

14 MR. BUGLIOSI: I agree, your Honor, that is a
15 very unattractive alternative.

16 THE COURT: The reason why I am removing them is
17 not simply because of the disruptive nature of their
18 conduct and the fact that it is a contemptuous behavior on
19 their part toward the Court, but because we don't have a
20 jury yet.

21 But if this occurred during the course of the
22 trial itself they would be prejudicing their own interests,
23 very likely, with the jury, and I have a duty to see that
24 they do not do that.

25 I think that they would be likely to be
26 prejudiced if they had to be gagged and shackled or just

12.

shackled without the gags, depending on the circumstances in the courtroom.

So I am going to select the least offensive alternative that is available to the Court, simply have them removed during the period of their contemptuousness, and it is within their power to stop at any time they want to.

MR. STOVITZ: May we then have a statement for the record, then, they are given this alternative.

I know your Honor expressed it more clearly.

THE COURT: They are not being given any alternative as far as what I am going to do. The only alternative they have is to decide whether they want to comply with my orders or not.

MR. STOVITZ: I would like the record to reflect that your Honor, or I will do it if your Honor wants me to, to tell them they have a right to be present if they want to; that any time they see fit to conduct themselves in a normal manner, as all other litigants must conduct themselves, that they can indicate that to the bailiff and they will be brought back into the courtroom; that if they want to face the front of the courtroom, that is all the Court is asking them; that they will be allowed to remain -- "Now, do you want to face the courtroom, Miss Atkins?"

THE COURT: I already so advised them before they were removed.

13.

1 MR. STOVITZ: You have not had an express waiver
2 from each one.

3 THE COURT: Waiver of what?

4 MR. STOVITZ: Of their right to be present.

5 THE COURT: I am not asking for any waiver.

6 MR. STOVITZ: I think this is what the Code con-
7 templates, that they are told in unequivocal terms.

8 THE COURT: They have been so told, and counsel have
9 been told. They sat here yesterday when I advised Mr.
10 Manson several times, and his counsel, after every recess.

11 MR. STOVITZ: I realize that, your Honor.

12 THE COURT: They heard all of this. There cannot be
13 the slightest question in their minds.

14 MR. STOVITZ: If we can have it from their own
15 lips that they know they have the alternative to be present
16 so long as they are willing to conduct themselves as any
17 other litigant would, I think the Court would be covered
18 so far as the preliminary motions go.

19 As far as the commencement of the trial is
20 concerned I feel that all the proceedings would be a nullity,
21 and as long as they refuse to face the front of the court
22 and conduct themselves in a normal manner, we just should
23 not start a jury selection.

24 THE COURT: Well, they will be brought in so the jury
25 panel may see them initially. But if they persist in
26 conducting themselves in the same way they did this morning,

14. 1 then they will be removed, and the same right of conference
2 will exist, the same right to confer with their attorneys
3 will exist as now exist.

4 There won't be any deprivation of their right
5 to confer with counsel, and they will hear everything that
6 is going on in the proceedings.

7 MR. BUGLIOSI: The Zamora case held there was a
8 deprivation of the right to counsel where the defendants
9 were actually in court with their counsel but apparently
10 were separated from them, so it was very difficult for them
11 to talk to counsel.

12 And the Court, either the California Supreme
13 Court or the Appellate Court -- the Supreme Court -- held
14 even that was a denial of the right to counsel, because the
15 right to counsel implies the right to confer, a fortiori,
16 even in court, even though they are hearing the proceedings,
17 I think that clearly it would be a denial of their right to
18 counsel.

19 Of course the prosecution is just as concerned
20 about this as the defense. We have to --

21 THE COURT: And the Court is equally concerned.

22 MR. REINER: If I might interject a few comments:

23 I agree, as any conscientious lawyer would,
24 that the defendants are prejudicing their own case by their
25 own conduct, certainly if the jury appears and they turn
26 their back on the Court or act in any disrespectful manner,

15.

1 certainly it will have an adverse effect on the jury, to
2 the defendants.

3 This is an argument I made to my defendant;
4 but it is not an argument that carries any particular weight
5 with her, frankly. But I don't know how else to say this,
6 but I think perhaps I can put it as succinctly as this:

7 A trial is not a privilege that is granted to
8 people who will maintain good behavior. That is not the
9 purpose or function of a trial.

10 I will not argue with the Court that the
11 defendants are misbehaving. I will grant their conduct is
12 insulting; it is meant to be insulting and it is contemptuous,
13 and the Court in its own discretion should take whatever
14 remedy it can toward punishing the defendants.

15 I am distressed that I cannot do anything
16 about it because I am trying to do the very best job
17 possible for my defendant, hopefully for an acquittal, if
18 not an acquittal perhaps some lesser sentence.

19 Her conduct is making that job more and more
20 difficult in a situation which is at best very, very
21 difficult in any event.

22 Now, if these defendants are disrupting the
23 proceedings so that it does in fact become impossible to
24 proceed, then I would agree that the proper procedure would
25 be to remove them from the courtroom.

26 I would vigorously oppose ever shackling a
defendant, yelling and screaming and gagging them. They

16,

1 should be removed from the proceedings and we will proceed
2 as we do often in civil cases where the parties themselves
3 are not present, or in a misdemeanor where the defendant
4 is not always present.

5 But where the proceedings are not actually
6 being disrupted, where it is simply a matter of affront,
7 whether an affront to the Court or some other person, and
8 the proceedings may nonetheless go ahead, counsel may
9 examine witnesses, that the witnesses may answer, that the
10 persons may examine -- that jurors may view the witnesses
11 and reach judgments as to their credibility, that is, where
12 all the proceedings may go ahead without any obstruction,
13 then I don't believe the Court has the right or authority
14 to remove the defendant from the courtroom.

15 THE COURT: You made this argument, Mr. Reiner.

16 MR. REINER: I want to bring it down to one point,
17 the Court said he felt if a defendant were to stand and
18 turn her back quietly, silently, and simply have her back
19 facing the Court rather than her face, that this would
20 be disruptive.

21 May I inquire of the Court specifically how
22 this would disrupt any aspect of the proceedings, and
23 perhaps we may then address ourselves to a point by point
24 examination of what aspect of the proceedings are being
25 disrupted.

26 THE COURT: I am not going to go through this. I

1 told you what my thinking is on the subject.

2 I see nothing to change it. It is disruptive.
3 It would be distracting; it would be highly prejudicial
4 to the defendant's own case, and I will not permit it.

5 It would simply be up to the defendants to
6 decide for themselves whether they wanted to be present
7 during the course of the trial or whether they wanted to
8 have the trial go on in their absence.

9 MR. REINER: I don't think the test is what the
10 defendant wants.

11 THE COURT: Anything further, gentlemen?

12 MR. STOVITZ: Not on this point, your Honor, on
13 another point:

14 I think the record should be crystal clear
15 that Mr. Kanarek is acting as Mr. Manson's private lawyer
16 and is not a Court-appointed lawyer.

17 THE COURT: We have gone over that. I have nothing
18 to do with the Hinman case; I had only one motion before
19 me and that was a motion for a substitution which was
20 disposed of yesterday. In the other case I have already
21 made it clear on the record that he is not being appointed
22 by the Court, and whatever his arrangements are with Mr.
23 Manson, they are private arrangements.

24 MR. STOVITZ: In the Hinman case, however, a Court-
25 appointed lawyer was removed.

26 THE COURT: I am not the Judge in the Hinman case.

18.

1 MR. STOVITZ: But your Honor did allow the substitution
2 to come in, so I would like the record to be clear that
3 on the Hinnan case Mr. Kanarek is not substituting in as
4 a Court-appointed lawyer.

5 THE COURT: He is not being appointed by me, and
6 as far as I know he has not been appointed by any Judge.

7 MR. STOVITZ: May it be stipulated then by the
8 attorney for Mr. Manson that he is coming in as Mr. Manson's
9 privately selected attorney.

10 THE COURT: I don't know.

11 MR. KANAREK: I would like to --

12 THE COURT: I don't know if he cares to stipulate
13 to anything or not, that is up to him.

14 MR. KANAREK: I believe the County Counsel represents
15 the County in this regard. I believe the District
16 Attorney, once again, wants to usurp, wants to move into
17 areas that are outside of his domain.

18 The County Counsel, Mr. Maharg -- I have
19 difficulty pronouncing his name, but I don't think Mr.
20 Stovitz can speak for the County in that regard.

21 THE COURT: I don't understand what you're saying,
22 speak in what regard?

23 MR. KANAREK: I don't believe Mr. Stovitz in
24 connection with the matter he is speaking of has any
25 standing. He is the prosecutor; he is a member of the
26 District Attorney's Office and I believe --

19.

1 THE COURT: I don't see that there is anything
2 before the Court. I did not appoint you in either case.
3 I made that abundantly clear. As far as I know neither has
4 any other Judge.

5 Now, if you can test that, that is a matter
6 for you to take up, Mr. Kanarek, but the record will
7 indicate that you have not been appointed by the Court in
8 either case.

9 Is that your understanding?

10 MR. KANAREK: I have not heard myself being appointed,
11 your Honor, that is a fair statement.

12 THE COURT: Very well, let's proceed, gentlemen.

13 (The following proceedings were had in
14 open court:)

15 THE COURT: Mr. Kanarek, in the Hlusan case, No.
16 A250361, that matter will be transferred to Department
17 West "D" on June 18th, at 9:00 a.m.

18 MR. KANAREK: May the record reflect that we do
19 oppose that transfer. We would ask, we would like to make
20 argument to the Court in that regard, your Honor. It was
21 filed in the downtown area. There are many reasons why
22 it would be best kept in the downtown area. The alleged
23 wrongdoing took place in that area. The People may have
24 some -- I don't want to belabor it at this point, I would
25 ask your Honor to keep your Honor's order in abeyance.

26 THE COURT: It is my understanding from talking to

1 Judge Dell in Department 100, that this matter has already
2 been transferred for a motion on the 18th in Department
3 West "D."

4 MR. KANAREK: That I am not aware of, your Honor.

5 THE COURT: That is the reason I am making the
6 transfer.

7 MR. KANAREK: I see. The motion had already been
8 made.

9 THE COURT: That is what I have been informed, I
10 don't know, Mr. Kanarek. In any event the case will be
11 transferred to West "D" on June 18th, at 9 a.m. for further
12 proceedings in that court.

13 The Court will next take up Mr. Hanson's motion
14 for discovery in the Tata-Labianca case.

15 MR. REISER: If I might be heard before we proceed,
16 your Honor, I would like to move for a stay so I might
17 immediately seek a writ of mandate in the Court of Appeals
18 directing the Court to have the defendant Leslie Van Houten
19 returned to the courtroom.

20 I can represent to the Court that I will have
21 the matter prepared within hours after the transcript is
22 prepared by the court reporter.

23 THE COURT: Do you have any further matters with
24 regard to pre-trial motions, Mr. Reiser?

25 MR. REISER: Yes, I do, your Honor.

26 THE COURT: Well, the motion for a stay will be
denied.

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He will continue with our pre-trial motions.

MR. KANAREK: May the record reflect that we will join in that request for a stay --

THE COURT: Very well.

MR. KANAREK: -- on behalf of Mr. Manson.

THE COURT: Are you ready to proceed with your motion for discovery, Mr. Kanarek?

MR. KANAREK: Your Honor, we are ready to proceed with the exception that we have this problem:

And Mr. Shinn is not present and in view of Mr. Bugliosi's statements yesterday, concerning the fact that he, well, whatever the reason is, the 30 pages of transcript, or 30 pages of notes that Mr. Bugliosi made himself, being very vital, and involving Susan Atkins, that is a sine qua non, your Honor, we must have those thirty pages.

Now, we may have to take evidence on it. I would be reluctant to proceed in that connection without having Mr. Shinn here.

THE COURT: All I am interested in at the moment, Mr. Kanarek, is proceeding with your motion.

MR. KANAREK: Very well then, at the top of page 6 of our request, your Honor --

THE COURT: Your request is contained in Paragraph 5 on page 5 of your proceedings.

Do the People have any objection to that request?

21.

MR. BUGLIOSI: Lines 3 through 5 on page 5, your Honor.

THE COURT: Yes.

MR. BUGLIOSI: I think "expected testimony" is a little broad. I don't think we have to furnish the defense with that.

I think we can furnish the defense with tape recorded conversations, or police reports, et cetera.

I don't think we have to tell the defense every single item of information that a particular witness will testify to.

THE COURT: Well, it is my understanding that this was part of Mr. Reiner's request yesterday, the People have acceded to that request on the Court's order.

MR. BUGLIOSI: The language here is "expected testimony."

I think what they want is probably several volumes right now on every single item, including the witnesses' addresses, where they work, what they are going to testify to.

I think this is an unreasonable request.

THE COURT: I think the request should be no broader than the Court order with respect to Mr. Reiner's request.

MR. BUGLIOSI: I don't think Mr. Reiner was asking for the expected testimony, I think he was asking for written or oral statements and also tape recorded

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1 conversations which we already turned over.

2 THE COURT: The statements will contain the essential
3 facts, I would assume, to which the witness will testify.

4 MR. BUGLIOSI: That is true, your Honor, and we
5 have already turned over all of our statements from
6 witnesses to the defense.

7 But for me to sit down and determine exactly
8 what each witness is going to testify to based on those
9 statements is unreasonable and an unwarranted request, and
10 I don't think any case on discovery has yet gone that far.

11 We are only required to turn over to the
12 defense all the written statements we have of witnesses
13 and all of the tape-recorded conversations we have of
14 witnesses.

15 THE COURT: Is it my understanding then that you
16 have complied with that portion?

17 MR. BUGLIOSI: Yes, your Honor.

18 THE COURT: Do you have those, Mr. Kanarek?

19 MR. KANAREK: No, I do not physically have them.

20 MR. BUGLIOSI: You have the right to inspect and
21 copy them, as I understand, Mr. Kanarek, whether you
22 exercise that right or not is beyond the power of the
23 prosecution.

24 MR. KANAREK: I will certainly exercise the right of
25 going to the District Attorney's Office, your Honor.

26 But, if I may, we have in this paragraph the

23.

1 language. "And particularly the question is asked whether
2 Linda Kasabian will testify for the prosecution, and her
3 expected testimony."

4 Now, we have a problem here in preparing for
5 trial. We have to know whether Linda Kasabian is going to
6 be a witness or not, and --

7 THE COURT: The People will give you that information.
8 They will be required to reveal the names and identities
9 of the witnesses they expect to call.

10 MR. BUGLIOSI: We already turned over to the defense,
11 your Honor, a 20-page document which I dictated concerning
12 Linda Kasabian's expected testimony.

13 Now, we made an exception as to her, obviously --

14 THE COURT: Does Mr. Kanarek have this? That is
15 the problem.

16 MR. STOVITZ: Mr. Hughes was given it. It was mailed
17 to him.

18 MR. BUGLIOSI: I assume Mr. Hughes has turned it
19 over to Mr. Kanarek.

20 MR. KANAREK: I have read, your Honor, what counsel
21 is alluding to. However, it is a far-cry from what he
22 synthesizes in comparison with what she will do or perhaps
23 has already done by way of a word for word interrogation.

24 I am sure the District Attorney of Los Angeles
25 County has conducted a question and answer session with
26 her, at least I would think so since we are approaching

24.

1 trial.

2 THE COURT: If those statements have been reduced
3 to writing, you are entitled to them.

4 MR. KANAREK: Or if they are in the form of a
5 tape recording we will be glad to listen to the tape or
6 bring someone in to take it down or reproduce it.

7 We do ask for that, your Honor, rather than
8 Mr. Bugliosi's -- after all he is an advocate here, we want
9 what she actually uttered, rather than Mr. Bugliosi's
10 synopsis.

7.

11 MR. BUGLIOSI: I did not have a tape-recorded con-
12 versation with Linda Kasabian, your Honor.

13 THE COURT: Well, the Court will order the People
14 to make available to the extent it has not already been
15 done the names and identities of all of the witnesses you
16 may expect to call at the trial, and to permit Mr. Kanarek
17 to inspect the statement of all witnesses who were
18 interviewed in the same manner as the Court ordered with
19 respect to Mr. Weiner's request yesterday.

20 That would seem to take care of your request.

21 MR. KANAREK: We have this problem, however, your
22 Honor, if Linda Kasabian is granted immunity, of course
23 then she testified and she has no privilege against self-
24 incrimination.

25 I'm sure, I mean I am not really sure, or I
26 think that it is probable that the District Attorney has

25.

perhaps seen or knows of statements that are in the hands of the attorneys for Linda Kasabian, and there is no reason if she is granted immunity why we cannot have the statements that she may have given to her own lawyers, since the attorney-client privilege is evidently not going to be of any importance to her in view of the fact that she is in the process of being given immunity, or will testify.

Now, we would ask through the Court, your Honor, if Mr. Bugliosi knows of any question-and-answer type of interrogation made by her attorneys with her, if he has seen anything like that which we, I believe, in the context of what is going on here, that we are entitled to.

MR. BUGLIOSI: Your Honor, Mr. Fleishman, Linda Kasabian's attorney, I am sure, has interviewed her at great depth several times.

I have no knowledge of any of these conversations being reduced to writing. I certainly don't have possession of them.

THE COURT: Very well. That will be the order, gentlemen. That seems to be the only demand that you have in your discovery motion, Mr. Kanarek.

MR. KANAREK: Well, except on page 6 at the top, any statements made by the co-defendants.

Now, Linda Kasabian does not come to court. She still, as far as the court file is concerned, is a co-defendant.

26.

1 THE COURT: Mr. Bugliosi says he doesn't have any
2 such statement.

3 MR. KANAREK: I understand, your Honor. But I just
4 want to point out that we have this request at the top of
5 page 6.

6 We consider her at this point, she has this
7 dual capacity of a witness for the prosecution and also
8 a co-defendant, and so out of an abundance of caution,
9 she comes under that category also, at the top of page 6.

10 THE COURT: Very well. Anything further on the
11 discovery motion?

12 MR. KANAREK: Yes, your Honor. At the top of page
13 6, "Any statements made by the co-defendant."

14 Now, that includes what Mr. Bugliosi was
15 alluding to yesterday in connection with the 30-pages of
16 notes that he lost.

17 This is the initial time that he has spoken
18 to Susan Atkins. It is our request that we have those
19 notes.

20 THE COURT: You are entitled to the notes if they
21 exist, Mr. Kanarek, but I understand from Mr. Bugliosi he
22 does not have them any longer.

23 MR. BUGLIOSI: Your Honor, I don't believe I have
24 them any longer. They served no further purpose.

25 Susan Atkins has decided not to testify for
26 the prosecution.

27.

1 THE COURT: That is not the point. Do they exist
2 or don't they?

3 MR. BUGLIOSI: To my knowledge they don't. I have
4 tabs and tabs of notes and files. I will look for them
5 again.

6 I looked for them last night and I could
7 not find them. I can say this, and I will repeat it again:
8 These 30 pages of notes were testified to in substantial
9 accordance by Susan Atkins the following morning at the
10 Grand Jury.

11 Mr. Kanarek has a copy of the Grand Jury
12 transcript. I will make the representation to the Court
13 that Susan Atkins' testimony was in very, very substantial
14 accordance with what she told me the previous night.

15 THE COURT: That does not satisfy the request.

16 MR. BUGLIOSI: If Mr. Kanarek is not satisfied with
17 that, I will sit down with Mr. Kanarek and relate to him
18 my recollection, and I think it is fairly good, of what
19 Susan Atkins told me.

20 THE COURT: You can do that as a matter of stipula-
21 tion.

22 The order will be that you are to turn over
23 a copy, or permit Mr. Kanarek to copy the notes of any
24 conversation you have had with Miss Atkins.

25 MR. KANAREK: Well, then, your Honor, we have this
26 problem:

25.

1 The problem is I cannot accept a non-judicial
2 atmosphere in connection with Mr. Bugliosi's statements.

3 The prosecution has relied upon Susan Atkins
4 for this case. Mr. Bugliosi, I cannot -- I am not intending
5 any personal affront to Mr. Bugliosi, but I have an
6 obligation to the man I represent.

7 So I will ask, your Honor, that this be done,
8 that this be done in an atmosphere, regrettably I must
9 ask it, and I move it be done with Mr. Bugliosi under oath. ✓

10 I have to do it because there is no alternative.

11 THE COURT: You haven't completed looking through
12 the materials yet, so there would be no point of doing it
13 at this time.

14 MR. STOVITZ: May I say, your Honor, in the event
15 that Susan Atkins is offered as a witness by the prosecution --

16 THE COURT: I don't think that is the point, Mr.
17 Stovitz. This is discovery. We are not talking about
18 her testimony at the trial. We are talking about pre-
19 trial discovery.

20 The defendants would be entitled to read the
21 notes if they exist.

22 MR. STOVITZ: If they exist, Is your Honor
23 distinguishing between work product and actual notes of
24 the conversation?

25 THE COURT: I am talking about notes of the conversa-
26 tion, statements of the witness as taken down by Mr.

23.

1 Bugliosi.

2 MR. STOVITZ: If those notes exist, Mr. Bugliosi
3 will make those notes available to the Court; then your
4 Honor can turn those notes over to whomever your Honor
5 sees fit.

6 If those notes do not exist, Mr. Bugliosi will
7 render a statement to the Court under declaration of
8 penalty of perjury.

9 THE COURT: When can we expect that?

10 MR. STOVITZ: We can expect that on Monday, your
11 Honor.

12 MR. FITZGERALD: I wish to enter an objection to
13 that procedure, that those notes be given to the Court.
14 We have information that those statements may not be
15 admissible.

16 I have no objection to them being turned over
17 to the clerk of the court.

18 MR. STOVITZ: To the clerk of the court, I am sorry,
19 I meant the clerk of the court. You see, your Honor --

20 THE COURT: Just a moment, I don't follow your
21 objection. What was the objection?

22 MR. STOVITZ: He did not want the Judge to read them,
23 is that right?

24 MR. FITZGERALD: Yes, I did not want you to read
25 the statements.

26 THE COURT: All right.

30.

1 MR. STOVITZ: You see, at the very beginning of the
2 case, your Honor, we out of an abundance of caution
3 furnished the clerk of Department 107 with a detailed
4 statement of all of the witnesses. We furnished counsel
5 with letters each time we furnished additional statements;
6 we gratuitously kept these statements to date.

7 Mr. Manson personally viewed these exhibits,
8 personally viewed the pictures.

9 THE COURT: Now he has counsel.

10 MR. BUGLIOSI: We will do the same for counsel for
11 Mr. Manson. We are trying to cooperate.

12 THE COURT: We will expect the declaration no longer
13 than Monday, June 15th as to whether or not the notes
14 exist.

15 MR. STOVITZ: And if they do exist they will be
16 turned over to the clerk of the court.

17 THE COURT: All right.

18 MR. STOVITZ: Also in interpreting these cases,
19 your Honor, I hope your Honor bears in mind that in other
20 jurisdictions, in allowed discovery, that the Grand Jury
21 transcripts were secret in those jurisdictions.

22 In this case there has been a full disclosure
23 through the Grand Jury transcript and other transcripts.

24 THE COURT: But the point is, as you well recognize,
25 Mr. Stovitz, that the notes may be inconsistent with the
26 testimony.

MR. STOVITZ: Then if the person becomes a witness,

31.

1 then it may be used to impeach him, and have more relevance.
2 If it has no relevance --

3 THE COURT: Not just on the question of impeachment.
4 The notes may reveal facts that are not revealed in the
5 transcript, for example.

6 MR. STOVITZ: If the notes exist, your Honor, they
7 will be produced; if not, a declaration will be produced.

8 THE COURT: Very well.

9 MR. KANAREK: Your Honor, if I may, it is our
10 position if Mr. Augliesi does not produce those notes this
11 case must be dismissed.

12 Brady vs. Maryland we base this on.

13 THE COURT: You can make that motion after we find
14 out whether they exist. There is no point in making it
15 now.

16 MR. KANAREK: Very well, your Honor.

17 THE COURT: Anything else on the discovery motion?

18 MR. KANAREK: Yes, at page 6, your Honor, transcripts
19 of tape recordings of statements made by the accused and
20 by the prosecution witnesses.

21 May I ask through the Court, your Honor,
22 whether anyone, to the District Attorney's knowledge, has
23 taken any transcription, tape recording of Linda Kasabian?

