

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

205

No. A253156

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

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

Defendants.

REPORTERS' DAILY TRANSCRIPT
Monday, March 22, 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 K. HUGHES, Esq.~~
MAXWELL KEITH, Esq.
PAUL FITZGERALD, Esq.

For Deft. Krenwinkel:

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

LOS ANGELES, CALIFORNIA, MONDAY, MARCH 22, 1971

9:48 o'clock a.m.

- - - -

(The following proceedings were had in the chambers of the court out of the presence and hearing of the jury and the defendants:)

THE COURT: All counsel are present.

Someone wanted to make a motion?

MR. KANAREK: Yes, your Honor, I have here under People vs. Ah Song -- I believe it is spelled A-h S-o-n-g. Spelling it phonetically anyway I believe that is it.

I don't have time to make a written motion, your Honor.

This has just been brought to my attention this morning.

I would like to offer on behalf of this motion that the jury be voir dired and that we have an evidentiary hearing in connection with this matter.

It is obvious that there is a gigantic headline in this morning's Herald-Examiner "Search for Grave, Tate Lawyer Buried."

They associate the place they are looking for Mr. Hughes with Mr. Manson in the desolate hills of Barker Ranch, once the home of the Manson Family.

May I offer this in evidence on behalf of my motion?

1 THE COURT: Not in that form. There is an appro-
2 priate way to do these things, Mr. Kanarek, as I have tried
3 to point out to you many many times.

4 It is a matter of handling papers, that has to
5 be done in a certain way. We cannot be handed scraps of
6 newspaper in a vacuum,

7 MR. KANAREK: We are interested in a just result
8 here, your Honor.

9 THE COURT: That's right.

10 MR. KANAREK: I have prepared a written motion to
11 voir dire the jury, and your Honor summarily denied it
12 last week.

13 THE COURT: Well --

14 MR. KANAREK: I prepared one.

15 THE COURT: I don't recall what you are talking
16 about now.

17 MR. FITZGERALD: Well, time is of the essence on this
18 one. This is this morning's newspaper and I find it
19 just incredibly shocking.

20 If the jury sees this; if any member of the
21 jury sees these papers and there is a very strong inference
22 as a result of reading that article that these defendants
23 had something to do with the death of one of the lawyers
24 in the case, Judge, they cannot receive a fair penalty trial.

2 file.

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1 THE COURT: I disagree with that.

2 In the first place, there is no reason to
3 believe that they aren't complying with the Court's
4 admonitions that have been given.

5 MR. FITZGERALD: I agree.

6 THE COURT: That have been given many, many times,
7 countless times almost, during the course of the trial,
8 admonitions, not just the usual admonitions, but admoni-
9 tions not to permit themselves to be exposed to television
10 or newspaper coverage of any kind on the trial.

11 There is no reason at all to believe that they
12 are not complying with this.

13 I have never seen a jury, in fact, that is more
14 conscientious, apparently, than this jury is.

15 MR. FITZGERALD: I am not attacking them. I think
16 they are conscientious. I don't have any indication that
17 they are not conscientious.

18 But given the pervasiveness of modern communi-
19 cation, even while they were sequestered they saw head-
20 lines, they have testified to that --

21 THE COURT: The only thing they testified to is one
22 juror said he got a glimpse of one headline from the bus.

23 MR. FITZGERALD: But now, of course, they are in a
24 situation where they can accidentally be exposed to all
25 of this stuff.

26 I am going to join in Mr. Kanarek's motion, and

1 I think the motion is extremely well taken.

2 MR. KANAREK: Your Honor, I cannot agree with the
3 Court's statement that your Honor has never seen a jury
4 more conscientious.

5 You don't know, you can't judge it by the fact
6 that they sit there in the jury box. The only way you can
7 do it is by way of evidence.

8 I have to studiously stay away from these
9 people. Obviously I can't go and talk to them or do
10 anything to try to determine whether they are conscientious
11 or not.

12 I don't think that gratuitous statement by the
13 Court, just so the record will not indicate, if somebody at
14 a later time says this is some kind of a finding of fact,
15 I object to that statement by the Court. I think that the
16 statement, most respectfully, I say, is a frivolous
17 statement.

18 THE COURT: That will be enough. I don't want to
19 listen to any more of that nonsense, Mr. Kanarek.

20 The motion is denied.

21 MR. KANAREK: I have another article.

22 THE COURT: I don't care what you have. Attach it
23 to a declaration, put it in the usual form, but I am not
24 going to sit here and listen to your nonsense, and what I
25 consider to be almost contemptuous statements.

26 Now, is there anything else before we get on

1 with the trial?

2 MR. SHINN: May I join with Mr. Kanarek's motion?

3 MR. KEITH: I will too.

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1 THE COURT: If, as and when he puts it in a proper
2 form -- I am denying it now on the basis of what you said--
3 now, if you want to offer some evidence to support it, go
4 ahead and offer it, but put it in the proper form and
5 attach it to a declaration as an exhibit so it can be
6 properly handled by the Court.

7 MR. KANAREK: It has just been brought to my atten-
8 tion. I am bringing it up so that the Court can accomplish
9 something, so the jury can be told before they go to lunch
10 and see it.

11 THE COURT: They have been told every day, several
12 times a day.

13 Let's get on with the trial.

14 MR. KANAREK: I have one other problem.

15 I am sure your Honor agrees, first of all, that
16 the prosecutor cannot argue his own testimony. That being
17 the case, in connection with his testimony, I would ask
18 that one of the other prosecutors, Mr. Musich or Mr. Kay,
19 discuss Mr. Bugliosi's testimony, if he is going to do it,
20 because that is clearly the law.

21 I am sure your Honor agrees that it is improper
22 for a lawyer to argue his own testimony.

23 MR. BUGLIOSI: Is there any such law on that?

24 MR. KANAREK: Yes.

25 MR. KAY: You are the one that called him as a
26

1 witness.

2 MR. BUGLIOSI: I think I can briefly comment on that.

3 Is there any case on that?

4 MR. SHINN: No, you can't.

5 MR. BUGLIOSI: Show me a case.

6 MR. SHINN: Come on, Bugliosi.

7 MR. BUGLIOSI: Give me a citation.

8 MR. KANAREK: May I ask the Court to instruct the
9 prosecution that Mr. Bugliosi cannot argue his own testi-
10 mony.

11 THE COURT: You show me some authority for that
12 proposition.

13 MR. FITZGERALD: Your Honor, all counsel would like
14 to talk to you very briefly about this matter that we tried
15 to bring to your attention on Friday.

16 That is the matter of Life magazine having
17 already contacted and photographed and talked to members of
18 the jury, and their continuing and on-going attempt to
19 contact and negotiate with the remaining jurors for the
20 purposes of taking their pictures and/or taking statements
21 from them at the conclusion of the case.

22 THE COURT: There is no evidence that anyone has
23 talked to any juror concerning this case or about anything
24 other than taking a photograph.

25 Again, the jury has been admonished countless
26 times.

1 MR. FITZGERALD: I didn't say about the case. I
2 didn't say that.

3 THE COURT: What are you talking about?

4 MR. FITZGERALD: They sent them a letter indicating
5 in the letter that they had talked to them. They didn't
6 say they talked to them about the case. They talked to
7 them and photographed them, and they wanted to talk to them
8 about the case after the case is over. The letter says
9 that.

10 THE COURT: Is there any law that says the juror
11 can't talk about the case after the case is over?

12 MR. FITZGERALD: No, there is none, Judge.

13 THE COURT: Then what is the point?

14 MR. FITZGERALD: The point is -- I will forget it.
15 I withdraw my remarks.

16 THE COURT: Let's proceed.

17 (The following proceedings occur in open
18 court. All jurors and counsel present. All defendants
19 except Mr. Manson present.)

20 THE COURT: All the defendants are present except
21 Mr. Manson. All counsel and all jurors are present.

22 You may continue, Mr. Kanarek.

23 MR. KANAREK: Thank you, your Honor.

24 Good morning, ladies and gentlemen.
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1 This morning, if I may, I would like to discuss
2 with you Susan Atkins' testimony, and in this connection
3 again, if I may, I would like to discuss the fact that we
4 have here a very strange and unusual situation in that we
5 have an attempt for communication.

6 It has come from this witness stand, and unless
7 we are to say -- unless we are to take the prosecution
8 viewpoint that was taken at the Grand Jury by the prosecution,
9 that you can -- where, with everything that was known at that
10 time concerning the effect of LSD and drugs and the fact
11 that these people were involved in this subculture, unless
12 we are just to whitewash the LSD subject matter completely,
13 we think that there is a necessity -- a necessity to attempt
14 to determine the impairment effect, whatever you want to
15 call it, of LSD on communication.

16 We just cannot -- unless we wish to just white-
17 wash it -- we cannot -- we cannot neglect the very, very
18 important factor that has come from that witness stand, I
19 think that has struck all of us, that when people are some-
20 how users of this drug there is -- there is some kind of a
21 feeling on the part of the user of communication that
22 exists without words.

23 In other words, there is there the -- we get
24 that in the testimony not only of the doctors, but of these
25 female defendants who have been on the witness stand.

26 There is this intangible something or other

1 that is involved in the use of LSD, wherein these people
2 think that they can communicate.

3 They think that just by, I guess whatever --
4 whatever the cause of it may be, they think that they can
5 get some kind of a -- I don't know if you want to call it
6 ESP, extrasensory perception or what, but there is the
7 aspect of almost -- almost an eerie feeling that these
8 people seem to have. They sort of worship LSD.

9 It is something that they need; it is something
10 that they not only need but that they supposedly use.

11 That is, this eerie feeling, or this ability to
12 communicate without saying anything.

13 We have that in the testimony of these three
14 female witnesses, three female defendants.

15 We have it in the testimony of Linda Kasabian.
16 She supposedly -- she told us that she --

17 They traveled for long distances without any-
18 body saying anything, and they seemed to have some common
19 purpose. They get some common idea. They act on some common
20 idea without any kind of verbal communication, they say,
21 they tell us that.

22 And this is important because we are here
23 deciding life or death as far as these defendants are
24 concerned.

25 And if we don't have the subject matter, if we
26 don't have the raw material that comes up to the standards

1 of, say, a witness like Dr. Hoguechi and Dr. Katsuyama, if
2 we don't have that kind of level of competency or level of
3 credibility, we certainly cannot send people to the gas
4 chamber.

5 This is the kind of thing that we suggest is
6 present in Susan Atkins, in Patricia Krenwinkel, in Leslie
7 Van Houten, and in Linda Kasabian, this supernatural --
8 the devotion to the supernatural these people have, all of
9 them.

10 We are not saying that Susan Atkins, because
11 she took the witness stand here, is any different than the
12 rest of them.

13 Their minds, all of them, have been saturated
14 with LSD, like Patricia Krenwinkel said, "I am acid; I
15 have taken so much LSD that I am acid."

16 Well, Linda Kasabian has taken so much LSD that
17 she is acid.

18 The same goes for Susan Atkins, the same goes
19 for Leslie Van Houten.

20 So, if that is the case, if that is the case,
21 then we have to be very, very careful at taking any kind of
22 literal meaning to the words that are uttered by these
23 people.

24 And the doctors have said -- the doctors have
25 testified that this chronic result from the use and abuse
26 of LSD, that this chronic result stays with a person, in

1 other words, they are mentally cripples.

2 And so, if we -- if we have that in mind, I think
3 that -- if we have that as sort of a beginning point it
4 may give us some clue, some clue that we may be able to use
5 in deciding this case.

6 Now, at or about Page 23,168, Linda Kasabian is
7 being interrogated by Mr. Shinn, and he states to her, he
8 asks her:

9 "Q There was a discussion about
10 this case with your attorney, Mr. Caballero, at
11 this time?

12 "A Yes, there was.

13 "Q Is that correct?

14 "A Yes.

15 "Q And in this conversation about
16 this case did you tell Mr. Caballero that you
17 knew something about this case?

18 "A Mr. Caballero told me he knew
19 that I knew something about the case."

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1 Now remember, again -- again this may not be very
2 romantic type of discussion, it may not be very, very
3 dramatic, but if you go through it, if you go through it and
4 consider the relationship of these people and consider the
5 motivation on Mr. Caballero, the motivation on his part to
6 make money, the motivation on the part of the District
7 Attorney's Office to get a conviction at any price, the
8 motivation of Mr. Younger in order to get publicity for his
9 Attorney Generalship race, if you think of all of these
10 things in the context of what's said here, we may get a clue
11 as to what really happened in this case.

12 This is the situation where Mr. Caballero is
13 telling Susan Atkins at a time when he doesn't even represent
14 her on the Tate-La Bianca matters -- he has been -- he has
15 been appointed supposedly to represent her on the Hinman
16 case:

17 "Mr. Caballero told me he knew that I knew
18 something.

19 "Q How --

20 "A And I just looked at him.

21 "Q Yes, now, before that did you
22 tell anyone at Sybil Brand about this case, your
23 cellmates or roommates?

24 "A I told them what I wanted them to
25 know.

26 "Q And you talked about this case to

1 "Other people, other inmates at Sybil Brand?

2 "A I talked to two girls about it."

3 Now, if we look again with what we have seen in
4 this courtroom here, we can infer -- we can certainly infer
5 that the prosecution, that the District Attorney's Office
6 is certainly not cooperative in the sense of being
7 cooperative from the viewpoint of a defendant unless it is
8 going to suit the purposes of the -- or it is going to suit
9 -- or it is going to tend towards the result that the
10 District Attorney's Office wants.

11 Can we conceive of any reason, of any reason
12 when Susan Atkins is being represented by Mr. Caballero on
13 the Hinman case, why this District Attorney's Office would
14 let Mr. Caballero know about Susan Atkins connection with
15 the Tate and La Bianca case, except for some purpose of
16 theirs?

17 And the purpose of theirs was to get their
18 man in there to represent Susan Atkins.

19 They did not want -- they did not want someone
20 representing Susan Atkins that might interfere with their --

21 MR. BUGLIOSI: Your Honor, he is stating it as a fact.
22 There is no evidence of this at all. I object, your
23 Honor.

24 THE COURT: It is argument. I suppose he can draw
25 the inferences.

26 Let's proceed.

1 MR. KANAREK: Does it strike us as strange that a
2 lawyer, Mr. Caballero, who has been a District Attorney for
3 many years, and now is no longer a Deputy District Attorney,
4 that he is given information in connection with a case that
5 he does not even represent Susan Atkins on?

6 Is this something that is important or is it not?

7 This is a factor for us to consider because it
8 means that a political office, the District Attorney's
9 Office, is being used for something -- for some reason other
10 than that which it should be used for.

11 In other words, here is Susan Atkins being
12 represented by Mr. Caballero. We are dealing with
13 sophisticated, intelligent, thinking people in the District
14 Attorney's Office.

15 They are not fools. They know -- they know what
16 they want. They want a Grand Jury indictment.

17 So what do they do? They have a girl here who
18 is not a lawyer, a girl of 19 or 20 years of age, and what
19 do they do?

20 They take her court-appointed lawyer in another
21 case and leak information to him so that he then can
22 sort of smoothly end up as her lawyer in the Tate-La Bianca
23 case, which is exactly what happened here.

24 They leaked this information with the deliberate
25 intent -- and she is not a lawyer, she doesn't know the
26 difference between being represented on one case alone, and

1 having another lawyer on another case.

2 We recognize here in this courtroom that a
3 person can have a lawyer in one particular situation, and
4 another lawyer in another situation.

5 And so this is something to consider; this is
6 something to consider in connection with the background
7 here because -- because if -- and we have here from the --
8 from the witness stand testimony by Mr. Caballero that he
9 had many, many conferences with the District Attorney's
10 Office in connection with Susan Atkins.

11 And so is this a factor, the fact that she
12 ended up being represented by Mr. Caballero on the Tate-
13 La-Bianca --

14 Is this a factor which means that there is
15 something there that was not exactly what it should be?

16 Mr. Caruso and Mr. Caballero -- Mr. Caruso and
17 Mr. Caballero at that time, we certainly can infer, if we
18 may use these words -- the prosecution objects to our making
19 more definite statements, and we will certainly agree,
20 certainly agree that these -- that some of these things are
21 inferences.

22 We are suggesting then. If they are not
23 reasonable, then reject them.

24 But I think there is no -- there is no question
25 about it, but what those people were motivated by money,
26 the all mighty dollar is what motivated Mr. Caballero and

1 Mr. Caruso, and if in that -- if in that exercise of that
2 motivation, the rest of these defendants are somehow
3 deprived of their due process, somehow deprived of their
4 fairness, of the fairness that we are all entitled to whether
5 it is a publicized case, or whether it is some case that
6 nobody bothers to come into the courtroom -- let like in
7 this case --

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1 If this has occurred, it is something to
2 consider in connection with the absolute discretion of
3 the jury, because maybe some of these things/^{that} are supposedly
4 so true, maybe, in fact, they are not true.

5 Maybe if Susan Atkins had independent counsel,
6 maybe if Susan Atkins had independent counsel at the time
7 of the Tate-La Bianca matters, she might not have gone
8 to the Grand Jury, and it may well be -- it may well be --
9 that the words as she says here "I told them what I wanted
10 them to know" -- page 23168 -- it may well be that one
11 version of Susan Atkins' story is right and true and
12 another version is not right and not true.

13 But we are deprived of that by the machinations
14 and the wheeling and dealing that went on. Even from the
15 testimony of Mr. Bugliosi, these were tumultuous times
16 in the District Attorney's office. From the testimony of
17 Mr. Younger these were tumultuous times, lots of people
18 back and forth, and all of that, in connection with this
19 case.

20 And that being the case, it may well be that
21 some of these things that have come out supposedly as being
22 fact are less than fiction, they are pure fancy, they are
23 on the wings of an LSD dream, some of these things.

24 And so, if that is the case, if that is the
25 case, we can't send these people to the gas chamber on
26 that kind of tainted evidence.

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1 And if Susan Atkins, instead of coming before
2 the Court by way of a Grand Jury indictment, if she had
3 been brought before a magistrate and there was a preliminary
4 hearing where she had a lawyer and the judge would decide
5 whether to bind her or someone else over, where there are
6 lawyers on both sides, it might well be that the only
7 person indicted was Susan Atkins.

8 But we see from the transcript that the
9 prosecution didn't want that. The prosecution wanted to
10 make sure that Charles Manson was a defendant.

11 And so, they had their man, Mr. Caballero,
12 in there as Susan Atkins' lawyer.

13 Now, we see the deceit of Mr. Caballero at
14 page 23,174, for instance.

15 "Q Now, did Mr. Caballero give you a
16 reason for taking you to his office?

17 "A So he could talk to me about what
18 Virginia Graham and Roni Howard had said that I
19 had said.

20 "Q Any other reason for taking you out
21 of the Women's Jail to his office?

22 "A No, not the first time.

23 "Q I am talking about the first time, now.

24 "A No.

25 "Q Did he tell you any reason?"

26 This is at page 23,174, Volume 181.

1 "A Just he wanted to talk to me out of
2 the jail, he did not want me in the jail.

3 "He said there were bugs in the jail,
4 which there are, and there were too many police
5 around, which there are.

