

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.

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

Defendants.

127

No. A253156

REPORTERS' DAILY TRANSCRIPT
Thursday, October 15, 1970
A. M. SESSION

APPEARANCES:

For the People:

DONALD A. MUSICH,
STEPHEN RUSSELL KAY,
[REDACTED] and
VINCENT T. BUGLIOSI,
DEPUTY DISTRICT ATTORNEYS

For Deft. Manson:

I. A. KANAREK, Esq.

For Deft. Atkins:

DAYE SHINN, Esq.

For Deft. Van Houten:

[REDACTED]
RONALD HUGHES, Esq.
PAUL FITZGERALD, Esq.

For Deft. Krenwinkel:

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JOSEPH B. HOLLOMBE, CSR.,
MURRAY MEHLMAN, CSR.,
Official Reporters

COPY

I N D E X

E X H I B I T S

PEOPLE'S: FOR IDENTIFICATION IN EVIDENCE

265 (Withdrawn)

SPECIAL COURT'S EXHIBITS:

8 - Letter 13883

9 - Letter 13883

10 - Letter 13883

1 LOS ANGELES, CALIFORNIA, THURSDAY, OCTOBER 15, 1970

2 9:00 A.M.

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4 (The following proceedings were had in the
5 chambers of the court out of the presence and hearing of
6 the jury, all counsel being present:)

7 THE COURT: The record will show all counsel are
8 present.

9 At the request of Mr. Bugliosi the letters
10 purportedly written by Susan Atkins will be marked as
11 Special Exhibits.

12 THE CLERK: 8 and 9, your Honor?

13 THE COURT: What was the first one?

14 THE CLERK: The first letter is 265.

15 THE COURT: Let's change that. We will strike that
16 and make it Special Exhibit 8, and the second letter, one
17 which apparently was addressed to Jay Stevenson, will be
18 9, and the third one which is apparently addressed to
19 Dear Kit will be Special Exhibit 10.

20 These exhibits will not be in any event shown
21 to the jury.

22 The previous marking, 265, for the first
23 letter from Susan Atkins to Roni Howard will be stricken in
24 view of the new designation.

25 Now you gentlemen, I think, arrived at a
26 stipulation yesterday with respect to the foundation of

1 these letters.

2 MR. BUGLIOSI: Yes, your Honor. May it be stipulated
3 that Special Exhibits 8, 9 and 10, three letters, were in
4 fact written by Susan Atkins?

5 MR. SHINN: So stipulated, your Honor.
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1 THE COURT: I take it from that that any objections
2 as to foundation are waived?

3 MR. BUGLIOSI: So stipulated.

4 MR. SHINN: That is correct.

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

6 MR. KANAREK: I guess, just out of an abundance of
7 caution, though, your Honor, I am sure we are all agreed
8 that any use of these letters whatsoever is being objected
9 to by the rest of the attorneys, Mr. Hughes, Mr. Fitzgerald,
10 and myself, based upon the Sixth Amendment right to
11 confront, and right to effective counsel as guaranteed
12 by the Due Process Clause of the Fourteenth Amendment;
13 and on hearsay, relevancy and materiality.

14 THE COURT: Are you joining in the stipulation as to
15 foundation?

16 MR. KANAREK: I have no power to join in it, your
17 Honor.

18 What I am saying is, conceptually, this is not
19 being offered against Mr. Manson, but we object on the
20 Aranda-Bruton principle --

21 THE COURT: Let's not play games, Mr. Kanarek.
22 What I want to know is: Are you going to object to the
23 foundation when it is offered by the People?

24 MR. KANAREK: Well, no, I am not going to object on
25 that specific ground.

26 I just want to make it clear, your Honor --

1 THE COURT: Just get to the point, Mr. Kanarek. I
2 want a straight answer to a straight question.

3 MR. KANAREK: Yes. As I view it -- maybe your Honor
4 can clue me in if I am wrong --

5 THE COURT: You were here yesterday, you sat through
6 the entire proceedings. The purpose of the stipulation was
7 to obviate the necessity of calling in witnesses to lay the
8 foundation for the admission of these letters, assuming any
9 or all of the letters or any portion or all of the letters
10 are admissible.

11 MR. KANAREK: Yes.

12 THE COURT: You are not waiving any objections to the
13 admissibility of the letters.

14 MR. BUGLIOSI: Or Aranda, or relevance, or anything
15 like that.

16 THE COURT: That's right.

17 MR. BUGLIOSI: Just the foundation.

18 THE COURT: Mere foundation.

19 MR. BUGLIOSI: That these letters were, in fact,
20 written by Susan Atkins.

21 MR. KANAREK: Yes. All right.

22 THE COURT: Do you join in that stipulation?

23 MR. KANAREK: I will join in that stipulation.

24 THE COURT: Do you join, Mr. Hughes?

25 MR. HUGHES: Yes, I join, your Honor.

26 THE COURT: Mr. Fitzgerald?

1 MR. FITZGERALD: I join.

2 THE COURT: In other words, there are no foundational
3 problems with respect to the letters; but all other objec-
4 tions are reserved.

5 MR. FITZGERALD: Correct.

6 MR. SHINN: That is correct.

7 MR. HUGHES: Yes.

8 THE COURT: Very well.

9 Let's take up the first letter first. That
10 would be the one from Susan Atkins to Roni Hughes.

11 Which one is that?

12 MR. BUGLIOSI: The one that starts out, "Hello."

13 THE COURT: All right.

14 MR. KANAREK: Your Honor misspoke. Your Honor means
15 Roni Howard?

16 MR. BUGLIOSI: That is actually her name.

17 MR. HUGHES: I would prefer that she be known by
18 her alias.

19 THE COURT: Well, whatever her name is. That is
20 Special Exhibit 8.

21 And Special Exhibit 9 is which one? The one
22 entitled "Dear Joe"?

23 MR. BUGLIOSI: Yes, your Honor.

24 THE COURT: And Special Exhibit 10 is the one that
25 starts out "Dear Kit."

26 MR. BUGLIOSI: Right.

1 THE COURT: All right.

2 We will start with Special Exhibit 8.

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1 MR. MUSICH: Your Honor, there are some typographical
2 errors in the typing, and the underscoring, that appears
3 in the typed copy.

4 THE COURT: Then we are in no position to do anything.
5 We have to have an accurate work copy to start with.

6 MR. MUSICH: Well, there are misspellings.

7 THE COURT: Doesn't the government ever require
8 competent typists?

9 MR. BUGLIOSI: The answer is no. I have seen them
10 leave entire paragraphs out of dictation. It is unbeliev-
11 able.

12 THE COURT: Does anyone ever get fired for incompe-
13 tence?

14 MR. BUGLIOSI: Not if they work for Civil Service.

15 MR. FITZGERALD: I didn't know you were going to do
16 them so I had my secretary type them up and there are some
17 differences between them, slight differences.