24 MR. STOVITZ: There has been none, your Honor.

25 MR. KANAREK: It has been done, did I hear?

26 MR. STOVITZ: There has been none.

32.

1 MR. KANAREK: Very well, your Honor.

2 MR. STOVITZ: There are no tape recordings, Mr.
3 Kanarek.

4 MR. KANAREK: I will say parenthetically it sounds
5 most incredible, but I hear it.

6 THE COURT: Anything else, Mr. Kanarek?

7 MR. KANAREK: We are asking for everything in our
8 discovery motion, of course.

9 If your Honor wishes we can go --

10 THE COURT: The only demand you have made is con-
11 tained in Paragraph 5.

12 MR. KANAREK: Paragraph 6, prior to trial and during
13 the course of the trial the accused can compel the
14 prosecution to permit inspection or copying or produce in
15 court any of the following --

16 THE COURT: That is just a citation of the law.

17 MR. KANAREK: It is a platitude, I admit, your Honor,
18 but if I can -- I will request everything in Paragraph 6,
19 the purport of that --

20 MR. STOVITZ: Paragraph 6 of what page?

21 MR. KANAREK: Beginning on page 5.

22 MR. STOVITZ: Oh.

23 MR. KANAREK: The purport of that, if it is inaccurately
24 worded, your Honor, I plead guilty, but that is what we
25 are demanding, this being a discovery motion, I am sure
26 the prosecution will realize that.

33.

1 THE COURT: Have there been any clinical blood
2 tests of any of the defendants?

3 MR. STOVITZ: Yes, your Honor, and they have been
4 written up in a scientific report, and they are available
5 for the defendants to see.

6 I believe Mr. Fitzgerald even made copies of
7 them.

8 THE COURT: All right. Then the order will cover
9 such reports.

10 What about written statements of the accused?
11 That's already been disposed of by the order.

12 Transcripts of recorded statements of the
13 accused, are there any transcripts other than the notes and
14 statements that have already been referred to?

15 MR. STOVITZ: No transcripts. There is a tape
16 recording which Mr. Rainer has been made aware he can
17 listen to, anytime he wants to.

18 There is no tape recording of Mr. Manson's
19 words.

20 THE COURT: Did you say a transcript?

21 MR. STOVITZ: Not a transcript, a tape recording of
22 an interview with Mr. Rainer's client. He has been
23 informed that he can listen to that.

24 Mr. Kanarek can likewise listen to that.

25 THE COURT: All right. We have already covered
26 that.

34.

1 The names of the prosecution witnesses has
2 already been covered.

3 Statements by co-defendants has been covered.

4 Any joint statements made by defendants has
5 already been covered.

6 MR. KANAREK: Would your Honor ask about that
7 specifically?

8 MR. STOVITZ: What is that?

9 THE COURT: Joint statements.

10 MR. KANAREK: Yes, your Honor, made by defendant and
11 any co-defendant.

12 MR. STOVITZ: I have no knowledge of any in existence,
13 your Honor.

14 THE COURT: Written statements of prosecution
15 witnesses relating to matters covered in their testimony
16 has already been covered.

17 The next item does not apply. There was no
18 preliminary hearing.

19 The next item, transcript of tape recording,
20 we have already discussed.

21 MR. KANAREK: I am wondering, your Honor, would your
22 Honor interrogate on that specifically? There may have
23 been a tape recording which was turned into a writing,
24 and then the tape destroyed.

25 That is conceivable.

26 MR. STOVITZ: No, there are partial transcripts of

35. 1 some tape recordings, the original tape recordings have
2 been maintained.

3 The only other tape recordings we know of
4 are of Mr. Manson that he made on other occasions. We
5 do not have those in our possession. We are seeking to
6 obtain them. We don't have any transcripts of them because
7 we don't have the tape recordings.

8 But there are, say, for instance, three reels
9 of tape recordings of Mr. DeCarlo of which we made only
10 a partial transcript, and we have the original tape
11 recordings available for counsel's listening.

12 MR. KANAREK: May I ask this, your Honor: Are these
13 items that counsel is indicating that he is trying to
14 obtain, are they in the hands of law enforcement?

15 MR. STOVITZ: No, they are not. They are in the
16 hands of associates of Mr. Manson.

17 MR. KANAREK: May I ask what does Mr. Stovitz mean
18 by "associates," your Honor?

19 MR. STOVITZ: Persons he associated with.

20 MR. KANAREK: May we have the names of these people?

21 MR. STOVITZ: We don't know them yet. We are seeking
22 to find them.

23 MR. KANAREK: Well, your Honor, will counsel tell
24 us how he is seeking to find them, because we would like
25 to get them also, your Honor.

26 MR. STOVITZ: I suggest he interview his client,

36.

1 your Honor. We have spent a good deal of time going to
2 Canada and Washington, D.C., trying to locate these
3 tape recordings.

4 I believe they are mostly musical compositions,
5 your Honor, if you can call it music.

6 THE COURT: Very well. Anything else, Mr. Kanarek?

7 MR. KANAREK: Your Honor, referring to the top of
8 page 7, notes made by police officers of their conversa-
9 tions with prosecution witnesses.

10 MR. STOVITZ: Every time an officer talked to these
11 witnesses, your Honor, the police officer reduced it to a
12 written report interview sheet, not necessarily a verbatim
13 conversation.

14 Those interview sheets are all available. I
15 think they number some one hundred or so interview sheets.

16 Those are available.

17 MR. KANAREK: But we would ask, your Honor, for the
18 original notes that the police officer made. They are
19 certainly very useful in determining what actually purportedly
20 transpired by way of conversation.

21 The original statements the police officer
22 writes down rather than his editorializing when he writes
23 up or dictates a report.

24 THE COURT: We don't know that there are any or if
25 that is the way it was done.

26 MR. STOVITZ: Not only that, but I would suggest that

37.

1 counsel read the police interview sheet and if there is
2 any particular sheet that he is interested in trying to
3 see the officer's notes, we will then contact that
4 particular officer.

5 I understand it is standard operational
6 procedure for the officers to just discard their notes,
7 once they dictate an interview sheet.

8 MR. KANAREK: Under Brady vs. Maryland it is our
9 allegation that it is a denial of due process; it is a
10 destruction of evidence which is vital in terms of cross
11 examination.

12 THE COURT: All right. That request has already
13 been covered in the witnesses' statements which the People
14 have agreed to let you inspect and copy, and which the
15 Court has ordered them to do.

16 Anything else?

17 MR. KANAREK: The next, your Honor, is photographs
18 that have been exhibited to the victim of the robbery or,
19 purportedly, any crime for the purposes of identifying
20 the robber or purportedly any particular alleged criminal.

21 MR. STOVITZ: We will make the photographs available,
22 although there has been no robbery, your Honor, photographs
23 have been shown to various witnesses in this case for the
24 purpose of seeing whether or not the witness can select
25 the proper party involved.

26 Those photographs are available. We will show

38.

1 those to counsel.

2 THE COURT: Very well. The order will cover those
3 photographs.

4 MR. KANAREK: Your Honor, these photographs of what
5 subjects? Are these the defendants or the victims, or
6 what subjects?

7 MR. STOVITZ: They are primarily the defendants in
8 the case.

9 THE COURT: Anything else, Mr. Kanarek?

10 MR. KANAREK: Yes, your Honor, the next one --

11 THE COURT: I see it is after 12 o'clock now, we
12 will recess at this time until 2 p.m. this afternoon.

13 MR. STOVITZ: Is Mr. Shinn going to be here this
14 afternoon?

15 Has he been notified to be here?

16 THE CLERK: Your Honor, his office cannot locate
17 him.

18 (Adjournment taken to the hour of 2:00 P.M.
19 of the same day, Thursday, May 11, 1970.)
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LOS ANGELES, CALIFORNIA

THURSDAY, JUNE 11th, 1970

2:40 P.M.

- - -

(The following proceedings were had in the chambers of the Court with all counsel being present with the exception of Mr. Shinn.)

THE COURT: Does anyone know where Mr. Shinn is?

MR. FITZGERALD: I don't have any idea where Mr. Shinn is.

MR. KANAREK: Well, your Honor --

THE COURT: Let me for the record state this conference is in chambers and Mr. Reiner, Mr. Kanarek, Mr. Fitzgerald, Mr. Stovitz and Mr. Bugliosi are present.

I just inquired as to where Mr. Shinn is. We have called his office. His secretary says she doesn't know where he is.

MR. STOVITZ: We don't know where he is.

THE COURT: The Court left word to have him report to the Court as soon as he got the message.

MR. KANAREK: I don't want to make even an implied misrepresentation to the Court --

THE COURT: I am not asking you. I simply throw out the question, does anybody know where he is. You don't have to respond to it if you don't want to.

MR. KANAREK: All right.

THE COURT: That is Mr. Shinn's responsibility to be

49.

here, not yours.

MR. REIMER: May I indicate in connection with Mr. Shin's failure to appear, Tuesday when we appeared in Department 103 Mr. Shin indicated to me he possibly would not be able to appear the following day in this Department, that would be yesterday morning. He asked me if I would appear especially for him, just simply for the motion to continue that he had filed in this court.

I said I would be willing to do so.

He asked Miss Atkins in my presence if that would be okay and instructed her to indicate to the Court that she would agree to this. That was the last contact I had with Mr. Shin.

Of course yesterday --

THE COURT: Did he indicate to you why he might not be here yesterday?

MR. REIMER: No, he did not. He was in a hurry at the time.

THE COURT: That is not the reason I called you in here in any event.

This morning Sergeant Maupin informed me that he was making a report to Captain Alley who apparently is his superior regarding a conversation Mr. Manson had with Sergeant Maupin yesterday after court, and Sergeant Maupin was in the process of returning Mr. Manson from this Department to the 9th floor lockup, and apparently on

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route Mr. Manson made some statements to the Sergeant which the Sergeant felt that he had to report to his superior, and he also reported to me.

And he had typed a memorandum up which he intended to give to Captain Alley, and I asked him to make some Xerox copies so I could furnish copies to all counsel in the case.

It would fall within the discovery order that the Court has already made regarding statements of the defendant.

So I have copies and I will hand them out to you now.

I did remind Sergeant Maupin that it fell within the Court's pre-trial publicity order. It should not be revealed to anyone other than to Captain Alley, his superior, and I remind each of you gentlemen, now that when I hand you a copy of this statement, that it is within the Court's pre-trial publicity order and it is given to you merely as being a statement that falls within the discovery order which has already been made, the several discovery orders that already have been made.

So I will hand Mr. Reiner a copy, Mr. Kanarek a copy, Mr. Bugliosi a copy, and Mr. Fitzgerald and Mr. Stovitz has a copy, and I will retain one copy.

So unless there is something else at this time --

42.

1 MR. KANAREK: Yes, your Honor, I would move your
2 Honor that this, that the Court make a judicial order that,
3 and I would ask that Mr. Maupin be asked to enter the
4 room, that your Honor order Mr. Maupin not to use this
5 for any purpose.

6 I see no -- Captain Alley, whatever his function
7 is, he may be the head of the jail or whatever his duties --

8 THE COURT: He is in the Sheriff's Department.

9 MR. KANAREK: He is the head of probably Sergeant
10 Maupin's detail, whatever his name.

11 THE COURT: I don't know what his title is, but he is
12 in the Sheriff's Department.

13 MR. KANAREK: We would ask, your Honor, to have
14 Mr. Maupin enter, be handed a copy of the secrecy order,
15 and ask your Honor --

16 THE COURT: The order is applicable to all law-
17 enforcement officials as well as many other people, and
18 Captain Alley is aware of it and so is Sergeant Maupin.

19 I expressly admonished Sergeant Maupin this
20 morning that it was within the terms of that order which
21 he already knew and understood and acknowledged that he
22 knew and understood, so I don't think anything further
23 needs to be done in that regard, and whether this has
24 any significance for any of you I don't know.

25 I am simply giving it to you because it was
26 given to me.

43.

1 MR. KANAREK: Well, we do make the motion that
2 Sergeant Maupin be brought in out of courtesy to Sergeant
3 Maupin, even, so it will be crystalized in his mind that he
4 should not repeat this, these purported statements to
5 anyone and that --

6 I think that out of an abundance of caution
7 it certainly wouldn't take just a couple of minutes --

8 THE COURT: I don't think it is necessary because
9 I already admonished him. The only copies of this document
10 are in the hands of you gentlemen, that I just gave them
11 to, and Captain Alley now who has the original.

12 MR. KANAREK: Of course it is capable of being
13 reproduced, and the secretary knows about it, in Captain
14 Alley's office, and so forth.

15 THE COURT: That is true of many other things in
16 this case, that various people in the law-enforcement
17 agencies know about them. That is not prohibited by the
18 order. It is the dissemination of the knowledge to people
19 who are not authorized to know about them.

20 All right, gentlemen.

21 MR. BUGLIOSI: All right. I understand there was
22 an article in Rolling Stones, in which a member of the
23 prosecution spoke to someone who wrote an article about
24 this case, and apparently the defense is going to bring
25 this issue up.

26 I would request the issue be brought up here

44a 1 in chambers and not in front of the Press.

2 There is no reason in the world why the Press
3 has to be privy to this. I am assuming that the reason for
4 bringing this up in the defense is going to allege that it
5 is prejudicial to their clients. If this comes out in
6 front of the Press, and the Press brings it up, all the
7 more people will buy this particular article. I don't
8 think it serves any purpose whatever to have it out there.
9 I think it should be in chambers.

10 I urgently request the Court to handle that
11 particular issue back in chambers and not let the Press
12 pick it up and have it in the Los Angeles Times and the
13 Examiner tomorrow, and then everybody in town would know
14 about it.

1 MR. STOVITZ: The Rolling Stones is a publication,
2 apparently there was an article on it quoting some
3 prosecutor on this case.

4 MR. FITZGERALD: I am not immediately concerned
5 with the violation of the gag order. It is clearly in
6 my opinion a violation of the gag order. I am not concerned
7 with that at this time.

8 I feel and my co-counsel feel that the conduct
9 engaged in by the prosecution is clearly State action;
10 that the members of the prosecution and the Los Angeles
11 County District Attorney's Office conspired with unknown
12 members of the Press in order to deprive the defendants
13 of a fair trial.

14 We are going to make a motion to dismiss
15 the case on those grounds.

16 We feel that the prejudice and the damage that
17 has been done to the defendants is massive.

18 THE COURT: What are we talking about?

19 MR. FITZGERALD: Well, I object to handling it in
20 chambers. I prefer to do it in open court.

21 THE COURT: Well, if you are seeking to avoid
22 publicity, it seems inconsistent that you raise it for the
23 first time in open court.

24 MR. FITZGERALD: So my position may be very clear,
25 these defendants cannot at this time receive a fair trial.

26 I have taken that position in the Superior

1 Court of Los Angeles; I have taken that position in the
2 Court of Appeal; I have taken that position before the
3 California Supreme Court.

4 I do not feel in advance of publication these
5 defendants can receive a fair trial.

6 I feel there will be little or no judicial
7 relief, and this is certainly not any reflection on you
8 personally. I feel to deprive the members of the public
9 of this very valuable information would be to thwart the
10 very administration of justice.

11 THE COURT: I don't understand, deprive the members
12 of the public of what information?

13 MR. FITZGERALD: First of all I am not waiving the
14 right of my client to be present at the time this motion
15 is taking place.

16 THE COURT: Well, are you making a motion?

17 MR. FITZGERALD: I am making a motion at this time.
18 I will make a motion in open court in respect to it.

19 THE COURT: All right.

20 MR. BUGLIOSI: I request, your Honor, that this be
21 handled in chambers.

22 THE COURT: There is nothing before me at the moment,
23 Mr. Bugliosi. There is nothing to be handled in chambers.
24 Both of you have made some cryptic statements, the meaning
25 of which I do not have the faintest idea.

26 MR. BUGLIOSI: He already stated he is going to make

1 the motion in open court, your Honor.

2 THE COURT: He may make his motion. We have to hear
3 all of the evidence before the motion is made, and state
4 the nature of the motion and the grounds, and then if it
5 appears some evidence should be taken or some further
6 step should be taken, then we can decide where it should
7 be done and under what circumstances.

8 MR. REINER: I might point out as a practical matter
9 it can be observed the members of the Press occupying the
10 jury box almost all have a copy, or many of them have a
11 copy of The Rolling Stones, and had one for the past few
12 days. I doubt there is a single member of the Press that
13 has not read the article or has not viewed it here in
14 court, what we are talking about is rather moot. The
15 Press is aware of it.

16 MR. BUGLIOSI: The likelihood of their printing it is
17 increased if this matter is discussed in open court, as
18 opposed to back here in chambers.

19 MR. FITZGERALD: What I intend to do is indicate to
20 the Court the nature and character of my motion,

21 I intend to mark the magazine or newspaper as
22 an exhibit, to submit it to your Honor, and continue the
23 consideration of the matter until after your Honor has
24 read it, Monday or so, it is certainly agreeable that --
25 and I will not get into the facts or the evidentiary
26 conclusion or anything of that nature; I will certainly

1 abide by that.

2 MR. KANAREK: Your Honor, if I may, I would ask your
3 Honor that the Court seal this memorandum that your Honor
4 has given to us.

5 I would ask that your Honor retake this document
6 from each of us, order it sealed by the Clerk and kept
7 sealed in the archives of the Court.

8 I do make that motion on behalf of Mr. MANSON.

9 THE COURT: Of course the original is still with
10 Capt. Ally.

11 MR. KANAREK: I would ask that the Court order that
12 that be brought, if we have to do it, by way of subpoena
13 duces tecum, or something of that nature that can be done.

14 I wouldn't think that formality would be
15 necessary with the position of Capt. Ally, and that all of
16 this be sealed and kept in the archives of the Court, in
17 the records in the Clerk's office.

18 THE COURT: Well, of course, what happened, if it
19 in fact happened as stated in the memorandum, is a matter
20 that concerns security, obviously, and it concerns the
21 Sheriff's Department.

22 I am not going to recall their copy of the
23 memorandum because it directly relates to their business.

24 I see no reason for recalling the copies I
25 just gave to you gentlemen; you are all under the publicity
26 order. It is your responsibility to comply with it.

1 As far as my copy is concerned, I have no use
2 for it. I would just as soon touch a match to it and
3 burn it up.

4 I can assure you it is not going to be released
5 by me.

6 MR. KANAREK: Yes, your Honor, I have one other
7 request:

8 I would ask your Honor that, so that we have
9 a continuing objection and not have to stretch out this
10 record, may there be a continuing objection on the basis
11 of right to counsel, right to effective counsel, under the
12 Sixth Amendment, and the right by way of the due process
13 clause of the Fourteenth and also the fact that California
14 law allows Mr. Manson to be present at every stage of the
15 proceedings.

16 THE COURT: I appreciate what you are saying,
17 Mr. Kanarek, and it may very well be we should have such
18 stipulation.

19 What I propose to do is when we complete these
20 pretrial motions and those matters are out of the way, to
21 have a pretrial conference which will relate to the conduct
22 of the trial and rules of procedure and things like that,
23 housekeeping details, and you might very well bring up
24 that subject at that time, as to any stipulations as to
25 continuing objections, or to other counsel joining in the
26 objection.

1 For example, if one defense counsel makes
2 objection, whether or not it can be deemed that all other
3 counsel join in it, unless they indicate otherwise.

4 Anything to expedite the making and hearing
5 of the arguments and objections, that sort of thing,
6 motions, and so forth.

7 MR. KANAREK: Yes, your Honor, because of, I gather,
8 the prosecution's potential use of this memorandum your
9 Honor has given to us, I just would like at this time, in
10 order to preserve, to preserve while it is purportedly
11 fresh in mind of Sgt. Malpin, I would ask for an evidentiary
12 hearing at this point where Mr. Malpin would be sworn and
13 we would then interrogate him.

14 I would ask that that be done in the presence
15 of the defendant Manson.

16 THE COURT: For what purpose?

17 MR. KANAREK: Well, because the People are purportedly,
18 I mean this is potentially usable by the People.

19 THE COURT: Potentially as any other statement of
20 any other witness is, yes.

21 MR. KANAREK: Right. However --

22 THE COURT: And that is why you have been given a
23 copy of it, so you know what the statement is, at least as
24 indicated by Sgt. Malpin, you won't be surprised if any-
25 thing is used, and you have the same right to, if the
26 Sergeant testifies, to impeach him by any method as you

sp???

1 would any other witness.

2 MR. KANAREK: There may have been other prisoners
3 around. There may have been other deputies around. This
4 may lose its freshness in the mind of Sgt. Malpin, and
5 right now he will have in mind, perhaps, other Deputies who
6 were there and we could have a better scene.

7 THE COURT: I see no reason why you cannot go down and
8 talk to Sgt. Malpin yourself, if you want to, and ask him
9 whowas there.

10 MR. KANAREK: Very well.

11 THE COURT: He doesn't belong to anybody. If he is
12 a potential witness, he can talk to you as he can talk to
13 anybody else.

14 MR. KANAREK: Very well, your Honor, we do make that
15 motion that he be examined.

16 THE COURT: All right, the motion will be denied.

17 Now, I would like to proceed with the pretrial
18 motions so that we can get through those as expeditiously
19 as possible.

20 MR. KANAREK: Yes, your Honor.

21 THE COURT: Gentlemen, I am going to destroy my copy.
22 I don't really have any place to keep it. I don't want it.
23 I now am talking of Sgt. Malpin's statement. I am going to
24 tear it up right now in your presence.

25 (Whereupon, the Judge tears up the statement
26 and throws it in the wastebasket.)

1 THE COURT: So you now know where all the copies are
2 and I no longer have a copy.

3 MR. KANAREK: Thank you, your Honor.

4 (Whereupon, the following proceedings were had
5 in open court, all counsel with the exception of Mr. Shinn
6 being present:)

7 THE COURT: Counsel, have the defendants affirmed to
8 you their desire to return to the courtroom to comply with
9 the Court's order?

10 MR. FITZGERALD: That is what I wanted to make the
11 statement in regard to, if I might.

12 THE COURT: Yes.

13 MR. FITZGERALD: I might say that during the noon
14 hour I had an opportunity to discuss the matter extensively
15 with my client, Patricia Krenwinkel.

16 I also discussed the matter with Leslie
17 Van Houten and Susan Denise Atkins.

18 They indicated to me quite clearly that it was
19 not their intent to disrupt the orderly presentation of
20 evidence, argument or testimony.

21 They indicated quite clearly to me that their
22 conduct this morning was in no sense a personal affront to
23 your Honor as an individual.

24 They indicated to me that their conduct was a
25 symbolic gesture of their displeasure with the Court for
26 ostensibly silencing co-defendant Charles Manson.

1 They are ready to return to the courtroom.
2 They will maintain themselves with dignity and decorum.

3 They will behave as the intelligent and
4 sensible young ladies they are.

5 However, they do request of the Court per-
6 mission not to direct the facial portion of their body
7 in the direction of the Court.

8 In that connection, I might point out that they
9 stood up this morning and turned around only because the
10 chairs in which they were seated were permanently affixed
11 to the floor, so it was necessary for them to actually
12 stand up in court and turn around.

13 Had they been seated in some other type of
14 seat they would simply have directed their head or the
15 upper part of their torso to the rear.

16 They are engaging in a symbolic gesture, and
17 apparently do not wish to take it any further than a
18 symbolic gesture.

19 THE COURT: Well, if they come back they are going to
20 be sitting in exactly the same seats they were before.

21 In the first place, there is limited seating
22 in the courtroom for the defendants and their counsel, and
23 I don't want a conditional affirmation on their part.
24 Either they comply or they don't comply; it is just that
25 simple.

26 MR. FITZGERALD: It is my understanding that it is

1 clearly their desire to comport with the standards of
2 normal courtroom decorum.

3 On the other hand, they must balance that
4 against some philosophical and conscientious principles
5 they hold to be dear.

6 THE COURT: All I want you to tell me, Mr. Fitzgerald,
7 are your clients willing to return to the court and conform
8 to the Court's orders or are they not?

9 MR. FITZGERALD: I believe they are.

10 THE COURT: As I indicated, they will sit in the same
11 chairs, and the Court will expect the same of them at this
12 time as they did before.

