

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

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

Defendants.

91

No. A253156

COPY

REPORTERS' DAILY TRANSCRIPT
Friday, September 18, 1970
A. M. SESSION

APPEARANCES:

For the People:	DONALD A. MUSICH, STEPHEN RUSSELL KAY, LESLIE VAN HOUTEN and VINCENT T. BUGLIOSI, DEPUTY DISTRICT ATTORNEYS
For Deft. Manson:	I. A. KANAREK, Esq.
For Deft. Atkins:	DAYE SHINN, Esq.
For Deft. Van Houten:	LESLIE VAN HOUTEN RONALD HUGHES, Esq.
For Deft. Krenwinkel:	PAUL FITZGERALD, Esq.

VOLUME 91

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

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I N D E X

PEOPLE'S WITNESSES: VOIR DIRE DIRECT CROSS

De Carlo, Danny	10705		10726 F 10736 Sh 10767 K
Calkins, Robert L. (res.)		10717 B	

1 LOS ANGELES, CALIFORNIA, FRIDAY, SEPTEMBER 18, 1970

2 9:45 o'clock a.m.

3 - - - -

4 (The following proceedings were had in open
5 court in the presence of all defendants and their counsel,
6 the members of the jury being absent:)

7 THE COURT: All parties and counsel are present.
8 The jury is not present.

9 Are you prepared to proceed on the hearing on
10 the motion under Section 1538.5 of the Penal Code, Mr.
11 Bugliosi?

12 MR. BUGLIOSI: Your Honor, Sergeant Calkins was
13 supposed to be here at 9:45; he still is not here.

14 He was supposed to be here at 9:45. I told him
15 that yesterday.

16 THE COURT: Is there some other matter you can
17 proceed with in his absence?

18 MR. BUGLIOSI: I can go on with Danny DeCarlo.

19 MR. FITZGERALD: I have a matter I would like to
20 bring to the Court's attention outside the presence of
21 the jury.

22 THE COURT: I understood from the Clerk that all
23 parties were ready to go on the motion. Apparently that
24 is not the case.

25 Go ahead, Mr. Fitzgerald. This is a new
26 subject?

1 MR. FITZGERALD: Yes. Yesterday afternoon at the
2 bench I think Mr. Bugliosi made some aspersions about my
3 good faith in cross-examining Mr. DeCarlo in respect to
4 certain aspects of immunity, and I have here a sheaf of
5 documents that are photocopies of a Superior Court file,
6 No. A058069, that I would like to show to the Court.

7 This contains a minute order, and it contains
8 a District Attorney's recommendation for a dismissal against
9 Mr. DeCarlo.

10 I hesitate to mark it as an exhibit at this
11 point because this is the only copy I have, although I
12 would like to show it to the Court if that is permissible.

13 THE COURT: I have no objection. Do the People have
14 any objection to the Court seeing this document?

15 MR. BUGLIOSI: No objection. Could I see it first,
16 Paul?

17 MR. FITZGERALD: Certainly.

18 MR. KANAREK: Your Honor, Mr. DeCarlo is in the
19 courtroom. May he be out of the courtroom? We don't know
20 what colloquy may develop, your Honor.

21 THE COURT: All right, Mr. DeCarlo will leave the
22 courtroom.

23 (Whereupon Danny DeCarlo leaves the courtroom.)
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25
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2 fls.

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1 MR. FITZGERALD: If the Court please, I could mark
2 it as an exhibit if I could have leave to withdraw it in
3 order that I might make photocopies that I could have a
4 copy for my records.

5 THE COURT: Yes, that will be agreeable, Mr.
6 Fitzgerald.

7 MR. FITZGERALD: May this, then, be marked as, I
8 believe --

9 THE CLERK: V as in Victor.

10 MR. FITZGERALD: V?

11 THE COURT: Yes.

12 Of course, the point under consideration was
13 something in addition to what you have referred to.

14 Does this in any way go to that point?

15 In other words, the objection that was raised
16 was that you were, in effect, referring to some other
17 charges against the witness, after his answer that he had
18 not received any promises with regard to his testimony in
19 this case.

20 MR. FITZGERALD: Mr. De Carlo, in an informal
21 conversation just a few moments ago, informed me that he,
22 in fact, received no immunity or promises of immunity to
23 testify in this case; that his promise of immunity was
24 solely related to People vs. Beausoleil.

25 However, I do not feel that that is the case,
26 and, if possible, I intend to introduce evidence that it was

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1 all part of one package; that these three charges were
2 dismissed against De Carlo not only for his testimony in
3 People vs. Beausoleil but for his continuing cooperation
4 in regard to the so-called Tate case; and I would, in that
5 respect, like to ask Mr. De Carlo that question, or that
6 series of questions.

7 It would go something like this:

8 "Mr. De Carlo, isn't it true that certain charges
9 were dismissed against you so that you might testify in
10 People vs. Beausoleil; but also, wasn't it your under-
11 standing that you were to testify in front of the Grand
12 Jury and testify in any subsequent trial in the so-called
13 Tate-La Bianca homicides?"

14 If he then says, "No," I will abandon my inquiry
15 and attempt, during the defense portion of the trial, to
16 introduce evidence that through some police officers and by
17 other forms, that Mr. De Carlo was, in fact, granted
18 immunity, in fact, made certain promises.

19 In conjunction therewith, I also would like to
20 ask Mr. De Carlo, or intend to ask Mr. De Carlo, if, in
21 fact, there are not two assaults against police officers
22 pending against him in the State of Oregon that prosecution
23 officials in California have promised to help him with in
24 return for his testimony here today.

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1 THE COURT: Well, of course, the danger of that is
2 that unless you have some proof of it, Mr. Fitzgerald, you
3 get before the jury what, in effect, amounts to an accusa-
4 tion when there may, in fact, be nothing to it.

5 MR. FITZGERALD: Well, I will represent to the Court
6 that on Thursday last I had a conversation in the Hall of
7 Justice with one Ruthanne Morehouse who was Mr. DeCarlo's
8 former girl friend. She indicated to me that she had a
9 conversation with Mr. DeCarlo Thursday in the Hall of
10 Justice where Mr. DeCarlo stated to Miss Morehouse "They
11 have got me wrapped up. I have got to testify. I have two
12 assaults pending against me against police officers, and the
13 only way I can get out of them is to testify here."

14 THE COURT: I am not saying that you don't have a
15 perfect right to attempt to impeach the witness. That is
16 not the point at all. The question is: How do you go
17 about it?

18 It would seem to me that it would be possible
19 to ask in a general way the witness whether or not he has
20 been promised anything? Perhaps even being more specific
21 than that, without actually getting into the nature of the
22 alleged charges that you have in mind. And then if the
23 answer is "No," and you have some evidence to the contrary,
24 of course, you have every right to put that on.

25 MR. FITZGERALD: Well, in fairness to the prosecution,
26 if the Court please, I would have no objection to briefly

1 interrogating Mr. DeCarlo outside the presence of the jury
2 in regard to promises that have been made to him in connec-
3 tion with his immunity so that no prejudice will result in
4 front of the jury.

5 If we see that the inquiry is not fruitful,
6 I would be happy to abandon that whole line of inquiry and
7 wait until the defense portion of the case, and actually
8 put on evidence that Mr. DeCarlo made statements that he
9 was, in fact, promised immunity for certain offenses in
10 return for his testimony.

3 fls.

3-1

1 THE COURT: Well, I think that is something you can
2 work out with the prosecutors. If they are agreeable I
3 certainly have no objection.

4 MR. SHINN: Your Honor, on that point may I be heard,
5 your Honor, because I have the same idea as Mr. Fitzgerald,
6 asking Mr. De Carlo whether or not he had received any
7 benefits.

8 And I think under the basic facts and issues,
9 your Honor, I have two cases here.

10 The inquiry goes beyond his character, I think
11 counsel has a right to go further if it involves the basic
12 issue of whether or not he received benefits.

13 I have two cases I can cite to the Court.
14 That goes into the very matter.

15 Counsel has a right to go beyond to find out the
16 main issue in determining the main issue as to whether or
17 not he did receive the benefit. That is not an attack on
18 his character, your Honor.

19 The main issue is whether or not he received the
20 benefit for his testimony, and cases have held that is
21 permissible.

22 THE COURT: There is no question about that, Mr. Shinn.
23 That is not what we are talking about. We are talking about
24 the means of accomplishing it.

25 MR. SHINN: Yes, once you ask a witness whether or not
26 he received a benefit, that his charge has been dropped.

1 If he denies it, we can further cross-examine
2 the witness on that point, your Honor.

3 THE COURT: Well --,

4 MR. SHINN: Otherwise, if a witness states no, we
5 would be foreclosed in going further into the issue whether
6 or not he received a benefit.

7 THE COURT: It becomes a matter of good faith on the
8 part of counsel. A mere exploratory examination which gets
9 before the jury some imaginary charges or some imaginary
10 benefits when there is no proof of it is an improper method
11 of impeachment.

12 MR. SHINN: That I understand, your Honor.

13 I can advise the Court that I did talk to
14 Mr. Salter, a Public Defender that handled the Beausoleil
15 trial, and he has a rap-sheet on Mr. De Carlo, and he has
16 informed me -- I did not get enough time to get the
17 certified rap-sheet -- he did inform me that Mr. De Carlo
18 was at one time convicted of conspiracy to smuggle narcotics,
19 and he received a five-year federal sentence.

20 He was charged at one time with rape in
21 California and also he was charged with possession of a
22 dangerous weapon.

23 And recently he was charged with purchasing a
24 firearm under a false name, your Honor.

25 All of these charges were against Mr. Danny
26 De Carlo, and Mr. Salter did show me a rap-sheet.

1 THE COURT: Those may be facts --

2 MR. SHINN: We can inquire.

3 THE COURT: Unless they have some connection with
4 this case --

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1 MR. FITZGERALD: Mr. DeCarlo has in fact been con-
2 victed of a felony; he was convicted of smuggling marijuana
3 in the federal court.

4 Mr. DeCarlo is prepared to admit that under
5 oath.

6 My information by way of rap sheets and by way
7 of an investigative report indicates that he has been twice
8 convicted of a felony, once for smuggling marijuana, as
9 he admits; the other for a violation of 922(a)618 U. S.
10 Code, in that he did make a false and fictitious statement
11 to obtain possession of a firearm.

12 It is a false registration; it is a registration
13 of a firearm, not declaring that one has been previously
14 convicted of a felony.

15 Now, Mr. DeCarlo denies that allegation. Mr.
16 DeCarlo in fact denies that he has been convicted in the
17 federal court of a firearm registration violation -- that
18 is a felony -- although I would hope to impeach him with
19 that, and the prosecution has a certified -- strike that.

20 The prosecution has information in their
21 possession, I think, that would indicate that Mr. DeCarlo
22 has in fact been convicted of two felonies, and I think we
23 can handle this matter right now.

24 All we need to do is simply ask the prosecution
25 if it is in fact true, and I think we have clearly estab-
26 lished our good faith.

3a-2

1 THE COURT: As to the convictions?

2 MR. FITZGERALD: As to the convictions.

3 THE COURT: That is an entirely different problem
4 from the one we were talking about earlier.

5 MR. FITZGERALD: I agree.

6 MR. BUGLIOSI: There is only one point, your Honor,
7 I want to advise the defense of a section they might be
8 unaware of, Section 791 of the Evidence Code which refers
9 to prior consistent statements.

