

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 106

HON. RAYMOND CHOATE, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

CHARLES MANSON,

Defendant.

140

No. A-267861

REPORTERS' DAILY TRANSCRIPT

Wednesday, September 8, 1971

VOLUME 40APPEARANCES:

For the People:

JOSEPH P. BUSCH, JR., District Attorney
BY: ANTHONY MANZELLA,
Deputy District Attorney

For Defendant Manson: IRVING A. KANAREK, Esq.

BINDER (JERRY)

COPY

MARY LOU BRIANDI, C.S.R.
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Official Court Reporters

I N D E X

<u>PEOPLE'S WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
BINDER, Jerry	6140	6166	6292	6301

E X H I B I T S

<u>PEOPLE'S:</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
71 - Check	6152	

1 LOS ANGELES, CALIFORNIA, WEDNESDAY, SEPTEMBER 8, 1971 10:18 AM

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3
4 THE COURT: Good morning, ladies and gentlemen,

5 (Murmurs of "Good morning" from the members of
6 the jury.)

7 THE COURT: The record will show Mr. Manson to be
8 present with Mr. Kanarek; Mr. Manzella for the People.

9 You may proceed.

10 MR. MANZELLA: The People call Mr. Jerry Binder, your
11 Honor.

12 THE CLERK: Would you raise your right hand, please?

13 You do solemnly swear that the testimony you may
14 give in the cause now pending before this court shall be the
15 truth, the whole truth, and nothing but the truth, so help
16 you God?

17 THE WITNESS: I do.

18
19 JERRY BINDER,
20 called as a witness by and on behalf of the People, having
21 been first duly sworn, was examined and testified as
22 follows:

23 THE CLERK: Please take the stand and be seated.

24 Please state and spell your full name.

25 THE WITNESS: Jerry Binder; B-i-n-d-e-r.

26
27 DIRECT EXAMINATION

28 BY MR. MANZELLA:

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Q All right.

Mr. Binder, what is your occupation?

A I am the public relations director for the Reno Visitors Bureau.

Q That's Reno, Nevada?

A Yes, sir.

Q Now, did you know a man by the name of Donald Jerome Shea?

A Yes, I did.

Q And when did you first meet Mr. Shea?

A Approximately five years ago.

Q Was that around 1965, 1966?

A Yes, sir.

MR. KANAREK: Your Honor, we object to the use of the word "did." I assume the man does know Mr. Shea, your Honor. That's assuming facts not in evidence, the implication.

THE COURT: The objection is overruled.

The answer may remain.

Q BY MR. MANZELLA: All right.

Mr. Binder, directing your attention to the photograph which has been marked People's 46 for identification, do you recognize the person shown in that photograph?

A Yes, I do.

Q And who is that person?

A That's Donald Shea's wedding.

Q And is Donald Shea shown in that photograph?

A Yes, he is.

1 Q Directing your attention to the two photographs
2 marked People's -- strike that.

3 Directing your attention to the photograph marked
4 People's 48-A for identification, do you recognize what is
5 shown in that photograph?

6 A That's Donald Shea and his wife.

7 Q And directing your attention to the photograph
8 marked People's 48-E for identification, do you recognize
9 the four people shown in that photograph?

10 A Yes, I do.

11 Q And who -- starting from the left as you look
12 at the photograph, who are the people shown in that?

13 A That's myself and Donald Shea, his wife, and
14 a girl named Brenda -- I can't remember her last name.

15 Q And do you know when this picture was taken,
16 People's 48-B for identification?

17 A At their wedding.

18 (Pause in the proceedings while a discussion
19 off the record ensued at the counsel table between
20 Mr. Manzella and Sergeant Whiteley.)

21 Q BY MR. MANZELLA: All right. Mr. Binder, do
22 you also know a man by the name of Lance Victor?

23 A Lance Victor?

24 Q Yes.

25 A Yes.

26 Q All right.

27 A I beg your pardon. No. No, I don't. I know
28 a Vic Victor, but I don't know a Lance Victor.

1 Q All right. Now, in 1965, when you first met
2 Donald Shea, what business were you in at that time?

3 A I owned a part of the circus and the carnival.

4 Q And as part of your business, did you handle
5 animals?

6 A Yes.

7 Q And what kinds of animals did you handle?

8 A All kinds; lions, tigers, elephants.

9 Q And as part of your business, did you furnish
10 these animals to television shows?

11 A Yes.

12 Q Now, after you met Donald Shea in 1965, what
13 was your relationship with him, after you met him?

14 A We became very close friends. We worked together
15 in a lot of motion pictures and movies and TV series with the
16 wild animals.

17 Q Did Donald Shea go to work for you?

18 A Yes.

19 Q And what was -- what was Mr. Shea's job with you
20 at that time?

21 A Well, at that time he was handling the elephants
22 that we owned; and handled all the wild animals. And he
23 worked as a co-worker with me in handling the rough ones.

24 Q And when you say "the rough ones," to what are
25 you referring?

26 A Lions, tigers.

27 Q Now, how would you characterize Mr. Shea as an
28 employee of yours?

1 A One of the best I've ever had. And I have had
2 hundreds of people work for me.

3 Q And are you referring now to the handling of the
4 animals?

5 A No. I'm referring to all-around. He was
6 dependable; he was brave; he was -- he never looked at
7 the clock to see what time it was to get off.

8 If we had to put in a 14, 15-hour day, he never
9 objected. He was right there to work.

10 Q Now, you said that Mr. Shea was brave. Did
11 anything occur during the time that Mr. Shea and you were
12 handling animals that Mr. Shea did in regard to those
13 animals?

14 A Mr. Shea saved my life a couple of times. One
15 particularly, he pulled a tiger off my back, bare-handed.

16 Q And on what occasion was that? What was the
17 occasion that you and he were working, handling the tiger?

18 A We were working on a show called Wild Wild West.

19 Q And that was a television series?

20 A A television series. And one of the scenes,
21 the tiger had to -- he was chained at the time, and he broke
22 the chain, and I was to open the door, and the tiger jumped
23 me, and Donald pulled him off.
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1 fls.

1 Q Now, for how long did you have that business, the
2 circus and wild animals?

3 A About a year and a half.

4 Q Into 1967?

5 A Roughly, yes.

6 Q Did Mr. Shea work for you from the time you met
7 him until 1967?

8 A Yes, and he worked for me after that, too.

9 Q Now, how often did you see Mr. Shea during that
10 period?

11 A Practically daily.

12 Q Now, from the time since 1965 until you first met
13 Mr. Shea, until August of 1969, how often did you see Mr. Shea?

14 A Well, he practically lived at my house. He was
15 there -- practically there all the time except when he would
16 go on a movie job somewhere he would leave and except the time
17 when he broke his leg, he went back to Boston to stay with his
18 mother.

19 Q Now, when Mr. Shea worked for you, did you see him
20 every day?

21 A Practically.

22 Q Now, from the period of time in 1965 until August
23 of 1969, when he wasn't working for you, when he wasn't
24 working for you, did he stay in touch with you?

25 A He'd call on the phone, even when he was out of
26 town on location, just to see how we were doing. He became
27 part of the Family.

28 Q Approximately how often would you hear from him

1 when he wasn't working for you?

2 A Never more than a month, at the most.

3 Q In other words, you would hear from him once a
4 month?

5 A He'd even call me from Boston, Tucson, or even
6 when he was up in Sausalito he'd call me every couple of weeks.

7 Q Now, did Mr. Shea ever stay at your home?

8 A Oh, quite a bit.

9 Q Was your home here in Los Angeles?

10 A Yes.

11 Q Would you tell us, if you recall, when it was that
12 Mr. Shea stayed at your home?

13 A Well, I was working in Vegas and the last time he
14 stayed there was when he left Vegas and he came back to my
15 house, sometime the end of July.

16 Q Of 1969?

17 A Of 1969.

18 And I called to my wife there, and he was at the
19 house. He was looking for a place to stay. And he was
20 staying at my house until he could find somewhere.

21 Q Now, was that the last time -- this time in July of
22 1969 -- that you saw or heard from Donald Shea?

23 A That was the last time I heard from him.

24 Q Have you seen him since then?

25 A No.

26 Q Now, prior to that time, July of 1969, had Mr. Shea
27 stayed at your house at any other time?

28 A Oh, often, weeks and months at a time.

1 Q Now, in 1969 did Mr. Shea work for you?

2 A Yes.

3 Q And where did he work for you?

4 A He worked for me in Las Vegas.

5 Q How was Mr. Shea employed by you?

6 A General clerk and retail store handyman.

7 Q And, again, how would you characterize his work
8 as an employee of yours?

9 A I gave him a key to the place and I didn't have to
10 worry about somebody being there to open it up in the morning.

11 Q All right, Mr. Binder, did you ever discuss with
12 Donald Shea his attitude and feelings toward the -- toward
13 movies in general and toward acting in particular?