18 I will give you copies of mine if you like.

19 MR. MUSICH: I think we should go over them and if
20 there is any discrepancy or argument, check the original.

21 I tried to take them off of photostatic copies
22 which were somewhat legible and I tried to compare them
23 to the original I had access to at that time.

24 I did not have access to all the originals.

4 fls.

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(Off the record discussion.)

(Recess.)

(Off the record discussion.)

THE COURT: Back on the record.

All counsel are present.

We have now made the necessary corrections in the working copies of these three letters, Special Exhibits 8, 9 and 10, so that they conform with the originals, and we are about to start the process of attempting to edit out, if it can be done, any incriminating statements relating to the co-defendants.

But before we start, Mr. Bugliosi, in order to place this thing in its proper context, would you, in effect, make an offer indicating what the purpose of these letters would be and how they fit into the case.

MR. BUGLIOSI: All right.

I believe Roni Howard testified yesterday, your Honor, that she disclosed to the police, I believe on November 17th, 1969, what Susan Atkins had told her previously in early November.

Subsequent to that, she testified that the case broke in the newspapers.

Subsequent to its breaking in the newspapers, she testified that she wrote a letter to Miss Atkins requesting a response.

In mid-December, 1969, she -- she testified

1 that in mid-December, 1969, People's 265 -- strike that --
2 Special Exhibit No. 8 was written to her by Susan
3 Atkins in response to her request to Susan Atkins that
4 Susan Atkins write her a letter.

5 Special Exhibit No. 8 contains several
6 incriminating statements that the prosecution alleges
7 tends to confirm that Susan Atkins did, in fact, have a
8 conversation with Roni Howard about the Tate murders,
9 No. 1; and No. 2, the letter tends to indicate that when
10 Susan Atkins made this statement to Roni Howard it was not
11 in jest that she was very serious about what she told
12 Roni Howard.

13 So, we are offering this letter, Special
14 Exhibit No. 8, which admittedly is hearsay, as admissions
15 against Susan Atkins, coming in only as against Susan
16 Atkins and not coming in against any of the co-defendants.

17 All references in the letter, direct or
18 indirect, that could in any fashion whatsoever be
19 considered by the jury against the co-defendants should
20 be deleted in conformity with the Aranda and Bruton cases.

21 Now, there are two other letters, of course,
22 your Honor, Special Exhibit 9 and 10, written by Susan
23 Atkins to two private individuals outside Sybil Brand.
24 Special Exhibit No. 9 was written to a Jo Stevenson on
25 December the 13th, 1969.

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1 THE COURT: Do you intend to call Stevenson?

2 MR. BUGLIOSI: No, your Honor, since there has been
3 a stipulation as to who wrote these letters.

4 In other words, there has been a
5 stipulation that Susan Atkins wrote the letters. I don't
6 think it is necessary to call Stevenson or Jo Fletcher to
7 authenticate them.

8 THE COURT: Should the stipulation include a further
9 stipulation that a letter was sent and received by any
10 particular person?

11 MR. BUGLIOSI: I was thinking of that yesterday.
12 I would request that stipulation.

13 MR. FITZGERALD: There is no way we can tell if it
14 was received.

15 MR. BUGLIOSI: Right, I really don't think it is
16 necessary. In fact, even if she had written a letter to
17 herself, it still would be admissible, especially Exhibits
18 9 and 10, it is my information, were censored by the
19 Sheriff's Office who in turn --

20 THE COURT: Let's not leave that other subject quite
21 so soon.

22 MR. BUGLIOSI: All right.

23 THE COURT: What is the evidentiary effect of a
24 letter where there is a stipulation only as to having
25 been written by the defendant Atkins but no evidence that
26 it was ever sent or communicated to anybody else; query,

1 first, is it a letter at all?

2 MR. BUGLIOSI: In Special Exhibit No. 8 we already
3 have testimony that Roni Howard received it.

4 Then we have her further testimony that Sadie
5 shouted out to her from about 14 feet away --

6 THE COURT: I am speaking about 9 and 10 now.

7 MR. BUGLIOSI: About 9 and 10.

8 I think the defense should stipulate that 9 and
9 10 were sent by Susan Atkins, whether they were received or
10 not is something else.

11 I think there should be a stipulation as to
12 that. We can call the Sheriff's Office to testify that these
13 were outgoing letters of Sadie Glutz, and they were censored.

14 MR. FITZGERALD: You see, the thing is that when
15 an inmate of either one of the jails writes a letter,
16 he writes a letter, leaves it open, affixes a stamp on it.

17 On the inside flap he writes his or her name,
18 the booking number and the location, and turns it in.

19 That inmate never receives notification as to
20 whether it was sent or not.

21 I would guess in the regular and ordinary course
22 of business that most of the letters are sent, but whether
23 a particular letter actually gets out --

24 Some of these letters are censored; some of them
25 are excised; some of them are returned to the inmate.

26 We don't have any information that these letters
were actually sent. If we could get information that

1 they were actually sent then we would be in a better
2 position to stipulate, and probably we would stipulate.
3 We just don't know.

4 MR. BUGLIOSI: I don't think it is that important
5 a point as far as the prosecution is concerned.

6 MR. MUSICH: Your Honor, just for the record, as
7 far as the letter of December 13th of which we do have
8 photocopies, I believe that it is part of the special
9 exhibit, the envelope of that particular letter with the
10 address and with the stamp on it, I would suggest as an
11 officer of the Court and counsel the mere writing of the
12 letter with the addressing and the return address and stamp,
13 et cetera, clearly shows the intent for it to be sent
14 through the mails.

15 It is more than likely that it was in fact
16 released and permitted to go through the process of the
17 mails.

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1 MR. HUGHES: Of course it is possible she wrote
2 this letter, addressed it, had it in her bunk and someone
3 else took it and deposited it.

4 That is possible.

5 MR. KANAREK: Because of the sensitivity of the
6 Sheriff, your Honor, to these -- to Miss Atkins, there
7 is a great probability the letter never went out.

8 The way those people think, there is a great
9 probability this letter never left the custody of the
10 Sheriff's Department, because in their mind this is vital
11 to the prosecution, and I would say you can almost bet
12 on it.

13 THE COURT: Is there some way of proving that it was
14 mailed?

15 MR. BUGLIOSI: We are trying to locate Kit Fletcher
16 right now. I believe that Kit Fletcher will testify that
17 she actually did receive this letter.

18 We located friends of Kit Fletcher who will
19 testify that Kit did receive letters from Sadie Glutz.

20 THE COURT: My question is whether or not there is
21 any way of indicating or showing whether the letters were
22 sent out of the jail?