10 If the defense is alleging that Danny DeCarlo's
11 testimony is recently fabricated because of any offers,
12 and if they prove that, we intend to offer prior statements
13 made by Mr. DeCarlo in which he told me and other members
14 of law enforcement, in which he told me essentially the
15 same thing he is testifying to on the witness stand.

16 I just want to inform them we will go into
17 this, if they go into that area, Section 791.

18 MR. KANAREK: He is changing the subject.

19 MR. BUGLIOSI: I want to advise them of 791. Maybe
20 they are not aware of it.

21 MR. FITZGERALD: I am aware of 791 of the Evidence
22 Code but it is our contention these promises of leniency
23 and immunity took place before any testimony took place --

24 MR. KANAREK: Furthermore, your Honor, it's still
25 impeachment, whether there is prior consistent statements
26 or not, we still have the right to offer this impeachment

1 on a -- standing on its own two feet, regardless of prior
2 consistent statements.

3 I would like to point out to your Honor another
4 point, Mr. Witkin says at page 1137 a witness may be
5 impeached by showing that he has received or will receive
6 money or other benefits from the parties for whom he
7 testifies.

8 Now, the People of the State of California is
9 the same party in both cases so it is clear that having
10 received benefits from this party that we can introduce
11 what Mr. Fitzgerald is trying to introduce, integrated in
12 the exhibits -- whether it occurred in the Beausoleil case
13 or whether it occurred in this case, his identity is with
14 the plaintiff, the People of the State of California and
15 therefore I would say -- and there is a line of cases here
16 that makes it clear that I think we have an independent
17 basis because he is getting the benefit -- he received
18 benefits from the same plaintiff -- it matters not what
19 lawsuit it was.

20 THE COURT: That would be true, though, only if the
21 benefit related to this case, wouldn't it?

22 MR. KANAREK: No, your Honor, no.

23 THE COURT: Why?

24 MR. KANAREK: Because the bias -- the impeachment.

25 THE COURT: What relevancy is there?

26 MR. KANAREK: Because it is his state of mind. He

1 has gratitude towards Mr. Bugliosi; he has gratitude towards
2 the prosecution because it is the party involved.

3 In other words, in this case we have the same
4 plaintiff as we had in the Beausoleil case, and the jury
5 is entitled to know that he has this relationship at a
6 prior time with the party.

7 THE COURT: Well, I have no doubt of that, Mr. Kanarek,
8 I think you are right.

9 Again, the question is one of method.

3b fls.

3B-1

1 MR. KANAREK: But -- but -- but -- but -- because of
2 this line of cases I think it is clear, since the same
3 party gave him the benefits before, that he -- that we have
4 a right to proceed as Mr. Fitzgerald has indicated.

5 MR. FITZGERALD: Well, I discussed it with
6 Mr. Bugliosi, and he is agreeable to, and I would join in
7 the recommendation that we initially examine Mr. De Carlo,
8 outside of the presence of the jury.

9 THE COURT: Do you want to do that now?

10 MR. FITZGERALD: That is agreeable.

11 MR. BUGLIOSI: I have no objection.

12 THE COURT: All right, or do you wish to take up the
13 other motion first?

14 (No response.)
15

16 DANNY DE CARLO,
17 the witness on the stand at the time of the adjournment,
18 resumed the stand and testified further as follows:

19 THE CLERK: Would you state your name, please.

20 THE WITNESS: Danny De Carlo.
21

22 VOIR DIRE EXAMINATION

23 BY MR. FITZGERALD:

24 Q Mr. De Carlo, you testified in the Los Angeles
25 Superior Court in the case of People versus Robert
26 Beausoleil, did you not?

3B2

1 A Yeah.

2 Q And you were called as a prosecution witness,
3 were you not?

4 A Yeah.

5 Q And you testified in two separate files
6 involving Beausoleil, did you not?

7 A Yeah.

8 Q One that took place in Santa Monica in the
9 Santa Monica Branch of the Los Angeles County Superior
10 Court, and the other in Department 107 of the Superior
11 Court, actually located in this very building, did you not?

12 A Yeah.

13 Q And you had an agreement with the prosecution in
14 regard to a case that was then pending against you, did you
15 not?

16 A Yeah.

17 Q Could you briefly explain what your agreement
18 with the prosecution was in regard to you testifying in
19 Beausoleil?

20 MR. KANAREK: Your Honor, I object to that on the
21 grounds of hearsay.

22 MR. FITZGERALD: It is not going to harm anybody.
23 We are outside of the presence of the jury and I think it
24 will expedite matters, your Honor, and therefore, I won't
25 be leading the witness and he can just tell us what the
26 agreement was.

3b3

1 THE COURT: objection overruled, you may answer.

2 THE WITNESS: Well, the agreement was that if I
3 testified they would drop the charges.

4 But I was already going to testify anyway. They
5 just threw this in, so actually it wasn't an agreement, they
6 did it anyway. I did not ask them to, you see, we did not
7 sit down and plan this out or nothing, no, they just said,
8 "Well, anyway."

9 I said, "Well, all right, that's up to you, I
10 don't care one way or the other."

11 I had a lawyer working on it; I could have beat
12 it anyway, but they did.

13 But it wasn't in return, you see, we did not
14 sit down and plan this out that if I did they would drop it,
15 because I would have testified anyway whether they dropped
16 it or whether they didn't, so they did it on their own,
17 so --

18 Q Now, the cases we are talking about that they
19 were going to drop were a Grand Theft of a motorcycle engine?

20 A Yeah.

21 Q Receiving Stolen Property and Possession of
22 Marijuana, is that correct?

23 A Right, that's correct.

24 Q And those cases were in fact dismissed against
25 you the same day that you testified in the first Beausoleil
26 trial?

4 A I am not sure if they were ^{or} not.

4-1

1 Q Were they dismissed?

2 A Yes.

3 Q About the same time that you testified in
4 Beausoleil?

5 A Yes.

6 Q Now, did a police officer tell you that the
7 charges against you were going to be dismissed, or was it
8 a Deputy District Attorney, or some other person?

9 A It was a D.A., a Deputy District Attorney.

10 Q Was that a fellow by the name of Ross?

11 A Yes.

12 Q Had you discussed any facts or any circum-
13 stances surrounding the defendants Charles Manson, Susan
14 Atkins, Patricia Krenwinkel or Leslie Van Houten with the
15 police or the District Attorney at the time they told you,
16 or he told you, your case was going to be dismissed?

17 A No.

18 Q You are sure of that?

19 A I am positive.

20 Q When did you first talk to the police or to
21 the District Attorney's Office about facts or circumstances
22 surrounding this case?

23 A When Sadie told her story.

24 Q And that would be December 14th or so?

25 A Yes. When it broke in the papers is when I
26 first found out about this. I didn't know nothing about it

1 until then.

2 Q And the police came to you, or you came to the
3 police?

4 A No, they came to me.

5 Q Was there some reason for that, if you know?

6 A No. Just to talk to me.

7 Q Answer this question if you are able to. Why
8 did they come and see you about the Tate case?

9 MR. BUGLIOSI: Calls for a conclusion, and it is
10 also irrelevant.

11 MR. KANAREK: I will join with the District Attorney
12 on that ground.

13 MR. BUGLIOSI: How is he supposed to know, your Honor?
14 In any event, it would be hearsay.

15 THE COURT: I agree that it is objectionable on all
16 of those grounds. Nevertheless, I think the witness should
17 be permitted to answer.

18 MR. BUGLIOSI: Withdraw the objection.

19 THE COURT: This is voir dire examination.

20 THE WITNESS: Well, I really don't know, other than
21 they knew I was up there because they took pictures of the
22 place and they saw me up there.

23 BY MR. FITZGERALD:

24 Q The ranch you are referring to?

25 A Yes. They knew I was up there, so they came
26 and got me to talk to me.

1 Q Now, were any promises made to you by the
2 police or by the District Attorney in order to get you to
3 testify at the Grand Jury hearing in this case or to get you
4 to testify in this courtroom?

5 MR. KANAREK: Calling for a conclusion, your Honor.

6 THE WITNESS: No.

7 MR. KANAREK: It solicits a conclusion.

8 Mr. Bugliosi has made much of circumstantial
9 evidence in this case. I think it is the circumstances
10 that are important as to what is affecting this witness's
11 state of mind, and his verbalizing as to the promises is
12 strictly a solicitation of a conclusion.

13 THE COURT: Overruled.

14 Did you answer it?

15 THE WITNESS: No, they didn't make no promises to me,
16 none whatsoever about anything, your Honor. Nothing.

17 They just asked me what I did up there, and that
18 is all. And I told them what I did. I had a good time,
19 you know. That is all I did. I don't know anything about
20 what they did.

4a fls.

1A-1

1 MR. FITZGERALD: Q Now, are there any cases
2 pending against you, any assaults on police officers, in
3 Oregon or elsewhere that the prosecution has promised to
4 help you with in return for your testimony in this case now?

5 A Definitely no.

6 I have cases pending, but I got a lawyer and he
7 is sitting right there and we are taking care of it our-
8 selves. There ain't nobody else helping me but my lawyer,
9 and that is it.

10 Q Are those cases pending in Los Angeles County?

11 A Yes.

12 Q Are they being prosecuted by the District
13 Attorney's office of Los Angeles County?

14 A You will have to talk to my lawyer. He is
15 standing up right there.

16 MR. NASSITIR: I am Michael D. Nassitir. I represent
17 Mr. De Carlo in a pending Federal matter.

18 THE COURT: Thank you, sir.

19 MR. NASSITIR: If the matter is to be delved into,
20 I would appreciate it being heard out of the presence of
21 the jury.

22 THE COURT: If you care to, Mr. Nassitir, you may
23 come and sit in the jury box while this hearing is going on.

24 MR. NASSITIR: Thank you.

25 MR. FITZGERALD: If the record does not so indicate,
26 I think that the record should indicate that this hearing

a2
1 is being conducted outside the presence of the jury.

2 THE COURT: Yes, the record so indicates.

3 MR. NASSITIR: All I meant by that is that if there
4 is any question to be asked, that they be asked at this
5 hearing.

6 THE COURT: Well, we can't make any such promise, sir,
7 because the defendants have the right to try to impeach the
8 credibility of the witness in front of the jury.

9 Go ahead, Mr. Fitzgerald.

10 MR. FITZGERALD: Q Does that case pending
11 against you in the Federal Court revolve around a false
12 registration in connection with a firearm?

13 A Yes.

14 Q Now, did you have a conversation with a Ruth Ann
15 Moorehouse last Thursday in the Hall of Justice outside in
16 the hallway?

17 A Yes.

18 Q Was there anybody else present besides yourself
19 and Miss Moorehouse?

20 A At times there were.

21 Q Who were those persons?

22 A Kathy --

23 MR. NASSITIR: Excuse me, your Honor.

24 Before we go any further, may we have a
25 conference at the bench on this matter? Or may counsel
26 make an offer of proof so I can determine whether it would

1 tend to violate the defendant's Fifth Amendment rights as to
2 the federal charge pending against him. I'd appreciate
3 knowing it so I know what objection to make and how to
4 advise the witness.