6 "Q Well, at Sybil Brand, don't they have a
7 cubicle where you could close the door and have a
8 private conversation?

9 "A Yes, but he did not trust the cubicle.

10 "Q When you left Sybil Brand the first
11 day, now, were you escorted by anyone?

12 "A There was a female officer and a male
13 officer and I was taken out, and I'm not sure if
14 it was a marked car, but I was dressed in street
15 clothes."

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1 Now, is that deceit, that lack of candor, that
2 lack of honesty on the part of Mr. Caballero, is that
3 significant?

4 Did the District Attorney's Office know that
5 Mr. Caballero was going to make this interview?

6 Obviously the District Attorney's Office did
7 because in order to get Susan Atkins out of the County
8 Jail there had to be a court order, and we know that the
9 prosecution participated in the getting of a court order
10 for Susan Atkins to be removed from the County Jail and
11 taken over to Mr. Caballero's Office where she made this
12 December 1 interview.

13 Now, compare that with Linda Kasabian.
14 Linda Kasabian's interview wasn't tape recorded. Linda
15 Kasabian's interview was not word for word taken down.
16 It wasn't presented to us when the prosecution was there to
17 interview her at the County Jail.

18 Is there any significance in that? Is there
19 any chance -- is there any chance -- that there might be a
20 deviation from truth, that there might be a deviation from
21 what actually happened, so that Mr. Hanson, so that his
22 posture in this courtroom would be different?

23 If there is -- if there is -- then that is a
24 factor that we should consider in connection with whether or
25 not Mr. Hanson should be allowed to live.

26 Now, this is pinpointed at about 23,179.

1 "Q Now, at that time" --
2 When she was at Caballero's office -- beginning at Page
3 23,178 --

4 "Q Now, at that time, did you have
5 a conversation regarding this case?

6 "A Yeah, he sat me down across from
7 him and he sat at his big desk, and I was going
8 to light a cigarette and he reached over and he
9 lit the cigarette for me and he said, 'You are
10 in so much trouble.'

11 Remember, at this time, he only represented
12 her on the Hinman case. Mr. Caballero did not, at this time,
13 represent her on the Tate-La Bianca case.

14 "I said, 'Okay.' I said, 'What kind of
15 trouble?'

16 "Because I didn't know.

17 "Well, all he told me was two girls said
18 that I said something to them, but he had not
19 told me what it was, and I said, 'Who was it?'

20 "And he held up two big transcripts
21 about an inch thick, an inch and a half thick
22 each one, and he flipped for me very dramatically,
23 and he said, 'These two girls can put you in the
24 gas chamber, can put Charles Manson in the gas
25 chamber, can put Linda Kasabian in the gas chamber,
26 they can put Patricia Krenwinkel in the gas

1 "chamber and Leslie Van Houten in the gas
2 chamber and they can put Tex Watson in the
3 gas chamber, if you don't do what I say."

4 Now, the question is, at that time, was Mr.
5 Caballero an agent of the District Attorney's Office?

6 We can certainly infer and can certainly argue
7 -- and maybe the prosecution will argue differently -- we
8 can certainly argue that he was an agent of the District
9 Attorney's Office.

10 He was, in fact, acting on behalf of the District
11 Attorney's Office, a political office.

12 "If you don't do what I say."
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Page 23,182.

I have gone through this over the weekend and I have tried to cut out, tried to make this -- get to the hard core of what we are speaking of.

Page 23,182.

"Q Then what did he say?

"A Then he said: 'The only thing that will save your life and have a chance on saving everyone else's life' -- now, that includes Charles Manson -- 'is for you to go to the Grand Jury and testify.'

"And I said --

"Q Before he said that, did he say he made a deal with the District Attorney's Office to save your life?

"A No.

"Q He didn't say that?

"A No.

"He said he would do everything in his power to make sure that there was an agreement made."

And right there you have the essence of truth. Because if Susan Atkins -- and that is why we suggest that these girls are telling us the truth, they are telling us just the way it is, that is, from their standpoint. They are not deliberately deceiving, like some other witnesses may have. Because if Susan Atkins wanted to, at this point

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1 she could say, "He told me there was a deal."

2 But she is telling it the way she remembers it.
3 She remembers it that Mr. Caballero said there was no deal
4 at that point.

5 What we are saying is -- and hopefully we have
6 some more, let's say, knowledge, perhaps, of this situation
7 than Susan Atkins does -- Mr. Caballero was given, before
8 the case even comes into existence, before the Tate-La
9 Bianca case is even a case in court before the Grand Jury,
10 he is given, by the District Attorney's office, Roni Howard
11 and Virginia Graham's statements, to use those to coerce
12 Susan Atkins to go before the Grand Jury, so that he can
13 make money, so that the prosecution can get a Grand Jury
14 indictment, regardless of whether or not it is predicated
15 upon any kind of veracity or any kind of truthfulness.

16 Then at page 23184;

17 "Q Well, did you run through the story
18 twice for Mr. Caballero?

19 "A Yes.

20 "He wanted to tape record it, and I told
21 him, 'Okay, you can tape record. But I want only one
22 copy made, and as soon as you get your personal
23 notes taken, I want it destroyed.'

24 "And he told me, he promised me he would
25 destroy it.

26 "He never did. He sold it."

4b-3

1 And back to page 23183.

2 He says to Susan Atkins, he says:

3 "All I want to do is use it for my
4 personal reference, you know.

5 "And he really got defensive with me.

6 "And I said, 'Hey. I am just asking you
7 a question.'

8 "Q So, what did you discuss about the
9 case the first day that he mentioned it?

10 "A I discussed with him what I had told
11 Virginia Graham and Roni Howard."

4c fls.

1 So there is no denial of this, there is no de-
2 nial of this by any prosecution evidence that this is
3 exactly the way it happened.

4 The people are here. They have daily
5 transcripts.

6 This is what happened in this case.

7 What we have to decide in this case is are we
8 going to allow the finality that a death sentence means
9 to come out of this kind of activity by people who are
10 engaged in the administration of justice?

11 This is one of the things that is so important
12 because if people can wheel and deal and do these kinds of
13 things, people in a political office can do these kinds of
14 things, then we are all in danger. It means that justice,
15 it means that the administration of justice is for sale,
16 that there is a dollar sign.

17 He was appointed to represent her on the Hinman
18 case. But the Tate-La Bianca case, the Tate-La Bianca case
19 is what we are talking about here.

20 He is representing her on the Hinman case, and
21 there is no mention of it, no mention of the Hinman case at
22 this time.

23 And again, we think that what Susan Atkins
24 testified to, like for instance, at Page 23,187:

25 "He came out to see me the next day in
26 jail. He came out to see me every day."

1 Was he interested in Susan Atkins' welfare, her
2 welfare; or was he interested in getting the story sold so
3 that he could make some bucks?

4 What was his motivation, Mr. Caballero's moti-
5 vation and Mr. Caruso's motivation?

6 "Q Now, did he say anything
7 concerning this case when he saw you the next day?

8 "A He told me, 'Think about going
9 to the Grand Jury.'

10 "And I just told him, 'I don't want to
11 testify to the Grand Jury. I have nothing to
12 say to those people. Let the prosecution put
13 on the best case it has.'"

14 There is a girl that is telling us the way it
15 is, the way that it actually happened, because certainly
16 this is not the kind of thing that is going to automatically
17 exonerate. This doesn't say, for instance, that Mr. Manson
18 was in Peru at the time of this. She is telling what
19 happened in connection with her relationship with Mr.
20 Caballero.

21 "Q Did he explain to you what the
22 Grand Jury was?

23 "A He explained to me that it was
24 a whole bunch of people that sat down and
25 listened to what someone had to say about a
26 crime that had been committed, whether it was

"from armed robbery to marijuana.

"It is to indict people.

"Q Okay.

"So what did you say to that?

"A I told him that I didn't want
to testify.

"He told me, 'But you have to.'"

That is not denied. The prosecution has put
on no evidence.

And he wasn't even representing her on the case.
He was representing her on the Hinman case. And he says,
"But you have to."

"I said, 'I don't have to do anything.'

"He said, 'You have to.'

"I said, 'Why?'

"He said, 'To save your life.'"

4d

4d-1

1 Mr. Shinn is certainly going to discuss some
2 of these matters with you. The point is, if an agent of
3 the prosecution performs in this manner, makes these kinds
4 of statements to Susan Atkins, and regardless of the LSD
5 aspect of it, there is no question, I suppose, in any of
6 our minds, that Susan Atkins physically wielded weapons
7 in connection with these matters, they certainly, it would
8 seem like, and we are arguing this now not on behalf of
9 Susan Atkins but in connection with comparing Susan Atkins
10 with Charles Manson, no matter what we see, no matter
11 what the headlines are concerning Mr. Manson, Mr. Manson
12 has done nothing in terms of physical contact with these
13 people.

14 He hasn't harmed anyone. So Susan Atkins,
15 we certainly can argue logically, that in an organized
16 society, when a political office makes this kind of an
17 arrangement, that certainly her life should be spared just
18 so we can look ourselves in the mirror.

19 Because if government deals with people who
20 are in that situation, a person who is in custody sitting
21 in jail, government deals with people like that, and there
22 is no good faith, there is no follow-through -- maybe it
23 shouldn't be; maybe this arrangement shouldn't have taken
24 place -- but if people cannot rely on their government
25 officials, then where are we?

26 We pride ourselves in your way of life, that we

4d-2

5 fls.

1 are not the way some people are in other parts of the
2 world, but are we any better if we allow a prestigious
3 office such as the District Attorney's office, to do these
4 kinds of things and not follow through?
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1 And so Susan Atkins, having done these physical
2 things, certainly Mr. Manson not having done any of these
3 physical things, considering the possible innocence to say
4 the least, of Mr. Manson, certainly should be -- certainly
5 should be allowed to live and that we should not allow --
6 we should not allow ourselves to become victims of the --
7 of the -- what we hear about in connection with this case.

8 Because we have been in this courtroom -- we --
9 we have experienced -- we have experienced everything that
10 has happened in connection with this courtroom, including--
11 including, let's say, the conduct of the defendants.

12 Now, the conduct of the defendants -- and now I
13 am speaking in connection with Mr. Manson -- his conduct is
14 not consistent with a guilt feeling.

15 Mr. Manson has a feeling towards our society,
16 towards our institutions; he has been in prison 23 years.

17 All right, so he has indicated in a very -- in
18 a very meek, ineffective -- in a self-hurting way, he has
19 done things in the courtroom to indicate his displeasure
20 with procedures, with the way these things go on in court.

21 That does not mean that Mr. Manson is guilty of
22 these murders because maybe he has not conducted himself the
23 way we would like someone to conduct himself.

24 It does not mean that he is guilty. He is
25 exercising -- he is exercising a speech -- a free speech
26 kind of thing, an expression that we don't approve of but

1 it doesn't mean that he is guilty.

2 The prosecution is trying to indicate because
3 of these unusual occurrences that this means Mr. Manson is
4 guilty.

5 On the contrary, it means that he is just
6 unhappy -- unhappy with certain procedures.

7 Now, it is unrefuted, and there is an interesting
8 point, talking about the state of mind of Susan Atkins,
9 because we just -- we cannot just take the testimony from
10 this witness stand without looking at surrounding circum-
11 stances.

12 She says at page 23,189:

13 "Well, he had me put incommunicado. He
14 had me taken out of the regular housing area and put
15 in a lockup with a bunch of crazy people.

16 "And believe me, they are really crazy.
17 They scream and yell and throw all kind of things
18 in every direction.

19 "And he left me down there for two weeks."

20 Now, this is another factor to consider in Susan
21 Atkins.

22 If this were not true, if this were not true
23 the prosecution would have deputy sheriffs here. They would
24 have the people who run the jail here to show that Susan
25 Atkins was not telling the truth; that she was not held
26 incommunicado.

1 But Mr. Caballero had ^{the} gall, the temerity --
2 a person doesn't own another person because he is his or
3 her lawyer. He is just a lawyer. He is not God because
4 he happens to represent somebody.

5 And so this is undoubtedly true, and she was
6 held incommunicado.

7 And this goes to her state of mind in connection
8 with what occurred.

9 And Mr. Shinn said -- we'll get to Mr. Bugliosi
10 later -- page 23,188:

11 "Don't jump ahead of the gun.

12 "So then he talked to you and talked
13 to you about going to the Grand Jury?

14 "A Yes.

15 "That was the thing that he talked to
16 me most about was going to the Grand Jury.

17 "He not only said it would save my life,
18 but it would put a better chance on saving everyone
19 else's life involved.

20 "Q You mean the other defendants?

21 "A Correct, the other defendants.

22 "Q In case of an indictment?

23 "A Right.

24 "And I didn't want to, you know.

25 "Then I looked at him. I was so tired
26 of him pounding and harping on me. I just gived" --

1 She says "gived" -- "up to it and said
2 'Okay.'

3 "Q In other words, you were so emotionally
4 upset that you finally gave in?"

5 And then she made the statement about

6 "He put me incommunicado."

7 Is this the kind of state of mind that we can use
8 to put someone in the gas chamber?

9 Now, at page 23,193 is when Susan Atkins speaks
10 of meeting Mr. Caruso, at the bottom:

11 "Q And did you have a conversation with Mr.
12 Caruso?

13 "A He told me that everything was going to
14 be all right, and that everything they were doing was
15 to benefit me, to get me out, to save my life, to
16 do whatever they were going to do with me.

17 "Q Did he at any time ask you whether or not
18 he could be your literary agent?

19 "A No, not at that time.

20 "In fact, Mr. Caruso never asked me that
21 question that I can recall.

22 "Q Well, did you know that they were going
23 to sell your story?

24 "A No.

25 "Q When did you first find out?

26 "A About three days after the Grand Jury.

"Mr. Caruso came up and told me."

Now, let's look at the circumstances there.

We know from what has happened in this courtroom that that -- that this is three days after the Grand Jury.

We know that that was taped on December 1st, 1969.

What was in Mr. Caballero's mind? Was it in his mind when he taped Susan Atkins --

Was it in his mind that there was going to be some deal to sell that story? Was that paramount in his mind, or was it paramount in his mind to represent a girl charged potentially -- not then, actually not charged -- but a girl who was in danger of being charged with seven counts of murder and a count of conspiracy.

What was in Mr. Caballero's mind when he took that tape?

Was it in his mind that the story was going to be worth more with Charles Manson in it?

Was it in his mind that with Charles Manson portrayed as the Swengall, that he spoke of at the end of that table, was it in his mind that that story was going to be worth more with Mr. Manson in there as the heavy, as the guy, as the person that the world was clamoring about? that the world was saying is the guy who did all these horrible things, or was it going to be worthless?

Obviously, obviously there can be no answer except that it was going to be worth more with Charles Manson

1 in there, as the wrong guy, as the bad guy.

2 There is no question in our mind.

3 And so Mr. Caballero geared this to show that
4 Mr. Hanson was the bad guy.

5 And this whole prosecution is geared to show
6 that Mr. Hanson is the bad guy.

7 But at penalty here, what we have to decide is
8 these human motivations being what they are, can we depend --
9 can we depend upon the integrity of this evidence?

10 Can we depend upon the integrity of what has
11 occurred here when Susan Atkins' lawyer is thinking only
12 of dollars and not thinking -- and not thinking of Susan
13 Atkins' legal welfare?

14 Is this significant, when we discuss the
15 penalty phase of this?

16 We think there is some probability that it is
17 significant; that Mr. Caballero at that time was not
18 interested in anything except selling these, all of these
19 events to the highest bidder who happened to be, I suppose,
20 Mr. Schiller.

21 Now, the interesting thing is, Page 23,196 --
22 and all of this, all of this is testimony which can be
23 read back, it can be compared with the testimony of
24 Mr. Caballero, the prosecution has not seen fit to refute
25 any of this:

26 "Q What did he say to you when he

"Got you alone?"
 "He talked to me about going
 to the Grand Jury."
 "And I was still battling with him on
 whether I should go or not."
 "And he said he wanted me to meet some-
 one."
 "And I said, 'Who?'"
 "And he said, 'Mr. Bugliosi.'"
 "And I said, 'Mr. Bugliosi?'"
 "And he said, 'No, it is Bugliosi.'"
 I suppose that involves the pronunciation of
 Bugliosi's name.
 "And I said, 'Who is that?'"
 "He said, 'He is a District Attorney.'"
 "I went, 'What?' and I froze."
 So there she is and again, the important thing
 is, does it shed any insight as to whether or not we can
 believe what occurred as being factual, so that we can --
 so that we can make a decision?
 She had never, until she's taken -- this is the
 second time, she's back in Mr. Cavallero's office, and
 until she is actually in the office she has not been told
 if Mr. Bugliosi is going to be there.
 "Susan, before we get to that,
 did you have a long conversation with Mr. Cavallero

1 "before you met Mr. Bugliosi?

2 "A Yes.

3 "Q You went to his office and --

4 "A Yes, I got kind of angry.

5 "Q So you had a conversation the
6 second time now, correct, in Mr. Caballero's
7 office, before Mr. Bugliosi got there, correct?

8 "A Yes.

9 "Q How long did you talk to
10 Mr. Caballero?

11 "A About 15 -- about an hour; a
12 half hour, an hour.

13 "Q In this conversation was any--
14 thing said about this case?

15 "A Yes."

16 So just before Mr. Bugliosi came in, he entreated
17 her and spoke to her for some period of time:

18 "Q Now, let's get back to when
19 Mr. Caballero said he wanted you to meet
20 Mr. Bugliosi.

21 "A I told him, 'the District
22 Attorney? Have you been talking to the
23 District Attorney?'

24 "And Mr. Caballero said, 'Yes. Well,
25 of course.'

26 "I said, 'I don't want to talk to no

1 "District Attorney. I haven't got nothing to
2 say to that man."

3 "But he is a very nice man." Mr. Caballero
4 was trying to explain to me that Mr. Bugliosi was
5 a very nice man.

6 "I said, 'I don't care if he is a nice man
7 or not. I don't have anything to say to him.'"

8 "He said, 'All he wants to do is run over
9 what you are going to say to the Grand Jury.'"

10 In other words, here we are in an American scene.
11 This is not in Communist Russia; this is not
12 behind the Iron Curtain; this is not in a dictatorship; this
13 is in our country where we pride ourselves on our free
14 institutions.

15 "He said, 'All he wants to do is run over
16 what you are going to say to the Grand Jury.'"

17 "I said, 'I still don't want to talk to
18 him. Let him ask the Grand Jury. And didn't you
19 tell me that the Grand Jury was a spontaneous
20 reaction, that when the witness got up there the
21 questions were spontaneous?'"

22 That is when she said she had this conversation
23 with Mr. Caballero:

24 "And he said, 'Yes.'"

25 "And I said, 'Then I have nothing to say
26 to the man. Let him ask me the questions from

1 "the witness stand."

2 "And he said, 'No. Mr. Bugliosi wants
3 to talk to you first.'"

4 "So I said, 'Okay.'"