23 MR. BUGLIOSI: I guess we would call the Sheriff's
24 Office.

25 MR. MUSICH: There is no doubt we can put on
26 testimony regarding the jail procedure, the censoring and

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1 the ordinary course of business, the letters would have
2 been photocopied and have been forwarded on to the United
3 States Mail.

4 Whether this particular letter was, we can
5 ^{assume} only by inference of the letter, the stamp, the fact that
6 it was photocopied, that it was forwarded and sent.

7 MR. SHINN: I think, Vince, anyway you have to bring
8 the officer in.

9 THE COURT: I am just raising the question as to
10 what the evidentiary effect would be of what appears to be
11 a letter if there is no evidence that it was ever communi-
12 cated.

13 MR. BUGLIOSI: Even assuming it was not communicated,
14 it in no way would be helpful to your client, Daye.

15 MR. SHINN: I am speaking of the fourth amendment.
16 You would have to bring the officer in to find out whether
17 or not he authorized the making of copies of letters, or
18 if he is supposed to read for the security reasons and
19 send it out.

20 MR. BUGLIOSI: The officer is not the one who
21 determines the law, Judge Older will apply the law, not
22 the officer. His testimony is irrelevant.

23 MR. SHINN: We have to find out what his duties are.

24 MR. BUGLIOSI: I will stipulate these letters were
25 censored by the Sheriff's office.

26 I will stipulate to that.

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1 MR. SHINN: Censored to what extent?

2 MR. BUGLIOSI: That they photographed the letters.

3 MR. SHINN: Are they looking for evidence to turn
4 over to the District Attorney's office? Is it their job
5 to do that, or just for security reasons to find out --

6 MR. BUGLIOSI: Security reasons.

7 MR. SHINN: Okay, but not to gather information.

8 MR. BUGLIOSI: No, but they did in fact turn it over
9 to us.

10 THE COURT: You don't have the originals of 9 and 10,
11 is that right?

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

13 MR. KANAREK: There is another point, your Honor.

14 THE COURT: And the photocopies were made by the
15 Sheriff's Department.

16 MR. BUGLIOSI: Yes.

17 THE COURT: Don't they make those photocopies as
18 they go out, is that the purpose of the photocopying?

19 -5b fls. MR. BUGLIOSI: That's right.

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1 MR. FITZGERALD: No, all letters that go out of the
2 jail are not photocopied. That would place an enormous
3 burden on the taxpayers of the County.

4 Only in particular cases are letters photocopied
5 and that is generally speaking when the District Attorney
6 asks the Sheriff to photocopy letters of particular inmates.

7 This is in my experience and I suggest --

8 MR. BUGLIOSI: Almost by definition you have to be
9 right, they cannot photostat every letter over there, they
10 would have to have five large photostat machines with 20
11 people working around the clock.

12 MR. KANAREK: I think the case of Lucille Miller,
13 which is in today's paper, I'm sure your Honor has read it,
14 I think it is right on point as to all three of these
15 letters. I would make a motion under 1538.5 of the Penal
16 Code because at that time Roni Howard was an agent of the
17 prosecution. Her state of mind -- she was there to get
18 written evidence which is very analogous --

19 THE COURT: There is no evidence whatever that she
20 was an agent of the prosecution.

21 MR. KANAREK: Pardon?

22 THE COURT: There is no evidence whatever that she
23 was an agent of the prosecution.

24 MR. KANAREK: That is a fact question. That is why
25 I move under 1538.5 of the Penal Code, I move for an
26 evidentiary hearing because I believe that Roni -- even you

1 take Mr. Bugliosi's present statement wherein she was
2 working with the police, she instigated the correspondence
3 to get something back from Sadie.

4 She is a sophisticated person who is very
5 knowledgeable.

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1 THE COURT: Well, Mr. Kanarek, let's not waste
2 any time on that with respect to Miss Howard. I have
3 heard her testimony. There is no evidence whatever that
4 she was an agent for anyone.

5 Now, if you want to talk about the other
6 two letters as to which there has been no evidence at all
7 yet other than a stipulation as to foundation, that is
8 another matter.

9 MR. KANAREK: What I am saying is, your Honor, that
10 her protestation -- that isn't the point -- the point is
11 that in connection with this letter, we are entitled to
12 a 1538.5 evidentiary hearing because Mr. Bugliosi says she
13 instituted correspondence at this time in order to get a
14 letter back. And you can make the inference that she did
15 that because she wanted something in writing under Sadie's
16 own handwriting; and you can make the inference that this
17 was done to aid law enforcement, as a result of law
18 enforcement's request.

19 THE COURT: Mr. Kanarek, we are just going around
20 and around. If you have some evidence that she was an
21 agent, of course you have a right to offer that evidence,
22 but there is none now. So, let's not waste any time on
23 that.

24 Now, if you want to talk about the other
25 letters, that is another matter.

26 MR. KANAREK: The same thing applies. The Miller

1 case just came down --

2 THE COURT: "The same thing" is simply a statement
3 that there is no evidence.

4 Now, if there is some evidence, or if you are
5 objecting, or if there is going to be an objection on the
6 ground of unreasonable search and seizure, then that ques-
7 tion will have to be dealt with.

8 MR. KANAREK: I think it can be eliminated as hear-
9 say in any event, your Honor. Those last two letters
10 certainly are not admissions. They are not admissions
11 and they are not confessions.

12 MR. SHINN: Your Honor, I don't see anything in the
13 letters that would aid the prosecution, your Honor.

14 MR. BUGLIOSI: Then why do you have an objection?

15 MR. SHINN: Just for the record.

16 MR. BUGLIOSI: Just for the record?

17 MR. KANAREK: We live by the law. This is a law and
18 order era, supposedly.

19 MR. SHINN: I have a few cases that state the Fourth
20 Amendment does apply to letters.

21 MR. BUGLIOSI: Before we get into that, why don't you
22 stipulate that Sadie did send these letters?

23 The fact that she wrote them is the crucial
24 thing. The fact that she wrote them is the whole ball of
25 wax. That is the incriminating thing, that she sat down
26 and she wrote these letters.

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1 MR. KANAREK: But there is nothing in them.

2 MR. BUGLIOSI: That is something else.

3 MR. FITZGERALD: That is not true.

4 Exhibit 9, if believed, would tend to corroborate
5 Roni Howard.

6 I can see where the prosecution wants the
7 letters in evidence.

8 MR. BUGLIOSI: Yes. But I am saying that there
9 should be a stipulation that Sadie not only wrote these
10 letters but she sent them.

11 If you are going to stipulate that she wrote
12 them, that is the incriminating thing. It is not incrimin-
13 ating to add that she sent them.

14 MR. KANAREK: It is a Miler type of thing, where they
15 are the active -- they had someone in the jail.

16 MR. BUGLIOSI: You are missing the point.

17 MR. FITZGERALD: I am not missing the point,
18 Mr. Bugliosi; I would be willing to stipulate if I knew
19 that were the fact.

