

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.

196

No. A253156

REPORTERS' DAILY TRANSCRIPT
Monday, March 8, 1971

APPEARANCES:

For the People:

VINCENT T. BUGLIOSI,
DONALD A. MUSICH,
STEPHEN RUSSELL KAY,
DEPUTY DISTRICT ATTORNEYS

For Deft. Manson:

I. A. KANAREK, Esq.

For Deft. Atkins:

DAYE SHINN, Esq.

For Deft. Van Houten:

~~RONALD X HUGHES XXX Esq.~~

For Deft. Krenwinkel:

MAXWELL KEITH, Esq.
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MURRAY MEHLMAN, CSR.,
Official Reporters

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I N D E X

DEFENDANTS' WITNESSES: DIRECT CROSS REDIRECT RECROSS

CABALLERO, Richard	25785Ka	25876B	25889S
(Cont'd)	25875Ke		25916Ka

E X H I B I T S

DEFENDANTS': FOR IDENTIFICATION IN EVIDENCE

P-XX - Tape of December 1	25955
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LOS ANGELES, CALIFORNIA, MONDAY, MARCH 8, 1971

9:58 o'clock a.m.

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THE COURT: All parties, counsel and jurors are present.

You may continue, Mr. Kanarek.

MR. KANAREK: Thank you.

RICHARD CABALLERO,
called as a witness by and on behalf of the defendants,
having been previously duly sworn, resumed the stand and
testified further as follows:

DIRECT EXAMINATION (Continued)

BY MR. KANAREK:

Q Mr. Caballero, is the normal procedure for a psychiatrist to do his own interviewing as far as getting the background of a subject is concerned?

MR. BUGLIOSI: Irrelevant, calls for a conclusion.

THE COURT: Sustained.

BY MR. KANAREK:

Q Now, directing your attention, Mr. Caballero, to the time that you tore out a portion of the Susan Atkins interview, in which Jerry Cohen was present.

Is it a fact that you tore that out because your state of mind was that this would decrease the monetary

1 value of the story, that Mr. Schiller was going to send
2 out?

3 A No.

4 Q You knew at that time that Mr. Schiller had
5 the tape, is that correct?

6 A That is incorrect.

7 Q You knew he had the December 1, 1969, tape?

8 A He had the transcript of the tape.

9 Q Well --

10 A I distinguish; you may not, but I do.

11 Q All right.

12 He had the transcript of the tape.

13 A That's correct.

14 Q And the transcript of the tape is the
15 transcript that subsequently appeared in the Los Angeles
16 Times?

17 A That's correct.

2 fls.

2-1

1 Q Is that right?

2 A Yes.

3 Q And was your state of mind such that you felt
4 that what Susan Atkins was saying in the portion that you
5 cut away, that that would decrease -- let me withdraw that
6 -- that that would be inconsistent with what you call the
7 transcript of the tape?

8 A No.

9 Q In what way was it not inconsistent?

10 A You are asking me if my state of mind was such
11 that I cut it out because of that, and my answer is no.

12 Q But your state of mind was that it was incon-
13 sistent with the tape, the transcript of the tape; right?

14 A My state of mind was that the short conversation
15 -- it was a negative attitude to what was in the tape, but
16 I can't tell you it was inconsistent, as such.

17 Q What do you mean by a negative attitude?

18 A She felt -- to repeat again -- that she had
19 been hassled and she had been through too much, "I said,
20 in essence, what the people would like to hear," this kind
21 of thing.

22 But I didn't find it inconsistent as such.

23 It was just a matter of a few moments, a few
24 minutes, and that was it.

25 She started to talk about the case -- that was
26 my state of mind -- I did not want anything about the case

1 discussed. That was my state of mind.

2 Q Well, would you tell us, why was that so
3 important when just a few minutes were involved, in view of
4 the fact that Mr. Schiller had the complete transcript?

5 A Because as of that date, I had informed them,
6 there would be nothing more discussed about the case, only
7 about her background.

8 And so, I had that eliminated because that did
9 not belong to them. Those messages, those words, were meant
10 for me, regarding the case.

11 As far as they were concerned, all they had to
12 know was about the background. So, it started off: Where
13 were you born? And that is where we started off.

14 Q And your state of mind was such that there was
15 no violation of the gag order in using the transcript of the
16 tape as Mr. Schiller proposed to use it?

17 Is that your state of mind? Was that your state
18 of mind?

19 A No.

20 My state of mind was that Mr. Schiller had
21 already bought that, he had it, and it was being published
22 overseas, and there was no violation, as I saw it, at that
23 time.

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2a fls.

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1 Q Your state of mind was that the gag order that
2 Judge Keene had ordered, the publicity order that he ordered,
3 on December the 10th, that very same day, was not being
4 violated by your allowing Mr. Schiller to take this tape
5 and do with it as he proposed to do with it?

6 A That is correct. That had been done before the
7 gag order.

8 Q Now, during the interview, when Mr. Cohen was
9 present, when you, Mr. Cohen, the court reporter and Susan
10 Atkins were present together in or at Sybil Brand Jail, did
11 you cause a portion of the tape to be torn up during the
12 very time that Mr. Cohen was there?

13 A No.

14 Q Is it your statement that the only time that
15 you tore out anything from what the court reporter was taking
16 down -- the court reporter with an instrument similar to
17 that which Mr. Mehlman is using -- the only time that you tore
18 it was after the interview, outside of Sybil Brand?

19 A That is my recollection, yes.

20 Q You mean you may be incorrect about that?

21 A I may be, but I don't think so.

22 Q You may have torn out something during the
23 interview?

24 A I don't recall having done so. It is as simple
25 as that.

26 Q Well, on how many occasions during the interview

1 did Susan Atkins make statements that caused you to inter-
2 rupt the interview because these statements were statements
3 involving Mr. Manson?

4 A I don't recall that.

5 They were just getting background information.

6 I don't recall. I know we stopped occasionally
7 for rest, and things of that nature, and then we would
8 talk a little bit, but I don't recall incidents of having
9 to stop. There may have been.

10 She may have started to say something regarding
11 the case, and I said, "No, not that," but I don't recall
12 that, though.

3-1

1 Q Well, then, is your statement that there was
2 only one sequence of three minutes each; that there was no
3 more than one sequence on that tape wherein Susan Atkins
4 discussed Charles Manson?

5 A No.

6 Q How many sequences during that interview did
7 she discuss Charles Manson?

8 A She may have discussed how she met him, where
9 she was and how long she stayed with him, those kinds of
10 things.

11 Q Now, at some time you went to Mr. Schiller's
12 home that day, is that correct?

13 A Incorrect.

14 Q At some time you received a copy of what was
15 represented to you to be a document or a series of documents
16 that were going to be sent overseas, is that right?

17 A That is correct.

18 Q Now, that copy -- how many copies did you
19 receive?

20 A I don't recall, probably one. I don't recall
21 if the one I received had already gone overseas or not.

22 Q Where were you when you received that copy?

23 A I don't recall; I think it was left in my
24 office and then eventually I got there.

25 In other words, I cannot tell you whether it is
26 the next day, two days later before the story appeared, or

1 afterwards.

2 Q What was the disposition of that one copy, Mr.
3 Caballero?

4 A It was left in my files.

5 Q Where is it right now?

6 A In my files.

7 Q That same copy is in your files?

8 A To my knowledge, yes.

9 Q Have you had occasion to look at it recently?

10 A No.

11 Q You don't know whether it is there or not?

12 A The last time I saw it, that is where it was.

13 Q When was the last time you saw it?

14 A Ages ago -- months ago.

15 Q Now, on December 1st, 1969, when you taped Miss
16 Atkins at your office, do you have that in mind?

17 A Yes.

18 Q Did you tell Miss Atkins that she was being
19 taped?

20 A Yes, I certainly did. The microphone was laid
21 out right in front of her, similar to the one that is in
22 front of the prosecutors there.

23 And was right on my desk as she sat, opposite
24 me, and we discussed the fact that we were taping it and
25 retaping it.

26 I never taped Miss Atkins without her knowledge,

1 never.

2 Q Was there any representation given to Miss
3 Atkins as to why you were taking her to your office and not
4 to another law enforcement facility, if you saw fit to take
5 her out of Sybil Brand?

6 A We did not discuss the question of whether or
7 not she is going to my office, as distinguished from a
8 police facility.

9 There was an explanation and a reason for going
10 to my office.

11 Q Well, what was that?

12 A First of all, she preferred it.

13 Secondly, from a common sense point of view I
14 did not have an order to tape her at Sybil Brand. You
15 cannot bring recording equipment in there without a court
16 order.

17 Thirdly, I did not want her giving me a whole
18 recitation of detailed facts of approximately eight murders,
19 there at Sybil Brand, that I knew would take hours and hours,
20 and have people watch it being recorded.

21 She preferred being some place where we could
22 be a little more comfortable; I thought she would be a lot
23 more comfortable and more at ease in my office.

24 We discussed the fact she could be eating
25 something differently, and she would be out of the
26 confines of Sybil Brand,

1 That is what was discussed and that is what was
2 done.

3 Q You did not consider taking her to the Los
4 Angeles Police Department on Los Angeles Street?

5 A No, I did not consider taking her there.

6 Q There she would not be viewed by anyone from
7 Sybil Brand, would she?

8 A No, apparently not.

9 Q Now, is it a fact that you discussed the tape
10 which finally appeared in the Los Angeles Times; that you
11 actually discussed that tape on December 5th, 1969, with
12 Mr. Schiller and Mr. Caruso, is that true?

13 A Either on December 5th or December 8th, I don't
14 know which.

15 We discussed with Mr. Schiller, yes, I discussed
16 it with him; I told him I had such a tape, outlining her
17 role and participation in these various incidents.

18 Q At the time you discussed that with Mr. Schiller
19 were you aware of the ruling of the United States Supreme
20 Court in Sheppard vs. Maxwell?

21 MR. BUGLIOSI: That is irrelevant, your Honor.

22 MR. KANAREK: It is relevant, your Honor, to show
23 his state of mind as to whether he knew what the law was
24 in connection with publicity.

25 MR. BUGLIOSI: It is irrelevant and far afield.

26 THE COURT: Sustained.

1 BY MR. KANAREK:

2 Q Now, you testified that you had an understanding
3 that the story would be secret, is that right?

4 You had an understanding with Mr. Schiller that
5 this story would be secret as far as the United States
6 was concerned?

3a fls. 7 A Yes, that is correct.
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1 Q Well, was your state of mind such that with
2 mass communications what they are today in the world, that
3 you believed that what was sent overseas would not immedi-
4 ately be returned to this country?

5 Did you believe that?

6 A No.

7 Q And so your state of mind was that you knew this
8 was all a sham?

9 A No.

10 Q No?

11 Well, what was your state of mind as far as the
12 return of this material to the United States was concerned?

13 A I will go over it again, Mr. Kanarek.

14 To begin with, after there is a Grand Jury
15 Indictment returned, it takes approximately ten days for
16 the transcript to be available for defense counsel.

17 When that transcript is available and given to
18 counsel and filed with the clerk's office, and you must
19 bear in mind that my analysis and my state of mind was as a
20 result of eight years' experience in the District Attorney's
21 Office, many of which were appearances of bringing cases
22 before the Grand Jury, and also years as a defense lawyer
23 in which many times I represented people who were charged
24 with crimes in which the Grand Jury returned an indictment.

25 Therefore, it was my state of mind that within
26 a matter of ten days everything that Susan Atkins had

1 testified to at the Grand Jury would be a matter of public
2 record; that the newspapers would have it and everyone else
3 would have it.

4 The story that Mr. Schiller was printing was in
5 essence and nothing more than that which would have been
6 a matter of public record within 24 hours after he
7 distributed it, maybe 36 hours.

8 Now, it is also my understanding that the most,
9 or the worst that could happen, is that this thing which
10 would be a matter of public record on Monday, might be
11 disseminated back to the press here, approximately 500 words
12 of it, maybe that Sunday.

13 But in essence, it would make no difference
14 because that very same thing they, the public, would know
15 in more detail the next day.

16 Unfortunately, the next day, through no
17 knowledge of mine, the Court issued an order, and in that
18 order he said, "We are not going to disclose the Grand Jury
19 transcript until all of the members, all of the persons
20 indicted, have a copy."

21 That was my state of mind.

22 I had no way of knowing that very story,
23 which I anticipated would be a matter of public record
24 within a 24-hour period, would then be held back by the
25 Court,

26 Q On December 10, 1969, you knew of the publicity

1 order, right?

2 A That is correct.

3 Q Did you attempt to approach Judge Keene or any
4 judge of the Superior Court in order to get an injunction to
5 enjoin Mr. Schiller from using that story?

6 A No.

7 Q And what is the reason that you did not go to
8 a judge of the Superior Court and ask for an order, an
9 injunction to restrain Mr. Schiller from using this story?

10 MR. BUGLIOSI: That is argumentative, your Honor;
11 irrelevant also.

12 THE COURT: You may answer.

13 THE WITNESS: Mr. Schiller already had the story; it
14 belonged to him.

15 As I told you, it was going to be published
16 overseas. I never gave it any thought. I figured the
17 order is out. From this point on I will not give them any
18 information regarding the case; that which was given to them
19 was given prior to the order.

20 Q BY MR. KANAREK: That does not answer the
21 question, Mr. Caballero.

22 The question is, you certainly know that there
23 is in the Superior Court a Department of Writs and
24 Receivers, is that correct?

25 A That's correct.

26 Q And you know that that department issues

1 temporary restraining orders, orders to show cause as to
2 why there should not be preliminary injunctions, and issues
3 permanent injunctions, and all of that.

4 Right?

5 A. Yes.

6 Q Did you do anything to restrain, to restrain
7 the movement of this material from Mr. Schiller to the
8 places that he was going to cause it to be moved?

9 A. No.

10 Q And did you do that -- did you refrain from
11 doing that because you felt that that would interfere
12 with your making money?

13 A. No.

14 MR. BUGLIOSI: Argumentative, your Honor --

15 Withdraw the objection. It's already been
16 answered.

17 Q BY MR. KANAREK: Did you request of Mr. Schiller,
18 did you ask him that, in view of the fact that there was a
19 publicity order, that the dignity and that the respect
20 that that order deserved should be -- should be something
21 that Mr. Schiller should give attention to?

22 A. No.

23 Q And what is the reason that you did not even
24 ask Mr. Schiller to stop the doing of what he was going to
25 do in view of the fact that you knew that, as an officer
26 of the court, that a publicity order was in existence?

1 A Mr. Kanarek, the story at the time of the
2 publicity order, at the time the publicity order came out,
3 belonged to Mr. Schiller.

4 I stopped allowing him to have any further
5 information regarding the actual case itself.

6 I abided by the rule, but as far as my conduct
7 with Mr. Schiller was concerned, that had already been made
8 and consummated on my part, as far as my state of mind was
9 concerned.

10 Q Did you know that the Superior Court has the
11 power to grant injunctive relief, right?

12 A Yes.

13 Q My question is, why did you not even ask
14 Mr. Schiller not to go ahead in view of the fact that you
15 had knowledge of this Superior Court order?

16 What is the reason that you did not ask him to
17 refrain?

18 A Mr. Kanarek, my contract with Mr. Schiller was
19 already over and executed.

20 That story now belonged to him.

21 I think I would be the person in the least
22 position to ask him to stop, because I would be violating a
23 contract with him if I sought an injunctive order and he
24 could have sued me.

25 I did not have those thoughts in mind. I am
26 merely reiterating them for you now.

 I did not give that any thought. The contract

1 was executed, the order came out; I obeyed the order from
2 that point on, and it is as simple as that.

3 Q Didn't you think of obeying the publicity order
4 on that day of December 10th?

5 A Yes, I did.

6 MR. BUGLIOSI: Argumentative and irrelevant, your
7 Honor. He already testified to this.

8 THE COURT: The answer is in. Go ahead.

9 Q BY MR. KANAREK: May I have an answer to that
10 last question, Mr. Caballero?

11 THE COURT: It was answered.

12 MR. KANAREK: Pardon?

13 THE COURT: It was answered.

14 MR. KANAREK: I did not hear you.

15 THE COURT: It was answered.

16 MR. KANAREK: Very well.

17 Q BY MR. KANAREK: Did you, Mr. Caballero, did you
18 do anything to protect the publicity order, anything
19 whatsoever, to protect that order that Judge Keene ordered?

20 A Yes.
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Q What?

A I did not give any further information regarding the case. I tore up approximately three minutes of testimony, or rather, statements that Susan Atkins made that evening.

That is what I did. And from that point on, I did not permit any more dissemination about the facts of the case.

Q Then, directing your attention to the material that he already had, the transcript of the December 1, 1969, tape.

Did you do anything at that time that you knew the publicity order was in existence, from that time on, did you do anything to restrain the publication of that material?

A No.

Q Now, you say you have been to Grand Jury hearings yourself and presented matters to the Grand Jury; is that right?

A That is correct.

Q Is that correct?

A Yes.

Q Is your experience such that the foreman of the Grand Jury instructs the witnesses not to discuss their testimony?

MR. BUGLIOSI: Irrelevant, your Honor.

4-2

1 THE COURT: Sustained.

2 BY MR. KANAREK:

3 Q In this particular case, did the foreman of the
4 Grand Jury instruct the witnesses not to discuss this case?

5 MR. BUGLIOSI: Irrelevant, and calls for a conclusion
6 and hearsay.

7 THE COURT: Sustained.

8 BY MR. KANAREK:

9 Q Now, you, at a time when Susan Atkins was going
10 before the Grand Jury, you knew what she was going to say
11 because of what had gone on in the December 1, 1969, tape;
12 is that right?

13 A Yes.

14 Q Did you do anything to cause the statements of
15 Roni Howard and Virginia Graham to be presented to the Grand
16 Jury?

17 A No.

18 MR. BUGLIOSI: Irrelevant, your Honor.

19 THE COURT: The answer is in, Mr. Bugliosi.

20 MR. BUGLIOSI: Withdraw the objection.

21 BY MR. KANAREK:

22 Q Is there some reason, Mr. Caballero, that this
23 purported agreement, this oral, this verbal agreement that
24 you speak of that took place in connection with the District
25 Attorney's office, is there some reason that that was not
26 reduced to writing so that Susan Atkin_ns would know with

1 great precision as to what was the substance and what was
2 the detail of the agreement?

3 A Yes.

4 Common practice is such that these agreements
5 are not written down. It is just normally done. These
6 people are lawyers, professional people. You make an
7 agreement and you keep it.

8 It is rare that any of these agreements are
9 actually ever documented in that manner, unless it is an
10 immunity matter.

11 Q Well, Mr. Stovitz saw fit to turn it into a
12 writing; right?

13 A A memorandum of what we had stated.

14 Q Did you ask that anything be put into writing
15 as to what Susan Atkins' arrangement was?

16 A No.

17 Q Did you bring Susan Atkins to the meeting?

18 A No. That is not common practice either.

19 Q Well, whether it is common practice or not,
20 Mr. Caballero, did you do this?

21 A No.

22 Q Is there some reason, other than this what you
23 call common practice, is there some reason that you didn't
24 have Susan Atkins there so that she would know exactly
25 what the status of these proceedings happened to be?

26 A Yes.

1 Q What is the reason?

2 A The reason is that Susan Atkins was in Sybil
3 Brand. I am her lawyer charged with the responsibility of
4 her life. I have to do it not by going back to Sybil
5 Brand and bringing her out each time, but rather by meetings
6 with the District Attorney, reading the transcript, discus-
7 sions with the police, discussions with witnesses.

8 You don't bring your client along for all these
9 things. You do your job in the manner that you think it is
10 best to do and proper to do. You hold your meetings when
4a fls. 11 you have to. And that is what you do.

a-1 1 Q But when you come to the final culmination,
2 when you come to the place that there is a so-called
3 arrangement --

4 A Yes?

5 Q -- is there any reason why you didn't bring her
6 and have her informed in detail as to what that arrangement
7 was, Mr. Caballero?

8 A Yes.

9 The reason is that your question assumes some-
10 thing that is wrong. I did so inform her. She knew all
11 about it.

12 Q But now we have this problem of interpretation.
13 That problem wouldn't exist if there were a writing to
14 firm up this arrangement; right?

15 A No, I don't agree with that.

16 Q When your money was involved, you got an
17 attorney-in-fact arrangement with her. You didn't rely
18 on her verbal representation as to that.

19 MR. BUGLIOSI: Argumentative.

20 THE COURT: Sustained.

21 MR. KANAREK: Q Did you think about having a
22 writing and then reject it, Mr. Caballero?

23 A I don't understand your question.

24 Q Did you think about having a writing with the
25 District Attorney's Office as to what this arrangement
26 would be?

1 Did you think about that and then reject it
2 after thinking about it?

3 A No.

4 Q In other words, you never even thought of it?

5 A That's right.

6 Q Well, having in mind this arrangement with the
7 District Attorney's Office that you have spoken of, the
8 difference between second-degree murder and first-degree
9 murder is significant; is that correct?

10 A Yes.

11 Q What was the arrangement, for instance,
12 directing your attention to item 3, "the extent to which
13 the District Attorney's Office will assist defense counsel
14 in an attempt to seek less than a first-degree murder life
15 sentence will depend upon the extent to which Susan Atkins
16 continues to cooperate."

17 Now, that language requires interpretation,
18 first of all; right?

19 A Yes.

20 Q And requires maybe four or five people
21 remembering a conference; right?

22 A It requires the District Attorney and myself
23 remembering that which we have already agreed upon.

24 Q People resign from the District Attorney's
25 Office, they become Attorney Generals, they go their
26 separate ways.

1 Can you tell us what was this extent that she
2 would cooperate with the District Attorney in order to get
3 second-degree murder?

4 A That, Mr. Kanarek, depended on a great many
5 factors such as, obviously, the primary one was whether
6 she would, in fact, testify at the trial itself against the
7 co-defendants.

8 That would, of course, be the primary objective.

9 Secondly, there were other things, such as
10 what other information she could give regarding other
11 possible witnesses.

12 Third, what other evidence she could locate,
13 such as the clothing, the guns, other bodies; things of that
14 nature.

15 This was the kind of cooperation that I mean,
16 and this is the kind of thing that each time she would go
17 out and do something, I would say, "Okay. Now she has
18 done this for you. Now, let's remember this."

19 And we would talk. And there was an under-
20 standing among the people in the field, with the best
21 interests of society and Susan Atkins in mind, always
22 bearing in mind that that was the primary concern.

23 Q Your primary concern was society?

24 A No. Susan Atkins.

25 Listen, Mr. Kanarek.
26

4b-1

1 Q Your primary concern was Susan Atkins?

2 A Yes.

3 Q Then, why did you not firm this up before you
4 went to the Grand Jury as to what would constitute a second
5 degree arrangement?