5 THE COURT: He is now talking about, apparently a
6 conversation in the hallway last week.

7 MR. NASSITIR: If that conversation deals with that
8 subject, which is why I am requesting an offer of proof, I
9 would appreciate an opportunity to advise this witness.

10 MR. FITZGERALD: It doesn't involve the federal
11 matter.

12 MR. NASSITIR: With that representation, no objection.

13 THE COURT: All right.

14 MR. FITZGERALD: Kathy Gillis; was that her name?

15 A Yes.
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4B

4b-1

1 Q Was there anybody else present?

2 A No, not sitting there. The police would walk
3 by once in a while.

4 Q Did you have a conversation with Miss Morehouse
5 in regard to why you were testifying in this case?

6 A No.

7 Q Did she ask you why?

8 A No, not exactly.

9 Q In response to some question in regard to your
10 testimony, did you respond that "They have me all wrapped
11 up. There are two assaults" --

12 A No, I didn't tell her that, no.

13 Q Did you mention anything about --

14 A No. We talked about -- Do you want to know what
15 we talked about? I will tell you what we talked about if
16 you want to really know.

17 THE COURT: Wait for the question, Mr. DeCarlo.

18 BY MR. FITZGERALD:

19 Q Now, did you say something to Ruthanne Morehouse
20 about some one or more assaults on police officers pending
21 against you that the prosecution was going to help you with?

22 A No.

23 MR. FITZGERALD: I have nothing further.

24 THE COURT: Any other questions, Mr. Shinn?

25 MR. SHINN: Yes, your Honor.

26 (Mr. Shinn confers with Mr. Fitzgerald.)

4b-2

1 MR. FITZGERALD: Excuse me, your Honor.

2 Q Have you ever been convicted of a felony,
3 Mr. DeCarlo?

4 A Yes.

5 Q When and where, if you know?

6 A 1966, in San Diego.

7 Q Was that a federal charge, smuggling marijuana?

8 A Yes.

9 Q You have not, after that, been convicted of any
10 other felony?

11 A No. That is the only one.

12 MR. FITZGERALD: Thank you, your Honor.

13 I have nothing further.

14 MR. SHINN: I have nothing, your Honor.

15 THE COURT: Mr. Kanarek?

16 MR. KANAREK: I have no questions, your Honor.

17 THE COURT: Mr. Hughes?

18 MR. HUGHES: I have no questions at this time.

19 THE COURT: You may step down, sir.

20 MR. BUGLIOSI: Sergeant Calkins is here now.

21 THE COURT: All right. We will take up the other
22 matter at this time, the continuation of the defendants'
23 motion under 1538.5 of the Penal Code with regard to the
24 motion to suppress the evidence obtained as the result of
25 a search at the Spahn Ranch.
26

1 ROBERT L. CALKINS,
2 having been previously duly sworn, resumed the stand and
3 testified further as follows:

4 THE CLERK: Would you state your name, sir.

5 THE WITNESS: Robert L. Calkins; C-a-l-k-i-n-s.

6
7 DIRECT EXAMINATION (Resumed)

8 BY MR. BUGLIOSI:

9 Q Sergeant, do you recall testifying earlier that
10 on November the 19th, 1969, you and I had a tape recorded
11 conversation with George Spahn?

12 A Yes, sir.

13 Q And you were going to attempt to find this tape;
14 is that correct?

15 A That is correct, sir.

16 Q Have you searched for the tape?

17 A Yes, I have.

18 Q Have you been successful in finding it?

19 A No, sir.

20 MR. BUGLIOSI: No further questions.

21 MR. FITZGERALD: No questions.

22 MR. KANAREK: No questions, your Honor.

23 MR. SHINN: No questions, your Honor.

24 THE COURT: Mr. Hughes?

25 MR. HUGHES: I believe, your Honor, by our stipula-
26 tion, I was not going to ask any questions in this area

1 because it did not pertain to Leslie Van Houten.

2 MR. BUGLIOSI: Right.

3 THE COURT: All right.

4 Sergeant, is it your belief now that this
4c fls 5 tape is no longer in the Police Department?

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1 MR. KANAREK: Your Honor, may I -- I must object to
2 the Court's question as calling for a conclusion, and it is
3 immaterial and irrelevant, because whether it is in the
4 Police Department or not, since they had custody of it,
5 in accordance with Brady vs. Maryland and People vs.
6 Kiioha, if it doesn't exist, they have a duty to bring it.

7 So, therefore, the Court's question is irrelevant.

8 THE COURT: Overruled.

9 You may answer.

10 THE WITNESS: Your Honor, I think the tape was
11 inadvertently erased.

12 I don't have any evidence of this but it is the
13 only way that I can feel in my mind. I am sure that the
14 actual physical tape we still have, but I believe the
15 recording that was on it was inadvertently erased.

16 MR. KANAREK: Motion to strike that, your Honor.

17 THE COURT: The motion is denied.

18 Well, do you believe you have searched all of
19 the places where this tape reasonably could be expected to
20 be found if it does exist?

21 THE WITNESS: Yes, sir, I have.

22 THE COURT: Any questions?

23 MR. KANAREK: No, your Honor, I have none.

24 THE COURT: You may step down.

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

26 THE COURT: Yes.

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1 MR. KANAREK: Your Honor, I think, based on case
2 law and fundamental rights guaranteed by the Due Process
3 Clause of the 14th Amendment and the California Due Process,
4 there has been a suppression of evidence; and assuming
5 arguendo that it is inadvertent, it makes no difference.
6 If, objectively, we are deprived of that, then the
7 evidence must be suppressed.

8 THE COURT: Do the People have any further evidence
9 on the motion?

10 MR. BUGLIOSI: No, your Honor.

11 THE COURT: Do the defendants have any evidence on
12 the motion?

13 MR. FITZGERALD: None on behalf of Defendant Patricia
14 Krenwinkel.

15 MR. SHINN: None on behalf of Susan Atkins.

16 MR. KANAREK: No further evidence, your Honor.

17 THE COURT: Both sides rest?

18 Do the People wish to argue?

19 MR. BUGLIOSI: Yes, your Honor.

20 I have already argued earlier that the only
21 evidence that this was a consensual search. If the defense
22 wishes to controvert this fact, they can call their own
23 witnesses, such as Mr. Spahn. They have not elected to do
24 so.

25 The only evidence in the record at this point,
26 from two witnesses, Sergeant Lee and Sergeant Calkins, is

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1 that Mr. Spahn gave consent to the police and to myself to
2 search the ranch.

3 The transcript is totally devoid of any contro-
4 verting evidence.

5 There is a prima facie case that Mr. Spahn
6 gave permission to search, your Honor. If there is any
7 question about it, if they wanted to contest it, they could
8 have put on their own defense. They have not chosen to do
9 that.

10 I would rest with that.

11 THE COURT: Very well.

12 Any argument?

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1 MR. FITZGERALD: I would submit the matter on the
2 argument that I heretofore made to the Court.

3 In addition, though, I briefly point out that
4 the case law is clear that the burden to show consent is
5 on the part of the prosecution, and I suggest that obviously
6 the best evidence of that consent would be Mr. Spahn himself.

7 I submit the facilities of the prosecution are
8 much greater than that of the defendants, and if they chose
9 to have Mr. Spahn here, they could have done it very
10 easily, much more so than the defendants.

11 MR. BUGLIOSI: I would like to respond to that, your
12 Honor, if I may have a chance?

13 THE COURT: Any other argument?

14 MR. SHINN: Yes, your Honor.

15 I agree with Mr. Fitzgerald, your Honor.

16 Where there is a constitutional right involved,
17 your Honor, I believe the heavy burden is on the prosecu-
18 tion, and I believe all the evidence we have now is the
19 fact that an officer gets up there and states that someone
20 gave him permission.

21 I don't think that satisfies the statute.

22 MR. KANAREK: Very briefly, your Honor.

23 The burden does not shift. There is no showing
24 of any search warrant. The case law is clear that what
25 the police officer -- what these officers have testified
26 to must be suppressed because of what they did in connection

1 with this tape.

2 It seems to me clear that there was no question
3 but what the People have this burden, and there is no
4 evidence, no competent evidence, before the Court that can
5 be used in view of the fact that the tape has been destroyed.

6 THE COURT: Anything further?

7 MR. BUGLIOSI: Yes. A few more points, your Honor.

8 All defense counsel know -- they are all
9 experienced trial lawyers -- they have been in court many
10 times -- that 99 times out of a hundred when we are dealing
11 with a consensual search, the prosecution does not call
12 to the witness stand the person that gave the consent,
13 they call the person to the stand who received the consent.

14 This is what we have done in this case.

15 With respect to the Best Evidence rule,
16 Section 1500 of the Evidence Code, the Code clearly pro-
17 vides that when the best evidence is lost, such as a
18 writing or a tape recording, then the next best evidence
19 is admissible. In this case, the officer's recollection
20 of the conversations that took place.

21 Moreover, your Honor, there is a serious ques-
22 tion as to whether there was even a search here inasmuch
23 as the shell casings were not found inside of any building,
24 they were found in open view on the land of Spahn Ranch.

25 At most, even assuming arguendo that there was
26 no consent, and we can't stipulate to that because the only

1 evidence in the record is that there was consent, but even
2 assuming arguendo there was no consent, all we are dealing
3 with here is a trespass, and I think the cases are clear
4 that a trespass does not invalidate any property found as
5 the result of a search.

6 There are cases on that in the State of Cali-
7 4e fls., fornia and also in the federal courts.

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1 MR. KANAREK: If I may respond briefly, your
2 Honor?

3 THE COURT: You have had your argument,
4 Mr. Kanarek.

5 MR. KANAREK: Very well, your Honor.

6 THE COURT: The Court finds that the search was
7 made pursuant to consent given by Mr. Spahn; that that
8 consent was freely and voluntarily given; and the defen-
9 dant's motions under 1538.5 of the Penal Code to suppress
10 the evidence are denied.

11 MR. BUGLIOSI: Your Honor, does the Court then wish to
12 resume the testimony of Sergeant Lee with respect to these
13 shell casings, or should we continue with Mr. De Carlo and
14 then go back to Mr. Lee?

15 THE COURT: I have no desire one way or the other,
16 Mr. Bugliosi. I think it is up to you to decide how you
17 wish to proceed.

18 MR. BUGLIOSI: We would prefer to call Sergeant Lee
19 to the stand at this time.

20 MR. KANAREK: Your Honor, I think the continuity of
21 Mr. De Carlo's testimony is important.

22 THE COURT: Is Mr. Lee's testimony to be given out
23 of the presence of the jury?

24 MR. BUGLIOSI: No. In front of the jury, your Honor,
25 with respect to the finding of the shell casings.

26 THE COURT: All right.

MR. KANAREK: I would object to interrupting the testimony of Mr. De Carlo to put on Mr. Lee.

THE COURT: We are in the course of the examination of Mr. De Carlo and I think it would, perhaps be more fair to permit that to continue without interruption.

MR. BUGLIOSI: Very well. That is why I asked, your Honor.

THE COURT: All right.

The bailiffs will please bring the jury in.