14 A Well, that was his true love. He would drop every-
15 thing to be -- if he could get a part in a movie, no matter
16 what it was.

17 Q Now, when Mr. Shea was not working for you, did you
18 ever help him obtain other employment?

19 A Yes.

20 Q When was that?

21 A A friend of mine that I knew was in the -- had
22 some beer bars, needed some men, went to work as a manager
23 and bouncer for this fellow who had six or seven bars on the
24 south side of town.

25 Q And that was the south side of Los Angeles?

26 A Yeah.

27 Q When was this; what year was this in?

28 A In 1968, beginning of '69 -- no, it was about '68.

1 The beginning of '68.

2 Q Now, after you met Donald Shea, and during the
3 time that you knew him, you were married; is that correct?

4 A That's correct.

5 Q Did you have any children?

6 A Yes, three.

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1 Q I'm sorry, how many children again?

2 A Three.

3 Q And did Donald Shea meet your children when he
4 stayed at your house?

5 A Yes. My youngest daughter was crazy about him.
6 And, as a matter of fact, she still asks for him all the time.
7 She was his kind of little baby doll. She reminded him of
8 his little girl. It was a very close relationship with the kids
9 with him.

10 Q Now, Mr. Binder, did you ever know Donald Shea to
11 own a matched set of revolvers?

12 A Yes, I did.

13 Q Did you have anything to do with Donald Shea's
14 purchase of those revolvers?

15 A Yes, I loaned him \$100 and I gave him some cameras
16 that I had to use as collateral to help buy them.

17 Q To help buy the guns?

18 A Yes.

19 Q Did you ever see Mr. Shea with the guns?

20 A Constantly.

21 Q Did he ever talk to you about them?

22 A Quite a bit.

23 Q What did he say about them?

24 A Well, they -- they was the thing that he always
25 wanted in his life, that made him a true cowboy and made him a
26 true movie-type cowboy. He practiced doing a quick draw with
27 these all the time. He'd stand there and polish them and rub
28 them constantly and take good care of them.

1 Q Do you think that you would recognize them if you
2 saw them again?

3 A I believe so.

4 Q All right, Mr. Binder, directing your attention --
5 strike that. Let me ask you a few more questions first.

6 Did you ever see Mr. Shea carry those guns in any
7 kind of container?

8 A As a matter of fact, I gave him a container. It was
9 a brown case. We had a dozen of them in our retail store. I
10 kept one of the black ones and he -- as a matter of fact, I
11 gave him two. And he made a styrofoam fitting to fit in it
12 and made it so the guns would lay in the styrofoam and lined
13 it inside with the velvet on top of the styrofoam.

14 Q And do you think that you would recognize the case
15 if you saw that?

16 A Yes, I would.

17 Q All right, Mr. Binder, directing your attention to
18 People's Exhibits 53-A and 53-B for identification.

19 I've examined both weapons and neither is loaded,
20 but you can examine them for yourself if you like.

21 Do you recognize People's 53-A and 53-B for
22 identification?

23 A Yes, they appear to be the same guns.

24 Q Are those the guns about which you have been
25 testifying?

26 A Yes.

27 Q Directing your attention to the case which has
28 been marked People's 54 for identification.

1 Do you recognize this case?

2 A Yes. I not only recognize the case but I recognize
3 I was the one that put the gold embossing on it.

4 Q Now, when you say you were the one that put the gold
5 embossing on it, are you referring to the words "Reverend
6 Donald Jerome Shea" on top of the case?

7 A Yes, yes.

8 Q And you put those on the case?

9 A I had a gold stamping machine and I was the one
10 that put them on there, and then Donald complained they weren't
11 on straight.

12 Q That is the case that you have been referring to in
13 which Donald carried the guns?

14 A Yes.

15 Q Is that correct?

16 A Yes.

17 Q Now, during the time that you knew Donald, during
18 the time that you saw and heard from Donald, from 1965 until
19 July or August of 1969, did you ever loan Donald money?

20 A Innumerable times.
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1 Q Now, did Donald ever pay you back for the loans
2 that you made to him during that period of time?

3 A He always did, except the last one.

4 MR. KANAREK: Well, your Honor -- very well. I'll
5 withdraw the objection, your Honor.

6 Q BY MR. MANZELLA: And when was the last time that
7 you loaned him money?

8 A In June sometime.

9 Q Of 1969?

10 A Of 1969.

11 MR. MANZELLA: Your Honor, I have here what appears to
12 be a personal check, bearing the imprinting "Jerry Binder"
13 and other imprinting and certain writing thereon, dated
14 July 10, 1969.

15 May I have that check marked --

16 THE COURT: 71.

17 MR. MANZELLA: -- People's 71 for identification?

18 THE COURT: So ordered.

19 Q BY MR. MANZELLA: Mr. Binder, directing your
20 attention to the exhibit -- the check which has been marked
21 People's 71 for identification, do you recognize that
22 exhibit?

23 A Yes. That's a check I gave Donald in July of
24 '69.

25 Q And is that the last loan that you made to
26 Donald?

27 A Yes.

28 Q Was that check, People's 71 for identification,

71 Id.

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1 cashed?

2 A Yes.

3 Q And did Donald ever repay you for that loan?

4 MR. KANAREK: Your Honor, that's irrelevant and
5 immaterial, and the prejudicial value outweighs the probative
6 value.

7 THE COURT: The objection is overruled.

8 Q BY MR. MANZELLA: Did Donald ever repay you for
9 that loan?

10 A This is the only loan he never repaid me.

11 Q Now, were you present during the marriage of
12 Donald and Magdalene Shea on July 1st, 1969?

13 A Yeah, I was their best man.

14 Q And where were they married?

15 A In Las Vegas.

16 Q Now, sometime after the marriage of Donald and
17 Magdalene, did Magdalene return to Los Angeles?

18 A Yes, she did.

19 Q And approximately how long after the marriage
20 was that? After July 1st?

21 A A couple of weeks. Ten days, somewhere around
22 there.

23 Q And did you come back to Los Angeles with
24 Magdalene?

25 A Yes. We were on the same plane coming back.

26 Q And do you know the reason that Mrs. Shea was
27 coming back to Los Angeles?

28 A Supposed to have been a death in her family.

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1 Q And did you -- were you met at the airport by
2 anyone?

3 A Yeah, we were met by my ex-wife, and we went to
4 my home, and Magdalene stayed there for the balance of the
5 afternoon.

6 Q Now, did you -- strike that.

7 Did Donald remain in Las Vegas --

8 A Yes.

9 Q -- for a period of time?

10 A Yes, he continued to operate the store, the stores
11 for me, for a few weeks after that.

12 Q Now, how long did you remain in Los Angeles on
13 that occasion?

14 A Just a day or two.

15 Q And then where did you go?

16 A Back to Las Vegas.

17 Q And did you see Donald when you went back to Las
18 Vegas?

19 A Yes, indeed.

20 Q And was -- was it during that time that you made
21 the loan to him?

22 A Yes.

23 Q Now, sometime after you returned to Las Vegas,
24 did Donald leave Las Vegas and come to Los Angeles?

25 A Yes.

26 Q And do you know how much time elapsed after
27 Donald returned -- before Donald returned to Los Angeles?

28 A Well, he left sometime the end of July. The

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1 exact date, I don't remember.

2 Q All right. Fine. That's July of 1969; is that
3 correct?

4 A Yes.

5 Q All right. Mr. Binder, at that time, in 1969,
6 did you have a home in Las Vegas, as well as a home --

7 A Yes.

8 Q -- in Los Angeles?

9 A Yes, I did.

10 Q Now, there's an address, a Las Vegas address on
11 the check marked People's 71 for identification.

12 Was that your home address in Las Vegas at that
13 time?

14 A Yes. That was my apartment, yes. Three fifty --

15 Q 356 Desert Inn Road?

16 A Desert Inn Road, yes.

17 Q Now, did you subsequently move to another
18 location in Las Vegas?

19 A Yes, I did.

20 Q And was it about -- about what time was it that
21 you made that move?

22 A Two months later, three months later.

23 I maintained the same telephone number, though.
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1 Q The same Las Vegas telephone number?

2 A Yes. I had the same number for over three years.

3 Q Did Donald Shea have the telephone number, your
4 Las Vegas telephone number?

5 A Yeah. He had not only my home phone number, but
6 the business phone number which he had prior to that time,
7 which is still the same number today.