20 But I hesitate ever to stipulate to things that
21 I don't know.

22 MR. BUGLIOSI: Ask Sadie. Ask her, "Did you send these
23 letters?" If she says, "No," then maybe we will put on
24 evidence. But I don't see why that is an issue.

25 MR. FITZGERALD: At best, all Sadie can say is that
26 in the regular course of business over there at Sybil Brand

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1 she turned these in to be mailed.

2 MR. BUGLIOSI: All right. We don't care for more than
3 that.

4 MR. FITZGERALD: That is all we can possibly stipulate
5 to.

6 MR. BUGLIOSI: Ask her about it.

7 MR. FITZGERALD: If we talked to her and she said
8 that is the fact, we would be happy to stipulate to that.
9 There is no problem of that.

10 MR. BUGLIOSI: I think that is all that is relevant,
11 that Kitt Fletcher and Jo Stevenson got the letters.

12 THE COURT: Do you want to check that point at this
13 time?

14 MR. KANAREK: I don't know if I can enter into that
15 stipulation, your Honor.

16 (Whereupon, all defense counsel leave the
17 Court's chambers.)

18 (All defense counsel return to Court's chambers.)

19 MR. BUGLIOSI: Your Honor, the prosecution has
20 decided that we do not intend to offer into evidence
21 Special Exhibit No. 10.

22 MR. SHINN: That is the sympathy letter?

23 THE COURT: That is the "Dear Kitt."

24 MR. MUSICH: There is nothing really incriminating.

25 MR. BUGLIOSI: There are incriminating things in
26 there, but for various reasons we have decided not to offer

1 it into evidence.

2 So, now we are talking about Special Exhibit
3 No. 9 only.

4 Have you spoken to Miss Atkins?

5 MR. FITZGERALD: Yes.

6 I wonder if I might do this off the record?

7 THE COURT: Very well.

8 (An off-the-record discussion was had.)
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1 MR. FITZGERALD: It is my understanding that the
2 People intend to introduce into evidence what has been
3 heretofore marked Court Special Exhibits 8 and 9.

4 8 relates to a so-called letter that was
5 transmitted not within the United States mail system,
6 but surreptitiously within the jail system allegedly from
7 Susan Atkins to Roni Howard.

8 People's Exhibit 9, or Special Exhibit 9,
9 is a letter entitled Dear Jo.

10 It is my understanding, your Honor, that the
11 evidence will show that this was censored by the Sheriff,
12 and a photocopy of the letter was secured before the letter
13 was actually placed into the United States mail system for
14 delivery to the addressee.

15 We contend that such an interception process,
16 whereby the letter is censored and photocopied violates
17 the Fourth Amendment to the United States Constitution in
18 that it is an illegal search and seizure, in that it
19 violates the correspondent's right to privacy.

20 And in that regard I would concede, arguendo,
21 that the Sheriff or any duly constituted custodial official
22 has the right and perhaps in some cases they may even have
23 the obligation to censor mail, particularly when it
24 relates to security and escapes and attempted jail breaks
25 and that sort of thing.

26 But it appears that in this case the Sheriff

1 photocopied the letter in order to secure evidence that
2 one of their inmates, Sadie Glutz, true name Susan Atkins,
3 and I think that when it is not directly related to any
4 security problem it is in fact a search, and I think --
5 well, for the purposes of this objection I will state that
6 to my knowledge there was no search warrant for any
7 letters from Susan Atkins to any other person.

8 THE COURT: What about where an inmate is well aware
9 that his mail will be censored?

10 MR. FITZGERALD: People vs. Edwards, interpreting
11 United States vs. Katz enunciates the so-called reasonable
12 expectation of privacy doctrine, and it would seem that
13 there is a direct reference, I believe, in No. 9 --

14 THE COURT: That is right, the last sentence of the
15 first paragraph.

16 MR. FITZGERALD: "So I don't want to say anything
17 about it because of the censor."

18 It would appear that that is strong evidence
19 that Miss Atkins did not have a reasonable expectation of
20 privacy.

21 I am not grounding my argument on the reason-
22 able expectation of privacy grounds.

23 I am arguing that in any event the Sheriff
24 does not have a right to accumulate evidence against one
25 of the inmates not related to some security procedures or
26 some security problem in the jail.

1 MR. SHINN: I join in Mr. Fitzgerald's argument.

2 MR. KANAREK: Your Honor, I would join with the
3 exception that I don't concede that the jail people have
4 any right to censor mail, period.

5 That is my position.

6 Otherwise I join in Mr. Fitzgerald's statements.
7 I don't think that anybody -- whether someone is in custody
8 or if someone was on bail --

9 THE COURT: You think the jail should be run more
10 like a university where there is no security proceedings.

11 MR. KANAREK: No, your Honor, I think that the
12 people that are in jail are entitled to the presumption of
13 innocence.

14 This jail has in it predominantly unsentenced
15 people, and we are losing our cool.

16 We are becoming paranoid, and we are losing
17 that presumption of innocence, otherwise I agree with Mr.
18 Fitzgerald.

7a fls.

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1 THE COURT: There is no presumption of security
2 though, Mr. Kanarek.

3 MR. KANAREK: Well, I disagree, I mean most respect-
4 fully, with the Court. I think that is part of our
5 problem in this country today because we are forgetting some
6 of the basic --

7 THE COURT: Would you do away with locks and bars and
8 some of those precautions?

9 MR. KANAREK: No, your Honor, I wouldn't, but I say
10 under the bushel basket of security a lot of untoward
11 things are done, and I don't believe these unsentenced
12 people should be treated this way.

13 There is a presumption of innocence.

14 THE COURT: Unfortunately for your position,
15 Mr. Kanarek, I understand the present law to be otherwise.

16 MR. KANAREK: I don't believe it is, if I may --

17 THE COURT: Do you care to cite some authority?

18 MR. KANAREK: Yes, in re Miller.

19 THE COURT: I am familiar with that, it has nothing
20 to do with the facts of this case.

21 MR. KANAREK: That is the Lucille Miller case which
22 I don't have the benefit of the actual --

23 THE COURT: The situation stated by Mr. Fitzgerald is
24 the law. I don't think the letters are inadmissible on the
25 ground stated.

26 Now, they may be inadmissible for some other

1 reason, but on that basis I don't think they would be
2 inadmissible.

3 MR. KANAREK: I think the burden is this, your Honor,
4 since Mr. Fitzgerald has enunciated a Fourth Amendment
5 right, then I enunciated, I think it is fair to state,
6 based on 1538.5 we are entitled to an evidentiary hearing,
7 not just chit-chat or representations.