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1 (The following proceedings were had in open
2 court in the presence and hearing of the jury, all
3 defendants and all counsel being present:)

4 THE COURT: The record will show all parties,
5 counsel and jurors are present.

6 Mr. De Carlo, will you resume the witness stand.

7 THE CLERK: Would you state your name, please.

8 THE WITNESS: Danny De Carlo.

9 THE COURT: You may proceed, Mr. Fitzgerald.

10 MR. FITZGERALD: Thank you, your Honor.

11
12 CROSS-EXAMINATION (Continued)

13 BY MR. FITZGERALD:

14 Q You were in the military service, I believe, the
15 Coast Guard, is that correct, Mr. De Carlo?

16 A Yeah.

17 Q I think that during your period of time in the
18 Coast Guard you had occasion to take orders from people,
19 did you not?

20 A Oh, yeah.

21 Q And I take it you are familiar with the customary
22 manner in which military orders are given to enlisted
23 personnel?

24 A Yeah.

25 Q Now, the orders you referred to in connection
26 with Mr. Manson, were they of the same kind of orders that

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1 you experienced in the Army or the Coast Guard?

2 A No.

3 Q Mr. Manson, did not give orders much like a drill
4 sergeant would, in other words?

5 A No.

6 Q And in fact, Mr. Manson asked people to do things
7 rather than ordered people to do things, isn't that
8 correct?

9 MR. BUGLIOSI: It is too broad a question, your
10 Honor. I will object on the grounds it has to be much more
11 specific.

12 MR. KANAREK: Mr. Bugliosi in his questioning, your
13 Honor, made very broad -- he had asked general type
14 questions exactly -- very similar to this.

15 THE COURT: The objection is sustained.

16 Reframe the question.

17 Q BY MR. FITZGERALD: You referred in your direct
18 testimony to Mr. Manson giving orders and instructions on
19 numerous occasions, is that right?

20 A Yeah.

21 Q Now, bearing in mind those occasions, did
22 Mr. Manson ask people to do various things, or did he order
23 them to do various things?

24 MR. BUGLIOSI: Ambiguous and too broad, same
25 objection, your Honor.

26 I would ask that defense counsel direct

1 Mr. De Carlo to a particular instance.

2 THE COURT: He can testify to the manner in which
3 these things were said, if there were some consistent --

4 MR. BUGLIOSI: Yes, your Honor, as to a particular
5 instance.

6 THE COURT: Overruled, you may answer.

7 THE WITNESS: Well, yeah, that he did, he would ask
8 you; sometimes he would also tell you, so it worked both
9 ways.

10 Q BY MR. FITZGERALD: In those situations in
11 which he told people to do things, did he order them in
12 some sort of a military form to do something?

13 A No.

14 Q In what specific instances did Mr. Manson tell
15 somebody to do something?

16 A I cannot recall the exact instance.

17 Q Can you recall any instance in which he told
18 someone to do something?

19 A No.

20 Q Mr. Manson asked you not to drink beer out on
21 the ranch, didn't he?

22 A Yeah.

23 Q Did you obey him?

24 A No.

25 Q Did he tell you not to drink?

26 A Yeah.

1 Q You did not obey him, did you?

2 A No.

3 Q Did he effect some reprisal upon you because
4 you did not do what he asked you to do?

5 A No.

6 Q Isn't it true that during the period of time
7 you stayed at the Spahn Ranch Mr. Manson allowed people
8 to do whatever they wanted to do?

9 MR. BUGLIOSI: That is too broad a question. I
10 object on that ground.

11 THE COURT: Sustained.

12 Q BY MR. FITZGERALD: Was it your understanding
13 that Mr. Manson's attitude was an attitude of allowing
14 people to do whatever they wanted?

15 MR. BUGLIOSI: Far too broad, also calls for a
16 conclusion, your Honor.

17 THE COURT: Sustained.

18 Q BY MR. FITZGERALD: Mr. Manson was not a military
19 dictator, was he?

20 A No.

21 Q During the period of time that you were at the
22 Spahn Ranch did Mr. Manson appear to protect people that
23 lived at the ranch?

24 MR. BUGLIOSI: Calls for a conclusion, your Honor,
25 too broad.

26 THE COURT: It is ambiguous. Sustained.

1 Q BY MR. FITZGERALD: Now, you were arrested at the
2 Spahn Ranch during the early morning hours of August 16th,
3 1969, is that correct?

4 A Yeah.

5 Q The night before members of your motorcycle
6 club came to the Spahn Ranch, isn't that correct?

7 A Yeah.

8 Q And you previously testified that they came for
9 the purpose of taking you away from the ranch?

10 A Yeah.

11 Q Did they also come there to kill Mr. Manson?

12 MR. BUGLIOSI: Calls for a conclusion, your Honor.

13 THE COURT: Sustained.

14 Q BY MR. FITZGERALD: There was some conversation
15 between the members of your motorcycle organization and
16 Mr. Manson on August the 15th, was there not?

17 MR. BUGLIOSI: Calls for a conclusion, your Honor,
18 whether he is a percipient witness.

19 THE COURT: Read the question, please.

20 (Whereupon, the reporter reads the question as
21 follows:

22 "Q There was some conversation
23 between the members of your motorcycle organi-
24 zation and Mr. Manson on August the 15th, was
25 there not?"

26 THE COURT: Sustained in that form.

1 Q BY MR. FITZGERALD: Were you present when one
2 of the members of your motorcycle organization told
3 Mr. Manson that he was going to kill him on the evening of
4 August the 15th?

5 MR. BUGLIOSI: The question assumes a fact not in
6 evidence, your Honor.

7 THE COURT: Sustained.

8 Q BY MR. FITZGERALD: What happened when members of
9 your motorcycle group came to the ranch on the evening of
10 August 15th?

11 MR. BUGLIOSI: Too general a question; it calls for a
12 narrative, your Honor. I object on that ground.

13 THE COURT: Sustained.

14 Q BY MR. FITZGERALD: What happened when they first
15 arrived?

16 A Well, they all pulled up.

17 They was in -- there were two carloads of them,
18 and I was smashed.

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1 Q You were drunk?

2 A Yeah, and we was all out there dancing and
3 singing, we was all having a good time, and they pulled up,
4 and the president walked in.

5 Q The president of your club?

6 A Yeah, and he wasn't smiling at me, so I knew
7 they was there for something.

8 So they told me that they had a meeting, and it
9 only lasted a few minutes --

10 MR. BUGLIOSI: I object, your Honor, on the grounds
11 it calls for hearsay.

12 It is a hearsay conversation.

13 There does not seem to be any exception to the
14 hearsay rule applicable.

15 THE COURT: Are you referring to the conversation he
16 is about to relate?

17 MR. BUGLIOSI: The conversation between Mr. DeCarlo
18 and the president of his club.

19 THE COURT: The objection is sustained.

20 BY MR. FITZGERALD:

21 Q On August 15th you were a member of the club,
22 right?

23 A Yeah.

24 Q And your club was going to kill Mr. Manson that
25 evening, isn't that correct?

26 MR. BUGLIOSI: Calls for conclusion, your Honor.

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1 THE COURT: Sustained.

2 BY MR. FITZGERALD:

3 Q Were any members of your organization armed on
4 the evening of August 15th?

5 A Not that I know of.

6 Q Did you see any members of your organization
7 attempt to burn down the Spahn Ranch?

8 A No.

9 Q Was there some conversation in regard to burning
10 the Spahn Ranch?

11 A Yeah.

12 Q Was that a conversation involving some member
13 of your organization?

14 A Yeah.

15 Q But it also involved Mr. Manson? Was Mr. Manson
16 a party to the conversation?

17 A No.

18 Q Did you feel on the evening of August 15th
19 that you owed some allegiance to the people who lived at
20 the Spahn Ranch?

21 A They were good to me.

22 Q Did you also feel that you had some allegiance
23 to this organization, the Straight Satans?

24 A Yeah.

25 Q Did you side with the Straight Satans against
26 the people who lived at the Spahn Ranch on the evening of

5a-3

1 the 15th?

2 MR. BUGLIOSI: Irrelevant, your Honor.

3 THE COURT: It is also ambiguous. The objection is
4 sustained.

5 BY MR. FITZGERALD:

6 Q On August 15th, 1969, did you hate Charles
7 Manson?

8 A No.

9 Q Did you love him?

10 A Yeah.

11 Q Do you love him now?

12 A Yeah.

13 Q This rope that you testified Mr. Manson purchased
14 at a surplus store, did you ever see anybody use that rope?

15 A Yeah.

16 Q Was it available to general utility purposes
17 at the ranch?

18 A Yeah.

19 Q Did you see people other than Mr. Manson use
20 the rope?

21 A Yeah.

22 Q On numerous occasions?

23 A Yeah.

24 Q To see a piece of rope at the Spahn Ranch
25 during the summer of 1969 was not an unusual occurrence,
26 was it?

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A No.

Q There were many uses for rope at the ranch,
were there not?

A Yeah.

Q You previously testified that Mr. Manson used
to write and sing songs, is that right?

A Yeah.

Q Do you know the lyrics of any of those songs,
the words?

A There was one there that was my favorite, I
cannot remember all of the words to it.

Q Can you remember the title?

A I don't know if it had a title.

Q Did it have a theme?

A What do you mean, a theme?

Q Well, do you remember any of the words?

A I remember a few. Do you want me to sing for
you!

Q Could you tell us the words that you know?

A I only remember a few.

Q Was the title of your favorite song "You Live
in Your Own World," or something like that?

A Yeah, right, that is it.

Q You did not hear Mr. Manson singing any songs
about killing, did you?

A No.

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1 Q By and large were his songs love songs, ballads?

2 A Yeah, songs of love.

3 Q Love songs? Was the music by and large soft
4 and melodious as opposed to violent, sharp?

5 A Yeah, it was soft music.

6 Q Have you ever been convicted of a felony?

7 A Yeah.

8 Q When and where?

9 A In San Diego.

10 Q What were you convicted of?

11 A Aiding and abetting.

12 Q Aiding and abetting what?

13 A Smuggling weed, conspiracy against the govern-
14 ment, tax evasion.

15 MR. FITZGERALD: I have nothing further.

16 THE COURT: Any questions, Mr. Shinn?

17 MR. SHINN: Yes, your Honor.

18

19 CROSS-EXAMINATION

20 BY MR. SHINN:

21 Q Mr. DeCarlo, you stated that you were a gunsmith?

22 A Yeah.

23 Q And being a gunsmith you fix guns?

24 A Yeah.

25 Q And you know various types of weapons?

26 A Yeah.

1 Q And the type of shells they use and the bullets
2 they use?

3 A Yeah.

4 Q And talking about bullets now do they have
5 different kinds of casings?

6 A You mean for the .22?

7 Q I mean for any kind of bullets, do they have --

8 A The brass is all different.

9 Q You have different hardness of the brass?

10 A No, brass is brass.

11 Q Well, some are hard brass and some are soft
12 brass, is that correct?

13 A Well, the magnum has hard brass, heavier brass.

14 Q Do they make them out of, say, nickel or steel
15 sometimes?

16 A No, the World War II ammunition was steel
17 jacket ammo, but it jammed a lot.

18 Q But they do make brass shells and they make
19 steel shells, correct?

20 A Well, they don't --

21 You very seldom see a steel shell now. It was
22 all made for the war because brass was hard to get hold of.

23 Q But they do make steel shells and brass shells,
24 correct?

25 A They have made them.

26 Q Yeah, and then from shell to shell it differs,

1 the brass --

2 Some brass is hard and some brass is soft,
3 is that correct, in the shells?

4 A No, not really.

5 Q Are you saying that the brass hardness is the
6 same?

7 A Well, no, I cannot say that either.

8 Let's say I am not sure. I don't want to give
9 an answer on that because I am really not sure.

10 Q I see. Then the bullet itself, the slug, that
11 is made out of what, out of lead?

12 A It varies, some is carpet jacket, silver lead,
13 some is salted lead, depends on what kind of ammunition you
14 are talking about.