13 MR. FITZGERALD: I would ask that they at least be
14 provided the opportunity to comply. I would like them to
15 be present.

16 THE COURT: Very well.

17 MR. FITZGERALD: If such is possible.

18 THE COURT: Will the Bailiffs return the three
19 defendants to the courtroom?

20 Mr. Kanarek, has Mr. Manson affirmed to you his
21 desire to return to the court and conform with the Court's
22 order?

23 MR. KANAREK: Your Honor, may I consult with
24 Mr. Manson at this point?

25 THE COURT: Yes.

26 MR. KANAREK: Thank you.

1 THE COURT: You will have to wait until the Bailiff
2 returns.

3 MR. KANAREK: That's right.

4 MR. FITZGERALD: I might state, also, to the Court
5 that I discussed with Deputy Sheriff Ore, I also discussed
6 with the three defendants the acoustics and communication
7 facilities in the jury room.

8 The Deputy Sheriff responded to me that they
9 were able to hear your Honor's voice quite clearly and
10 distinctly, although they were unable to distinguish with
11 any accuracy the content and diction of any of the other
12 members of the prosecution and the defense, although they
13 told me that that was based on a limited period of time
14 during which the Court was handling some other cases, and
15 I don't know how close those other attorneys were standing
16 to the microphone or whatever.

17 THE COURT: Well, we will have it checked again.

18 Of course it was put in in a hurry this morning
19 when the defendants failed to comply with the Court's
20 order.

21 MR. KANAREK: Your Honor, while we are waiting I
22 wonder if we could approach the bench with counsel for a
23 very brief request?

24 (The three female defendants enter the court-
25 room.)

26 MR. FITZGERALD: Even though it is unusual I wonder if

One?
Spelling?

your Honor will entertain a motion by Miss Krenwinkel to personally address the Court?

THE COURT: Yes.

MR. FITZGERALD: Apparently there is some communication difficulty between myself and my client and the Court.

THE COURT: I will hear her.

DEFENDANT KRENWINKEL: I find, your Honor, as long as you don't respect Mr. Manson's right to be here, meanwhile there is no respect due to me either, because any right which is taken from him is also taken away from me,

I feel we should all be able to be present at this play here, you know, the ball that is on the table is our lives. You have already taken away our voice, so we are not able to say anything in our own behalf.

I have also put in a motion to go pro per, and it was denied to me to be able to speak.

So I have to use someone else to give you my voice.

No one can give my voice but me. As long as that is taken away from me then I have no right here in the courtroom, really, because somebody else is playing with my life, and they have it all planned, and it has nothing to do with me.

I can sit here and tell my lawyer what to say, but it is not me saying it, and as long as I cannot say what I feel, and have to run back and forth between, you

1 know, other people, trying to say what I want to say,
2 and I don't feel that the Court is giving me any respect
3 to what I believe in and what I know.

4 THE COURT: Well, when you are represented by counsel,
5 Miss Krenwinkel, you have to speak through your counsel,
6 and your counsel is in charge of defending you.

7 You also have to comply with the Court's order
8 with regard to your conduct and decorum in the court-
9 room.

10 Now, I want you to be present during the trial.
11 I think it is in your best interest to do so.

12 At the same time I will not permit you to
13 flaunt your defiance or to humiliate the court or be
14 contemptuous in any respect.

15 You must conform your conduct to the reasonable
16 requirements of the Court and maintain the dignity of the
17 Court.

18 If you don't do that then I have to take some
19 steps. It is entirely up to you.

20 DEFENDANT KRENWINKEL: The Court is humiliating me by
21 taking away my mouth. It is like sticking something on
22 my face and saying "You cannot speak."

23 THE COURT: If you wish to remain in the courtroom
24 you understand the conditions I mentioned to you and what
25 the requirements are.

26 DEFENDANT KRENWINKEL: It is the same condition that

1 has been here ever since the beginning.

2 THE COURT: Do you wish to be seated now?

3 DEFENDANT KRENWINKEL: No.

4 THE COURT: Well, we are going to proceed, and I am
5 going to order you to sit down and conduct yourself in a
6 dignified manner or I will have to have you removed again.

7 DEFENDANT KRENWINKEL: Well, then, you do with us
8 again, you tie our hands.

9 THE COURT: Very well. The Bailiff will remove the
10 three defendants from the courtroom.

11 MR. STOVITZ: May the record show that all three
12 defendants did face to the rear of the courtroom, your
13 Honor?

14 THE COURT: Yes, the record will so reflect.

15 MR. REINER: For the purpose of the record, may I
16 indicate that the defendant Van Houten does not waive her
17 presence, and counsel does not waive her presence, both
18 the defendant and counsel object to the removal, and we
19 will object to these proceedings continuing in her absence.

20 THE COURT: Very well, let's proceed, gentlemen.

21 MR. KANAREK: I join in with Mr. Reiner's comments,
22 your Honor.

23 THE COURT: Very well.

24 Now, we're considering your discovery motion
25 this morning at noon, Mr. Kanarek. Do you wish to go ahead
26 with that?

1 MR. KANAREK: Yes, your Honor, but may we approach the
2 bench very briefly?

3 I think your Honor will agree when I indicate
4 to the Court the reason.

5 THE COURT: Very well.

6 (The following proceedings were had at the
7 bench between all counsel who were present and the
8 Court:)

9 THE COURT: Can you all hear?

10 MR. KANAREK: When I came out of chambers a member of
11 the Press asked me what happened in chambers.

12 Of course I said that I could not discuss it,
13 and he said, well, whatever he said, he will never ask me
14 again, or something like that.

15 But what I would like to ask the Court to do,
16 because what the court reporter is typing is a public
17 record, I would ask the Court to seal, order sealed possibly
18 with the County Clerk that portion of the transcript which
19 occurred in chambers, because it is a public record and your
20 Honor's orders to us concerning this matter will be the
21 general subject matter, at least, so I think in the
22 interest of obeying the spirit as well as the letter of
23 your Honor's precise instructions that this record of what
24 happened in chambers just a few minutes ago should be
25 ordered sealed, separated from the rest of the transcript
26 and sealed, because the court reporters record is a public

1 record anyway of what is happening in this courtroom,
2 by Mr. Hollombe.

3 THE COURT: Of course it is not a public record.
4 The transcript of the proceedings, the original, goes
5 to the Court and copies go to all counsel.

6 All right, I will make an order, then, that
7 nothing in the transcript of this afternoon's proceedings
8 in chambers will be disclosed to the Press or anyone else,
9 that it all comes within the Court's pretrial publicity
10 order.

11 MR. REINER: May I indicate as a practical matter,
12 in other cases I participated in in which the Press is
13 interested in, it is physically impossible during the course
14 of a lengthy trial to prevent the Press from obtaining
15 copies of the transcript, and when they are not secret,
16 if it is not sealed.

17 I am confident that by and by the Press will
18 acquire a copy of the transcript.

19 THE COURT: How can it be sealed? The copies of the
20 transcript are for the benefit of counsel to be used during
21 the trial.

22 Are you suggesting I seal your copy?

23 MR. REINER: Yes, although Mr. Manson is not my
24 client, ordinarily I am not terribly interested in whether
25 the matters would affect Mr. Manson, this type of activity
26 we are talking about --

1 THE COURT: I am not going to seal the transcript.

2 Now, let's get on with the motion.

3 You have heard the order. It applies to all
4 of you.

5 (The following proceedings were had in open
6 court:)

7 THE COURT: Mr. Kanarek, you may proceed.

8 MR. KANAREK: Your Honor, I believe that the next
9 matter is at Page 7 of our motion.

10 THE COURT: Yes, we were at the bottom of Page 7.

11 MR. KANAREK: In that general area, yes, your Honor.

12 The reports of expert witnesses. We would ask
13 for any reports that have been obtained by the prosecution
14 of any expert witnesses.

15 THE COURT: Do you wish to respond to that?

16 MR. STOVITZ: If we have them we will give them to
17 him; if we don't have them we cannot give them to him.

18 THE COURT: Do you have them?

19 MR. STOVITZ: We have some reports from chemists,
20 ballistic experts. We furnished them to other counsel and
21 we will furnish them to Mr. Kanarek.

22 MR. KANAREK: Your Honor, I am referring, for instance,
23 also to medical reports involving Linda Kasabian and
24 LSD.

25 MR. STOVITZ: There are no reports and there is no
26 evidence of that, your Honor.

1 THE COURT: All right, your Honor. Then the order
2 will cover any medical reports, rather, any expert witness
3 reports that are in the possession of the People pertaining
4 to any of the witnesses.

5 MR. STOVITZ: Any of the witnesses.

6 MR. KANAREK: And any of the defendants.

7 MR. STOVITZ: And any of the defendants.

8 THE COURT: Yes.

9 MR. KANAREK: Now, your Honor, to commence with
10 page -- the next item, records of arrests and convictions
11 of witnesses.

12 We would ask, your Honor -- I know that
13 theoretically the County Clerk's records of every county
14 in the United States is open.

15 But our resources are not what the District
16 Attorney's resources are.

17 THE COURT: This was covered yesterday. What is your
18 response, Mr. Stovitz?

19 MR. STOVITZ: My response is if we have knowledge of
20 any witnesses' arrests or convictions we will furnish that
21 to counsel.

22 We will go out and get the report, but if we
23 have no knowledge of this we are not going to try to ask
24 the witnesses if they have ever been arrested, to try to get
25 a record for them.

26 Whatever records we have have been available to

1 associate counsel; they will be made available to
2 Mr. Kanarek.

3 Let's say, for instance, we have a witness
4 Jones. We won't call up Mr. Jones and say "Mr. Jones,
5 have you ever been arrested," and then go out and get his
6 record. If we have them, we will give them to counsel.

7 MR. KANAREK: May I be specific as to Danny DeCarlo?

8 MR. STOVITZ: All of the records of Mr. DeCarlo have
9 all been furnished to other counsel and will be furnished
10 to Mr. Kanarek.

11 THE COURT: Were they furnished to Mr. Hughes?

12 MR. STOVITZ: They were made available to him. I
13 don't know if he looked at them, but the case numbers,
14 the dates and everything.

15 THE COURT: The order will cover any records of
16 arrests of the witnesses in possession of the People and
17 the right of Mr. Kanarek, the right to inspect a copy of
18 those records.

19 Anything else?

20 MR. KANAREK: The next item, the photographs relating
21 to the case.

22 As I understand it --

23 THE COURT: The People have indicated in the past
24 that you would have the right to inspect those photos in
25 the District Attorney's possession, is that right?

26 MR. STOVITZ: Yes, your Honor, we ask specifically

1 they not be allowed to copy them.

2 MR. KANAREK: Those are our requests, your Honor.

3 However, we have before the Court another
4 motion as to Linda Kasabian, relating to her sanity or
5 insanity, and in that regard there may be matters --
6 evidence may come into existence, and I gather that we
7 have a continuing right to approach the Court prospectively.

8 THE COURT: Yes, Mr. Kanarek, to the extent that the
9 Court has denied your motion in any respect, it is without
10 prejudice to renew it if you have some factual basis in
11 the future to renew it upon.

12 Your right to discovery is a continuing one.

13 If any information comes into the possession
14 of the People, that comes under the rules of discovery,
15 you will be entitled to have it.

16 MR. KANAREK: Then as to the 30 pages Mr. Bugliosi
17 referred to, his own notes concerning Susan Atkins --

18 MR. STOVITZ: We will submit it on the statement we
19 made this morning, your Honor.

20 THE COURT: The Declaration was agreed to be furnished
21 on or before Monday, the 15th, depending on what occurs at
22 that time.

23 That is, what the contents of the Declaration
24 are. We will go from there.

25 MR. KANAREK: Very well, your Honor, thank you.

26 THE COURT: The next motion that we will take up is

1 the motion of defendant Krenwinkel for a severance of her
2 case.

3 Do you wish to argue that, Mr. Fitzgerald?

4 MR. FITZGERALD: Yes, if I might.

5 In the case of People versus -- I am going to
6 spell the last name, McGautha, M-c-G-a-u-t-h-a, a 1969
7 case contained at 70 Cal. 2nd 770, at page 785, a para-
8 phrase of what is contained there is as follows:

9 "If the defendant with knowledge of the prosecu-
10 tion's intention to use an unedited statement fails to
11 demand either deletion of the inadmissible matter or
12 severance of the trial, the error is waived."

13 And it is for that reason that I filed, among
14 others, it is for that reason I filed this motion to sever
15 the case.

16 And the defendant does hereby declare that it
17 is aware of the prosecution's intention to use statements
18 of one or more co-defendants that implicate other de-
19 fendants, including but not limited to Patricia Krenwinkel.

20 We also, in the alternative --

21 THE COURT: I don't follow that last.

22 You are saying the People intend to use state-
23 ments of Patricia Krenwinkel, or statements that would
24 affect her?

25 MR. FITZGERALD: The prosecution intends to use
26 statements of other co-defendants that implicate, among

1 other people, defendant Patricia Krehwinkel, and we hereby
2 demand an effective deletion and editing of that statement
3 or, in the alternative, we demand a severance, and by way
4 of argument I might point out the following:

5 That it is my position that it is likely that
6 deletion would be ineffective, and I think the cases stand
7 for the proposition that there must be an effective dele-
8 tion.

9 By "effective deletions," the Courts mean
10 not only direct and indirect identification of co-
11 defendants, but any statements that could be employed
12 against the non-declarant co-defendant, once their identity
13 is otherwise established.

14 Also there are cases in California, including
15 People vs. Matola at 259 Cal.Ap. 2nd, Page 686, and People
16 vs. Graham, 71 Adv. Cal. Ap., Page 320.

17 They stand for the proposition that if cross-
18 examination by one or more of the defense attorneys would
19 render the otherwise effective deletion ineffective, the
20 defendant would thereby be prejudiced and therefore
21 entitled to a severance.

22 What I am pointing out is that even though the
23 prosecution might represent that an effective deletion
24 or editing might be possible, it is possible not probable
25 that on cross-examination one or more of the defense
26 attorneys might in an attempt to exculpate his client,

1 inculcate my client, and I simply want the Court to be aware
2 of that possibility and probability in advance.

3 I also want to bring to the Court's attention
4 the points and authorities I cited to the Court, the cases
5 more properly, particularly People vs. Aranda.

6 In addition to the Aranda situations, which
7 essentially are a violation of due process and a violation
8 of the confrontation clauses of the Sixth and Fourteenth
9 Amendments, I think there is another reason why Patricia
10 Krenwinkel ought to be granted a severance.

11 I think that because there has been wide
12 public dissemination of statements of a confession-nature
13 by Susan Denise Atkins, that no effective deletion would be
14 possible, inasmuch as the prospective jurors had already
15 in detail considered the public confession in which
16 Miss Krenwinkel is implicated, and in connection therewith
17 I have a photocopy of a Los Angeles, what purports to be a
18 copy of materials that appeared in the Los Angeles Times on
19 Sunday, December 14th, 1969, and it purports to be the
20 exclusive details of Susan Atkins' story of two nights of
21 terror.

22 May that be marked defendant Krenwinkel's
23 Exhibit, Special A.

24 THE COURT: A for the purposes of this motion for
25 severance.

26 MR. FITZGERALD: This document or a photocopy of the

1 document has previously been received into evidence in the
2 Los Angeles Superior Court under this case number, it was
3 marked at that time as Defendant's Exhibit double G as in
4 George.

5 It was introduced into evidence on March 24th
6 in Department 106 of the Superior Court in connection with
7 the motion to change venue.

8 At that time the prosecution and the defendant
9 entered into a stipulation that a Mrs. Margit, the last
10 name is J-o-l-d-i-c-h, be deemed called, sworn and testified
11 that she is employed by the Los Angeles Times, and that she
12 is informed that the daily circulation of the Los Angeles
13 Times is 975,491, and the Sunday circulation is 1,308,711.

14 It is essentially our contention that because of
15 the large circulation of the Los Angeles Times, and the large
16 and widespread public dissemination of this so-called
17 confession in which other defendants, including Patricia
18 Krenwinkel, are implicated, that they would be denied
19 due process of law by introducing into evidence at the
20 trial any statement.

21 Furthermore, she would be denied equal protec-
22 tion of the law, and her right to a fair trial under the
23 Sixth Amendment.

24 THE COURT: Isn't your motion premature, Mr. Fitzgerald?

25 It seems to me that until such time as the
26 People in fact offer or attempt to offer a statement by

1 co-defendants, that there is no issue raised.

2 At that time the Court will have to determine
3 whether or not the respective deletions shall be made,
4 whether or not the severance should be granted, or whether
5 the evidence should be excluded in its entirety under the
6 Aranda and Bruton rules.

7 At this point there is nothing before the
8 Court.

9 MR. FITZGERALD: But once the jury is sworn,
10 jeopardy attaches. If at that time your Honor would de-
11 declare a mistrial, Miss Krenwinkel could not be retried.

12 THE COURT: A mistrial?

13 For what purpose?

14 MR. FITZGERALD: If your Honor, during the course of
15 the trial, granted a severance, it is my understanding the
16 effect of that would be a mistrial.

17 It would force Miss Krenwinkel -- well, it
18 simply --

19 THE COURT: Unless you make the motion to have it
20 severed the Court won't grant it, in which case you will
21 be waiving any right to jeopardy, claiming the defense of
22 jeopardy.

23 I assume I would not grant such a motion on my
24 own.

25 MR. BUGLIOSI: Your Honor, may I briefly be heard?

26 THE COURT: Yes.

1 MR. FITZGERALD: I will submit the matter.

2 THE COURT: All right.

3 MR. REINER: If I might interrupt, Mr. Bugliosi,
4 before Mr. Bugliosi is heard may I be heard briefly to
5 join in Mr. Fitzgerald's motion, although I believe it is
6 premature at this time, I wish to indicate to the Court
7 I intend to raise it subsequently.

8 Perhaps at this time I should join Mr.
9 Fitzgerald's motion just so there would be no question
10 that I waive the objection.

11 MR. KANAREK: If I may, I will join with Mr.
12 Fitzgerald on the motion, and also I would like to add
13 that it includes the right to confront, the Sixth Amend-
14 ment right to confront, and I would like to cite to the
15 Court Bruton vs. the United States wherein they quote
16 the story about the parent asking the boy to stand in the
17 corner and not think of a white elephant, in connection
18 with instructing the jury not to consider, or to consider
19 as to one and not the other.

20 But I believe, your Honor, Mr. Fitzgerald is
21 correct, because if the Court could not delete -- if it were
22 not possible to go ahead, then there would be -- then the
23 defendants would be on the horns of a dilemma which is not
24 of their own making, and they would either --

25 THE COURT: The third alternative is that the evidence
26 would be excluded in its entirety under the Aranda rule,

1 under both the Bruton and Aranda rule.

2 MR. KANAREK: The prosecution talks about if they
3 don't wish to extend the proceedings. Much rather than
4 have lip service, your Honor, we would ask them to
5 indicate to the Court -- now they have made statements, I
6 think this record reveals Mr. Stovitz has made statements
7 to the effect that they are not going to use any state-
8 ments of Susan Atkins.

9 Now, if we could -- it is like somebody saying
10 they are not going to run for President, it really doesn't
11 always mean that, and I would like to know with precision
12 what Mr. Stovitz means when he said in this record that
13 they are not going to use the statements of Susan Atkins.

14 If nothing whatsoever purports to come out of
15 her mouth, or is attributed to her by way of writing or an
16 oral statement, if we could tie it down we might be able
17 to proceed with dispatch, your Honor.

18 THE COURT: We are getting afield from the motion
19 before the Court which is a motion on behalf of
20 Miss Krenwinkel for a severance.

21 MR. KANAREK: I would join --

22 THE COURT: Perhaps Mr. Stovitz wants to respond to
23 that.

24 MR. STOVITZ: Mr. Bugliosi will respond on the motion
25 of severance.

26 However, I want to correct counsel's statement

1 to the Court.

2 I merely told another Court that we were not
3 going to introduce Susan Atkins' testimony that she gave
4 before the Grand Jury in this trial.

5 I never stated that I would not introduce any
6 statements of Susan Atkins, that Susan Atkins made.

7 I said I would ^{not} introduce the statement she made
8 at the Grand Jury.

9 With that correction in the record Mr. Bugliosi
10 will respond to the motion of severance.

11 MR. KANAREK: May the record reveal I joined with
12 Mr. Fitzgerald, your Honor, in connection with his motion?

13 THE COURT: In other words, you are making a motion
14 on behalf of Mr. Manson to sever.

15 MR. KANAREK: Yes, your Honor, I am joining with
16 Mr. Fitzgerald on the motion.

17 THE COURT: Joining how? Are you making a separate
18 motion to sever?

19 MR. KANAREK: Yes, that is correct, in the interest
20 of expediency.

21 THE COURT: Is that what you are doing, Mr. Reiner?

22 MR. REINER: That is correct, your Honor.

23 THE COURT: All right, Mr. Bugliosi.

24 MR. BUGLIOSI: I tend to agree with Mr. Fitzgerald.
25 I believe the proper time to hear this motion is right now.

26 People vs. Massey, 66 Adv. Cal. App. 941. I

1 think Massey stands for the proposition that this is an
2 issue that has to be resolved prior to the commencement
3 of the trial.

4 THE COURT: What is the citation, 66 Adv. Cal. 941?

5 MR. FITZGERALD: 66 Cal. 2nd, 899.

6 MR. BUGLIOSI: That is a better citation, your
7 Honor.

8 However, I think Mr. Stovitz and I can satisfy
9 the commandments of Massey at this time, right now, by
10 stating on the record that we do intend to introduce
11 extrajudicial statements of certain co-defendants in this
12 case.

13 However, we will delete all express and indirect
14 references to their co-defendants, to the declarant's
15 co-defendants.

16 Therefore, your Honor, I think we can comply
17 with the Aranda case. Aranda does not sound the death knell
18 for joint trials where you have one defendant confessing
19 and the other defendants not confessing.

20 Joint trials are permissible under the Aranda
21 case as long as the extrajudicial statement does not direct-
22 ly or indirectly implicate a co-defendant, and Mr. Stovitz
23 and I will delete all possible, conceivable references to
24 co-defendants, your Honor.

25 MR. KANAREK: May I address the Court, your Honor?

26 THE COURT: Just a moment. Actually the rule goes

1 further than that, as you know, and as Mr. Fitzgerald
2 stated, and it is clearly set out in both the Aranda and
3 the Bruton opinions.

4 MR. BUGLIOSI: In Aranda the Court does go on to say
5 effective deletion without prejudice to the declarant.

6 By "effective deletions" we mean not only
7 direct and indirect indications by co-defendant, but any
8 statements that could be employed against non-declarant
9 co-defendants, once their identity is otherwise established.

10 I submit to the Court, your Honor, that the
11 statements we intend to introduce into evidence will not be
12 able to be employed against the non-declarant co-defendants.

13 If the Court feels there is a danger of this
14 happening, and I believe the Massey case demands we handle
15 this issue right now rather than after jeopardy has attached --

16 THE COURT: I have no way of knowing whether there
17 is a danger or not.

18 MR. BUGLIOSI: Well, all Mr. Stovitz and I can do at
19 this time is made the representation, your Honor, that any
20 extrajudicial statement we introduce into evidence of a
21 defendant will not implicate in any fashion whatsoever the
22 co-defendants in this case.

23 THE COURT: It would seem to me the risk is on the
24 People. If you wait until jeopardy attaches and the problem
25 arises.

26 MR. BUGLIOSI: I think perhaps we'd better look at the

1 Massey case, your Honor, at this point. I am not that
2 sure about Massey. I am relatively sure.

3 THE COURT: I will read it.

4 MR. BUGLIOSI: I am relatively sure that Massey says
5 this issue should be resolved.

6 THE COURT: The problem is your problem, Mr.
7 Bugliosi. You are going to have to resolve it either by
8 presenting to the Court at this time the proposed state-
9 ments and asking for a preliminary ruling, or waiting
10 until the time you intend to offer them during the trial,
11 and taking a chance on what the outcome will be.

12 MR. BUGLIOSI: We are prepared, not at this particular
13 moment in time. I will be prepared within 15 or 20 minutes
14 from now, offering these extrajudicial statements to the
15 Court with deletions.