8 THE COURT: Perhaps the People are willing to stipulate
9 that the letters were obtained by the jail censor.

10 MR. BUGLIOSI: I will stipulate to that.

11 THE COURT: I assumed that was the fact when Mr.
12 Fitzgerald commenced his argument.

13 There seems to be no question about that.

14 MR. KANAREK: Yes, but there is a big question as to
15 whether this letter ever got out of Sadie's locker. That is
16 part of the evidence.

17 They have the burden, you see, under -- since
18 there is no warrant, the burden shifts to them to prove it.

19 If it is still in the locker, we are not
20 stipulating this ever left the locker, the fact that she said
21 this, intended to get to the censor, does not mean it ever
22 did.

23 So they have the factual --

24 THE COURT: I think the People will have to lay a
25 foundation at least as to that portion, as to where they
26 got the letter, as to No. 9.

8 was obtained from whom?

MR. BUGLIOSI: Roni Howard.

THE COURT: From her directly?

MR. BUGLIOSI: Roni Howard apparently gave the letter to Wes Russell.

MR. HUGHES: I think there is a big question on that.

MR. FITZGERALD: We are talking about No. 9.

MR. BUGLIOSI: 9, as I understand it, was censored by the Sheriff's office.

THE COURT: You will have to prove that. You will have to offer evidence on that in order for the Court to rule on Mr. Kanarek's objection.

As he says, it might have been taken from her personal effects rather than as a result of censorship.

MR. MUSICH: Even assuming that, arguendo, I feel the law in this area, the Fourth Amendment search and seizure laws cannot in any way apply to a jail inmate.

THE COURT: You may be right. I would like to see some authority on that particular point.

MR. BUGLIOSI: The landmark case is Lanza vs. United States, 370 United States 139, 82 Supreme Court 1218, where the --

THE COURT: What year was that case?

MR. BUGLIOSI: Lanza I think was 1961 -- 1961 rings a bell with me on Lanza.

1 That is a landmark case.

2 THE COURT: That was based upon the New York prison
3 official electronic interception of a visitor's room
4 conversation between a witness and the prisoner's brother.

5 MR. BUGLIOSI: Lanza held that the Fourth Amendment
6 incorporated into the Fourteenth simply was not applicable
7 to inmates of jails or prisons; that the usual array of
8 federal and state constitutional rights as guaranteed to
9 non-incarcerated citizens do not apply once a person enters
10 the jail.

11 People vs. Lopez, 60 Cal. 2d 223 at Page 248,
12 the Court said and I quote:

13 "Except only insofar as concerns consul-
14 tation with his attorney in a room designated
15 for that purpose, a prisoner has no right of
16 privacy in a jail."

17 Then there are several other cases,
18 People vs. Dinkins, 242 Cal. Ap. 2d, Page 902 and 903.

19 In that case a letter written by the defendant
20 from a Long Beach jail was censored and introduced into
21 evidence.

22 The Court held this was proper, and they cited
23 approvingly Stroud vs. United States, 251 U.S. 15, the
24 Birdman of Alcatraz.

25 The Court said certain letters were offered in
26 evidence at the trial containing expressions tending to

1 establish the guilt of the accused. These letters were
2 written by him after the homicide and while he was an inmate
3 of the penitentiary at Leavenworth.

4 They were voluntarily written and under the
5 practice and disciplines of the prison were turned over
6 ultimately to the warden who furnished them to the District
7 Attorney.

8 In this instance the letters were voluntarily
9 written, no threats or coercion were used to obtain them,
10 nor were they seized without process.

11 They came into the possession of the principals
12 in the penitentiary under established practice.

13 Under such circumstances there was neither
14 testimony required of the accused, nor was there unreason-
15 able search and seizure in violation of constitutional
16 rights.

17 MR. KANAREK: But interestingly enough, without looking
18 at it, the Miller case involves the same general --

19 MR. BUGLIOSI: Miller says the same thing.

20 MR. KANAREK: But Miller was reversed by the Court of
21 Appeals of the Ninth Circuit.

1 MR. BUGLIOSI: Not on that ground, this party was
2 an agent of the police and should have advised Miller of
3 her constitutional rights. Miller still holds there is no
4 right of privacy in jail.

5 I am told it was not reversed on that ground,
6 but on the ground that an agent had to give rights.

7 MR. FITZGERALD: We cannot base it on the Los Angeles
8 Times.

9 THE COURT: Are you going to offer any evidence,
10 Mr. Bugliosi, as to where the letter was obtained?

11 MR. BUGLIOSI: If the Court feels that it is necessary.

12 THE COURT: Well, I think it is. I think that the
13 People have the burden of showing at least how the letter
14 was obtained, that is, whether it was forcibly extracted
15 from the defendant's person in some manner, or whether it
16 was acquired during a censorship process, or acquired in
17 some other manner.

18 I have no idea how it was obtained.

19 MR. BUGLIOSI: Mr. Fitzgerald just spoke to Miss
20 Atkins. She is not even alleging that someone took it
21 forcibly from her.

22 MR. KANAREK: She doesn't have to. The burden is on
23 you, Mr. Bugliosi.

24 MR. SHINN: She doesn't recall mailing it.

25 MR. FITZGERALD: I think it certainly would be helpful
26 if you did lay the foundation because we would like to ask

1 the Sheriff's some questions as to whether or not a special
2 hold was put on her mail, whether there were directives
3 from the Los Angeles Police Department or the District
4 Attorneys Office to hold and photocopy her mail, particularly,
5 and the other defendants in the case.

6 I think our record would be much stronger were
7 that the case.

8 THE COURT: I don't know if you would be able to go
9 into all of that. All that they are asked is what they did
10 with one letter. That seems to be going beyond the scope of
11 the direct examination.

12 MR. FITZGERALD: I would anticipate it will be very
13 short, and furthermore you received the letter from somebody,
14 it got in your possession somehow.

15 MR. BUGLIOSI: Right, unquestionably it came from the
16 Sheriff's Office, I will stipulate to that.

17 THE COURT: I will reserve any ruling on the motion
18 under 1538.5.

19 The People's case is still open. Presumably
20 Mr. Bugliosi will offer some additional evidence on that
21 subject, and then when he rests the defendants may offer
22 evidence in their behalf if they wish, and then the Court
23 will ultimately rule on it.

24 The motion will remain open at the present time
25 and we will go on to something else.
26

7c-1

1 MR. KANAREK: Yes, your Honor, what about the
2 motion --

3 MR. BUGLIOSI: Before you go any further, is the
4 Court going to rule on the issue of whether the Fourth
5 and Fourteenth apply to prisoners in jail.

6 MR. KANAREK: The Court is going to rule on the
7 whole motion.

8 THE COURT: I am not called upon to make that kind
9 of a ruling.

10 I want to hear what the evidence is first with
11 respect to this motion, then I will rule on this motion.

12 MR. BUGLIOSI: It is the People's position that it
13 does not apply, no matter how they got it.

14 We will put on evidence of how they got it,
15 but irrespective of how they got the letter, apparently
16 under Lanza and Stroud, it is admissible -- and Lopez.