5b

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1 Not only that, not only that, Mr. Caballero
2 had furnished the tape recording to the prosecution without
3 getting the consent, in fact, in connection with an abso-
4 lute --

5 It was completely misrepresented.

6 He told -- he told Susan Atkins that this tape
7 was to be used for his personal notes, for his personal
8 references.

9 So instead, the tape was taken, given to the
10 prosecution. The prosecution formulates the questions,
11 walks in.

12 Instantly, Mr. Bugliosi walks in and talks to
13 Susan Atkins.

14 Now, is this important or is it not important.

15 We think it has some importance because it goes
16 to the integrity; it goes to the state of mind of Susan
17 Atkins.

18 Can we depend upon it? Not just because of the
19 fact of the LSD, but because of the pressures that are put
20 upon her by Mr. Bugliosi and Mr. Caballero.

21 She says, "You know, there was no sense in
22 arguing; the man was going to do what he was going to do
23 anyway."

24 "Q Now, was this the first time you found
25 out that you were going to testify at the Grand Jury
26 hearing?

5b-2

1 "A This is the first time that I found out
2 that it was for real. I mean, I really looked at
3 it for real.

4 "Q That Mr. Caballero was going to push you
5 into the Grand Jury hearing?

6 "A Yes.

7 "Q And you didn't want to testify at the
8 Grand Jury?

9 "A No.

10 "Q Now, did Mr. Caballero explain to you
11 that if you go to the Grand Jury and you testified
12 that they may indict you?

13 "A Yes. He mentioned that they would
14 probably indict me."

15 There is a girl telling the truth.

16 In other words, she could say, she could make
17 up some story and say -- I don't know, whatever.

18 But she is telling it. She is telling it,
19 that he told her that they probably would indict her.

20 "Q He told you that?

21 "A Yes. IF the Grand Jury believed what
22 I said.

23 "I didn't think they would believe what
24 I said."

25 Does that mean that there is any kind of truth
26 in what she is saying? Because these statements are not

5b-3

1 all self-serving.

2 These statements are not protective of her or
3 Mr. Manson or the other defendants.

4 "Q Did he also explain to you that in the
5 event that you get convicted, you may get the gas
6 chamber?

7 "A He said that I might get convicted and
8 get the gas chamber, but he was going to do everything
9 in his power, along with Mr. Bugliosi, to make sure
10 I didn't get the gas chamber.

11 "But I just said, 'Well.'

12 "Q Did Mr. Caballero at that time tell you
13 that he had already talked to the District Attorney?

14 "A Yes.

15 "I asked him if he had talked to the
16 District Attorney, and that is when he told me that
17 he had been a District Attorney himself quite a few
18 years and that he was in the District Attorney's
19 office, or was a DA, or something like that.

20 "Q Mr. Caballero told you that he was once
21 District Attorney for the County of Los Angeles?

22 "A Right. And he had a lot of influence
23 with the District Attorney's office."

24 So again it is something to consider at penalty.

25 Is this the way that we want law administered?

26 Because some of us have never been in the District Attorney's

1 office.

2 Every lawyer has not worked for the District
3 Attorney's office.

4 Is this the way that death or life should be
5 decided.

6 We suggest that it is not. It's against the
7 very -- the most fundamental concepts that we have in the
8 way that we conduct government, in the way we are supposed
9 to conduct government.

10 We are not supposed to conduct it based upon
11 influence.

12 We are supposed to conduct it just the other
13 way, without influence.

14 And so that statement is unrefuted by this
15 evidence.

16 The prosecution has brought no statement here
17 that he did not say what Susan Atkins said:

18 "And he had a lot of influence with the
19 District Attorney's office.

20 "Q But did he tell you, before you testified
21 at the Grand Jury, that he had made a concrete deal
22 for you?

23 "A He didn't show me no papers signed,
24 nothing.

25 "Q I mean, did he tell you that?

26 "A He told me -- he could not personally

1 "guarantee it, but he would do everything in his
2 power, and he felt morally obligated -- which are
3 also someone else's words -- to save my life and
4 do everything he could do to help my co-defendants,
5 if I was indicted.

6 "Q Well, did he explain to you what he
7 meant by doing everything to help?

8 "A Get me out of it.

9 "He asked me if I would want to plead
10 insanity.

11 "I said 'insanity? No. Just plead me
12 not guilty.'

13 "Q All right. Did he tell you that he had
14 talked to --

15 "A Yes, he told me that he had talked to
16 Mr. Bugliosi.

17 "Q Just to Mr. Bugliosi?

18 "Did he talk to some other District
19 Attorney?

20 "A He didn't say any other name, but Mr.
21 Bugliosi."

22 Now, then, Mr. Bugliosi comes into the office.

23 "Q Did you want to discuss the case with
24 Mr. Bugliosi?

25 "A No.

26 "Q Did you tell Mr. Bugliosi that?

1 "A I think I did. I think I told him
2 I didn't have anything against him personally but
3 he was District Attorney; I did not want to talk to
4 him.

5 "He was going to prosecute me if I got
6 indicted and I had nothing to say to him."

7 And that actually has taken place, because Mr.
8 Bugliosi is the prosecutor here.

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5c file.

5c-1

1 "Q Did Mr. Bugliosi say, 'Don't worry?'

2 "A He told me he felt that if I
3 talked to him and cooperated with him and the
4 District Attorney's Office, and testified at the
5 trial against everyone, that I would be granted
6 immunity.

7 "Q Did Mr. Bugliosi use the word,
8 immunity, at that time?

9 "A I think so, but he did not stress
10 the point. He did not go on any further with
11 immunity."

12 At Page 23,207:

13 "Q Now, you stated that he said
14 something to you before you told him about the
15 facts about this case, correct?

16 "A Yes.

17 "Q Now, do you recall anything else
18 he said to you?

19 "A In substance what he said was he
20 was offering me life.

21 "He would do everything he could to get
22 out of it for me, to get me out of the mess that
23 I was in.

24 "He said it really didn't matter if I
25 testified against them at the trial, if I
26 turned State evidence. He wanted me to turn

"State evidence.

"I told him, 'No, I couldn't turn State's evidence at the trial.'

"He said, 'Well, as long as you testify at the Grand Jury everything will be done that can be done to get you life, including the other defendants.'"

And there we see the motivation of the prosecution.

In other words, at this point Susan Atkins is saying:

"I may not testify at the trial," or

"I am not going to testify."

But the prosecution wanted an indictment.

They wanted an indictment of Mr. Manson, and so, using Mr. Caballero, using the incommunicado, using the pressure of Mr. Caballero upon Susan Atkins they got their indictment.

They got their indictment against Mr. Manson and the other defendants.

So the question that we have is, does this make us look, for instance, proud before the rest of the world in connection with these kinds of machinations?

Are we proud of this? Are we proud of these goings on? Are these goings on necessary?

These goings on weren't even necessary if we assume the prosecution's posture in this case, because we

1 know from having gone over the jury instructions in the
2 guilt or innocence phase, and having heard -- having heard
3 what's gone on in this courtroom, we know that they supposed-
4 ly, they had big thick transcripts of Roni Howard and Virginia
5 Graham.

6 They could certainly have -- there were all of
7 the people that testified here, Winifred Chapman, the police
8 officers, all of the people that testified concerning these
9 people dying.

10 All of that could have been brought before the
11 Grand Jury, the testimony of Roni Howard and Virginia
12 Graham who have linked Susan Atkins supposedly to these
13 crimes.

14 They could have gotten an indictment without
15 Susan Atkins. Our logic, our sense tells us this.

16 The coroner, Dr. Katsuyama, Dr. Noguchi, they
17 could have testified.

18 We could have had our due process of law.

19 But what would have happened? What would have
20 happened?

21 With the Roni Howard and Virginia Graham
22 statements, they would not have gotten Charles Manson. That
23 is what would have happened.

24 You see, if they only put on the Roni
25 Howard and Virginia Graham statement, and if they only put
26 on the facts that these crimes occurred, the chances are

1 that only Susan Atkins would have been indicted.

2 But that was not -- if that is due process of
3 law, and I'm sure that we all agree with it, that certainly
4 we can visualize the Grand Jury would have indicated
5 Susan Atkins.

6 But there would not have been any movie; or
7 there would not have been any Killing of Sharon Tate;
8 there wouldn't have been Mr. Caballero and Mr. Caruso and who-
9 ever it was who participated in those moneys, the
10 Los Angeles Times.

11 They would not have gotten any kind of a story,
12 and that wasn't what these people wanted. What these
13 people wanted was money.

14 That is what they wanted.

15 Because they did not need -- they did not need --
16 they had Roni Howard and Virginia Graham.

17 THE COURT: We will take our recess at this time,
18 ladies and gentlemen.

19 Do not converse with anyone or form or express
20 any opinion regarding penalty until that issue is finally
21 submitted to you.

22 The court will recess for 15 minutes.

23
24 (Recess.)
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1 THE COURT: All parties are present except Mr. Manson,
2 and all of counsel and all the jurors are present.

3 You may continue, Mr. Kanarek.

4 MR. KANAREK: Thank you, your Honor.

5 Now, at page 23,208, ladies and gentlemen.

6 Mr. Shinn is questioning, and he said:

7 "And did he say something about represent-
8 ing you in the Tate-La Bianca matter?

9 "A Yeah.

10 "Q At that point you didn't have an attorney
11 for that case, did you?

12 "A No, I did not.

13 "He said he would represent me at the
14 Grand Jury trial; but if I wanted him to represent
15 me at the trial that he would be available for me.

16 "Q When he said 'available,' --

17 "A That he would make arrangements through
18 the courts to be court appointed."

19 Now, this strikes at being the height of
20 effrontery. In other words, he is, at that point -- at that
21 point -- and it is unrefuted in this record -- he is saying
22 that he is in such a position that he can tell the Superior
23 Court that he is going to make sure, he is going to see that
24 a judge appoints him. He is not yet appointed. He is going
25 to see that he is representing her.

26 In other words, here we have a situation where

6-2

1 someone is confronted with these various murder charges
2 which have not yet become charges because the Grand Jury
3 hasn't indicted, and here is a man saying that he is in a
4 position, telling this girl that he is in a position to
5 see to it that he will be representing her as court
6 appointed, meaning with County funds. County funds would
7 back him up.

8 "That he would make arrangements through the
9 courts to be court appointed.

10 "Q In other words, you did not have any
11 money at that time to retain Mr. Caballero?

12 "A No, I did not.

13 "Q So he was going to get court appointed?

14 "A Right.

15 "Q The court would pay his fee, right?

16 "A Correct.

17 "Q Okay, so now when you decided to talk
18 to Mr. Bugliosi about the case, did he ask you any
19 questions before he started to ask you about the
20 facts of the case?

21 "A He wanted to know what Charlie was like.

22 "Q Charles Manson?

23 "A Yeah.

24 "Q Did he say anything about Charles Manson?

25 "A In essence he said he thought that Charlie
26 had control over me and control over a whole bunch of

1 "people, and I looked at him like he was crazy."

2 In other words, we have there a statement by
3 Susan Atkins wherein she is stating -- this is part of the
4 testimony that we heard at this trial -- "And I looked at
5 him like he was crazy.

6 "And Mr. Caballero, before then, had
7 mentioned to me that he felt that Charles Manson
8 was similar to Svengali."

9 Now, remember that Susan Atkins is being told --
10 is being told -- is being programmed, being informed,
11 directly and indirectly, what the purposes of this case
12 are; namely, that Mr. Charles Manson is to be taken and
13 certain things are to be done with him in the courtroom.

6a fls.

6a-1

1 "And the defense he would put on, he
2 would put the defense that Charles Manson was
3 Swengali.

4 "I told him I didn't even know what
5 Swengali was.

6 "Q This was long before Charles
7 Manson was ever arrested for this case, isn't
8 that correct?

9 "A That's correct, before I ever
10 went to the Grand Jury."

11 And we then have, at the penalty phase of this
12 trial, we have before us, unrebutted -- unrefuted -- where
13 the prosecution is saying, they are deciding the case, they
14 are deciding the case before Mr. Manson is even in
15 Los Angeles County.

16 "In essence, he said he felt that Charlie
17 had control over me and control over a bunch of
18 people, and I looked at him like he was crazy."

19 This means exactly -- exactly -- what we
20 think is the heart of this case. The prosecution has
21 decided, way back, that Mr. Manson was to be made some kind
22 of a central theme, regardless whether or not Mr. Manson is,
23 in fact, guilty. The mind has already been made up that
24 this is the goal that we must go for.

25 Here he is, the prosecutor is talking to Susan
26 Atkins. There is every reason, supposedly, to believe,

1 since the prosecution had already had the December 1st
2 tape, that the prosecution would focus on the defendant
3 that is there. In other words, this is the defendant,
4 Susan Atkins. Why not talk about her? Why not talk about
5 whatever she has done.

6 But regardless, regardless of the fact -- and
7 Mr. Bugliosi has told us how monstrous these crimes were
8 supposedly, because of the wounds and all that --
9 Mr. Manson hasn't stabbed anyone -- even the prosecution
10 doesn't allege Mr. Manson has stabbed anyone -- he hasn't
11 harmed anyone -- and yet, way back in December, the first
12 week of December, 1969, the prosecution is willing to let
13 all of that monstrosity, that which they call now
14 monstrous, animal-like, they are willing to let that go
15 in connection with someone who is standing before them,
16 supposedly a person who has actually done the chopping with
17 the knives, they are willing to let all of that go because
18 of Mr. Manson's supposed control, or whatever, whatever
19 their motivation was, and primarily it was a motivation for
20 publicity, it was a motivation because this was so
21 bizarre, as newspapers and magazines and TV and radio said.

22 And so, the District Attorney's Office was
23 carried away by its own generated publicity.

24 The fact of the matter is that Mr. Manson --
25 Mr. Manson -- at this point was a scapegoat, was a person
26 that -- my God, you would think that law enforcement might

1 try to exonerate him. You would think, if objective
2 law enforcement were to be employed, maybe Mr. Manson is
3 completely innocent. Maybe Stephanie Schram and Mr. Manson
4 were together just like we have suggested here.

5 Why doesn't law enforcement go out there and
6 make its mind up after some kind of something or other
7 than the publicity?

8 But right there -- right there -- they have
9 made up their mind -- and they have said it on TV, on radio,
10 in the newspapers -- and they have got to go along with it
11 because it is good politics.

12 So, we have the most unobjective and most
13 partial exercise of law enforcement that we could possibly
14 imagine.

6b-1

1 You would think that since Mr. Manson hadn't
2 done any of these things personally, to say the least, that
3 maybe he is not guilty. Maybe he didn't do it. No matter
4 what he is. Even if whatever went on at the Spahn Ranch.
5 We are supposed to put people in the gas chamber for what
6 they did, a particular event or series of events.

7 And it would seem to me that there should be
8 the emphasis at this point on Susan Atkins, not upon Charles
9 Manson.

10 But the emphasis is on a person who isn't even
11 before the court, isn't even in Los Angeles County.

12 And it would be interesting to note if the
13 prosecution has any answers to this when the prosecution
14 speaks to you concerning this.

15 It is our belief that they won't have a thing
16 to say about this, that there won't be any kind of an answer
17 that amounts to anything. Because this record just is clear
18 that there is no answer. There is no answer.

19 And it is an on-going tragedy that this case is
20 not allowed to die, that this case is not allowed to just
21 end itself.

22 And the best way to end it is by giving these
23 people -- and I am speaking specifically of Mr. Manson --
24 life imprisonment. Because there is something about death
25 that is of such a nature that it will just perpetrate and
26 go on and on and on.

6b-2

1 At page 23,217:

2 "Q What was the reason" -- actually,
3 beginning at page 23,216 -- "What was the reason
4 for not wanting to testify at the Grand Jury at
5 that time?

6 "A My reason for not wanting to? I did
7 not feel it was right.

8 "Down inside I felt that I knew what I was
9 going to say at the Grand Jury was not true."

10 And this is after this conversation concerning
11 Charles Manson.

12 In other words, sure, she knew that statement --
13 you remember, she used the word "Crazy" -- she knew that Mr.
14 Manson had nothing to do with these things. She knew that
15 this matter all began with Gary Hinman, whatever it was that
16 happened there at the Gary Hinman house. She knew all of
17 these things.

18 She knew when she says "What I was going to say
19 at the Grand Jury was not true.

20 "The offer of life, not only for myself
21 but for the rest of the defendants, the opportunity
22 to get my child back had a lot to do with what I
23 did."

24 Does that make sense as we look at the way
25 people operate and what motivates people, what motivates
26 women in connection with their children?

1 Look at what motivated Linda Kasabian in connec-
2 tion with her child and her children. The same thing goes
3 for Susan Atkins.

4 These girls are so / ^{similar} in their background,
5 except that Linda Kasabian has all the benefits that we know
6 about in this case.

7 They have children. She has one child, I think.
8 Linda Kasabian has two children. They have both taken acid,
9 a fantastic amount of LSD in their lifetime.

6c fls.

6a

1 Q Okay, now, was one of the
2 main reasons you testified at the Grand Jury
3 because you wanted to get your child back?

4 A That was one of the reasons.

5 Q Was that one of the reasons?

6 A Yes.

7 Q At that time where was your
8 child?

9 A My child had been placed in a
10 foster home and no one told me where or what or
11 how or when.

12 Q They wouldn't give me any infor-
13 mation on where my child was."

14 A And then, again, in connection with the penalty
15 phase, it is wide open, the jury has absolute discretion,
16 absolute discretion. There are no standards.

17 Q If it should come out in the future, for
18 instance, let's say that some time in the future -- and we
19 think that it is already here before us; that this case has
20 been magnified out of all proportion, there is no question
21 but what these girls were under the influence of LSD, and
22 Mr. Watson -- what if we should all be convinced in the
23 future that these girls were not responsible for what they
24 did in connection with these LSD matters?

25 A We have heard from the witness stand about the
26 psychosis, the fact that this is a chemically-induced

1 psychosis, a departure from reality. We say, in a few years,
2 be convinced that this is the case, that these horrible
3 tragedies are really a result of something that has grown
4 up in our culture where these drugs are available, evidently
5 available on the street to anybody that wants to go out there
6 and partake of this vice.

7 And so here we have a little girl -- I don't
8 know what Susan Atkins' child is; I guess it is a boy --
9 that child is entitled that his mother not be executed if,
10 in fact, she wasn't responsible for what she was doing.
11 Over and apart from the District Attorney's representations.

12 But to reach out and grasp for Charles Manson
13 in connection with this, it is the kind of thing that when
14 you look at it, when you read these transcripts and try to
15 find Mr. Manson's connection with this case, all you find,
16 really, when you sit down and try to look for where is
17 Mr. Manson connected, he is connected purportedly by a
18 couple of statements by Linda Kasabian, and a wealth -- a
19 wealth -- of slanderous material concerning him, about his
20 sex life.

21 That is Mr. Manson's connection with this case.

22 Speaking of Mr. Bugliosi, at the bottom of Page
23 23,220.

24 "Yeah, he had mentioned before that he
25 would talk to them" -- meaning the District
26 Attorney's Office.

1 "Q About this case?

2 "A About this case.

3 "Q And your testimony at the Grand
4 Jury?