8 Q Your home in Los Angeles, did Donald Shea have
9 your home telephone number here in Los Angeles?

10 A Oh, definitely.

11 Q Now, after Donald Shea returned to Los Angeles
12 from Las Vegas, did you sometime later talk to him on the
13 telephone?

14 A Well, at the end of July, when I called my wife,
15 and he was there at the house, he was staying there. That's--
16 that was the last time I spoke to him.

17 Q And have you heard or seen -- have you heard from
18 or seen Donald Shea since that time?

19 A No, I have not.

20 Q And did Donald tell you that he intended to
21 leave Los Angeles, or the State of California, permanently?

22 MR. KANAREK: Irrelevant and immaterial. The preju-
23 dicial value outweighs the probative value. There are
24 probably lots of things -- he probably didn't discuss the
25 Spanish-American War and all kinds of things, your Honor.

26 THE COURT: Just raise the objection, Counsel. If you
27 wish to argue, I'll --

28 MR. KANAREK: It's prejudicial only, the negative

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1 question that's asked.

2 THE COURT: The objection is sustained.

3 Q BY MR. MANZELLA: During the course of the years
4 that you knew Donald Shea, did he ever discuss with you where
5 he was going, when he was leaving town, or leaving your
6 employment?

7 MR. KANAREK: Object, your Honor. Irrelevant,
8 immaterial. It's ambiguous. It calls for a conclusion and
9 hearsay. It's -- the question is much too broad. It's
10 ambiguous as to time.

11 THE COURT: The Court will hear from the People at
12 the bench, if you wish to pursue this.

13 (Whereupon the following proceedings were had
14 at the bench, outside the hearing of the jury:)

15 MR. MANZELLA: Those were precisely the kinds of
16 questions that were asked in the L. Ewing Scott case, your
17 Honor, which the California Supreme Court upheld as proper
18 circumstantial evidence, after showing a relationship between --

19 THE COURT: What do you intend to show by this witness?

20 MR. MANZELLA: These are my last questions of him.

21 THE COURT: Yes. But what do you --

22 MR. MANZELLA: I've already shown what I intend to show,
23 except by these last two questions.

24 THE COURT: Well, what do you anticipate that the answer
25 will be?

26 MR. MANZELLA: That Shea never told him he intended to
27 leave Los Angeles or California permanently.

28 THE COURT: Well, do you intend to show that, theretofore,

1 Shea had always informed him of where he was going?

2 MR. MANZELLA: Well, the only reason I asked that
3 question was because you sustained the objection to my prior
4 question. That was to be my last question:

5 Did Donald Shea ever tell you that he intended
6 to leave Los Angeles or the State of California permanently?

7 And that was the same question that was upheld
8 in the L. Ewing Scott case.

9 THE COURT: Well, how was it relevant, unless you
10 establish -- well, I can see its relevance.

11 MR. MANZELLA: I'm not saying that it --

12 THE COURT: I can see its relevance, if this man were a
13 confidant of Shea. And if Shea, before leaving the location,
14 would advise this man that he was going to leave.

15 MR. MANZELLA: Your Honor, if I may be heard briefly,
16 that same kind of question was asked of -- in the L. Ewing
17 Scott case -- I forget the name of the woman whom Scott was
18 convicted of murdering in that case, but that question was
19 asked of her physician; it was asked of her lawyer; it was
20 asked of her banker; it was asked of all of these people.

21 Now, granted, Shea does not have the same life
22 style --

23 THE COURT: Close associates.

24 MR. MANZELLA: -- that she had. And Mr. Binder has
25 already testified he is a close friend of Shea's.

26 Now, it's not like asking a stranger what Shea
27 told him. He has already testified he was a close friend
28 of Shea's; he worked with him; he had a lot of respect for

1 him, and so on.

2 And he would testify that Shea often did tell
3 him where he was going, when he was going out of town and
4 so forth.

2b fla.

1 THE COURT: Well, the Court believes that if that were
2 the situation, that that would be admissible; and so would your
3 previous question.

4 MR. MANZELLA: All right.

5 THE COURT: All right. You may go ahead.

6 MR. KANAREK: Your Honor, the point is, the question --
7 I don't know what specific question he's going to ask. But
8 the point --

9 THE COURT: Well, there's the question to which I have
10 sustained an objection at this point.

11 MR. MANZELLA: I intend --

12 MR. KANAREK: But he can't just ask a broad question.

13 THE COURT: Shea wouldn't tell you or me or Mr. Manzella
14 when he was going to leave town. But he might conceivably --
15 and it would be the ordinary course of human conduct that a
16 person who was going to leave town would tell his close
17 associates or friends.

18 MR. KANAREK: Well, it's offered -- your Honor, it's
19 hearsay. It's inadmissible, and it's prejudicial. It's
20 irrelevant and immaterial.

21 There's no foundation. These conversations --
22 just because the District Attorney wants us to -- we are
23 entitled to foundation.

24 THE COURT: It's not offered for the proof of --

25 MR. KANAREK: It's still conversation.

26 THE COURT: -- of what it -- yes, that's true.

27 MR. KANAREK: Yes, it certainly is offered for the
28 proof. It's offered for the proof. He may answer, "No, he

1 always told me he intended to stay in Los Angeles."

2 That would be -- that would be uttered for the
3 proof -- the truth of the matter asserted. The question is
4 an improper question, and just allows this witness to --
5 to make prejudicial answers.

6 We still have no --

7 THE COURT: Isn't it uttered to show state of mind?

8 MR. MANZELLA: Can I be heard briefly on that?

9 THE COURT: Yes.

10 MR. MANZELLA: If the answer would be, "Yes, he told
11 me he intended to go to a certain place," that would be
12 admissible under the state of mind exception to the hearsay
13 rule, as intending to do a future act. And this is
14 admissible.

15 MR. KANAREK: But when --

16 MR. MANZELLA: And this is the negative of that
17 position.

18 MR. KANAREK: But, your Honor, we are dealing with a
19 period of time in July, 1969, -- or at least in the summer
20 of 1969 -- and to allow a broad question like that in
21 is -- this over-all conclusionary type of question -- is
22 improper. He has got to -- it has to be limited to a time --

23 MR. MANZELLA: Well, I will limit it. I think Mr.
24 Kanarek's right about that. I will ask him --

25 THE COURT: The Court believes that, given the back-
26 ground that has been established, that Shea did tell this
27 man when he was leaving town, to go to another place, and --

28 MR. KANAREK: Well, we --

1 THE COURT: With that background, I think that it
2 would be probative, and would be a matter which would be
3 admissible.

4 MR. KANAREK: Well, what is the offer of proof, as
5 to what he's going to answer? He's your witness, and you
6 have spoken to him extensively.

7 MR. MANZELLA: No, I haven't. I've never talked to
8 him before he got on the witness stand, except for "Hello."

9 MR. KANAREK: Well, you have a transcript.

10 Also, your Honor, which I am going to ask that
11 your Honor order the District Attorney to allow me to use
12 the transcript of this man's testimony in the Grogan case.

13 The District Attorney has a copy, of which I
14 have not been furnished with a copy, despite the Court's
15 orders.

16 THE COURT: Well, I haven't ordered that you be given a
17 copy of that testimony gratis. I have indicated that Mr.
18 Denny, who was appointed under 987(2) to represent a
19 co-defendant, Davis, be given a copy of it.

20 And I had suggested that -- while you were in
21 chambers with Mr. Denny at one time, I believe -- that he
22 had another copy made; and I would consider as to whether or
23 not I would provide you with a copy, or perhaps we'd get the
24 Judge's copy.

25 But in any event --

26 MR. KANAREK: Well, he has a copy. Would your Honor
27 order that --

28 THE COURT: Do you have a copy?

1 MR. MANZELLA: Yes, I do, your Honor. But I would like
2 to use it for -- during the examination of the witness.

3 THE COURT: You have only one copy?

4 MR. MANZELLA: That's right.

5 MR. KANAREK: Well, I notice he hasn't used it. I tried
6 to -- I asked him for it before the witness started to testify,
7 and he told me he was going to use it during the examination.

8 I have not noticed Mr. Manzella using any
9 transcripts. He is using his yellow notes, and I would ask
10 to be allowed to look at that.

11 THE COURT: To look at his yellow notes?

12 MR. KANAREK: No, at the transcript, your Honor.

13 THE COURT: All right. I'll permit you to do that.

14 But the course of questioning seems to be
15 reasonable and admissible under the circumstances, and the
16 Court would permit it.

3 fls.