16 I maintain they will be effective deletions.

17 MR. STOVITZ: I think we should, your Honor, seeing
18 this is a matter that will have to be ruled on by the
19 Court as to whether or not it is admissible, perhaps this
20 should be taken up with the consent of the defendants and
21 their counsel outside of the presence of the general public,
22 because in the event that the Court rules they are not
23 admissible statements, then the white elephant will have
24 rung.

25 I merely suggest this, your Honor, we feel that,
26 number one, the defendants are making this motion at the

1 last moment.

2 Number two, the defendants are actually seek-
3 ing a joint trial, but they want to protect their rights
4 to keep out all of the evidence that can be adverse to
5 them.

6 We feel that we can have a joint trial and we
7 can show your Honor the statements that will be introduced
8 by the various persons. These statements, we believe,
9 will be deleted so that references to other defendants will
10 not be included within the statements.

11 However, assume for the moment that we have
12 testimony that five people enter into a store, and then we
13 have one of those people named Jane Adams identify this
14 entering into the store, and then Jane Adams says in her
15 statement to somebody else, "Yes, I entered the store."

16 Query: Is she incriminating the other four
17 people entering into that store by saying, "I entered the
18 store," when we have testimony from another person that five
19 people entered the store?

20 This is the type of situation we are going to
21 have here in this case. We do not have a trial brief ready
22 as such.

23 However, we do have a sufficient outline of
24 our case at this time to show to the Court that the evi-
25 dence that we will offer in respect to the statements of
26 two of the defendants, just two of the defendants that we

1 are talking about now, will be sufficiently edited so as
2 to incriminate that particular person only.

3 The only thought I can think of is that we will
4 have identification of four or five other people involved,
5 and the jury might draw an inference -- your Honor remembers
6 a recent case where they used the word "deleted," the word
7 "deleted" had specific reference to somebody else.

8 I don't think it is only a burden of ours,
9 your Honor, it is a burden of the Court.

10 THE COURT: At the time it is presented, yes, it has
11 not been presented yet.

12 MR. STOVITZ: That is true. I think what counsel is
13 trying to do, they are trying to ask for a pretrial ruling
14 to preserved their record, that they in effect want a
15 joint trial but they don't want a joint trial if we are
16 going to introduce all of our evidence.

17 MR. REINER: If I might briefly respond to Mr. Stovitz,
18 our position is the evidence is inadmissible because it
19 cannot be effectively deleted, and that really is the be-
20 ginning, middle and end of our position.

21 THE COURT: Mr. Reiner, this is not even your motion.
22 I might point out the only motion filed as a pretrial motion
23 is the one filed by Mr. Fitzgerald on behalf of Miss
24 Krenwinkel, which I might also add was totally unsupported
25 by any affidavit or declaration showing any prejudice that
26 could result to the defendants by a failure to grant the

1 motion for a severance.

2 The cases are fairly clear, in the absence of
3 such a showing the Court is under no compulsion to grant
4 the motion for severance which is an unusual act in the
5 first place, since the Code definitely provides for joint
6 trials when there are multiple defendants.

7 I let both you and Mr. Kanarek make oral
8 motions, but neither of you, of course, has offered any-
9 thing in the way of supporting declarations, either of
10 which there would warrant the Court in granting such a
11 motion.

12 If the People are concerned about the Bruton-
13 Aranda problem, all I can suggest is they'd better bring it
14 to the Court's attention before we go much further, other-
15 wise it will be something left to me during the course of
16 the trial, apparently.

17 MR. BUGLIOSI: I think it has to be resolved now.
18 Will the Court grant a very short recess?

19 I will go downstairs and get the statement.

20 I think this should be resolved back in
21 chambers outside of the presence of the Press.

22 THE COURT: I will read the Massey case. How much
23 time do you need?

24 MR. BUGLIOSI: Ten minutes.

25 THE COURT: We will recess for ten minutes.

26 MR. STOVITZ: Before your Honor takes the recess,

1 People have a motion we would like to file with the Court,
2 and serve counsel with, so that your Honor in considering
3 the Massey case can himself consider the People's motion.

4 THE COURT: What is the nature of the motion,
5 Mr. Stovitz?

6 MR. STOVITZ: It's a motion to consolidate Case
7 Number A-253,156, commonly known as the Tate-La Bianca
8 case with Case Number A-258,361, commonly known as the
9 Gary Hinman case. ✓

10 THE COURT: All right, the Court will recess for ten
11 minutes.

12 (Recess until 4:06 P.M., at which time the
13 following proceedings were had:)

14 THE COURT: The record will show this conference is
15 in chambers. Mr. Reiner, Mr. Fitzgerald, Mr. Kanarek are
16 present for the defendants.

17 Mr. Stovitz and Mr. Bugliosi are present for
18 the People.

19 MR. KANAREK: It is our request that Mr. Manson be
20 here.

21 THE COURT: Very well. I am just considering the
22 fact that Mr. Shinn is not present, whether or not we can
23 accomplish anything here.

24 MR. STOVITZ: I was thinking, your Honor, this motion
25 for severance, although it was filed and it was handed to
26 us, at the time Mr. Fitzgerald did say he was going to make

1 a 3-sentence request; that he wanted to put his notice
2 on the record, but that in truth and in fact his client,
3 not he, his client wants a joint trial, so we were not
4 prepared to meet with the requirements of Aranda and
5 Bruton. That is why counsel and I went out and prepared
6 for this severance.

7 I think the whole matter should go over to
8 tomorrow or whatever date your Honor sees fit to schedule
9 it, put out a search warrant or duces tecum for Mr. Shinn,
10 and resume with Mr. Shinn here, because we have filed this
11 motion for consolidation; we would serve Mr. Shinn if he
12 was here. He is affected by that motion for consolida-
13 tion.

14 THE COURT: Well, I don't think we can proceed in
15 Mr. Shinn's absence, particularly, of course, with the
16 matters that concern him.

17 But even those who don't, I have permitted
18 counsel to join in each other's motions where it was
19 expeditious to do so, and it might be true with respect to
20 Mr. Shinn's client on some of these motions.

21 We have heard nothing from him. I am going to
22 order a body attachment for Mr. Shinn.

23 I will hold it until tomorrow at 10:00 o'clock.

24 MR. FITZGERALD: I wonder if we could go over to
25 Monday, your Honor. If your Honor feels it is necessary
26 for us to be here, I will make arrangements indeed to be

here.

I have some appearances on two separate cases in Malibu tomorrow morning. I felt that these pretrial motions would be concluded.

I anticipated that we would actually start some portion of the trial on Monday.

THE COURT: So did I. I still do.

MR. FITZGERALD: I still do indeed. I feel the balance of these motions should not take any great length of time.

THE COURT: I have read the Massey case and I believe that under the rule of that case that I have to exercise my discretion as indicated in that opinion on this motion for a severance, which means I am going to have to apparently see the proposed statements that the People would offer to determine whether or not it is possible to delete any references to the co-defendants and what other problems might exist by virtue of the statements.

I can understand why you cannot be ready in ten minutes to present them when it wasn't pinpointed in the motion.

So I think we will just have to go over to tomorrow morning. Then we will continue with this motion and the other motions.

In turn, I will take up the consolidation motion last.

1 MR. STOVITZ: Would your Honor, for the convenience
2 of counsel, want to make it tomorrow afternoon?

3 THE COURT: No, we have got to go, gentlemen. As
4 far as I am concerned, this case is started, and we are
5 going to continue the pretrial matters until such time as
6 they are concluded and then we are going to start the
7 trial.

8 MR. STOVITZ: Very well. If any persons do ask of
9 the News Media, we are going to start on Monday, not
10 necessarily with jury selection, but we finish up whatever
11 pretrial motions there are.

12 THE COURT: We will go every day until something else
13 occurs, and I don't know what that might be.

14 MR. STOVITZ: And the time will probably be 10:00
15 o'clock at first until your Honor disposes of your
16 calendar.

17 THE COURT: That was one of the things I wanted to
18 take care of in our pretrial conference, once the pretrial
19 motions are out of the way we will sit down and have a
20 conference. I will lay out some ground rules, time of
21 sessions and so forth, so everybody knows what we will
22 be doing.

23 But we can only take up one thing at a time.
24 So far we are still wrestling with the pretrial motions.

25 MR. FITZGERALD: In regard to the motion to sever,
26 it was not my intent to mislead either the Court or the

1 District Attorney's Office.

2 THE COURT: I assume you are serious; that you want
3 a severance.

4 MR. FITZGERALD: I am.

5 THE COURT: If you are not, now is the time to
6 indicate it, because it may be granted, you never know.

7 MR. FITZGERALD: Counsel in cases wear several
8 different hats, sometimes, and provide for their client
9 different functions, maybe a strategic or legal or factual
10 function, you have to balance it, certainly my understand-
11 ing of the case law should be the motion should be made
12 in order that I can extract from the District Attorney
13 representations that there would be an effective deletion.

14 I just want it to be clear that I was not
15 attempting to mislead anybody.

16 THE COURT: I would question that strategy,
17 Mr. Fitzgerald, if in fact you don't want a severance,
18 because you have the simple protection, as I see it, if
19 you wait until the time that the People offer the state-
20 ments to make your objection.

21 The Court at that time then has to rule on
22 the Bruton-Aranda question. If effective deletions
23 cannot be made, either the severance must be granted, if
24 that is what the defendant wants, or if the Court denies
25 that, then the evidence has to be excluded.

26 So you have exactly the same protection.

1 What I am saying to you now is if you make a
2 pretrial motion I might just grant it.

3 You cannot have it both ways.

4 If your motion is good, even though you may not
5 want me to grant it, I may grant it anyway.

6 I may not have any choice.

#10 7 MR. FITZGERALD: I did not know there were two
8 options available to me. I felt after reading what I
9 thought were the applicable cases, that there was no
10 alternative; that if I was going to raise the issue of
11 the Aranda-Bruton Sixth Amendment-Fourteenth Amendment,
12 probably I would have to do it at pretrial rather than
13 in-trial.

14 THE COURT: Well, that is not my understanding,
15 Mr. Fitzgerald.

16 MR. BUGLIOSI: I think you can waive it at any time,
17 but if you do waive it before trial the issue has to be
18 resolved before trial.

19 THE COURT: That is what the Massey case says. That
20 was an issue raised pretrial, and what the trial judge did
21 in that case was to rule in effect that he did not have the
22 power to make the decision, so he failed to exercise his
23 discretion, and the Supreme Court said that that was error;
24 he should have exercised his discretion, and whether or not,
25 if he denied the motion, it would have been an abuse of
26 discretion was another question entirely.

1 He failed to exercise his discretion. Then he
2 goes on to discuss the various options that would have been
3 open.

4 Apparently from this case I do have to exercise
5 my discretion if you make the motion. That is what I am
6 saying.

7 The fact that you may not want the motion to be
8 granted is going to be immaterial if in fact you make it an
9 I am forced to make the decision.

10 MR. FITZGERALD: Indeed it is. I might point out to
11 the Court. I intend to join in Mr. Kanarek's motion, and it
12 is my understanding Mr. Reiner wishes to join in Mr. Kanarek's
13 motion to have Linda Kasabian, the prosecution witness
14 examined, maybe at this time we can inform the Court which
15 motions we will intend to join in so the Court will be clear
16 and we will present any additional materials to the Court
17 that the Court feels proper.

18 THE COURT: I think I am going to have to hold you to
19 the orders I previously made.

20 I made it quite clear on June 1st that all pre-
21 trial motions must be noticed for hearing on or before June
22 10th, and certain things had to occur before June 5th.

23 I am going to hold you to that, otherwise we are
24 going to be here endlessly with pretrial motions, and that
25 was exactly the purpose for which I made such an order.

26 MR. FITZGERALD: I take it then you will not entertain

1 the prosecution's motion to consolidate.

2 MR. BUGLIOSI: We would ask the Court to make an
3 exception as to this one point.

4 MR. STOVITZ: The reason for it --

5 THE COURT: Everyone wants an exception.

6 MR. STOVITZ: Our motion to consolidate, your Honor,
7 is really aimed due to -- this was a very recent United
8 States Supreme Court case, I don't even have the name of it,
9 I just saw it in the weekly criminal law bulletin, which
10 states when a prosecution has knowledge that a defendant has
11 committed two or more crimes, that they cannot take
12 separate bites of the apple; that they should --

13 MR. BUGLIOSI: That is the Kellet case.

14 MR. STOVITZ: The Kellet case was a different one.
15 This was two murders or two robberies.

16 The Grand Jury indicted Mr. Manson on this
17 Tate-La Bianca. Evidence developed after the indictment
18 and the new indictment was reached.

19 Now, we don't want to be precluded six months
20 from now or a year from now or two years from now of going
21 to trial in the Hinman case as to Mr. Manson and Susan
22 Atkins by saying, "Well, you should have gone to trial all
23 at once."

24 So, this is, frankly, why we are making the
25 motion.

26 THE COURT: I am just wondering whether this motion

1 should not have been made in Department 100.

2 MR. STOVITZ: This motion should have been made in
3 Department 100. However, the case was transferred out of
4 100 to this court before we had knowledge of the new
5 indictment, and the effect of the new case that came down,
6 so we are making it at this time.

7 MR. BUGLIOSI: Let me say this, it is not just be-
8 cause of the new case. I think we are seeking a consolida-
9 tion, aren't we?

10 MR. STOVITZ: Yes.

11 MR. BUGLIOSI: So apart from this new case, Kellet,
12 Section 954 of the Penal Code permits a consolidation of
13 two or more accusatory pleadings if the charges contained
14 in these multiple pleadings could have been joined initially
15 in one pleading.

16 THE COURT: Well, let's not get into the merits of the
17 motion now, gentlemen, we will take it up tomorrow or when-
18 ever the other motions are completed, and there is still a
19 question as to whether we will take it up at all in view of
20 my previous order, I won't rule one way or the other on
21 that.

22 MR. KANAREK: May I ask your Honor this, am I part of
23 this motion to sever on the part of Mr. Manson? I wish to
24 make a motion to sever, as your Honor knows under Peole
25 vs. Cravedi, you are entitled to some reasonable time to
26 prepare.

1 Now, I have, because of the motion that was made
2 personally against me, your Honor, there are only so many
3 hours in the day, and the motion that the prosecution made
4 concerning me, as I say, and I attempted to be as expeditious
5 as possible, and so I just want the record to reveal, I
6 believe in a matter such as this, as I say, time being what
7 it is, it certainly has not been excessive.

8 THE COURT: You have been representing all along you
9 are going to be ready on the 15th.

10 MR. KANAREK: Yes, your Honor, I am talking about the
11 pretrial.

12 Your Honor could sever and we could be ready
13 on the 15th. We would just go to a different court, not
14 that we would welcome that, because we are not saying we
15 don't enjoy being in this court.

16 But what I am saying is we still are ready to
17 go to trial to represent Mr. Manson, but I want the record
18 to be clear, I think under the Cravedi case and the Cravedi
19 concepts that we have a right to make a motion to sever.

20 I just wanted to make sure that our joining with
21 Mr. Fitzgerald, that that is -- your Honor indicated pre-
22 viously that was a valid joinder, because we do, I think --

23 THE COURT: Well, I think I would permit you to join
24 in the motion for severance. It is a common problem. It
25 is a little bit different here; you may or may not have been
26 aware of any incriminating statements made by a co-defendant

1 at the time you came into the case, and so forth.

2 I think I would expand my order to that extent,
3 to permit you and Mr. Reiner to join in on the motion for
4 severance.

5 But I am not going to permit you to keep adding
6 motions, either side, unless there is some compelling reason,
7 and so far that is the only one I can see.

8 MR. KANAREK: Well, what I am saying, there are
9 problems, but in connection with the time aspect, as I
10 say, Cravedi -- the Court makes an order and you do your
11 best to follow the Court's order, but I think the Cravedi
12 doctrine tempers that.

13 THE COURT: I am not sure I understand what you are
14 talking about, Mr. Kanarek.

15 MR. KANAREK: What I am saying is this, your Honor: *

16 A Court can make an order and a lawyer can try
17 his level best to follow the Court's order and do what the
18 Court says, but sometimes, as I say, there only being 24
19 hours in a day, it is not possible.

20 THE COURT: You can raise that when we get to the end
21 of our pretrial motions. It is now 4:25, gentlemen, and I
22 think we will adjourn until tomorrow morning.

23 MR. REINER: May I be heard very briefly on just
24 this matter before we adjourn today.

25 With respect to joining on behalf of the
26 defendant Leslie Van Houten to a motion to sever, it was my

1 understanding before the motion was made we will not have
2 to join in such a motion in order to preserve our right to
3 object during the course of the trial to the introduction of
4 any statements which we feel would not properly be edited.

5 Out of an abundance of caution we did join.

6 In light of the Court's indication a moment
7 ago, it is not necessary to request a severance pretrial
8 in order to make --

9 THE COURT: I am not making a positive statement. I
10 am simply expressing an opinion. If you have any question
11 as to what rights the defendants have, and when they should
12 be exercised, you will have to make your own independent
13 decision as to that.

14 MR. REINER: Very well, then, I won't pursue that
15 any further at the moment.

16 The second matter that I wish to bring up is
17 this, your Honor:

18 A motion is pending before the Court with respect
19 psychiatric examination of Linda Kasabian. I did not prepare
20 a separate motion for the reason it simply would have been
21 a matter of duplication.

22 THE COURT: With respect to that, I don't see any need
23 for anybody to join in that motion. If it is granted the
24 benefits will accrue to all of the defense counsel.

25 MR. FITZGERALD: Just suggesting permission to argue
26 it.

1 THE COURT: All right, just so it isn't simply
2 repetitive.

3 MR. REINER: If denied, of course, if we have not
4 joined in it we would not be able to complain about it
5 later, if that should be the case, that is the only reason
6 for wishing to join.

7 THE COURT: But I would again suggest that you give
8 some serious consideration to your motions for severance
9 as to whether or not you intend to pursue them or not when
10 we resume tomorrow, on the basis of what I said.

11 Notwithstanding the mental reservations you
12 have when you make it, I don't know about them and I don't
13 really care about them. All I am concerned with is the
14 record in the case. If the motion is before me I will rule
15 on it.

16 MR. BUGLIOSI: When you are thinking about compelling
17 reasons for altering your June 10th rule with respect to the
18 consolidation, we are talking about saving the County of
19 Los Angeles a considerable sum of money.

20 THE COURT: I can see the problem and the reasons for
21 the motion. I am not sure it is one that should be deter-
22 mined by this Court, though. I think, perhaps, it is one
23 that should be filed in Department 100. We can take that
24 up again tomorrow, too.

25 MR. BUGLIOSI: You will advise us tomorrow what to
26 do?

1 THE COURT: Yes.

2 MR. BUGLIOSI: That is one very compelling reason
3 for extending the June 10th deadline one day to save the
4 County some money.

5 THE COURT: I know really nothing about the Hinman
6 case except for this motion of substitution I heard
7 yesterday.

8 There is a third defendant, isn't there?

9 MR. BUGLIOSI: Bruce Davis. He has not been found,
10 yet.

11 THE COURT: He is not in custody.

12 MR. STOVITZ: He is not in custody.

13 MR. BUGLIOSI: This motion for severance tomorrow,
14 do you just want to see the statements or do you want any-
15 thing else from the prosecution?

16 THE COURT: Are these the statements as deleted or
17 the entire statements?

18 MR. BUGLIOSI: These are the entire statements, and
19 I don't know exactly what the Court wants to do.

20 Does the Court want to look at these statements
21 and see whether they are susceptible to deletions?

22 THE COURT: How long are they?

23 MR. BUGLIOSI: There is one here, 47 pages.

24 The other one is 60 pages, and the other one is
25 half a page.

26 THE COURT: 47, 60, and one-half?

1 MR. BUGLIOSI: You can have these overnight.

2 THE COURT: I am not going to be able to do it tonight.

3 If you want to leave them I may be able to do
4 them in the morning before court starts. If you want to
5 offer them in evidence now as Exhibits for the purpose of
6 this proceeding --

7 MR. BUGLIOSI: All right, your Honor, I have here a
8 statement by Virginia Graham purportedly containing conver-
9 sation that she had with defendant Susan Atkins, I believe
10 in early November of 1969.

11 May it be marked People's 1?

12 THE COURT: 1 for the purpose of this particular
13 motion.

14 MR. KANAREK: This is for identification only.

15 THE COURT: This is for the purpose of the motion
16 only.

17 MR. BUGLIOSI: Transcript of another tape-recorded
18 conversation between Ronnie Howard and Susan Atkins.

19 THE COURT: That will be People's 2 for the purpose of
20 the motion for severance.

21 MR. BUGLIOSI: Forgive this shabby document here, I
22 will try to get you a better one tomorrow. I do have
23 another one but I cannot find it.

24 This is a statement, an excerpt from a
25 transcript of a tape-recorded conversation between -- not
26 between, but Diane Lake gave it to the Los Angeles Police
27 Department concerning her conversation with

1 defendant Leslie Van Houten.

2 May that be marked People's 3 for identifica-
3 tion.

4 THE COURT: It will be marked People's 3 for the
5 purpose of this motion for severance.

6 I will give these to you, Mr. Darrow.

7 You can give them to me in the morning.

8 MR. BUGLIOSI: I don't believe we have another state-
9 ment, do we?

10 MR. STOVITZ: The statement of Patricia Krenwinkel,
11 but we are not going to use that.

12 MR. BUGLIOSI: We are not going to use that.

13 MR. FITZGERALD: We are talking about guilt and
14 penalty, your Honor.

15 THE COURT: In what respect?

16 MR. FITZGERALD: I mean when we talk about the state-
17 ments, I must hope for the best and assume the worst, and in
18 the event there is a penalty trial in the attempt to intro-
19 duce any statements, my motion is directed to those state-
20 ments, as well.

21 I say that only to clarify their thinking.

22 THE COURT: Your motion as it now stands is a motion
23 for severance.

24 MR. FITZGERALD: That's correct.

25 THE COURT: Not to exclude any particular evidence.

26 MR. FITZGERALD: That is correct, based on Aranda

#3

ground that it cannot be effectively deleted.

MR. KANAREK: Your Honor, if I may, I feel constrained to reply at the earliest possible time to Mr. Bugliosi's statement concerning the cost to the County of Los Angeles.

THE COURT: This is irrelevant. Every trial is expensive and some are more expensive than others.

That is not the point. The point is that we will try to expedite the trial of this case with due deliberate speed, and at the same time respect all the rights of all of the parties, and the cost is what it will be. That is all.

I will take the bench once more and formally adjourn for today.

(Whereupon, the following proceedings were had in open court:)

THE COURT: In accordance with our conference in chambers, gentlemen, we will adjourn at this time until 10:00 A.M. tomorrow morning.

(Whereupon, proceedings in the above-entitled matter were adjourned to Friday, June 12, 1970, 10:00 A.M., this same Department.)

--oOo--

1 LOS ANGELES, CALIFORNIA

FRIDAY, JUNE 12, 1970

2 10:17 A. M.

3 ---oOo---

4
5 THE COURT: Very well, the record will show this
6 conference is being held in chambers.

7 Miss Van Houten, Miss Krenwinkel and
8 Miss Atkins are present. Mr. Manson is present.

9 Mr. Kanarek is present, Mr. Reiner is present,
10 Mr. Fitzgerald is present, Mr. Bugliosi and Mr. Stovitz are
11 present.

12 Did I miss anyone? Mr. Shinn is not present.

13 Do you have any knowledge of the whereabouts
14 of Mr. Shinn?

15 MR. REINER: Yes, your Honor, I received a phone call
16 here in court just a few moments ago from Mr. Shinn. The
17 call was from Tokyo. He informed me he had an emergency
18 illness in the family. He called in from Tokyo. He said
19 he was not aware the court would be in session on this
20 matter yesterday; he thought the motions would have been
21 concluded Wednesday and he had made arrangements for me to
22 stand in in his behalf for Susan Atkins on Wednesday.

23 I told him that I did this on Wednesday; that on
24 Thursday when I attempted to do the same thing, that at that
25 time it became impossible to represent Miss Atkins because
26 she would not acquiesce to the substitution, as we all

1 observed yesterday, so for that reason her matter could go
2 off-calendar yesterday, and I told him the Court had issued
3 a body attachment for him but it was held until 10:00 A.M.
4 this morning.