15 Q For revolvers.

16 A What caliber?

17 Q Well, .22 caliber, .32, .38, .45.

18 A Well, then it varies.

19 Q Okay, do you recall about a .22 then?

20 A It is salted lead.

21 Q The lead itself varies as to the hardness and
22 the softness?

23 A You mean the lead itself, the structure of the
24 lead?

25 Q Yes, what you call the bullet.

26 A Yeah, the bullet.

1 Q And the shell you call a shell casing?

2 A The brass.

3 Q I am talking about the head, the bullet head.

4 A Well, I don't know, maybe the metal is a little
5 different as far as hardness goes. That would take an
6 analysis. I cannot break down hardness of metal.

7 Q No, but I mean from your observation and from
8 your experience as a gunsmith through the war and also in
9 your -- in your private practice as a gunsmith, you have
10 made that observation?

11 A No, I have not.

12 Q You have seen bullets?

13 A Yeah.

14 Q You have seen bullets --

15 A Yeah.

16 Q -- shot from a rifle or a revolver?

17 A Yeah.

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Q You examined them very closely?

A Yeah.

Q And you know that different bullets, some are hard, some are soft?

A Well, that depends on how you hit your target. You can hit your target in such a way you only put a scratch on it, if you hit a hard surface it will expand.

If you shoot into somebody, the bullet may stay intact.

If you hit something solid the lead mushrooms to the size of a penny.

I am talking about rock or steel. If you hit bullets at different angles it might ricochet or dent the side of it.

Q How about a bullet shot into water, what would happen to the bullet?

A It would stay intact.

Q What do you mean by intact?

A It would not mushroom out. It would hold its own shape.

Q Do you know what imperfections are in a gun?

A Well, something like --

Q In the barrel?

A Yeah, it could be -- well, maybe there is some kind of filing inside of the barrel, like maybe a piece of

1 rust or a metal missing, or maybe the rifling would be a
2 certain height, which is called ballistics, you see.

3 Q What they call lands and grooves?

4 A Lands and grooves, yeah.

5 Q And then there are also things called imper-
6 fections, correct?

7 A Imperfections? Well, I look at it, you are
8 talking about a malfunction, something manufactured wrong
9 with a pistol.

10 Q What do you call it, Danny? I am not talking
11 about the lands and grooves now, I am talking about the
12 imperfections, the bumps and the holes in the barrel.

13 A Yes, you can get those in there.

14 Q What do you call them?

15 A Pits.

16 Q Oh, pits. In other words, there are holes in
17 there.

18 A Pits.

19 Q With a microscope, correct?

20 A Yes, the pits in the barrel.

21 Q And you have seen a lot of these barrels in
22 your lifetime?

23 A Yeah.

24 Q Have you seen a lot of these pits in the barrel
25 besides the lands and grooves?

26 A Yeah.

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1 Q What effect does that have on the bullet when the
2 gun is fired?

3 A Well, I have never really examined a bullet
4 fired through a barrel which has pits on it because all
5 pits is -- just the metal is rusty.

6 The weapon can still be fired. You see, you are
7 getting into ballistics, things when you take a bullet or
8 something and stick it under a microscope.

9 I did not do that.

10 I fix them.

11 Q You know nothing about ballistics, is that
12 correct?

13 A I know ballistics, but I mean I am not an
14 expert in ballistics, trajectory of bullets, and things.

15 Q You have knowledge of ballistics to a certain
16 extent?

17 A Right.

18 Q But not to the extent you are an expert on it,
19 is that correct?

20 A I cannot answer that question you asked me as
21 far as what it would do to the bullet because actually I
22 cannot make no comment. I really -- I can be wrong. I am
23 not sure.

24 Q You stated you fired this .22 back on the
25 ranch, didn't you?

26 A Right.

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1 Q And you fired it in back of the bunk house some
2 place?

3 A Yeah.

4 Q And you and all members of the Family used to
5 fire that .22, is that correct?

6 A Yeah.

7 Q And you also stated you loaded these shells?

8 A You cannot reload .22 ammo.

9 Q Why can't you?

10 A Because it is a rim-fire cartridge. It is not a
11 center fire.

12 Q It is a rim fire?

13 A It is a rim fire, right.

14 Q In other words, just the hammer hits the rim?

15 A It doesn't have a primer.

16 Q What is a primer?

17 A The primer sets the round off.

18 The firing pin strikes the primer which flashes
19 the powder; it explodes and away it goes, but on the .22
20 rim, the firing pin strikes the rim, it is the same princi-
21 ple as a cap.

22 Q You did, you say, reload .22's and .38's and
23 .45's, correct?

24 A .45's, 30-caliber and 9 millimeter or 38.

25 Q You examined the shell closely before reloading?

26 A Yeah.

1 Q Before reloading?

2 A Yeah.

3 Q And they had what, scratches on it?

4 A Yeah.

5 Q And then do they leave a mark where the hammer
6 hits the bullet?

7 A Definitely.

8 Q On the middle, on the side?

9 A On the side, on the edge.

10 Q On the edge. Now, what other things could cause,
11 say, scratches on that shell casing after the shell casing
12 is thrown to the ground?

13 MR. BUGLIOSI: Your Honor, I object on the grounds
14 this line of questioning is beyond the expertise of this
15 witness.

16 MR. SHINN: He testified he shot shells and reloaded
17 shells on the ranch.

18 MR. BUGLIOSI: We object. He is getting into fire-
19 arms identification and ballistics, your Honor. He is not
20 an expert in that field.

21 MR. SHINN: I am asking him what he observed, that
22 is all.

23 THE COURT: What he observed?

24 MR. SHINN: Yes, your Honor, when he picked up the
25 shells, what he noticed on the shells, your Honor.

26 MR. BUGLIOSI: Assuming a fact not in evidence that he

1 looked at the shells closely, your Honor, and made any
2 observation.

3 MR. SHINN: I will narrow it down then, your Honor.

4 THE COURT: Do you wish to reframe the question?

5 MR. SHINN: Yes, your Honor.

6 THE COURT: All right. Before you do that, Mr. Shinn,
7 we will take our recess.

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

11 The Court will recess for 15 minutes.

12 (Recess.)
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1 MR. KANAREK: Your Honor, I would like to apologize
2 for being late. I was in the phone booth in the lobby,
3 your Honor.

4 THE COURT: Very well.

5 All parties, counsel and jurors are present.

6 You may continue, Mr. Shinn.

7 MR. SHINN: Thank you, your Honor.

8 Q Mr. DeCarlo, we were talking about shells,
9 shell casings.

10 A Yes.

11 Q That were fired behind the ranch.

12 A Yes.

13 Q And I asked you whether or not the shell
14 casings, whether or not they have markings on them when
15 they are fired.

16 A They have firing pin markings.

17 Q And on the .22's, they have a marking on the
18 rim?

19 A They have scratches.

20 Q And scratches are caused by what?

21 A Ejection.

22 Q And when the shell is fired, does it hit the
23 back of the revolver?

24 A No. No. It has a hand ejector on the revolver.
25 When you swing the cylinder out, you push the lever out,
26 the lever ejects all nine rounds at once.

6-2

1 It is expanded when it comes out and it leaves
2 scratches on the shells. It slides back and ejects it,
3 kicks it out.

4 Q When the shell is fired, does it back up against
5 the gun when it is fired, that particular shell?

6 A Yes.

7 Q Does it leave any markings at that time?

8 A It could.

9 Q Do these markings differ from shell to shell?

10 A No. Because it is all hitting on the same spot.

11 Q Say that a casing is a harder type of a brass
12 compared to a softer type of a brass. It will leave a
13 different marking, will it not?

14 A No. It would leave the same mark.

15 Q Deeper?

16 A Yes, possibly.

17 Q And once you examine a shell that has been
18 fired and it has been dropped onto the ground, it might
19 have other types of scratches; is that correct? Say caused
20 by rocks or handling?

21 A Well, if the brass is left in one spot and you
22 pick the brass up, it wouldn't have very many -- there
23 wouldn't be much of a difference.

24 MR. BUGLIOSI: I move to strike that on the grounds
25 it is a conclusion, your Honor.

26 THE COURT: Overruled. The motion is denied.

6-3

BY MR. SHINN:

Q If you took your fingernail and scratched a shell, it would leave a mark, would it not?

A Yes.

Q And when it drops to the ground, if it hits, say, a rock or a hard object, it would leave a little nick; is that correct?

A Yes.

Q In other words, there would be, say, many, many marks on the shell casing once it has been used; correct?

A Yes.

6a fls.

1 Q And when you reload them, you have to put them in
2 a vise to reload shells?

3 A It is a die, a sizing die, because the round
4 expands. You put it in a sizing die and it brings it back
5 to normal shape again.

6 Q And then, if the shells are left, say, on the
7 ground for, say, three or four months, it would leave rust
8 markings, would it not?

9 A Not on brass it wouldn't.

10 Q Would it corrode to a certain extent?

11 A It would discolor just a little.

12 Q And people walking by, stepping on them, could
13 cause other marks; correct?

14 A If you stepped on it, yes.

15 Q You have examined Exhibit 40, have you not?

16 A I don't know what Exhibit 40 is.

17 (Mr. Shinn produces Exhibit 40.)

18 MR. SHINN: Your Honor, may I approach the witness?

19 THE COURT: You may.

20 MR. SHINN: Q Danny, I show you Exhibit 40, which
21 I believe you testified was a similar type of a gun;
22 correct?

23 A Right.

24 Q And did you examine this gun closely?

25 A Yes.

26 Q Do you know the make of this gun?

1 A Yes.

2 Q What is the make?

3 A High Standard.

4 Q Is it true that there was an unlimited number of
5 these guns manufactured by the same company?

6 A This particular model there wasn't very many of
7 them made, no.

8 Q Would you say there was about three or four
9 thousand made?

10 MR. BUGLIOSI: That calls for a conclusion.

11 MR. SHINN: I am asking whether he knows or not.

12 MR. BUGLIOSI: How would he know, other than by hear-
13 say, your Honor?

14 THE COURT: Sustained.

15 MR. SHINN: Q Do you know whether or not 4,000 or
16 3,000 of these guns were made?

17 MR. BUGLIOSI: Calls for a conclusion, and also hear-
18 say. Besides, we have already got testimony into the record
19 on that.

20 THE COURT: Sustained.

21 MR. SHINN: Let me ask you, Danny, there were more
22 than one of those guns made; is that correct?

23 A Sure, there is more than one.

24 Q How many would you estimate?

25 MR. BUGLIOSI: Immaterial and calls for a conclusion.

26 THE COURT: Sustained.

1 MR. SHINN: Now, examining this gun, Exhibit 40,
2 did you notice the barrel?

3 A Yes.

4 Q Would you pick it up and examine the barrel?

5 (The witness complies.)

6 THE WITNESS: The barrel is loose.

7 MR. SHINN: Q If the barrel is loose like that,
8 is it able to fire?

9 A Yes.

10 Q And what effect would it have on, say, the
11 slug if you fired a bullet from this type of a weapon that
12 has a loose barrel?