3
1 (Whereupon, the following proceedings were had in
2 open court within the presence and hearing of the jury:)

3 MR. KANAREK: Your Honor, may we approach the bench at
4 the moment?

5 THE COURT: Not at this moment.

6 BY MR. MANZELLA:

7 Q Mr. Binder, did Mr. Shea ever tell you that he
8 intended to absent himself or to leave Los Angeles or the
9 State of California permanently?

10 MR. KANAREK: Object, ambiguous in time, improper
11 foundation, irrelevant, immaterial.

12 THE COURT: Sustained.

13 Q BY MR. MANZELLA: All right, Mr. Binder, you've
14 already testified that when Mr. Shea was not working for you,
15 you heard from him at least once a month; is that correct?

16 MR. KANAREK: Object. Whatever he's testified to is
17 in the record. Object to the form of the question.

18 THE COURT: Sustained. What is in the record --

19 Q BY MR. MANZELLA: Mr. Binder, how often did you
20 hear from Mr. Shea --

21 MR. KANAREK: That's ambiguous.

22 Q -- when he wasn't working for you, from the time
23 1965 until July or August of 1969?

24 MR. KANAREK: Ambiguous as to time, and assuming facts
25 not in evidence, your Honor.

26 THE COURT: Overruled.

27 A Uh, we continued our friendship even when he was
28 not employed by me and I heard from him periodically. Never

1 more than a month went by that I didn't hear from him.

2 Q BY MR. MANZELLA: And during that time, during the
3 entire number of years that you saw and heard from Donald Shea,
4 did he tell you -- did he ever tell you when he was going
5 some place, when he was going to leave town?

6 MR. KANAREK: Irrelevant, immaterial, improper foundation,
7 leading and suggestive, your Honor.

8 THE COURT: Overruled. You may answer.

9 THE WITNESS: We were very, very close. The man had
10 saved my life and I had worked very close with him. And we
11 discussed a lot of things. And if he were going out of town,
12 I would be the first one he'd tell.

13 MR. KANAREK: I ask that answer be stricken, your Honor.

14 THE COURT: All right, the answer is stricken.

15 Q BY MR. MANZELLA: Mr. Binder, during the period of
16 time you saw and heard from Donald Shea, did he ever tell you
17 when he was leaving town?

18 MR. KANAREK: Your Honor, object on hearsay, improper
19 foundation, irrelevant, immaterial, and it assumes facts not
20 in evidence, your Honor.

21 THE COURT: The objection is overruled. You may answer,
22 Mr. Binder.

23 THE WITNESS: Yes, he always let me know when he was going
24 out of town.

25 Q BY MR. MANZELLA: All right. And in the summer of
26 1969 or at any time prior to that, did Donald Shea ever tell
27 you that he intended to leave Los Angeles or the State of
28 California permanently?

1 MR. KANAREK: Irrelevant, immaterial, compound, hearsay,
2 your Honor, no foundation.

3 THE COURT: The objection is overruled. You may answer.

4 THE WITNESS: He didn't ever tell me that he was leaving
5 town permanently.

6 MR. KANAREK: I ask that that be stricken, your Honor.
7 If there was no -- it is not responsive to the question.

8 THE COURT: The objection is sustained. The motion is
9 granted. The answer is stricken.

10 THE WITNESS: Repeat that, please, then.

11 Q BY MR. MANZELLA: Yes.

12 Mr. Binder, did Donald ever tell you that he was
13 leaving Los Angeles or leaving the State of California
14 permanently?

15 MR. KANAREK: Object, calling for a conclusion, leading
16 and suggestive, hearsay, no foundation, irrelevant, immaterial.

17 THE COURT: The objection is overruled. You may answer
18 that, Mr. Binder.

19 THE WITNESS: No, he never told me he was leaving
20 permanently.

21 MR. MANZELLA: I have no further questions. Thank you,
22 your Honor.

23
24 CROSS-EXAMINATION

25 BY MR. KANAREK:

26 Q Now, Mr. Binder, sir, when did you and your wife
27 separate?

28 A Approximately three years ago.

1 Q Pardon?

2 A Approximately two and a half years ago.

3 Q You and your wife separated at about the time that
4 Shorty Shea started living at your wife's house?

5 A No.

6 Q Is that correct?

7 A That is not correct, sir.

8 Q Are you and your wife now divorced?

9 A No, we are not.

10 Q So she is not your ex-wife?

11 A No.

12 Q So when you stated she was your ex-wife in your
13 testimony it wasn't true. It was a lie.

14 A It wasn't a lie. It is a fact. We are not
15 separated legally, but we are not living together and there is
16 no marriage, in fact, and it makes it an ex-wife situation in
17 my opinion.

18 Q She is not your ex-wife, she is your present wife,
19 is that not true?

20 A I will accede to your thing and say yes, she is
21 still my present wife.

22 Q Now, Mr. Binder, on or about July 1, 1969,
23 Mr. Binder, were you living with your wife?

24 A Technically speaking, yes. I was still visiting
25 my home.

3a-1

1 Q My question is, were you living with your wife in
2 the marital relationship?

3 A Yes.

4 Q And on or about July 1, 1969, were you in
5 Las Vegas at a time when your wife was living at your home
6 in Los Angeles with Shorty Shea?

7 A My wife was not living with Shorty Shea. Shorty
8 Shea visited my home for a couple of days.

9 Q He lived there and slept there, right?

10 A The way you implied it, is like it meant something
11 dirty, sir.

12 Q Would you answer the question, please?

13 A I just did.

14 Q Your husband -- pardon me, your wife and Mr. Shea
15 were living in the same home?

16 A And so were my three daughters.

17 Q Well, would you just answer the question?

18 A Not unless you ask it like a gentleman.

19 THE COURT: Just answer the question, Mr. Binder.

20 THE DEFENDANT: Your reaction tells us more than his
21 question.

22 THE COURT: Mr. Manson, you be quiet or you'll have to
23 leave the room.

24 Just answer the question. If you wish to explain --

25 THE WITNESS: Your Honor, he is implying things that is
26 not true.

27 MR. KANAREK: Well, I ask that that be stricken, because
28 I think they are the fact, your Honor.

1 THE COURT: Mr. Binder --

2 All right, Mr. Kanarek's statement about what he
3 thinks is stricken, and Mr. Binder's statement may be
4 stricken.

5 MR. MANZELLA: May Mr. Manson's remarks be stricken,
6 your Honor?

7 THE DEFENDANT: Your Honor, may Mr. Manzella's remarks
8 be stricken?

9 THE COURT: They are stricken, and Mr. Manson is to be
10 taken from the courtroom.

11 (Whereupon, the defendant Manson was escorted by
12 the bailiff into the retaining tank, and the following
13 proceedings were had:)

14 THE COURT: All right, Mr. Binder, you are not here to
15 argue. You are here to answer questions. You answer them and
16 do not add anything. If you wish to explain an answer, you
17 may ask the Court's permission and you may explain it, if the
18 Court grants you permission.

19 Go ahead, Mr. Kanarek.

20 MR. KANAREK: Yes, your Honor.

21 Q BY MR. KANAREK: Mr. Binder, when did you separate
22 from your wife in the year 1969?

23 MR. MANZELLA: Objection, it is irrelevant, your Honor.

24 MR. KANAREK: Your Honor, it is most relevant and most
25 material to show bias and prejudice.

26 THE COURT: Sustained.

27 Q BY MR. KANAREK: Did you separate from your wife
28 in 1969?

1 MR. MANZELLA: Objection, it is irrelevant.

2 MR. KANAREK: It is relevant and material on the issue
3 of bias and prejudice, your Honor.

4 THE COURT: The objection is sustained.

5 MR. KANAREK: Your Honor, may we approach the bench?

6 THE COURT: Yes, you may.

7 (Whereupon, the following proceedings were had at
8 the bench among Court and counsel, outside the hearing of the
9 jury:)

10 MR. KANAREK: Your Honor, it is most relevant and
11 material to show --

12 THE COURT: About what?

13 MR. KANAREK: It is relevant and material to show that
14 possibly Shorty Shea is with this man's wife right now,
15 at the present time.

16 These people were living together. This man was
17 in the carnival business. And I have every reason to believe
18 that these people had a very, very loose sexual relationship
19 with one and another. And now we have a right to go into
20 that, absolutely, because to -- for not allowing us to go
21 into that is denying us a fair trial and due process --

22 THE COURT: Is it within the scope of direct examination?

23 MR. KANAREK: Absolutely. He brought in about this
24 nicey-nicey type thing that Shorty Shea was staying at his
25 house and we have a right to know if there was marital diffi-
26 culty and, in fact, there was marital difficulty and, in
27 fact, Shorty Shea --

28 THE COURT: I can't see --

1 MR. MANZELLA: It has already been brought out. He's
2 already questioned about it.

3 THE COURT: I don't believe it is within the scope of
4 direct examination.

5 MR. KANAREK: He's trying to imply that Shorty Shea went
6 here and there, and he's trying to convey to the jury this
7 relationship as being something of the sort that we believe
8 that it was not. We have a right to show that relationship.