17 THE COURT: It is conceivable that it was acquired
18 in some other way entirely, that it was not acquired in
19 the jail at all.

20 In other words, it is not enough to say it
21 doesn't matter how you got it. That may be true if it was
22 acquired in the jail; it may or may not be true.

23 Suppose it were acquired in some other manner.

24 MR. MUSICH: The problem is whether or not we can
25 find the actual person who photocopied this particular
26 letter. It might be just in the ordinary course of

1 business.

2 THE COURT: That is one of the problems of being a
3 prosecutor.

4 All right, gentlemen, let's get on.

5 MR. HUGHES: I think there is another problem that
6 is with letter 8, the chain of custody of that letter.

7 Roni Howard at page 13,814, Volume 126 of
8 the transcript, says when asked by Mr. Shim "What did you
9 do with this letter later?"

10 She said "I gave it to my attorney."

11 And she indicated in other testimony that that
12 was the last that she ever saw of that letter until the
13 police showed it to her.

14 MR. BUGLIOSI: In any event she positively identified
15 the letter.

16 MR. HUGHES: But it leaves the implication from what
17 she said in my mind that this letter leaving her -- that
18 it went to her attorney, and from where it went from there,
19 as if it were stolen from him -- or stolen from her.

20 THE COURT: I don't see any difficulty there.
21 She has personally identified the letter.

22 MR. HUGHES: Suppose the police had broken into her
23 attorney's office and stolen it. That is possible. I
24 doubt that is how it happened. I believe probably Mr.
25 Russell gave it to the District Attorney.

26 I believe we may have that problem.

1 THE COURT: I don't see any problem at all with
2 respect to that.

3 Let's get on to Special Exhibit No. 8.

4 MR. KANAREK: Well, then, your Honor, as far as
5 the 1538.5 goes, as to this, as to Roni Howard being an
6 agent --

7 THE COURT: We don't have to go over it again, Mr.
8 Kanarek, it's been stated very clearly, it's on the record.
9 Now it won't be on the record any more if we clutter the
10 record up by saying it all over again.

11 Special Exhibit No. 8, gentlemen, first sentence,
12 any comment?

13 MR. FITZGERALD: Well, this obviously refers, Judge,
14 to something -- well, all right, I will withdraw the
15 comments.

16 No comments on sentence one.

17 MR. KANAREK: My position is it is hearsay, your
18 Honor, sentence No. 1.

19 THE COURT: Sentence No. 2, we are talking now about
20 Bruton-Aranda, Mr. Kanarek.

21 MR. KANAREK: Only on Bruton-Aranda, not on the
22 hearsay aspect?

23 THE COURT: That's right, you may reserve all of
24 those objections.

25 MR. KANAREK: Very well, certainly.

26 MR. FITZGERALD: No. 2 is all right also.

1 THE COURT: No. 3?

2 MR. FITZGERALD: 3 is all right.

3 THE COURT: No. 4?

4 MR. FITZGERALD: 4 is all right.

5 MR. KANAREK: Well, yes, your Honor.

6 THE COURT: What about the next one?

7 MR. BUGLIOSI: The next one should be deleted, no
8 question about it.

9 MR. FITZGERALD: Beginning "my attorney is going to
10 go on insanity."

11 THE COURT: That should be deleted?

12 MR. BUGLIOSI: You said the next one.

13 THE COURT: I am talking about "my attorney is going
14 to go on insanity."

15 MR. BUGLIOSI: I don't know.

16 MR. MUSICH: It might, arguendo, imply a fabricated
17 type of defense, and it might also imply commission of the
18 offense.

19 MR. FITZGERALD: It might also imply that she made
20 up the story to Roni Howard as part of her grandiose
21 insanity scheme, so it is one of those equivocal statements
22 that cut several ways.

23 MR. BUGLIOSI: Why don't we just delete it.

24 MR. FITZGERALD: Why don't we just leave it?
25
26

7d fls.

7d-1

1 MR. SHINN: Leave it in, I have no objections.

2 THE COURT: I don't think the editing process leaves
3 a great deal of discretion to the Court as to whether a
4 statement stays in or out, just because you don't happen to
5 like the looks of it.

6 The editing process is to delete those statements
7 which tend to incriminate either directly or indirectly a
8 codefendant.

9 I cannot see that this one does.

10 MR. SHINN: I agree with the Court.

11 THE COURT: And therefore it should stay in.

12 MR. FITZGERALD: That is not true, however, with the
13 next one. I think that has to go out in toto as well as
14 the following sentence.

15 MR. KANAREK: Up to the rest of that paragraph.

16 MR. FITZGERALD: It begins "Yes, I wanted the world
17 to know 'M.'"

18 I believe that obviously refers to Manson.

19 THE COURT: I believe the balance of that whole
20 paragraph should go out.

21 MR. BUGLIOSI: It doesn't refer to Roger Maris, I
22 will tell you that.

23 THE COURT: Because the last sentence wouldn't mean
24 anything.

25 MR. BUGLIOSI: The Court wants to take out, then,
26 "Yes, I wanted the world to know 'M,' it sure looks like

1 they do now," and then the next two lines also --

2 THE COURT: Yes.

3 MR. KANAREK: Of course that is in the Herald Examiner
4 today, it so happens, regrettably.

5 MR. FITZGERALD: What about the first sentence of the
6 next paragraph?

7 MR. BUGLIOSI: Definitely will have to be deleted,
8 the second line.

8-1

1 MR. BUGLIOSI: The second line.

2 THE COURT: The first sentence will be deleted.

3 MR. SHINN: Completely? Or are you going to put
4 down, just say, "There are no strangers to me," or delete
5 it?

6 MR. BUGLIOSI: The whole sentence.

7 MR. SHINN: The cases that I have seen in the past,
8 in a case like that, they just put down "There are no
9 strangers to me," or delete it.

10 MR. FITZGERALD: I have some difficulty because,
11 actually, the sentence is unintelligible, at least from
12 my establishment frame of reference.

13 THE COURT: It is also in the disjunctive.

14 She is not saying "There are no strangers to
15 me," she is saying "There are no strangers to me or
16 'M.' That is, between us we know everybody."

17 MR. BUGLIOSI: Your Honor, the Court indicated --

18 THE COURT: That is what she is saying.

19 MR. FITZGERALD: That's right.

20 MR. BUGLIOSI: The Court indicated that the only
21 issue here is Aranda or Bruton. Actually, I think we can
22 delete other sentences apart from Bruton and Aranda if
23 there is a stipulation.

24 Will that be all right? If there is a stipula-
25 tion between the prosecution and defense counsel, if
26 certain words or sentences should go out, apart from

8-2

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Aranda and Bruton?