5 He said he was first informed that the Court
6 was seeking him today when he received a telegram from his
7 office today, being Saturday in Tokyo and Friday here, or
8 perhaps it was late last night, I'm not sure which.

9 He said he would try to be back Monday; that he
10 thinks he probably will be back Monday.

11 I guess that is really about all the information
12 I have.

13 I told him that I would represent Susan for him,
14 especially during his absence, if it is agreeable with
15 Susan and if it is agreeable with the Court.

16 THE COURT: Have you discussed this with Miss Atkins?

17 MR. REINER: Not since the phone call. As soon as I
18 hung up the Clerk informed me you wished to see all of us in
19 chambers.

20 I have discussed this previously with Susan;
21 so has Mr. Shinn in my presence, at which time he asked her
22 if she would agree to have me represent her in his absence.

23 She said she would, and of course the Court
24 observed on Wednesday she did agree.

25 Yesterday she did not disagree, but it was
26 yesterday Miss Atkins decided she did not want to participate

1 in the proceedings, and stood mute.

2 For that reason the substitution was impossible
3 yesterday.

4 I have not had an opportunity to once again
5 discuss it with her this morning since that phone call.

6 THE COURT: Miss Atkins, do you wish Mr. Reiner to
7 appear for you today in place of Mr. Shinn?

8 DEFENDANT ATKINS: I have no objection.

9 THE COURT: You have no objection, is that what you
10 said?

11 DEFENDANT ATKINS: Yes.

12 THE COURT: All right. I take it that Mr. Shinn has
13 asked you to do so?

14 MR. REINER: Yes.

15 THE COURT: Mr. Shinn has asked you to appear for him
16 in representing Miss Atkins with her consent.

17 MR. REINER: That is correct, your Honor.

18 THE COURT: All right.

19 MR. STOVITZ: Would you request of Miss Van Houten
20 whether it is agreeable with her that her lawyer likewise
21 represent co-defendant Atkins.

22 THE COURT: Is that agreeable with you, Miss Van Houten?

23 DEFENDANT VAN HOUTEN: Yes.

24 MR. REINER: I just thought of something, in some
25 respects it would be impossible, at least with respect to
26 one motion, the motion to consolidate.

1 THE COURT: There is no problem there because that
2 motion has been transferred over to Department 100, and
3 Department 100 will rule on that motion.

4 MR. REINER: Very well.

5 MR. FITZGERALD: Would that be today, your Honor?

6 THE COURT: I would guess so. I don't know.

7 MR. FITZGERALD: I think there is a problem insofar
8 as one other motion is concerned. I believe Mr. Shinn has
9 filed with the Court a motion for continuance.

10 MR. REINER: That's correct, I have not been informed
11 of Mr. Shinn's ground.

12 THE COURT: I won't hear that until Mr. Shinn re-
13 turns.

14 Now, the second thing is, Mr. Kanarek, our
15 proceedings were delayed this morning because of your
16 absence. Do you have any excuse for not being here at
17 10:00 o'clock?

18 MR. KANAREK: I tried to get here, your Honor. I
19 think I was about eight minutes late.

20 THE COURT: Well, I'm going to require counsel to be
21 scrupulously punctual in their appointments in this court;
22 that goes for everyone.

23 I understand the problems. You are all busy
24 attorneys; there are lots of things to be done in connec-
25 tion with this case.

26 On the other hand, I am going to have to insist

1 on absolute punctuality, and I want you to all know that I
2 intend to enforce it.

3 For this time I will let it go with an
4 admonishment, but please bear it in mind.

5 MR. KANAREK: Yes, your Honor, if I might just make
6 this record:

7 I think the first day we were here, I guess it
8 was the 10th, the 10th, the day that we were here on
9 motions, I think your Honor calendared this for 9:00
10 o'clock and we did not get going until 11:30.

11 What I am saying, your Honor, these are the
12 problems in the practice of law and also in the judicial
13 administration.

14 THE COURT: That has nothing to do with what I am
15 saying. If I calendared it for 9:00 o'clock, I expect you
16 to be here at 9:00 o'clock.

17 MR. KANAREK: I was here, your Honor, for two and a a
18 half hours I waited.

19 THE COURT: At any event, today it was calendared for
20 10:00 and you were not here.

21 MR. KANAREK: I was eight minutes late, your Honor.

22 THE COURT: Bear in mind what I said.

23 MR. KANAREK: Certainly.

24 THE COURT: I asked the defendants to be present this
25 morning because I want to go over with them again this
26 problem of their conduct in the courtroom.

1 As you all know, the trial has not yet started;
2 we are in the pretrial stages.

3 The things that you do in court now, while they
4 may very well create some unfavorable publicity for you,
5 do not have any direct effect on the jury.

6 However, when this trial starts if you persist
7 in the kind of conduct that has been going on, not only
8 will it constitute a contempt, disrespectful, disorderly
9 and disruptive conduct as far as the Court is concerned,
10 but, even more seriously from your standpoint, I think that
11 it would seriously prejudice your cases with the jury.

12 So I would ask you to seriously reconsider what
13 you are doing because I think you are hurting yourselves.

14 Now, I am going to, when we resume our proceed-
15 ings today, I am going to have you come back into the court-
16 room and sit down, and as long as you sit down and behave
17 yourselves and act with the dignity that is expected of you
18 in the courtroom, we will have no further problems.

19 If you stand up again, as you have in the past,
20 and turn your back on the Court, I will ask the Bailiffs to
21 assist you back into your seats.

22 If you do it again I will ask them to assist you
23 again into your seats.

24 If there is any physical resistance on your part,
25 or if you continue to stand after you have been re-seated
26 by the Bailiffs, then I will consider that to be a disruptive,

1 disorderly and contemptuous act on your parts and I will
2 again have you removed from the courtroom.

3 I don't want to do that; I don't think you are
4 accomplishing a thing by it. But if that is what you do,
5 then I want you to know that that is what I will do.

6 Now, do any of you have any questions?

7 MR. MANSON: Your Honor, you mentioned --

8 THE COURT: Let me add one thing, Mr. Manson, before
9 you make your statement:

10 If you are removed from the courtroom you may
11 return at any time that you are willing to affirm to the
12 Court your willingness to come back in and conform to the
13 Court's orders. All you have to do is just let your counsel
14 know that you are so willing to return, and I will let you
15 return to the courtroom.

16 In the meantime, if you are removed from the
17 court you will be placed in the holding tank, as you have
18 been, where you can hear, in your case, Mr. Manson, and see
19 the proceedings, if you care to.

20 In the case of the young ladies, they will be
21 taken up into our jury room above the court where they will
22 be unable to see the proceedings, but there is a speaker
23 provided and they will be able to hear the proceedings.

24 All right, go ahead, Mr. MANSON.

25 DEFENDANT MANSON: You mentioned "reconsider." Then
26 you could possibly reconsider, if you can ask me to

1 reconsider.

2 Let me ask you to reconsider. I have a position
3 as well as your Honor has a position.

4 My position is still as strong as it was the
5 first day I was arrested. The position that I hold is as
6 follows:

7 The confusion that has been created around the
8 situation could be eliminated, over 50 percent of the confu-
9 sion could be eliminated if your Honor would allow me to have
10 my own voice in court.

11 I am not here to use any dilatory tactics or
12 cause confusion. I am not here to shout in your courtroom.
13 I am not here to fight with your Bailiffs, and I am not
14 here to go against my brother.

15 I am just here to try to explain that these two
16 gentlemen, even though sincere as they may be, they have no
17 idea of what is going on.

18 They are still in the dark about the whole
19 situation. They have a bunch of facts; they have a bunch
20 of things --

21 THE COURT: What two gentlemen are you talking about?

22 DEFENDANT MANSON: The District Attorneys, they are
23 very good at what they do, but they are way out, they are
24 on the edge of town, you know, like it's --

25 THE COURT: Are you making some kind of a motion,
26 Mr. Manson?

1 DEFENDANT MANSON: Yes, I'm making a motion, if I can
2 finish, I lisnted to you.

3 THE COURT: Just tell me what the motion is.

4 DEFENDANT MANSON: It is my opinion that the Court is
5 not supposed to think, but supposed to administer the laws
6 that go into the book, Manson vs. United States; you give me
7 a case --

8 THE COURT: Mr. Manson, I don't want to hear a speech.
9 If you have a motion or a request, state it to the Court so
10 I would know what you want.

11 DEFENDANT MANSON: I would like to associate in with
12 Mr. Kanarek as my own counsel.

13 THE COURT: I already ruled on that several times.
14 Your motion will be denied.

15 DEFENDANT MANSON: Yeah, okay, then you leave nothing
16 you know, there is nothing else I can do. You can kill me
17 now.

18 THE COURT: All right.

19 DEFENDANT MANSON: You understand what I am saying to
20 you? Do you understand what I am saying to you?

21 THE COURT: Is there anything further, gentlemen,
22 before we resume in the courtroom?

23 MR. REINER: Well, other than, of course, to indicate
24 once again we do object to the defendants being removed.

25 Well, perhaps I am being premature. Perhaps
26 they will not do that.

1 THE COURT: There is one other matter I want to take
2 up with you gentlemen, and that is the publicity order.

3 DEFENDANT MANSON: You don't obey your own publicity
4 orders; you don't obey your own laws. You can remove me
5 now, you hear me? I am not going to understand you. You
6 don't understand me. You don't try to reach an empathy with
7 me; why should I try to listen to you?

8 THE COURT: If you are not quiet I will have you
9 removed.

10 DEFENDANT MANSON: Remove me. Do your job.

11 THE COURT: I order you to be quiet, Mr. Manson.

12 DEFENDANT MANSON: I will not be quiet, absolutely
13 not.

14 THE COURT: The Bailiffs will remove Mr. Manson from
15 the room.

16 DEFENDANT ATKINS: Nor will I be quiet.

17 DEFENDANT KRENWINKEL: Nor I.

18 THE COURT: The record will show the three young
19 ladies are standing up.

20 Sit down, young ladies, or I will have you
21 removed from the room.

22 The Bailiffs will seat the young ladies.

23 The record will show that the young ladies are
24 getting up and resisting the Bailiffs.

25 Assist them to their seats again.

26 THE DEFENDANTS (in unison): Now we can get up again.

1 THE COURT: The record will show the young ladies
2 resisted the Bailiffs and are again standing up, so I will
3 have to ask you to be removed from the room.

4 (Defendants removed.)

#11 5 THE COURT: Now, to go back to the subject that I
6 started to mention, which was the publicity order.

7 I read the newspapers, as I am sure the rest of
8 you do, and I am convinced that both sides are guilty of,
9 if not actual violation of the publicity order, they are
10 treading a very narrow path which is right on the border-
11 line.

12 I suggest, first of all, that all of you go back
13 and read that publicity order because I intend to enforce
14 it.

15 For example, on Page 3 of the order, Lines 9
16 through 13, read as follows:

17 "Nor shall any such person" --

18 Referring to persons named before as to whom
19 this order applies --

20 "Nor shall any such person make any state-
21 ment for public dissemination as to the content,
22 nature, substance or effect of any testimony which
23 may be given in any proceeding related to this
24 matter, except that a witness may discuss any
25 matter with any attorney of record or agent there-
26 of."

1 Now, these various statements that have been
2 given out to the Press by the People and by defense
3 counsel relating to this motion, for example, of the
4 People, to have an evidentiary hearing with respect to
5 Mr. Kanarek's substitution, are, in my opinion, violations
6 of that publicity order.

7 Statements about the length of the trial and
8 what the evidence is expected to show by calling Judges,
9 and so on and so forth.

10 This has no place whatever in this trial. There
11 is no excuse for it, in my opinion, and I order you to stop
12 it.

13 Don't try to try the case in the newspapers,
14 and that goes for both sides.

15 I am simply going to admonish you now. I will
16 tell you again I intend to enforce the publicity order.

17 If there is any repetition of what is going on
18 we are going to have some difficulties.

19 MR. STOVITZ: May I say, your Honor, Paragraph V on
20 Page 3 says:

21 "This order does not include any of the
22 following; the scheduling and results of any
23 stage of the judicial proceeding held in open
24 court and in open or public session."

25 Now, yesterday, or the day before, we had an
26 open public session.

1 THE COURT: That is not what I am talking about,
2 Mr. Stovitz. That's right, that is excluded, as you have
3 indicated.

4 What I am talking about are the statements made
5 to the Press that don't fall within that exclusion, and I
6 think there have been numerous such statements.

7 All right, I don't want to say anything more
8 about it now. I just simply want to call it to your
9 attention.

10 I admonish you, I warn you that the order is
11 in full force and effect. It applies to all of you and I
12 expect you to recognize it and comply with it.

13 MR. REINER: Excuse me, your Honor, if I might
14 inquire:

15 The Court initially stated it felt the order
16 had been violated by all defense counsel.

17 THE COURT: No, I did not say all defense counsel.
18 I said some, but not all.

19 MR. REINER: The reason I inquired, the newspaper
20 the Court has before it, I read it myself; it does quote
21 certain statements I made. I tried scrupulously to stay
22 within the order re publicity.

23 I just wanted to know if the Court felt the
24 remarks I made with respect to the petition I intended to
25 file and the like, fell without the order of the publicity.

26 THE COURT: As I interpret the order, I don't think

1 that there is excluded any petition which you intend to
2 file in an appellate court or any discussion about it.

3 MR. REINER: When you say "exclude", you mean I may or
4 may not.

5 THE COURT: The publicity order covers that.

6 MR. REINER: The reason I commented on that is that
7 the Court recalls in open court I asked for a stay of
8 proceedings pending the petition I proposed to file.

9 THE COURT: I am not saying you don't have a right to
10 file a petition. That is not what I am saying at all.

11 You have the right to file any petition you want
12 in the appellate court.

13 What I am saying is disseminating this informa-
14 tion and discussing the merits of any such petition, or the
15 issues involved, prior to your having filed it, after it is
16 filed, of course, it is a matter of public record and will
17 speak for itself, there is nothing needs to be said about
18 it.

19 Certainly nothing needs to be said to the Press
20 about the merits of the controversy before the Court has
21 decided it. That is what I am talking about.

22 MR. STOVITZ: May we ask when we go back, your Honor,
23 does your Honor intend to bring the defendants down before
24 the open court?

25 THE COURT: Yes, as I indicated to them, I will bring
26 them into the courtroom and again hope that they will be

1 seated and conform their conduct to what is expected of
2 them.

3 MR. REINER: May I confer with Miss Van Houten?

4 THE COURT: You all may confer with your respective
5 clients before we resume.

6 MR. KANAREK: Your Honor, if I may, I would and do,
7 your Honor, solicit through your Honor a stipulation that
8 it is deemed, so there is no question about it, Mr. Manson's
9 constitutional right to be present, the right to effective
10 counsel, are those rights that is the making of the record,
11 if I can couch it in those terms, as far as these in camera
12 type of proceedings are concerned, in chambers, do we have
13 a continuing record that indicates that each and every
14 moment when Mr. Manson is not here, that these rights are
15 asserted, so that I don't have to say it every time.

16 He has a right to be present.

17 THE COURT: I don't know that I know what you are
18 talking about, Mr. Kanarek. If you have some objection,
19 state it for the record.

20 MR. KANAREK: My objection is to have Mr. Manson
21 removed. He has a right to be present at every stage of
22 the proceedings. He has a constitutional right to effec-
23 tive counsel, and he has a right to know what is going on
24 in his own murder case, and our appellate courts say and
25 have said on numerous occasions unless you are vigorous in
26 trying to convince the trial court that these constitutional

1 matters are important, and have the Court change its rulings,
2 then you have waived on appeal these rights.

3 I just want to make sure -- I don't want --

4 THE COURT: I won't enter into any stipulation with
5 you. You may state any objections you have as you go
6 along.

7 MR. KANAREK: The objection is to his being removed.
8 I assert it is a violation of his constitutional right to
9 effective counsel, and to a fair trial, and his right to be
10 present at every stage of the proceedings, due process.

11 It is in our Code, a defendant shall be present
12 at every stage of the proceedings.

13 MR. STOVITZ: Your Honor, may we have this thing
14 rather than have an argument each time, when counsel gets
15 up and say, "I'll make an objection, number one, objection
16 number one is that the defendant is not being present.

17 "I make objection number two; the fact he has
18 no pro per status or associate counsel status."

19 We used to do this, rather than say the dirty
20 jokes, we would say "Number one," and "Number two."

21 THE COURT: I don't want to tell Mr. Kanarek how to
22 make his objections. He is perfectly capable of making them
23 for himself.

24 MR. REINER: Perhaps at this time I should make the
25 objection that I previously began to make, which at that time
26 was premature.

1 I would object to Miss Van Houten being removed
2 from chambers during the course of these proceedings, and I
3 object to the proceedings continuing.

4 I also wish to point out for the record that
5 Miss Van Houten did not speak out.

6 Miss Van Houten did stand up, and Miss Van Houten
7 had the hands of the Bailiff placed on her shoulder; they
8 were gently placed on her shoulder; she sat down; immediately,
9 as soon as the hands of the Bailiff were taken off her
10 shoulder, she immediately stood up.

11 On the second occasion the Bailiff gently placed
12 her hands on her shoulders.

13 Immediately, upon the hands being placed on her
14 shoulder she sat down; immediately upon the Bailiff removing
15 the hands from her shoulders Miss Van Houten stood up.

16 I believe on the third occasion the Court
17 ordered Miss Van Houten from the chambers. Miss Van Houten
18 did not speak or say a word during this entire proceedings.

19 THE COURT: My recollection is they were all speaking;
20 they were all resisting, and all repeatedly rose after the
21 Bailiff re-seated them.

22 MR. STOVITZ: And they acted in unison, your Honor.

23 MR. FITZGERALD: On behalf of Patricia Krenwinkel,
24 I object. The removal is a violation of the due process
25 clause of the Fifth and Fourteenth Amendments of the United
26 States Constitution, the Sixth Amendment, and the applicable

1 provisions of the California Constitution and the California
2 Penal Code.

3 THE COURT: All right.

4 MR. KANAREK: Your Honor, if I may, and I do make a
5 motion for an evidentiary hearing, in view of your Honor's
6 statement, and also what happened, I make a motion there
7 be an evidentiary hearing in connection with the publicity
8 that has taken place in this case.

9 I ask your Honor conduct a hearing wherein the
10 Press, the representatives of the mass media be brought here
11 wherein your Honor view the evidence and make a finding of
12 fact as to whether or not there has been a denial of equal
13 protection of the law under the Fourteenth Amendment.

14 Mr. Manson is entitled to that equal protection
15 and due process.

16 THE COURT: Your request is denied.

17 Now, let's get back into the courtroom, gentle-
18 men, and go to work.

19 (The following proceedings were had in open
20 court, all counsel being present with the exception of
21 Mr. Shinn:)

22 THE COURT: People versus Charles Manson, Patricia
23 Krenwinkel, Susan Atkins, and Leslie Van Houten.

24 The record will show that the four defendants
25 are present. They are presently standing with their arms
26 outstretched.

1 The record will also show that their respective
2 counsel are present, except for Mr. Shinn, and in our
3 conference in chambers this morning Miss Atkins indicated
4 to the Court that she was willing and consented to the
5 appearance of Mr. Reiner to represent her for these pre-
6 liminary trial proceedings, in Mr. Shinn's absence.

7 Will the counsel for the defendants kindly ask
8 their respective clients to sit down and be seated.

9 (Counsel comply.)

10 THE COURT: The record will show that each of the
11 defendants is presently standing with his or her head
12 bowed and arms outstretched. ✓

13 I order each of you to sit down so these pro-
14 ceedings may proceed.

15 There's been no attempt by any of the defendants
16 to comply with the Court's orders, so I will ask the Bailiffs
17 to assist each of the defendants to be seated.

18 The record will show Mr. Manson is physically
19 resisting the Bailiffs, and there is an altercation between
20 Mr. Manson and the Bailiffs, and that the young ladies have
21 resisted, each of them, the Bailiffs, and have refused to be
22 seated and have stood up again. ✓

23 I order you once again to be seated, all of
24 you.

25 The record will show there is a physical alter-
26 cation going on between Mr. Manson and the two Bailiffs who

1 are attempting to hold him in his chair.

2 Will the Bailiffs please assist the young
3 ladies to be seated.

4 All right, the record will show that Mr. Manson
5 is still physically resisting the attempts of the Bailiffs
6 to keep him in his chair and is engaged in an altercation
7 with them; that the female defendants have each resisted the
8 attempts of the Bailiffs to have them seated, and have again
9 risen; they are standing facing the Court with their arms
10 outstretched.

11 I find that the conduct of each of you is
12 disruptive, disorderly, disrespectful and I order each of
13 you to be removed from the courtroom.

14 Remove the defendants from the courtroom.

15 MR. FITZGERALD: I would object to the removal fo
16 Patricia Krenwinkel from the courtroom on the following
17 grounds:

18 It is a violation of the due process clause of
19 the Fifth and Fourteenth Amendments of the United States
20 Constitution; that it violates the applicable provisions of
21 the Sixth Amendment, including the right to fair trial and
22 confront witnesses and to be present at proceedings, also
23 violation of the applicable provisions of the California
24 Constitution and a violation of the California Penal Code
25 provision that a defendant must be present at all stages of
26 the proceedings.

1 MR. KANAREK: Also, if I may address the Court, I
2 adopt what Mr. Fitzgerald stated and, furthermore, your
3 Honor, I must plead with the Court, because your Honor did
4 not follow the procedure your Honor himself stated.

5 Your Honor indicated previously that they would
6 be brought back into court and then if they proceeded, I
7 mean positionwise not do what your Honor wished, they would
8 be removed.

9 There was nothing in their state of mind, your
10 Honor, in connection with this forced seating, and I would
11 ask your Honor to review your Honor's own words that are
12 in this record, where your Honor indicated that the -- you
13 told them that if they did not, if they did not, they would
14 be brought down, and if they did not position themselves
15 correctly, I am paraphrasing, but your Honor indicated to
16 them --

17 THE COURT: You are not paraphrasing it, Mr. Kanarek,
18 you are misstating it.

19 The record will speak for itself, gentlemen;
20 are there any further objections?

21 MR. STOVITZ: Not any objections, but I would state,
22 your Honor --

23 MR. REINER: Excuse me, perhaps all defense counsel
24 should be heard.

25 THE COURT: Just a moment, Mr. Reiner, Mr. Stovitz was
26 speaking.

1 MR. STOVITZ: I believe he was going to join in the
2 motion.

3 THE COURT: I want one counsel at a time to speak.

4 When Mr. Stovitz is speaking you remain quiet,
5 Mr. Reiner.

6 MR. STOVITZ: I will yield to Mr. Reiner.

7 THE COURT: All right.

8 MR. REINER: Thank you.

9 With respect to the defendant Leslie Van Houten,
10 I will make the same objections on the same grounds as
11 presented by Mr. Fitzgerald.

12 With respect to the conduct of Miss Van Houten
13 here in the courtroom I would wish to indicate for the
14 purpose of the record when Miss Van Houten entered the
15 courtroom she took a seat, the seat assigned to her.

16 A few minutes later she then did stand up in
17 unison with the other two girls; she did place her hands out
18 to the side; she let her head drop.

19 The Court ordered her to sit down.

20 THE COURT: The record already reflects that. I
21 stated on the record, Mr. Reiner, exactly what happened.

22 MR. REINER: I am in dispute with the Court's --

23 THE COURT: If you have an objection, state your
24 objection. I already stated on the record what the conduct
25 was.

26 MR. REINER: My objection to the Court's statement of

1 the defendant Leslie Van Houten, that it was incorrect.

2 THE COURT: It was precisely correct. Get on with
3 your objection, sir.

4 MR. REINER: May I state the reason I feel it is
5 incorrect?

6 It is incorrect for the following reasons: That
7 the Court correctly stated her conduct up to the point
8 where the Court said when his Honor ordered Leslie Van Houten
9 to sit down, the Deputy Sheriff then had physically required
10 her to sit down, a precise description would be the Deputy
11 Sheriff placed her hand on Leslie's arm, the weight of her
12 hand upon the arm; Miss Van Houten sat down immediately.

13 Upon removing her hand from Miss Van Houten's
14 arm, Miss Van Houten stood up.

15 The Court then ordered Miss Van Houten to sit
16 down a second time. On the second occasion Miss Van Houten
17 responded to the Court order. She did not have a hand
18 placed on her.