9 THE COURT: You believe that this relationship with
10 Mr. Shea was not a friendly one, then?

11 MR. KANAREK: Yes, I believe it was not friendly and it
12 was made friendly for the purposes of this trial.

13 And, also, I believe that we have a right to infer
14 that Mr. Shea is off perhaps with this man's wife.

15 MR. MANZELLA: Well, your Honor, he's already answered
16 the questions and received the answers. How long can he be
17 permitted to keep asking the same questions over and over
18 again?

19 MR. KANAREK: I'm not asking the same questions.

20 MR. MANZELLA: He already asked the question and made
21 the implication that he wanted to make, and that was that
22 Shea was living -- or sleeping with this man's wife while this
23 man was in Las Vegas. He's already made that. How much
24 further can he go into the subject?

25 MR. KANAREK: Your Honor, I have a right to ask this
26 last question. They brought up about the marriage and all of
27 that.

28 THE COURT: It has been asked and answered.

1 MR. KANAREK: But not about when the date of separation
2 was. It is very critical to our case when the date of
3 separation was, because it was right at that time that they
4 separated, I'll represent to the Court.

5 THE COURT: All right, I'll permit it. Only in that
6 limited and narrow vein.

7 MR. KANAREK: Thank you.
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3b

1 (Whereupon, the following proceedings were had in
2 open court within the presence and hearing of the jury:)

3 BY MR. KANAREK:

4 Q Mr. Binder, would you tell us when you and your wife
5 separated in 1969?

6 THE COURT: Perhaps you might use that microphone, it is
7 difficult --

8 MR. KANAREK: Yes. Thank you. I'm sorry, your Honor.

9 THE WITNESS: It is a hard question to answer. We've
10 never really been officially separated. As a matter of fact,
11 I spent the evening with her last night.

12 On and off she visited me in Las Vegas and I
13 visited her in Los Angeles.

14 Q BY MR. KANAREK: Well, before July 1, 1969,
15 Mr. Binder, had you and your wife separated?

16 A In March of that year I went to live permanently in
17 Las Vegas and she continued to maintain the residence in
18 Los Angeles until the kids were supposed to finish school in
19 June.

20 Q And so before Mr. Shea's marriage in Las Vegas,
21 before that marriage took place, your wife was living
22 separate in Los Angeles from you?

23 A That's correct.

24 Q And in March of 1969, did you see Mr. Shea?

25 A I really don't remember.

26 Q Did you see Mr. Shea in April of 1969?

27 A Yes.

28 Q Where?

1 A In Los Angeles.

2 Q What day?

3 A I couldn't recall the exact date.

4 Q Well --

5 A It was sometime in April. And it was before we

6 discussed him coming to work when he was through working for

7 Mr. Bromberg, would he come to Las Vegas.

8 Q Did you see him in February of 1969?

9 A I can't recall.

10 Q Did you see him in January of 1969?

11 A I don't recall the exact dates.

12 Q December of 1969 -- '68?

13 A Yes.

14 Q You saw him in December?

15 A December and January 1st, at the New Year's Eve

16 party at my home.

17 Q In Los Angeles you saw Mr. Shea?

18 A Yes. He acted as the bartender at my party.

19 Q On January --

20 A January 1st.

21 Q December 31, 1968?

22 A '69. '68 is too far back. I don't recall.

23 Q But in December of 1969 he acted as a bartender at

24 your party, is that right?

25 A That's right.

26 Q And that was the New Year's Eve of 1970, right?

27 Correct?

28 A Correct.

1 Q Now, then, when you had this last discussion with
2 Mr. Shea, the one in April, is that the discussion that you
3 had concerning his going to work for you?

4 A I told him there would be a job waiting for him any
5 time he wanted to come to Las Vegas.

6 Q Well, how long after you had this conversation with
7 him did he come to work in Las Vegas?

8 A In May. In May sometime.

9 Q Now, did you arrange with a business acquaintance
10 of yours for Mr. Shea to obtain employment in a beer bar?

11 A Yes.

12 Q And who -- what is the name of the person?

13 A Herb Bromberg.

14 Q What is the name of the beer bar?

15 A I don't -- he has seven or eight, and I don't know
16 which one Don worked at.

17 Q Had you ever visited the beer bars that Mr. Bromberg
18 owned?

19 A I visited a few of them.

20 Q Now, directing your attention, then, to the time
21 when Mr. Shea came to work for you.

22 At that time where was your wife living?

23 A She was with me, I believe, in Las Vegas.

24 Q And at a time when -- I'll withdraw that.

25 What day was it that you returned to Los Angeles
26 with Magdalene Shea?

27 A Sometime in July. It was not an important factor
28 in my life. I made weekly trips and I just don't remember the
exact day.

4-1

1 Q On that day when you returned with Magdalene
2 Shea, at what airport did you land?

3 A Burbank.

4 Q And what transportation did you use from the
5 airport?

6 A My wife and daughter picked me up at the airport
7 with the family car and drove us home.

8 Q And you and your wife and daughter and Magdalene
9 Shea were at your family home, --

10 A Correct.

11 Q -- is that right?

12 A Correct.

13 Q Now, your wife then left and went to Las Vegas;
14 is that right?

15 A A few days later.

16 Q And Mr. Shea was in Las Vegas?

17 A That's correct.

18 Q And your wife and Mr. Shea were in Las Vegas
19 at a time when you were in Los Angeles?

20 A No. I went to Los Angeles -- back to Las Vegas
21 also at the same time.

22 Q But was there a period of time -- was there a
23 period of time, Mr. -- let me withdraw that.

24 Mr. Binder, at this time you and your wife were
25 living separate and apart -- I am speaking from a marital
26 standpoint --

27 MR. MANZELLA: Objection. That's ambiguous, your
28 Honor.

4-2

1 MR. KANAREK: Well, I am trying to be as --

2 THE COURT: Sustained.

3 THE WITNESS: Let me answer it this way.

4 THE COURT: No, you needn't answer.

5 Q BY MR. KANAREK: There is no question.

6 THE WITNESS: Pardon?

7 THE COURT: You need not answer.

8 THE WITNESS: Okay.

9 Q BY MR. KANAREK: You and your wife were separated
10 as husband and wife at a time when she returned to Las Vegas;
11 is that correct?

12 A We were maintaining separate homes, but we were
13 not -- our marital status was still the same as it was prior
14 to that.

15 Q Which was that you were separated?

16 A No, we were separated by distance, but we were
17 still married, and we were still living together.

18 Q As husband and wife?

19 A As husband and wife.

20 Q Now, do you remember testifying in a court in this
21 city, on or about July 27th of 1971?

22 A Yes, sir.

23 Q Did you testify as follows?

24 "Q Mr. Binder, are you the former husband
25 of Marian Binder?

26 "A Yes.

27 "Q It is fair to say you are separated;
28 is that correct?

4-3

1 "A That is correct."

2 Did you so testify?

3 A Yes.

4 Q Now, who was it, Mr. Binder, that introduced
5 you to Shorty Shea?

6 A A fellow named Scott Larkin.

7 Q And when is the last time you last saw Mr. Larkin?

8 A I haven't seen him in years.

9 Q And you do not know that Mr. Shea is not with Mr.
10 Larkin in some business venture, do you?

11 A I can't answer that. I have no knowledge of it.

12 Q You have no knowledge one way or the other; is
13 that correct?

14 A That's right.

15 Q In your lifetime, Mr. Binder, how many people
16 have you known Mr. Shea to know?

17 A That's an ambiguous question. I couldn't
18 possibly answer that.

19 Q Hundreds?

20 A I presume so.

21 Q Right?

22 A Um-hmm.

23 Q Now, directing your attention then to the year --
24 to the year 1969, on how many different occasions during that
25 year did Mr. Shea tell you what he was going to do during
26 the year 1969?

27 A That's again an ambiguous question. We sat
28 around and talked around the fireside many, many nights.

4-4

1 How can you answer a question like that? That's
2 impossible.

3 Q You don't know; right?

4 A I don't know.

5 Q Now, would you tell us the phone numbers, Mr.
6 Binder, that you gave Mr. Shea, the two or three or four
7 or whatever numbers you gave him?