8a

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MR. KANAREK: In the Virginia Graham statement -- or was it the Roni Howard statement -- she testified about "the other man" and the Court definitely made it "a man."

5

MR. BUGLIOSI: No, I don't agree with that.

6

THE COURT: Let's not go back to that.

7

MR. KANAREK: Very well.

8

MR. BUGLIOSI: I mentioned that because with this first line here, even assuming you take out "or 'M'," even if you assume the rest is not an Aranda problem, certainly the defense and prosecution can stipulate to removing the whole line.

13

MR. FITZGERALD: I offer to stipulate that you can remove the whole first sentence of the second paragraph beginning with the word "in" and ending with the letter "M."

16

MR. BUGLIOSI: Okay.

17

MR. SHINN: I will object to that.

18

I think we should put in place of "M" the word "deleted."

20

THE COURT: It changes the meaning of the sentence.

21

I don't consider it to be of great moment.

22

MR. BUGLIOSI: Not only that, but it violates

23

Aranda.

24

Aranda says you can't let the jury fill in the blanks, if you fill in the blanks and it would implicate the co-defendant.

26

8-3

1 THE COURT: I think the next four sentences are all
2 right.

3 MR. KANAREK: No, your Honor. I can't agree, because
4 this is what Mr. Bugliosi is putting in in connection with
5 his theory of the case. This is foisted upon Mr. Manson,
6 all of this ego thing, "All ego must die."

7 You look at Juan Flynn's testimony in connection
8 with Mr. Manson. Aranda says it cannot be used if there
9 is any way that it can hurt a co-defendant. All of that
10 goes to philosophy.

8b fls.

8-4

1 THE COURT: I see nothing in there that would in any
2 way implicate any co-defendants.

3 MR. KANAREK: Because of the other matters that
4 Mr. Bugliosi has brought out.

5 THE COURT: Simply because one defendant has used
6 the same words that another defendant has used, under
7 different circumstances, that doesn't mean anything.

8 MR. KANAREK: They are talking about acting in
9 concert, about a conspiracy.

10 THE COURT: Where is the implication?

11 MR. KANAREK: The type of words that are used.
12 "The only thing that dies is the ego. All ego must die
13 anyway, it is written. Yes, it could have been your house,
14 it could have been my father's house also."

15 This substantiates by this declarant Mr.
16 Bugliosi's case against Mr. Manson where he claims, the
17 prosecution even had Juan Flynn testify --

18 THE COURT: That isn't the testimony.

19 MR. KANAREK: Yes, it is.

20 May I show your Honor the language in the
21 Aranda?

22 THE COURT: I have seen it a hundred times in the
23 last two weeks, Mr. Kanarek.

24 MR. KANAREK: It must be deleted if it can be used
25 in any way against the defendants.

26 THE COURT: Mr. Kanarek, don't waste time repeating

8-5

1 the same things. I know that.

2 Show me where the implication is?

3 MR. KANAREK: I am telling it to the Court.

4 THE COURT: You are just citing Aranda to me.

5 MR. KANAREK: All right.

6 I am telling the Court.

7 When she puts down this kind of philosophy,
8 which is the very philosophy that Mr. Bugliosi referred to
9 in his opening statement, and which he has put evidence on--

10 MR. BUGLIOSI: There was nothing in my opening state-
11 ment about killing the ego.

12 THE COURT: The opening statement is not evidence.

13 MR. BUGLIOSI: I didn't refer to it in my opening
14 statement.

15 MR. FITZGERALD: I think I can illustrate the problem
16 graphically and get to exactly what Mr. Kanarek is talking
17 about.

18 If you refer, your Honor, to the sentence at
19 the end of that train of thought that goes as follows:
20 "Life has no boundaries and death is only an illusion,"
21 Mr. Bugliosi is going to put on evidence later in this
22 case that Mr. Manson said frequently that death was
23 simply an illusion.

24 And that is what Mr. Kanarek is talking about.
25 He is saying that they are actually going to put some of
26 these words as coming out of Manson's mouth at some point

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8c fls.

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in the case. And your Honor's rejoinder apparently is:
Susan Atkins and Charles Manson shared common beliefs.

8c-1

1 THE COURT: That was the comment that I made, yes.

2 Let's hear from the People.

3 Suppose you started and deleted everything in
4 that paragraph down to the sentence beginning with "I am
5 not going to fight this"?

6 MR. BUGLIOSI: No, your Honor. I would hope the
7 Court would not.

8 THE COURT: What would be lost?

9 MR. BUGLIOSI: Well, it is exceptionally important
10 that we have in here, among other things, "It could have
11 been your house, it could have been my father's house also."
12 I definitely want that in.

13 That goes towards the intent to kill, the intent
14 to commit murder.

15 MR. MUSICH: Also, "In killing someone physically you
16 are only releasing the soul. Life has no boundaries and
17 death is only an allusion."

18 Clearly, that shows some premeditation, some
19 intent, some feeling as far as killing a person, which
20 requires specific intent, which requires the intent to
21 kill. A person who has no qualms about it certainly has the
22 premeditated intent and malice for murder.

23 MR. KANAREK: If she were on trial by herself, yes,
24 but this, inferentially and circumstantially, because of the
25 other evidence that the prosecution is putting before the
26 jury, this inveighs against Mr. Manson, just as Mr.

1 Fitzgerald pointed out.

2 MR. BUGLIOSI: I don't see how you can say that.

3 MR. KANAREK: Mr. Bugliosi has said how unique this
4 case was, that he has never heard of things like this
5 before.

6 MR. BUGLIOSI: I haven't.

7 MR. KANAREK: That's right.

8 MR. BUGLIOSI: With respect to the second and third
9 line, "In the word kill, the only thing that dies is the
10 ego. All ego must die anyway, it is written."

11 I anticipate that Mr. Manson will even testify
12 that way on the witness stand, if he does testify, and that
13 there will be other evidence, perhaps, indicating that
14 this was a philosophy of his.

15 Now, query whether Aranda really excludes it.

16 THE COURT: Of course, you have alleged a conspiracy
17 and you have attempted to prove that there was a Family.

18 MR. BUGLIOSI: To play it safe, why don't we exclude
19 those two lines, indicating "The only thing that dies is
20 the ego. All ego must die anyway, it is written."

21 That is Manson's philosophy there.

22 I am not saying that it violates Aranda, but
23 there is a possibility that it does. I am not stipulating
24 that it does, but I will stipulate that it can be deleted.

25 However, the next line --
26

8d-1

1 MR. MUSICH: Excuse me. May I comment in that
2 regard?

3 I think the crucial factor are the words "it
4 is written." I don't think the other statements are.
5 Just "it is written."