5 "A Right. I think it was the night
6 before I met Mr. Bugliosi and I -- you know --

7 "Q But he did tell you?

8 "A I think he did. I know he eventually
9 did.

10 "I don't know if it was before I met Mr.
11 Bugliosi, while I met Mr. Bugliosi --

12 "I know for sure Mr. Caballero had told me
13 that he wanted to talk to the District Attorney's
14 Office; that he had a lot of influence with the
15 District Attorney's office because he was a
16 District Attorney for so many years.

17 "Q And then did he tell you at any
18 time that Mr. Bugliosi would be in his office on
19 December 4th, 1969?

20 "A No, not until he introduced me to
21 Mr. Bugliosi, about five minutes before he introduced
22 me to Mr. Bugliosi he told me that Mr. Bugliosi
23 and so forth and so on.

6d-1

1 This is a couple of places in this transcript.
2 This isn't just -- this is very, very critical. If they
3 were untrue, if this did not occur, we would have heard some
4 prosecution evidence to that effect.

5 And for a prosecutor to walk in in a situation
6 like this and the defendant not know about it and just be --
7 the case handled in that way by another attorney, is, I am
8 sure all of us agree, very unusual. Very unusual.

9 The preparation. Why was it necessary for Mr.
10 Bugliosi to go to interview Susan Atkins before the Grand
11 Jury?

12 We have a Grand Jury. I think they meet here
13 on the fifth floor of this building. Witnesses come in.
14 The District Attorney brings the witnesses there and they
15 testify, and they let the chips drop where they may.

16 MR. BUGLIOSI: Wait a while.

17 That is a misstatement. He is not stating it
18 as an inference. I object that it is incorrect.

19 THE COURT: Sustained.

20 The jury is admonished to disregard that remark.

21 MR. KANAREK: Well, we can certainly infer, we can
22 certainly infer, that witnesses are brought in.

23 I would certainly hope that witnesses certainly
24 are not programmed the way Susan Atkins was programmed
25 before witnesses are brought to the Grand Jury.

26 I would think that the common procedure is you

6d-2

1 just bring a witness in and you ask questions and you let the
2 case develop.

3 The Grand Jury is supposed to decide whether or
4 not someone should be indicted.

5 Is there anything in the circumstance of taking
6 Susan Atkins way over to Mr. Caballero's office?

7 The speciousness and the phoniness of the
8 argument that she had to be taken to Mr. Caballero's office
9 because the police might listen.

10 What happened shows how phony it is.

11 The police don't present evidence to the Grand
12 Jury. The District Attorney is the one that presents
13 evidence.

14 So, she is brought to the very person who is
15 going to present the evidence. So, why take her out of the
16 jail? It falls of its own weight.

17 When he told her that he took her out of the jail
18 because he didn't want the police to listen, that has to be
19 untrue. That has to be a lie. Because if the police got
20 any information by eavesdropping, they would turn it over
21 to the District Attorney. So, you don't have to walk her --
22 drive her -- all the way over to Beverly Hills to have her
23 say something, supposedly, to protect her from the police
24 when the very person who would present it to the Grand Jury
25 is the one that is going to interview her there.

6e fls.

26

6e-1

1 Obviously, this was done because of a fact that
2 they wanted to make sure that she was in a nice comfortable
3 surrounding.

4 In other words, it is what we call the soft sell.

5 When someone gives you a soft sell, we know what
6 that means. That means they sort of get in the back door
7 and before we know what hits us, we have signed on the
8 dotted line, and the first thing you know, we have got
9 something we don't want. We have bought whatever the soft
10 sell merchant has for sale.

11 You do that nicer, you can perform the soft
12 sell with a person like Susan Atkins in a nice plush
13 Beverly Hills office. I am sure the rugs are a couple of
14 inches thick, and I am sure that it is a very, very well
15 appointed office.

16 And this is the way you do it. That is why she
17 was taken to Beverly Hills. Because they wanted to sell her
18 a bill of goods.

19 And so, that story about the Police Department
20 eavesdropping has to be, it just has to be, untrue.

21 And the interesting thing, again, that shows the
22 truthfulness here.

23 Page 23,230.

24 "Q What did he say?

25 "A He mentioned life imprisonment. He
26 mentioned possible immunity if I went on further

6a-2

1 "to testify for the prosecution. Immunity.

2 "He mentioned not only life for myself
3 but life for the other defendants, if in case I
4 was indicted and anyone else was indicted.

5 "This was all just for the Grand Jury.

6 "Q Now, did Mr. Caballero state to you that
7 after you testified at the Grand Jury hearing that you
8 may be indicted for murder too?

9 "A Yes. But that if I went ahead and
10 testified for the prosecution in the trial, I would
11 be granted immunity.

12 "And I told him no."

13 And that shows the intent on the part of the
14 prosecution just to get an indictment, just to get something
15 so that they could proceed against Charles Manson.

7 fls.

7-1

1 Now, this is getting to the time of the Grand
2 Jury hearing:

3 "Q Now, did Mr. Caballero tell you before
4 you went to the Grand Jury hearing, did he tell you
5 you don't have to go and testify?

6 "A Not in those words.

7 "Q Well, what did he tell you now?

8 "A In essence that is what he said, I
9 believe that is what he said to me.

10 "Q He said that you didn't have to testify
11 at the Grand Jury hearing?

12 "A Right, but he said that is the best
13 thing for me and everyone else involved and he
14 felt as an attorney that it was the best thing to
15 do."

16 Again, that shows that the girl -- that the
17 reason we are going into this is to suggest that Susan
18 Atkins is telling the truth when she is on the witness
19 stand.

20 The prosecution has alleged, and we think that
21 they will not -- they will not --

22 When they speak to you they will not be able
23 to answer these matters that we are speaking of here, that
24 she according to the prosecution and the other girls, they
25 are/just to clear Charles Manson, that this is some kind of
26 a synthetic procedure on their part; that they are just

1 doing what they are doing on the witness stand there for
2 the purpose of exonerating Mr. Manson.

3 Well, we suggest that if you look at the detail
4 of this testimony that such is not the case.

5 They are giving evidence. They are not white-
6 washing Mr. Manson by any stretch of the imagination.

7 And I think that this kind of testimony that she
8 is giving right here shows that the girl is telling the
9 truth; that when she is on that witness stand she is not
10 fabricating.

11 Now, whatever defect she has in her credibility
12 because she took LSD, that is there.

13 But it is there with Linda Kasabian too.

14 Now, there is a certain document which shows
15 that utter disregard -- and this is why we think that
16 circumstances are so important to show intent rather than
17 just the mere words that are uttered.

18 And this Attorney in Fact Agreement, which the
19 jury will have in the jury room, we have interlineated,
20 "And tape recordings in my attorney's possession."

21 That is in the Attorney in Fact Agreement of
22 December 8, 1969.

23 And so when this Attorney in Fact Agreement
24 came into existence --

25 Remember, this is December 8, before December
26 10th which is the date of the publicity order.

1 She says this:

2 "Okay now, in the middle of this document
3 did you see something written in here?"

4 This is Mr. Shinn questioning, and that is
5 referring to this Attorney in Fact Agreement.

6 "And the recordings in my attorney's
7 possession."

8 That is her answer.

9 "Q That was written in?

10 "A That was written in after I signed the
11 contract.

12 "Q Is this your initials, 'SDA' again?

13 "A Yes."

14 Now, what that means is that when December 10th
15 came along and Mr. Caballero knew about the publicity order,
16 knew about Judge Keene's order, that there should not be
17 any publicity in this case, he had to know; he had to know
18 of this December 8th, 1969, Attorney in Fact arrangement.

19 But that did not make any difference. He still
20 went ahead and did what he did with Jerry Cohen and Mr.
21 Schiller, the Los Angeles Times and the story ended up in
22 the Los Angeles Times, whatever way it got there.

23 So the writing in here, the writing in these
24 words shows that Mr. Caballero was interested in the
25 dollar sign.

26 It just has to be.

1 There could be no other conclusion because this
2 Attorney in Fact agreement is an agreement that took place
3 before Mr. Caballero even represented her in fact as a matter
4 of purported court appointment.

5 He knew how he was going to get paid.

6 He knew that he was going to receive some kind
7 of monies as a result of this attorney in Fact agreement.

8 And so he is working both ends towards the
9 middle.

10 He is going to get a court appointment to get paid,
11 a court appointment under certain provisions of what was then
12 called Section 987(a) of the Penal Code.

13 And he was going to get paid this way, by means of
14 the selling of these items.

15 So the question is -- the question is, what
16 significance does all this have?

17 Well, in the exercise of our absolute discretion,
18 if people can make money, if they can make money out of
19 pandering -- out of doing what is taking place in connection
20 with this case, then certainly -- certainly Mr. Manson should
21 be entitled to his life.

7a file.

(a-1)

1 And the interesting thing here is, Page
2 23,263, and another reason that we think that Mr. Manson
3 ought to be entitled to his life over and above the facts of
4 these financial arrangements, is the fact that Mr. Manson
5 may well be innocent because we are dealing in an area here --

6 We are dealing in an area of intent.

7 Since it is conceded that Mr. Manson did not do
8 any of the acts involved, in order to find Mr. Manson guilty
9 we have to --

10 We have to try to dig into people's minds.

11 We have to try to find out what motivated people,
12 and this is --

13 We are deprived of this. That is, if there is
14 a chance that there may be evidence which might convince us
15 that Mr. Manson is innocent, if we are deprived of this
16 evidence through no fault of Mr. Manson's, our heart goes
17 out and tells us that we should give him life because of
18 that possibility, the possibility that he may be innocent.

19 And at 23,263, this is referring to the case,
20 when they were at the scene, when they were there at Sybil
21 Brand;

22 "Okay, so now Mr. Caballero brought these
23 people in there.

24 "Did he say anything to you?

25 "Before he could open his mouth I told
26 him I lied at the Grand Jury. 'I am not going

1 "to say anything more.

2 "I want it made publicly known that
3 I lied at the Grand Jury."

4 Now, remember, this is before -- this is like
5 December 10, 1969 -- this is long before Susan Atkins has
6 seen Mr. Manson.

7 Mr. Manson at this time is not even in
8 Los Angeles County.

9 And then she says:

10 "I want it made publicly known that I
11 lied at the Grand Jury."

12 "And the court reporter was taking everything
13 down that I was saying.

14 "Q You saw her taking these notes
15 down?

16 "A Yes, I did see her take it
17 down.

18 "Q So then what happened after you
19 said that?

20 "A Mr. Caballero looked at me and
21 laughed and said, 'Well, it's too late now, you
22 cannot go back on your word.'

23 "'Well,' I said, 'I'm going back on my
24 word,' I said, 'I want you to tear up the
25 contract.'

26 "I looked at the man I was introduced to

1 "as Mr. Cohen.

2 "I said, 'I am not even sorry,' I said,
3 'I have nothing to say to you. I lied at the
4 Grand Jury.

5 "If you want to print that, then you
6 print that. I am retracting everything I said
7 at the Grand Jury!"

8 "Q Okay now, when you said this you
9 state you saw this lady taking every word you
10 said?

11 "A Yes, I did see her take it down.

12 "Q Okay, did something else happen
13 after that?

14 "A Yes, Mr. Caballero told me to
15 calm down and be quiet and he instructed the
16 court reporter to tear off that portion of what
17 she took down, and destroy it.

18 "Q Well, did you in fact see her do
19 that?

20 "A In fact I did see her take it,
21 tear it off and destroy it.

22 "Q Was the machine similar to the
23 type that this gentleman is using?

24 "A It was very similar. It looked
25 almost identical to that one.

26 "Q Okay now, she tore it out, correct?

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"A. She tore it out.

"Q. What did she do with that
torn portion?

"A. She put it in a tablet and
Mr. Caballero, I made him promise me to take it
and keep it.

"And he told me -- he promised me he was
going to take it and tear it up."

Now, the question is, are we deprived -- are
we -- maybe there was something that was said there that
would help us in determining this case.

7b

7b

1 Are we deprived of evidence through no fault
2 of Mr. Manson's? Did this have any significance?

3 When Mr. Caballero, and again it is a circum-
4 stance that we think has some significance, it shows that
5 Mr. Caballero is not getting evidence, you know, taking the
6 evidence to his office and thinking about it.

7 Mr. Caballero is thinking dollar signs, because
8 if she lied at the Grand Jury that means Mr. Manson has no
9 connection with any criminal culpability.

10 And if Mr. Manson has no connection with any
11 criminal culpability, Mr. Larry Schiller, sitting out in the
12 car, who represents dollars to Mr. Caruso and Mr. Caballero,
13 he is not interested. There wouldn't be any interest.

14 This would be just -- without Mr. Manson, this
15 story is not worth anything.

16 So is this a circumstance that we can consider?
17 We think that it has great significance because it shows --
18 it shows what was going on in those days, what was going
19 on was that people were thinking of their bank account, and
20 if Mr. Manson wasn't there in the case, there would be no
21 bank account.

22 Of course, of great significance is the fact
23 that Mr. Cohen -- Mr. Cohen appears nowhere to be found in
24 connection with these matters.

25 Now, at Page 23,272 we have a further indication
26 of the dollar sign aspect of this case wherein Mr. Shinn

1 asked:

2 "In other words, after you testified at
3 the Grand Jury, Mr. Caballero came out to see
4 you, what, twice a week, three times a week?

5 "A Sometimes every day.

6 "Q And did you know if your own
7 mind that he was a court-appointed attorney for
8 you?

9 "A Yes, that is what he was to me.

10 "And then he came to me one day and said,
11 'They are going to sue you.'"

12 Here is a girl in jail for seven murders and a
13 conspiracy to commit murder and he is very, very solicitous
14 of her being sued.

15 Why is he so interested? She is going to go
16 to the gas chamber and her lawyer is very sorry that she is
17 going to be sued.

18 "And I said, 'Who is going to sue me and for
19 what?'

20 "He said, 'The County of Los Angeles is
21 going to sue you because you now have money that
22 is coming in from a book that was sold.

23 "Q Okay. Before you go into that.

24 "Did you later go in front of a judge and
25 plead not guilty to these seven counts of murder
26 and one count of conspiracy?

1 "A Yes, I did.

2 "And Mr. Caballero was court-appointed.

3 "Q Then he represented you at that
4 time; is that correct?

5 "A Yes."

6 Now, we then have the retainer agreement.

7 THE COURT: It is 12:00 o'clock, Mr. Kanarek.

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

11 The Court will recess until 1:45.

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

2 1:52 o'clock p.m.

3 - - - -

4 (The following proceedings occur in open court.
5 All jurors and counsel present. All defendants except Mr.
6 Manson present.)

7 THE COURT: All parties except Mr. Manson are present.
8 All counsel and all jurors are present.

9 You may continue, Mr. Kanarek.

10 MR. KANAREK: Thank you, your Honor.

11 Ladies and gentlemen, if I may, I'd like to
12 play prognosticator a little bit here. Maybe I will be
13 wrong and maybe I will be right. But it is our belief that
14 the prosecution will not have any answers that stick to the
15 point in connection with the subject matter that we have
16 been speaking about.

17 It is our belief that the prosecution -- we hope
18 that we are not wrong, but we would welcome the prosecution
19 discussing these matters with you. We have gone over the
20 final arguments in the guilt or innocence phase, and the
21 prosecution didn't discuss Linda Kasabian and the \$5,000.

22 The prosecution didn't discuss the fact that,
23 for instance, when you sort of sit down and diagram this,
24 as we have tried to do, putting the parties in, just
25 rough sketching of a map, something like that, putting the
26 parties where they are, the prosecution has had no

1 explanation for it. Maybe they will now, I don't know. No
2 explanation as to how that house was found at the beach.

3 You remember, Linda Kasabian supposedly, with
4 this act of great beneficence saved this man from death,
5 this actor at the beach. Well, when we go through it sort
6 of with a fine tooth comb, we find that only Linda Kasabian,
7 among those people, even knew where that particular apart-
8 ment was or knew anything about that man.

9 And so, the easiest way to try and make us
10 forget is by not discussing it, hoping that in some, I
11 don't know, approaching 30,000 pages of transcript, hoping
12 that we will forget some of these matters and just think of
13 how horrible a person Mr. Charles Manson is supposed to be.

14 But I will be interested to see what answers,
15 if any, the prosecution has in connection with this area
16 that we have been speaking of.

9 fls.

9-1

1 Now, when we were going through the voir dire at
2 the very beginning of this case, I think all of us that are
3 on the jury came to the -- and this is perfectly okay -- all
4 of us have different views on different things that are the
5 issues of the day.

6 The Court, I think, inquired concerning our
7 views on capital punishment, and the Court -- and it is a
8 fair statement that the jury is made up of people that at
9 that time stated that there was no opposition to capital
10 punishment as such, that is, that there was no feeling
11 against capital punishment, that we could not sit on the
12 jury and judge this kind of a case when it came to penalty.

13 But we may have a certain viewpoint concerning
14 capital punishment, as we enter the case, but if during
15 this trial our attitude towards capital punishment is
16 changed so that we now no longer believe in it, then perhaps
17 in the exercise of our absolute discretion, if we have
18 learned, so to speak, during this trial because of what has
19 happened in this trial, because of the unknowns that are
20 here by way of evidence, by way of what has occurred here,
21 if we feel that now perhaps capital punishment is not
22 something that we would be in favor of, this is something
23 that we can apply in our absolute discretion.

24 Because we have learned -- the learning process
25 of going through these days and these months in court may
26 well be -- may well suggest that capital punishment is not

1 an answer to this kind of a situation, especially where
2 someone does no physical act of violence, not even alleged
3 to do any physical act of violence.

4 The frailties of the human mind being what they
5 are, the memory of the human mind being as frail as it is,
6 when witnesses have to get on the witness stand and recount
7 matters, a witness such as Linda Kasabian who has heavily
8 taken these various materials that she has spoken of, and
9 that we have spoken of in this courtroom.

10 It might be -- it might be that we have some
11 doubts concerning the validity of capital punishment as a
12 place in our society.

13 It may well be that some of these things may be
14 significant, this aspect of, for instance, possible innocence,
15 because I am sure that none of us -- none of us, no matter
16 how -- no matter how ^{are} we appalled and how we are affected by
17 these pictures, I am sure none of us wish to take another
18 mortal and cause him to die if there is a possibility that
19 he may not be guilty.

20 And so in this regard we have -- I think that
21 at Page 23,295 of this volume, 101, here is an issue that
22 the prosecution could have interrogated Linda Kasabian
23 about if the prosecution had desired, had not wished her to
24 get off that witness stand so fast, when she was here the
25 last time.

26 Susan Atkins says that there was some kind of

1 * -- some kind of a drug transaction in which Linda
2 Kasabian was involved, which is not unreasonable.

3 Linda Kasabian, according to Susan Atkins, had
4 -- there was a certain amount of money that she had avail-
5 able to her, and she was burned.

6 And Susan Atkins testified -- testified -- now,
7 you will note, Susan Atkins is testifying in Volume 131,
8 in case we forget the sequence.