6 A Mr. Kanarek, there are so many variables that it
7 would be impossible to "firm it up."

8 Q Well, you could refuse to allow Susan Atkins to
9 go to the Grand Jury until it was firmed up; that was within
10 your power; is that right, Mr. Caballero?

11 A I firmed up that part which I felt was most
12 important, her life.

13 Q Well, you didn't feel that this other aspect
14 was worth firming up?

15 A I just finished telling you, Mr. Kanarek.
16 There are too many variables that conditioned the other
17 aspects.

18 Q So, in other words, there was no condition; is
19 that what you are saying?

20 A No, that is not what I'm saying.

21 Q Then, would you tell us what were the conditions?
22 How would Susan Atkins, if she had an IQ of 199, how would
23 she know what conditions she would have to meet unless you
24 told her?

25 A Mr. Kanarek, I discussed many things with my
26 client, but I had to make the determinations as to how the

4b-2

1 case would be run, as to what was in her best interests,
2 and we were doing this with the understanding that there
3 were many things that the police needed and wanted to know,
4 and as we cooperated with them, it would all incur to her
5 benefit; things such as the fact that no matter what she
6 told them, what she found for them, what she did, it could
7 not be used against her.

8 On the other hand, in spite of the fact that
9 she gave up nothing from a legal point of view that could
10 be used against her, she got in exchange for that her life,
11 and probably would have gotten more had she continued to
12 cooperate.

13 Q Where does this agreement reflect that none of
14 the things like finding the clothes and all of that, none
15 of the things of that nature that she pointed out, would be
16 used against her?

17 Where does this agreement reflect that?

18 A Mr. Kanarek, that agreement, as you put it, is
19 a memorandum written by Mr. Stovitz as a recollection, a
20 condensation of a conversation in Mr. Younger's office.

21 The agreement that I am speaking of includes not
22 only that, but all of my conversations with Mr. Stovitz,
23 Mr. Bugliosi and the Police Department from the very
24 inception that we began to cooperate.

25 And as I told you before, I had complete -- and
26 still do -- confidence in the fact that they would abide by

1 whatever agreement and understanding we had.

2 Q So, if Mr. Bugliosi or Mr. Stovitz, both of them,
3 left the District Attorney's Office, how would this be
4 conveyed to their successors?

5 A In the very same manner that people convey
6 information and communicate, by merely talking on the
7 telephone, and discussions with persons.

8 And I have found that there is much professional
9 courtesy in the County between attorneys.

10 Q There is a lot of professional courtesy?

11 A That's right.

12 Q But there are misunderstandings also; isn't
13 that correct?

14 A That can always happen.

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1 Q People understand the meaning of words, and
2 what is reasonable to one person may not be reasonable to
3 another person.

4 A Even when it is in writing.

5 Q Yes, even when in writing.

6 A Correct.

7 Q But it tends to be less when it is in writing,
8 doesn't it, Mr. Caballero?

9 A I wouldn't say that.

10 Q You don't agree with that?

11 A No.

12 Q Well, was there anything about December the 5th,
13 1969, that was magic?

14 Did the Grand Jury have to hear the case that
15 day?

16 MR. BUGLIOSI: That is irrelevant.

17 THE COURT: Sustained.

18 MR. KANAREK: Q Was there some reason, Mr. Caballero,
19 that you know of why December the 5th, 1969 had to be the
20 date that the Grand Jury heard these matters?

21 MR. BUGLIOSI: Irrelevant.

22 THE COURT: Overruled.

23 You may answer.

24 THE WITNESS: I don't know.

25 That is the day that she was subpoenaed,
26 That is the day that I produced her.

1 MR. KANAREK: Q Right.

2 So there was no reason whatsoever that you
3 could not have -- you say you had her best interests at
4 heart and all of that -- there is no reason at all you
5 couldn't have said, "Let's firm up the second-degree
6 arrangement before she goes to the Grand Jury."

7 Did you ask anybody about that?

8 A Far from it.

9 I wanted her before the Grand Jury as soon as
10 possible, because then I knew I had my deal clinched all the
11 way, because before she gets to the Grand Jury, if she
12 decided not to testify, then we had no deal.

13 Q So, you had a feeling that maybe she wouldn't
14 testify. Did you feel that maybe it wouldn't be her desire
15 to continue to cooperate if you waited a day?

16 A Do you want to know what my state of mind was
17 regarding that?

18 Q Yes.

19 A My state of mind was that the longer she stayed
20 in Sybil Brand, the sooner Charlie Manson and some of the
21 females would get to her and talk to her and tell her not
22 to testify.

23 That was my state of mind.

24 Q That was your state of mind?

25 A That is correct.

26 Q And your state of mind was such that you felt

1 there was some reason that she might not testify?

2 A That's right.

3 Q I see.

4 Now, then, directing your attention, Mr. Caballero,
5 at a later time she met with Mr. Manson; right?

6 A That is correct.

7 Q And she met with Mr. Manson at a time that
8 was how long after the time when you were with Mr. Cohen and
9 she said what she said and you caused this to be ripped up?

10 A Well, I don't understand your question, Mr.
11 Kanarek.

12 What do you mean by cause this to be ripped up?

13 Do you mean everything she told Mr. Cohen?

14 Q What you say was three minutes.

15 A It may be a month, two months. I don't recall
16 the dates.

17 I am sure the dates can be verified, whatever
18 they were.

19 Q It was an appreciable period of time before
20 that; right?

21 A I would say the meeting was in March sometime,
22 about three months later.

23 Q All right.

24 How many months later?

25 A I think about three.

26 Q In this interim, Mr. Caballero, did you have a

1 psychiatrist come and visit her?

2 A No.

3 Q All this time you never did?

4 A No.

5 Q Then, at some time she met with Mr. Manson;
6 right?

7 A Yes.

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4d-1

1 Q And you were present when she met with Mr.
2 Manson; right?

3 A That is correct.

4 Q Would you please tell us, Mr. Caballero, at this
5 time, when she met with Mr. Manson, who was present?

6 A Mr. Manson, her and me.

7 Q All right.

8 And would you tell us what was said by you,
9 by Mr. Manson and by Susan Atkins?

10 A Mr. Kanarek, the conversation was primarily
11 between Susan and Mr. Manson.

12 They talked, as I recall, about general things.

13 One of the first things they wanted to know was
14 whether or not either one had gotten to see Linda Kasabian
15 yet? And they wanted, one of them or the other, should
16 see Linda Kasabian and talk to her.

17 There was conversation about --

18 Q Before you proceed, let me ask you this, if
19 I may interrupt you just a half a minute, Mr. Caballero.

20 A Yes.

21 Q Did you do anything to use a tape recorder to
22 record everything that was said by these people, including
23 yourself?

24 A No.

25 Q You made no such request to the Court for that?

26 A No.

4d-2

1 Q To preserve for all of here the exact words that
2 would be uttered?

3 A No.

4 Mr. Manson was not my client.

5 Q My question is, Mr. Caballero: Did you seek
6 or did you do anything -- seek a court order or any kind
7 of relief so that you would have a tape recorder?

8 A No.

9 Q Did Mr. Manson refuse to make a tape recording?

10 A I never asked him.

11 Q The question is, Mr. Caballero: Did he ever
12 refuse?

13 He never did, did he?

14 A I have no knowledge of that.

15 Q You didn't do anything to make permanent that
16 conversation, did you?

17 A That is correct.

18 Q Tell us what you say occurred.

19 MR. BUGLIOSI: Argumentative, your Honor.

20 THE COURT: Overruled.

21 You may answer.

22 THE WITNESS: I tried to take some notes but they
23 were talking too fast.

24 In fact, Mr. Manson expressed his displeasure
25 in words, saying "What are you doing that for? What do
26 you have to take notes for?"

4d-3

1 At some points in the conversation they began
2 to talk in sort of a double talk or pig Latin, whatever you
3 want to call it, to my exclusion. So, they will have to
4 tell you what was actually said.

5 However, there were other things they said
6 which were in English. But when they reached that point,
7 they lost me.

8 Q Tell us the pig Latin. Give us the exact words
9 uttered. Give us the exact words uttered, Mr. Caballero.

10 A Mr. Kanarek, it was almost as difficult as
11 understanding your questions.

12 Q I see.

13 Then, if such be the case and you felt there
14 was something that you wanted to do to protect your client,
15 why didn't you get a tape recorder?

16 The court reporter is taking down every word
17 I am uttering here. You didn't bring a court reporter for
18 her interview, did you?

19 A If you want to know why I didn't bring a
20 tape recorder, I will tell you.

21 Q Yes.

22 A I felt, my state of mind was, that if I even
23 introduced a tape recorder, that Mr. Manson would not have
24 a meeting with her.

25 Q The point is that you never even broached the
26 subject.

1 A You asked me for my state of mind and I have
2 answered you.

3 Q Did you ever ask him?

4 A No.

5 My state of mind was that he would not even
6 meet with her if I broached it. He would think that we
7 were recording him surreptitiously.

8 Q And that scared you?

9 A No.

10 Q Do you read minds, Mr. Caballero?

11 A No.

12 Q Then how do you know unless you ask the man?

13 A Because I had spoken with Mr. Manson twice
14 before and I had formed my own opinions.

5 fls 15

1 Q But you never even asked him.

2 A No.

3 Q You never asked him?

4 A That's correct.

5 Q I see. So we are deprived of the guttural
6 language, or whatever the pig Latin was that you are speaking
7 off?

8 A No, we are not.

9 Q Well, then, give us the exact pig Latinese that
10 Mr. Manson uttered.

11 A No, we are not deprived, Mr. Manson is here.

12 Q Well, my question is from you, Mr. Caballero.

13 A Oh, you are deprived from me of it, yes. They
14 spoke in a language unfamiliar to me.

15 Q My question is then, would you tell us what
16 you heard.

17 A I could not make it out. It was just rambling
18 sort of words which would seem to be connected in some form
19 or other that they both seem to understand, much to their
20 satisfaction and much to my dismay.

21 Q I see. Well, so you did not understand any of
22 it, is that it?

23 A I did not understand that portion of it.

24 There were other parts where they talked of
25 Linda Kasabian.

26 There were parts they talked about the

1 psychiatrist and he did not want to see a psychiatrist.

2 He said, "If you see a psychiatrist and the
3 psychiatrist says that you are not able to understand, and
4 then only the lawyer can speak for you, and then he has you
5 in his hold. Therefore you should not go see a psychiatrist.

6 "Are you afraid of the gas chamber?"

7 She said, "No." She said, "In fact, I rather
8 like it."

9 And so he told her:

10 "Okay, now that you understand all this, and I
11 have told you all these things," he said, "you lay out
12 everything I have told you in your mind and lay out every-
13 thing he has told you in your mind, then look to the answers
14 and then you make up your own mind."

15 Q That is what he told her, "You make up your
16 own mind?"

17 A That is what I indicated after that meeting he
18 told her, that she make up her own mind; and two days later
19 she got another lawyer.

20 Q And, Mr. Caballero, Mr. Manson told you -- or
21 I will withdraw that.

22 In your presence, Mr. Manson indicated to her
23 that if she got a psychiatrist, the psychiatrist might find
24 something wrong with her perhaps, right?

25 A The psychiatrist would put her in a position
26 -- my understanding of that conversation was that the

1 psychiatrist put her in a position with the Court that
2 then only her lawyer would be able to speak for her, and
3 she would then belong to the Court and the lawyer.

4 Therefore, he did not want her to go to the
5 psychiatrist.

6 Q It was something about what she would say to
7 the psychiatrist that might get her put in a mental
8 institution; is that right?

9 A No.

10 Q Well, there was something he said that she
11 would belong to the lawyer and to the Court.

12 You interpret that to mean that she would be
13 deprived of her own free will, right?

14 A This is what he was in effect conveying to her,
15 yes.

16 Q And if she were deprived of her own free will,
17 the way that would come about is if she were declared
18 incompetent?

19 A I don't know if that is what he meant,

20 I would infer that.

21 Q You would infer that?

22 A Yes.

23 Q If she were incompetent, she could not testify
24 against him; isn't that right, Mr. Caballero?

25 A If she were declared incompetent.

26 Q But Mr. Manson told her to stay away from the

1 psychiatrist, he did not ask her to see a psychiatrist,
2 so she would be declared incompetent, so she could not testi-
3 fy against him, did he?

4 A I don't know why he asked her not to see him.

5 He made it plain she should not see a psychia-
6 trist, then she would belong to the lawyers.

7 Q And the results we have just been speaking of
8 would ensue, right?

9 A I don't know about that.

10 Q That is a reasonably good probability. You
11 are a man who has been in the District Attorney's Office and
12 you practiced law.

13 MR. BUGLIOSI: Calls for a conclusion.

14 THE COURT: Sustained.

15 Q BY MR. KANAREK: Now, directing your attention,
16 then, Mr. Caballero, you mentioned, my notes indicate, that
17 you used the word "truthfully".

18 A Yes.

19 Q That Susan Atkins was to testify truthfully?

20 A Yes.

21 Q What was the criteria, by this gentleman's
22 agreement, this empathy and all of that you had with all of
23 these people in the District Attorney's Office?

24 How would this truthfully be determined?

25 A If you can disprove what she said, then she
26 lied.

1 If you can prove that what she said was the
2 truth, then she told the truth, the way you would in any
3 case.

4 Q Is that what you people spoke about, that if
5 it could be disproved, then this would be deemed that she
6 lied?

7 A No.

8 Q Well, then, how would this truthfully, how
9 would it be determined?

10 Who was going to be the big brother to
11 determine this?

12 A We did not speak of that. We merely spoke of
13 the word, truthful, as lawyers we understood there are ways
14 of proving or disproving allegations or facts or figures.

15 This is what we understand. We did not go
16 and define each term.

17 Q Were you going to have a mini court or a
18 kangaroo court?

19 How were you going to ascertain what was truth-
20 ful, Mr. Caballero?

21 A Mr. Kanarek, if a point of the testimony of
22 Susan Atkins was proven later not to be so by other
23 competent evidence, then obviously she lied.

24 Q Who is going to be the judge, Mr. Caballero?

25 A Just the facts, Mr. Kanarek, the truth, that is
26 all.

1 2 But who was going to judge it, who was going to
2 judge whether Susan Atkins was telling the truth or not?

3 MR. BUGLIOSI: Irrelevant.

4 THE COURT: Overruled. You may answer.

5 THE WITNESS: That would be -- it would be simple to
6 judge.

7 Suppose Susan Atkins had said, "On October so-
8 and-so I was at this location," and suppose she testified
9 to this and then the District Attorney were to bring
10 documents to show on October so-and-so -- and assume that
11 time was very vital to whatever testimony was given and the
12 date was very important -- suppose they were to show by
13 documents and evidence she was in fact in jail on that day.

14 It would be a showing she lied about something.
15 It was as simple as that.

5a-1

1 Q Who was going to decide it, Mr. Caballero?

2 A It would have been decided by the persons who
3 formed the agreement, by looking at what was said and not
4 said and discussing it and determining it, if that ever
5 would come to pass.

6 Q Who would be the people to decide it?

7 A The people that were part of the agreement.

8 Q So you had an understanding then, are you telling
9 us, from the witness stand, that these people that were
10 present, Mr. Younger, Paul Caruso, Richard Caballero,
11 Aaron Stovitz, Mr. Bugliosi would have a meeting and decide
12 whether or not Susan Atkins testified truthfully.

13 Is that correct?

14 A No.

15 Q Then would you tell us how it was to be done?

16 A We did not discuss how it was to be done. We
17 used the plain English word, truthful.

18 And if something came up, if someone felt she
19 had not testified truthfully, we could discuss it at that
20 time.

21 It is as simple as that.

22 Q You had that discussion?

23 A That sort of understanding, yes.

24 Q That was explicitly talked about between Mr.
25 Younger, Paul Caruso, Richard Caballero, Aaron Stovitz and
26 Vincent Bugliosi?

5a-2

1 A No.

2 Q It was not talked about?

3 A No.

4 Q Then there was no determination made as to who
5 would determine what was truthful?

6 That is a true statement of affairs, isn't it,
7 Mr. Caballero.

8 A No.

9 Q Well, then, would you tell me the flesh and
10 blood human beings that were to decide it, and how, where,
11 when and why.

12 MR. BUGLIOSI: Argumentative.

13 THE COURT: Overruled, you may answer.

14 THE WITNESS: Mr. Kanarek, when the arrangement or the
15 negotiation of the deal was made, it was no different from
16 any others that go on every day in the courtroom.

17 And if your client is going to testify with the
18 understanding that the client will testify truthfully,
19 whether she does in fact not testify truthfully, depends
20 upon evidence convincing to either the trier of the fact
21 or to the people who are part and parcel of the arrangement.

22 It is understood, if a situation should arise
23 at that point, you get to go and say "We think your client
24 lied."

25 "Why do you think so?"

26 They tell you; you go to your client, find out
about the situation.

5a-3

1 You come back "Oh, no, you are wrong."

2 It is a simple thing of negotiation and
3 discussion, which was no different from that which went
4 on with many other cases.

5 Q You still have not told us who these people
6 are, Mr. Caballero.

7 A I am trying to tell you it obviously would be
8 the persons that are part of any negotiation.

9 Q You just injected the trier of fact.

10 A I indicated suppose /person --

11 When I say trier of fact, suppose a person is
12 testifying at a hearing, and at that point, ostensibly, to
13 the truth, and that person has immunity, and suppose you
14 produce evidence, clear and convincing evidence that the
15 person is lying at that point.

16 Well, then, the persons involved in the
17 negotiations would discuss it and say "This person is
18 lying."

19 It's as simple as that.

20 You just don't go in and say "This is the way
21 we are going to do it."

22 It is understood if a question comes up as to
23 veracity, you would look into it, and who would look into
24 it? The person concerned with the negotiations and the
25 deal.

26 Q Mr. Caballero, you have mentioned the word,

5a-4

1 immunity.

2 As a matter of fact if immunity is granted,
3 there can be no prosecution, although there may be prosecu-
4 tion for perjury, right?

5 A That is correct.

6 Q So that which you have just told us about is
7 a different fact, and a completely different case.

8 It is not this case, because Susan Atkins was
9 not granted immunity in this case.

10 So what you have told us is just not so, Mr.
11 Caballero, right?

12 A Wrong.

13 Q Well, there has been no immunity, Susan Atkins
14 did not take the witness stand, when she was asked a
15 question and, say, "I refuse to testify on the grounds it
16 may incriminate me," did she?

17 A That is correct.

18 Q You could have had her do that at the Grand Jury,
19 right?

20 A Do what at the Grand Jury?

21 Q You could have instructed Susan Atkins that
22 when she went to the Grand Jury and they asked her a
23 question, you could have instructed her to say "I refuse to
24 testify on the grounds it might incriminate me."

25 Then the Superior Court, then the judge,
26 might issue an order to show cause or there might be some

5a-5

1 arrangement for immunity, right?

2 MR. BUGLIOSI: Argumentative, compound, calls for a
3 conclusion.

4 THE COURT: Sustained.

5 BY MR. KANAREK:

6 Q So what it boils down to, Mr. Caballero, what it
7 boils down to is that as far as whether or not Susan Atkins
8 testified truthfully, there was no arrangement and there was
9 no criteria, and there was no time set as to the evaluation
10 of what was truthful or what was not truthful, right?

11 A In my mind there was.

12 It was a normal, usual deal with the District
13 Attorney's office, that you would conduct on an every-day
14 basis with the exception this was a more serious case than
15 another.

16 Like every case, if there was evidence the
17 person did not testify truthfully, that is discussed between
18 the parties, and it is proven to be so; then the deal is
19 off.

20 Q Well, if the honeymoon became over, if the
21 sweetness and light between yourself and the District
22 Attorney's office -- members of the District Attorney's
23 office, if that sweetness and light disappeared, then who
24 in God's name would determine the truthfulness?
25
26

5b fls.

5b-1 1 MR. BUGLIOSI: Ambiguous, calls for a conclusion,
2 irrelevant.

3 THE COURT: Do you understand the question,
4 Mr. Caballero?

5 THE WITNESS: No, your Honor.

6 THE COURT: Reframe the question.

7 Q BY MR. KANAREK: Did you take into consideration,
8 Mr. Caballero, that there may have been -- there might
9 ensue a dispute, as there does from time to time, you may
10 have at that time had a certain relationship that was very
11 good with the District Attorney, but if that relationship,
12 if that relationship was broken, and was no longer a
13 relationship where there was this good feeling and all of
14 that, wouldn't there be some problem in evaluating the
15 truth by both sides?

16 A There might be.

17 Q All right, then, the question is, you say this
18 is even a more serious case than the average case.

19 Did anybody sit down and decide as to how this
20 truthful aspect would be decided, and more importantly, who
21 would decide it?

22 A No.

23 Q So that in fact is the truth, in fact nobody
24 decided how to evaluate this, right?

25 A We all, I believe, had our own understanding.

26 Q Each person had his own understanding?

1 A That is right.

2 Q You, yourself, Mr. Younger his, Mr. Caruso his,
3 Mr. Stovitz his, Mr. Bugliosi his, right?

4 A That's correct.

5 Q You had five different ideas about it?

6 A I doubt that they were very different.

7 I think we all had our understanding based on
8 experience and common knowledge and actions and background
9 in this field.

10 Q But you did not even know what the evidence
11 might be.

12 You did not know where Susan Atkins might lead
13 you?

14 A Oh, I had a pretty good idea, Mr. Kanarek.

15 Q You had a pretty good idea?

16 A Yes, I did.

17 Q But you did not know that the other people
18 there had that idea, did you?

19 A Oh, Yes, I did.

20 Q You had told them all of these other things,
21 right?

22 A They had told me.

23 Q They had told you?

24 A Yes.

25 Q I see.

26 And in telling you about it, and discussing it

1 with you, you came to a conclusion that nobody -- no one
2 would be the decider as to what was truthful?

3 A That is not so.

4 Q But you still cannot tell us who would?

5 A No, but your question, in there telling me about
6 it, I have come to the conclusion that no one would decide
7 who is truthful, that does not make sense.