19 THE COURT: Mr. Reiner, I heard all I want to hear
20 from you. If you want to state any legal objection you may
21 do so. I stated precisely what happened.

22 MR. REINER: Your Honor is aware, perhaps I should
23 say, that all counsel, including the prosecution have
24 argued to your Honor that your Honor has authority to remove
25 disruptive defendants from the courtroom, not non-
26 disruptive members.

1 The question is whether they were disruptive.

2 THE COURT: They were disruptive.

3 MR. REINER: This is a conclusion.

4 THE COURT: Do you have an objection to make, sir?

5 State it.

6 MR. REINER: I am stating the objection as clearly as
7 I possibly can state it.

8 THE COURT: What is your objection, Mr. Reiner?

9 MR. REINER: That your Honor may not remove the
10 defendants from the courtroom because they were not, in
11 fact, being disruptive, notwithstanding the Court's
12 characterization of their conduct as being disruptive.
13 That is a conclusion.

14 I may indicate for the purpose of the record
15 my view of precisely what occurred.

16 If the Court disputes that, and we have an
17 evidentiary hearing --

18 THE COURT: You made your position clear. Let's
19 proceed.

20 MR. REINER: I haven't concluded indicating the entire
21 conduct of Miss Van Houten.

22 THE COURT: I am not interested in your description.
23 I found it disorderly and disruptive.

24 MR. REINER: If your Honor holds --

25 THE COURT: Sit down.

26 MR. REINER: May I make one inquiry: Is it your

1 Honor's holding that I may not indicate for the purpose of
2 the record a description of what took place?

3 THE COURT: Yes.

4 MR. REINER: Thank you.

5 MR. STOVITZ: So counsel would not be misled, whereas
6 yesterday I did not think the defendants' conduct was
7 disruptive, today I believe it was disruptive today.

8 I believe my observations were that Mr. Manson
9 did disrupt this court and that the girls, the three
10 defendants, in following the lead of Mr. Manson also
11 disrupted the orderly processes of this court.

12 THE COURT: There isn't the slightest question about
13 it. They physically resisted the Bailiffs; they have failed
14 to comply with the Court's order after being repeatedly
15 ordered to do so.

16 MR. STOVITZ: We are not joining with the request that
17 the defendants physically be brought here. They were
18 admonished in the chambers what procedure would be followed.

19 MR. KANAREK: May I address the Court very briefly?

20 THE COURT: If it is on this subject, Mr. Kanarek, you
21 already stated your objection.

22 MR. KANAREK: It isn't on this subject.

23 I would request some medical assistance for
24 Mr. Manson, your Honor.

25 THE COURT: I will ask the Bailiff to check and see if
26 he needs any. If he needs any he will get it.

1 MR. KANAREK: May I go in there a moment, your Honor?

2 THE COURT: No, you may not, not at this time. We
3 are going to proceed.

4 Now, then, we were proceeding with Miss
5 Krenwinkel's motion for severance yesterday.

6 I have read the various exhibits that were
7 offered by both sides on the question of this motion.

8 MR. FITZGERALD: Before your Honor rules, may I be
9 heard? It is a motion to withdraw the motion.

10 THE COURT: I am not through yet.

11 MR. FITZGERALD: Excuse me.

12 THE COURT: All right. In view of what you said I
13 will hear from you, Mr. Fitzgerald.

14 MR. FITZGERALD: After consulting with your Honor in
15 chambers yesterday afternoon, and consulting with co-counsel
16 and consulting with counsel for the prosecution, where it
17 was made clear that counsel would have the right to raise
18 the Aranda problems in connection with the statement during
19 the trial, and outside the presence of the jury before such
20 statement was introduced, the defendant Krenwinkel will now
21 respectfully ask leave of the Court to withdraw the motion
22 to sever on her behalf.

23 I would inform the Court that I intend at the time
24 the prosecution tenders this statement to make a motion for
25 your Honor outside the presence of the jury to conduct a
26 hearing to determine the admissibility of those statements,

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(Chenille
mills)

1 and particularly whether or not those statements can be
2 sufficiently edited as to not be prejudicial to
3 Miss Krenwinkel.

4 THE COURT: I take it then that at this time you
5 wish to withdraw your motion; is that right, Mr. Fitzgerald?

6 MR. FITZGERALD: That is correct, your Honor.

7 THE COURT: That is, your motion to sever?

8 MR. FITZGERALD: That is correct.

9 THE COURT: Now, I want you to be perfectly clear on
10 one thing: There has been no representation to you by the
11 Court as to anything.

12 If you are withdrawing your motion, you are
13 withdrawing it on your own, not based on any representation
14 that the Court has made to you in regard to this matter.

15 Is that perfectly clear?

16 We talked about many things in chambers yester-
17 day regarding these motions and other things. If you say
18 you are withdrawing it on the basis of something I said
19 to you, I can tell you right now I will not receive any such
20 conditional withdrawal.

21 It is entirely up to you whether you withdraw it
22 or go ahead.

23 MR. FITZGERALD: I choose to withdraw it. It is not
24 contingent upon anything your Honor said, but in a sense my
25 withdrawal is based on a colloquy and conversation that all
26 counsel and your Honor had with respect to the applicable

1 law in the area.

2 THE COURT: Very well.

3 MR. REINER: On behalf of the defendant Leslie ✓
4 Van Houten I would also withdraw her motion to join in
5 the motion of Mr. Fitzgerald.

6 THE COURT: Very well.

7 Mr. Kanarek did not have any motion for
8 severance filed.

9 Do you want to be heard, Mr. Kanarek?

10 MR. KANAREK: I have nothing to say at this time, your
11 Honor.

12 THE COURT: There is nothing before the Court on any
13 motion for severance. The only motion for severance hereto-
14 fore filed and made in this court has heretofore been with-
15 drawn.

16 MR. KANAREK: We joined with Mr. Fitzgerald in that
17 motion, your Honor.

18 THE COURT: In which motion?

19 MR. KANAREK: The motion to sever.

20 THE COURT: I told you, though, you had failed to
21 comply with the Court's order. I would not permit you to
22 entertain the motion.

23 MR. KANAREK: That is not my recollection, your Honor.
24 I think your Honor indicated that -- but, very well.

25 THE COURT: What is your position, Mr. Kanarek, so
26 we will be absolutely clear.

1 Are you making the motion to sever?

2 MR. KANAREK: At this time I don't have anything to
3 state to the Court in that regard, at this time.

4 THE COURT: In what regard?

5 MR. KANAREK: In regard to the motion to sever.

6 THE COURT: Are you making such a motion?

7 MR. KANAREK: Well, I thought I was part of
8 Mr. Fitzgerald's -- I adopted what Mr. Fitzgerald had
9 filed, your Honor.

10 THE COURT: Are you making such a motion or are you
11 not?

12 MR. KANAREK: In view of your Honor's statements it
13 would appear your Honor is not allowing it at this time.

14 THE COURT: I am asking you if you care to make such
15 a moment?

16 MR. KANAREK: I perhaps will. I would like to
17 consult with my client and discuss it with him.

18 As your Honor knows, because of the activities
19 of the District Attorney against me personally --

20 THE COURT: Never mind that. What I want to know at
21 the moment is, are you asserting a motion to sever or are you
22 not?

23 MR. KANAREK: At this instance, your Honor, I thought,
24 I am telling your Honor my true state of mind was that I
25 would be arguing a motion because of the fact that I was
26 joining with Mr. Fitzgerald.

1 The first I knew that Mr. Fitzgerald was not
2 going to pursue it, and I think Mr. Manson and I -- if I
3 may most respectfully state to the Court, that I would like
4 to defer answering that question until I consult with
5 Mr. Manson.

6 THE COURT: Then there is nothing before the Court
7 with regard to any motion for severance.

8 Now, the next motion the Court will take up is
9 Mr. Manson's motion for a Court-appointed psychiatrist for
10 a psychiatric examination of Linda Kasabian.

11 MR. KANAREK: Yes, your Honor.

12 THE COURT: Do you wish to address yourself to that,
13 Mr. Kanarek?

14 MR. KANAREK: Yes.

15 MR. STOVITZ: Counsel was talking to me.

16 THE COURT: Go ahead, Mr. Kanarek.

17 MR. FITZGERALD: I just want to indicate to the Court
18 I would like to join in that motion, your Honor, as I
19 indicated to the Court yesterday afternoon, I think I have
20 some argument that will be illuminating on the subject, it
21 will not be repetitious.

22 THE COURT: In view of your failure to comply with the
23 Court's order regarding the filing of the motion, I will
24 not permit you to make the motion at this time. You had
25 ample opportunity to do so and you failed to comply with
26 the Court's order.

1 All pretrial motions were to be noticed on or
2 before June 10th.

3 MR. FITZGERALD: We discussed that yesterday after-
4 noon in chambers. Your Honor indicated you would hear
5 argument on this matter. Your Honor indicated to me you
6 would allow me to join in Mr. Kanarek's motion to have
7 Linda Kasabian examined.

8 THE COURT: I think I indicated I might hear you argue.
9 I did not indicate I would let you join in the motion.

10 In any event, if the motion is granted it would
11 accrue to the benefit of all of the defendants, so the
12 question is really moot.

13 MR. FITZGERALD: It is not moot insofar as the standards
14 of this court apply equally to the prosecution and the
15 defense.

16 THE COURT: This has nothing to do with that, sir, you
17 failed to comply with the Court's order regarding the making
18 of pretrial motions.

19 MR. REINER: On behalf of defendant Leslie Van Houten,
20 it is my recollection in chambers yesterday we discussed
21 this matter with respect to this motion.

22 THE COURT: I don't want to hear from you, Mr. Reiner,
23 on that. Let's proceed, Mr. Kanarek.

24 MR. REINER: I would like to indicate --

25 THE COURT: Sit down, Mr. Reiner.

26 MR. REINER: Thank you, your Honor.

1 MR. KANAREK: Your Honor, in this motion that we have,
2 to have Linda Kasabian examined, we have a way, your Honor,
3 of having some people who are experts in the behavioral
4 sciences for the prosecution as well as the defense
5 examine this lady, and guide us in deciding whether or not
6 she is presently insane.

7 I think we have set it out in the Declaration
8 as to the factual basis there, in the Declaration.

9 It is noteworthy, your Honor, that the prosecu-
10 tion has not responded.

11 They have spent, evidently, great numbers of
12 hours on other matters, but they have not responded, to
13 my knowledge, with one piece of paper in opposition to
14 this motion.

15 Now, I believe the quantum of proof in connection
16 with this motion is the civil quantum of proof, that is,
17 the preponderance of the evidence dictates whether your Honor
18 grants the motion or not.

19 We don't have to prove our case beyond a
20 reasonable doubt as far as the motion goes. You use the
21 civil quantum of proof, and in this case there is no
22 question, there is nothing here. We have Dr. Tweed who has
23 his Declaration before the Court.

24 We have the Declaration of Kathryn Share.
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1 We have the Points and Authorities which speak
2 much more eloquently than I can, so there is just nothing
3 on the other side at all, and when you look at the quantum
4 of proof that is necessary to carry a motion, the People
5 having set forth nothing, and I mean nothing, by way of
6 pieces of paper, so to speak, we ask your Honor to grant
7 the motion.

8 It is that simple, your Honor.

9 Thank you.

10 THE COURT: Do you wish to argue, Mr. Fitzgerald?

11 MR. FITZGERALD: If I might, your Honor, I think
12 there is authority in the case of Ballard vs. Superior
13 Court, a 1966 case in 64 Cal. 2nd, Page 159, the standard
14 set out was for the ascertainment of the mental and
15 emotional condition as it may bear on a witness' credibi-
16 lity, if a compelling reason for such examination exists.

17 The only authority in California for such an
18 examination is in the area of sex cases where there is a
19 female prosecuting witness.

20 I do, however, feel that although this is a
21 case of first impression, this is a case in which there is
22 a compelling reason for an expansion of that rule, and I
23 feel that it is within your Honor's discretion to order her
24 examined.

25 Now, I'm not proposing in the abstract, nor in
26 this case am I proposing that simply because it has been

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1 alleged that somebody has used dangerous drugs or narcotics
2 that they should be examined by a psychiatrist before they
3 testify for the prosecution.

4 But I think that the declaration of Dr. Tweed
5 and the declaration of Kathryn Share set out that the drug
6 in question is lysergic acid diethylamide, and I think
7 without asking the Court to take judicial knowledge or
8 judicial notice of the drug lysergic acid diethylamide, it
9 is fair to say that there has been a good deal of
10 publicity and a good deal of controversy and a good deal
11 of public concern and public debate over the ingestion of
12 drugs similar to lysergic acid diethylamide, and lysergic
13 acid itself.

14 I think this debate has taken place in the
15 popular press, magazines, periodicals. It has taken place
16 in scientific journals. It has been the subject of debate
17 in the United States Congress, both in the House of
18 Representatives and the United States Senate.

19 It has been a subject of debate in the California
20 Legislature, and it has been the subject of debate in many
21 Municipal and State Governments throughout the country.

22 Lysergic acid is defined and classified as a
23 hallucinogenic drug, a hallucinogenic drug itself, it is
24 my understanding, artificially or chemically induces fantasy,
25 and that is the crucial area of this motion, I think, that
26 the chemical fact of lysergic acid is to distort reality

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1 and to blur distinctions between reality and fantasy.

2 The drug itself induces mental states that are
3 quite similar to psychoses, and some authorities feel the
4 prolonged use of lysergic acid actually induces insanity,
5 and results in organic brain disorder and disturbance.

6 Certainly lysergic acid disturbs and distorts
7 emotions. It disturbs and distorts organized thought
8 processes. It disturbs and distorts memory, and disturbs
9 and distorts recollection.

10 It also disturbs and distorts the ability of a
11 person to recollect and communicate about things they have
12 perceived, and it is a drug that distorts perception itself.

13 As your Honor knows, these are very important
14 and crucial areas in the area of impeachment. The witness's
15 ability to recollect and communicate about things to which
16 that person has been a witness.

17 I think that when one is under the influence
18 of lysergic acid diethylamide or the prolonged residual
19 effect of LSD, that is in essence uncontrollable; that the
20 person who has ingested the lysergic acid diethylamide
21 presently or previously is unable to control his mental or
22 thought processes.

23 There is substantial medical and scientific
24 evidence to the effect that actual drug states are subject
25 to recurrence without notice or warning. This is the so-
26 called flashback effect of lysergic acid.

1 It has been documented in several places that
2 lysergic acid has residual effects to the organic brain
3 processes. There has been a great deal of concern that at
4 least in one mental area, at least in one physical-mental
5 area it destroys the normal production of chromosomes.

6 It has led to permanent brain damage in large
7 doses.

8 It has led to permanent disturbances of motor
9 functions, to permanent disturbances in intellectual
10 functions. It also led to the disturbance of so-called
11 superego functions, which is the conscience or moral
12 functioning area of the brain.

13 The Legislature in the State of California has
14 recognized the danger of lysergic acid. It has made the
15 possession and use and sale of lysergic acid a felony, and
16 they have not done so because lysergic acid is habituating,
17 or because it is a narcotic.

18 They have done so because they are terribly
19 concerned about the damage it causes in persons, and the
20 reality distortions that may occur.

21 It is illegal because of this danger.

22 Now, originally in California the use and
23 possession of lysergic acid was not even a crime at all.
24 It was made a misdemeanor, and subsequently because of the
25 substantial danger surrounding its use, it was made a
26 felony.

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1 Now, I think the most recent case involving
2 the Court's discretion is People versus Francis, a 1970
3 case located at 5 Cal. App. 3rd, page 414.

4 In that case the Court set out the test as
5 follows:

6 Whether in light of the totallity of circum-
7 stances revealed, it is necessary or proper that psychiatric
8 knowledge in general be utilized in order to aid the trier
9 of fact in it;s assessment of credibility.

10 And I suggest that it would be of the utmost
11 importance that the trier of fact in this case, the jury,
12 be allowed to listen to the testimony of an expert
13 psychiatrist in the field.

14 I think, without belaboring the point, the
15 stakes are extremely high in this case, the very lives of
16 these defendants depend upon some adjudication of guilt.

17 I think that because this is a very peculiar
18 drug, and because it is a drug that distorts reality, and
19 it is very germane to a witness's testimony, that your
20 Honor ought to exercise his discretion and appoint a
21 physiciatrist to examine her and report to the Court.

22 Thank you.

23 MR. REINER: May I be heard, your Honor?

24 THE COURT: Very well.

25 MR. REINER: I would wish to join in the motion made
26 by Mr. Kanarek, and I would adopt the arguments made by

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1 Mr. Fitzgerald on behalf of the defendant Leslie Van Houten,
2 and since I am appearing especially for Miss Atkins, it
3 would be on her behalf as well.

4 THE COURT: Do you wish to respond?

5 MR. BUGLIOSI: Very briefly, your Honor.

6 Kathryn Share, your Honor, upon which the
7 motion is predicated, is known by the name of "Gipsy".

8 MR. KANAREK: I object, I must object, your Honor,
9 to counsel -- May we approach the bench?

10 THE COURT: Mr. Kanarek, you may not. You are inter-
11 rupting Mr. Bugliosi's argument. Sit down.

12 MR. KANAREK: There is no factual basis before the
13 Court for --

14 THE COURT: Don't interrupt.

15 MR. BUGLIOSI: One of the most hard-core members of
16 the Manson family, your Honor, if the Court is in the frame
17 of mind to grant this motion, I would respectfully ask that
18 the Court permit Mr. Stovitz and me to cross-examine her
19 under oath as to her declaration.

20 If I learned one thing a few days ago, your
21 Honor, when I argued about the fact that the right to
22 counsel of one's choice is not an automatic right, it is
23 not an absolute right, I learned this Court's reliance on
24 judicial precedence and judicial authority, without criti-
25 cising the Court, I did not have any authority directly on
26 the point, so I was out of the ball game at least for that

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1 particular issue.

2 I don't think there is any question, your Honor,
3 that the defense has absolutely no authority whatsoever for
4 examining or having a psychiatric examination of Linda
5 Kasabian. ✓
✓B

6 The leading case in California, your Honor, on
7 this point, is Ballard versus Superior Court.

8 In Ballard versus Superior Court it is stated
9 there is no right of psychiatric examination of a complain-
10 ing witness in a sex case. It is up to the discretion of
11 the Court.

12 The Court went on to say that if the trial
13 Judge does order a psychiatric examination he should only
14 do so if the circumstances indicate a necessity for the
15 examination.

16 The Court went on to say that such necessity
17 would generally arise only if a little or no corroboration
18 supported the charge, and if the defense raised the issue
19 of the effect of the complaining witness's mental or
20 emotional condition upon her veracity.

21 I submit to the Court that there has not been
22 any evidence adduced by the defense in this case that
23 Linda Kasabian's testimony will not be corroborated. I
24 make the representation to the Court at this time that her
25 testimony will be corroborated at the trial.

26 So even in a sex case, your Honor, which is the

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1 only type of cases thus far where the California Supreme
2 Court has authorized a psychiatric examination, even where
3 the person who is sought to be examined is the complaining
4 witness, the prosecutrix, even in that type of situation
5 there is no automatic right.

6 It is a matter within the discretion of the
7 Court, and the discretion should only be exercised where
8 it is a matter of necessity.

9 The Court goes on to say in Ballard, your Honor,
10 that the complaining witness should not, and, realistically,
11 cannot be forced to submit to a psychiatric examination, or
12 to cooperate with a psychiatrist.

13 Here, your Honor, not only is this not a sex
14 case, and not only isn't Mrs. Kasabian a victim, she is a
15 co-defendant.

16 And I might add that Mr. Kanarek should have
17 had the decency to file this motion on Mrs. Kasabian's
18 attorney, Gary Fleischman, and he didn't even do that.

19 So I don't see --

20 THE COURT: This is being filed for the examination
21 of a prosecution witness.

22 MR. BUGLIOSI: What I mean is, the brief.

23 THE COURT: Incidentally, she apparently is going to
24 be a witness.

25 MR. BUGLIOSI: I am referring to the brief and
26 declaration in support of the motion not having been filed

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1 on Mrs. Kasabian's own attorney, Gary Fleischman.

2 I think this, of necessity, would have to be
3 done, so Mr. Fleischman could be present in court repre-
4 senting Mrs. Kasabian.

5 THE COURT: Well, the order could not compel her to
6 undergo an examination if she did not want to do it.

7 MR. BUGLIOSI: That is true, your Honor, Ballard
8 versus Superior Court specifically holds that, but I think
9 Mr. Fleischman should be present in court, your Honor, to
10 represent Mrs. Kasabian, inasmuch as it is his client whom
11 the defense is seeking to have analyzed.

12 Very briefly, your Honor, there is just abso-
13 lutely no authority for this type of a procedure, and we
14 would urge the Court to deny the defense motion.

15 MR. KAN/REK: Your Honor, there is authority. I
16 refer your Honor to the language of Giles versus Maryland,
17 United States Supreme Court case, and the reason that the
18 United States Supreme Court granted certiorari in that case
19 and granted a hearing and decided the case, was -- The way
20 it did -- was because of the fact that the subtleties that
21 occur in connection with a person's state of mind, the
22 subtleties that are ascertainable by someone who is an
23 expert, a psychiatrist, and the People have a right, your
24 Honor, to have their psychiatrist examine this lady also,
25 these subtleties will be completely unknown to the jury,
26 that is, someone may be a pathological liar.

10

1 I don't purport to be a psychiatrist, but some-
2 one can take the witness stand and appear as lucid, as clear
3 as a June morning, but it doesn't mean that they are not as
4 insane as someone who may act and give the outward mani-
5 festations of insanity, and the Court can take judicial
6 notice of the fact of a recent case in Torrance, wherein,
7 and I think this is a situation which is analagous because
8 it goes to the fact of the mental state of the particular
9 person before the Court:

10 In this case in Torrance, the defendant was
11 found not guilty by reason of insanity, on two counts,
12 wherein he, I believe, had allegedly caused the passing
13 away of two relatives.

14 In in connection with these two counts of murder
15 he was found not guilty by reason of insanity, because of
16 his ingestion of LSD.

17 Now, if he was found not guilty by a Judge of
18 the Superior Court --

19 THE COURT: I question that statement, Mr. Kanarek.
20 He may have found him not guilty by reason of insanity,
21 but I doubt if the rest of your statement is true, or at
22 least confirmable.

23 MR. KANAREK: What portion is your Honor referring
24 to?

25 THE COURT: As to the cause of his insanity, the
26 finding was simply whether he was sane or insane, not for

1 what reason.

2 MR. KANAREK: Dr. Tweed was the psychiatrist there,
3 and the LSD aspect is what caused the insanity, your Honor.

4 THE COURT: That was his testimony?

5 MR. KANAREK: We have the right to believe that a
6 Judge of the Superior Court in rendering his decision --

7 THE COURT: I don't want to argue the evidence in that
8 case, but I question your statement.

9 MR. KANAREK: I am just citing that by way of example,
10 your Honor.

11 THE COURT: All right.

12 MR. KANAREK: If that man was insane, let's say he
13 was a defendant before the Court, the question is, let's
14 say he is then called as a witness; that particular man is
15 now adjudged not guilty by reason of insanity.

16 Now, instead of his being a defendant in the
17 case, he is a percipient witness, and let's say that I
18 called him as a witness.

19 The first thing the District Attorney would say
20 is, "You can't use that man. He is insane."

21 And so by the same token, Linda Kasabian is
22 going to be here; we are going to have to assess her credi-
23 bility, and one of the most important aspects of credibili-
24 ty is sanity.

25 In fact there is a jury instruction in con-
26 nection with sanity, where there is the aspect that one is

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1 presumed to be sane.

2 Now, in this case, your Honor, where the
3 prosecution is basing their case upon a person who has
4 ingested LSD, at least 300 times, and in fact has taken
5 amounts that are in the order of a thousand micrograms,
6 which is set forth in the declaration, we are going to have
7 a game; it will be a charades here, unless we have some
8 scientific knowledge of this particular witness's mental
9 capacity, and the prosecution is not foreclosed --

10 (Off the record interruption.)

11 MR. KANAREK: -- the prosecution is not foreclosed,
12 but it is most interesting, your Honor, there isn't any
13 declaration by Linda Kasabian that she has not ingested
14 LSD over 300 times.