9 Linda Kasabian is testifying in Volume 138.

10 So Linda Kasabian, in case we might forget the
11 sequence of events, she was here available and the District
12 Attorney's Office, very amply represented, goes over these
13 transcripts every night, as do all of the lawyers.

14 And they could have, except for the fact that
15 they were afraid of opening up a can of worms, they could
16 have gone into this with Linda Kasabian, this testimony such
17 as this at Page 23,295:

18 "Q But did you receive your know-
19 ledge as the result of Linda Kasabian telling
20 you something about some narcotics or dangerous
21 drug transaction?"

22 That begins -- I am trying to make this -- I
23 am trying to cut -- cut some of these matters down to the
24 bone:

25 "Q Why did you go to 10050 Cielo
26 Drive, the Polanski residence?

1 "A. Linda Kasabian brought up that
2 place."

3 Now, is that completely and absolutely
4 unreasonable, remembering that this was August 8th,
5 remembering that Tex Watson was dealing with narcotics,
6 remembering all of the narcotics that are present at the
7 Tate residence?

8 If Tex Watson was dealing with Lotsapoppa in
9 connection with narcotics, there is no reason to believe that
10 he was not dealing with other people.

11 There is no reason to believe that Tex Watson
12 and Linda Kasabian together were not doing whatever they
13 were doing -- this could be cleared up if this is untrue:

14 "But did you receive your knowledge as the
15 result of Linda Kasabian telling you something
16 about some narcotic or dangerous drug transaction?

17 "A. Yes.

18 "Q. Who was it at the Polanski
19 residence that she had been involved in this
20 narcotic or dangerous drug transaction with?

21 "A. She never said the name, she
22 just said it was a man.

23 "Q. Did you know who lived at Cielo
24 Drive when you went up there on the evening of
25 August the 8th?

26 "A. No.

1 "Q Was there any conversation
2 between yourself and Linda Kasabian or your-
3 self, Linda Kasabian and anybody else on the
4 way from the Spahn Ranch to Cielo Drive about
5 what was going to occur when you got there?

6 "A As far as I understood, we were
7 going up to get money, and that is all.

8 "Q And you were going to get money
9 in order to retain legal counsel to represent
10 Robert Beausoleil, is that correct?

11 "A That was my --

12 "That was what was in my mind,

13 "Now, also what was in my mind were many
14 ideas of how to get my brother out of jail, copy-
15 cat killings, get as much money as we could,

16 "If we did not want to do that, to retain
17 a lawyer,

18 "It didn't matter what we did as long as
19 we got him out of jail. That is what my state
20 of mind was."

10-1

1 Then she goes on to describe copy-cat killings.

2 "And you say something about a copy-cat killing.

3 What do you mean by that?

4 "A I have seen it done on television. I
5 have read about it in papers, you know, like Jack
6 the Ripper went around and did all kinds of crazy
7 things to people, and there is another one where
8 they arrested a man for some kind of a murder,
9 and eight more murders happened before they realized
10 that the man that they had arrested for the original
11 murder wasn't the man that did it."

12 And so forth and so on.

13 Then we get to the part -- page 22,297 -- so
14 the prosecution may have this very conveniently for them,
15 if they care to answer --

16 "Q What was the writing in blood on the
17 wall at the Hinman house?

18 "A 'Political piggy.'

19 "Q Now, when you say that one of your reasons
20 to go up there to Tate was a copy-cat killing --

21 "A It was an idea. It wasn't a --

22 "I had no definite reason at the time
23 that that was one of my thoughts.

24 "Q Did you intend to write on the wall in
25 blood up at the Polanski residence?

26 "A No, I did not intend to do anything, just

1 "to go up there and just be there, and do whatever,
2 whatever it was."

3 Now, that is the kind of thing, when these
4 people are doing what they are doing with drugs,
5 in a way that isn't really completely 100 percent satis-
6 fying, it is true, but is it, does it sort of grope for
7 some kind of what we might call a reason?

8 As the girl is there on the witness stand, the
9 importance is is she trying to be candid with us or is she
10 doing something to deceive us?

11 That is what is important in analyzing a witness.

12 And when you consider these people and the
13 drugs that they have taken, and so forth, in that context,
14 is she being honest with us?

15 This is one of the things that we have to
16 decide.

17 At the top of 23,298.

18 "Q At the time you wrote in blood on the
19 door at the Polanski residence 'pig,' was it your
20 intention to somehow copy what was done at the
21 Hinman house?

22 "A That was my intention."

23 Now, let me ask you. Let's say that the
24 prosecution was prosecuting Susan Atkins for two murders--
25 or six murders, let's say; the Hinman murder and the
26 murders at the Tate homes -- wouldn't the prosecution, having

1 evidence -- having evidence -- that she wrote "political
2 piggy" at the Hinman home, wouldn't they seize upon that
3 and use that, this kind of evidence at the Tate home,
4 to say: Well, my God, she practically -- I can hear a
5 prosecutor now saying it -- she might just as well have
6 written her name. She might just as well have written
7 her name is what the prosecution would say in connection
8 with the similarity, the MO, if you will.

9 And certainly it is something for us to consider
10 when she tells us that Bobby Beausoleil was in jail, we
11 know he is in jail, it was just a few days later.

12 Does that make more sense than a race war kind
13 of thing?

14 It is something to consider.

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10a-1

1 And so we go into Mr. Fitzgerald's cross-
2 examination of Miss Atkins, after my cross-examination had
3 finished.

4 "Q BY MR. FITZGERALD: Miss Atkins,
5 were any of these people on Cielo Drive on the
6 evening of August the 8th killed as a result of any
7 personal hate or animosity that you had toward
8 them?

9 "A No.

10 "Q Did you have any feeling toward
11 them at all, any emotional feeling toward any of
12 these people? -- this is at Page 23,350 --

13 "Sharon Tate, Voltyck Frykowski, Abigail
14 Folger?

15 "A I didn't know any of them. How
16 could I have felt any emotion without knowing
17 them?

18 "I just loved them."

19 There she just lays bare, she lays bare before
20 you this most unusual and macabre philosophy of life, or
21 whatever you want to call it.

22 Now, she is not saying that Mr. Manson is
23 responsible for that. That he told them to go out there
24 and do it because Mr. Manson had some way-out philosophies.

25 Once again, if that were true, then we would be
26 afraid, anyone would be afraid to utter words. If you

1 could tie in and turn people into criminal defendants and
2 send them to the gas chamber.

3 Is there any doubt in our mind but when
4 Susan Atkins said that in answer to Mr. Fitzgerald, that
5 she was telling the truth? She was not hiding anything.

6 She says, "I loved them."

7 She is saying that she did what she did with
8 the knife, or whatever, but she said she loved them. She
9 is laying it right on the line.

10 Now, the fact that the prosecution is going to
11 say: Well, other people, Mr. Manson, has this philosophy,
12 or he has ideas or something along the lines such as this,
13 or whatever, that doesn't mean -- that doesn't mean --
14 that Mr. Manson had any knowledge of this, had any
15 direction towards this, was responsible for this in any
16 way, shape or manner.

17 The fact of the matter is that Susan Atkins was
18 acting for herself at this point. She was acting as were
19 each of these individuals acting for themselves.

20 Or let's put it this way. Is it possible -- is
21 it possible -- is it outside the realm of possibility that
22 Mr. Manson is innocent of these things? Mr. Manson going up
23 to Big Sur, being with Stephanie Schramm.

24 Did he cause these? Did he give anybody LSD?
25 Did he give these people any drugs?

26 There is not any evidence at all.

1 And I repeat something we have said before.
2 It is my -- I urge -- we can infer -- let's put it that way --
3 we can infer that that ranch has police operatives in it.

4 We know that the police work with informers,
5 that the police work with people that they place in areas
6 where they think there is misconduct taking place.

7 With the emphasis of the Charles Manson name
8 on those people in the valley area, Ventura County and
9 Los Angeles County, it would be almost dereliction of duty,
10 not to have people dressed up as hippies living there.
11 Especially in view of the fact that we know there is fluidity
12 in the people that come and go at the ranch, they come and
13 go. Someone could come in and say, "My name is thus-and-so,
14 and I am from somewhere or other, I am from Billings, Montana,
15 and I have just come to town." He has got a long beard and
16 so forth, and so on. His hair is like mine, maybe.
17 So, therefore, he then becomes a police operative at the
18 scene.

10b

10b-1

1 I suggest that this has to be that they had
2 those people there.

3 So, therefore, there is great probability,
4 there is great probability, that the police knew what was
5 going on there. Especially with the intense interest in
6 Mr. Manson.

7 And we have, at page 23,358, without going
8 into the details of it, a question:

9 "At the time you went to the Tate
10 residence, had you, at that time, or sometime
11 shortly before, taken acid?

12 "A Yes. Quite a bit.

13 "Q Now, with respect to going to the
14 Tate residence. At what time, with relation to
15 actually arriving at the Tate residence, did you
16 take acid?

17 "During the car ride, or before?

18 "A No. It was before I actually got in
19 the car and drove up to the house with everyone.

20 "I had taken acid the day before, and
21 I took another tab, I believe, that afternoon when
22 the sun was starting to set." And so on and so on
23 and so on, concerning her taking acid.

24 And here we have at page 23,365, something that
25 could have been refuted by Mr. Caballero if it didn't take
26 place.

1 "Q Did you fire Mr. Caballero a day or so
2 after you had this meeting with him and Charles
3 Manson?

4 "A Yes.

5 "Q Did Mr. Manson tell you to fire Mr.
6 Caballero?

7 "A "o, he did not."

8 Now, there you have something that if there is
9 some kind of influence, and so forth, that the prosecution
10 is talking about, sure, Mr. Manson and these girls are
11 friends, they probably like each other, no question about
12 that, but looking, for instance, at Dr. Hochman's testimony,
13 when somebody puts in a knife in someone, someone shoots a
14 gun, they are doing that on their own.

15 This is what happened in this case.

16 And Mr. Caballero would be here to tell us that
17 Mr. Manson said: Well, get rid of Caballero, or something
18 like that.

19 When she says that, she is telling you the truth.

20 Now, we think that there are a couple of points
21 that are significant. Remembering, again, that this is
22 in Volume 180.

23 But maybe we are doing a little extrasensory
24 perceiving ourselves, but we feel the prosecution was very
25 glad to let Linda Kasabian get out of here without asking
26 questions of her this time that she was here.

At page 23,019:

Susan Atkins testified that she dropped acid.

"Q Did you ever drop acid or take acid with Linda Kasabian?

"A Yes.

"Q Approximately how many times?

"A Gosh, four or five times.

"After about the fourth time I haven't had any acid since.

"Q Would you go out nights with Linda Kasabian?

"A Yes.

"Q What did you do when you went out nights with her?

"A The first night Linda approached me Linda and I got pretty close, because she came from basically the same type of neighborhood I came from and we would relate to each other and talk about the streets and what was going on in the streets, and she asked me to go with her to steal some more money from Robert, or her husband or somebody.

"She said there was more money where she got the money that she got.

"She asked me to go with her, and I just looked at her and I said, 'Well, okay, I'll go with you.'

1 "And as we were pretty loaded then,
2 we had just come down off of an acid trip, and I
3 was pretty open to her, and we hitchhiked down
4 Topanga Canyon into Old Topanga Canyon Lane, and
5 she said, 'You go in the house and knock on the door,
6 you go in the house, sit down, smoke some grass with
7 Crazy Charlie.'"

8 That is not Charles Manson.

9 "'You talk to him; while you talk to
10 him I will be getting the money.'

11 "Q Now, Susan, was anyone else present with
12 you?

13 "A There was just Linda and myself.

14 "Q Linda and yourself?

15 "A And she evidently came to the window
16 without the man seeing her, and signaled me to come
17 on.

18 "So I told the man, 'Well, I've got to
19 get back to the ranch. It's been nice talking to
20 you, and by the way, if you see a friend of mine,'
21 -- I believe I mentioned her name was Kooky --
22 'Would you tell her I would like to have some material
23 to sew it.'"

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11 fls.

11-1

1 Then at -- and here we have, we think -- if she
2 was trying to protect Charles Manson, just -- well, the
3 transcript speaks, we feel, so much more eloquently than any
4 lawyer can:

5 "This whole thing, what I am in this court-
6 room for, what Patricia and Leslie and Charles
7 Manson are in this courtroom for, what Bobby
8 Beausoleil is on death row for, he is on death
9 row for me.

10 "This whole thing started when I killed
11 Gary Hinman because he was going to hurt my love.
12 And I just did it. I saw it to be done and I did
13 it.

14 "And I have tried to tell you all the truth
15 for so long.

16 "When I went to the Grand Jury, I lied, and
17 I knew I lied, and I told Mr. Caballero I lied.

18 "And he told me, 'It is too late now,
19 baby.'

20 "And I was put incommunicado. I couldn't
21 talk to anybody.

22 "I have tried and tried and tried to tell
23 you the truth, and now you all know."

24 Now, when she said, "to hurt my love" she
25 is speaking of Charles Manson, we know that, she testified
26 to that in this courtroom.

1 This is the kind of ingredient that makes you --
2 makes you feel, makes you know that Susan Atkins is telling
3 the truth about everything.

4 And we are -- we are in this courtroom, what
5 we are trying are the Tate-La Bianca cases, those seven counts
6 of murder, and that count of conspiracy, that is what we
7 are trying here.

8 And when Susan Atkins says this, this is for us
9 to consider.

10 It seems -- it seems -- it just -- it is not
11 concocted.

12 If you take these transcripts -- of course we
13 had the advantage of having them and, regrettably, the jury
14 does not get them, but if you take these transcripts and you
15 consider the number of months that these girls have been to-
16 gether in Sybil Brand, and you see the difference in their
17 testimony and differences in meaning, there is no question
18 but what these girls are telling it truthful, that is, they
19 are not fabricating when they are on that witness stand,
20 and this is of significance at the penalty phase of this
21 trial.

22 As a matter of fact, right here, at Page 23,036,
23 at the bottom here she says -- without reading too exten-
24 sively, but it is 23,036, which the prosecution can check at
25 Volume 160, if I'm leaving anything out of context or leaving
26 anything out, but this is the part we think is significant:

1 "And like Gary and I had a lot of fun
2 before when he used to come up to Summit or
3 come up to the ranch. I was very close with
4 Gary. Gary and I would talk. And I guess
5 that is why Bobby took me along, because Bobby
6 knew that Gary and I got along."

7 As we recall, the purpose here had to do with
8 an automobile, a dispute about an automobile, Bobby
9 Beausoleil using maybe some of the Caballero approach of the
10 soft-sell or trying to get his point of view across to
11 Gary Hinman, to somebody that he felt was a person that
12 would have influence upon -- upon Gary Hinman.

13 She says because she and Gary had gotten along,
14 she actually, I guess, had known him for some time.

15 This is why she went there.

16 And it's a point that indicates -- that
17 indicates why she was there, and it makes sense.

18 She says, going to Page 23,037 -- she didn't
19 have to say this, after she talks about their dispute and
20 they smoked.

21 Getting some grass and all of that, Page
22 23,037 she says, "And then Gary looked at me and he said,
23 'Sadie, get on the phone and call Charlie, have Charlie
24 come over here because Bobby I can't talk to any more. I
25 can't even talk sense to you.'

26 "And Gary seemed to go off."

1 She is telling it the way it is.

2 She is injecting Charles Manson here because
3 Charles Manson, she says, is in these proceedings.

4 Now, is she telling the truth? Is she telling the
5 truth about Mr. Manson coming there?

6 This is something that we have to decide.

7 It would seem like that it is certainly arguable,
8 certainly arguable that Mr. Manson came, in the light of this,
9 with Gary Hinman and Bobby Beausoleil.

10 Bobby Beausoleil being present and not getting
11 along with Gary Hinman.

12 The important thing being, the important thing
13 being that if these girls -- if these girls are telling us
14 the truth, the real way that it happened, if they are doing
15 that, then Mr. Manson is not just possibly innocent;
16 Mr. Manson is in fact -- is, in fact, here with no purpose
17 whatsoever except for reasons that some things like this
18 just mushroom.

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11a-1

1 Snap decisions are made by some people, and in
2 other walks of life certain decisions are made, and they
3 don't necessarily affect people's lives.

4 But here in law enforcement when mistakes are
5 made, people can be wrongfully, in fact, sent to the gas
6 chamber.

7 On page 23,039 she continues to involve Mr.
8 Manson.

9 And she says there -- I won't read the whole
10 page, but it's there -- pardon me, page 23,039:

11 "And then there was a knock on the
12 door, about two or three minutes later, and Gary
13 went and answered the door and Charlie and Bruce
14 come in.

15 "And they all went into the living room,
16 and I was in the kitchen with Leslie, and I didn't
17 hear nothing other than mumbling, and I wasn't
18 thinking about nothing."

19 And so on and so on and so on.

20 "And Charlie and Bruce and Bobby come
21 back in the living room, and Gary come back in the
22 kitchen, and Charlie had a piece of paper, and he
23 folded it up and was putting it in his pocket and
24 he said:

25 "'At least we got the pink slip, you
26 know, we got the car, and I got the car keys, and

11a-2

1 "it's cool."

2 All right, then, for instance, she speaks about
3 Linda Kasabian at 23,046.

4 "Q Then did you later talk to Linda Kasabian?
5

6 "A Linda evidently had overheard a conversation
7 the day we found out that Bobby was arrested
8 for the murder of Gary Hinman."

9 And I'm going to read a few excerpts from
10 Linda Kasabian's testimony where Linda Kasabian says that
11 she knew about these matters but she didn't quite -- she
12 didn't quite know where she heard them.

13 She said this was common knowledge at the ranch,
14 that kind of thing.

15 "Patti, Katie, Leslie and me was talking
16 about 'Well, what could we do,' you know.

17 "'He ain't got no bail,' and we was
18 just talking about it.

19 "I said to Leslie, 'Well, I can't let
20 him do that; I can't let him take the beef for me.'

21 "And she said, 'Well, he called me and
22 he told me just to play cool.'

23 "Q Who called you?

24 "A Leslie told me that Bobby had called her
25 at the ranch and told her to be, you know, to
26 keep quiet.

11a-3

1 So Leslie and Patti and me was talking -- it
2 was either in the trailer or in the -- it was in one of
3 the buildings on the ranch, and I was kind of staying away
4 in either the trailer or the shack, I wouldn't come out very
5 much.

6 "And Leslie would come and want to talk
7 to me.

8 "I told her 'Go way, I don't want to
9 talk to anybody,' to go away, and Linda would go
10 away."

11 It's completely reasonable that Linda, that
12 Linda was there and that Linda knew of these events, and,
13 in fact, in Linda's testimony she says that she knew about
14 Bobby Beausoleil and she knew about his being arrested, but
15 there are certain details where she has a very vague, very
16 vague recollection, and very vague answers.

17 Now, at page 23,065, she, in describing going
18 to the Tate house, she said:

19 "Q Then the next thing you knew was head-
20 lights coming.

21 "A Yes.

22 "Q Then what happened?

23 "A Tex went crazy,

24 "Q What do you mean by Tex went crazy?

25 "A Tex went crazy.

26 "He went out and said 'Stop.'