8 I don't understand your question; put it that
9 way.

10 Q All I am asking you for is the format. This is
11 the most important part of the agreement, Mr. Caballero.

12 A I don't think so.

13 Q Wasn't the most important part that Susan
14 Atkins testify truthfully to the Grand Jury?

15 A Yes, and her life be spared, which I did.

16 Q But you did not do it if you did not set out
17 the underlying foundation for what was truthful.

18 DEFENDANT MANSON: He got the money. That is all he
19 was after, and everyone knows it. ✓

20 THE COURT: Mr. Manson's comment is stricken.

21 The jury is admonished to disregard it.

22 MR. BUGLIOSI: Argumentative.

23 THE COURT: The objection is overruled.

24 Do you have the question in mind?

25 THE WITNESS: No.

26 THE COURT: Read the question.

1 (Whereupon, the court reporter read the question
2 as follows:

3 "Q But you did not do it if you
4 did not set out the underlying foundation for
5 what was truthful.")

6 THE WITNESS: I took truthful to mean exactly what it
7 means.

8 I explained to you from our past experiences,
9 if a situation came up it would have to be discussed.

10 It is no different from any other discussion
11 regarding negotiations in that respect.

12 Q But as a lawyer, of all people, you certainly --
13 you certainly -- your experience, and your very, very
14 occupation involves dispute, where people don't agree as to
15 what certain words mean even on a document.

16 Right?

17 A That is true.

18 Q And you set out no procedure to determine that,
19 that is in fact the case, right?

20 A That's right, no one set out a procedure for
21 determining it, that is true.

22 Q All right, now, Mr. Caballero, you say it was
23 decided she would not be given immunity?

24 A Yes.

25 Q Would you tell us why was it decided she would
26 not be given immunity?

1 A Because they refused to give immunity.

2 Q But you then -- If she were not given immunity,
3 you, as a lawyer, could withhold her from testifying before
4 the Grand Jury, right?

5 A That is correct.

6 Q And there might well be no indictment, right?

7 A Against her?

8 Q Yes.

9 MR. BUGLIOSI: Calls for a conclusion.

10 THE COURT: Was there an answer?

11 THE WITNESS: I can answer the question.

12 THE COURT: Objection is sustained.

13 Q BY MR. KANAREK: Well, before December 1, 1969 --

14 A Yes.

15 Q -- Mr. Caballero, before you prepared the evidence
16 that was taken to the District Attorney's Office files,
17 against the client that you are telling us you are trying
18 to protect, before that occurred, the only statements they
19 had --

20 MR. BUGLIOSI: Argumentative already.

21 Q BY MR. KANAREK: -- before that occurred the
22 only statements they had were Roni Howard's and Virginia
23 Graham's, right?

24 MR. BUGLIOSI: Argumentative already.

25 THE COURT: Because of your interruption, Mr. Bugliosi,
26 I don't have the question in mind.

1 Read the question.

2 Let the question be finished and make your
3 objections.

4 (Whereupon, the reporter reads the record.)

5 THE COURT: That would appear to call for a
6 conclusion, Mr. Kanarek. The objection is sustained on
7 that ground.

8 Q BY MR. KANAREK: Directing your attention,
9 Mr. Caballero, to prior to December 1, 1969, prior to
10 that date and after this Thanksgiving period that you have
11 spoken of, you had discussions with the District Attorney's
12 Office, right?

13 A Yes.

14 Q Correct?

15 A Yes.

16 Q And was there some reason that you did not
17 insist on absolute immunity, the way Gary Fleischman and
18 his partner insisted for Linda Kasabian?

19 MR. BUGLIOSI: Calls for a conclusion.

20 Assumes facts not in evidence.

21 Argumentative.

22 THE COURT: It is irrelevant. The objection will be
23 sustained.

24 Q BY MR. KANAREK: Is there some reason,
25 Mr. Caballero, that you did not attempt to get absolute
26 immunity for Susan Atkins?

A I did try.

5c-1

1 Q You discussed absolute immunity?

2 A That is correct.

3 Q Right?

4 And who was present in that discussion?

5 A Mr. Bugliosi, Mr. Stovitz at some different
6 times, some of the police officers at some times.

7 It was made pretty clear to me from the inception
8 that that was completely out of the question.

9 Q When did these discussions take place?

10 I am now referring prior to December 1, 1969,
11 Mr. Caballero.

12 A It could have been early December 1; it could
13 have been the day before.

14 It was during the period of time that we were
15 discussing what was going to be done, they made it emphatic
16 and they gave me the reasons for it.

17 Q Now, would you tell us the meetings that
18 occurred.

19 How many meetings were there between yourself
20 and these law enforcement people?

21 A I have no idea.

22 There were quite a few.

23 Q Would you tell us where did these meetings take
24 place?

25 A Sometimes here in the Hall of Justice; sometimes
26 in the Police Department; sometimes in Mr. Bugliosi's office;

5c-2

1 sometimes in Mr. Bugliosi's office; sometimes in Mr.
2 Stovitz's office; sometimes in Mr. Leavy's office.

3 It was just a question of a running type of
4 thing.

5 You must remember that I was running back and
6 forth during this period of time trying to establish what
7 was going to be done, you see.

8 So that once it was determined there would be no
9 immunity given to her for the reasons they gave me, which I
10 will be glad to tell you if you want to know, then the next
11 question is what is the next best thing I could do for her.

12 And based upon what they told me of the case, I
13 knew what I had to do.

14 Q All right, now --

15 A And I proceeded to do it.

16 Q Would you tell us who were the people? You
17 cannot tell us the places or the number of places or the dates
18 or the times.

19 Would you tell us the people that engaged in
20 these conversations?

21 Just name the individuals that engaged in all
22 of these conversations?

23 A Apart from the District Attorneys involved I
24 cannot tell you the names of the officers because I don't
25 recall them, that is why.

26 Q Well, there was Mr. Stovitz, Mr. Bugliosi --

5c-3

- 1 A Yes.
- 2 Q You don't recall any of the officers?
- 3 A No, just the officers that were involved in
- 4 the case.
- 5 Q Do you know Mr. Gutierrez?
- 6 A That name sounds familiar. He may have been
- 7 one of them.
- 8 Q Mr. Sartuche?
- 9 A That sounds familiar also.
- 10 Q Mr. McGann?
- 11 A Oh, yes, Mr. McGann, I remember him also.
- 12 Q Anyone else?
- 13 A No, I don't remember the names to that extent.
- 14 Q Chief Davis, was Chief Davis a party?
- 15 A No.
- 16 Q Then, would you tell us, would you tell us what
- 17 was said about immunity, what was said by you and what was
- 18 said by each of these individuals?
- 19 A Well, I cannot tell you what was said by each
- 20 of the different individuals.
- 21 I can give you the substance and effect of these
- 22 conversations.
- 23 In essence it was, I wanted immunity.
- 24 The reply was "We cannot give you immunity for
- 25 her."
- 26 "Why not?" I said.

5c-4

1 "She is going to break the case for you."

2 "She already broke the case. She confessed to
3 the Hinman case. The Police Department have a complete
4 confession on her.

5 "We had got her located with the other people
6 where the automobile was found.

7 "She already told two girls about the killing of
8 the La Bianca and Tate cases.

9 "She mentioned the people involved.

10 "We have all we need to convict her."

11 I spoke to them about this and they indicated
12 there were approximately eight murders involved; that they
13 cannot give her immunity.

14 However, they might consider saving her life.

15 I said, "What do we have to do in order to
16 save her life? What is it you need?"

17 We discussed the possibility if she testified.

18 Even if she testified I wanted to make one
19 understanding, "If she testified that this not be used
20 against her, and anything she does to help you not be
21 used against her, if you go trial you go to trial based on
22 what you have as to this date with no additional evidence."

23 We kicked this back and forth and finally it
24 was agreed:

25 Okay, if I could get her to testify before the
26 Grand Jury, they would in effect give her her life, not only

5c-5

1 on the Tate case, not only on the La Bianca case, but also
2 on the Hinman case.

3 And this is in essence the way the conversations
4 went.

5 We reached that understanding, fine. When we
6 had that understanding, especially with me understanding they
7 could not use anything she said against her.

8 I said, "She is giving up nothing and getting
9 everything in return," and that is what I wanted.

10 Q All right, now, but you did not firm this up;
11 you did not get any people -- you don't know the people
12 involved. This is just sort of a general amorphous type of,
13 sort of like a smoggy atmosphere in which nobody knows
14 really what was said, right?

15 A No.

16 Q You could not subpoena those people?

17 You are telling me you don't even know for sure
18 who they were?

19 A Oh, yes, I told you, that the persons I was
20 concerned with are the District Attorney's office.

21 They are the ones that carry the weight.

22 They were the ones that determined whether the
23 deal is on or not.

24 They are the ones I spoke with. I told you some
25 of these officers were in and out sometimes.

26 I am trying to help give you an answer as

1 specific as I can.

2 They are not the ones that would make the deal
3 with me. They are the ones who made out some of the evidence
4 to me.

5 It's the District Attorney's office who made
6 the deal with me.

7 Q But those are the people who would supply the
8 testimony if there were a hearing, these officers who were
9 present with the people who would be there and testify, and
10 you don't even know who they are, do you?

11 A No, I knew then.

12 Q But if you had to prove it in court, Mr. Caballero,
13 you would not have the people; you wouldn't even know who to
14 subpoena, would you?

15 A Yes, I would.

16 Q The police officers you don't seem to know --
17 who would they be?

18 They would be percipient witnesses to these
19 conversations to prove your particular viewpoint, if you
20 felt Mr. Bugliosi had a viewpoint that was against yours.

21 A I would merely ask the District Attorney's
22 office to give me their names.

23 Q I see, and it would just come?

24 A Just like that.

25 Q I see.

26 A Just the way they would do it for you.

1 Q I see.

2 Now, according to this memorandum, the words
3 here set forth say "It was decided that she would not be
4 given immunity."

5 Now, so therefore is it a fair statement that
6 immunity was actually discussed on December 4, 1969, right?

7 A If you mean if immunity was discussed? Well,
8 all right, I will answer that question yes.

9 If you want an explanation, I will explain it.

10 Q It was discussed, right?

11 A Yes.

12 Q But that was after December 1, of course, when
13 you had given this evidence to the District Attorney?

14 A It was discussed in the sense that it was said
15 that we are not giving immunity.

16 Q Did you as a lawyer evaluate how the District
17 Attorney was going to prove his case against Susan Atkins
18 at the Grand Jury, absent what you did, what you gave them
19 by way of the tape recording of December 1, 1969?

20 Did you evaluate that?

21 A Oh, yes.

22 Q Did you see the statements of Roni Howard and
23 Virginia Graham?

24 A Yes, I perused through them.

25 Q You read them?

26 A Yes.

1 Q So there were those statements, and what else
2 was there as far as the Tate-La Bianca murders were concerned
3 against Susan Atkins when you decided that you were not
4 going to have Susan Atkins exercise her privilege against
5 self-incrimination, if she were subpoenaed to the Grand
6 Jury?

7 A Mr. Kanarek, there was no addition to that.

8 The death penalty case, by that I mean the case
9 of the people indicated they would be seeking the death
10 penalty on Gary Hinman.

11 Q I said in the Tate-La Bianca matter.

12 A You asked me how I decided. I have to tell you
13 I took all of the evidence into consideration.
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6 fls.

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1 Q I said the evidence that would go before the
2 Grand Jury for the indictment of the Tate-La Bianca matters,
3 Mr. Caballero. I am not talking about a penalty phase hearing
4 wherein you bring in the Hinman case. I am talking about
5 the Tate-La Bianca case.

6 Would you tell us what evidence was brought to
7 your attention that would be used against Susan Atkins,
8 before December 1, 1969, before you tape recorded her and
9 then gave the tape recording to the District Attorney and
10 the Police Department.

11 A The statements she had made to the two girls.
12 The fact that the police had a palm print of one of the
13 co-defendants whom the evidence would show this co-defendant
14 was, in fact, a person that was part of the so-called
15 Family that she was associated with.

16 The fact that the evidence as to the other girls
17 would indicate that these were persons also associated with
18 the Family.

19 And just as important is the fact that I had
20 spoken to Susan and I knew what kind of a witness she would
21 make, and I knew that if she took the stand, it would be
22 highly detrimental to her, and if she didn't take it, it
23 likewise would be.

24 I evaluated the case as such.

25 Q Then, what you had was the statements of Roni
26 Howard and Virginia Graham --

1 A Yes.

2 Q -- the palm print of some person.

3 A Yes. And this would be identified as a person
4 associated with her.

5 Q As a friend of hers?

6 A Yes. And that is more than just a coincidence,
7 especially when she had given the name to the girls,
8 Roni Howard and Virginia Graham.

9 THE COURT: We will take our recess at this time,
10 Mr. Kanarek.

11 Ladies and gentlemen, do not converse with any-
12 one or form or express any opinion regarding penalty until
13 that issue is finally submitted to you.

14 The Court will recess for 15 minutes.

15 (Recess.)

5a-1 1 (Proceedings under way as court reporter enters
2 courtroom.)

3 Q LY. M. KENNARCK: Having in mind that particular
4 section, do you recall reading that over?

5 A Yes.

6 Q Now, was your state of mind such that you felt
7 that the Court had authorized any such discussion concerning
8 which you have spoken of in this courtroom, Mr. Caballero?

9 A I don't understand the question.

10 Q Has your state of mind such, prior to December
11 10, 1969, that the Court authorized any such discussion?

12 A No.

13 Q You know that the Grand Jury foreman, you knew
14 that as a matter of experience, being in the District
15 Attorney's Office, that the Grand Jury foreman instructs
16 each and every witness not to discuss the matters that the
17 witness has testified about, right?

18 A Yes.

19 Q And you knew that the Grand Jury foreman
20 instructed Susan Atkins not to discuss the matters that she
21 testified to, right?

22 A Yes.

23 Q All right.

24 Is it a fact, Mr. Caballero, that in fact,
25 before in the Grand Jury Susan Atkins discussed her back-
26 ground -- without going through this transcript and belaboring

1 it -- it is a fact, that her background was discussed by
2 the Grand Jury; right?

3 A It may have been. I was not in the Grand Jury,
4 and at the time of the negotiations and everything, the
5 Grand Jury transcript was not transcribed yet.

6 The Grand Jury hearing -- so that there will be
7 no misunderstanding when I said I was not in the Grand Jury
8 -- I mean I was not in there when Susan Atkins was
9 testifying.

10 Q Well, you knew that Mr. Bugliosi and Mr.
11 Stovitz were using the material you supplied. You knew
12 that they had recreated, like on this yellow pad, the very
13 questions that were to be asked her; right?

14 A Yes.

15 Q And you knew that some of these questions
16 involved background?

17 A Oh, sure. Yes.

18 Q And you say that part of this background
19 involved Susan Atkins' early relations with Charlie
20 Manson.

21 That was background; right?

22 A Yes, that is correct.

23 Q And that is part of the same background
24 information concerning which there was interrogation by
25 Mr. Cohen in your presence and the Court Reporter's
26 presence with Susan Atkins on December the 10th, 1969, at

1 Sybil Brand?

2 A Yes.

3 Q Now, directing your attention, then, to this
4 second paragraph in this confidential memorandum.

5 "Discussion was had as to whether
6 immunity should be given to Susan Atkins in
7 exchange for her testimony at the Grand Jury
8 hearing and subsequent trial. It was decided
9 she would not be given immunity."

10 So, in fact, immunity was discussed at that
11 meeting where Mr. Younger was present?

12 A Yes, in the sense that I explained it to you,
13 Mr. Kanarek.

14 It had already been decided she wasn't going to
15 get it, and they merely reaffirmed and explained
16 the conversation that they had with me to Mr. Younger.

17 I am sure that is what he meant.

18 I am just speculating, because that is a memorandum by one
19 man of his recollection of the understanding.

20 Which, incidentally, I think is substantially
21 correct.

6b-1

1 Q What do you think is substantially correct?

2 A His recollection.

3 Q Is it a fact, in this memorandum, for instance,
4 is the statement that "Susan Atkins' information has been
5 vital to law enforcement in the solving of this case."

6 Do you remember that sentence in here?

7 A Yes, I remember the sentence.

8 Q So that Susan Atkins was responsible for the
9 "solving," of this case; right?

10 MR. BUGLIOSI: Calls for a conclusion.

11 BY MR. KANAREK:

12 Q That was discussed?

13 MR. BUGLIOSI: Calls for a conclusion he is not in
14 a position to give.

15 BY MR. KANAREK:

16 Q That was discussed, wasn't it, Mr. Caballero,
17 the fact that she was responsible for the solving of this
18 case?

19 A That she assisted and helped and gave important
20 information regarding the solving of the case.

21 Q "This has been vital to law enforcement in
22 the solving of this case"; right?

23 A Right what?

24 Q Do you recall this language in this
25 memorandum here?

26 A That is correct. That language is in the

6b-2

1 memorandum.

2 Q Is there anything about it that is untrue?

3 MR. BUGLIOSI: Calls for a conclusion.

4 THE COURT: Sustained.

5 BY MR. KANAREK:

6 Q As a matter of fact, Mr. Caballero, absent your
7 tape to the Police Department and Mr. Bugliosi of December
8 1, 1969, Susan Atkins would never have been indicted by the
9 Grand Jury. Is that your state of mind?

10 MR. BUGLIOSI: Calls for a conclusion.

11 THE COURT: Sustained.

12 BY MR. KANAREK:

13 Q Was your state of mind, Mr. Caballero, was
14 your state of mind that absent Susan Atkins' testimony,
15 based upon your tape of December 1, 1969, that she would
16 not have been indicted by the Grand Jury?

17 Is that your state of mind?

18 A No.

19 Q You think she would have been?

20 A Yes.

21 Q Is that right?

22 A Yes.

23 Q Then, if I may ask you, then.

24 In this period between Thanksgiving and
25 December 1, 1969, did you discuss with the District
26 Attorney's office whether they thought they could get a

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Grand Jury indictment without her testimony?

MR. BUGLIOSI: That is irrelevant.

THE COURT: Sustained.

BY MR. KANAREK:

Q Let me ask you this. Was there any kind of discussion during this period that you were in the room there, was there any discussion about Mr. Manson when you were in there with Mr. Younger and Mr. Bugliosi and Mr. Stovitz and Mr. Caruso? Was there any discussion about Mr. Manson?

A Just that he was one of the defendants, and whether or not -- it was sort of called the "Manson case" -- and as to whether or not she would be testifying against him at the trial. That kind of discussion.

6c file.

6c-1

1 Q Well, will you tell us what was said concerning
2 Mr. Manson?

3 A Nothing more than I indicated that Susan would
4 testify at the Grand Jury but that I could not guarantee
5 that she would testify at the trial.

6 I had hoped -- in other words, I was trying to
7 get -- now that I had my understanding that she would get
8 life imprisonment, I was trying to get even more, and I
9 was, in effect, trying to work down to murder second, and
10 possibly anything else I could get, and I indicated that I
11 couldn't guarantee that she would testify at the trial.

12 At the Grand Jury, I explained to them -- I
13 don't know if this is in this conversation or in the conver-
14 sations that I had with the District Attorney leading up to
15 this conversation in front of Mr. Younger -- but I had
16 indicated that I had explained to Susan that at the Grand
17 Jury none of the defendants are present, that she goes up
18 there, and they ask her questions, but she is the only
19 witness that is in there. The other persons are members of
20 the Grand Jury, the District Attorney and a court reporter.

21 The reason for that is that she had expressed
22 to me concern over whether or not she would be capable or
23 able to stand in front of Mr. Manson and the co-defendants
24 and actually testify against them.

25 She had indicated it was a question of their
26 physical presence which would make it difficult for her to

1 do that.

2 I explained to her not to concern herself with
3 this at the Grand Jury because none of them would be present.

4 But I told her honestly, I told her that
5 honestly, at the trial, you will have to have the strength
6 and courage to stand up there and look them in the eye,
7 and that you will be subject to cross-examination, you will
8 be subject not only to looking at them, but to cross-examina-
9 tion, not just by one attorney, but cross-examination by all
10 the attorneys, so prepare yourself for that.

11 It was the distinction between the Grand Jury
12 and the trial. We went all through this.

13 She told me, quite emphatically, she didn't
14 think she could reach the stage where she could do that.

15 I told her, I was trying to make her see that
16 it was in her best interest to testify at the Grand Jury
17 and testify truthfully, that I felt it would be very
18 much to her advantage, but that we would discuss this as
19 time went by. But right now, let's just discuss the Grand
20 Jury testimony.

21 I indicated that while it could be used to get
22 an indictment against her, there was sufficient evidence,
23 they could use Roni Howard's testimony and Virginia Graham's,
24 and get the Grand Jury indictment; and in addition to that,
25 in all likelihood, get a conviction, and probably get the
26 death penalty.

1 That, in essence, was the conversation that I
6d file. had regarding that point.

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Q I see.

Now, this statement here in the confidential memorandum: "Mr. Caballero made it known that at this moment his client may not testify at the trial due to her fear of the physical presence of Mr. Manson and the other participants in the Sharon Tate murders."

Would you tell us what the nature of the fear was?

You were now speaking of fear in a courtroom; right?

A Yes. Being able to face them.

She didn't know if she could in fact actually face them and testify against them.

She would say: I don't know what kind of vibrations he will send to me.

She would indicate to me many times that they could speak to each other without actually being physically present there. She used to tell me that she was communicating with him in the jail by merely vibrations. This kind of thing.

I asked her if he hypnotized --

MR. BUGLIOSI: You are saying "he." Whom do you mean?

THE WITNESS: Charles Manson.

MR. KANAREK: Q This says "Charles Manson and the the other participants in the Sharon Tate murders."

A Yes.

1 Q Did you inquire as to whether this fear could
2 be predicated upon maybe what she was saying wasn't the
3 truth?

4 MR. BUGLIOSI: Calls for a conclusion.

5 THE COURT: Sustained.

6 MR. KANAREK: Q In other words, she said, in
7 essence, that she wasn't sure that she could face these
8 people in the courtroom; right? This is the fear?

9 A In essence, yes.

10 Q It wasn't a fear of harm to her physical body;
11 right?

12 A No. She didn't indicate that, that is correct.

13 Q So, did it occur to you to inquire of her
14 concerning the nature of this fear?

15 It is not only Mr. Manson, it is all the
16 participants, including Mr. Watson; right?

17 A That's right.

18 Q Including Mr. Grogan; right?

19 A Well --

20 Q She testified concerning Mr. Grogan, too; right?

21 A Yes. But we didn't discuss his name in this.

22 Q You didn't discuss his name?

23 You discussed Mr. Grogan with her; right?

24 A At times. But in so far as this conversation
25 was concerned, his name didn't come up.

26 Q All right.

1 So, she was afraid to face, at that point in
2 time, Mr. Manson, Susan Atkins, Patricia Krenwinkel,
3 Leslie Van Houten, Linda Kasabian, Tex Watson and Steve
4 Grogan. She didn't want to face them in court; right?