13 MR. BUGLIOSI: Beyond the scope of his expertise.
14 It is also a hypothetical question that is not predicated
15 on any facts, your Honor.

16 THE COURT: Sustained.

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1 BY MR. SHINN:

2 Q Would it affect a bullet if the bullet has been
3 fired from that particular gun with a loose barrel?

4 MR. BUGLIOSI: Same objection.

5 THE COURT: Sustained.

6 BY MR. SHINN:

7 Q Would a loose barrel on a pistol affect the
8 firing of that gun?

9 MR. BUGLIOSI: Beyond the scope of his expertise,
10 your Honor.

11 MR. SHINN: Your Honor, may I be heard?

12 THE COURT: Do you wish to qualify him?

13 MR. SHINN: Yes, your Honor.

14 I believe, your Honor, he stated that he is
15 a gunsmith.

16 THE COURT: The objection will be sustained.

17 BY MR. SHINN:

18 Q Have you ever fired, in your experience with
19 guns, have you ever fired a gun with a loose barrel?

20 A Never.

21 Q Is there a reason for that?

22 MR. BUGLIOSI: Immaterial.

23 MR. SHINN: I'd like to know his reason.

24 MR. BUGLIOSI: Withdraw the objection.

25 THE COURT: Sustained.

26 MR. SHINN: Your Honor, Mr. Bugliosi withdrew his

6b-2

1 objection.

2 MR.BUGLIOSI: Yes, I will withdraw the objection.

3 THE COURT: You may answer.

4 Is there any reason?

5 MR. KANAREK: Then I will object, your Honor, if I
6 may.

7 I don't subscribe to this witness being an
8 expert.

9 THE WITNESS: Oh, shit.

10 MR. KANAREK: Your Honor, may the record reveal the
11 exact language that Mr. DeCarlo stated?

12 THE COURT: Finish your objection, Mr. Kanarek.

13 MR. KANAREK: I would like the record to reveal the
14 exact words that Mr. DeCarlo used, your Honor.

15 THE COURT: Sit down, Mr. Kanarek.

16 MR. KANAREK: Yes, your Honor.

17 THE COURT: You may answer.

18 THE WITNESS: Well, No, 1, the pistol would be off
19 time if the barrel was loose.

20 With a loose barrel, when the cylinder comes
21 up on time and it fires, the bullet leaves the cylinder
22 and enters the breech of the barrel right here, and if
23 the barrel was crooked the round wouldn't enter straight.
24 Or there would be a chance that the round would blow out
25 the side and blow metal into your face.

26 If it was perfectly timed, if the barrel is a

6b-3

1 little bit loose, you could, like I said, the space between
2 the beginning of your barrel and your cylinder is called
3 the head space, and the head space is a very important
4 thing, if your head space has too far of a gap, then you
5 can blow metal back into your face and you could lose
6 your face.

7 If the pistol is not timed, the round will not
8 leave the cylinder and enter the barrel, and you could blow
9 the pistol up, or blow a piece of metal back in your face
10 and kill yourself.

11 If you could arrange to hold your hand on it,
12 you could look at the head space and see right there that
13 it is perfect. You could hold it like that and cock the
14 weapon, hold it and fire it, and it will fire good, and it
15 won't affect the bullet but very very little. In fact,
16 it might not affect it at all.

7 fls.

1 Q But in your expert opinion you feel that firing
2 a gun similar to that with a loose barrel would affect the
3 bullet?

4 MR. KANAREK: I object, your Honor, there is no
5 expertise.

6 THE COURT: Sustained.

7 Q BY MR. SHINN: Now, Mr. De Carlo, did anyone talk
8 to you or tell you about a \$25,000 reward concerning this
9 case?

10 A I heard about it but nobody talked to me about it.

11 Q You had knowledge of it, correct?

12 A I did later on, right.

13 Q Yes. Now, where did you get this information?

14 A From the Los Angeles Police Department --
15 no, I didn't, I got it from one of my friends, that's
16 right.

17 Q At a later time did anyone from the District
18 Attorney's Office or the Police Department mention the
19 \$25,000 reward to you?

20 A They said there was.

21 Q When you say "they," whom do you mean?

22 A Well, the Police Department.

23 Q Do you recall which police officer or police
24 officers told you about this reward?

25 A He is standing right behind you.

26 Q You mean Mr. Gutierrez?

1 A Yeah.

2 Q He spoke to you about this \$25,000 reward?

3 A Yeah.

4 Q Do you recall when this was, the date, the
5 approximate date, the day and the month?

6 A Around January, beginning of 1970.

7 Q Now, do you know where this conversation took
8 place?

9 A No, it was just a question of -- he says --
10 I asked him, "Well, there is a reward for this?"
11 He said, "Yeah."

12 And that was about it. He just acknowledged
13 that there was.

14 MR. BUGLIOSI: Your Honor, I move to strike on the
15 ground that the witness' statement was ambiguous.

16 He said, "reward for this;" the word "this",
17 of course, is totally ambiguous.

18 MR. KANAREK: He can clear it up on redirect
19 examination, your Honor.

20 MR. BUGLIOSI: It could be cleared up right now.

21 THE COURT: Read the question and answer.

22 (Whereupon, the reporter reads the record as
23 follows:

24 "Q Now, do you know where this
25 conversation took place?

26 "A No, it was just a question of --

1 "he says -- I asked him, 'Well, there is a
2 reward for this?'

3 "He said, 'Yeah.'

4 "And that was about it. He just
5 acknowledged that there was.")

6 THE COURT: The answer is not responsive to the
7 question. It will be stricken on that ground, everything
8 after the first word, "No," all of the rest of the answer
9 will be stricken.

10 The jury is admonished to disregard it.

11 MR. SHINN: May he then answer it again?

12 THE COURT: He did answer the question.

13 Q BY MR. SHINN: This conversation now about the
14 \$25,000 reward, was it before the conversation of you
15 testifying in this case?

16 A It was after, way after.

17 Q Well, at the time when he mentioned this
18 \$25,000 reward, was any discussion had about you testifying
19 in this case now, pending now?

20 A What do you mean?

21 Q Well, was there a conversation only about the
22 \$25,000 reward or was there other conversation concerning --

23 A Was he going to give me any money for me testify-
24 ing?

25 Q Yes, was there any other conversation regarding
26 the \$25,000.

1 A I told him to take his \$25,000 and shove it.

2 Q But this was at the same time when you were dis-
3 cussing whether you were going to testify in this case,
4 correct, Danny?

5 A No.

6 Q Well, what other subject did you talk about then
7 at that time?

8 A I can't remember. You are pinpointing exact
9 words. I don't know. This is a long time ago.

10 Q Well, do you remember the substance of the
11 conversation besides the \$25,000 reward?

12 MR. BUGLIOSI: Calls for hearsay, your Honor.

13 MR. KANAREK: I join, your Honor.

14 THE COURT: Sustained.

15 Q BY MR. SHINN: Now, Danny, you stated that at the
16 ranch you were drunk, say, probably 99 per cent of the
17 time, is that correct?

18 A Yeah.

19 Q And you would start drinking in the morning when
20 you got up?

21 A Not as soon as I got up, I would wait a little
22 while, an hour or so.

23 Q And then you would start drinking beer, correct?

24 A Yeah.

25 Q And when you didn't have any beer, you would
26 send the girls down to pick up some beer for you on occasions,

1 correct?

2 A Yeah.

3 Q And how many cases would you drink a day,
4 approximately?

5 MR. BUGLIOSI: Assumes a fact not in evidence, your
6 Honor.

7 MR. SHINN: He stated he drank beer.

8 MR. BUGLIOSI: He did not state he drank cases every
9 day.

10 THE WITNESS: I drank a case a day.

11 Q BY MR. SHINN: And how many cans of beer is
12 in a case of beer?

13 A 24.

14 Q And would you drink anything besides beer
15 sometimes?

16 A I would smoke a few joints.

17 Q In other words -- "joints" means marijuana?

18 A Yeah.

19 Q In other words, you smoked marijuana and you
20 drank beer 99 per cent of the time at the ranch, is that
21 correct?

22 MR. BUGLIOSI: That is not what he said, your Honor,
23 I object to the question as a misstatement.

24 THE COURT: Well, it is a question; he can answer it.
25 Overruled.

26 MR. SHINN: Can he answer it, your Honor?

1 THE COURT: Read the question.

2 (Whereupon, the reporter reads the pending
3 question as follows:

4 "Q In other words, you smoked
5 marijuana and you drank beer 99 per cent of
6 the time at the ranch, is that correct?"

7 THE WITNESS: I drank more beer.

8 Q BY MR. SHINN: And, Danny, how would beer affect
9 you?

10 A Not very much.

11 Q 24 cans of beer does not affect you in any
12 manner?

13 A No, I'm pretty immune to it.

14 Q In other words, it makes you feel good?

15 A Yeah.

16 Q Happy?

17 A Yeah.

18 Q And does it make it sometimes difficult for you
19 to remember things, say things, and events?

20 A Yeah.

21 Q So most of your testimony regarding the ranch,
22 would you say that some may be true, and some may not be
23 true?

24 A Everything I told you is the truth.

25 Q But, you mean true as you know it, correct?

26 A True as I know it, right.

1 Q In other words, since you have been drinking
2 99 per cent of the time at the ranch, you testified to
3 facts that you think in your mind are true?

4 A Right.

5 MR. BUGLIOSI: Argumentative, your Honor, also
6 assuming a fact not in evidence. He never said he drank
7 99 per cent of the time he was at the ranch. He never said
8 that.

9 THE COURT: The answer is in, Mr. Bugliosi. Over-
10 ruled.

11 MR. SHINN: May I ask him that question again, your
12 Honor?

13 THE COURT: He answered the question.

14 MR. SHINN: Oh.

15 Q BY MR. SHINN: Well, then, Danny, some of the
16 things that you say that you think are true may not be
17 true because you were under the influence of beer, is that
18 correct?

19 A It is possible.
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1 Q Now, did you talk to the District Attorney's
2 Office, someone in the District Attorney's Office or the
3 police officers before coming to court in this trial?

4 A What do you mean?

5 Q Well, did some officers come and talk to you
6 before coming to trial in this case?

7 A What do you mean, just bullshit, talk about
8 what? We talked about a lot of things.

9 Q When you came to court -- you knew when to come
10 to court, correct?

11 A Yeah.

12 Q Did you get a subpoena?

13 A Well, they gave me two subpoenas, but the
14 dates ran out.

15 Q Yes, now, when you received the subpoena you
16 knew you had to come to court to testify, correct?

17 A I knew I had to be here whether I had one or
18 not.

19 Q Okay, now, my question to you then is did you
20 have a conversation with either the District Attorney's
21 Office or the Police Department before coming to court to
22 testify?

23 A No -- well, they sent word up north.

24 Q Now, when did you go up north?

25 A In May.

26 Q May. Before leaving for north, did you notify

7a-2

1 the Police Department or the District Attorney's Office
2 that you were moving up north, "And please let me know when
3 the trial starts"?

4 A No, I just split. I did not tell nobody, not
5 even my mother.

6 Q And when did you come down here?

7 A They had a federal warrant out for me for not
8 appearing in court, so I heard the Feds were looking for
9 me, so I just jumped on a plane and came down here and turned
10 myself in.