8 A You are talking about two years ago, and I don't
9 remember all the telephone numbers.

10 We had -- the phones were both listed in my
11 name in the phone book, plus the business was listed in the
12 book.

13 And it's still the same number. I couldn't
14 remember the numbers offhand.

15 Q My question is: Would you tell us --

16 A I can't.

17 Q -- what numbers you gave -- what phone numbers
18 you gave to Mr. --

19 A Mr. Shea had my Los Angeles home phone number.
20 Mr. Shea had my home in Las Vegas telephone number; and he
21 had the business telephone numbers.

4a file.

4-5

1 Q Well, now, he had them in the sense that I may
2 have all of the phone numbers in the Los Angeles City
3 Directory.

4 A No. He kept them in his little pocket wallet.

5 Q Well, my question then is: Would you tell us how
6 many numbers you gave to Mr. Shea?

7 A I told you there were four numbers altogether,
8 two in the business, one at my home in Los Angeles, and one
9 at my home in Las Vegas.

10 Q All right. Would you tell us who was present
11 when you gave him -- told him your phone numbers?

12 A (Laughing) I haven't the slightest idea who was
13 present three years ago, when I gave him telephone numbers.

14 Q Would you tell us what dates, Mr. Binder, you gave
15 Mr. Shea telephone numbers?

16 A As we acquired a new telephone, I would tell him,
17 "Donald, here's a new telephone number. You'll need it."

18 Now, if you ask me the date, I can't give you the
19 date it happened.

20 Q You can't give us the date it happened, and you
21 can't give us the phone numbers, either?

22 A I am sure I could, if I go through my wallet and
23 dig up some of the numbers.

24 Q Do you have the wallet with you?

25 MR. MANZELLA: Objection, your Honor. It's not
26 relevant.

27 MR. KANAREK: It's relevant. They have stated, your
28 Honor, that certain numbers were given to Mr. Shea. We are

4-6

1 entitled to know what these numbers are.

2 THE COURT: Sustained. The objection is sustained.

3 THE WITNESS: If you want the telephone number at the --

4 THE COURT: You don't need to answer.

5 THE WITNESS: Oh, Okay.

6 Q BY MR. KANAREK: Now, you did know one phone
7 number?

8 A No. I just wanted to mention; It's still in
9 the same book, the same one.

10 Q All right. And on how many different occasions
11 did you give Mr. Shea -- did you write out for Mr. Shea or
12 tell him your phone numbers?

13 MR. MANZELLA: Objection, your Honor. It's not
14 relevant.

15 MR. KANAREK: This is the exact question, your Honor.

16 MR. MANZELLA: Excuse me, your Honor. I'm sorry. I'll
17 object on other grounds. It's been asked and answered,
18 your Honor.

19 THE COURT: Overruled. You may answer it.

20 THE WITNESS: Yeah. I can't tell you how many times
21 I gave him the telephone number. I remember giving them
22 to him for the store, and I gave him my business card, and
23 gave him my home phone number when I moved in Vegas; and I
24 gave him the telephone number there.

25 But I can't tell you how many times I gave him
26 the numbers. That was it.

27 Q Well, did you -- how long ago was it, Mr. Binder,
28 that you gave him these numbers? Would you give us each of

4-7

1 the numbers, and then tell us how long ago it was that you
2 gave Mr. Shea each of these numbers?

3 MR. MANZELLA: Objection. It's not relevant.

4 MR. KANAREK: This is the exact matter that Mr. --

5 THE COURT: I'm sorry. I didn't hear the question.
6 Would you read it to me, please?

7 (Whereupon the record was read by the
8 reporter as follows:

9 "Q Well, did you -- how long ago was
10 it, Mr. Binder, that you gave him these numbers?
11 Would you give us each of the numbers, and then
12 tell us how long ago it was that you gave Mr.
13 Shea each of these numbers?"

14 THE COURT: The objection is overruled.

15 THE WITNESS: I don't recall when I gave him the
16 numbers, or the exact numbers I gave him a couple of years
17 ago.

18 Q BY MR. KANAREK: Now, when you spoke of the
19 store, Mr. Binder, that's many years ago. That's something
20 like four or five years ago, --

21 A Um-hmm.

22 Q -- is that right?

23 A Approximately four years ago, when we first
24 started the store, yes.

25 Q That's a store on Sunset Boulevard?

26 A Right.

4b fls.

4b-1

1 Q And so as to those matters, it's been at least
2 five years?

3 A Approximately.

4 Q Now, you and -- let me -- I'll withdraw that.
5 Your wife and Mr. Shea were friends; is that
6 correct?

7 A That's correct.

8 Q And to the best of your knowledge, your wife and
9 Mr. Shea are still friends?

10 A Yes.

11 Q Right?

12 A Um-hmm.

13 Q They're good friends?

14 A Yes.

15 Q Now, is it a fact, Mr. Binder, that in September
16 of 1969, your wife left the home that you and she shared in
17 Hollywood and moved to Norton Street?

18 MR. MANZELLA: Objection, your Honor. It's not
19 relevant.

20 MR. KANAREK: It's most relevant and most material,
21 your Honor.

22 THE COURT: The objection is sustained.

23 MR. KANAREK: Then may we approach the bench?

24 THE COURT: No, you may not.

25 Q BY MR. KANAREK: Did your wife in fact move?

26 A That's correct.

27 Q From the Hollywood address?

28 A That's correct.

4b-2

1 Q And did she in fact move to an address on Norton
2 Street?

3 A That is correct.

4 Q An apartment?

5 A Yes.

6 MR.MANZELLA: Objection, your Honor. It's not
7 relevant.

8 THE COURT: The answer may remain. The objection is
9 overruled.

10 Q BY MR. KANAREK: And when was that, that she
11 moved?

12 MR. MANZELLA: Objection, your Honor. It's not rele-
13 vant.

14 MR. KANAREK: It goes to the very time, your Honor,
15 involved in the indictment.

16 THE COURT: Excuse me just a minute.

17 I'll reverse my previous ruling and allow the
18 answer.

19 You may answer.

20 THE WITNESS: She moved when I could no longer afford
21 the \$350 a month rent I was paying for that big house, and
22 moved into a cheaper apartment.

23 MR.KANAREK: Well, your Honor, may that be stricken?
24 I am asking for a time. My question was clearly for time,
25 not for the type of answer that Mr. Binder has made.

26 THE COURT: The motion is denied. It may remain in
27 the record.

28 Q BY MR. KANAREK: Would you tell us what date it

1 was?

2 A Sometime in September.

3 Q Of 1969?

4 A Right.

5 Q Right. Now, on occasion, Mr. Binder, did Mr.
6 Shea speak to you of a wife whose name is Phyllis Shea?

7 MR. MANZELLA: Objection, your Honor. It assumes
8 a fact not in evidence.

9 MR. KANAREK: I am asking him the question, if such
10 occurred, your Honor.

11 MR. MANZELLA: It assumes a fact there was another
12 wife, your Honor.

13 THE COURT: I'll sustain it in its present form.

14 You may rephrase it.

15 MR. KANAREK: Very well.

16 Q Did Mr. Shea speak to you of a lady that he
17 called Phyllis Shea?

18 A Yes.

19 Q And he told you that he had married Phyllis
20 Shea; right?

21 A Yes; I believe he did.

22 Q Correct?

23 A Yes.

24 Q And that Phyllis Shea is a lady who is different
25 than Magdalene Shea?

26 A Yes, it's a different lady.

27 Q Pardon?

28 A I believe it's a different lady. I never heard

1 Magdalene called Phyllis.

2 Q And he spoke of Phyllis Shea some five, four
3 years ago, something like that?

4 A That's correct.

5 MR. MANZELLA: Objection -- well, all right. I'll
6 withdraw the objection.

7 Q BY MR. KANAREK: And did he tell you that this
8 lady Phyllis Shea lived in Northern California?

9 A I don't recall that. I don't remember him ever
10 mentioning where she lived.

11 Q Did he discuss -- well, would you tell us, what
12 did he say concerning Phyllis Shea?

13 MR. MANZELLA: Objection, your Honor. It calls for
14 hearsay.

15 MR. KANAREK: It's state of mind, your Honor. It goes
16 both ways. We are offering it --

17 THE COURT: Excuse me. Now, Mr. Kanarek, I have told
18 you before that if you wish to argue, you may approach the
19 bench.

20 MR. KANAREK: May I?

21 THE COURT: Let me make a ruling on the objection first,
22 before you argue.

23 There may not be a necessity to argue.

24 MR. KANAREK: I'm sorry.

25 THE COURT: The objection is overruled. You may answer.

26 THE WITNESS: Do you want to repeat the question, then?

27 MR. KANAREK: May it be read, your Honor?
28

4c fls.