15 Now, obviously the prosecution is in very close
16 touch with Miss Kasabian and her attorney, to the point
17 that although the immunity has not been technically granted,
18 Mr. Bugliosi has been out and expended -- he says 20-page
19 statement -- of what this lady is going to testify to.

20 Therefore, there is no question about Linda
21 Kasabian being available for this examination, her attorney
22 wanting her to have this immunity, I'm sure, will agree to
23 it, because if she is going to be a prosecution witness,
24 and the Court makes the order, she either is or she isn't.

25 If she is going to be a prosecution witness,
26 and she chooses not to have this examination, that itself

13

1 is a fact which our case law says can be brought forth and
2 presented to the trier of fact.

3 So the People are not helpless in the situation,
4 but the point is they don't want it. They just don't want
5 it.

6 But they have offered nothing by way of paper
7 work, points and authorities or declarations, even of Linda
8 Kasabian, that our facts are not true.

9 I would ask your Honor to consider the Russell
10 case, the language of the California Supreme Court in the
11 Russell case.

12 THE COURT: I have read it.

13 MR. KANAREK: I would say, your Honor, we are not
14 extending the law, that is, the administration of justice
15 is not turning it's back, or should not turn it's back on
16 the rest of our society, on the other aspects of American
17 life.

18 We should not insulate ourselves and deprive our-
19 self of the learning of other fields.

20 The law is not stagnant, I hope.

21 The point is, it is not a matter -- is it a
22 sex case or is it a murder. The question is, is it some-
23 thing that will help the trier of fact, and we contend, your
24 Honor, that with the facts that we have before the Court
25 that are absolutely unrefuted, we have a psychiatrist who
26 has been used by this Court perhaps thousands of times.

14

1 We have the evidence before the Court by way of
2 a declaration.

3 There are, if I may use the expression, jillions
4 of psychiatrists in this city, and the People could not come
5 up -- let's forget about Linda Kasabian -- they could not
6 come up with one psychiatrist to testify that this is
7 gobbledygook.

8 There is not one psychiatrist in this city that
9 the prosecution could come up with who, under the penalty
10 of perjury, would say this is nothing, meaningless, it is
11 obstructionism, if I may use that kind of term.

12 They cannot do that, your Honor, and therefore
13 we say that the quantum of truth being just the mere civil-
14 lian quantum of proof, that your Honor should order this
15 examination.

16 THE COURT: Well, gentlemen, I have considered all
17 of the circumstances presented in your motion, and your
18 supporting declarations.

19 I have read the various cases, the Ballard case,
20 the Russell case, the other cases cited by counsel.

21 The law in California, as you know as well as
22 I, is that the Court has the discretion to order such a
23 psychiatric examination if there are compelling reasons to
24 do so.

25 However, in this case I find no such compelling
26 reasons. ✓

15 1 The cases in which this has been done have so
2 far been restricted in California to, I think without ex-
3 ception, sex cases, although there is the law in other
4 jurisdictions which indicates that where the evidence in
5 indicates a pathological condition, or incompetence on the
6 part of the witness, the Court may order such an examin-
7 ation.

8 However, the circumstances before the Court do
9 not present such a question at this time.

10 If Miss Kasabian testifies at the trial, her
11 credibility is subject to impeachment in the same manner
12 as any other witness, and I am going to deny the motion,
13 without prejudice, at this time, to renew it if during the
14 course of the trial the circumstances then known to the
15 Court would make such an order necessary and proper.

16 At this time it is denied. The motion will be
17 denied.

18 MR. KANAREK: Thank you, your Honor.

19 THE COURT: Gentlemen, I believe that we will adjourn
20 at this time, and I will see counsel in chambers for the
21 remaining time between now and our noon recess.

22 With respect to the other motion which is still
23 pending, we will adjourn until 1:45 this afternoon.

24 MR. STOVITZ: May we, for the record, know what
25 motions are still pending so we can try to find the briefs
26 on them?

16

1 THE COURT: The defendant Manson's motion under 1538.5
2 of the Penal Code, and Miss Krenwinkel'd motion under
3 1538.5 of the Penal Code.

4 And the motion of the defendant Atkins, for
5 continuance.

6 MR. STOVITZ: May that, upon stipulation of all
7 parties, go over until Mr. Shinn is here, or can we not
8 stipulate to that?

9 THE COURT: I won't entertain it until he is here.
10 I would be willing to hear from Mr. Reiner on that, if he
11 wants to go ahead and argue that, but I don't think we need
12 to take it up at this time.

13 The only other remaining motion will be the
14 motion to consolidate, which I indicated to counsel in
15 chambers earlier, has been transferred to Department 100
16 for decision.

17 MR. STOVITZ: Would your Honor indicate what date
18 Judge Dell set for that?

19 THE COURT: I don't think any date has been set. I
20 would imagine he may very well rule on the motion summarily.

21 MR. KANAREK: Your Honor, if I may, I would ask your
22 Honor to order Mr. Bugliosi to be here in connection with
23 the 1538.5 motion, because we intend to call him as a
24 witness.

25 It is just possible he may not show up in con-
26 nection with this 1538.5 motion. I will ask he be here.

17

1 MR. BUGLIOSI: I will be here ad nauseam, Mr. ✓
2 Kanarek.

3 THE COURT: We will recess at this time. We will see
4 counsel in chambers.

5 MR. KANAREK: May I just make this one more point?

6 THE COURT: Very well.

7 MR. KANAREK: In connection with the matter, your
8 Honor, which I indicated, this is a matter that has been
9 scheduled for some time in Santa Ana.

10 Now, there is a matter before the court there
11 at 1:45, which is only going to take a few minutes, and it
12 is a matter, being a judicial matter, that I have not been
13 able to resolve, but if your Honor will allow me, say be-
14 cause I am just going in -- actually it is a matter which is
15 just a formality, it is a matter involving other attorneys
16 where there is no dispute, it is a matter of settlement of
17 a matter.

18 THE COURT: You are talking about your day?

19 MR. KANAREK: Yes, your Honor.

20 THE COURT: No, you will have to be here at 1:45,
21 Mr. Kanarek. You should have made arrangements for that
22 earlier.

23 MR. KANAREK: I tried to, your Honor.

24 THE COURT: I'm sorry. We will recess until 1:45.

25 I will see counsel in chambers.

26 (The following proceedings were had in the chambers

18 of the Court at 11:45 A. M.)

2 THE COURT: The record will show we are in chambers,
3 and all counsel except Mr. Shinn are present.

4 That is, Mr. Fitzgerald, Mr. Kanarek, Mr.
5 Reiner, Mr. Stovitz and Mr. Bugliosi are present.

6 I wanted to review again in your presence,
7 Gentlemen, precisely what occurred this morning when the
8 court opened, and I will give you a chance to give your
9 version, Mr. Reiner.

10 As you recall, we had a conference in chambers
11 beforehand, in which the defendants were present, and they
12 were told by the Court at that time various things which
13 the record will reflect.

14 We also had a disruption in chambers, the
15 nature of which has been described on the record, and the
16 defendants were removed from chambers.

17 We then commenced the court proceedings, and all
18 of the defendants were in the courtroom, as I ordered them
19 to be, and immediately after I took the bench I noticed
20 that Mr. Manson was standing.

21 He was seated at counsel table first, and then
22 he stood up with his head down and his arms outstretched.

23 I then noticed that the three defendants,
24 Krenwinkel, Susan Atkins and Miss Van Houten also stood --
25 they were seated just inside the railing, facing the Court--

26 They all then stood up, following Mr. Manson,

1 bowed their heads, with their arms outstretched in a sort
2 of an inter-locking fashion, overlapping their arms, but out-
3 stretched.

4 I then asked counsel to request that their
5 clients be seated, and counsel then did, apparently from my
6 observation, confer with their respective clients. What
7 they said, I have no way of knowing.

8 Then counsel resumed their chairs at the counsel
9 table.

10 The defendants remained standing, with their
11 heads bowed and their arms outstretched, and I then ordered
12 them to sit down.

13 There was no response from them whatever, and no
14 action was taken, no movement taken by any of them to comply
15 with my order.

16 I then requested the Bailiffs to assist them to
17 be seated, which they did.

18 At this time Mr. Manson physically resisted the
19 attempts of the Bailiffs to have him seated, and a violent
20 physical altercation ensued, in which at one time Mr. Manson
21 was leaning over, and in fact I think he was on the floor at
22 one time engaged in what amounts to a fight with the Bailiff,
23 and his chair was tipped over backward; there was a violent
24 scuffle going on in the courtroom.

25 At the same time the female Bailiffs were attempt-
26 ing to, by gentle pressure, have the three women defendants

1 seated.

2 The three women defendants did succumb to the
3 pressure, and did sit down, but they immediately stood up
4 again.

5 What I have just said was repeated two or
6 three times. Each time Mr. Manson engaged in a violent
7 struggle, in fact it never really ceased, because when they
8 were able to get him into the chair he continued to resist,
9 and they had to hold him there, and the resistance would
10 continue, and the same thing occurred with the ladies.

11 Each time they were gently pushed down into
12 their seats, they immediately rose again and bowed their
13 heads and outstretched their arms.

14 I finally ordered each of them to comply with
15 the Court's orders. They refused to do so, and they were
16 then ordered to be removed from the courtroom.

17 Mr. Manson continued to struggle violently all
18 the way into the lockup. There was a great deal of scuf-
19 fling and noise and groans and grunts. It was a violent
20 physical encounter between Mr. Manson and the two male
21 Sheriff's Deputies, who were attempting to get him out of
22 the courtroom.

23 Now, did you wish to respond to that, Mr.
24 Reiner?

25 MR. REINER: Yes, briefly, your Honor.

26 I am more substantially in accord with your

1 Honor's observations here in chambers than the observa-
2 tions as I initially recall them with respect to the girls.
3 There is no question Mr. Manson was violently resisting any
4 attempt by the Bailiffs, three in number, to have him seated.
5 He was engaged in an altercation, and clearly Mr. Manson's
6 conduct was destructive today; the Court described Mr.
7 Manson as standing with his arms outstretched, and his head
8 down. That is an accurate description; his arms were out-
9 stretched so as to make a 90-degree angle with his body,
10 and the arms perpendicular to the floor.

11 The girls' arms were not outstretched quite so
12 far, perhaps 12 inches from their bodies, to make a 45-de-
13 gree angle; their arms were just raised out just a little
14 bit.

15 They did have their heads down. Their arms
16 were not so much interlocking as they were overlapping,
17 in that they were standing next to each other.

18 The Court is correct that gentle pressure was
19 exerted on Leslie Van Houten. The gentle pressure was
20 simply the Bailiff placed her hand upon Leslie's arms and
21 said, "Leslie, sit down," and at that time she sat down.

22 The Court had previously ordered Leslie Van
23 Houten to sit down, and she did not.

24 Immediately after sitting down, she again stood
25 up.

26 The Court once again ordered her to sit down,

22

1 and this time Leslie Van Houten did, in fact, sit down.

2 Two Bailiffs assisted the other two, but on
3 this second occasion the Bailiff did not touch her in any
4 way.

5 Then she stood up for a third time, and it was
6 on this occasion, as I recall, the Court ordered them from
7 the courtroom.

8 They walked out of the courtroom. They were
9 not physically taken from the courtroom. They were just
10 instructed by the Bailiffs to leave the courtroom.

11 One of the girls spoke, I don't recall which
12 one it was, after they had taken a few steps.

13 Leslie remained mute until she reached the door
14 leading up to the jury room, after she had gone some 20 or
15 30 feet. At that time she turned back and said something,
16 and I did not hear what it was. I assumed she said some-
17 thing, in that I saw her lips move. I did not hear what
18 she said.

19 THE COURT: Incidentally, Mr. Reporter, were you able
20 to take down statements of the young ladies as they left
21 the courtroom?

22 THE REPORTER: No, your Honor.

23 THE COURT: I want the record to reflect that as the
24 women defendants were being led from the courtroom, they
25 were making loud and disrespectful statements to the Court,
26 each of them.

23 1 I observed each of them to make statements: I
2 was not able to understand everything that was being said;
3 but there were statements such as "Why don't you kill us
4 now, you have already deprived us of our freedom."

5 MR. FITZGERALD: "You already deprived us of a fair
6 trial."

7 MR. REINER: One very important comment, considering
8 the mental state of the girls, one of the girls either Miss
9 Atkins or Miss Krenwinkel, I don't recall which one it was,
10 I don't now recall, said, "Can't you see who we are?"

11 MR. BUGLIOSI: That was Patricia Krenwinkel.

12 THE COURT: There were other statements made. I was
13 not able to understand them, because they were talking
14 simultaneously.

15 However, what they were saying was loud, it
16 was destructive, it was disorderly, and I consider it to be
17 disrespectful.

18 MR. REINER: I do not disagree with the Court's
19 characterization of these statements being loud; they were
20 spoken above the conversational tone, not exactly shouting,
21 but quite loud.

22 THE COURT: They were shouting.

23 MR. REINER: Very well, shouting, but I wish to indi-
24 cate that Miss Van Houten did not open her mouth to speak
25 at all until she was at the door.

26 THE COURT: She did speak while she was in the

24

1 courtroom today; they turned, and I saw her; she was talk-
2 ing directly to me.

3 MR. REINER: With respect to Miss Van Houten, your
4 Honor, I focused my eyes on her at all times, because she
5 was, of course, my sole responsibility, and I followed her
6 with my eyes all the way out of the courtroom.

7 Her lips did not move until she reached the area
8 inside of the courtroom, perhaps one step or less than a
9 step from the door.

10 THE COURT: Immediately adjoining the bench.

11 MR. REINER: That is correct, that is where the door
12 leading to the courtroom is.

13 THE COURT: All right.

14 MR. REINER: One thing I must say, that just occurred
15 to me a moment ago, I am representing Miss Atkins on behalf
16 of Mr. Shinn. I indicated a moment ago I was concentrating
17 all my attention on Miss Van Houten because of the situation
18 that occurred in the courtroom, it actually slipped my mind
19 that my responsibilities extended to Miss Atkins as well.

20 I made no observations of her.

21 THE COURT: The conduct of all three of the women was
22 substantially identical, including the shouting and loud
23 talking, as they were led from the courtroom.

24 MR. FITZGERALD: I would like to address the Court.

25 THE COURT: All right.

26 MR. FITZGERALD: I at all times will conduct myself

25

1 respectfully to this Court.

2 I will in no way try to indicate any disrespect
3 to the Court. I want your Honor to believe that.

4 But I am going to be very candid and very frank.

5 I feel that in a sense, and I don't question
6 your Honor's motives, but I think in a sense, in a very
7 real sense, that the physical altercation, and I viewed it
8 as a brutal sort of a fight, it was not a pleasant spectacle
9 at all, to watch, particularly in a court of law.

10 I feel that in a sense this Court almost pro-
11 voked and contrived that physical brutal altercation, and
12 I wonder if, with the Court, we might, counsel and the
13 Court, agree in some fashion so we can avoid a repetition
14 of that altercation.

15 I think it was contrived and provoked. ✓

16 THE COURT: I could not disagree with you more,
17 Mr. Fitzgerald.

18 I have done everything in my power to avoid
19 such confrontations. That is the reason I again had you
20 and your clients in chambers this morning, to explain to
21 them that they could come back into the courtroom.

22 I wanted them to come back into the courtroom;
23 they would be seated, as long as they remained seated there
24 would be no problem, and if they insisted on standing up
25 I would ask the Bailiff to assist them back into their seats.
26 If they continued to do that, and refused to obey the

26
1 Court's orders, they again would be taken from the court-
2 room.

3 MR. FITZGERALD: That is particularly at the point --

4 THE COURT: The resistance was the defendants', and
5 Mr. Manson obviously was looking for an opportunity for a
6 physical confrontation. He leaped at the opportunity at
7 the first chance.

8 MR. FITZGERALD: But I think your Honor provided him
9 with the opportunity, your Honor, when he simply stands up--

10 THE COURT: That is not true.

11 MR. FITZGERALD: I want to be honest with you. At
12 the point where Mr. Manson or any of the girls stand up,
13 would your Honor consider at that point removing them rather
14 than instructing the Bailiffs, because I don't want to see
15 a repetition.

16 THE COURT: You gentlemen were the ones that yesterday,
17 in fact all of you, the People and the defendants both
18 objected to my removing the defendants when they stood up
19 and refused to obey my orders, without having to seat them
20 again.

21 MR. FITZGERALD: And I recognize the folly of my ways.

22 THE COURT: Just a moment now; I considered your
23 statements and I felt, well, I would give them some more
24 rope, you know, I'm not trying to be arbitrary about this,
25 and I'm going to overlook all of the insignificant things
26 that occur, if I can, if I can do it and still maintain the

1 dignity of the Court, and not allow the proceedings to be
2 disrupted.

3 So I thought that I would bring them back in
4 here this morning, have an informal conversation with them
5 in chambers, explain what they were doing, the consequences
6 to themselves, and what the Court's position was, and what
7 the Court expected of them, so that when we went back out-
8 side in the courtroom, that they would have a full and com-
9 plete understanding of what was expected of them, what they
10 could do, and what procedure was going to be followed, so
11 there wouldn't be any surprises, and that is exactly what
12 was done.

13 It is perfectly obvious that Mr. Manson and the
14 defendants had already made up their minds before they re-
15 turned to the courtroom this morning, that they were going
16 to resist.

17 I had no way of knowing that. I was giving
18 them another opportunity to return into the courtroom.

19 But I cannot overlook a violent confrontation
20 like that; I will not permit them to stand with their arms
21 outstretched, their heads bowed, and their backs turned,
22 and disrupt the proceedings.

23 That is when I asked the Bailiff to assist
24 them to be seated again; that is when the confrontation
25 occurred.

26 Do you have some suggestions how to handle that?

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MR. BUGLIOSI: Mr. Stovitz observed if they kept their hands out long enough, sooner or later they would drop to their sides.

MR. FITZGERALD: I simply would like to avoid another confrontation that might result in substantial injury.

THE COURT: So would I. I think every reasonable precaution has been taken, every reasonable admonishment and warning has been given to the defendants. They know exactly what the Court expects of them; they were told exactly what they could or could not do before they went out there; they simply made up their minds in advance that they were going to ignore the Court's order and create a violent physical confrontation, which they did.

You might be giving some serious thought as to what will happen when this trial starts and we have the jury in progress.

It may very well be we will have the same type of thing.

I would hate to start out a trial by excluding the defendants without giving them a chance to be present, at first to see if they can conform their conduct.

It may well be, if I do give them the chance and order them to be present, when we start this thing and the same thing happens again, there may be another confrontation.

MR. BUGLIOSI: I think we are approaching the point,

29

1 I want to say this on the record, where they should be
2 bound. I don't think you can convict any person -- this
3 Court indicated very clearly two days ago, it wasn't going
4 to take pioneer stands on a particular issue. I am not
5 criticising the Court --

6 THE COURT: Not taking what?

7 MR. BUGLIOSI: A pioneer stand on a particular issue.

8 THE COURT: That is a general statement I did not
9 make.

10 MR. BUGLIOSI: This is what I gleaned from the Court's
11 position.

12 THE COURT: If you are talking about your motion in
13 regard to Mr. Kanarek, you are 'way off base. That has
14 nothing to do with a pioneer position.

15 That involved the matter in which the position
16 you sought was clearly contrary to the defendant's
17 constitutional and statutory rights. It wasn't a pioneer
18 area; it has been pioneered long ago.

19 MR. BUGLIOSI: I tend to disagree with the Court.

20 THE COURT: Let's not re-argue that.

21 MR. BUGLIOSI: It is relevant to what I am going to
22 say right now.

23 THE COURT: I hope you are not going to generalize as
24 to what I think I am going to do throughout the trial. I
25 can assure you I don't know myself yet. I will take each
26 problem as it arises.

30

1 MR. BUGLIOSI: I understand it, your Honor. I don't
2 think there is any authority anywhere in the world, and
3 there is not going to be any authority within the foreseeable
4 future, for convicting any person of seven counts of murder
5 and having them suffer their death in the gas chamber when
6 they were not present at their trial.

7 I just don't think this can be done. I think
8 the only alternative the Court would have to preclude a
9 nullity, as Mr. Stovitz has said, is to force these defend-
10 ants to stay in court, and bind them to the chairs. But
11 they have a right to be present during the trial pro-
12 ceedings.

13 Now, if they start screaming, start sticking to
14 the point where we cannot accept any testimony from the
15 witness stand, that is a different story.

16 THE COURT: That is exactly what was happening this
17 morning.

18 MR. BUGLIOSI: I am not joining in Mr. Fitzgerald's
19 statement that the Court provoked it, because I don't think
20 the Court did provoke it.

21 THE COURT: That is absurd.

22 MR. BUGLIOSI: I am not joining in that, but I think
23 it could have been avoided by just permitting them to stand
24 up as long as they were silent, because as long as they are
25 silent, this is not disrupting the dignity of the court.

26 THE COURT: It certainly is.

1 MR. BUGLIOSI: But it is not preventing the proceed-
2 ings from continuing on.

3 THE COURT: It is not only disruptive. it is des-
4 tructive. It is an insult to the dignity and decorum of
5 the Court, and there isn't a court in the world that I know
6 of that would tolerate such behavior.

7 MR. STOVITZ: I don't agree with Mr. Bugliosi. I
8 feel, your Honor, in view of the chamber conference we had
9 this morning, where your Honor did set out the guidelines,
10 if they would continue to stand, the next thing would have
11 been some type of a tap dance or song they would have sang,
12 if that did not get it.

13 Their standing with their arms outstretched and
14 their heads lowered, was intended to be disruptive.

15 THE COURT: Certainly, it was obvious. They were
16 doing it by agreement among themselves, since they were
17 taking exactly the same stance and posture, each of them,
18 and holding their heads and arms exactly the same way.

19 MR. BUGLIOSI: I think it's a question of degree, your
20 Honor; I'm not questioning it is disruptive, the Allen case
21 says it has to be so disruptive you just cannot continue on.

22 THE COURT: If disruption comes when the Court attempts
23 to enforce its orders regarding dignity and decorum in the
24 courtroom, and the defendants resist, that is my position,
25 gentlemen; I understand yours, Mr. Bugliosi, I don't agree
26 with it.

1 MR. STOVITZ: The only reason Mr. Bugliosi is
2 mentioning it, your Honor, if this is the defendants'
3 course of conduct, and I think your Honor should give them
4 another opportunity when we do start the selection of the
5 jury, rather than to go through with the trial, that we try
6 to test it some way by Mr. Reiner's writ of mandate or some
7 other form of procedure, so that we don't go ahead with a
8 trial of three, four, five, six months --

9 THE COURT: It may very well be these defendants
10 have made up their minds that they are not going to permit
11 a trial to be held. The more I see of them the more I am
12 beginning to believe that is exactly what they agreed
13 among themselves to do. Certainly their behavior this
14 morning indicates that they were acting in concert, and
15 were intending to, and did, disrupt the proceedings.

16 MR. REINER: I have some understanding of my client
17 and some understanding of the other defendants, and perhaps
18 my understanding is only because I have had access to them
19 intimately over a long period of time, perhaps more sub-
20 stantially than of other persons.

21 I think the Court's grasp of these people is
22 superficial. I think the Court is viewing these people as
23 one would view ordinary people, and they are not ordinary.
24 I don't --

25 THE COURT: Well, Mr. Reiner, it's after 12:00 now.
26 We are going to recess until 1:45.

1 They are not entitled to any special treatment.

2 MR. REINER: I am not referring to special treatment,
3 your Honor.

4 May I be heard at least at some other time then?

5 MR. STOVITZ: I believe we are entitled to be treated
6 as ordinary people. I have an appointment at 12:00 o'clock.

7 MR. BUGLIOSI: One brief point.

8 Apparently Mr. Kanarek is going to call me to
9 the witness stand on some issue.

10 Can you ask Mr. Kanarek to advise me how I fit
11 into a 1538.5?

12 THE COURT: We won't take it up now, gentlemen. We
13 will recess until 1:45.

14 MR. KANAREK: May the record reflect on behalf of
15 Mr. Manson, we are exercising his constitutional right to
16 be present, and we don't approve of being removed, based on
17 the California and Federal law.