6 MR. BUGLIOSI: I am not aware of Mr. Manson writing
7 this.

8 MR. MUSICH: There might be something in that statement,
9 "It is written," whether it is in the Bible or scriptures or
10 in a hippie magazine or in Manson's diary. That is
11 possible. But I can't see how you can delete anything
12 further than that. This is something personally written.
13 It is something about her personal feelings. It has got
14 nothing to do in any way, by innuendo or anything else, it
15 can't float over and be connected with some other evidence.

16 MR. BUGLIOSI: It is a statement of her own belief,
17 that she went there that night, and it could have been your
18 house or anyone else's house, everyone was going to die.

19 This in no way implicates Charles Manson.
20 We are charging Susan Atkins with seven counts of murder,
21 and we have to prove that she had a premeditated intent
22 to kill, and this goes toward that issue right there.

23 MR. KANAREK: Mr. Bugliosi is going to argue that
24 this fact situation is unique, it never happened before
25 and never will happen again. I can hear his argument to
26 the jury now.

8d-2

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MR. MUSICH: That is only argument, Mr. Kanarek.

2

We are only concerned with the evidence before the jury,

3

and so far as this evidence going also before the jury,

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to connect the other evidence to incriminate your client,

5

I can't see how words out of the mouth of Susan Atkins

6

written here on paper about her feelings about "killing

7

someone is only releasing the soul" and "life has no

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boundaries and death is only an illusion" can in any way

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be connected with your client.

10

MR. KANAREK: Because of the very thing that the

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Court has pointed out and Mr. Fitzgerald pointed out,

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that there is evidence to be connected up and show the

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whole philosophy.

14

MR. FITZGERALD: You are going to put these words

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in Manson's mouth.

16

MR. KANAREK: No question.

17

MR. BUGLIOSI: "Death is only an illusion" will be

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put in Manson's mouth. So that will have to go out.

19

But where she says "It could have been your

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house, it could have been my father's house," I think that

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definitely should stay in.

22

MR. KANAREK: You have got to remember, Mr. Bugliosi,

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you have got other evidence. These matters that you are

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going to put before the jury are going to be against Miss

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Atkins and Mr. Manson by independent witnesses.

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THE COURT: I am going to make a decision. We are

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going to strike out that entire paragraph down to

8e fls.

"I am not going to fight this."

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

2 THE COURT: You have been heard, everybody has been
3 heard, and I finally have to make a decision, and that is
4 what it is going to be.

5 MR. BUGLIOSI: Your Honor, the prosecution is very
6 cooperative and agreeable and joins with the defense on
7 several of these lines, but this one line, your Honor --

8 THE COURT: It isn't a question of being cooperative,
9 Mr. Bugliosi. It is a question of whether or not there
10 can be effective deletion or whether or not it will be
11 indirectly incriminating. And I believe it can, because of
12 the unique nature of this case and the theories advanced,
13 and I am sure what will be the argument and also the evidence
14 of other witnesses as to statements made by Mr. Manson.

15 MR. BUGLIOSI: We are not going to put on any evidence
16 that he said it didn't make any difference what house they
17 went to. We are not going to offer any evidence of that.
18 In fact, my argument, as I envision it, will be that these
19 two homes were specifically picked out by Mr. Manson for a
20 particular reason: One home he had already been to; and
21 the other home was next door to a home where he had been to.

22 So, your Honor, I don't intend to argue that.

23 THE COURT: I think the second sentence might stay in.

24 MR. BUGLIOSI: That is what I was referring to, just
25 that sentence right there.

26 MR. SHINN: What sentence?

8e2

1 MR. KANAREK: That is just another way of saying the
2 same thing.

3 MR. BUGLIOSI: It refers to her premeditated intent
4 to kill.

5 THE COURT: That sentence may stay in.

6 MR. KANAREK: Your Honor, it shows the complete
7 willy-nilly abandoned malignant heart. This goes to the
8 very philosophy that he says Manson has.

9 MR. FITZGERALD: The next bad one is "'M' does not
10 care."

11 "Insanity is reality and not caring." There
12 appears to be nothing wrong with that.

13 "When you truly love you do not care about
14 anyone or anything, you just love." That appears all right.

15 MR. BUGLIOSI: Let's take it a sentence at a time.

16 The Court is going to strike "insanity is
17 reality and not caring"?

18 THE COURT: No. I am backtracking, Mr. Bugliosi.

19 So far, in that paragraph, everything is
20 stricken except "Yes it could have been your house. It
21 could have been my father's house also."

22 The following sentence is stricken.

23 The sentence after that is stricken.

24 The sentence after that is stricken.

25 Then the next sentence that will remain in is
26 "Insanity is reality and not caring. When you truly love you

1 do not care about anyone or anything you just love."

2 Then the following sentence will be eliminated.

3 MR. FITZGERALD: Right.

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1 THE COURT: What about after that?

2 MR. MUSICH: I don't have a period. Is there a
3 period after "love" and before "M"?

4 THE COURT: Yes.

5 MR. BUGLIOSI: Yes.

6 MR. FITZGERALD: The next sentence --

7 MR. KANAREK: Your Honor, if I may, just briefly?

8 This means it could have been the jurors'
9 house, it could have been your house, it could have been
10 my father's house. It could have been the jurors' house,
11 and Mr. Bugliosi is going to argue that.

12 THE COURT: If that is what the statement says, that
13 is what it says.

14 MR. KANAREK: Then that will inculcate Mr. -- if this
15 were Mr. Manson's statement, it would be different, your
16 Honor.

17 THE COURT: We have gone by that one. You may make
18 your objection at the proper time.

19 MR. FITZGERALD: Now, the sentence after "'M' does
20 not care," that goes "I know this to be the truth," you
21 don't know whether that is referring to "'M' does not care"
22 or if that is referring to "if you truly love you do not
23 care about anyone or anything, you just love."

24 THE COURT: I think the next three sentences have to
25 come out, otherwise there will be an ambiguity.

26 MR. FITZGERALD: The next two sentences have to go

1 out, your Honor.

2 I take it, you would leave "I am not going
3 to fight this. I will let my attorney do that."

4 THE COURT: That is right.

5 MR. KANAREK: Your Honor, if I may say this? This
6 sentence about "it could have been my father's house"
7 means that she is following Mr. Manson's instructions.
8 I mean, this is a very, very -- this is a very, very --
9 it isn't the number of words that comes out that count,
10 your Honor, it is the thought.

11 THE COURT: I can't agree with you, Mr. Kanarek.

12 MR. SHINN: Your Honor, are we doing this just
13 temporarily and then will argue about the complete
14 thing later?

15 THE COURT: Yes. You are not waiving any objection.

16 MR. BUGLIOSI: Does the Court want to recess now?

17 THE COURT: Yes. We will recess now until 2:00
18 o'clock.

19 (Whereupon at 12:01 p.m. the court was in
20 recess.)
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