5 A Most of those people you mentioned, yes.

6 Q Well, all of them.

7 This doesn't exclude anybody. It says,
8 "Charles Manson and the other participants in the Sharon
9 Tate murders." And at that time, when Mr. Stovitz wrote,
10 this memorandum, the people that I have enumerated were
11 the people who were the alleged participants in the Sharon
12 Tate murder; right?

13 A Mr. Kanarek, it would be easy to say yes and go
14 to the next question, but I am trying to explain to you
15 that you are substantially correct except that I don't
16 recall Grogan's name being mentioned.

17 Now, that is the answer.
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Q All right.

The other people's names were mentioned; right?

A Yes.

Q All right.

Then did you inquire of her as to why she was afraid, why she would be afraid in the courtroom?

A In essence, yes, we discussed that.

Q All right.

Would you tell us the words she said?

Where were you when you discussed this with her?

Remember, this is now December 4, 1969, that this memo was written.

So, I am asking about your conversations with her on December 4, or prior to December 4, but subsequent to the Thanksgiving period you have spoken of.

A Yes.

It would have been either at Sybil Brand or at my office. Those places.

Q And what was the fear? Tell us about the fear that she would have in an open courtroom.

A She felt that everybody else had kept quiet but she had gone and spoken, she had gone to these girls, and that she had really goofed up when she told the officers about the Hinman killing.

She did tell me that she felt she told them this

6e-2

1 because she, at that time, as she put it to me, they had
2 threatened her with the gas chamber. So, therefore, she
3 thought she had better tell them what really happened.

4 And she was concerned that she was the one that
5 had told the story in any event, that she is sort of the
6 one that was on the outside and wasn't united with them,
7 and because of all these things, the fear was more of the
8 kind of being ashamed to face them and say, "Okay, I am
9 going to tell it even though I am not supposed to."

10 It was that kind of fear.

11 Q Did it occur to you that this "fear" that Mr.
12 Stovitz has used -- he used the word "fear." Did it occur
13 to you that maybe that involved that maybe she wasn't quite
14 telling the truth?

15 Did that ever occur to you?

16 MR. BUGLIOSI: Calls for a conclusion.

17 THE COURT: Sustained.

18 BY MR. KANAREK:

19 Q So, at that point -- which is just a matter of
20 a few days, actually, since you had first met her; right?

21 A Yes.

22 Q A very few days that you had known Susan
23 Atkins at that time; right?

24 A Yes.

25 Q You didn't know her characteristics, you didn't
26 know her personality, you had no opportunity to have much

6e-3

1 insight into this human being?

2 A Well, I had been with her quite often for over
3 a week.

4 Q A week?

5 A Over a week. And we had talked quite
6 extensively.

7 Q And you knew that she had been threatened with
8 the gas chamber, right? By law enforcement officers;
9 right?

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10 A I knew she felt that way, yes.
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1 Q So, this fear, this reluctance, if you can term
2 it that, was because maybe she wasn't quite telling the
3 truth? Did that occur to you?

4 MR. BUGLIOSI: Calls for a conclusion.

5 THE WITNESS: No.

6 BY MR. KANAREK:

7 Q Did it go through your mind that she might not
8 be telling the truth?

9 MR. BUGLIOSI: Calls for a conclusion.

10 THE COURT: Sustained.

11 MR. KANAREK: I am asking about his state of mind,
12 your Honor.

13 THE COURT: Sustained.

14 BY MR. KANAREK:

15 Q Then you did nothing to determine what the
16 basis of this fear was other than what you have told us;
17 is that right, Mr. Caballero?

18 A I paraphrased for you my conversations with her.
19 She made it pretty clear to me what the concern
20 was about.

21 Q I see.

22 Now, then, did you, as a lawyer -- here she
23 is, these other people are all in custody, with lots of
24 deputy sheriffs around, lots of law enforcement around --
25 did you tell her that this fear that you are speaking of is
26 a synthetic type of thing. If you are telling the truth,

1 it is meaningless. You get on the witness stand, you tell
2 the truth. These people are all in custody.

3 Did you discuss that kind of thing with her?

4 A We had that kind of general conversation, yes.

5 Q I see.

6 And during that conversation with her, did
7 you ferret out anything other than what you have already
8 told us?

9 A No.

10 Q So, in fact, this fear of Charles Manson and
11 these other participants was a phony, synthetic fear?

12 A No.

13 Q Well, did she --

14 A It was real to her.

15 Q It was real to her, but this wasn't the time of
16 trial, was it? This was before even December 4, 1969.

17 A That is what you are asking me about, what my
18 conversation was regarding when she testified at the trial.

19 Q Right.

20 A That is what we are talking about.

21 Q Right.

22 So, did it occur to you that maybe some of the
23 things she was saying was out of fear of the threats of
24 the law enforcement officers, and some of the things that
25 she may have been saying about people, some of these
26 so-called facts and details, might not be true?

1 A No.

2 Q It never occurred to you?

3 A No. Because of what she told me, that didn't
4 have to occur to me. She explained to me.

5 Q Pardon?

6 A She explained to me that even though she was
7 afraid of the officers when she copped out, so to speak,
8 it was the truth.

9 Q I see.

10 So, then, this fear, this fear that we have
11 been talking about, you explained to her, was meaningless;
12 there was no way that anyone could hurt her by just taking
13 the stand and telling the truth?

14 A I didn't tell her it was meaningless, Mr.
15 Kanarek.

16 I had her feelings and her emotions to contend
17 with. I knew they were real to her.

18 I don't tell a person, when it is real to them,
19 that it is meaningless.

20 I knew she was genuine in expressing her fears,
21 and I merely tried to explain to her.

22 And I, in fact, told her, without any reserva-
23 tions, what she would have to do while she was at the
24 trial.

25 And that is why, at that meeting at the District
26 Attorney's office, I told them that I didn't think that I

1 could guarantee she could testify at the trial because I
2 would not lie to her about it.

3 I wanted her to know what it would be like at
4 a trial.

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1 Q All right.

2 She is called as a witness to the witness stand.
3 She has this fear. And Judge Older says -- or some other
4 judge says -- "Answer the question."

5 Now what happens, Mr. Caballero?

6 A I don't know.

7 MR. BUGLIOSI: Calls for a conclusion. Irrelevant.

8 THE COURT: Sustained.

9 Q BY MR. KANAREK: As a matter of fact,
10 Mr. Caballero, Susan Atkins, on not only one occasion when
11 Mr. Cohen was present, but on other occasions, made state-
12 ments to you that what she had testified to, some of the
13 matters before the Grand Jury, were untrue; right?

14 A Yes.

15 Q She told you this on occasions; right?

16 A Yes.

17 Q Did you get a psychiatrist over there to help
18 ferret out whether or not she was telling the truth right
19 now, or she told the truth yesterday, or she is going to
20 tell the truth tomorrow?

21 A No.

22 Q But it was to your financial benefit, Mr.
23 Caballero, that that which was told before the Grand Jury
24 not be refuted until Mr. Schiller had his exclusivity,
25 so that he could then collect money; right?

26 A Mr. Kanarek, you failed to ask me when she told
me that she lied about Mr. Manson.

1 Q Will you answer that, then?

2 A The answer to the question is no.

3 Q Pardon?

4 A The answer, then, is no.

5 Q The answer to the question is no?

6 A Yes.

7 Q You had no thinking whatsoever about any
8 exclusivity or putting out some story of her life?

9 A No. As of that time, she had not told me that
10 she had lied about Mr. Manson.

11 Q She hadn't told you that at that time?

12 A That is correct.

13 Q I see.

14 On the morning that she testified at the Grand
15 Jury, did she have discussion with you concerning the
16 truthfulness of what she had told you on December 1, 1969?

17 A Yes.

18 Q That is before she went in the Grand Jury;
19 right?

20 A Yes.

21 We were sitting there talking, yes.

22 Q Right.

23 And before she went in the Grand Jury, she
24 told you that she had not told the truth; right?

25 A Oh, no. Far from it.

26 Q Far from it?

1 A Yes.

2 Q I see.

3 Now, you said, I believe, on, I guess, previous
4 examination, you felt that publicity could not hurt
5 Susan Atkins; right?

6 A Yes.

7 Q So, therefore, your state of mind and your
8 thinking was that fostering publicity would in no way
9 hurt her?

10 That was your state of mind at the time that
11 you were speaking of in connection with she got everything
12 at or about the time that this confidential memorandum was
13 created.

14 A Not a question of fostering publicity. I just
15 felt that publicity could not hurt her, period.

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7-1
1 Q So that you in your mind, and this sort of
2 dictated what you did in connection with Mr. Schiller and
3 all of that, because publicity would not hurt Susan Atkins?

4 A I don't know what you mean by all of that,
5 but the rest of your question I can answer to you yes.

6 Q Would hurt?

7 A Would not hurt her.

8 Q Would not hurt her.

9 Did you consider that the publicity might hurt
10 the other defendants?

11 A No.

12 Q The welfare of these other defendants did not
13 even enter your mind at all, right?

14 A No.

15 Q Only Susan Atkins?

16 A That is correct.

17 Q I see. Did it occur to you that the fairness
18 of the trial might be undermined by this publicity?

19 MR. BUGLIOSI: Calls for a conclusion, irrelevant.

20 THE COURT: Sustained.

21 Q BY MR. KANAREK: Now, you made a statement that
22 publicity would cement relations.

23 I think I heard that right.

24 What did you mean by that, Mr. Caballero?

25 A Meaning it was merely another indication that
26 the District Attorney's Office and I had reached an under-
standing and this was why I was allowing her to talk and

1 reveal the facts of the case, because I knew in essence it
2 was not going to be used against her.

3 Q How would it cement relations, what do you mean
4 by that?

5 A I don't know -- cement our understanding, no
6 question what our understanding was.

7 Here it is, so therefore why should I be worried
8 by the publicity?

9 That is all I mean by that. If you want more,
10 there is nothing more to it than that.

11 Q You had some discussions with some of the
12 people in the District Attorney's Office concerning the
13 publicity aspect of this case?

14 A No, I would not say that.

15 Q Well, what do you mean you would not say that?

16 A Because I don't recall it.

17 Q Well, are you saying --

18 A I do recall, I'm sorry.

19 Yes, they were upset.

20 Q What is that?

21 A They were upset that the story appeared and
22 there was that much publicity given to it, yes.

23 Q I see. And I am now directing your attention
24 to the time before the publicity occurred, that is, before
25 her story occurred.

26 A Yes.

Q There in fact had already been a lot of

1 publicity, right?

2 A Yes.

3 Q And then did you feel that this publicity
4 would somehow or other make it better or easier for
5 Susan Atkins?

6 A I did not feel it would hurt her, to answer
7 your question, yes, I also felt it would benefit her
8 tremendously.

9 Q Was there at the discussion concerning immunity
10 and the discussion --

11 You talked about life, second-degree.

12 Was there any discussion as to whether or not
13 Susan Atkins had to go before the Grand Jury on December the
14 5th, that precise date?

15 A I did not know what day it was going to be
16 until I was informed. That was something for the District
17 Attorney to work out with the Grand Jury schedule.

18 Q I mean, on December 4, 1969 you did not know --

19 A Oh, I'm sorry, I thought you meant as to --
20 I misunderstood your question.

21 I knew then that she was going to be testifying
22 the next day, but why she had to was not important to me.

23 Apparently that is the day they got to go
24 before the Grand Jury, I assume.

25 The Grand Jury has a calendar of its own.

26 I did not pay any attention, any mind in that

1 sense.

2 Q And you know of no reason why December 5, 1969
3 was picked as a date?

4 A None whatsoever.

5 Q In directing the conversation at this meeting,
6 was there any kind of discussion of Mr. Manson other than
7 what you have told us already?

8 A Not that I recall, just about what I told you.

9 Q There was no -- there was no one said that
10 Mr. Manson was in custody.

11 Was there any discussion about Mr. Manson him-
12 self being in custody at that time?

13 A No.

14 Q Was there any discussion about Linda Kasabian
15 being in custody?

16 A Not that I recall.

17 There may have been but I would have found that
18 too incidental at that moment to bother to remember it.

19 But I don't recall any such conversation.

20 Q Was there any discussion concerning any of the
21 other defendants being in custody?

22 A I really don't recall that, Mr. Kanarek. There
23 may have been.

24 Q Was there discussion wherein you were told
25 that without Susan Atkins there would be no Grand Jury
26 indictment?

1 A Oh, no.

2 Q No one discussed that?

3 A Not that I recall. I was never told that if
4 she did not testify there would be no Grand Jury indictment.

5 There was only the difference if she testified,
6 they would not use Roni Howard and Virginia Graham, because
7 they would not need them there.

8 But if she did not testify then they would use
9 them, and she would be indicted anyway, with no under-
10 standing of life.

11 They would seek the death penalty.

12 Q You were told that?

13 A Oh, yes, not necessarily at that discussion.

14 You must understand, Mr. Kanarek, I had many
15 discussions with Mr. Bugliosi and Mr. Stovitz.

16 I am trying to indicate the memorandum you
17 have before you tries to condense an understanding which
18 had accumulated over many discussions and which was merely
19 digested to Mr. Younger at that meeting, that is all.

20 Q Well, then, would you tell us, Mr. Caballero,
21 absent the testimony of Susan Atkins, how would the District
22 Attorney have obtained indictments against the other
23 defendants?

24 MR. BUGLIOSI: Calls for a conclusion.

25 THE COURT: Sustained.

26 Q BY MR. KANAREK: Was this discussed?

A No.

7a-1

1 Q And was it discussed among you that the
2 testimony of Roni Howard and Virginia Graham might indict,
3 might indict Susan Atkins?

4 A Oh, yes.

5 Q But absent Susan Atkins, the other defendants
6 would not be indicted, was that discussed?

7 MR. BUGLIOSI: Calls for a conclusion.

8 MR. KANAREK: I'm asking whether the subject matter
9 was discussed, not whether it is true or not, your Honor.

10 THE COURT: Discussed with whom?

11 MR. KANAREK: With Mr. Younger, all of the people,
12 Mr. Caruso, Mr. Stovitz, Mr. Bugliosi.

13 Was that discussed?

14 THE COURT: You may answer that.

15 THE WITNESS: No.

16 BY MR. KANAREK:

17 Q Did you analyze it as a lawyer and was your
18 state of mind such that you thought that absent Susan
19 Atkins, absent her testimony there would be no indictment
20 except for Susan Atkins, using Roni Howard and Virginia
21 Graham.

22 I am asking for your state of mind, Mr.
23 Caballero.

24 MR. BUGLIOSI: Calls for a conclusion.

25 THE COURT: It would appear to be irrelevant.

26 It calls for state of mind. It would appear to

7a-2

1 be irrelevant.

2 The objection is sustained.

3 MR. KANAREK: Thank you, Mr. Caballero.

4 DIRECT EXAMINATION

5 BY MR. KEITH:

6 Q Mr. Caballero, no doubt you discussed with
7 Susan Atkins the facts surrounding the alleged Hinman
8 homicide?

9 A Yes.

10 Q During the time you represented her?

11 A Yes.

12 Q And she told you I take it who else was present
13 at that time, at Mr. Hinman's death besides yourself,
14 assuming someone else was?

15 A Yes.

16 Q I take it she told you Leslie Van Houten was
17 present at the time Hinman met his death?

18 A No.

19 Q Did she tell you that somebody else was?

20 A Yes.

21 Q Who was that?

22 A Mary Brunner.

23 Q She never said that Leslie was there?

24 A She said it was Mary Brunner and herself.

25 MR. KEITH: I have nothing further.
26

7a-3

CROSS-EXAMINATION

1 BY MR. BUGLIOSI:

2 Q Did she say Bobby Beausoleil was also present?

3 A Yes.

4 Q So she, Susan Atkins, Mary Brunner and Bobby
5 Beausoleil?

6 A Yes.

7 Q Mr. Caballero, December 1st, 1969, when you
8 interviewed Susan Atkins on tape, was it you, Paul Caruso,
9 Susan Atkins on the tape?

10 A Yes.

11 Q Was anyone else on that tape?

12 A No.

13 Q Is this the tape that you sold to Lawrence
14 Schiller?

15 A Yes.

16 Q Did you sell anything else to Lawrence Schiller?

17 A No, just the interview of December 10th.

18 Q This is the interview at Sybil Brand?

19 A Yes.

20 Q With Jerry Cohen, in which Jerry Cohen inter-
21 viewed Susan Atkins?

22 A Yes.

23 Q So other than the interview on tape on December
24 1st, 1969, and the interview on December 10th, 1969, you
25 did not sell anything else to Lawrence Schiller?
26

7a-4

1 A That's correct.

2 Q In your conversations with Susan Atkins, you
3 say she denied stabbing Sharon Tate, is that correct?

4 A That's correct.

5 Q Did she say whether or not she stabbed Voityck
6 Frykowski?

7 A She said she was told to tie him up or to guard
8 him, so to speak.

9 I believe she had something to do with tying
10 him up, and he got loose and she lunged at him where his
11 legs were.

12 She believed she may have stabbed him in the
13 leg when he was jumping up, and then Tex Watson stabbed
14 him to death.

15 THE COURT: Mr. Reporter, will you go back and read
16 the preceding question and answer, not the last question
17 and answer, the preceding one.

18 (Whereupon the reporter reads the question and
19 and answer as directed.)

20 BY MR. BUGLIOSI:

21 Q So she did tell you she stabbed Voityck
22 Frykowski?

23 A Yes, in his leg.

24 I have to only qualify that to this extent,
25 I honestly don't recall at this moment if she said she
26 went at him with the knife at his leg --

7a-5

I cannot honestly recall at this point whether she lunged at him with the knife, his legs, when he was getting away or whether the knife did actually in fact get into the leg at that point, whether she was successful or not I don't recall.

7b fls.

7b-1

1 Q Mr. Caballero, do you recall my telling you
2 before the Grand Jury that my office, the District
3 Attorney's Office, wanted Susan to tell the complete truth
4 at the Grand Jury?

5 MR. KANAREK: Self-serving, hearsay, no foundation as
6 to time and who was present. I object.

7 THE COURT: Overruled.

8 THE WITNESS: Yes.

9 Q BY MR. BUGLIOSI: Do you recall my telling
10 you after the Grand Jury that it was my belief that although
11 Susan Atkins testified substantially to the truth to the
12 Grand Jury, she did not tell the complete truth.

13 Do you recall my telling you that?

14 MR. KANAREK: I object on the grounds of hearsay,
15 improper foundation, a conclusion.

16 THE COURT: Overruled, you may answer.

17 THE WITNESS: Yes, you indicated you felt she had
18 not told the complete truth.

19 I said she told substantially the truth, every-
20 thing was substantially as she indicated.

21 You said, "Oh, yes, she did testify substan-
22 tially to the truth."

23 And we left it at that.

24 Q ~~Continued by me of the witnesses?~~
~~BY MR. BUGLIOSI:~~ What did Susan Atkins tell you
25 about Mr. Manson's participation in these murders?

26 A She stated to me that Mr. Manson is a person

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1 that she had met a long time ago; that apparently/^{he} had
 2 a certain amount of influence over her;

3 That he had asked her to go to the Gary Hinman
 4 house and to kill him, tie him up, kill him, and to have
 5 him sign over all of his papers for his automobiles to her.

6 She told me that he had instructed -- *and I'm not sure if he*
gave me the go, that I would tell him I would kill him and
 7 MR. KANAREK: Your Honor -- *to commit the Tate and Rayner murders.*

8 DEFENDANT HANSON: Let him go, man.

9 THE WITNESS: She told me that he had given her and
 10 the others information and advice as to going over to the
 11 Tate residence; that he had spoken to Watson about this:

12 That he told Susan, "Just go along with him and
 13 do as he tells you, and come back."

14 And when they returned from the Tate residence --
 15 I am condensing most of this now -- that when they returned
 16 from the Tate residence, and there was a lot of fanfare
 17 and publicity about this, that he was upset about all the
 18 messy job, in effect, that had been done.

19 He indicated to them he would show them how it
 20 was done.

21 The next day they went to the La Bianca
 22 residence.

23 She said that there were about seven of them,
 24 I believe, in the automobile. Others wanted to go but there
 25 just wasn't enough room in the car.

26 So they got to the residence; they had stopped

1 at two other residences, at one place where there was, I
2 believe, a picture of a child or something, so Charlie had
3 said, "No, we won't go in there."

4 Then they went, when they arrived at this
5 other residence, which later turned out to be the La Bianca
6 residence, Charlie had gone in first and he had some sort
7 of weapon, I believe it was a gun or a knife -- I believe it
8 was a gun; that he had come out and told them, "They are
9 tied up now." He told them to kill them but not to get
10 them upset.

11 That in essence is what she told me.

12 They left with Charlie, and the others; they
13 left the wallet at some particular location.

14 And she went back to the ranch.

15 THE COURT: Mr. Bugliosi, it is 12:00 o'clock.
16 We will take our noon recess at this time.

17 Ladies and gentlemen, do not converse with
18 anyone or form or express any opinion regarding penalty
19 until that question is finally submitted to you.

20 The Court will recess until 1:45.

21 (Whereupon, a recess was taken to reconvene at
22 1:45 p.m., same day.)
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1 LOS ANGELES, CALIFORNIA, MONDAY, MARCH 8, 1971

2 2:00 o'clock p.m.

3 - - - - -

4 (The following proceedings occur in open court.
5 All defendants, counsel and jurors present.)

6 THE COURT: All parties, counsel and jurors are
7 present.

8 You may continue, Mr. Bugliosi.

9
10 RICHARD CABALLERO,
11 the witness on the stand at the time of the noon recess,
12 resumed the stand and testified further as follows:

13
14 CROSS-EXAMINATION (Continuing)

15 BY MR. BUGLIOSI:

16 Q Mr. Caballero, did Miss Atkins tell you what
17 the motives for these murders were?

18 A She described --

19 MR. KANAREK: Your Honor, that is ambiguous.

20 Do you mean, "Did she say what the motives
21 were"?

22 I object, your Honor. She is putting words
23 in other people's mouths.

24 BY MR. BUGLIOSI:

25 Q Did she tell you, in her words, what the motives
26 were for these murders?

1 MR. KANAREK: Your Honor, I object.

2 MR. BUGLIOSI: Asking for what she told him.

3 MR. KANAREK: It is ambiguous.

4 There are several defendants, your Honor. Mr.
5 Watson isn't here. It is ambiguous.

6 Who is she attributing the words to?

7 MR. BUGLIOSI: I will find out.

8 MR. FITZGERALD: Also assumes facts not in evidence
9 that there is a motive, or "the motive."

10 THE COURT: I think the objection is good, Mr.
11 Bugliosi.

12 MR. BUGLIOSI: Assumes facts not in evidence that
13 there were motives for these murders?

14 THE COURT: I think you can get at the same thing
15 by reframing the question.

16 BY MR. BUGLIOSI:

17 Q Did Susan Atkins indicate to you what Manson
18 told her, if anything, as to why these murders were
19 committed?

20 MR. KANAREK: I will object on foundation; people
21 present, time, place.

22 I want to know who --

23 THE COURT: Lay the foundation.

24 BY MR. BUGLIOSI:

25 Q Did you ever have a conversation with Susan
26 Atkins with respect to the motive for these murders?

1 A Yes.

2 Q When? When did this conversation take place?

3 MR. KANAREK: That is assuming that there was only
4 one conversation.

5 I will object to it in that form, your Honor.

6 THE COURT: Overruled.

7 THE WITNESS: There were many conversations and it
8 was a running kind of conversation in which I was asking
9 her to explain to me why it was that they perpetrated these
10 crimes.