4c-1

1 THE COURT: What did he say about Phyllis Shea?

2 THE WITNESS: He talked about his ex-wife and his
3 children, is the way he talked about her all the time, in
4 loving terms: how much he really had loved her; how close he
5 was to her; and he was sorry that he and she had broken up.
6 Just things two men talk about sometimes, over a glass of
7 beer, or by the fireside.

8 Q BY MR. KANAREK: And did he speak to you of a
9 daughter named Karen Arlene Shea?

10 A I can't recall the kids' names. I'll be honest
11 with you. There was one daughter he spoke about quite a bit
12 that was similar in age or close in age to my own little
13 girl.

14 Q And would your own little girl be about 11 or 12
15 years old?

16 A No.

17 Q How old?

18 A My youngest daughter is 6, and the next one after
19 that is 19.

20 Q And he told you that he had had a daughter by
21 Phyllis Shea; is that correct?

22 A Yeah.

23 Q Did he tell you when he had married Phyllis Shea?

24 A No.

25 Q Did he state how many years he had been married to
26 Phyllis Shea?

27 A If he did, it was in the course of the conversa-
28 tion, and I didn't pay too much attention to it.

1 Q Now, what is your present address, Mr. Binder?

2 A 44 West Commercial Road, Reno, Nevada.

3 Q Is that your business address?

4 A Yes.

5 Q What is your home address?

6 A I am staying with friends in Reno, because it's
7 a temporary abode, until I get back to Las Vegas.

8 Q And so is it your statement that you do not have
9 a residence -- a permanent residence address?

10 A In Reno, no.

11 Q Do you have one in Las Vegas?

12 A No. I gave up my apartment when I was transferred
13 to Reno.

14 Q I see. And do you have one in Los Angeles?

15 A I maintain my wife's residence. I sent her money
16 to pay the rent.

17 Q What's that?

18 A That's the one on Norton Street.

19 Q On Norton Street?

20 A Yes.

21 Q That's an apartment?

22 A Yes.

23 Q Now, other than that, do you have any other
24 address?

25 A No.

26 Q Now, directing your attention to Mr. Shea,
27 would you say that Mr. Shea had many female friends?

28 A He was a bachelor at the time, and he went out

1 with girls occasionally.

2 Q Well, would you say that he had many female friends?

3 A Well --

4 MR. MANZELLA: Objection, your Honor. The question has
5 been asked and answered. It's also ambiguous.

6 THE COURT: Sustained.

7 Q BY MR. KANAREK: Would you tell us the names of
8 the females that you saw in the company of Donald Shea?

9 MR. MANZELLA: Objection, on the grounds that it's
10 irrelevant.

11 MR. KANAREK: It's -- your Honor, may we approach the
12 bench, then, your Honor?

13 THE COURT: Sustained. The objection is sustained.

14 No, you may not.

15 Q BY MR. KANAREK: Well, in the year 19 -- let's take
16 the year 1967, Mr. Binder. In that year, would you tell us,
17 where did Donald Jerome Shea live?

18 A I don't remember.

19 Q In the year 1968, would you tell us, where did
20 Donald Jerome Shea live?

21 A I couldn't tell you where he lived. He was back
22 and forth, on movie jobs, back and forth, working at various
23 beer bars.

24 He lived at hotels, motels.

25 Q Can you -- would you name any movie that Donald
26 Jerome Shea was in?

27 A "Wild --" a movie, no. I can give you a few
28 TV series that we worked on together.

1 Q All right. Tell us the TV series that Donald
2 Jerome Shea was in.

3 A He worked with me on Wild Wild West.

4 We worked on Voyage to the Bottom of the Sea.

5 He worked on Peyton Place.

6 That's all I can recall at the time. But there
7 was one time he was working on a motion picture for Bob
8 Bixby, and I don't know the name of it.

9 Q Bob who?

10 A Bixby.

11 Q Do you know the man by the name of Bixby?

12 A Bixel; Bixel or Bixby.

13 Q Now, what year was it that Mr. Shea worked in
14 the Wild Wild West?

15 A It was sometime in '67, '68.

8d flm.

1 Q How much money did he receive for that?

2 A I don't remember.

3 Q Well, you were working with him?

4 A Yes.

5 Q What was his part?

6 A He was a wild animal handler and trainer.

7 Q And how many -- how many days did he work?

8 A We worked a total of 12 days on that picture.

9 Q 12 days in 19 --

10 A And I would roughly say, he got approximately
11 about \$600 for those 12 days.

12 Q And that was in 1967?

13 A Yes.

14 Q In the Voyage to the Bottom of the Sea -- is that
15 the name of it?

16 A Yes.

17 Q -- how many days did he work on that?

18 A Well, that was a continuing thing. We had fish --
19 tropical fish and electric eels in that particular thing;
20 and we would go down and clean the tanks and refresh the
21 things and so forth.

22 And that was a continuing thing. There was no
23 set days.

24 We didn't handle the animals in that, per se.

25 THE COURT: We will take a recess at this time. During
26 the recess, you are admonished not to converse amongst
27 yourselves, nor with anyone else, nor allow anyone else to
28 converse with you on any subject connected with this matter,

1 nor are you to form or express an opinion until the matter
2 is finally submitted to you.

3 About 10 or 15 minutes.

4 (Midmorning recess.)
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1 THE COURT: The record will show the jurors to all be
2 present.

3 Mr. Kanarek, you may proceed.

4 MR. KANAREK: Yes, thank you.

5 BY MR. KANAREK:

6 Q Mr. Binder, directing your attention to -- to this
7 case that you have identified, which has been testified to
8 concerning the guns.

9 A Yes.

10 Q I think it is Exhibit 54.

11 You saw this case, is it a fair statement, before
12 there were any guns in it?

13 A Yes.

14 Q Mr. Shea used this case to carry items for sale in,
15 is that right?

16 A He carried a lot of personal things in it.

17 Q But also items that he sold, right?

18 A No. His stuff was sold in the store. He was not
19 in business for himself.

20 Q Well, you are a business -- one of the items you
21 sell is an item commonly known as a French tickler, is that
22 right?

23 A I am not in that kind of a business.

24 Q You were in that kind of a business?

25 A I had a retail store that sold those items in it,
26 yes.

27 Q Mr. Shea sold those items for you, an item known as
28 a French tickler, right?

1 A Yes.

2 Q Mr. Shea also sold for you a mechanical gadget, a
3 vibrating penis that he sold around the countryside for you;
4 right?

5 A He may have, among other things.

6 Q Well, when you say, "He may have," you mean he did,
7 that's for sure?

8 A There were many items that we sold in the store.
9 That was one of them.

10 Q Correct.

11 A I don't recall if he sold that particular one.

12 Q Tell us some of the items that you sold in that
13 store.

14 A All kinds of lingerie, all types of books, all types
15 of sexual aids.

16 Q "Sexual aids."

17 Like this vibrating penis is a sexual aid that
18 Mr. Shea sold, right?

19 THE WITNESS: Your Honor, may I answer that in another
20 way?

21 THE COURT: No, you may not.

22 THE WITNESS: I was just going to point out --

23 Q BY MR. KANAREK: Would you just answer the
24 question, Mr. Binder?

25 THE COURT: That particular question is argumentative.
26 Rephrase your question.

27 MR. KANAREK: Yes.

28 Q BY MR. KANAREK: One of the sexual aids, as you

1 call them, is this mechanical penis that Mr. -- vibrating
2 penis that Mr. Shea sold at your behest, right?

3 A This vibrator that you are talking about was sold
4 in every department store and drugstore in the city.

5 MR. KANAREK: Your Honor, may that be stricken? I'm
6 asking for a specific answer. Would your Honor ask the
7 witness to answer the question?

8 THE COURT: The whole line of questioning is immaterial.
9 Go on.

10 MR. KANAREK: Your Honor, it goes to show --

11 THE COURT: The answer is stricken and it does not --
12 and your remark is stricken. And you may go on to another
13 line of inquiry.

14 MR. KANAREK: Well, your Honor, may we approach the bench?

15 THE COURT: No, you may not. You may proceed with your
16 questions concerning the case, concerning the attache case.

17 Q BY MR. KANAREK: Mr. --

18 Very well.

19 Mr. Shea carried in this attache case what we
20 would call as pornographic, dirty, sexually-oriented books
21 for sale, is that correct?