11 Q After you turned yourself in did you get in
12 contact with the District Attorney's Office or the Police
13 Department?

14 A No, they knew I was in jail so they came and
15 saw me in jail.

16 Q You say "they," who came to see you?

17 A Sergeant Patchett and Sergeant Sartucci.

18 Q And did they tell you at that time that you
19 were to testify in this case?

20 A I think they gave me a subpoena. They left it
21 right there in the cell.

22 Q And was there any discussion about this case?

23 A No, they just gave me a subpoena and said I
24 had to be in court.

25 Q Okay, now, before getting on the stand to
26 testify, I believe the last couple of days, did you talk

7a-3

1 to any police officers or to the District Attorney's Office?

2 A You mean about testifying?

3 Q Yes, about this case.

4 A Yeah.

5 Q Whom did you talk to?

6 A Mr. Gutierrez.

7 Q Who else?

8 A Well, I talked to Mr. Bugliosi here.

9 Q How many times did you talk to Mr. Bugliosi
10 before testifying?

11 A Twice.

12 Q And was there conversation in his office?

13 A Yeah.

14 Q And how long did these conversations take
15 place, how long a period?

16 A About ten minutes.

17 Q Ten minutes each time?

18 A About that.

19 Q Is that all?

20 A That's about all.

21 Q That is when you came back from north, is that
22 correct?

23 A No, it was this morning and a couple of days
24 before that.

25 Q Did he show you any pictures or any items of
26 evidence when you had a conversation with Mr. Bugliosi?

7a-4

1 A Yeah.

2 Q What did he show you?

3 A He showed me a picture of the pistol.

4 Q A picture of the pistol? Which picture are
5 you referring to?

6 A A big blown-up picture.

7 Q Did he show you the small drawing of the pistol?

8 A No, not until we were right here.

9 Q Did he show you anything else, do you remember?

10 A He showed me the rope and the knife.

11 Q How about that Exhibit 40, the pistol, did he
12 show you that?

13 A No.

14 Q Now, you stated that Mr. Manson traded a truck
15 for a pistol?

16 A Yeah.

17 Q Not that particular pistol I am speaking of
18 now, but you mentioned, I believe, that he traded your
19 truck for a pistol, is that correct?

20 A Yeah.

21 Q And then the only reason he traded that truck
22 for the pistol was to prevent the owner of the pistol from
23 shooting somebody?

24 MR. BUGLIOSI: Calls for a conclusion, your Honor.

25 THE COURT: Sustained.

26 MR. SHINN: I have no further questions.

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7b fls.

1 THE COURT: Mr. Kanarek?

2 MR. KANAREK: Yes, thank you, your Honor.

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CROSS-EXAMINATION

BY MR. KANAREK:

Q Mr. DeCarlo, you told us that you loved guns.

A I do.

Q Would you describe your love for guns for us.

A Well, I love them. I love them more than I do my old lady.

Q You mean your wife?

A Yeah.

Q And is this love something that you have had for a long time, for guns?

A All my life.

Q I see, have you ever seen a doctor or a psychiatrist because of this love for guns?

A A psychiatrist?

Q Yes.

A Because I like guns?

Q Well, you say you love guns more than --

A I haven't see no doctor or psychiatrist, no.

Q -- you love guns more than you love people, is that right?

MR. BUGLIOSI: He didn't say that, it's a misstatement, your Honor, and it's argumentative.

THE COURT: Sustained.

BY MR. KANAREK:

Q Well, do you love guns more than you love people,

7b-2

1 Mr. DeCarlo?

2 A No, I said more than my old lady.

3 Q I see.

4 Now, directing your attention to that gun that
5 is in front of you there, Mr. DeCarlo, do you love that
6 gun?

7 A Yeah.

8 Q And -- now, you told us that at the ranch
9 everything belonged to everyone, right?

10 A Yeah.

11 Q So directing your attention to your state of
12 mind, would you say that that gun belonged to everyone?

13 A Yeah.

14 Q And you were at the ranch, right?

15 A Yeah.

16 Q And so you owned that gun, right?

17 A Yeah.

18 Q And you loved that gun, right?

19 A Yeah.

20 Q Now, what do you mean, Mr. -- when you use the
21 word "love" -- Mr., uh, DeCarlo, would you tell us what you
22 mean by the word "love"?

23 A Well, I devote my whole life to weapons, my
24 heart and my soul and everything is with weapons.

25 Q I see. And would you say that your heart and
26 soul is more to weapons than it is to people? That is a

1 fair statement, right?

2 A But I did not say people.

3 Q I'm asking you to make a comparison.

4 Is your love for weapons more than it is for
5 people?

6 MR. BUGLIOSI: It is irrelevant, your Honor.

7 THE COURT: Sustained.

8 BY MR. KANAREK:

9 Q Now, you have told us that you were smashed on
10 the night that you --, on the day before August 16th, right?

11 A Yeah.

12 Q What do you mean by the word "smashed"?

13 A I was feeling pretty good.

14 Q Well, would you describe that? Would you give
15 us a little more detail?

16 What do you mean by feeling pretty good?

17 A Well, I was having a good time. I was laughing.
18 We were singing and screwing around, joking, grab-assing
19 and doing everything, it was a party.

20 Q What do you mean by grab-assing?

21 A Well, you know, like just fooling around.

22 Q And your state of mind was on this day, this
23 day before August 16th, your state of mind was such that
24 the people from Straight Satans were coming to where you
25 were for what reason, what did you think they were coming
26 there for?

1 MR. BUGLIOSI: Calls for a conclusion.

2 MR. KANAREK: His state of mind is what I'm after,
3 your Honor.

4 MR. BUGLIOSI: Not everything can come in under that
5 particular argument, your Honor, that he seems to utilize.

6 THE COURT: Sustained.

7 MR. KANAREK: What was your Honor's ruling?

8 THE COURT: Sustained.

9 BY MR. KANAREK:

10 Q Well, what was the reason -- what was the
11 reason, Mr. DeCarlo, that you left the ranch, if you did,
12 on the 15th?

13 A I did not leave.

14 Q What is the reason you did not leave?

15 A Because I liked it there.

16 Q And now you have told us, Mr. DeCarlo, that a
17 biker brought that sword to the ranch?

18 MR. BUGLIOSI: It is a misstatement, he did not say
19 that, your Honor.

20 MR. KANAREK: I have it in my notes, your Honor.

21 THE COURT: Perhaps you'd better put the question
22 directly to the witness.

23 BY MR. KANAREK:

24 Q Well, Mr. DeCarlo, did a biker friend of yours
25 bring the sword to the ranch?

26 A I'm not sure, sir.

1 Q You think it was the biker, though, right?

2 A I'm not sure.

3 Q Did someone bring that sword to the ranch?

4 A I'm not sure.

5 Q Who do you think brought the sword to the ranch,
6 what is the name of the person?

7 A I don't know.

8 Q You know I am speaking of the sword that was
9 exhibited to you by Mr. Bugliosi?

10 A Yeah, that is the sword I am talking about.

11 Q And you, do you remember Mr. Fitzgerald asking
12 you about that sword -- you have the sword in mind, is
13 what we are talking about.

14 MR. KANAREK: May I approach the witness, your Honor?

15 THE COURT: Yes, you may.

16 MR. KANAREK: Reading from page 10,648, your Honor,
17 of the transcript, may I show the witness, beginning at
18 line 16 through 22.

19 Q BY MR. KANAREK: Would you read those
20 lines to yourself, Mr. DeCarlo, lines 16 through
21 22.

22 MR. BUGLIOSI: Is there anything wrong with his
23 going down to 24?

24 MR. KANAREK: Read through 24. Mr. Bugliosi wishes
25 that.

26 (Witness complies.)

1 BY MR. KANAREK:

2 Q Did you testify in answer to Mr. Fitzgerald?

3 "Do you know where it came from?

4 "A Yes.

5 "Q Where did it come from?

6 "A From a friend.

7 "Q A friend of yours?

8 "A Yes.

9 "Q Did that friend bring it to the ranch?

10 "A I don't know if he did or not."

11 Do you recall testifying like that, Mr. DeCarlo?

12 A Yeah.

13 Q Would you tell us what friend you had in mind
14 when you testified?

15 THE WITNESS: Do I have to answer that?

16 THE COURT: You do, sir.

17 THE WITNESS: A friend of mine.

18 THE COURT: What is the name?

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1 MR. BUGLIOSI: I object on the ground it's irrelevant,
2 your Honor.

3 THE COURT: Overruled.

4 THE WITNESS: Well, I'm not sure.

5 Q BY MR. KANAREK: You are not sure; you are not
6 sure of the name of the friend, Mr. De Carlo?

7 A His name was George.

8 Q Well, when you said you are not sure, what did
9 you mean? Will you tell us what you mean by that?

10 A Because I did not see no transaction as far as
11 the sword went, and I'm not going to say nothing I'm not
12 sure of.

13 Q When you tell us you are not sure, are you
14 telling us you are not sure about the transaction or you are
15 not sure about the name of the person?

16 A I know the name of the person.

17 Q It is George what?

18 A George Knowl.

19 Q How do you spell that?

20 A K-n-o-w-l.

21 Q And is George Knowl a member of the Straight
22 Satans?

23 A Yeah.

24 Q And do you know where he is right now?

25 A No, because I haven't seen him in a long time.

26 Q I see.

7c2

1 A It's a club so -- I have a business, you know,
2 I don't keep in touch with them no more.

3 Q I see. Now, directing your attention -- you've
4 got -- you've told us, Mr. De Carlo, that Mr. -- well,
5 let me ask you:

6 Did you ever have occasion where you had a
7 drunk left over from the night before sort of like when you
8 woke up you were still drunk from the night before?

9 A Yeah.

10 Q Did that ever happen?

11 A Yeah.

12 Q And would it be a fair statement that that
13 happened frequently?

14 A Yeah.

15 Q In fact, you might say that the whole time that
16 you were at the ranch you were on a continual -- I will
17 withdraw that.

18 That during the entire time you were at the
19 ranch you were smashed.

20 A Yeah.

21 Q Right?

22 A I sure was.

23 Q And did you on occasion drink any Vodka?

24 A No, I cannot stomach that.

25 Q Pardon??

26 A I can't handle that stuff.

8c3

1 Q I see. On occasion did you drink any bourbon?

2 A I might have.

3 Q Did you drink any boilermakers on occasion?

4 A Yeah, I would just throw it all together.

5 Q Would you tell us what a boilermaker is?

6 A It's whiskey and beer mixed together, or wine
7 and beer, or anything you want to put together.

8 Q And on occasion you drank these mixtures, is
9 that correct?

10 A Yeah.

11 Q And did you ever drink a boilermaker where you
12 took a shot of whiskey and chased it with a beer, calling
13 that a boilermaker?

14 A I don't call that a boilermaker but I have done
15 it.

16 Q And you did that while you were at the ranch?

17 A Yeah.

18 Q And you did that many times while you were
19 at the ranch, right? Correct?

20 A Yeah.

21 Q So as a matter of fact you drank not only beer,
22 you drank --

23 You drank bourbon and beer almost at the same
24 instant, right?

25 A Wine, too.

8

26

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1 Q And wine, too?