9 fls.

9-1

1 Q Over what period of time did those conversa-
2 tions take place?

3 A Oh, I would say over a period of months at
4 various different times.

5 Q And who was present during this conversation?

6 A Just herself and I.

7 Q And what did she say?

8 A Well, in one conversation Mr. Caruso was also
9 present, that is a tape recording on December 1st.

10 I don't recall if there is anything in there
11 at this time regarding the motives.

12 It was rather a lengthy conversation, but in
13 many other conversations it was just she and I that was
14 present.

15 Q What did she say?

16 MR. KANAREK: May we have the dates, your Honor?

17 THE WITNESS: I could not give you the dates.

18 MR. KANAREK: May we have the dates and place?

19 THE COURT: You are interrupting, Mr. Kanarek.

20 MR. KANAREK: I apologize.

21 THE COURT: Overruled.

22 THE WITNESS: During the period of time I represented
23 her on various occasions we discussed the reasons for this.

24 In fact, on one occasion I indicated to her
25 I wanted to know exactly as best as she could to describe
26 to me what happened, so that we could explain to the

1 psychiatrist what it was that made her do these things.

2 In essence the two words that were most
3 prominent in that were the words Helter Skelter. ✓

4 And I asked her many times to explain that
5 to me.

6 In essence, as I understood it, it was supposed
7 to be a situation wherein if the crimes were attributed
8 to black people, and people came to an uproar and there
9 was a fight between blacks and the whites, that this in a
10 sense would be Helter Skelter and they, the Family, she
11 and Charlie and all of them would be in sort of this
12 desert retreat and they would come up and they would be
13 friends with those that won the battle.

14 And they assumed that the blacks would win, and
15 they, however, would be friends with the blacks because
16 they had not taken place in it.

17 I am paraphrasing lengthy conversations.

18 Q At any time during these conversations about
19 the murders or the motives for the murders, did you put
20 words in her mouth or did you simply ask her questions?

21 MR. KANAREK: Calling for conclusion, your Honor.

22 THE COURT: Overruled, you may answer.

23 THE WITNESS: I asked her to tell me why these
24 places were picked, why these people, what had occurred?

25 And this Helter Skelter explanation is in
26 essence what she told me.

1 BY MR. BUGLIOSI:

2 Q I believe you testified this morning that
3 Susan Atkins at one time told you that she lied about
4 Mr. Manson, is that correct?

5 A Yes.

6 Q Approximately when did she tell you this?
7 I'm referring to the date now.

8 MR. KANAREK: That is assuming facts not in evidence
9 in that he said she made the statement on many occasions,
10 that she lied.

11 It was not just once, your Honor.

12 THE COURT: Overruled.

13 THE WITNESS: She told me that on various occasions.

14 Approximately I cannot tell you the dates.

15 I went to see Susan almost daily in the
16 evenings, and sometimes during the afternoons.

17 But at one time someone came to visit her
18 who, I understood, was a friend of Mr. Manson's.

19 It was after these visits were begun that she
20 then began to tell me things such as "Well, what I said was
21 just to say what they wanted to hear,"

22 And she began to tell me, and she did emphatically
23 tell me in no uncertain terms that she had lied.

24 Subsequent to her telling me she lied we had
25 other conversations, sometimes within the same hour and I
26 would just routinely get into it again and she would again

1 reiterate to me exactly what she told before the Grand Jury.
2 And I would end the conversations that way.

3 So for the many times she might tell me at the
4 inception of the conversation that she did lie about
5 Charlie, he had nothing to do with it.

6 Each occasion, subsequently she would come back
7 and reiterate what she testified to before the Grand Jury
8 was essentially the truth.

9 Q About Charles Manson?

10 A Yes.

11 Q When did you cease to be Susan Atkins'
12 attorney?

13 A Sometime in March.

14 Q Was this early March?

15 A I think it was in the middle of March sometime.

16 Q This would be what year?

17 A Last year.

18 Q 1970?

19 A Yes.

20 MR. BUGLIOSI: No further questions.
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REDIRECT EXAMINATION

1 BY MR. SHINN:

2 Q Now, Mr. Caballero, you said you had many con-
3 versations with Mr. Bugliosi.

4 You got him Miss Atkins' testimony?

5 A Yes.

6 Q And her statements?

7 A Yes.

8 Q Now, when was the first conversation you had
9 with Mr. Bugliosi regarding Susan Atkins' statement?

10 Was that after you heard the tapes on December
11 1st?

12 A I'm sorry, Mr. Shinn. I don't know what
13 statement you are referring to.

14 Q Okay, now, Mr. Bugliosi heard the tapes of
15 Miss Atkins on December 1st, on or about December 1st,
16 correct?

17 A No, on or about December 4th.

18 I taped her on the 1st.

19 Q Now, was that the first information that Mr.
20 Bugliosi received about Susan Atkins?

21 A No, we had been speaking before that.

22 Q Good. Now, you talked with Mr. Bugliosi
23 regarding Susan Atkins' statements, correct?

24 A Yes.

25 Q And her knowledge of the Tate-La Bianca
26 homicides?

1 A That's correct.

2 Q And you did tell Mr. Bugliosi just about what
3 Susan Atkins told you, correct?

4 A Yes.

5 Q Now, the first time you told Mr. Bugliosi
6 what Miss Atkins told you, did he say at that point that
7 maybe Susan Atkins is lying in some part?

8 A No.

9 Q He did not say that, correct?

10 A No.

11 Q Well, did he mention to you that there was a
12 statement by Roni Howard and Virginia Graham regarding
13 Susan Atkins' statements?

14 A Yes, Mr. Shinn.

15 After our original conversations between the
16 actual tape recording, we talked in general about things
17 she told me. We did not get into every specific detail.

18 Q This was before Mr. Bugliosi heard the tapes,
19 now?

20 A Yes.

21 Q Was the subject of who stabbed Sharon Tate
22 brought up?

23 A Yes, that is what I'm trying to do, to answer
24 your question on that point.

10 Fla.

1 Q Yes.

2 A What happened was, then, subsequently we had
3 the tape recording made.

4 Q Before the tape recording I am talking about.

5 A Yes. He asked. Before the tape recording, I
6 cannot answer whether or not that was specifically asked.

7 I know it was after the tape recording.

8 Q Okay.

9 Now, before. I am concentrating on before --

10 A Yes.

11 Q -- Mr. Bugliosi heard these tapes.

12 A Yes.

13 Q Wasn't there a question asked as to whether or
14 not Miss Atkins stabbed Sharon Tate?

15 A Before the tapes?

16 Q Yes.

17 A I don't think so, because I don't know if we
18 got into that much detail as to who did exactly what, other
19 than who participated, for what reasons, that kind of thing,
20 and how much evidence she could offer.

21 Q Okay. Let me ask you this:

22 Was there any conversation as to what part
23 Miss Atkins took in the homicides then before Mr. Bugliosi
24 heard the tapes?

25 A Yes. In general.

26 Q What do you mean in general? She stabbed all of

1 them or one of them?

2 A No. What role she played, who did the killings,
3 that kind of thing.

4 Q Yes?

5 A But to answer your question, I cannot specifi-
6 cally tell you if, prior to the tape, there was a question
7 put to me by Mr. Bugliosi: Did she stab Sharon Tate? Or
8 whether I told him she did not.

9 That is correct, I cannot answer that question
10 for you at this time.

11 Q Was there a discussion as to whether or not she
12 stabbed anyone then?

13 A There may have been.

14 I am trying to tell you that the conversations
15 prior to the tape were very general in nature.

16 However, it concerned her involvement as to
17 primarily identity and the roles the persons played insofar
18 as being there. That kind of thing.

19 But each specific act, I think the reason for
20 the tape recording was -- part of the reason -- was because
21 they would ask me a question and I'd say, "Well, I don't
22 know specifically," and I didn't want to interpose names
23 and put in names and make mistakes.

24 Q Wasn't Susan Atkins the topic of the
25 conversation?

26 A I am sorry, I didn't hear that.

1 Q Wasn't Susan Atkins the major topic of the
2 conversation with Mr. Bugliosi?

3 A Yes.

4 Q What your client actually did or did not do?

5 A Yes. But they wanted to know what the others
6 did also, and rather than misquote, I wanted them to use
7 the tapes.

8 I was interposing names, and rather than using
9 the names of the defendants, I would say X for Y, and Y for
10 Z, in that sense. Then I would correct it and say, no,
11 no, that is not the way it was.

12 Because Susan would talk rather fast. We would
13 talk, and I was trying to let her tell it in a narrative
14 form to me many times, which made it very difficult for me
15 to copy.

16 Q Okay.

17 In other words, you are telling us now that
18 before this taping session of December 1st, you had no
19 idea what part Miss Atkins played in the homicide; is that
20 correct?

21 A No, I am not telling you that, Mr. Shinn.

22 I am telling you that prior to the tape, prior
23 to the District Attorney hearing the tape, I cannot recall
24 specifically whether or not I told him exactly what role
25 she played.

26 That is what I am telling you.

1 I may have told them, I may not have told them.
2 I can't remember specifically.
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10a-1

1 Q In other words, it is your statement now that
2 you don't recall whether or not you told Mr. Bugliosi that
3 Miss Atkins told you that she stabbed or did not stab
4 Sharon Tate?

5 Is that your testimony, Mr. Caballero?

6 A That is my testimony.

7 Q Okay.

8 Now, after Mr. Bugliosi heard the tapes now.
9 This is sometime on December the 4th, correct?

10 A Yes.

11 Q Now, you taped this conversation on December
12 the 1st.

13 A That's right.

14 Q You were present?

15 A Yes.

16 Q Was anyone else present?

17 A Mr. Caruso.

18 Q Okay.

19 Now, at that time, did she say, in this taping
20 session, that she stabbed Sharon Tate or did not stab
21 Sharon Tate?

22 A No.

23 If I recall correctly -- I haven't replayed this
24 for quite a while, or even read about this for quite a while,
25 so let me explain to you -- my recollection is simply that
26 Susan Atkins has always told me that she did not participate

1 in the physical killing of any of the victims in the Tate-
2 La Bianca matters.

3 I am not discussing the Hinman matter now.

4 Q Yes.

5 A And I asked her at some point: Why is it that,
6 I believe it was Roni Howard, has indicated that you told
7 her that you stabbed Sharon Tate and that when you did so,
8 you achieved an orgasm or something?

9 And she said, "No, Roni misunderstood."

10 She said, "What I told her was that the next day
11 or so I had a dream that I was stabbing this girl and I got
12 an orgasm, but she may have misunderstood and she put that
13 into the story.

14 Q I see.

15 In other words, Roni Howard's statement was not
16 completely true then; is that correct?

17 A Was either not completely true or was
18 incorrect, although I will say that Susan did tell me that
19 she felt Roni Howard was embellishing sometimes on the
20 story, but she had, in fact, told her these things.

21 Q There was the taping session on December the
22 1st and she didn't mention, or did she mention that she
23 did or didn't stab Sharon Tate?

24 A She did not stab Sharon Tate. She never
25 mentioned to me ever stabbing Sharon Tate.

26 Q How about in the tapes?

1 A That was the conversation that I had.

2 Susan Atkins has always denied to me that she
3 stabbed Sharon Tate.

4 Q Okay.

5 Now, did you call up Mr. Bugliosi and tell him
6 what Susan Atkins told you on the tapes?

7 A No.

8 I said: "Here is the tapes. Here is what
9 happened. Now, you can use the tapes to make the questions
10 for the Grand Jury."

11 Q Before Mr. Bugliosi came to your office, was
12 there any discussion on Miss Atkins not telling the
13 truth in some parts of her statement to Mr. Bugliosi?

14 A I am sorry. Before what?

15 Q Before Mr. Bugliosi came down to your office to
16 talk to Miss Atkins.

17 A I see.

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1 Q Did he discuss with you what portions of her
2 statement he heard on the tapes was not true?

3 Did he point out to you which parts he believed
4 was not true?

5 A I think what happened was, he discussed with
6 me generally, he said something to the effect of: There
7 are some things that need clarification, or that don't
8 correspond with other information they had, such as, and
9 I believe one of the things mentioned, Mr. Shinn, was that
10 one of the girls, either Roni Howard or Virginia Graham --
11 you have to forgive me, I don't know which one made the
12 statement about the incident that Susan Atkins told her
13 this -- and I said, "That is not what she told me. She
14 tells me that the girl misunderstood."

15 And I went on to paraphrase and told him what
16 she said, and I said, "I believe what she was telling me."

17 MR. BUGLIOSI: I move to strike that "I believe."

18 THE WITNESS: No. This is the conversation that I
19 related to Mr. Bugliosi.

20 MR. BUGLIOSI: Then I will withdraw the objection.

21 It sounded like you were saying something.

22 THE WITNESS: I told him, "I believe she is stating
23 the truth because she told her part in everything else.
24 Why would she back out at this point?"

25 And he said, "I will question her about that.
26 Maybe the girl was mistaken."

1 And he did question that.

2 BY MR. SHINN:

3 Q He questioned the area of the Sharon Tate
4 stabbing?

5 Is that what you are talking about?

6 A Yes.

7 Q And after you talked to him, was he convinced
8 that she was telling the truth about the Sharon Tate
9 matter?

10 A I don't know.

11 Q You don't know?

12 A I don't know if he was convinced.

13 Q Did Mr. Bugliosi seem dissatisfied with your
14 explanation?

15 A No, he seemed satisfied.

16 Q He seemed satisfied?

17 A Yes.

18 Q Now, this was before he talked to Miss Atkins
19 in your office on December the 4th?

20 A I believe so.

21 Q Is that correct?

22 A Yes.

23 Q Now, after he talked to Miss Atkins in your
24 office, did he again tell you that Miss Atkins was not
25 telling the truth in some parts?

26 A No.

1 We didn't have much of a conversation. He had
2 to leave to go to the Los Angeles Police Department to
3 interview other witnesses.

4 I think someone came to pick him up, and he
5 left.

6 I stayed talking a few moments with Susan,
7 and he was gone.

8 The next time I spoke to Mr. Bugliosi may have
9 been immediately before Susan Atkins went into the Grand
10 Jury room, or sometime thereafter.

11 Q Okay.

12 Now, between the time you left your office --
13 that, December the 4th, the evening of December the 4th,
14 1969 -- the time that she appeared at the Grand Jury,
15 did Mr. Bugliosi contact you or talk to you in person and
16 say, "I don't think that Miss Atkins is telling the whole
17 truth"?

10c fls. 18

A No.

Q He never told you that?

A No, not during that period of time.

Q Okay.

Now, before, just before going to the hearing, did you see Mr. Bugliosi?

A I may have.

Q I mean, that is on December the 5th.

A Yes. That would be the next day.

Q Yes.

A I just explained to you, Mr. Shinn, I don't know, or I don't recollect, if I saw Mr. Bugliosi the very next morning before we entered the Grand Jury, or sometime subsequent to that.

You must remember, I was seeing him sometimes almost as much as I was seeing Susan. It was back and forth during that period of time.

Q Now, do you recall whether or not Mr. Bugliosi, before going into the Grand Jury with Susan Atkins, do you recall whether or not he told you that "I don't believe Susan Atkins is telling the whole truth"?

A I recall that he did not tell me that.

Q He did not?

A That's right.

Q After the Grand Jury hearing, did you see Mr. Bugliosi?

A Yes. I don't know just when. I don't know if

1 it was the same day.

2 In fact, I am almost positive it wasn't the same
3 day, because I went down the elevator with Susan Atkins, and
4 then she went to Sybil Brand, and I left the building.

5 So, I don't believe it was.

6 Q He knew your phone number, your office phone
7 number, did he not?

8 A Yes. Sure.

9 Q He didn't call you up right after the Grand
10 Jury, after he talked to Miss Atkins, and say, "Listen, I
11 don't think she is telling the truth?"

12 A No.

13 Q He never said that to you?

14 A Not at that point.

15 Q That is the point after the Grand Jury?

16 A No, he didn't say that right after the Grand
17 Jury, no.

18 Q When was the first time he told you that he
19 didn't think that she was telling the truth?

20 A I believe it was about the next time that I
21 saw him, whenever that was, which may have been a day or two
22 or three at the most after she testified.

23 On the next occasion when I saw him, I, in
24 essence, by question or query, or by the tenor of what the
25 conversation was, "How is everything?"

26 He said, in effect: Fine, but I don't think she

1 told the complete truth.

2 I said: Well, substantially she told the truth,
3 you know, as was on the tape and everything?

4 He said: Oh, yes.

5 And I left with the impression that it was
6 fine. I never heard definitely.

7 Q In other words, he seemed satisfied, Mr. Bugliosi?

8 A Yes.

9 MR. BUGLIOSI: Calls for a conclusion.

10 Motion to strike.

11 THE COURT: Sustained.

12 MR. SHINN: Q Was he mad at you?

13 THE COURT: Just a moment.

14 The answer is stricken.

15 The jury is admonished to disregard it.

11-1

1 BY MR. SHINN:

2 Q Now, Mr. Caballero, have you in the past ever
3 sold someone else's confessions as in Susan Atkins' case?

4 MR. BUGLIOSI: Irrelevant, your Honor.

5 THE COURT: Sustained.

6 BY MR. SHINN:

7 Q Mr. Caballero, do you recall this document
8 you entered into, this agreement with Schiller, I believe
9 it was -- Mr. Caballero?

10 A Where?

11 Q This contract you entered into with Lawrence
12 Schiller, I think it was marked for identification P-QQ.

13 Do you ever recall that document I showed you
14 last time?

15 A Yes, I do.

16 Q And it had the signatures of just Schiller on
17 it, do you remember?

18 A Yes, I remember.

19 Q I asked you whether you and Paul signed this
20 document?

21 A I recall that.

22 Q I believe you said -- you signed it or you
23 did not sign it?

24 A I recall not seeing my signature and I don't
25 recall signing it.

26 Q But you are very familiar with this agreement,

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are you not?

A Very is a relative term.

I am familiar with the agreement.

Q In other words, you read the so-called agreement before you signed it and agreed to hand the tapes over to Mr. Schiller?

A I perused the agreement. We had discussed the contents of the agreement.

Q Yes?

A Yes.

Q Now, do you recall whether or not anywhere in the agreement or contract it restricts Mr. Schiller regarding the publication of Miss Atkins' confession in this country?

A No, I don't recall that. I recall that was part of our oral contract.

Q Part of the oral contract?

A Yes.

Q But wasn't this oral contract reduced to writing, this writing, P-QQ?

A Yes, it was.

Q And as far as your memory --

As far as you know that portion was not reduced to writing, is that correct?

A That's correct.

Q Was there a reason for that?

1 A Yes, because that is the way the contract
2 reads in general.

3 I was not concerned with that, Mr. Shinn, I
4 am still a believer that a handshake and integrity is more
5 important than the written word, and I believed that at
6 the time.

7 Q Mr. Caballero, you reduced everything else to
8 writing except that portion about releasing the story in
9 this country.

10 Don't you think that was important?

11 A That was a form contract Mr. Schiller had;
12 it was our understanding that these were his form contracts.

13 We had okayed it so long as we had the under-
14 standing it would stay outside of the country, it would
15 not be domestic.

16 Q Don't you think it would have been better to
17 have it reduced to writing, or even add an addendum to
18 this contract?

19 A No.

20 Q You don't think so?

21 A I think so now.

22 Q But at that time you did not think it was
23 important?

24 A No, I deal many times with people with a
25 handshake, rather than the written word.

26 Q Now, when did Mr. Bugliosi first use the term,

1 100 percent truthful, to you?

2 A Well, I don't know if the word 100 percent --
3 I think he used the word, completely truthful.
4 And I -- well, go ahead, that is what he used
5 at some point.

6 Q Was there any discussion as to what he meant
7 by completely truthful?

8 A No, I told you he said she did not testify
9 exactly truthfully and I said "Well, substantially she did
10 testify to the truth."

11 And he said, "Oh, yes, substantially she
12 testified to the truth."

13 And I won't venture an opinion again because
14 it's already been stricken.

15 Q Well, did you, according to this contract with
16 Lawrence Schiller, you are supposed to provide Mr. Schiller
17 with other documents, pictures, photos, correct?

18 A Yes. As I say --

19 Q I mean, that is what it says in the contract?

20 A That is what it says there. That is just a
21 form contract.

22 Nothing was provided to him.

23 Q No other pictures or documents regarding Miss
24 Atkins was given to Lawrence Schiller?

25 A Nothing.

26 Q No pictures?

1 A Nothing.

2 Q Have you ever seen any pictures regarding this
3 case before this case started?

4 A Sure,

5 Q Pictures?

6 A From the press.

7 Q Outside of the press?

8 A No.

9 Q You have seen no pictures regarding the
10 victims in this case?

11 A Oh, I'm sorry. I misunderstood you.

12 Q Yes.

13 A Have I seen pictures of the victims -- yes,
14 I saw that when the police and the District Attorneys
15 were showing me the evidence they have and explained to me
16 the unique knowledge that Susan had, how they knew she was
17 telling the truth.

18 They laid it out for me.

19 Q Besides the police and the District Attorney
20 did you ever see any pictures in someone else's hands
21 besides the police and the District Attorney?

22 A No.

23 Q You have never seen them?

24 A No, not to my knowledge, never.

11a fls.

11a-1 1 Q You have never seen those pictures in your
2 office at any time?

3 A What pictures in my office, about the killings?

4 Q Victims.

5 A Sure, that the District Attorney had.

6 Q What District Attorney?

7 A Mr. Bugliosi.

8 Q Besides Mr. Bugliosi.

9 A No. If you have anything in mind, refresh my
10 memory.

11 I know of no such pictures, no such incident,
12 no such occasion.

13 Q Now, I believe, Mr. Kanarek asked you this
14 question, there was a release date on this contract with
15 Schiller, December 14th, 1969, correct?