18 THE COURT: Very well.

19 MR. KANAREK: Thank you.

20 (Whereupon a recess was taken until 1:45 P. M., this
21 same date.)

22 ---oOo---

LOS ANGELES, CALIFORNIA

FRIDAY, JUNE 12, 1970

1:45 P. M.

--oOo--

THE COURT: People versus Charles Manson, Patricia Krenwinkel, Susan Atkins and Leslie Van Houten.

MR. FITZGERALD: Counsel for Miss Krenwinkel is present. Miss Krenwinkel is not present, your Honor.

MR. REINER: Ira Reiner appearing for Miss Van Houten, your Honor, Miss Van Houten is not present.

THE COURT: Also for Miss Atkins.

MR. REINER: I'm sorry, your Honor, also for Miss Atkins, Miss Atkins also is not present.

THE COURT: Mr. Kanarek is present appearing for Mr. Manson.

Gentlemen, have your clients affirmed to you their desire to return to the courtroom to conform with the Court's orders?

MR. REINER: Your Honor, I had an opportunity to confer with Miss Van Houten within the last few moments,

She said she will come into the courtroom; she will remain silent, but she does wish to stand during the proceedings rather than sit.

THE COURT: What about your client, Mr. Fitzgerald?

MR. FITZGERALD: Her position is essentially the same.

1 THE COURT: I'm not sure I understand what that
2 means.

3 MR. FITZGERALD: She will return to the courtroom,
4 request permission to remain standing. I think a direct
5 answer to your Honor's question would be she does not intend
6 to comport.

7 MR. KANAREK: Mr. Manson's position is the same as it
8 has been previously.

9 THE COURT: I am not aware he has any position. What
10 is it?

11 MR. KANAREK: His position is, your Honor --

12 THE COURT: That he does not wish to conform to the
13 Court's orders, is that what you are saying?

14 MR. KANAREK: Well, --

15 THE COURT: That is all I am interested in. Does he,
16 or does he not, intend to conform to the Court's orders?

17 MR. KANAREK: Not as --

18 THE COURT: Mr. Reiner, what about Miss Atkins?

19 MR. REINER: Your Honor, I did indicate to the Court
20 on behalf of Miss Atkins as well her statement to me was in
21 sum and substance the statement Miss Van Houten made to me.

22 At this time, since neither Miss Atkins or Miss
23 Van Houten is present, I would object to these proceedings
24 continuing, and ask that the Court bring the defendants
25 into the courtroom. I would make that on all previously
26 stated grounds.

1 THE COURT: Very well.

2 MR. KAWARKE: May I join with Mr. Reiner on that,
3 that is, we have a continuing objection on constitutional
4 grounds previously enumerated, that Mr. Manson has the right
5 to be present; we ask that the Court allow him to be
6 present.

7 THE COURT: As I stated on numerous occasions, all
8 the defendants have to do in affirm to the Court, through
9 their counsel, if they are willing to return and conform to
10 the Court's orders and conduct themselves with dignity, and
11 not disrupt the proceedings, they may do so.

12 Now, the next motions remaining on our pre-
13 trial motion, are the motions of Mr. Manson under Penal
14 Code Section 1538.5, and also the motion of Miss Krenwinkel
15 also under 1538.5.

16 Both are under Code Section 1538.5.

17 With regard to these motions, gentlemen, on
18 June 1st in this Department, the Court ordered all pre-
19 trial motions be noticed for hearing no later than June
20 10th, for the reason the trial was set on June 10th.

21 The Court also ordered in the case of search
22 and seizure motions, the moving party file and serve no
23 later than June 5th, a designation of the precise items
24 sought to be suppressed or returned.

25 Motion papers were to be filed by defendants
26 Manson and Krenwinkel on June 5th, pursuant to 1538.5 of the

1 Penal Code; they failed to comply with the Court's order
2 in that they failed to designate the precise items sought
3 to be suppressed, or even to allege a search or seizure
4 was made at all.

5 The courts of this State have held that the
6 moving party has the burden of identifying a tangible or
7 intangible thing sought to be suppressed or returned, and
8 the necessity for such identification arises out of the fact
9 that the People should be given an opportunity to prepare
10 their case in opposition to the motion, to marshal their
11 evidence, and the Court must, of course, rule on the motion.

12 Since there has been a failure to comply with
13 the Court's order, I am going to order these motions off
14 calendar.

15 Subdivision H of 1538.5 provides that the
16 Court, in it's discretion, may permit the motions during
17 the trial.

18 I will exercise my discretion under this sub-
19 division, and I state now that the defendants will be per-
20 mitted to make the motions during the course of the trial,
21 and they will be heard if and when the People seek to intro-
22 duce any evidence the defendants contend was obtained as
23 the result of any unreasonable search and seizure.

24 That leaves remaining for pre-trial consider-
25 ation the motion of Miss Atkins for a trial continuance.

26 Do you wish to take that up at this time,

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#14

1 Mr. Reiner?

2 MR. KANAREK: May I be heard in connection with
3 your Honor's last ruling?

4 THE COURT: Yes, you may.

5 MR. KANAREK: Your Honor, in connection with the
6 points and authorities, and our motion we have -- you see,
7 Mr. Caballero and Mr. Bugliosi conspired to have Miss Atkins
8 make certain statements.

9 Now, you cannot make allegations in a pleading.
10 You cannot make an allegation that you don't know, I mean as
11 a lawyer I cannot do that. That is why Mr. Bugliosi is
12 here to give testimony. It is our belief -- May I have the
13 Penal Code just a moment, your Honor?

14 THE COURT: Yes, you may.

15 (Pause.)

16 MR. KANAREK: 1538.5, your Honor, under sub-Section
17 2, it refers to the search or seizure with a warrant, was
18 unreasonable because, first, "the warrant is insufficient
19 on its face;" then, going down to sub-Section 5, "there was
20 any other violation of Federal or State constitutional
21 standards."

22 Now, in this case, your Honor, there is a
23 warrant set out after the Grand Jury purportedly indicted
24 Miss Atkins, there was a warrant issued purportedly pursuant
25 to that indictment. Mr. Manson was purportedly arrested
26 pursuant to that warrant.

1 It is our position, your Honor, and we believe
2 that as a result of the prosecution conspiring with Mr.
3 Caballero to allow a \$90,000 fee to issue for this as a
4 result of the purported exclusive story of Miss Atkins,
5 that the result of a purported Grand Jury indictment predi-
6 cated upon possible perjury where the District Attorney's
7 office suborned the perjury.

8 MR. BUGLIOSI: Your Honor, I want to interrupt at
9 this time.

10 If Mr. Kanarek is going to have diarrhea of
11 the mouth, I think he should make an offer of proof back in
12 chambers.

13 This man is totally irresponsible. I am not
14 going to sit here and listen to this hogwash.

15 I urgently request the Court we go back in
16 chambers. God knows what this man is going to say next.
17 He is totally irresponsible.

18 THE COURT: All right. Confine yourself to the
19 argument, Mr. Kanarek.

20 MR. KANAREK: Mr. Bugliosi has stated, he says that
21 he has "lost" --

22 MR. BUGLIOSI: I have those papers for you, Mr.
23 Kanarek. Do you want to see them now?

24 THE COURT: No colloquy between counsel, gentlemen.

25 MR. KANAREK: Counsel has the original notes, your
26 Honor?

1 THE COURT: I don't know what you're talking about,
2 Mr. Kanarek. I assume you want to say something with
3 regard to the order I just made.

4 MR. KANAREK: Yes.

5 THE COURT: Direct yourself to that.

6 MR. KANAREK: Yes, your Honor, it is our position
7 under Section 1538.5, sub-Section A, parenthesis 2, then
8 small Roman numeral v, that as a result of Mr. Bugliosi's
9 conspiring with Mr. Caballero, there was to be a most
10 unusual type of interview outside of the County Jail, in
11 Mr. Caballero's office, as the result of an order by Judge
12 Keene, allowing Miss Atkins to leave the County Jail and go
13 to the office of Mr. Caballero.

14 It is our position that as a result of State
15 action there came about a Grand Jury indictment, predicated
16 upon these procedures which we allege are improper, and
17 which resulted in a rehearsed, a rehearsed type of approach
18 to this witness, such that the District Attorney now says
19 he is not even going to use the statements at the Grand
20 Jury in connection with this case.

21 If he is not going to use the statements in
22 connection with the Grand Jury, they must be tainted in
23 some way; he must recognize they are tainted in some way.

24 One of the taints is if the District Attorney
25 has suborn perjury, then of course what happened cannot be
26 used, can not be the basis for a valid Grand Jury indictment.

1 And even after a 995, there is case law that
2 there is a possible release on habeas corpus, even though
3 a 995 has been denied.

4 I mean, there are cases that support that
5 position. What I am saying is that the District Attorney,
6 that we have every reason to believe -- I know Mr. Bugliosi
7 is now saying he has the 30 pages of notes that he previous-
8 ly stated he did not have.

9 I gather this is the purport of what he told
10 the Court.

11 But our position is that Miss Atkins, her
12 physical body has been seized as the result of a warrant
13 predicated upon testimony before the Grand Jury, which is
14 tainted, we believe, with perjury, with this rehearseal
15 that we have alluded to.

16 It is a most unusual situation. I don't want
17 to repeat it, belabor it, so therefore we wish to take
18 evidence to find out whether the District Attorney of Los
19 Angeles County caused this rehearsal to take place.

20 Miss Atkins has now repented. She has indi-
21 cated that what she stated before the Grand Jury is not
22 true.

23 Somebody is not telling the truth, or else this
24 was put into the middle of this thing by the force of the
25 District Attorney of Los Angeles County, and so we are en-
26 titled to get evidence to determine whether or not these

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1 statements have been tainted with the kind of taint that
2 even allows a coram nobis type of relief after judgment,
3 and the time to get at it is now.

4 Now, may I inquire through the Court, as to
5 Mr. Bugliosi saying he has found those 30 pages of notes
6 that he previously told us he lost?

7 THE COURT: I am not really concerned with that. That
8 came under the discovery motion.

9 It was my understanding he was going to file a
10 declaration no later than Monday, or produce the notes.

11 So we will take that up on Monday as part of
12 the discovery proceedings, if necessary,

13 MR. KANAREK: Very well.

14 THE COURT: You have stated your position. Now, I
15 made my order with respect to the 1538.5 motion.

16 There remains the motion of Miss Atkins for a
17 trial continuance. Do you wish to direct yourself to that,
18 Mr. Reiner?

19 MR. REINER: Yes, your Honor, although I indicated I
20 would represent Miss Atkins in the absence of Mr. Shinn,
21 however, since this is a pending motion, there perhaps would
22 be a conflict of interest between the interests of Miss
23 Van Houten and Miss Atkins.

24 On behalf of Miss Van Houten I am prepared to
25 argue against a continuance, so I cannot represent Miss
26 Atkins in a motion for continuance.

1 I will ask that go over until Mr. Shinn
2 returns from Tokyo.

3 THE COURT: Since the Court did not excuse Mr. Shinn
4 and received no factual information or evidence which would
5 excuse his presence here, I am going to take the motion off
6 calendar.

7 As I indicated to counsel earlier, I do want
8 to have a pre-trial conference with counsel before the
9 actual trial commences, and I will set that for 10:00
10 o'clock on Monday morning. That will give Mr. Shinn an
11 opportunity to be present too.

12 When the present trial conference has been
13 concluded, I assume all counsel will be ready to commence
14 the trial.

15 MR. FITZGERALD: I have a matter I would like to
16 bring to the attention of the Court, that I mentioned brief-
17 ly to the Court in chambers yesterday, when Mr. Bugliosi
18 and I had a colloquy in front of the Court.

19 I believe that we can demonstrate to the Court
20 that there has been a massive deprivation of due process.

21 In connection therewith I have an exhibit I
22 would like to have marked, and I would like your Honor to
23 read and consider it.

24 This is a joint motion on behalf of all four of
25 the defendants, and if your Honor feels it necessary to con-
26 duct an evidentiary hearing, or if your Honor feels at that

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1 point that it is necessary or desirable for counsel to
2 engage in argument, we will at that time.

3 THE COURT: Is this something that is merely repeti-
4 tive of what was brought at the motions for change of venue?

5 MR. FITZGERALD: No, it is not. It is an entirely new
6 and different violation.

7 THE COURT: Well, how new, how long have you known
8 about it?

9 MR. FITZGERALD: The day before yesterday, and I
10 brought it to the Court's -- today is Friday -- I learned
11 of it Wednesday night at 11:45 P. M.

12 I brought it to the attention of my colleagues
13 yesterday morning, and to the attention of counsel for the
14 prosecution yesterday noon, I believe, and we brought it
15 to the attention of the Court yesterday afternoon in
16 chambers.

17 This was the matter that Mr. Bugliosi requested
18 be conducted outside the public.

19 I do not join in that consideration.

20 What I have, your Honor --

21 THE COURT: Are you making a motion of some kind,
22 Mr. Fitzgerald?

23 MR. FITZGERALD: Yes.

24 THE COURT: What is it?

25 MR. FITZGERALD: The motion is to dismiss as the
26 result of a denial of due process of law under the

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1 Fourteenth Amendment and the Fifth Amendment of the
2 Constitution of the United States, and by way of offer of
3 proof I would like marked --

4 THE COURT: Rather than do it this way, I will ask
5 you to put your motion in writing, support it with what-
6 ever motion papers you like, and a written offer of proof
7 accompanying your motion, setting forth what you expect to
8 prove, and by whom you expect to prove it, and I will take
9 it up on Monday.

10 MR. FITZGERALD: That is agreeable. I think, however,
11 it will be helpful inasmuch as the material I am going to
12 offer the Court also involves a 36-Count direct violation
13 of the Court's order that the Court might be better pre-
14 pared if the Court had the information before it on Monday.

15 But I will present to the Court a notice of
16 declaration.

17 THE COURT: We will adjourn at this time.

18 Do you have anything else, Mr. Kanarek?

19 MR. KANAREK: Yes, your Honor.

20 Would your Honor clarify for me your Honor's
21 ruling in connection with that 1538.5?

22 Did your Honor indicate that we did not indi-
23 cate what we wanted suppressed, is that what your Honor is
24 saying?

25 THE COURT: That is exactly what I was saying.

26 MR. KANAREK: I refer your Honor to page two, your

1 Honor, wherein we point out, paragraph 3, the warrant
2 of arrest for the defendant Manson was thus based on
3 illegally obtained and perjured testimony, and the seizure
4 of the person of Charles Manson was illegal. The person
5 of Charles Manson must, therefore, be suppressed from
6 evidence.

7 Also our position that the 1538.5 applies
8 to all items of evidence, and what item of evidence is
9 greater than his own person, his physical appearance,
10 his own physical body?

11 If your Honor makes the proper order pursuant
12 to that sub-Section, that Roman Numeral v, his physical
13 body be suppressed, then in fact that piece of evidence
14 which is his physical body is not before the Court
15 conceptually to be used in evidence;

16 He cannot be identified by witnesses; he
17 cannot, the same way as a bundle of heroin or any other
18 illegally obtained evidence, he cannot be used. The
19 due process clause of the Fourteenth and Fifth Amendment-
20 of the Constitution protect Mr. Manson against unlawful
21 seizures.

22 Mr. Manson is before this Court as the result
23 of perjured and rehearsed testimony, so we believe, your
24 Honor, that we have a right to proceed because of the fact
25 that he is being used as evidence. There is no question;
26 he's been identified and all that.

1 THE COURT: 10:00 o'clock Monday, Gentlemen, for our
2 pretrial conference.

3 (Whereupon, proceedings in the above-entitled
4 matter were adjourned to Monday, June 15, 1970, at 10:00
5 A.M., in this same Department.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 100 & 107
DEPARTMENT NO. 100

HON. WILLIAM B. KEENE, JUDGE
HON. GEORGE M. DELL, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

NO. A 253,156

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

Defendants.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ss

I, Lois R. Johnson, Official Reporter of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that the foregoing pages, 1 through 24, 33A through 33H, 34 through 157, 159 through 198, 484 through 500, 614 through 616, 617 through 630, 647 through 654, all inclusive, comprise a full, true and correct transcript of the proceedings had on December 10, 11, 16, 19, 22, 24, 1969; January 6, 14, 19, March 16, April 3, 10 and 17, 1970, in the matter of the above-entitled cause.

Dated this 28th day of May, 1971.

/s/ Lois R. Johnson
Official Reporter

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 100 & 107

HON. WILLIAM B. KEENE, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

No. A 253,156

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

Defendants.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ss

I, Anne F. Smith, Official Reporter of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that the foregoing pages, 25 through 33, 158, 304 through 308, 334 through 358, 417 through 442, 445 through 483, 501 through 529, 612 through 613, all inclusive, comprise a full, true and correct transcript of the proceedings had on December 17, 1969, January 19, February 3, 9, March 6, 11, 19, 30, 1970, in the matter of the above-entitled cause.

Dated this 28th day of May, 1971.

/s/ Anne F. Smith
Official Reporter

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NO. 100

HON. GEORGE M. DELL, JUDGE

5 THE PEOPLE OF THE STATE OF CALIFORNIA,)

6 vs. Plaintiff,)

7 CHARLES MANSON,)
8 PATRICIA KRENWINKEL,)
9 SUSAN ATKINS, and)
LESLIE VAN HOUTEN,)

No. A-253156

10 Defendants.)

11 STATE OF CALIFORNIA)

) ss.

12 COUNTY OF LOS ANGELES)

13 I, JAMES E. VAUGHN, Official Reporter of the Superior
14 Court of the State of California, for the County of
15 Los Angeles, do hereby certify that the foregoing pages
16 numbered 230 through 250, inclusive, comprise a full, true
17 and correct transcript of the proceedings had in the matter
18 of the above-entitled cause on January 22, 1970.
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20 Dated this 3rd day of May, 1971.

21 /s/ James E. Vaughn

22 Official Reporter
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

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DEPARTMENT NO. 100

HON. GEORGE M. DELL, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

v.

CHARLES MANSON,
PATRICIA KRENWINKEL,
SUSAN ATKINS,
LESLIE VAN HOUTEN,
Defendants.

No. A-253156

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

I, MERLE SANDERS, an Official Reporter of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that the foregoing pages 251 to 303, inclusive, comprise a full, true, and correct transcript of the proceedings had in the above-entitled cause on January 28, 1970.

Dated this 28th day of April, 1971.

/s/ Merle Sanders, CSR
Official Reporter

FOR THE COUNTY OF LOS ANGELES

HON. GEORGE M. DELL, JUDGE

Plaintiff,

vs.

NO. A 253 156

**CHARLES MANSON, PATRICIA KRENWINKEL,
SUSAN ATKINS, and LESLIE VAN HOUTEN.**

Defendants.

STATE OF CALIFORNIA

88.

COUNTY OF LOS ANGELES

I, MARCIA KING, an Official Reporter Pro Tempore of the Superior Court of the State of California, for the County of Los Angeles, hereby certify that the foregoing 12 pages, 322 to 333 , inclusive, comprise a full, true and correct transcript of the proceedings had in the matter of the above-entitled cause on Friday, February 6, 1970, including all rulings of the Court and matters to which the same relate.

Dated this 30th day of April, 1971.

MARCIA KING

Official Reporter Pro Tempore

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 100

HON. GEORGE DELL, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

vs.)

No. A-253156)

CHARLES MANSON,
PATRICIA KRENWINKEL,
SUSAN DENISE ATKINS, and
LESLIE VAN HOUTEN,)

Defendants.)

STATE OF CALIFORNIA)

ss.)

COUNTY OF LOS ANGELES)

I, RUTH A. BAILEY, C.S.R., Official Reporter of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that the foregoing pages, 382 through 416, inclusive, comprise a full, true and correct transcript of the proceedings had and testimony taken in the matter of the above-entitled cause.

Dated this _____ day of _____, 1971.

Ruth A. Bailey
Official Reporter

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 100

HON. GEORGE M. DELL, JUDGE

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THE PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

vs.)

No. A-253156

CHARLES MANSON, PATRICIA KRENWINKEL,
SUSAN ATKINS, LESLIE VAN HOUTEN, AND
LINDA KASABIAN,)

Defendants.)

STATE OF CALIFORNIA,)

ss.)

COUNTY OF LOS ANGELES.)

I, BOB L. SPEAK, Official Reporter of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that the foregoing pages ~~655~~ to ~~669~~ comprise a full, true and correct transcript of the proceedings had on April 17, 1970, in the matter of the above-entitled cause.

Dated this _____ day of _____, 1971.

REPORTER

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

DEPARTMENT NO. 106

HON. MALCOLM M. LUCAS, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

NO. A-253,156

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

Defendants.

STATE OF CALIFORNIA }

COUNTY OF LOS ANGELES }

ss.

I, JULIUS KOLINER, C. S. R., an Official Reporter
of the Superior Court of the State of California, for the
County of Los Angeles, do hereby certify that the foregoing
pages,

Pages 199 to and including 229,

Pages 309 to and including 321,

Pages 359 to and including 381,

Pages 443 to and including 444,

Pages 530 to and including 611,

Pages 631 to and including 646

Pages

755 to and including 794

1 comprise a full, true and correct transcript of the short-
2 hand notes taken down by me, to the best of my skill and
3 ability, of the proceedings had and testimony given in
4 the above-entitled cause.

5 Dated this 13th day of May, 1971,

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9 Julius Koliner, C. S. R.
10 Official Reporter
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
) Plaintiff,)

VS.)

NO. A-253156

CHARLES MANSON, PATRICIA KRENWINKEL,)
)
) SUSAN ATKINS, and LESLIE VAN HOUTEN,)

Defendants.)

STATE OF CALIFORNIA)
) ss.
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)
) COUNTY OF LOS ANGELES)

I, JOSEPH B. HOLLOMBE, Official Reporter of the
Superior Court of the State of California, for the County
of Los Angeles, do hereby certify that the foregoing pages
670 through 755 and pages 795 through 1063 comprise a
full, true and correct transcript of the proceedings had
and the testimony taken in the matter of the above-entitled
cause in pretrial hearings.

Dated this 14th day of June, 1971.

JOSEPH B. HOLLOMBE /s/
Official Reporter

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

VS.

NO. A-253 156

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

Defendants.

STATE OF CALIFORNIA

VS.

COUNTY OF LOS ANGELES

I, CHARLES H. OLDER, Judge of the Superior Court of the State of California, for the County of Los Angeles, and being the Judge who presided at the trial in the above-entitled criminal cause, do hereby certify that no objection has been made to the within transcript by either the defendants or their attorneys, or the District Attorney, within the time allowed by law; and the same is now, therefore, approved by me this ____ day of _____, 1971.

Judge

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

vs.)

NO. A-253, 156

CHARLES MANSON, PATRICIA KRENWINKEL,
SUSAN ATKINS, and LESLIE VAN HOUTEN,)

Defendants.)

STATE OF CALIFORNIA)

ss.)

COUNTY OF LOS ANGELES)

I, CHARLES H. OLDER, Judge of the Superior Court of the State of California, for the County of Los Angeles, and being the Judge who presided at the trial in the above-entitled criminal cause, do hereby certify that the objections made to the transcript herein have been heard and determined, and the same is now corrected in accordance with such determination, within the time allowed by law; and the same is now, therefore, approved by me this _____ day of _____, 1971.

Judge

1 Due service of the within and receipt
 2 of a copy hereby admitted this _____
 3 day of _____, 1971.

4 JOSEPH P. BUSCH, JR., DISTRICT ATTORNEY

5 BY _____ Deputy

6
 7 Due service of the within and receipt
 8 of a copy hereby admitted this _____
 9 day of _____, 1971.

10 EVELLE J. YOUNGER, ATTORNEY GENERAL

11 BY _____ Deputy

12
 13 Due service of the within and receipt
 14 of a copy hereby admitted this _____
 15 day of _____, 1971.

16
 17 Charles Hanson, In Propria Persona

18 Due service of the within and receipt
 19 of a copy hereby admitted this _____
 20 day of _____, 1971.

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 22 Patricia Arenwinkal, In Propria Persona

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 24 Due service of the within and receipt
 25 of a copy hereby admitted this _____
 26 day of _____, 1971.

Leslie Van Ruten, In Propria Persona

1 Due service of the within and receipt
2 of a copy hereby admitted this _____
3 day of _____, 1971,
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6 Attorney for Defendant Susan Atkins
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