2 A Yes.

3 Q And directing yourself to the wine that you
4 took. Did you buy this wine?

5 A I bought the wine and stashed it behind the
6 ranch. One of the girls found it and dumped it out on me.

7 Q Now, at the time that this wine was dumped out
8 on you, would you say that you were smashed?

9 A No. I was mad because I had just opened it.

10 Q I see.

11 But from time to time you had wine available on
12 the ranch other than just this one time; is that right?

13 A Yes.

14 Q And so, it is a fair statement that during the
15 period of time that you were on the ranch, you were drinking
16 wine, beer and bourbon; right?

17 A Yes.

18 Q Did you, on occasion, ever drink any Scotch?

19 A Well, I don't know. It is all the same to me.
20 I can't tell the difference between Scotch and whiskey. It
21 all tastes the same.

22 Q I see.

23 In other words, as far as these boilermakers
24 or these mixtures of beer and hard liquor is concerned,
25 it doesn't make any difference to you what it is as long
26 as it is hard liquor; is that correct?

8-2

1 A Well, I don't drink too much hard liquor.

2 Q Pardon?

3 A I don't drink too much hard liquor. I mean, I
4 wouldn't go buy it. If it was there, I would drink it,
5 but I wouldn't spend my money on it.

6 Q I see.

7 But as far as when your intent is to mix beer
8 with hard liquor, it doesn't make any difference to you what
9 the hard liquor is; right?

10 A No.

11 Q Is that correct?

12 A Yes.

13 Q Now, directing, then, your attention to the
14 period of time when you were at the ranch, Mr. De Carlo,
15 and you have told us that Mr. Manson made certain statements
16 about black people and white people; right?

17 A Yes.

18 Q Now, would you tell us on what day Mr. Manson
19 made statements concerning black people and white people?

20 A I don't know.

21 Q You don't know when it was at all from March to
22 the time that you left the ranch; right?

23 A Well, it wasn't because I was drunk. You have
24 no radio or calendar or clock, so you don't know what time
25 it was or what day it was.

26 MR. KANAREK: May that be stricken? He used the

8-3

1 word "he." I am asking Mr. De Carlo for his testimony.
2 The word "he" refers to some other people. It is not
3 responsive to the question.

4 THE COURT: Just a minute. Read the question and the
5 answer.

6 (The question and the answer were read by the
7 reporter.)

8 MR. KANAREK: I am sorry. I misheard. I thought I
9 heard the word "he" in there.

10 Q Then, my question is, Mr. De Carlo: Would you
11 tell us what day or time -- what day it was that you heard
12 this?

13 A I don't know, sir.

14 Q Would you tell us who was present other than
15 yourself and Mr. Manson when this occurred?

16 A I don't know.

8A

8a-1

1 Q Directing your attention to this conversation,
2 Mr. DeCarlo, is it a fair statement that at this time you
3 were under the influence of alcohol?

4 A More than likely.

5 Q More than likely?

6 A Yes.

7 Q Right?

8 A Yes.

9 Q Is that correct?

10 A Yes.

11 Q That is correct?

12 A Yes, sir.

13 Q And you spoke to many people at the ranch other
14 than Mr. Manson; is that correct?

15 A Yes.

16 Q Directing your attention, then, to conversa-
17 tions that you had at the ranch with other people. Is it
18 a fair statement that as you -- I will withdraw that.

19 Now, directing your attention, Mr. DeCarlo,
20 you have told us something about Mr. Manson using the
21 words, something about cutting throats.

22 Do you remember testifying about that?

23 A Yes.

24 Q Now, would you tell us when you had a conversa-
25 tion with Mr. Manson concerning that subject matter?

26 A I don't remember the day.

1 Q All right.

2 Would you tell us who was present?

3 A I don't know.

4 Q You don't know?

5 A No.

6 Q Would you tell us, Mr. DeCarlo, how much you
7 had to drink at the time you say that you heard Mr. Manson
8 make such a statement?

9 A I don't know.

10 Q You don't know how much you had to drink?

11 A No.

12 Q You could have been smashed completely; right?

13 A My eyes were still open.

14 Q Your eyes were open?

15 A Yes.

16 Q Do you have, at times when you are smashed,
17 do you have your eyes generally open?

18 A Yes. They are always open.

19 Q I see.

20 You mean, other than your eyes being open,
21 you were completely smashed at this time, then; is that
22 right?

23 A I get smashed with my eyes open.

24 Q You mean that no matter how much you have to
25 drink, your eyes never shut; is that correct?

26 A Well, except when I crash. When I am up and

1 around.

2 Q Except when you what?

3 MR. FINEGAN: Crash.

4 THE WITNESS: When I crash.

5 BY MR. KANAREK:

6 Q Except when you crash? What do you mean by
7 that, Mr. DeCarlo?

8 A When I go to sleep.

9 Q I see. I am sorry.

10 Except when you go to sleep when drunk, other-
11 wise your eyes are open?

12 A Yes.

13 Q Now, would you tell us where you are staying
14 in the City of Los Angeles, Mr. DeCarlo?

15 MR. BUGLIOSI: That is irrelevant.

16 MR. KANAREK: Smith vs. Illinois.

17 MR. BUGLIOSI: Oh, Smith vs. Illinois doesn't say
18 anything like that.

19 THE COURT: Sustained.

20 MR. KANAREK: May we approach the bench?

21 THE COURT: The objection is sustained.

22 BY MR. KANAREK:

23 Q Mr. DeCarlo, wherever you are staying in the
24 City of Los Angeles, or in this area, is the prosecution
25 paying your expenses?

26 MR. BUGLIOSI: That is irrelevant, your honor.

1 MR. KANAREK: It is relevant on the issue of bias,
2 your Honor.

3 THE COURT: Overruled.

4 You may answer.

5 THE WITNESS: Yes.

6 MR. KANAREK: All right.

7 Q How much money has the prosecution given you
8 in connection with your trip here?

9 A How much have they given me to put in my pocket,
10 you mean?

11 Q You can state it any way you wish, Mr. DeCarlo.

12 A Well, they paid for the plane ticket and the
13 room I stayed in, the chow. I don't know the exact amount.

14 Q Well, will you give us an estimate?

15 A It would take 200.

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8B-1

1 Q Would you break down that \$200 for us?

2 A You mean where every dime of it went?

3 Q No, I am not asking for every dime of it,
4 Mr. De Carlo.

5 Would you, in your own terms, tell us -- you
6 told us it was \$200?

7 A I don't know how that works. You are going to
8 have to talk to somebody that is familiar with that. I don't
9 know. I am just down here and when this is over with, I
10 am going back home.

11 Q Directing your attention, then, to cash. How
12 much cash has been given to you?

13 A \$15.

14 Q \$15 cash has been given to you?

15 A Yes.

16 Q And the rest -- you have mentioned \$200 --
17 what was your thinking? How did you come to a figure of
18 \$200?

19 A I didn't.

20 Q You said \$200, Mr. De Carlo.

21 A Well, the money that was paid out for the
22 plane ticket and for my motel room and for chow and every-
23 thing. It was a reimbursement to the police and the people
24 that put that money out. They made a claim for reimburse-
25 ment to get the money back.

26 Q You mean you laid out the money originally?

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A Oh, no. I didn't lay out nothing.

Q Then who is being reimbursed?

A Well, I don't know.

Q You used the word "reimbursement."

A Well, like the police. If they spend any money on me for a room or anything, or for chow, then that money is given back to them.

Q I see.

You mean the police officer that is with you that pays for the room, your state of mind is that that person is reimbursed by the police department; is that right?

A Right.

Q Now, then, you don't pay your chow bill, as you put it, you just put it on a tab and the Police Department pays it; is that correct?

A Well, I think I get \$10 a day for chow. They allow you so much. It is like an allotment, I suppose. I don't know.

You see, I don't know what their business is.

Q Well, your state of mind is that you are getting \$10 a day for expenses while you are here?

A For chow only.

Q For chow only?

A Right.

Q Then you are getting the motel room; is that correct?

8B3

1 A Yes.
2 Q And you are getting your transportation?
3 A Right.
4 Q Now, are you getting anything else?
5 A No. Just that.
6 Q Pardon?
7 A Just that.
8 Q Now, Mr. De Carlo, would you tell us, what is
9 your state of mind towards black people?

10 A There are things they do that I don't like.

11 Q Tell us about that, Mr. De Carlo.

12 MR. BUGLIOSI: Irrelevant, your Honor.

13 MR. KANAREK: It is relevant, your Honor. It goes
14 to this person's state of mind. Mr. Bugliosi opened up
15 the whole subject.

16 MR. BUGLIOSI: It is irrelevant, how he feels about
17 black people.

18 THE COURT: The objection is sustained.

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1 MR. KANAREK: Q Mr. De Carlo, have you had
2 conversations at the ranch with people other than
3 Mr. Manson concerning black people?

4 A Yes.

5 Q You have had many conversations at the ranch
6 with people other than Mr. Manson concerning black people;
7 is that a fair statement?

8 A I had a few.

9 Q You had a few?

10 A Yes.

11 Q Maybe 150, Mr. De Carlo?

12 A Like three or four.

13 Q Three or four?

14 A Yes.

15 Q I see.

16 Three or four hundred, or three or four?

17 A Three or four; one, two, three.

18 Q Pardon?

19 A Three.

20 Q Three?

21 A Yes.

22 Q I see.

23 Directing your attention to these conversations
24 that you had with these people, Mr. De Carlo, did you make
25 a log of what you said?

26 A No.

1 Q What?

2 A Did I make a log?

3 Q Yes.

4 A No.

5 Q You didn't?

6 A No.

7 Q And directing your attention, Mr. De Carlo, to
8 the use of the word "pigs." You are a member of the
9 Straight Saints?

10 MR. BUGLIOSI: Straight Satans.

11 THE WITNESS: You mean the Straight Satans are pigs?
12 Is that what you said?

13 MR. KANAREK: Let's say I said that. What is your
14 reaction to that?

15 THE COURT: I think your question is ambiguous. I
16 don't think the witness understands it. I don't understand
17 it.

18 MR. KANAREK: Very well.

19 Q You were a member of the Straight Satans; right?
20 Is that correct?

21 A Yes.

22 Q And that is a motorcycle club; right?

23 A Yes.

24 Q And while you were a member of that club, before
25 you ever saw Mr. Manson, did you use the word "pigs"?

26 A Yes.

1 Q Would you tell us, what did you mean by the
2 word "pigs" when you used it?

3 A Police.

4 Q What else did you mean by the word "pigs" when
5 you used it, other than the police?

6 A Just the police.

7 Q Pardon?

8 A Just the police.

9 Q Just the police?

10 A Yes.

11 Q Directing your attention to your conversation
12 with Straight Satan members during the time that you were
13 staying at the ranch. Did you use the word "pigs"?

14 A Yes.

15 Q You did use the word "pigs"?

16 A Yes.

17 Q And at the time when you were staying at the
18 ranch, did you discuss knives with people of the Straight
19 Satang?

20 A No.

21 MR. KANAREK: Never?

22 Your Honor, may I have the sword?

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

24 MR. KANAREK: Yes, your Honor.

25 THE COURT: We will recess at this time.

26 Ladies and gentlemen, do not converse

1 with anyone or form or express any opinion regarding the
2 case until it is finally submitted to you.

3 The Court will recess until 2:00 p.m.

4 (Whereupon, at 11:59 a.m. the court was in
5 recess.)
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