16 A I believe so, yes.

17 Q Is that correct?

18 A I believe so. I think that is correct.

19 Q And the contract was signed on the 9th of
20 December.

21 A The contract was signed on the 9th; it was
22 entered into on the 8th.

23 Q And Susan Atkins' story was not to be released
24 until December 14th, 1969, correct?

25 A To be released just before the Grand Jury
26 transcript in Europe.

1 Q And then you told Mr. Kanarek, I believe, after
2 the gag order came out -- that was December 10th.

3 A Yes.

4 Q -- 1969, Judge Keene's gag order.

5 You felt at that time that you was helpless to
6 do anything to stop this story?

7 A I felt I had executed a contract and it was out
8 of my hands.

9 Q Now, let me ask you, you have dealt with many
10 contracts before; you know the law of contracts?

11 A Yes.

12 Q Pretty well?

13 A Yes.

14 Q And sometimes there is a defense called
15 "unforeseen difficulties excuses a party from performing."

16 MR. BUGLIOSI: Irrelevant, beyond the scope of cross-
17 examination.

18 MR. SHINN: It goes to his state of mind.

19 THE COURT: Read the question.

20 (Whereupon, the reporter reads the pending
21 question.)

22 MR. SHINN: Your Honor, he is qualified --

23 THE COURT: The objection is sustained.

24 Q BY MR. SHINN: Mr. Caballero, you felt at that
25 point, when the gag order came out, and you knew that the
26 contract called for release of Susan Atkins' confession or

1 story on December 14, 1969.

2 Your state of mind was such that you couldn't
3 stop it.

4 A Mr. Shinn, you are asking me if I went through
5 an entire mental gymnastics when the order came out.

6 It was very simple.

7 The order came out. I said I would abide by it;
8 I already sold a contract. I thought nothing more of it,
9 it was as simple as that.

10 One thing had already been done, the order was
11 out. I know what I must do in the future. I had my guide-
12 lines and I had done that. That's all. I did not stop to
13 think this or that. I knew what already had been done was
14 executed. I went on to other things, which were much more
15 important.

16 Q Mr. Caballero, don't you think that the issue of
17 Miss Atkins' life was important enough to try to do some-
18 thing, to try to stop that story?

19 A I had already done something about her life,
20 Mr. Shinn.

21 Q I mean about the story that was to be released
22 on the 14th.

23 You had four days after the gag order came out.

24 A I had nothing to do with it after I sold the
25 story.

26 Q You felt that there was no way to stop it?

1 A I didn't even -- it wasn't even a question of
2 feeling.

3 It was all over as far as I was concerned. I
4 did not give it the thought process that you are asking me
5 about now.

6 Q Now, you testified that you read this article
7 which came out on December 14, 1959 in the Los Angeles Times
8 newspaper, correct?

9 A I read it where?

10 Q In Los Angeles.

11 A The Los Angeles Times?

12 Q Yes.

13 A Yes.

14 Q This article about Susan Atkins.

15 A Yes.

16 Q I asked you whether or not you knew who was
17 responsible for this article.

18 A Did you ask me that? Yes.

19 Q And you said you did not know at that time.

20 A And I did answer that I did not know at that
21 time; I don't know today.

22 Q Now, did anyone call you up regarding this
23 article?

24 A Yes.

25 Q Did Schiller call you up?

26 A No, I was at home, I had just completed making

1 arrangements for picking up Susan at Sybil Brand next
2 Sunday morning.

3 We were going somewhere, and I got a telephone
4 call, I believe it was from the AP or somebody; AP meaning
5 Associated press.

6 And they said, "What is the story?"

7 "What is this about the story of Susan Atkins
8 killing Sharon Tate in the Los Angeles Times today?"

9 I thought somebody was putting me on.

10 I said, "What are you talking about?"

11 They said, "Yes, it's in tonight's Times." And
12 I just could not believe it.

13 Q Okay, now, didn't a Judge call you up?

14 A A judge call me up?

15 Q Regarding the story.

16 A No.

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1 Q Yes.

2 A No, not to my knowledge.

3 Q Do you know whether or not a judge called Mr.
4 Caruso up regarding this story?

5 A I believe Mr. Caruso in his anger called up,
6 if I understand correctly, called up Mr. Schiller and told
7 him "What is this about this story in the Los Angeles Times?
8 We got a call from a judge. They are all upset. You have
9 to answer to this."

10 In other words, I don't believe -- as I recall
11 the story -- that the judge actually called Mr. Caruso. I
12 think Mr. Caruso told this to Mr. Schiller to try to shake
13 him up and find out how did the Times get the story.

14 Q In other words, your testimony is that no judge
15 called up yourself or Mr. Caruso, is that correct?

16 A No judge definitely called me up, and I do not
17 believe that one called Mr. Caruso.

18 Q Why do you say you don't believe. You are not
19 sure of it?

20 A What?

21 Q You are not sure whether a judge called Mr.
22 Caruso up?

23 A No, I cannot say for sure. I don't believe
24 they did.

25 Q Did you have a discussion with Mr. Caruso about
26 a judge calling him up?

11b-2

1 A I had a discussion where he called Schiller and
2 told him that a judge had called, but I got the impression
3 that Mr. Caruso was telling me he related what he had
4 stated to Mr. Schiller, rather than a judge had called
5 him, in other words, "Let's shake Schiller up."

6 We believed that something had gone wrong
7 and it had gone wrong with Schiller.

8 That is as simple as I can put it.

9 I was being very euphemistic at the time.

10 Q You don't know whether or not in fact a judge
11 did call up Mr. Caruso?

12 A No, I do not know.

13 MR. SHINN: I have nothing further, your Honor.

14 MR. KEITH: Nothing further.

15 MR. KANAREK: I have some questions.

16 THE COURT: Mr. Fitzgerald?

17 MR. FITZGERALD: No, thank you.

18 MR. KANAREK: Your Honor, I have some questions.
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REDIRECT EXAMINATION

1
2 BY MR. KANAREK:

3 Q Mr. Caballero, how soon after December 14th,
4 1969, did Mr. Caruso call up Mr. Schiller and tell him --
5 vent his feelings?

6 A Mr. Kanarek, if I am not mistaken he tried to
7 reach him almost immediately, that Sunday.

8 Whether he contacted him that Sunday or Monday
9 I don't recall.

10 But I know that there was immediate concern.
11 I don't recall whether I called Mr. Caruso right up or
12 whether he contacted me, but we had heard about it and it
13 was just something that we could not believe in view of
14 all the discussion we had had regarding where this was to
15 be printed, for it to come out in the Los Angeles Times
16 was one of the most shocking things that I knew at the
17 time.

18 It was just too much; it was overwhelming,
19 in fact I know the next day, I'm almost positive the next
20 day that we had to go out -- when I say we, Susan and I
21 and some officers, somewhere in the Valley.

22 I am almost positive it was that Sunday,
23 I know I was concerned about the fact here we are out in
24 the Valley and the people are reading about this in the
25 paper today, looking at the picture, and they might
26 recognize her, and if I'm not mistaken he was recognized

1 at the particular place we were at.

2 Q You are not overwhelmed that a man on leave of
3 absence for one day who worked for the Los Angeles Times,
4 Jerry Cohen, took the interview and you are not over-
5 whelmed by the fact it showed up in the Los Angeles Times?

6 MR. BUGLIOSI: Ambiguous, I don't know what type of
7 question that is, your Honor.

8 THE COURT: Sustained.

9 BY MR. KANAREK:

10 Q But would you tell us how, what is your best
11 estimate of how soon Mr. Caruso reacted and called up Mr.
12 Schiller, talked to Mr. Schiller after December 14th, 1969?

13 A Is December 14th a Sunday?

14 Q Yes.

15 A I think he was trying to reach him that night,
16 if I'm not mistaken.

17 Q How soon was it --

18 A I don't know when he got hold of him.

19 Q Did he get hold of him the next day?

20 A I do not know, Mr. Kanarek, I'm sorry.

21 Q You don't know if he ever got hold of him,
22 right?

23 A He did.

24 Q How many days later?

25 A I don't know how many days later, but he told
26 me he did.

1 Q Did he tell you he did?

2 A Yes, sir.

3 Q He told you he got hold of Mr. Schiller?

4 A Yes.

5 Q How soon after December 14th?

6 A I don't recall, Mr. Kanarek.

7 Q Give us your best estimate.

8 THE COURT: What is the relevancy?

9 MR. KANAREK: I would be glad to approach the bench--

10 THE COURT: Get to something else. It's irrelevant.

11 If you have any further questions let's get on
12 with it.

13 BY MR. KANAREK:

14 Q Did Mr. Caruso tell you -- let me withdraw that.

15 Mr. Caballero, you in fact got an order from
16 the Superior Court on February 3, 1970, to get a tape
17 recorder on or about that date, to get a tape recorder in
18 to tape record Susan Atkins, right?

19 A Yes.

20 THE COURT: Mr. Kanarek, you appear to be getting
21 beyond the scope of the cross-examination.

22 MR. KANAREK: This is what Mr. Bugliosi was talking
23 about, these very questions, your Honor.

24 These are the very matters he spoke about in
25 these conversations.

26 I did not ask the details of these conversations.

1 I am more than glad to discuss them.

2 THE COURT: It was all covered on direct.

3 MR. KANAREK: Yes, but your Honor, Mr. Bugliosi
4 brought up certain conversations about Mr. Manson and Mr.
5 Hinman, which is brand new, and I am more than glad to
6 go into it.

7 THE COURT: You are talking about which conversations?

8 MR. KANAREK: I am asking him, I am asking him. I
9 am trying to determine here.

10 BY MR. KANAREK:

11 Q You got an order from the Superior Court to
12 bring in a tape recorder, right?

13 A Yes.

14 Q Did you take any tape recordings?

15 A Yes.

16 Q Where are they?

17 A I have them.

18 Q May we have them?

19 A No.

20 Q You won't give them to us?

21 A That's right.

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Q And why, because they belong to Mr. Schiller?

A No, because they belong to me, they are my work product.

Q If Susan Atkins waives the attorney-client privilege you mean to tell us you would not obey an order of Judge Older to bring them into this court?

A I will obey any order of Judge Older.

Q If we bring a subpoena duces tecum, we can have the tapes?

A I will do anything the Judge orders us to do so long as I don't violate my client's privileges.

THE COURT: We will do it out of the presence of the jury, Mr. Kanarek.

MR. KANAREK: Very well, your Honor.

Q BY MR. KANAREK: And so as of February 3, 1970 you took tapes.

Now, how many different tapes did you take of Susan Atkins?

A It was one from a physical point of view, it was on one tape, but they were conversations of different days, those days may have been three or four or maybe five.

Q All right, now, before February 3, 1970, from on or about December 4th or 1st, around that area, you spoke with Susan Atkins on many occasions, right?

A Yes.

Q And other than that which Mr. Cohen had put down

1 in a court reporter's notes, did you preserve in any way
2 conversations between the time that you first met Susan
3 Atkins and February 3rd, other than December 1, 1969, for
4 the benefit of the District Attorney's Office, other than
5 that did you preserve any tapes?

6 A Tapes -- the only tapes there were were December
7 1st, the lengthy tape.

8 There was a very short conversation on my
9 Stenorette on December 4th.

10 And then the tapes that came after, that you are
11 referring to, those are the only tapes.

12 Q So between the time that you first met
13 Susan Atkins and February 3rd you only have three preser-
14 vations, so to speak, one, the time of Jerry Cohen; the one
15 on December 4th.

16 And the one on December 1st, right?

17 A Yes.

18 Q Right?

19 A Yes, that's correct.

20 Q May we have the tape of December 1, 1969?

21 A No.

22 Q Where is it?

23 A I have it.

24 Q Well, did you bring it with you? Weren't you
25 served with a subpoena duces tecum?

26 A I have it.

1 Q You have it with you?

2 A I certainly do.

3 Q May we have it?

4 A No.

5 MR. KANAREK: Well, you were served with a subpoena
6 duces tecum.

7 THE WITNESS: That's correct. This is a tape in which
8 Susan Atkins speaks of all of the charges against her, which
9 is about four hours in duration which I have in my possession
10 which was made on December 1st.

11 Q May we have the tape in response to the subpoena
12 duces tecum, Mr. Caballero?

13 A I have the tape here.

14 If the Judge orders me to give it to you and if
15 Susan waives the privilege, I will be glad to do so.

16 MR. KANAREK: May we go through that formality, your
17 Honor?

18 THE COURT: You may. You will have to talk to
19 Mr. Shinn on this matter.

20 I would suggest that you confer with Mr. Shinn,
21 Mr. Kanarek.

22 MR. KANAREK: I have, your Honor, I have.

23 DEFENDANT SUSAN ATKINS: Your Honor, I understand that
24 Mr. Caballero has tape recordings of December 1st.

25 MR. BUGLIOSI: Your Honor, this is nothing for the
26 jury to be listening to.

1 THE COURT: Mr. Bugliosi, don't interrupt.

2 If you want to object, do so.

3 MR. BUGLIOSI: I object to her talking in open court.

4 THE COURT: Overruled.

5 DEFENDANT ATKINS: And I am requesting of you, your
6 Honor, to allow me to have the tapes so I may destroy them.
7 I do not wish to have Mr. Caballero have them. I do not
8 wish to have my attorney have them, or the Court have them.

9 I want them destroyed.

10 THE COURT: I won't do that.

11 You don't wish to have Mr. Caballero turn them
12 over to Mr. Kanarek, is that right?

13 (Whereupon, Defendant Atkins shakes her head
14 in the negative.)

15 MR. BUGLIOSI: May the record show that Miss Atkins
16 shook her head in the negative.

17 THE COURT: Let's proceed. Ask your next question.

18 DEFENDANT ATKINS: I don't understand what you are
19 saying, your Honor.

20 THE COURT: I am not saying anything at the moment.

21 DEFENDANT ATKINS: I am asking for those tapes, to
22 hand them over to my attorney so they can be destroyed.

23 THE COURT: That is a problem with which I am not going
24 to be concerned.

25 Now, you may sit down and we will proceed with
26 the examination.

1 Q BY MR. KANAREK: Mr. Caballero --
2 A Yes.
3 Q -- the tape of December 1, 1969, that tape --
4 A Yes.
5 Q -- where is that?
6 A That is the one you asked me about, December 1.
7 Q December 1, right.
8 A I told you that is the one we just went through
9 this discussion about.
10 Q You have the one of December 1?
11 A Yes.
12 Q All right, now, do you have the tape --
13 Is that part of the same --
14 Is it together on the same tape, physically, as
15 the rest?
16 A No.

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11d-1

Q Well, then, how many separate tapes do you have?

A I have the one of December 1st, which is a long tape.

I have the one, a short little Stenorette tape, about two minutes conversation with Susan Atkins before Mr. Bugliosi entered my office. That is on my Stenorette tape.

Then I have another tape of approximately 200 feet, or whatever it is, at slow speed encompassing conversations after the date of the court order where I can transcribe in the jail, and indicating in it, or having in it perhaps three, maybe four different dates of conversations, one after the other.

Now, the dates don't necessarily follow one after the other but it's conversations that I had with her.

Q And you have those with you?

A I certainly do.

MR. KANAREK: Then may we approach the bench, your Honor?

THE COURT: Very well, you may.

(The following proceedings were had at the bench out of the hearing of the jury:)

MR. KANAREK: Your Honor, I would like to be able to see and hear these tapes.

This is in response to the subpoena duces tecum.

11d-2

1 I would like to have them so I can hear them.

2 We made discovery before we started this trial,
3 your Honor.

4 THE COURT: What does that mean?

5 MR. KANAREK: We have never been given this tape
6 before.

7 THE COURT: By whom?

8 MR. KANAREK: By the District Attorney. They made
9 a copy of it, your Honor.

10 MR. BUGLIOSI: I made no copy of any tape.

11 THE COURT: Just a moment, just a moment.

12 Go ahead.

13 MR. BUGLIOSI: I made no copy of any tape, your Honor.

14 That is ridiculous.

15 In fact, I never did get this tape. It was
16 given to the Los Angeles Police Department and I went over
17 there.

18 THE COURT: Why did you make a statement like that?

19 MR. KANAREK: In this courtroom it came out the Los
20 Angeles Police Department -- it had these tapes.

21 THE COURT: Why did you accuse Mr. Bugliosi of
22 holding it out on you?

23 MR. KANAREK: We made a motion for discovery.

24 THE COURT: Answer that question.

25 MR. KANAREK: Because of the fact the Los Angeles
26 Police Department and Mr. Gutierrez and Mr. Sartuche and

11d-3

1 Mr. Bugliosi, they could not be closer than they are in
2 this investigation, your Honor.

3 THE COURT: Don't make accusations unless you can
4 back them up, Mr. Kanarek.

5 MR. KANAREK: How could it be any closer? These people
6 are intimate.

7 THE COURT: Don't argue. I don't want to hear any
8 more about it.

9 If you have facts, present them. Don't just
10 make accusations.

11 MR. KANAREK: It's come out here.

12 THE COURT: Mr. Kanarek, save it.

13 Now --

14 MR. SHINN: Miss Atkins said she would waive the
15 attorney privilege.

16 THE COURT: She would waive it?

17 MR. KEITH: She just said she wanted to burn them.

18 THE COURT: She just said in open court a few
19 minutes ago she wanted them turned over to her so she can
20 destroy them.

21 Is this something she said after that?

22 MR. SHINN: Yes.

23 THE COURT: Is she prepared to waive the privilege
24 in open court?

25 MR. KANAREK: Your Honor, I don't believe there is
26 any necessity.

1 This is on a subpoena duces tecum.

2 MR. KEITH: It is his work product, Irving.

3 MR. KANAREK: Whether it is his work product or not,
4 it is still part of the subpoena duces tecum.

5 You go one step at a time.

6 THE COURT: Do you want the tapes or don't you?

7 MR. KANAREK: Yes.

8 THE COURT: Then why are you arguing?

9 MR. BUGLIOSI: Are we through with this point?

10 MR. SHINN: I don't know.

11 MR. BUGLIOSI: I have a further point to discuss.

12 I just got this note from Mr. Manson.

13 He gave it to me as I passed him. He said:

14 "I would like to talk with you and the Judge,
15 the three of us together, and no one else; this is
16 important, Manson."

17 I am just passing it on to you. I don't know
18 what it is about or anything.

19 THE COURT: Obviously we couldn't do that even if we
20 wanted to, which I don't.

21 MR. BUGLIOSI: Right.

22 MR. FITZGERALD: Manson gave that to you directly?

23 MR. BUGLIOSI: Yes, as I passed him right now.

24 THE COURT: All right.

25 Mr. Shinn, then, you have Miss Atkins formally
26 waive the privilege with respect to the tapes.

1 MR. SHINN: Yes.

2 THE COURT: I am sure Mr. Caballero would be happy
3 to make them available for listening by counsel, but we are
4 not going to play these things in court.

5 You can listen to them.

6 If there are some portions you think have
7 something significant, then you can bring those to my
8 attention.

9 We are just not going to put them on a machine
10 and go over six hours.

11 MR. KANAREK: I understand, your Honor. I understand.

12 THE COURT: You can work out the details with Mr.
13 Caballero as to how and when these tapes will be played.
14 for your benefit, I don't know he is under any obligation
15 to turn them over, especially if there are no copies.

16 I think the most you are entitled to is to
17 listen to them.

18 MR. KANAREK: Well --

19 THE COURT: If there is something you want to have
20 taken down of what was said on the tapes, have your own
21 reporter there.

22 But I don't think he is under any obligation to
23 turn them over to you physically.

24 MR. KANAREK: Very well.

25 THE COURT: It is a matter you can work out with him
26 as to where they are to be played.

1 MR. KANAREK: Very well.

2 THE COURT: If you cannot work out something, let me
3 know and something will be worked out.

4 MR. SHINN: Can Mr. Caballero leave the tapes with the
5 court Clerk so --

6 THE COURT: So what?

7 MR. SHINN: Leave the tapes with the court Clerk so
8 we can come in maybe tomorrow afternoon or during the
9 lunch hour?

10 THE COURT: I think he is entitled to retain custody
11 of them, and just have them played for you.

12 I don't think it would be desirable for the
13 tapes to be physically handed over to defense counsel.

14 I think they should remain in Mr. Caballero's
15 custody.

16 As I say, you can arrange for them to be played,
12 fls. 17 and take down what is played, if you like.
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12-1 1 (Whereupon, all counsel return to their
2 respective places at counsel table and the following
3 proceedings occur in open court within the presence and
4 hearing of the jury:)

5 MR. KANAREK: Your Honor, may I approach the witness
6 very briefly?

7 THE COURT: Yes.

8 MR. KANAREK: Thank you.

9 (Mr. Kanarek approaches the witness and they
10 confer.)

11 MR. KANAREK: Q Mr. Caballero, did Susan Atkins tell
12 you that in connection with -- you know that portion of that
13 three-minute, that approximate portion that you say was
14 three minutes that you tore up -- do you remember that?
15 Do you have that in mind?

16 A Yes.

17 Q Did Susan Atkins tell you that she lied in
18 connection with whatever occurred on that portion of the tape
19 that was torn up by you?

20 A Are you talking about the stenographic notes,
21 not a tape?

22 There was no tape.

23 Q The stenographic notes that you tore up.

24 A Yes.
25 Now, you want to know what she said?

26 Q I am asking you: Did she ever tell you whether

1 what was on that portion of those notes that you tore up,
2 did she ever tell you whether she lied or told the truth in
3 that regard as to whatever was on that particular portion of
4 the stenographic notes?

5 A. I don't understand your question.

6 Q. You don't?

7 A. No.

8 Q. Well, did you discuss with Susan Atkins this
9 portion of the Jerry Cohen tape?

10 A. No.

11 Q. That you tore up?

12 A. No.

13 Q. You never discussed it with her?

14 A. No.

15 Q. And she never told you --

16 A. No, sir.

17 Q. I see.

18 Directing your attention, then, to Bobby Beausoleil.

19 A. Yes.

20 Q. Did Susan Atkins discuss with you Bobby Beauso-
21 leil?

22 A. Yes.

23 Q. Did she discuss with you "political piggy" that
24 was written on the wall?

25 A. Yes.

26 Q. What did she tell you about that political piggy

1 that was written on the wall?

2 A It was written on the wall, I believe, in
3 blood.

4 Q Pardon?

5 A I believe it was written on the wall in blood.

6 Q Did Susan Atkins tell you that she and Linda
7 Kasabian, among other females at the ranch, were very
8 unhappy about Bobby Beausoleil's being arrested?