1 "I heard a gun go off four times before
2 we ever got into the house.

3 "He just went off. I don't know what
4 made him do it. I don't know what motivated him
lib file. 5 to do it. He just went crazy."

1A-1

1 Now, here is something that we think has great
2 significance because it shows how Linda Kasabian has fooled
3 us all in this courtroom, and this is it.

4 And we think -- maybe some people won't, but
5 remember Linda Kasabian is the creepy crawler, if there is
6 anything that we know about Linda, it is that creepy crawling
7 is her bag, as the saying goes.

8 There is no question about that.

9 But when she portrayed it from the witness
10 stand, and that is why it pays, or we think it pays, or
11 it is interesting at least to read the transcripts.

12 Linda Kasabian told us that, something about
13 try to put it all on somebody else, like Tex telling her
14 to go around the back.

15 But we think that Sadie really has it right
16 here when she says, and this is during testimony in the
17 courtroom. The question is:

18 "Q Sadie, Sadie. Let's go step by
19 step.

20 "Before you crawled in the window now,
21 did Tex say anything to you at that time, before
22 you walked up to the automobile?

23 "A No, there were no words spoken,
24 Daye."

25 Speaking to Daye Shinn, her lawyer,

26 "Q What did Tex do as soon as you

1 "walked up to the automobile?

2 "A The next thing I know is I was
3 walking toward the house, and Linda was there.

4 "And Linda said, 'Wait here. I will go
5 around back.'

6 "I have seen Linda do this before in other
7 places I have been to with her."

8 Now, that makes sense, because this is an area
9 in which Linda Kasabian is an expert.

10 We know that from the testimony in this case.
11 She is a creepy crawler, and this was her expertise at the
12 Tate home.

13 She went around the back and this fits right
14 in with her scheme of things.

15 She likes to crawl in and out of homes, and the
16 impression that we got from Linda here in the courtroom was
17 that she was -- that she was sort of being used or guided.

18 But we suggest that this is really the way it
19 happened.

20 Linda got there, and she was -- she was on firm
21 ground.

22 She was in an atmosphere that was very, very well
23 known to her, namely creepy crawling, and she went around the
24 back, and she said, "Wait here, I will go around the back."

25 This is -- this -- this has what we feel is the
26 kind of significance that we should consider.

1 Then at Page 23,000 -- well, beginning at
2 23,073, to get some kind of continuity:

3 "And the next thing you know, the door
4 opened, the front door opened?

5 "A. Yes.

6 "Q. Did Tex come out?

7 "A. No. He said, 'Come in.'

8 "Q. And all three of you -- I mean,
9 then the four of you went into the house.

10 "A. I went in.

11 "Q. Who else went in?

12 "A. Linda went in and Katie went in.

13 "There was a man lying on a couch.

14 "Q. So now, Sadie, you are saying that
15 Katie, Linda, Tex and yourself went into the house,
16 correct?

17 "A. Yes."

18 Now, we know how -- how important in Linda's
19 testimony it was that she did not go into the house.

20 Linda has said it. The testimony was made there
21 by Linda, this is the testimony by Susan Atkins.

22 We have both views of that particular point.

23 "Q. So, now, Sadie, you are saying
24 that Katie, Linda, Tex and yourself went into the
25 house, correct?

26 "A. Yes.

1 "Q Now, when you stepped into the
2 house, did Tex say anything?

3 "A No.

4 "Q No words were spoken?

5 "A No.

6 "Q What was the first thing you did
7 when you entered the house?

8 "A Saw a man lying on a couch.

9 "Q Okay.

10 "Q Now, when you saw this man lying
11 on the couch, where was Tex and the other people?

12 "A I don't know. They were there.

13 "Q Behind you? Beside you? In front
14 of you?

15 "A I don't know. I just saw a man lying
16 on a couch. That is all I remember.

17 "Q Was the house dark or was there a
18 light in the house?

19 "A The house was like the house was.
20 I don't remember."

21 Then we get to Page 23,076.

22 "Q Where was your knife at that time?

23 "A In my hand.

24 "Q What kind of knife did you carry?

25 "A A buck knife, bowie knife -- no, it
26 was not a bowie knife, it was a buck knife."

11c-1

1 Then Mr. Shinn showed Exhibit 39, which we know
2 is the knife that is in evidence, Linda Kasabian's knife.

3 "Q I show you this Exhibit 39, do you see
4 that? Have you seen that knife before?

5 "A That is Linda Kasabian's knife. She gave
6 that knife to me that night because I lost mine.

7 "Q What kind of a knife did you carry?

8 "A The knife I had was -- I had a blade
9 about that long.

10 "Q You say your knife was approximately
11 this long?

12 "A Yeah, somehow I got ahold of this knife
13 and then Linda took my knife and I took hers.

14 "Q So you had your knife out?

15 "A I had it in my hand."

16 Now, there is truth, because if she wants to
17 just make up stories, if she wants to just make up stories,
18 she would let that knife be Linda's, because it was found
19 in the house.

20 Do you remember how during -- even during our
21 summation, the last time, we made the point that this was
22 Linda's knife and it was found right in the house.

23 Now, that puts more on Linda than the truth
24 that this girl is telling, because this girl is telling it
25 the way it was.

26 She takes the knife that is Linda's knife, and

11c-2

1 takes it away from Linda and puts it in her own hand, which
2 is, standing alone, may not mean a lot or mean much, but in
3 the context of what's happening here, it shows that she is
4 telling the truth.

5 Because, if she was going to make up a story,
6 as we say, the best thing to do would be to let that knife
7 be there because Linda said it's her knife, and there is
8 more culpability by having Linda have that knife.

9 And so she says here, yes, "Somehow I got
10 ahold of this knife and then Linda took my knife and I took
11 hers.

12 "Q So you had your knife out?

13 "A I had it in my hand.

14 "Q Was the blade out?

15 "A My knife was not like that knife. It was
16 just a straight knife.

17 "The blade did not close.

18 "It was the type of knife you would carry
19 in a sheath.

20 "Q So now you saw --

21 "A It was just a knife.

22 "Q You saw this man on the couch and you
23 stated that he said 'What time is it?'

24 "A He said 'What time is it?'

25 "And then everything just happened.

26 "Details I don't know, I don't know

1 "details. All I know is that --

2 "Q Are you saying that after you saw this
3 man on the couch and he asked you what time is it,
4 after that you don't remember anything?

5 "A I remember bits and pieces. It's like
6 I can close my eyes and I can see bits and pieces of
7 things that happened."

8 Then she goes on and she says:

9 "Q Did you hear any gunshots in the house?

10 "A It could have been gunshots in the house.

11 "Q But you don't remember all the sounds
12 were -- all the sounds --

13 "A All the sounds I have ever heard, all
14 the things that I saw was lying. Everything I have
15 ever seen, all at one time.

16 "Q You don't recall whether or not you
17 stabbed anyone?

18 "A I don't recall if I did. I know I said
19 I did at one time, and that was a story.

20 "Q Okay, now, then you all left this house?

21 "A I know I left the house and I got in
22 the car and I remember Katie was sitting next to me,
23 and Linda was in the front seat and Tex was in the
24 front seat."

25 There she is, she's telling you, she's telling
26 you what she's telling you from the witness stand.

1 Is it something that she is making up? Or is
2 it in the context of what we are in this penalty phase
3 for, or is it something that we can use because she is
4 telling us the truth as she knows it on the witness stand?

5 Because that is what is important.

6 We have to -- we have to depend upon testimony,
7 and can we depend upon Susan Atkins?

8 There are so many -- so many possibilities of
9 miscarriage of justice in this case because of Linda
10 Kasabian's ingestion of LSD and everything that she has
11 told us, that at least we should take pause and look at
12 some of this other testimony and not broadbrush it the way
13 the prosecution would have us do.

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1 They are saying, well, these girls are just saying
2 things to protect Mr. Manson.

3 The next day, according to Susan Atkins, she and
4 -- this is Page 23,097 -- she and Linda spoke, and then Linda
5 said, "Do you want some more acid?"

6 "And I said, 'Yes, I think I need it.'"

7 Now, after this kind of experience, after this
8 kind of experience, isn't it logical that Linda Kasabian would
9 go back to taking, or not go back, but would take some acid
10 the next day? Acid is her way of life.

11 These events, no matter what, are of such a
12 nature that certainly, if a person were an alcoholic he
13 would take a drink, wouldn't he, in a thing like this.

14 If a person is an acid head, certainly the place
15 to find your solace would be in your LSD; that certainly makes
16 sense. It certainly seems reasonable.

17 But Linda Kasabian, of course, says that she
18 did not.

19 Now, the next night Susan Atkins says, "I want
20 to go to talk to Harold True."

21 And I asked her for what, and she said, "Well,
22 because he's got some money."

23 "And I looked at her and I said, 'Linda, okay,'
24 and it could have been at the front of the ranch or the back
25 of the ranch; it could have been up in the mountains; it
26 could have been anywhere on that ranch."

1 Now, that makes sense in connection with the way
2 these people think in bits and pieces, so to speak.

3 Whatever the reason might be as far as getting
4 Bobby Beausoleil out of jail, she had previous relationship
5 with Mr. True.

6 There is some indication here of narcotics at
7 that house. There is some indication that she might have
8 thought that Mr. True had some money, because of his dealing
9 in narcotics perhaps or whatever.

10 So certainly -- certainly that what Susan
11 Atkins is saying there makes sense.

12 And now Linda Kasabian, at Page 23,108 says --
13 this is now speaking about Abigail Folger:

14 "Q Did you take her some place?

15 "A Not at first. Can I go back to
16 the living room?

17 "Q Yes, please do.

18 "A The man on the couch stretched
19 like he was waking up, and I was behind the
20 couch and Katie was next to the couch behind the
21 couch next to me.

22 "And Linda was at the man's head, and Tex
23 was in front.

24 "Tex did have a gun, Tex did have a gun.
25 I saw the gun, yeah, he had a gun.

26 "And he said something to the man, because the

1 "man looked at him.

2 "Q When you say man, what man are
3 you talking about?

4 "A The man on the couch, this big
5 man, very big. He almost fit the whole couch,
6 the length of the couch. It was a long couch."

7 Then she goes on to describe what happened,
8 23,112.

9 "Now, did you see what Linda Kasabian was
10 doing in the house?

11 "A In the house?

12 "Q Yes.

13 "A I wasn't paying too much attention
14 to what Linda was doing in the house, I don't think.

15 "Q Well, did she have a knife out?

16 "A I remember seeing a knife in her
17 hand.

18 "Q Was she near anyone?

19 "A She was standing at the head of
20 the man on the couch."

21 Now, the fact is the prosecution would have us
22 believe that Linda Kasabian was there without any kind of
23 purpose except she was sort of a lookout.

24 That is her only function there.

25 If we look at these people, if we look at what
26 Linda Kasabian's background and experience was, if -- if --

1 let's say any of us, God forbid, should go on such a type of
2 venture, wouldn't we use Linda Kasabian as the expert to go
3 and do the creepy crawling? This is perfectly logical.

4 It is not logical to use Linda Kasabian as a
5 lookout with her experience. She would be the one that
6 would be able to go in and do all of whatever was necessary
7 inside the house.

8 Susan Atkins testifies, speaking of Katie
9 Krenwinkel, she said:

10 "She was fighting with the two women and
11 the dark-haired woman had a hold of Katie's hair
12 and was pulling on it and Katie was fighting and
13 she called for Linda.

14 "And Linda came in, and I ran to the
15 pregnant woman because she was starting to take
16 the rope off of her neck.

17 "And I put my arm around her neck and I
18 had her head in my arms, and then I saw Tex come
19 back to the man on the floor with the rope around
20 his neck, and he was stabbing the man.

21 "I was still holding onto the woman.

22 "And Linda came to help Katie. I dropped
23 the knife.

24 "So I asked Linda for her knife, and she
25 handed me her knife.

26 "Katie wasn't there any more. The woman

1 "with the dark hair wasn't there any more. I
2 was alone.

3 "Tex was gone and Linda was gone. I was
4 alone with that woman."

5 And so forth and so on.

6 There is this case, in this case, maybe it's a
7 sad commentary on our system of justice, but there is in
8 this case the very, very definite possibility that we have --
9 we have in Linda Kasabian a person who is much more culpable,
10 let's put it that way, much more responsible in these
11 crimes than she has portrayed for us from the witness stand.

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1 Is this something to consider when all that we
2 are asking for is that Mr. Manson be allowed to live in
3 lifetime custody?

4 Is this -- is this -- is this too much to ask
5 when there is the very definite possibility that Linda
6 Kasabian , what she told us is not quite the way it was.

7 Maybe it is the way Susan Atkins says it or
8 maybe it is somewhere in between. Maybe it is somewhere
9 in between.

10 Even if it is somewhere in between, there is a
11 gross miscarriage of justice for Mr. Manson to go to the
12 gas chamber when he has not harmed any of these people,
13 and for Linda Kasabian to have her way of life, what we know
14 it to be.

15 Now, in Volume 188 Linda Kasabian was here,
16 when she came back, she testified in answer to this question:

17 "Q Now, Mrs. Kasabian, directing your atten-
18 tion to when you were on the witness stand testifying.

19 "Were you afraid for your life to testify,
20 when you were on the stand?"

21 After some colloquy the Court asked me to
22 rephrase the question.

23 Well, she says "You mean my physical life
24 right here and now?

25 "Q Answer it in any way that you feel is
26 best, Mrs. Kasabian.

11e-2

1 "A I don't really understand your question."

2 Then I reframed the question:

3 "Q When you testified previously, Mrs.
4 Kassabian, were you afraid for your life when you
5 testified?

6 "A I guess so, yes.

7 "Q You were?

8 "And in what way were you afraid for
9 your life?

10 "A Well, there is a lot of freaked out
11 people there and I was walking the streets."

12 Which of course is untrue. I mean she wasn't
13 walking any streets.

14 "Go ahead. Would you tell us.

15 "A That is it.

16 "Q Now, who are the freaked out people that
17 were out there? What do you mean by that?

18 "A Well, there is a lot of insane people
19 in the world and just, you know, a lot of violently
20 insane people, and I guess that is what I might have
21 been afraid of.

22 "Q And that is while you were testifying
23 here the last time, during the time that you were
24 in court, right?

25 "A Yes.

26 "Q And who were the people that you were

11e-3

1 "afraid of, the freaked out people, the lots of
2 them that were out there?

3 "A Not really anybody specifically. Just,
4 you know, people in general, I mean. I don't know."

5 Now, I don't know, that testimony, we offer
6 it for its -- it is clear that Linda Kasabian is and was
7 not testifying from a viewpoint of objectivity, from a
8 viewpoint of neutrality.

9 Supposedly she is afraid, she says, of law
10 enforcement guns.

11 Now, 24,396 she says:

12 "And so during the entire time that you
13 testified you had this fear, is that correct, Mrs.
14 Kasabian?

15 "A The entire time?

16 "Q Yes.

17 "A No.

18 "Q Well, tell us what times you were in
19 fear and what times you were not in fear.

20 "A I was mostly in fear when I was out,
21 particularly out of jail, and I had bodyguards with
22 guns, and they put a lot of fear into me."

23 So she is telling us for what it may be worth
24 in connection with her testimony here, in connection with
25 the time after she was no longer in custody that these
26 bodyguards with guns put a lot of fear into her.

1 Can we believe, can we take a chance on her
2 testimony being used for any purpose when she says that
3 the bodyguards with guns put fear into her?

4 "Q I see.

5 "In other words, the people from the
6 Los Angeles Police Department, they were your body-
7 guards, right?

8 "A Yes.

9 "Q And they had guns on them, right?

10 "A Yes."

11 And here I think is something that is significant
12 because of Linda Kasabian's previous -- previous protestations
13 about the lack of drugs on these two nights in question.

14 Do you remember how when she was -- when she
15 was here last summer, not this time, but when she testified
16 in the case, the guilt or innocent phase, when she made it
17 so clear that there were no drugs?

12 fls.

12-1

1 Now she says in answer to a question:

2 "And to your knowledge, was anyone that
3 was with you that night or either of those
4 nights under the influence of any other nar-
5 cotic, dangerous drug, chemical, anything?

6 "A Yes.

7 "Q Who?

8 "A Tex.

9 "Q Tex was under the influence of
10 what?

11 "A I don't know what it was. It
12 looked like maybe speed.

13 "Q On both nights Mr. Watson was,
14 in your opinion, under the influence of speed;
15 right?

16 "A No.

17 "Q Well, when do you say that Mr.
18 Watson was under the influence of speed?

19 "A The second night.

20 "Q The second night he was under
21 the influence of speed?

22 "Now, would you tell us, did you see
23 Mr. Watson ingest, take into his body, some
24 material the second night?

25 "A I didn't see him put it in his mouth,
26 no.

1 "Q Pardon?

2 "A I didn't see him put it in his
3 mouth.

4 "Q I see.

5 But you are telling us that on the second
6 night he was under the influence of speed?

7 "A Well, I don't know that it was
8 that. I just saw something in his hand that
9 looked like it might be speed.

10 "Q I see.

11 "Well, now, did Tex act pretty wild on
12 the first night?

13 "A No.

14 "On the first night?

15 "Q Yes.

16 "A It is hard to answer."

17 Now, the question is -- the question is -- is
18 this statement by her about Tex and his taking of speed on
19 this second night, that is so diametrically opposed to
20 what she testified to in this courtroom, she was very, very
21 clear that nobody had anything, why is this change between
22 then and now?

23 There is no question but what Linda Kasabian
24 knew Bobby Beausoleil, and there is no question but what
25 Linda Kasabian knew that Gary Hinman was dead. And if we
26 can, somehow or other, place ourselves back in August of

1 1969, the end of July and the first part of August, 1969,
2 isn't it clear that Linda Kasabian was there and knew about
3 a murder that she now tells us included a situation where she
4 is so scared, she tells us that she had this utter fear --
5 you remember when she read what she had written -- that she
6 was scared and all of that.

7 Now, do we believe that when she went out
8 creepy crawling and went out beyond -- that night that she
9 walked with Susan Atkins past Gary Hinman's house,

10 We can make the inference -- we can make the
11 inference -- I see Mr. Bugliosi looking at me, so I better
12 say "inference" rather than it is an actual fact -- we can
13 make the inference that she went creepy crawling that
14 night. Now, if that is a fair inference that she was going
15 creepy crawling that night, is that consistent with her
16 statement that she had this great fear because she was
17 in with this group of people?

18 Does that impeach her testimony so that we can't
19 believe what the girl says?

20 Because there is no question from this testimony
21 that she says, for instance, at Page 24,402:

12a-1

1 "Q Did you know that Gary Hinman had
2 passed away?

3 "A I think so.

4 "Q When did you find out that Gary Hinman
5 had passed away?

6 "A I'm not sure.

7 "Q Well, would you give us your best
8 estimate, Mrs. Kasabian?"

9 Then she goes on to testify concerning going
10 by the house with Susan Atkins.

11 And so, it is certainly a very, very strange
12 girl that knows that there is a dead man -- or we have to
13 infer it -- or she could infer -- you see, at this time,
14 Bobby Beausoleil had not been arrested, we can infer, and
15 not having been arrested, she would have to know. If
16 Susan Atkins discussed that with her, she would have to
17 know that there is great probability that Gary Hinman
18 is dead and is lying in that house.