9 A No.

10 Q She never discussed that with you?

11 A No.

12 Q Did you ever discuss with her the matter of
13 Bobby Beausoleil's arrest?

14 A No. I don't recall that.

15 Q You don't recall that?

16 A No.

17 The matter of his arrest?

18 Q Yes.

19 A No.

20 Q She didn't discuss with you the matter of
21 getting Bobby Beausoleil out of jail?

22 A No.

23 Q She didn't discuss with you anything concerning
24 the subject matter of getting Bobby Beausoleil out of jail?

25 A No.

26 Q Did she discuss with you anything about the

1 writing of the word "pig" at the Tate residence?

2 A Yes.

3 Q Now, did you record -- you didn't record all of
4 your conversations with her, did you?

5 A No.

6 Q Well, what did she tell you about Bobby
7 Beausoleil's arrest? Anything at all?

8 A I don't recall the circumstance of his arrest.
9 He was a co-defendant in an arrest in which they had gone to
10 a preliminary hearing together, both charged with the
11 killing of a man by the name of Hinman.

12 Mr. Kanarek, perhaps I just don't understand
13 what you are trying to get at.

14 Q Well, did Susan Atkins discuss with you anything
15 about her unhappiness about Bobby Beausoleil being in jail?

16 A No.

17 Q Never at all?

18 A No.

19 Q That is for sure?

20 A It is as sure as I can recall it.

21 She was charged with murder and he was charged
22 with murder, the same murder.

23 Q They went to preliminary hearing together?

24 A That's right.

25 Q Is that right?

26 A Yes.

1 Q Well, I don't know if they had a preliminary
2 hearing together now or whether the preliminary hearings
3 were separate.

4 I really don't recall that. I believe they were
5 separate.

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1 Q Did she discuss with you any conversation
2 between herself and Linda Kasabian concerning Bobby Beausoleil?
3

4 A I don't recall that.

5 Q You mean, she may have and you don't know; is
6 that it?

7 A Well, what I am trying to say, when you say
8 "Is that it," this is what is it: She did go back to the
9 ranch, as I understand it, after the Hinman killing, and
10 there was some talk about the killing with some of the
11 people at the ranch.

12 Whether Linda was one of those persons, I
13 don't know, but Linda was not the girl that she told me
14 was with her on the Beausoleil killing -- I'm sorry, the
15 Hinman killing.

16 Q What was discussed at the ranch, these people
17 that you are speaking about, concerning Bobby Beausoleil?

18 A Mr. Kanarek, after the killing of Hinman,
19 they went back to the ranch. Apparently they had some
20 automobiles already. And there was some general conver-
21 sation about what had happened to Gary.

22 I cannot relate to you what she told to whom
23 specifically or what she said specifically because I don't
24 recall.

25 Q Well, did it strike you, as a lawyer and as
26 an ex-Deputy District Attorney, that the Tate matters,

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1 having occurred on August the 8th, 1969, and having blood
2 written in the Hinman case, did it strike you that there
3 was some kind of a connection between the blood at the
4 Hinman case -- I mean, at the Hinman home -- and the blood
5 at the Tate residence and the blood at the La Bianca home?

6 A Yes.

7 MR. BUGLIOSI: Calls for a conclusion.

8 THE COURT: Sustained.

9 The answer is stricken.

10 The jury is admonished to disregard it.

11 BY MR. KANAREK:

12 Q Did you discuss with her the fact that in these
13 three homes there was language written in blood?

14 A Yes.

15 Q All right.

16 What did she tell you about that? What was
17 the discussion concerning the language written in blood
18 at these three homes?

19 A All right, Mr. Kanarek.

20 She told me that Charlie Manson had wanted to
21 bring Helter Skelter, and it wasn't happening fast enough,
22 and the use of the word "pigs" was for the purpose of
23 making them think that were Negroes committing the
24 crimes, because the ^{there} Panthers and people like that are
25 the ones that used the name "pig" to mean the establishment,
26 and this was the whole purpose of it, that Helter Skelter

1 wasn't happening fast enough, and Charlie was going to
2 bring down ruination on the world, and this is why all
3 the murders were committed.

4 I asked you not to ask me these questions,
5 Mr. Kanarek.

6 Q I know you asked me not to ask you, and I
7 appreciate your charity, believe me.

8 But the question is: The "political piggy"
9 that you are speaking of, the "political piggy" that you
10 are speaking about was at the Hinman house; right?

11 A No.

12 I understood there were words of a similar
13 nature and import, actually. I forget exactly.

14 At one of the houses was "Helter Skelter,"
15 and at one "political piggy," and that kind of thing.

16 Q Was "political piggy" at the Hinman house?

17 A I don't recall. I believe so.

18 Q And "pig" was written at the Tate residence?

19 A I believe on the door. I don't know.

20 Q And what was written at the La Bianca residence?
21 Do you know?

22 A I believe carved on one of the bodies of the
23 victims was the word "war."

24 I believe on the refrigerator, or something,
25 was "Helter Skelter," or something.

26 There were various words. I didn't bother to

1 go through all the gory details again. I don't remember
2 now.
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1 Q So, the big conspiracy started back in
2 connection with Gary Hinman; right?

3 DEFENDANT MANSON: It started with Jesus Christ.

4 MR. BUGLIOSI: This calls for a conclusion, your
5 Honor.

6 THE COURT: Sustained.

7 MR. KANAREK: I am asking what he discussed with
8 Susan Atkins, your Honor.

9 THE COURT: That is not what you asked him.

10 MR. KANAREK: Q Well, you are telling us that
11 Susan Atkins says that Mr. Manson did all these things and
12 told all these people to do all these things; right?

13 A I am telling you what Susan Atkins told me.

14 Q That is what Susan Atkins told you; right?

15 A Not in exactly the words that you phrased it.

16 Q I see.

17 And directing your attention to all of this,
18 Mr. Caballero, when did she first tell it to you?

19 A In the course of many, many conversations I had
20 with her which were repeated many, many times over the
21 course of many months.

22 Q You met her around Thanksgiving; right?

23 A That's right.

24 Q When did she first tell you about it?

25 A Mr. Kanarek, I cannot tell you the specific
26 date, but I can tell you this much --

1 Q Please do.

2 A -- the very first day I met her down at Sybil
3 Brand --

4 Q Yes?

5 A -- with very little prompting, if any, on my
6 part, I was just talking about the Hinman case -- and in
7 fact, I think I was ready to leave -- and she said, "Oh,
8 there is something else. I don't know if they know about
9 it, but" -- and then she laid it out to me, about Tate and
10 La Bianca, and all the things.

11 Q And Hinman?

12 A We had already discussed Hinman. That was what
13 I was there to see her about.

14 Q And Mr. Manson's part in this? Right?

15 A That was partially only discussed at that time.
16 The next time I saw her there was some more
17 discussed. And each time there was more and more and more.

18 Q Let's get it straight, Mr. Caballero.

19 When you first talked to her, you talked about
20 Charles Manson; right?

21 A Yes.

22 When I first spoke to her, she spoke about
23 Charles Manson.

24 Q And she told you about Charles Manson being
25 responsible for all these horrible things; right?

26 A Not exactly.

1 Q What did she say the first time about Mr. Manson?
2 Tell us, for God's sakes, tell us.

3 A Mr. Kanarek, in the course of conversations with
4 Susan Atkins, she told me many things about Mr. Manson.

5 I cannot tell you specifically ^{that} on the first
6 day she told me everything about him.

7 One conversation went on for four hours, of
8 which I told you there is a tape recording, and still there
9 was more afterwards.

10 So, obviously, I didn't get it all at one time.

11 I am relating to you the substance and effect
12 of my conversations with Susan Atkins.

13 I cannot tell you specifically what she said,
14 A, B, C, and D.

15 Q When is the first time she told you about
16 Mr. Manson and this race war and all of that and the
17 "political pigg3" and the writing on the wall?

18 A It could have been the second, the third, the
19 fourth, the fifth, the sixth, the seventh, the eighth, the
20 ninth, or the tenth conversation with her.

21 I cannot tell you precisely, Mr. Kanarek.

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1 Q You can't tell me when; right?

2 A That's right.

3 Q Well, was it around Thanksgiving?

4 A Shortly thereafter it happened.

5 In fact, some of it was said on Thanksgiving
6 Day, but I don't recall, I can't recall how much.

7 Q Right.

8 Then how come, Mr. Caballero, the Hinman case
9 is not part of the conspiracy? Would you tell me?

10 MR. BUGLIOSI: That calls for a conclusion.

11 MR. KANAREK: Will you tell me that, Mr. Caballero?

12 THE COURT: The objection is sustained.

13 BY MR. KANAREK:

14 Q You are telling us, Mr. Caballero, that this is
15 all part of one big conspiracy, the Hinman case -- Mr.
16 Manson was the man that did all these horrible things and
17 told these people to do these horrible things -- did you
18 discuss with the District Attorney's office -- you are
19 trying to protect Susan Atkins, you are giving everything
20 you have -- did you discuss putting Hinman in with the
21 rest of these cases?

22 MR. BUGLIOSI: Object to the question. It is
23 compound.

24 THE COURT: Sustained.

25 BY MR. KANAREK:

26 Q Did you, Mr. Caballero, did you discuss with

12c-2

1 the District Attorney's office putting the Hinman case in
2 with the Tate-La Bianca murders?

3 You are telling us it is all part of the same
4 conspiracy as far as this horrible person, Mr. Manson, is
5 concerned.

6 MR. BUGLIOSI: That is a misstatement. Irrelevant.

7 THE COURT: Sustained.

8 MR. KANAREK: Then I ask you, Mr. Caballero. At the
9 time when you talked to her, then, before December 1, 1969,
10 you knew about "political piggy," and you knew about all
11 the writing on the wall; right?

12 THE WITNESS: Yes.

13 Oh, I can only answer that I probably did,
14 but again, it was during the course of many conversations,
15 Mr. Kanarek, and I don't want to mislead you.

16 You are talking about a progression of informa-
17 tion that is coming to me over a series of conversations.
18 I am trying to relate to you the substance of all of these
19 conversations.

20 I cannot tell you in time which came first.
21 I mean, just exactly when I had so much information.

22 I have given you, in essence, what I have
23 now, as a result of all the conversations with her.

24 Q Well, now, you are telling us that you spoke
25 with Susan Atkins and she said that Mr. Manson, way back
26 during the time of the Hinman murder, decided on this race

1 war thing; is that right?

2 MR. BUGLIOSI: That is a misstatement.

3 THE COURT: You may answer it.

4 THE WITNESS: No, I'm not telling you that.

5 BY MR. KANAREK:

6 Q Well, when did Susan Atkins tell you the
7 conspiracy started? When did she tell you?

8 A I don't believe Susan Atkins ever used the
9 word "conspiracy."

10 Q Well, you used the word "motive." Mr. Bugliosi
11 interrogated you about motive; right?

12 A He asked me some questions about motive.

13 Q All right.

14 You have spoken about a race war as part of
15 the motive here; right?

16 A I have told you about the race war as part of
17 the conversation that I had with Susan Atkins that you
18 asked me about.

19 Q All right.

20 How did what happened at the Tate -- or pardon
21 me -- at the Hinman residence, how did that fit into the
22 motive as far as what Susan Atkins told you?

23 MR. BUGLIOSI: Calls for a conclusion.

24 THE COURT: Sustained.

25 We will take our recess at this time.

26 Ladies and gentlemen, do not converse with

1 anyone or form or express any opinion regarding penalty
2 until that question is finally submitted to you.

3 The court will recess for 15 minutes.

4 (Recess.)
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1 THE COURT: All parties, counsel and jurors are
2 present.

3 You may continue, Mr. Kanarek.

4 MR. KANAREK: Thank you.

5 Q Now, Mr. Caballero --

6 A Yes?

7 Q I have here -- you see these documents?
8 You have looked at them; right?

9 A Yes.

10 Q Is this a transcription of the December 1st
11 tape?

12 A Yes.

13 Q Now, I ask you, this is the time when you are,
14 you know, inquiring all about Charlie Manson and the race
15 war and all of that.

16 I ask you to look over this tape and show me the
17 places that it speaks about Charlie Manson and this race
18 war that you have been speaking of, Mr. Caballero.

19 May that be marked for identification, your
20 Honor, that December 1 tape?

21 THE COURT: How long is it, Mr. Kanarek?

22 MR. KANAREK: Oh, it is quite a few pages.

23 How many pages are there?

24 THE WITNESS: 37 pages.

25 MR. KANAREK: May that be marked for identification?

26 THE COURT: It will be marked for identification, but

1 we are not going to take the time now to have Mr. Caballero
2 read 37 pages.

3 MR. KANAREK: No, I am not asking for the time to
4 be taken at this time, to read it.

5 THE COURT: What are you asking?

6 MR. KANAREK: I am just asking that it be marked for
7 identification, your Honor. That is all.

8 Q As a lawyer, Mr. Caballero, I know it is one
9 thing to get on the witness stand and synopsize and sort of
10 make a conclusion. It is something else to give the detail.

11 Now, I ask you to show me. We have the scene
12 set. This is the Grand Jury transcript before it even
13 happens. This is December 1, 1969.

14 Will you show me in there, Mr. Caballero, where
15 Mr. Manson is spoken of in connection with the race war?

16 A I don't know if it is in there.

17 Q You don't know if it is in there?

18 A No.

19 Q Well, just go through it one by one.

20 Are you telling us that it isn't in there,
21 Mr. Caballero?

22 A I am telling you what I told you before, that I
23 had many conversations with Susan Atkins, very few of which
24 were recorded.

25 This is one of the conversations that was
26 recorded.

1 It was primarily for the purpose of her telling
2 the facts of the various killings.

3 But there were many conversations that I had
4 with her regarding why it was done.

5 I couldn't at all tell you that it is accom-
6 plished in this exhibit number whatever it is that you
7 presented to me here.

8 Q Would you tell me, Mr. Caballero, are you saying
9 that it is not in there?

10 A No, I am not saying that either.

11 Q Would you glance through it and tell me if it
12 isn't?

13 A I couldn't possibly glance through that and tell
14 you that.

15 Q You couldn't?

16 A No.

17 Q Directing your attention to your state of
18 mind, Mr. Caballero.

19 Mr. Manson is this horrible man that you are
20 telling us about. Tell us, was your state of mind such that
21 when you spoke to Susan Atkins there, around Thanksgiving
22 of 1969, she told you what a horrible man Mr. Manson was,
23 that he was responsible for all these things; is that
24 right?

25 A No, that is not right.

26 Q Then what you told us before is not true; right?

1 A That is not true either.

2 Q I see.

3 Now, you are an ex-Deputy District Attorney of
4 Los Angeles County; right?

5 A That is true.

6 Q And in that capacity, Mr. Caballero, in that
7 capacity -- well, I won't ask that question.

8 As a lawyer and as an ex-prosecutor, you know
9 that, supposedly at least, motive is important; right?

10 A Yes.

11 Q And you wanted to see that Susan Atkins got
12 the best deal possible; right?

13 A Yes.

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1 Q And so, when you are taking the tape down,
2 having her make a statement word for word to present to Mr.
3 Bugliosi and the Los Angeles Police Department on a silver
4 platter, this process that you have told us about, wouldn't
5 it be important to get, in her statement, the motive, the
6 reason for all of this?

7 A It would be important to get the reason for
8 all of this, yes.

9 Q All right.

10 Then show me where in the December 1, 1969, tape,
11 you were asking the questions? Show me where you got the
12 motive, this race war thing that you are telling us about?

13 A I didn't say it was in this particular conver-
14 sation.

15 Q This is the first one. This is it.

16 A No. That is "it" for you.

17 Q Pardon?

18 A You are the one that is saying "this is it."
19 You are the one that's saying this is the only thing.

20 This transcript of 37 pages -- and assuming it
21 was a thousand and thirty-seven pages -- would only be a
22 drop in the bucket of the conversations and words that I
23 have had with Susan Atkins.

24 Q But you were making a deal then, Mr. Caballero?

25 A No. The deal was made.

26 Q On December 1, 1969, the deal was made?

1 A In essence, we already had our understanding.
2 It had just not been put before Judge Younger, Evelle
3 Younger.

4 Q I see.

5 You had the deal before December 4th, 1969?

6 A We had an understanding by then, yes.

7 Q When you say "we," who are the people that make
8 up the understanding?

9 A Mr. Stovitz, Mr. Bugliosi and myself.

10 Q You, Stovitz and Bugliosi had this deal made
11 up; right?

12 A Yes.

13 Q And you wanted to show that Mr. Manson was part
14 of this scheme; right?

15 A I wanted to show nothing. I only wanted to
16 bring out the truth.

17 Q All right.

18 And part of the truth would be the motive;
19 right?

20 A As told to me by Susan Atkins.

21 Q Show me what questions you asked in there to
22 show this race war motive.

23 A I didn't ask any questions to show that.

24 I was not concerned with that at that moment.

25 Q You weren't concerned with the motive?

26 A At that moment.

1 Q Well, you wanted the Grand Jury to hear some-
2 thing, right, in accordance with your arrangement with
3 Mr. Bugliosi and Mr. Stovitz?

4 A I wanted Susan Atkins to testify to her role
5 truthfully in the various killings that were going to go
6 before the Grand Jury.

7 Q And between Thanksgiving and December the 1st,
8 you had spoken with Susan Atkins about this motive, this
9 race war motive that Mr. Manson was trying to pursue?

10 A It could have been then, it could have been after.
11 It was in many conversations, Mr. Kanarek.

12 Q Well, between Thanksgiving and December 1st,
13 did it exist?

14 A Some mention may have been made and probably was
15 made of that aspect of it, yes.

16 Q I see.

17 A Yes.

18 Q Well, will you show me the race war aspect of it
19 in the transcript?

20 A I cannot. It may be in there, it may not be.
21 I don't recall that entire four-hour conversation
22 or whatever hours that was.

23 Q I see.

24 And in those hours of conversation, part of the
25 fabric you were trying to make would include motive?

26 A Not necessarily.

1 What we were trying to do was to put down
2 exactly, in the best chronology as possible, the events of
3 those evenings so that the prosecutor could draft his
4 questions, if any, so that we could have it to show to a
5 psychiatrist, eventually, to show what was happening.

6 There were many things. The motive was in and
7 out of various conversations.

8 Mr. Kanarek, in this 37 pages that you have
9 presented to me now, there may be a mention in it, there may
10 not be. I do not know.

11 That is all I can tell you, Mr. Kanarek.

12f fls.

12F-1

1 Q I see.

2 Directing your attention to those 37 pages.
3 Outside of those 37 pages and the tape that you took after
4 February 3rd, 1970, you have only for us that little bit
5 that you took on your Stenorette in your office; right?

6 A That is correct.

7 MR. KANAREK: May I approach the witness, your Honor?

8 THE COURT: Yes.

9 MR. KANAREK: What is the number on that transcription?

10 THE COURT: P-XX for identification.

11 BY MR. KANAREK:

12 Q Now, directing your attention to page 5, Mr.
13 Caballero.

14 Does this transcript reveal that Susan Atkins
15 said "I was ordered by a man by the name of Tex to kill a
16 man"?

17 A I don't have it in front of me.

18 Q You don't have it in front of you?

19 A No.

20 Q Well, may I attempt to refresh your recollection?

21 A Yes.

22 MR. KANAREK: May I approach the witness, your Honor?

23 THE COURT: Yes, you may.

24 (Whereupon Mr. Kanarek approaches the witness.)

25 BY MR. KANAREK:

26 Q I show you at page 5, maybe nine or ten lines

1 from the bottom, Mr. Caballero.

2 Does that say that Tex ordered Susan to kill a
3 man?

4 A It says "I was ordered by a man by the name of
5 Tex to kill a man."

6 One word in a lengthy paragraph.

7 Q One word in a lengthy paragraph?

8 A I mean, one sentence. I am sorry.

9 Q Did you do anything to see that that got into
10 the Grand Jury transcript?

11 A I had nothing to do with the Grand Jury
12 transcript. I wasn't presenting the case.

13 But it is my understanding that it did get into
14 the Grand Jury transcript.

15 13 fls.
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13-1

1 Q It is your understanding that --

2 A Yes.

3 Q -- that that particular aspect of it got into
4 the Grand Jury transcript?

5 A Yes.

6 Q You have had the Grand Jury transcript?

7 A That's correct, that is why it is my under-
8 standing.

9 Q All right, where in the Grand Jury transcript?

10 A You are reading a sentence there where she is
11 describing the killing at the Tate house.

12 Just preceding that she said "I stabbed a man
13 four or five times but I would say that is in self defense."

14 She is referring to Frykowski at that time.

15 Then she said:

16 "I was ordered by Tex to kill a man," meaning
17 Tex Watson, and she is referring to the incident inside the
18 Tate house at that time when all the killings were going on.

19 And he told her, "You kill him." These are the
20 things I recall.

21 Many times she discussed it with me.

22 Tex was there at the location, but she told me
23 Charlie is the one that told him to go there.

24 Q Oh, now you are saying that Charlie is the one
25 who told them to go there?

26 A Now, I'm telling you that is what she told me.

1 Let's distinguish.

2 Q Now, will you tell us when did you first reduce
3 the race war thing to any kind of permanency like a tape
4 recording or a court reporter's notes that are not torn
5 off, would you tell us when is the first time, Mr. Caballero?

6 A Mr. Kanarek, I cannot tell you that there ever
7 was a first time.

8 Q Or there ever was a time?

9 A That is what I am telling you.

10 I cannot tell you. I don't know whether I have
11 it on any of the additional tape recordings or whether I
12 never wrote it down.

13 I very rarely took notes with her.

14 Q You every rarely took notes with her?

15 A That's right. That is why I got the court
16 order subsequently to tape.

17 Q Do you remember the court order that you did
18 get?

19 A Yes.

20 Q Do you remember your declaration for that
21 court order?

22 A Yes.

23 Q Do you remember your declaration where you
24 state by way of penalty of perjury on February 3rd, 1970,
25 the declaration by the attorney for the defendant, Susan
26 Atkins;

1 "Due to the voluminous nature of the evidence
2 in said action it is necessary for declarant to
3 communicate with said defendant on frequent occasions.

4 "These conferences include the taking of copious
5 notes with reference to answers related to the
6 declarant by defendant;

7 "The taking of these notes tends to interfere
8 with the natural conversation between attorney and
9 client, thus making it difficult for declarant to
10 receive such information in the conversations in
11 the freest manner.

12 "That some time in the future defendant's plans
13 might necessitate the examination by psychiatrists
14 relating to her past and present state of mind.

15 "Declarant contends that some of the fields
16 which could be covered in such tape recorded conver-
17 sations would allow any psychiatrist who might be
18 appointed a better insight into any psychological
19 factors that may be of benefit to the defendants'
20 position."

21 "And the sheriff's department at Sybil Brand
22 has notified the declarant that any recordings
23 would have to be made as the result of a court order."

24 So prior to this time you say in this piece of
25 paper, at least, that you took copious notes?

26 A I attempted to take many notes and I found it

1 would destroy the continuity of her talking to me if I
2 tried to take notes as she talked.

3 I would not understand my own handwriting.

4 I said "Okay, I will stop taking notes."

5 Then I requested this court order.

6 Q So it took you some two months to figure that
7 out, isn't that right?

8 A No.

9 Q From December 4th to February 4th, two months
10 before you could figure out that you were not getting any
11 kind of notes that were worth while, is that right?

12 A No, it took me that long to get the order
13 because I did not feel there was any reason to get it
14 prior to that time.

15 It did not take me that long to realize that
16 I should not take notes.

17 Q Where are those notes?

18 A I threw them away. I had no reason to keep
19 them.

20 Q You threw away those notes?

21 A Sure. I couldn't even understand them.

22 I have notes here, for instance, which I can
23 show you, I think, the conversation with Susan Atkins and
24 Charles Manson which I can scarcely read, that I wrote.

25 Q But you do remember in this courtroom the
26 matters that Mr. Bugliosi has advocated about this race

1 war.

2 You have no problem remembering that.

3 MR. BUGLIOSI: Argumentative.

4 THE WITNESS: I don't know what you are talking
5 about.

13a fls. 6 THE COURT: Sustained,

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13a-1

1 Q In other words, so we are deprived in this
2 courtroom of the copious notes you took, you decided you
3 would throw them away, right?

4 A No.

5 Q When did you throw them away?

6 A Usually as I left Sybil Brand, they were useless.

7 Q I see, and so in this interim period --

8 Now, let me withdraw that.

9 You had no difficulty arranging to get Mr.
10 Cohen's story down with a court reporter, right?

11 That was important, on December 10th, 1969,
12 when you had the gag order?

13 A Yes.

14 Q That was real important.

15 Now, but between that time and February 3rd
16 when you had your client's best interest at heart you did
17 not arrange, you did not approach anybody to make permanent
18 the conversations that you were having with her, right?

19 A That's correct.

20 Q I see.

21 Now, did Susan Atkins -- did Susan Atkins in
22 this tape recording deny killing Gary Hinman?

23 MR. BUGLIOSI: The transcript speaks for itself.

24 MR. KANAREK: This is cross-examination.

25 This witness has been --

26 MR. BUGLIOSI: It's a violation of the best evidence

1 rule.

2 THE COURT: That is related to the recording.

3 MR. KANAREK: Pardon?

4 THE COURT: Does the question relate to the
5 recording or the transcript?

6 BY MR. KANAREK:

7 Q Did in your presence Susan Atkins deny killing
8 Gary Hinman, Mr. Caballero?

9 A When you say killing, you mean the physical act
10 of the killing, itself, or participate in holding a
11 pillow over his head as he was stabbed to death?

12 Which one do you mean?

13 Q You answer it in any way best that you can,
14 Mr. Caballero.

15 A Well, she never denied being, what in my
16 opinion as a lawyer was, a principal, an aider and an
17 abettor and an accomplice in the murder of Gary Hinman.

18 Q Then I direct you to page 5 of this transcript
19 where you say --

20 "What is that?

21 "A Confessed to killing even though I
22 didn't actually kill.

23 "Q Confessed killing whom?

24 "A Gary Hinman.

25 "Q You didn't do it, is there anyone else
26 you hurt for Charles?

1 "A Hurt? Me?

2 "Q Or killed or destroyed anyone?"

3 Does that refresh your recollection?

4 A No.

5 Q You heard what I read?

6 A Yes, you asked me if it refreshed my recollec-
7 tion. The answer is no.

8 Q In other words, it was not important to you --
9 here you had at this time -- you were only actually
10 representing her on the Hinman case.

11 A That's correct.

12 Q And you were not interested in the fact she
13 said "I did not kill Mr. Hinman"?

14 A You asked me whether as a lawyer I felt she was
15 guilty.

16 The word "killed" is open to interpretation.

17 Do you mean did she physically kill or was she
18 part and parcel of it?

19 It's a big difference.

20 Perhaps I do have to explain the law to you but
21 we won't get into that.

22 Q Well, go ahead, explain it.

23 A What is your question.

24 Q My question is, did Susan Atkins deny to you
25 that she killed Gary Hinman?

26 A That she physically killed him, yes.

1 Q She did deny that to you?

2 A Yes.

3 Q I see. And at some time later on did she tell
4 you that she physically killed Gary Hinman?

5 A I don't believe she said that.

6 I think that Beausoleil killed him; that she
7 assisted; that she --

8 Well, she went to relate the circumstances as
9 they occurred in that house for those few days.

10 Q Tell us about it.

11 A To the best of my recollection, Mr. Kanarek,
12 Charlie Manson told her.

13 Q -- I know, you want to get Charlie Manson in.

14 A I don't want to.

15 Q I'm asking about the actual physical killing.

16 THE COURT: Word it specifically then, Mr. Kanarek.

17 MR. KANAREK: Yes, I did.

18 THE COURT: His answer was a responsive start to the
19 question you asked.

20 If you want to be specific, then do so.

21 BY MR. KANAREK:

22 Q My question is in connection with the actual
23 physical killing of Mr. Hinman.

24 A Yes.

25 Q I am directing your answer to that.

26 Would you tell us, did Susan Atkins later on,

1 after December 1, 1969, did she say that she actually
2 did kill Gary Hinman, she did the physical act?

3 A No.

4 Q She never said that?

5 A No.

6 Q Then directing your attention to these
7 various conversations that you had with her all the way
8 from the time of December the 1st or before that or until
9 the time that Mr. Shinn started representing her.

10 In all that period of time you are telling us
11 now you know for sure she never said that.

12 Is that right?

13 A To the best of my recollection she never said
14 that.

15 Q But you don't remember the 37 pages here on
16 December 1, though, do you?

17 A I don't remember every word there. I remember
18 we had conversations.

13b flx.

13b-1

1 Q I see.

2 Did it interest you -- did it interest you and
3 did you bring to the District Attorney's attention the
4 fact that maybe Susan Atkins had a defense on the merits in
5 this case?

6 Didn't she tell you that she stabbed in self-
7 defense?

8 A It would have interested me, but the manner in
9 which she told me what she called self-defense was a manner
10 of talking, not a legal defense.

11 In other words, what she was saying:

12 "I was going to kill this man; he defended him-
13 self so I killed him in self-defense."

14 In essence, that is what I am using as an
15 analogy. She did not state she tried to kill him. She stabbed
16 him because he was trying to get away.

17 In your mind that may be self-defense. In my
18 mind it is not.

19 Q I am not asking you anything except what is in
20 your mind.

21 A That is what I am telling you.

22 Q You can answer the question. If it's not clear
23 I will be glad to reframe it.

24 MR. KANAREK: May I approach the witness, your Honor?

25 THE COURT: For what purpose?

26 MR. KANAREK: I wanted to show him this portion of the

1 transcript and see if this changes his mind or refreshes his
2 recollection.

3 (Whereupon, Mr. Kanarek approaches the witness.)

4 Q BY MR. KANAREK: Directing your attention to
5 Page 5, about 11 lines up from the bottom, does it say,
6 "I stabbed a man five or six times, but I would say that was
7 in self-defense"?

8 A Yes, it says that, one sentence at the beginning
9 of the paragraph.

10 Q All right, now, would you show me in here, would
11 you show me in here what makes you, as far as this tape is
12 concerned, what makes you reject that out of hand, Mr.
13 Caballero?

14 You were her lawyer, you were trying to find
15 defenses for her. You were trying to save her life.

16 A Shall I answer?

17 Q Yes, please.

18 A Okay.

19 Based upon what follows right on this very page
20 and the conversations I had with her before and afterward.

21 Q Did you try to determine whether she may have
22 been under the influence of a dangerous drug or an opiate
23 or maybe she had a diminished capacity defense that would make
24 her go to a mental institution and maybe be released in a
25 year or so?

26 Did you ferret that out?

1 A Mr. Kanarek, that is why I am not her lawyer
2 today, because I wanted to do just that and she refused.

3 Q All right, did you discuss with her, Mr. Caballero,
4 did you discuss with her and try to determine whether
5 there was any drug intake?

6 A Yes, I did.

7 Q All right, where is it in this transcript?

8 A Not in this transcript.

9 Q Not in this transcript, though, is it?

10 A No, in conversations with her.

11 Q Because in that transcript, Mr. Caballero, you
12 were doing the District Attorney's bidding. You wanted to
13 see Mr. Manson indicted for these murders and you did not
14 want to have anything to do with dangerous drugs or anything
15 of that nature in this transcript because you wanted her to
16 be a person who could perceive and detect, and you did not
17 want her capacity to observe, to in any way detract from
18 that Grand Jury bringing in an indictment.

19 Isn't that right?

20 A No.

21 Q Well, then, how could you -- why did you
22 deliberately leave out of your questioning of this girl,
23 looking at the nature of these killings, why did you
24 deliberately leave out any interrogation concerning the
25 intake of drugs, LSD, marijuana, or what-have-you? Why did you?

26 A I did not.

1 Q You did not deliberately do that?

2 A No.

3 Q You are a sophisticated lawyer, right?

4 A That is a matter of opinion.

5 Q All right. You knew the nature of these
6 killings, right?

7 A Yes.

8 Q It did not occur to you -- it did not occur
9 to you that possibly there was -- that the minds of these
10 people were influenced by LSD, heroin, STP, MTA, whatever it
11 may be?

12 MR. BUGLIOSI: Ambiguous.

13 Q BY MR. KANAREK: Is there some particular reason
14 you left out of the interrogation --

15 MR. BUGLIOSI: Assumes facts not in evidence.

16 THE COURT: Sustained.

17 Q BY MR. KANAREK: Directing your attention to
18 your state of mind, Mr. Caballero --

19 A Yes.

20 Q -- is it a fair statement that you deliberately
21 left out of your interrogation of December 1, 1969, you
22 deliberately left out any interrogation concerning the
23 dangerous drugs or anything that might affect --

24 MR. BUGLIOSI: Asked and answered.

25 MR. KANAREK: He hasn't answered that question.

26 THE COURT: Overruled, you may answer.

THE WITNESS: The answer is no.

Q BY MR. KANAREK: Then show me in that transcript where you delved into that.

A I don't know if I did or not.

You asked me if I deliberately left something out.

I say no.

As you read the transcript and listen to the tape you will see that Susan was allowed to talk on at will, which she did.

Q But you asked the questions?

A Only prompting questions, sometimes questions and answers, other times she went on to talk, but, Mr. Kanarek, this is one of many, many conversations.

Q This is the conversation that triggered the Grand Jury indictment, right?

MR. BUGLIOSI: Calls for a conclusion.

THE COURT: Sustained.

Q BY MR. KANAREK: This is the conversation that you intended to turn over to Mr. Bugliosi and the Police Department for use by Mr. Bugliosi in framing the questions for the Grand Jury, is that right?

A That is correct.

13c-1

1 Q All right, and you, your state of mind was
2 such that you knew that if that Grand Jury felt that Susan
3 Atkins, who was the star witness, was mentally incapacitated,
4 couldn't think, couldn't recount, couldn't perceive because
5 she was under dangerous drugs or some other type of
6 chemical, that the Grand Jury would not believe her and
7 they would not bring in an indictment.

8 That was your state of mind, is that right,
9 Mr. Caballero?

10 MR. BUGLIOSI: Compound and calls for a conclusion.

11 THE WITNESS: No.

12 THE COURT: The answer is stricken. The jury is
13 ordered to disregard it.

14 The question is ambiguous and compound.

15 The objection is sustained.

16 MR. BUGLIOSI: Kindly wait, sir, after the question
17 so I can object.

18 Thank you.

19 BY MR. KANAREK:

20 Q Are you telling us then, Mr. Caballero, that
21 that was just an oversight, is that right?

22 A No.

23 Q Well, then, did you deliberately not interrogate
24 concerning any kind of LSD or STP or whatever she might have
25 ingested?

26 MR. BUGLIOSI: Asked and answered.

13c-2

1 THE COURT: Overruled.

2 THE WITNESS: No.

3 BY MR. KANAREK:

4 Q Well, then, it did go through your mind to
5 ask these questions?

6 A It may or may not have.

7 You say it is an oversight. That assumes I
8 meant to ask them and I don't recall I meant to ask them
9 and I didn't.

10 Therefore it was not an oversight and it was
11 not deliberate.

12 Q Right now you have no reason you can conceive
13 of for telling us --

14 A That is the answer.

15 Q I see, no reason.

16 A That's right.

17 Q I see. Well, at some time did you interrogate
18 Susan Atkins concerning her drug intake?

19 A Yes.

20 When you use the word "interrogate," I talked
21 with Susan Atkins about her drug intake, yes.

22 Q I see.

23 And you say that you were preparing this for
24 a psychiatrist, this December 1, 1969, tape, you were
25 preparing that for a psychiatrist?

26 A That was part of it, yes.

13c-3

1 Q No question about that?

2 A Oh, no, that was going to be part of what I
3 was going to use it for, that is true.

4 Q When did you ever give it to a psychiatrist,
5 this tape?

6 A Never did.

7 Q Never did?

8 A Never did.

9 Q And is there some reason why over this long
10 period of time you didn't -- you did not consult a
11 psychiatrist or you did not present this information or
12 other information for a psychiatrist concerning Susan
13 Atkins?

14 A Yes, sir.

15 Q There is some reason?

16 A Yes.

17 Q Would you tell us what that reason is?

18 A Charlie Manson told her not to go to a
19 psychiatrist.

20 Q That was in February?

21 A That's right.

22 Q I'm talking between December 1, 1969, and
23 February, that is two months, Mr. Caballero.

24 A That is correct.

25 Q Right?

26 A Uh-huh.

13c-4

1 Q In that period of time she did not even see
2 Mr. Manson?

3 A That's right.

4 Q Right?

5 A Uh-huh.

6 Q What about that period of time?

7 A The case was not ready for trial; there was
8 absolutely no reason to go at that time.

9 I was still gathering information from her.

10 The question of when the case would go to trial
11 and at what point we would enter the plea of not guilty
12 by reason of insanity had not been resolved yet. I was
13 discussing with her also approximately which psychiatrist
14 she should go to, when we would go to a psychiatrist,
15 under what circumstances, what we had in mind.

16 These kinds of things; these are not overnight,
17 Mr. Kanarek.

18 I plan them out and plot them out and then
19 I work on them.

20 This is what we were doing.

21 Q You plan them out and plot them out and then
22 you don't do them?

23 A No.

24 Q Is that what you are saying?

25 A No.

26 Q You planned it, you plotted it, it never

13c-5

1 happened.

2 A The moment it was about to happen Charlie said
3 no.

4 Q I see. You are telling us on that day Charlie
5 said "Don't go see a psychiatrist," right?

6 A On the day they met.

7 Q On the day they met?

8 A That's right.

9 Q And what day was that about?

10 A I don't know what day. I don't recall. It is
11 a matter of record, no matter what date it was.

12 Q It's even later than February 3rd, isn't it?

13 A Sometime in March.

14 Q Sometime in March?

15 A Sometime in March, I think it was, yes.

16 Q So maybe three months have gone by?

17 A Yes, in that period of time, that's right.

18 Q So you plotted and planned and never went to
19 the psychiatrist?

20 A That is right.

21 Q But Mr. Manson is the one that is responsible
22 for those three months too, is that what you are trying to
23 tell us?

24 A No.

25 Q I see, so in that three-month period your
26 state of mind is that Susan Atkins would have -- would have

gone
/to be examined and all of that, if you had brought the
psychiatrist over there?

A Perhaps, yes.

13d fls.

13d-1

1 Q Right? Now -- now, directing your attention
2 to Page 7 of this transcript, rather than --

3 Well, I will withdraw that and ask you:

4 Did Susan Atkins state, "Yes, we know Terry
5 very well."

6 "The reason Charlie picked that house was to
7 instill fear into Terry Melcher because Terry had given us
8 his word on a few things and never came through with them.

9 "So Charlie wanted to put some fear into him,
10 let him know that what Charlie said is the way it is, just
11 what he said, the way it is, and his philosophy most people
12 call it.

13 "And we -- he explained the setup of the house
14 for us, and we had a set of bolt cutters with us and ropes
15 and a gun -- one rope and a gun, and we each one of us had
16 a knife."

17 Now, those are the words that Susan Atkins
18 uttered to you, right?

19 A Yes.

20 Q Now, you are now telling us about the race war,
21 right?

22 A Yes.

23 Q Well, was this the motive? Was this the motive
24 that Susan Atkins told you?

25 A Mr. Kanarek, you are confusing why they picked a
26 particular house and the motive.

1 For instance, the house was picked because
2 Terry Melcher used to live there and he had personally
3 aggravated Mr. Manson apparently.

4 That is how the house was picked. That was the
5 symbol.

6 But the motive, now, they picked the house, now,
7 how come the killings? What were the killings for?

8 The killings were for helter skelter.

9 You see the distinction?

10 Q You have spoken extensively to Mr. Bugliosi and
11 you read the papers, too, right, Mr. Kanarek?

12 A I have spoken extensively with Susan Atkins --

13 Q And you read the newspapers, you read the
14 magazine articles, and you read what Mr. Bugliosi has
15 stated also, right?

16 MR. BUGLIOSI: It assumes facts I have written some-
17 thing for public consumption, for anyone to read.

18 It assumes facts not in evidence.

19 MR. KANAREK: I am asking him if he has, your Honor.

20 THE COURT: Overruled, you may answer.

21 THE WITNESS: Yes, I read.

22 Q BY MR. KANAREK: Well, here you have the chance
23 at this point in this transcript, Mr. Caballero, you have
24 Terry Melcher, the symbol you are telling us, is there any
25 place in here where Susan Atkins says, "This is the symbol
26 to start the race war?"

1 A No.

2 Q Why didn't you pursue it in that point of the
3 conversation if in fact that was to be the symbol, in
4 pursuit of the race war?

5 A Perhaps it is because you question one way and
6 I question another.

7 Q Perhaps it never happened, Mr. Caballero.

8 A It maybe may never have happened. I am only
9 relating what she told me.

10 Q But you asked the questions?

11 A That's right.

12 Q You directed the line of inquiry?

13 A That's right.

14 Q And there never was any race war kind of direc-
15 tion by you when you spoke with Susan Atkins on December 1?

16 A There may have been; there may not have been,
17 I don't recall.

18 Q You are saying now you don't recall for sure?

19 A I don't recall the whole conversation.

20 Q Now, did it strike you as a lawyer for Susan
21 Atkins, Mr. Caballero, that is, what is in the Grand Jury
22 transcript is far removed from what is in this tape?

23 Did it strike you?

24 A No.

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1 MR. BUGLIOSI: It assumes facts not in evidence, your
2 Honor.

3 It also calls for conclusion.

4 THE COURT: Sustained.

5 BY MR. KANAREK:

6 Q Did you compare -- here you have this tape,
7 right, where it says "copyright, 1969, by Susan Denise
8 Atkins and Lawrence Schiller, all rights reserved;
9 publication without written permission prohibited."

10 You had that tape. Did you at any time
11 compare that tape with the Grand Jury transcript?

12 A No.

13 Q And not even mentally, you never at any time
14 made that comparison?

15 A As I perused through the transcript it struck
16 a responsive chord to me.

17 Q And having read over Mr. Bugliosi's examination
18 of Susan Atkins did it strike you that there were some
19 points that were in this tape that were not asked by
20 Mr. Bugliosi?

21 A Mr. Kanarek, when I went through the Grand Jury
22 transcript regarding Susan Atkins' testimony, you must
23 remember I had something additional from that Mr. Bugliosi
24 had.

25 All he had of course was the transcript of that
26 tape or the benefit of having heard the tape.

1 I had the benefit of having heard her when she
2 made the tape as well as having heard her numerous times
3 before that and numerous times after that.

4 And therefore I had the benefit of knowing
5 what she had told me and that is what I used, and that is
6 what I mean when I say her testimony at the Grand Jury
7 struck a responsive chord to me.

8 Q But my question is, at the time when you got
9 the Grand Jury transcript, that was shortly after -- after
10 this December 1, 1969, tape recording, right?

11 A It was not shortly thereafter, almost two weeks
12 later.

13 Q Two weeks thereafter?

14 A Right.

15 Q All right, and that interim, in that period of
16 time you spoke with Susan Atkins, right?

17 A Almost 14 times, yes.

18 Q All right, and did you ever, because you as
19 her lawyer wanting to get her second degree murder, maybe--
20 this is now within this three-month period before Mr. Manson
21 ever spoke to her, did you ever sit her down and get --
22 record a conversation concerning this race war theory, this
23 idea of going to the desert and all of that.

24 Did you ever record that?

25 A Yes, Mr. Kanarek.

26 Q Where is that recording?

1 A I have it.

2 Q That is recorded in the matter of materials
3 that you have brought to court here, is that right?

4 A That is correct, Mr. Kanarek.

5 Q And after how many months and how many conver-
6 sations with Mr. Bugliosi later was that recorded.

7 How many times had you spoken to Mr. Bugliosi
8 before you made the recording concerning the purported race
9 war?

10 A Many times.

11 Q Many times, right?

12 A Yes.

13 Q And Mr. Bugliosi had spoken to you about the
14 race war matter many times, right?

15 A I would say it is fairer to say that I spoke
16 to him about it.

17 Q You told him about it?

18 A That's correct.

19 Q I see. And you told him and he told you --
20 You spoke about it?

21 A We talked about it in a conversation.

22 Q All right, I see.

23 And how long was it after this December 1, 1969,
24 recording that you recorded the so-called race war thing
25 concerning Susan Atkins?

26 A Oh, sometime after the court order that allowed
me to record at Sybil Brand, which would have been probably

1 sometime after February 3rd.

2 Q After February 3rd?

3 A Yes.

4 Q So you have a period of at least two months
5 during which there is no recording or anything concerning
6 race wars, right?

7 A No recordings concerning anything.

8 Q Period?

9 A Period.

10 THE COURT: Mr. Kanarek, it will be necessary to
11 adjourn at this time today.

12 Ladies and gentlemen, do not converse with
13 anyone or form or express any opinion regarding penalty
14 until that issue is finally submitted to you.

15 The court will adjourn until 9:30 tomorrow
16 morning.

17 (Whereupon an adjournment was taken.)
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