19 And she then goes with Susan Atkins on these
20 night forays in connection with creepy-crawling, or
21 whatever.

22 The point is -- the point is -- it is an
23 insight into Linda Kasabian's testimony when she says she
24 was scared and she tells us about this other murder and
25 all of that and about how scared she was, that has to be
26 untrue, because you don't go committing burglaries with

12a-2

1 people who have committed a murder which Susan Atkins and
2 she were talking about.

3 The two are just inconsistent. It is like
4 saying that we are in Los Angeles and we are also in
5 Toledo, Ohio, at the very same instant. It is inconsistent.

6 Yet she would have us believe that she was so
7 scared because of the events concerning Gary Hinman.

8 This is just not true.

9 Now, it is significant that when she wrote
10 out these papers that we are speaking of here, she didn't
11 mention Bobby Beausoleil.

12 Evidently, when she wrote these papers out,
13 she could write down anything she wished. Whether anyone
14 told her not to write about Bobby Beausoleil or whether
15 she deliberately, of her own accord, did not write about
16 Bobby Beausoleil in connection with the events that we are
17 speaking about, doesn't really matter, whether she was
18 told to do this or whether she did it on her own. The
19 fact of the matter is that goes to her credibility, because
20 supposedly she is writing down everything concerning these
21 events, all of the events, and she makes no mention of Gary
22 Hinman or Bobby Beausoleil.

23 THE COURT: We will take our recess at this time.

24 Ladies and gentlemen, do not converse with
25 anyone or form or express any opinion regarding penalty
26 until that issue is finally submitted to you.

12a-3

The court will recess for 15 minutes.

(Recess.)

12b fls.

1 (The following proceedings occur in chambers.
2 All counsel present. Defendants absent.)

3 THE COURT: All counsel are present.

4 I just wanted to get an idea of your estimates.

5 Mr. Kanarek?

6 MR. KANAREK: Yes, your Honor. I should be finished
7 in, well, certainly before the end of the day.

8 THE COURT: I have to have an idea because I have to
9 tell the jury when to bring their personal effects for
10 being sequestered.

11 Obviously it isn't going to be today but I
12 have to give them some advance warning.

13 Assuming you take the rest of the day --

14 MR. KANAREK: I don't think that I will.

15 THE COURT: How do we stand? Is your estimate still
16 the same, Mr. Fitzgerald, two and a half hours?

17 MR. FITZGERALD: At the most three; and I think it
18 will be closer to two.

19 THE COURT: Mr. Keith, you said two?

20 MR. KEITH: I think it will be less than two. Make it
21 two.

22 THE COURT: Mr. Shinn?

23 MR. SHINN: It will be less than two, your Honor.

24 THE COURT: Mr. Bugliosi, I don't suppose you can tell
25 accurately until you hear the rest of the arguments?

26 MR. BUGLIOSI: There is a distinct possibility I

1 will not argue but I don't know. I am wavering back and
2 forth.

3 THE COURT: I suppose I had better tell the jury, then,
4 to be ready tomorrow.

5 Sure enough, if I don't tell them, we will
6 complete it and they won't be ready.

7 MR. KAY: I would be very skeptical about being
8 finished tomorrow.

9 They have to be instructed.

10 THE COURT: I will instruct them late in the day if
11 the arguments are finished.

12 Incidentally, did you give copies of the
13 Circumstantial Evidence instructions to other counsel?

14 MR. KAY: Which circumstantial evidence?

15 THE COURT: The ones that you gave me.

16 MR. KAY: Yes, I did.

17 THE COURT: To prove specific intent.

18 MR. KAY: Yes.

19 THE COURT: I added one more, because you didn't
20 include one for the assault with intent to commit murder.
21 So, I put in one for that.

22 And I also put in one for lesser-included
23 offense, because I didn't want the jury, with respect to the
24 assault, I didn't want the jury to be confused and think
25 that they could find all three of those assaults.

26 So, I tailored -- which I will read to you

1 before I instruct the jury -- I tailored an instruction
2 that if they are unable -- or if they do not find a defen-
3 dant is guilty of assault with a deadly weapon with intent
4 to commit murder, they could find a lesser offense of
5 either assault with a deadly weapon or simple assault.

6 MR. KANAREK: Is your Honor going to tell them any-
7 thing in connection with what they do or don't do, what
8 the effect that is going to have on their ultimate
9 deliberations?

10 Is your Honor going to instruct them on that?

11 THE COURT: There is, of course, an Evidence of Other
12 Offense instruction that tells them.

13 MR. KANAREK: I mean, is your Honor going to just
14 leave it hanging, or what is your Honor's intention?

15 THE COURT: Hanging how?

16 MR. KANAREK: Well, in the sense that your Honor
17 says --

18 THE COURT: They are told at the very outset, of
19 course, in the penalty instruction -- 880, or whatever it is
20 -- that they may consider evidence in mitigation or
21 aggravation.

22 MR. KANAREK: I mean, is your Honor going to leave it
23 that way, or are you going to say -- is your Honor going to
24 inform them that even if they find that these offenses are
25 committed, that doesn't mean that they have to give someone
26 the death penalty.

1 THE COURT: No, The Evidence of Other Crimes
2 instruction tells them, before they may consider that other
3 evidence, they have to be convinced beyond a reasonable doubt
4 such other crimes occurred.

5 So, they are instructed on that.

12c

12a-1

1 MR. KANAREK: Well, this tailoring instruction that
2 your Honor speaks off?

3 THE COURT: It is simply so that they won't be
4 confused as to what they can find.

5 They might make the mistake of finding all
6 three offenses when, in fact, there was only one.

7 THE CLERK: Your Honor doesn't have that right now?

8 THE COURT: Yes, I have it, and I will read it to
9 you. Perhaps tomorrow morning will be a good time. But
10 I just wanted to mention it to you now.

11 MR. BUGLIOSI: Just one further point, your Honor.

12 I have made some corrections in my final
13 summation. It is about three volumes. The reporters did
14 an excellent job, but it is impossible to get every word.

15 Is there any chance of getting those correc-
16 tions taken care off?

17 THE COURT: Yes. Why don't we wait until the jury
18 is sequestered and deliberating, and then we can take care
19 of any housekeeping details that are necessary.

20 MR. BUGLIOSI: Okay.

21 THE COURT: All right. Let's go back into court.

22 (The following proceedings occur in open
23 court. All jurors and counsel present. All defendants
24 except Mr. Manson present.)

25 THE COURT: All parties are present except Mr. Manson.
26 All counsel and all jurors are present.

12c-2

1 You may continue, Mr. Kanarek.

2 MR. KANAREK: Yes. Thank you, your Honor.

3 Ladies and gentlemen of the jury, there is
4 this document called P-DD, which is a retainer agreement,
5 and it attempts to set history back.

6 Again, standing by itself, it is probably
7 not very significant, but when we are trying to put
8 people in the gas chamber, it is sort of the kind of thing
9 that just has an effect that, to me, at least, as a
10 lawyer -- maybe the jury won't agree with me -- but this
11 retainer agreement is dated January 22nd, 1970, by and
12 between Susan Denice Atkins and Mr. Caballero, and it
13 purports to put the conversation back to November the 26th,
14 1969.

15 And we all know about that. At that time
16 Mr. Caballero was appointed -- or at or about that time --
17 for the Hinman case.

18 It talks about how the money is divided up.
19 Then it says:

20 "Client agrees not to substitute
21 attorneys without the consent of attorneys except
22 for misconduct or incapacity of said attorney to
23 act. And if substitution is effected in violation
24 hereof, attorney shall be entitled to the full
25 share and fee hereinabove stated."

26 For whatever that may be worth.

12c-3

1 And our case number here, as we can see from
2 the back of these exhibits, is A253156. That is one of
3 the cases. And the other purportedly is the Hinman case.

4 But is is an index of whether or not we can,
5 with this kind of an atmosphere in a case, in a murder
6 case such as this is, whether we can believe the evidence
7 to the point that we can send someone to the gas chamber
8 where this kind of a thing can occur.

9 Now, when it comes to evaluating evidence,
10 the difference between Mr. Younger and Mr. Bugliosi,
11 here we have people who are deciding whether certain
12 things occur or not, and in that regard we refer to
13 Volume 187, page 24,301.

14 Mr. Shinn asked Mr. Bugliosi:

15 "Q Now, during the Grand Jury testimony
16 of Susan Atkins, was your state of mind such that
17 she was telling the whole truth at that time?

18 "A I think she told the substantial
19 truth at the Grand Jury."
20
21
22
23
24
25
26

12d file.

12d-1

1 Going to the top of Page 24,302:

2 Mr. Younger, who is now the Attorney General,
3 and was then District Attorney, in answer to these questions
4 on Page 26,519.

5 "Q Well, would you answer the
6 question as to whether she testified substantially
7 truthfully?

8 "A I don't know.

9 "Q You don't know whether she did
10 or not?

11 "Give us your opinion. Did she? I am only
12 asking for your opinion.

13 "A No, I don't think she did."

14 So, Mr. Younger is of the opinion that Susan
15 Atkins did not testify substantially truthfully. Mr.
16 Bugliosi is of the opinion that she did testify substantially
17 truthfully. And lives hang in the balance, based upon these
18 subjective considerations of two people, two people in power,
19 people who decide what happens in a case such as this.

20 If two people of that type of stature in this
21 case, of that kind of power in this case, have diametrically
22 opposite opinions as to whether Susan Atkins testified
23 truthfully, then how can we send anyone to the gas chamber?

24 We are certainly entitled -- certainly entitled
25 -- to something that we can put our fingers on, something
26 that we can hang our hat on.

1 Here we have gone into this testimony of Susan
2 Atkins at the Grand Jury, and so forth. If these two people
3 can't agree, as we say, is this the kind of thing that has
4 the tag of possible innocence on it as far as Mr. Manson is
5 concerned?

6 Now, it is true that in deciding the penalty
7 phase, we are not exhorting, we are not going to the other
8 extreme where the prosecution is yelling monstrous and
9 so forth, and so forth; we are trying to be as non-demon-
10 strative as possible, we are not begging for Mr. Manson's
11 life in the sense that it is the opposite of monstrosity,
12 that he has lived a wonderful life, a life of virtue, or
13 anything like that.

14 The fact of the matter is that Mr. Manson is
15 here before us in what we now call the penalty phase,
16 and in deciding the penalty phase, it is the lack of what
17 the prosecution has done that is much more significant, maybe,
18 than anything else.

19 I am sure that all of us know that in these
20 penalty phases, where someone has had the background that
21 Mr. Manson has had in custody, who has had that kind of
22 background in custody, in connection with putting on these
23 penalty phases, the prosecution, if someone in custody has
24 created problems, the prosecution brings those people to
25 court and shows that these are problems that the Department
26 of Corrections or the United States Bureau of Prisons has

1 with someone who is in custody.

2 That hasn't been shown to us here because it
3 doesn't exist.

4 Mr. Manson -- there are plenty of years there
5 -- Mr. Manson spent plenty of years in custody. Mr. Manson
6 had that one escape. And there was no showing of any
7 violence whatsoever.

8 He was on U.S. probation and parole after that.

9 So, we have a right, I would assume, to
10 certainly assess that for whatever it may be worth, that
11 alleged escape many years ago.

12 But the fact is that he is still not a person
13 that has created any kind of problem such that we have to
14 gas him to death, such that we have to levy the death
15 sentence. Because the very people, the United States Prison
16 and Parole people have had him under their jurisdiction.
17 And, as I say, that has been several years ago.

18 So, obviously, in these 23 years since he was a
19 boy of some eight years old, he has lived in this atmosphere
20 and he has lived in this atmosphere without creating problems.

21 So, there is no reason to expect that Mr. Manson
22 is going to create any problems when he is in custody in
23 connection with this case.

12a-1

1 We mention these points because the Court is
2 going to instruct us on mitigation and aggravation as
3 to these matters, the Crowe matter and the Hinman matter.
4 The Court is going to give us detailed instruction.

5 First of all, even if we should assume -- even
6 if we should assume for the sake of argument that Mr.
7 Manson were guilty of those two crimes as they are set
8 out by the judge's instructions -- the judge isn't
9 suggesting that he is guilty of them -- but the instruc-
10 tions give the definitions of these certain crimes --
11 that doesn't mean that we then must find for the death
12 sentence as to Mr. Manson.

13 Those are just there, they are there in the
14 absolute discretion of the jury to decide as far as
15 Mr. Manson is concerned, notwithstanding whether you decide
16 that he did or he did not commit these offenses.

17 We think that, from the standpoint of what
18 happened, for instance, in the Gary Hinman matter, that
19 Mr. Manson is certainly not guilty of any murder. He
20 is certainly not guilty of any murder.

21 The prosecution hasn't proved, beyond a
22 reasonable doubt, to us here in this courtroom, by any
23 means whatsoever, that Mr. Manson is guilty of killing
24 Gary Hinman.

25 And I think that the best proof of that is
26 that it wasn't made part of the Tate and La Bianca

12e-2

1 indictment. That is the best proof that we have that Mr.
2 Manson is not guilty. The prosecution didn't even think
3 so, or they would have made it a part of this case at the
4 very beginning.

5 Furthermore, in connection with the Bernard
6 Crowe matter -- the Bernard Crowe matter -- the question
7 is: Is Mr. Manson guilty of anything in connection with
8 that?

9 Well, if that were standing all alone by
10 itself, if we could detach ourselves from everything else,
11 would we, as jurors, find him guilty of any offense in
12 connection with the Bernard Crowe matter?

13 We can certainly argue that he shouldn't be --
14 we can certainly say that he wouldn't be, in light of the
15 circumstances, the call that was made, the response.

16 Is it unreasonable -- is it unreasonable --
17 as to what he did in that regard?

18 But as I say, really, the most important thing,
19 as far as this case goes, is not whether he is guilty or
20 not as to that event. The thing that is really important,
21 it shows that Charles Manson is not the kind of person
22 who has somebody else do anything for him. He acts on his
23 own behalf.

24 That Bernard Crowe matter, if such a thing
25 can be a shining example, it shows that Mr. Manson acts for
26 himself.

12a-3

1 And we are here judging the Tate-La Bianca
2 matters. That is what the death or life decision is on.
3 And Mr. Manson clearly shows, in those, in the events
4 concerning Bernard Crowe, Mr. Manson acts for himself.

5 Mr. Manson is at least possibly innocent.
6 Possibly innocent.

7 And the prosecution isn't objecting to those
8 words because even though the jury instruction is -- it
9 is going to say "Some doubt" or something like that -- we
10 are not a slave to any particular set of words, and the
11 words that we suggest and which we think, and which others
12 think, including the California Supreme Court --

13 MR. BUGLIOSI: I object, your Honor. He is talking
14 about the California Supreme Court.

15 MR. KANAREK: People vs. Terry.

16 MR. BUGLIOSI: It has nothing to do with that.

17 MR. KANAREK: People vs. Terry so says.

18 THE COURT: All right, Mr. Kanarek.

19 Read the last statement.

20 (The record was read by the reporter.)

21 THE COURT: I don't know what he is going to say
22 yet.

23 Overruled.

24 Go ahead.

12f fls.

12f-1

1 MR. KANAREK: The words that we should consider in
2 exercising our absolute discretion is "the possible
3 innocence," because no matter what differences of opinion
4 there may be, I am sure none of us wish, later on in our
5 lifetime, to find out that we have made a horrible mistake.
6 And that goes for any fellow creature of ours.

7 In closing, I would like to, if I may, just
8 read to you and have you consider those words:

9 These words which were -- it is the testimony
10 of Linda Kasabian.

11 "Mrs. Kasabian, you recently came from
12 Milford, New Hampshire?

13 "Yes.

14 "And you are reconciled with your husband?

15 "Yes.

16 "And you are living with your husband and
17 your two children?

18 "Yes.

19 "Happily?

20 "Yes."

21 Thank you very much.

22 THE COURT: Mr. Fitzgerald, are you going to argue
23 next?

24 MR. FITZGERALD: Mr. Shinn, your Honor, if the Court
25 please.

26 MR. SHINN: I am, your Honor.

1 THE COURT: All right. Go ahead.

2 MR. CHINN: Thank you, your Honor.

3 Your Honor, defense counsel, deputy District
4 Attorneys, and ladies and gentlemen of the jury:

5 I am going to confine my argument to the December
6 the 4th meeting that was held in Mr. Younger's office
7 between Mr. Younger, Mr. Stovitz, Mr. Bugliosi, Mr. Caballero
8 and Mr. Caruso.

9 I am going to discuss the events that led up
10 to the meeting, and the meeting itself, and also what happened
11 after the meeting and the five persons had participated in
12 the meeting.

13 Now, at this meeting were five persons, and
14 everyone of them were attorneys, and the only document that
15 resulted from this meeting was this confidential memorandum,
16 which I believe Mr. Stovitz testified that he had issued
17 after the meeting on December the 4th, 1969.

18 Now, I am going to show you some documents here.

19 Now, the first document I am going to show you
20 is this document. I think it is marked P-99.

21 This is the document that I discussed with
22 Lawrence Schiller and Mr. Caballero and Mr. Caruso. This
23 is approximately a ten-page document. And this is the
24 contract which Mr. Caruso, Caballero and Lawrence Schiller
25 entered into for the sale of Ales Atkins' story.

26 Now, this contract was actually a contract for

1 money, and it is a pretty detailed contract. It describes
2 the duties of each party and how the money was going to be
3 split up.

4 Now, the next document I want to show you is
5 P-DD. This is the retainer agreement which Mr. Caballero
6 had Miss Susan Atkins sign.

7 The next document I want to show you is this
8 attorney-in-fact.

9 Now, this is a document that Mr. Caballero had
10 Miss Atkins sign regarding Mr. Caballero and Mr. Caruso
11 being the agent to sell her story.

12 On the bottom of this page Mr. Caballero had
13 two witnesses sign. I believe they were working for the
14 District Attorney's Office, secretaries or clerks.

15 Then he starts out, spells out what percentage
16 each of the parties, like Lawrence Schiller and Mr.
17 Caballero and Mr. Caruso, had, and Susan Atkins had.

18 Now, these documents that I just showed you,
19 all these documents concern money, and they had set forth
20 all the conditions, and it is pretty iron-clad.

21 Now, this blank piece of paper that I am
22 holding up represents a contract they did not enter into at
23 the December 4th meeting regarding Miss Atkins' life.

24 Now, these five persons were all attorneys and
25 they were all educated persons. They studied contract law
26 in law school and they had experience in the law of

contract. Yet these five persons saw fit not to even draw
up a contract which would spell out what the District Attorney would do and what Miss Atkins was supposed to do, and what Mr. Caballero and what Mr. Caruso were supposed to do.

13-1

1 On a contract for money they can draw solid
2 contracts, but when it concerns a person's life, they saw
3 fit not to draw any contract at all.

4 Now, an inference can be drawn from the facts
5 and the evidence that the parties that entered into this
6 contract or agreement on December 4th, 1969, in Mr.
7 Younger's office -- the parties had no real intent to
8 carry out the agreement which they set forth in the
9 memorandum.

10 Now, the District Attorney's office has
11 hundreds of workers that can take shorthand, and I'm
12 pretty sure they have equipment which they could have
13 taped the entire conversation which took place in Mr.
14 Younger's office on December 4th, 1969, but they saw fit
15 not to even do that.

16 Now, at this meeting these five persons that
17 were at this meeting were supposed to look out for the
18 interests of Miss Atkins, and Mr. Caballero and Mr.
19 Caruso at this meeting were at that time representing Miss
20 Atkins.

21 Now, in this confidential memorandum dated
22 December 4, 1969, and which was I believe written out
23 by Mr. Stovitz, it says that, in the middle of the paragraph,
24 on this memorandum, you will be able to look at it when you
25 are in the jury room, and scrutinize it.

26 It says a discussion was held concerning the

13-2

1 value of Susan Atkins' testimony.

2 Now, this is about the middle of the paragraph;
3 it further states that it was acknowledged by Mr. Stovitz
4 and Mr. Bugliosi that the Los Angeles Police Department
5 was grateful for her cooperation in solving the Tate
6 murders and the La Bianca murders.

7 Now, when she went to this meeting on December
8 4, 1969, Miss Atkins had already cooperated with the Police
9 Department.

10 It states right here, the Los Angeles Police
11 Department was grateful for her cooperation in solving the
12 Tate murders and the La Bianca murders.

13 Now, it goes further / ^{and} states Susan Atkins'
14 information has been vital to law enforcement in solving
15 this case.

16 Now, even up to this point where she had
17 solved a case which the police, the Sheriff, the District
18 Attorneys had a very difficult time solving, it probably
19 went about four months after the murders before anyone
20 knew anything about this case.

21 Now, even at that point where Miss Atkins
22 had solved the case, at that point Mr. Caballero and Mr.
23 Caruso should have received for Miss Atkins some benefit,
24 I feel, a reasonable benefit for Miss Atkins at this
25 point would have been life.

26 But they go further and say that in view of

13-3

1 her past cooperation, and in the event --

2 Now, they go further now, they are getting
3 greedy now, the District Attorney, he got information that
4 broke the case and now they go on further and say that in
5 the event she testifies truthfully at the Grand Jury the
6 prosecution will not seek the death penalty against her
7 in any of the three cases.

8 Now, then, they go on to say that in the
9 event that she does cooperate in some manner, that they
10 may consider a lesser degree of murder.

11 Now, Mr. Caballero or Mr. Caruso were supposed
12 to be representing -- taking an interest in Miss Atkins'
13 part in this meeting.

14 According to this memorandum it would seem to
15 indicate that Mr. Caballero, Mr. Caruso were cooperating
16 with the District Attorney's office, and not looking
17 out for the best interests of Miss Atkins.

18 Now, we can make a fair inference from the
19 acts of all the parties involved for this meeting and
20 after the meeting, that these five persons on December 4,
21 1969, conspired to take the life of Susan Atkins.

22 Now, before the meeting started Mr. Caballero
23 testified that he was in contact with Mr. Bugliosi, and
24 I believe Mr. Caballero stated that it was somewhere
25 around Thanksgiving which was, I think, November 27th,
26 1969, he stated in his testimony that he had been in

1 contact with Mr. Bugliosi or with Stovitz regarding Miss
2 Atkins' participating in the Tate-La Bianca murders.

3 Now, he stated that he had already made the
4 deal for Miss Atkins before this December 4th, 1969,
5 meeting, and he also testified that on, I believe, December
6 1st or 2nd, that he turned these tapes that he took of
7 Miss Atkins either to the Police Department or Mr. Bugliosi.

8 This was even before the meeting of December 4,
9 1969, Mr. Caballero turns over the tapes of Miss Atkins'
10 confession to the authorities.

11 So we can infer or draw an inference that
12 before this meeting of December 4th they already got
13 together and decided what to do with Miss Atkins.

13a fls.

13a-1

1 Now, Mr. Bugliosi testified that he did hear
2 of Miss Atkins' statement from Mr. Caballero before December
3 1st, and he also testified that he did hear Miss Atkins'
4 tape of December 1st, 1969, and then Mr. Bugliosi also
5 testified that he went down to Mr. Caballero's office and
6 talked to Miss Atkins just before the Grand Jury, and also
7 Mr. Bugliosi testified that he did take Miss Atkins into the
8 Grand Jury hearing.

9 Now, he had three opportunities to correct any
10 statements that he thought Miss Atkins was not telling the
11 truth.

12 Now, I believe Mr. Bugliosi testified that al-
13 though he knew that Miss Atkins was not telling the 100
14 per cent truth; that he had not notified Mr. Caballero that
15 she was not telling the 100 per cent truth in some areas.

16 Now, if these five persons were in earnest in
17 working out a legitimate or a legal or a good deal for
18 Miss Atkins, Mr. Bugliosi would at that time, when he found
19 out that Miss Atkins was not telling the truth, would have
20 taken steps to rectify the discrepancy in Miss Atkins'
21 statement.

22 Mr. Bugliosi testified that he did not make any
23 attempts to correct her untruthful statements.

24 Now, I think at that time we could draw a fair infer-
25 ence that maybe Mr. Bugliosi was laying a foundation, a
26 foundation which he could introduce later after Miss Atkins

1 testifies at the Grand Jury, and say, "Well, she did not
2 tell the 100 per cent truth; therefore we are not going to
3 honor the agreement."

4 Now, getting back to the December 4th meeting
5 of 1969 in Mr. Younger's office, doesn't it seem strange
6 to you that no one even drew up a contract concerning what
7 the parties were supposed to do in order to protect Miss
8 Atkins' life?

9 There was no tape recordings of the meeting and
10 there was no shorthand reporter taking down every word that
11 was said at the meeting.

12 Now, here we are dealing with a person's life
13 here. They did not even make an effort to draw up some
14 kind of a contract, so each party would know what they were
15 supposed to do.

16 Now, you go out and buy a ring, a \$50 ring; you
17 give them \$10 down; they have you sign a contract.

18 You have seen these contracts, they are iron-
19 clad contracts, for \$50 ring they make you sign an iron-
20 clad contract.

21 And here we are dealing with a person's life,
22 no contract was entered into.

23 Therefore, we can draw a fair inference that
24 when they had a meeting on December 4th, 1969 all the
25 parties involved had no intentions of keeping that agree-
26 ment.

1 I believe the inference could be drawn that that
2 meeting was only for two purposes.

3 The first purpose was to have Miss Atkins
4 testify at the Grand Jury, so the District Attorney could
5 get an indictment against all of the defendants including
6 Charles Manson.

7 And the other purpose was to give Mr. Caballero
8 and Mr. Caruso Miss Atkins' story so they could peddle it.

9 I mean, that is a fair inference you can draw
10 from all of the facts and testimony that was brought out in
11 this case.

12 Now, let's examine what happened after Miss
13 Atkins went into the Grand Jury, which would indicate that
14 the parties involved had no intention of keeping their
15 agreements.

16 Now, Mr. Stovitz, I believe, testified that the
17 reason that the District Attorney's office is now going to
18 seek the death penalty was because Miss Atkins was not
19 telling the 100 per cent truth.

20 All of us know that no one tells the 100 per
21 cent truth.

22 Now, if that was the agreement entered into on
23 December 4, 1969, why did they not spell that out?

24 They left the word, "If she testifies truthfully
25 at the Grand Jury hearing."

26 Now, this memorandum does not indicate what

1 party or who was going to decide whether or not Miss Atkins
2 was telling the truth.

3 It is a very loosely-worded memorandum.

4 Now, Mr. Younger got on the stand and testified
5 that he felt that since Miss Atkins was not telling the truth
6 that his office would now seek the death penalty.

7 Mr. Younger testified that, on examination,
8 when we asked him whether or not he read this Times article
9 of December 14, 1969, and you heard his testimony.

10 He testified that he did see the headlines
11 but he did not read it.

12 Here is the District Attorney of Los Angeles
13 County, this is one of the biggest cases that he ever had,
14 and they had a difficult time solving this case.

15 He testifies that he did read the headlines but
16 did not read the article at all.

17 That would further demonstrate that these five
18 persons agreed -- agreed beforehand that Mr. Caballero and
19 Mr. Caruso could have Susan Atkins' story so they could sell
20 it in turn for Miss Atkins' testimony at the Grand Jury
21 hearing.

13b-1

1 Now, even when he was sent the book by the
2 Times newspaper he was sent this book on January 5th,
3 1970, and in this letter from Mr. Diehl, who is the
4 Times-Mirror editor, the letter stated "As per our conver-
5 sation, this is the transcript for the Lawrence Schiller
6 book," and I am pretty sure that in his telephone conversa-
7 tion with Mr. Younger Mr. Diehl had described the contents
8 of the book which was The Killing of Sharon Tate.

9 Now, Mr. Younger's response to this letter of
10 Mr. Diehl from the Times-Mirror, sent a letter back to
11 Mr. Diehl and he says in his letter that "I am returning
12 your manuscript."

13 He said "When you phoned me you did not state
14 anything about a two-day deadline."

15 Now, here is a District Attorney who is
16 involved in the crime of the century; he sees the title
17 of this book; it does not interest him.

18 He is not curious who wrote the book or what
19 persons are involved.

20 He just sends the book back to the Times-Mirror
21 saying that he doesn't have time to look at the manuscript.

22 Now, this book further demonstrates that the
23 parties who were involved in the December 4th agreement
24 had no intentions of carrying out their agreement.

25 Now, there was testimony regarding a gag
26 order which was issued by Judge Keene on December 10, 1969,

1 and Mr. Caballero stated that he was aware of this gag
2 order of December 10, 1969, which was issued by Judge
3 Keene.

4 Yet the same night Mr. Caballero took Mr.
5 Schiller, Mr. Cohen, Jerry Cohen from the Los Angeles Times,
6 a court reporter, and went into the Sybil Brand Jail to
7 take Miss Atkins' testimony.

8 And Mr. Caballero testified that he felt in his
9 own mind that the gag order of December 10th, 1969, did not
10 apply to him because the contract with Mr. Schiller was made
11 on December 8th or 9th and therefore he thought he was not
12 bound by the gag order.

13 Now, as far as I know Judge Keene has not
14 taken any steps against Mr. Caballero or Mr. Caruso for
15 the violation of his gag order.

16 This would further indicate that the meeting of
17 December 4th, 1969, between these five persons, that there
18 was a conspiracy to violate Miss Atkins' rights, a conspiracy
19 to take her life.

20 MR. BUGLIOSI: I'm not even going to bother to object
21 to something like that, your Honor, it's too far out.

22 THE COURT: Will counsel approach the bench.

23 (The following proceedings were had at the bench
24 out of the hearing of the jury:)

25 THE COURT: I did not like the sound of that last
26 statement, Mr. Shinn.

What do you mean by that?

MR. SHINN: What was my last statement about, conspiring to take Miss Atkins' life?

THE COURT: Yes, the conspiracy.

You started by saying "Judge Keene has done nothing about it," and then the next breath you say that this proves a conspiracy to take your client's life.

The implication I get from that is that the court is conspiring --

MR. SHINN: No, your Honor.

THE COURT: Well, that is what you said.

MR. SHINN: I did not mean to tie it in with Judge Keene.

THE COURT: Then I think you'd better indicate to the jury that you don't mean that.

MR. SHINN: Yes, sure.

THE COURT: All right.

(The following proceedings were had in open court in the presence and hearing of the jury:)

MR. SHINN: When I just stated that Judge Keene issued that gag order of December 10th, 1969, and he did nothing about Mr. Laruso and Mr. Caballero, I did not mean that Judge Keene was involved in this conspiracy, of these five persons that met in Mr. Younger's office on December 4th, 1969.

So I hope that you did not feel that I meant

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1 that Judge Keene was involved in this conspiracy.

2 When I talk about the conspiracy, I am just
3 speaking about the five persons that were involved in this
4 meeting of December 4th, namely, Mr. Younger and Mr.
5 Stovitz, and Mr. Bugliosi, Mr. Caballero and Mr. Caruso.

6 So I hope you did not think I meant Judge
7 Keene was involved in a conspiracy.

8 Now, the agreement which was entered into on
9 December 4th, was that Miss Atkins would testify truthfully
10 at the Grand Jury, and also that past cooperation would be
11 taken into consideration.

12 There was testimony that Miss Atkins did in
13 fact testify at the Grand Jury and after she testified
14 there was an indictment against all defendants including
15 Miss Atkins in this case, and I believe Mr. Caballero and
16 Mr. Caruso did testify that she did testify truthfully,
17 and right after they testified they did secure the indict-
18 ment against all defendants.

19 Now, the position of the District Attorney's
20 office is that she did not testify 100 percent truthfully.

21 Mr. Bugliosi testified that Miss Atkins did
22 testify substantially to truth.

23 It is up to you to decide whether or not she
24 performed her part of the agreement.

25 MR. BUGLIOSI: I object, your Honor, it is a
26 misstatement.

1 THE COURT: Sustained. The jury will disregard that
2 remark.

3 MR. SHINN: You can draw a fair inference -- a fair
4 inference can be drawn from the fact that after Miss Atkins
5 testified at the Grand Jury there was an indictment against
6 all defendants including Miss Atkins.

7 Now, if we are going to allow these five persons
8 who were at the meeting of December 4th, if we allow them
9 now to deny Miss Atkins her life, no defendant in a criminal
10 case will ever discuss their case with their attorney.

11 I believe now this is the first time in
12 criminal history, in such a big case like this, that an
13 attorney has sold their client's confession before the
14 trial even began.

15 I never heard of it before.

16 Now, if we allow this to go on, no defendant in
17 a criminal case will ever relate what actually happened
18 to the attorneys.

19 Now, the District Attorney is now seeking the
20 death penalty against Miss Atkins because they say that
21 Miss Atkins did not testify 100 percent truth at the Grand
22 Jury.

23 Now, let's examine the facts and see what each
24 party received,

25 The District Attorney now received a benefit.

26 They acknowledged that Miss Atkins' statement

1 was vital in breaking the case.

2 It secured an indictment against the defendants
3 and they had the benefit of Miss Atkins testifying at the
4 Grand Jury, and there was also testimony that Miss Atkins
5 was removed, I believe, three or four times to various
6 areas of the Los Angeles area to help the authorities with
7 this case.

8 Now, Caballero received the benefit of one-half
9 of the 40 percent for being Miss Atkins' literary agent and
10 he also received one-half of 50 percent left from the book
11 for a retainer fee.

12 Mr. Caruso also received one-half of 40 percent
13 for being an agent for Miss Atkins, and Lawrence Schiller
14 received 25 percent for selling Miss Atkins' story.

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1 Now, what does that leave Miss Atkins?

2 Miss Atkins has a possibility of going to the
3 gas chamber.

4 I don't think the State of California should be
5 allowed to profit from this wrong.

6 Now, the law states that the jury in a penalty
7 phase has an absolute discretion either to give life or give
8 death. There are no guidelines, there are no guideposts,
9 saying that under these circumstances you are supposed to
10 give death, and under these circumstances you are supposed
11 to give life.

12 The absolute discretion is upon the jury to
13 decide whether the person should live or die.

14 In other words, you can look at a person, and
15 if you don't like the way his hair is parted, you can give
16 him death; and you can look at another defendant and if you
17 like the color of his eyes, you can give him life. There
18 are no guidelines, no guideposts. You have that absolute
19 discretion.

20 Now, just because Mr. Bugliosi got up here and
21 stated that there were several lives, seven persons were
22 murdered, that, in itself, does not mean that you have to
23 automatically come back with a death verdict.

24 The Judge, the Court, will instruct you on that.

25 Now, you heard the testimony of Miss Atkins
26 about her early childhood, how she went to church and went

1 to school.

2 She testified that at the age of 14 her father
3 and mother got a divorce, and when her mother died, I
4 believe Miss Atkins was possibly 15 years old when her
5 mother died.

6 Miss Atkins started to take drugs. She left
7 home. She went up to San Francisco. She was working in a
8 bar where she met two boys. She started to drink heavily,
9 and she went up to Oregon with these two men, and got
10 involved with the law up there.

11 She came back down here to San Francisco and
12 started to take LSD, marijuana, and ended up at the Height-
13 Asbury District in San Francisco.

14 She also testified that she met Charlie and
15 she drove around in a bus with Mr. Manson, and finally ended
16 up at the Spahn Ranch.

17 She also testified that she was taking drugs
18 very heavily, LSD, speed, marijuana, and that she was under
19 the influence of LSD the nights of August the 8th and
20 August the 9th.

21 When she got up on the stand, she testified that
22 she stabbed Hinman, and she also testified that she stabbed
23 Sharon Tate.

24 She, I believe, under cross-examination, stated
25 that she felt no remorse. The psychiatrist testified that
26 he did examine Miss Atkins and he was of the opinion that

1 although she didn't manifest remorse, subconsciously she
2 was remorseful for what she had done.

3 And I believe a young girl her age is trying
4 to put on a front, showing that she is not remorseful.
5 I think we can believe the psychiatrist when he indicated
6 to us that she is subconsciously remorseful.

7 I think that you should take that into con-
8 sideration.

14a fls.

14a-1

1 I believe that she is still young. She is
2 21 years old. I believe that there is still a hope of
3 rehabilitating her.

4 Now, I don't see any usefulness in putting her
5 to death.

6 She may spend the rest of her life in prison.
7 Maybe some day she may be rehabilitated to the extent
8 that she may finally realize what she has done was not
9 right.

10 I believe that she deserves the chance, an
11 opportunity, so that maybe some day she may be released
12 and live the rest of her life out of prison.

13 Thank you.

14 THE COURT: Ladies and gentlemen, it appears that
15 there is a reasonable probability that the arguments will
16 conclude tomorrow and the jury will be instructed.

17 So, I remind you to bring whatever personal
18 articles and clothing you care to because there appears
19 to be a good chance that the jury will be sequestered at
20 the close of tomorrow's session.

21 There is also a possibility, of course, that
22 it won't be. But I think, to be safe, you should bring
23 your personal articles tomorrow.

24 Do not converse with anyone or form or express
25 any opinion regarding penalty until that issue is finally
26 submitted to you.

1 I remind you again, do not read, look at or
2 listen to any news relating to this case or allow yourself
3 to be influenced in your decision in the case by anything
4 except the evidence introduced into the trial, and then
5 only in accordance with the Court's instructions to you.

6 Do not converse with anyone on any aspect of
7 your service as a juror in this case until you are finally
8 discharged.

9 This admonition includes, of course, conversa-
10 tions with members of the news media, friends, relatives,
11 your families, and any other persons.

12 The court will adjourn until 9:00 o'clock
13 tomorrow morning.

14 DEFENDANT MANSON: (From the lockup) When are you
15 going to let me put on my defense?

16 Hey, Dad, Are you going to let me put on a
17 defense?

18 (Whereupon at 4:25 o'clock p.m. the court
19 was in recess.)
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