22 A I don't know the meaning of the word "pornographic."

23 THE COURT: You needn't answer that. The Court will
24 raise its own objection to that.

25 MR. KANAREK: May we approach the bench on that?

26 THE COURT: No, you may not.

27 Q BY MR. KANAREK: Mr. Shea was in businesses other
28 than movies, is that correct?

1 A Not to my knowledge.

2 Q Well, he sold these items that we've been speaking
3 of for profit, right?

4 A He was employed by the store and he was not working
5 in the movies at that particular time, no.

6 Q And he sold these items for profit?

7 A That's correct.

8 Q For you, right?

9 A Correct.

10 Q And you say you don't know what the word
11 "pornographic" means?

12 MR. MANZELLA: Objection, your Honor. That is not
13 relevant.

14 THE COURT: Sustained.
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1 Q BY MR. KANAREK: Directing your attention to the
2 books that Mr. Shea sold, were these sexually-oriented books?

3 MR. MANZELLA: Objection.

4 THE COURT: Sustained. You needn't answer that. That's
5 immaterial.

6 MR. KANAREK: Your Honor, may we approach the bench?

7 THE COURT: No, you may not.

8 Q BY MR. KANAREK: Well, would you tell us the
9 various businesses that Mr. Shea was in, Mr. Binder?

10 A I thought I already answered that. He worked as a
11 movie extra and stuntman and he worked for me in a retail
12 store and he also worked as a manager in a beer bar.

13 Q All right. Now, in the retail store, what was the
14 name of the store?

15 MR. MANZELLA: Objection, it is not relevant.

16 MR. KANAREK: It is relevant to show the state of mind,
17 your Honor, that we are speaking of.

18 THE COURT: The objection is sustained. I'll -- uh --
19 I'll overrule the objection. You may answer it. Tell him.

20 THE WITNESS: The name of the store was the Hollywood
21 Shopper.

22 Q BY MR. KANAREK: That was on Sunset Boulevard?

23 A Right.

24 Q What items -- what was the mercantile line that
25 this store had, that it sold?

26 MR. MANZELLA: Objection, your Honor, it is not
27 relevant.

28 THE COURT: The objection is sustained.

1 Q BY MR. KANAREK: How much money did Mr. Shea make
2 from his part in Peyton Place?

3 A I don't recall. I don't remember even what he had
4 to do on the particular series. It was something that he
5 worked with me on, but with a particular animal.

6 Q Well, then, you -- in other words, you don't
7 remember whether he was on the screen or not?

8 A He was on the screen.

9 Q He was doing some type of labor?

10 A He was handling animals with me.

11 Q And so if there was a particular -- a particular
12 movie in the series that required an animal, Mr. Shea, uh,
13 took care of the animal for that particular --

14 A Yes.

15 Q -- movie?

16 A Correct.

17 Q So that might have been one scene in one movie?

18 A Correct.

19 Q Now, the same as the Voyage To The Bottom Of The Sea,
20 he did not participate as a performer, but as a person who
21 handled animals or fish or --

22 A That's correct.

23 Q Did he handle dangerous fish, is that it?

24 A Electric eels.

25 Q I see. And in connection with the picture that
26 you say was made by the gentleman named Mr. Bixby?

27 A Uh-huh.

28 Q How much did Mr. Shea tell you that he earned in

1 that movie?

2 A I never discussed that with him.

3 Q You don't know whether it was a dollar or --

4 A I have no knowledge of it, whatsoever.

5 Q Or less?

6 Pardon?

7 A I have no knowledge of what he earned, whatsoever.

8 Q Well, he spoke with you concerning his activities?

9 A Yes.

10 Q Didn't he -- didn't he tell you how much his
11 earnings were?

12 A No, he never told me what his earnings were. He was
13 only excited about the fact he had a speaking part there that
14 he might get some recognition and credit for.

15 Q But as to -- well, I'll withdraw that.

16 May I have a moment, your Honor?

17 (Whereupon, there was a pause in the proceedings
18 while Mr. Kanarek conferred with Mr. Manzella at the counsel
19 table.)

20 Q BY MR. KANAREK: Now, directing your attention,
21 Mr. Binder, to this check dated July 10, 1969, that is signed
22 by you.

23 Did Mr. Shea tell you what the purpose was for this
24 money?

25 A He just told me he needed some money. He needed
26 \$100 and I gave it to him. He had done this many times in the
27 past.

28 Q Well, when you sent this -- mailed this check to him, --

1 A I didn't mail it to him, I handed it to him.

2 Q In Las Vegas?

3 A Yes.

4 Q Now, when you handed him this check, uh, how long
5 had it been since he had purchased the guns that you have
6 spoken of?

7 A Oh, it was some time back. There was a big lapse of
8 time between the two.

9 Q What was the amount of money that he paid for these
10 guns?

11 A I don't know what he paid for the guns. All I
12 know is I loaned him \$100 and gave him some cameras that I had
13 at the store which he traded in as part payment on it.

14 Q Well, did he tell you how much the guns were?

15 A He may have. I don't recall the amount.

16 Q Well, to the best of your recollection can you
17 estimate for us what the cameras were worth?

18 A The cameras' retail value were probably worth
19 about \$150.

20 Q But as a -- you've been in the pawnshop type of
21 business, is that right?

22 A No, I never have.

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5b-1

- 1 Q Well, you've been in a second-hand business?
- 2 A No, I never have been in a second-hand business.
- 3 Q Well, you dealt with second-hand cameras?
- 4 A No.
- 5 Q You have no idea what these cameras were worth
- 6 second-hand?
- 7 A No, I don't.
- 8 Q How old were the cameras that you gave him along
- 9 with the \$100?
- 10 A About a year old.
- 11 Q And you say they had a new value of \$150?
- 12 A Yeah.
- 13 Q Now, did you, in your loan arrangement with Mr.
- 14 Shea, set a value upon the cameras?
- 15 A No, I gave him those cameras. I did not set a
- 16 loan value on it.
- 17 Q So that the return as far as money was concerned
- 18 to you was only \$100?
- 19 A That is correct.
- 20 Q All right. When, if at all, did you receive this
- 21 \$100 that you had loaned him?
- 22 A He gave me back 10, and 15, and \$25 at a time over
- 23 a period of weeks.
- 24 Q And did you make any written notations as to these
- 25 monies that were returned to you?
- 26 A No.
- 27 Q When you gave him the \$100, was that in the form
- 28 of cash or a check or --

5b-2

1 A It was in cash.

2 Q \$100 cash?

3 A Uh-huh.

4 Q Now, at the time, on July 10, 1969, that you gave
5 Mr. Shea this \$100, had -- I'll withdraw that. Would you
6 tell us what the conversation was between yourself and Mr.
7 Shea at the time that you gave him this \$100 check?

8 MR. MANZELLA: Objection, your Honor. It calls for
9 hearsay.

10 MR. KANAREK: We're -- if necessary, I would like to
11 approach the bench.

12 THE COURT: The objection is overruled. You may answer,
13 if there was any conversation.

14 A Yeah, he asked me to borrow \$100. He had just
15 recently gotten married and his wife was going to Los Angeles
16 because of a death in the family and he didn't have enough
17 money. And he was looking for an apartment at the time in
18 Vegas, so there was a lot of expenses that he had and he
19 couldn't live on his salary alone and he needed this \$400.

20 Q I see. And what was his salary?

21 A I don't recall exactly. It was around \$125 a week.

22 Q Now, on the back of this check, it states "To the
23 account of the Robinson Apartments."

24 A Yes.

25 Q Do you know where the Robinson Apartments are?

26 A They are in downtown Las Vegas. The exact
27 address escapes my memory.

28 Q Pardon?

1 A I don't remember exactly where they are at, but
2 I know they are downtown Las Vegas.

3 Q Now, are those apartments the apartments Mr. Shea
4 lived in?

5 A Yes.

6 Q With whom did he live there?

7 A He was living with Magdalene.

8 Q For what period of time did he occupy those
9 premises with Magdalene?

10 A The month of July except for the time that she was
11 away.

12 Q Which was several weeks?

13 A I don't recall.

14 Q It could have been several weeks?

15 A It could have been.

16 Q So he didn't move in there before you gave him
17 the check, right?

18 A He was living in there at the time. I think we
19 were paying rent on a weekly basis.

20 Q Well, at the time that he was living there, he
21 was not married? He wasn't living there with Magdalene?

22 A I really don't know. I'll be honest with you.

23 Q Well --

24 A The first couple of nights when they came to Las
25 Vegas, they stayed with me. Uh, in my apartment. And I
26 gave them my bed and I stayed on the couch. And then, they
27 went looking for an apartment.

28 Q All right. So, then, -- so he wasn't staying

1 at the Robinson Apartments before the date of his marriage?

2 A No.

3 Q He was staying with you?

4 A Only for a few days. And then, he probably
5 went to the Robinson Apartments. I never did know the name
6 of the place where he was staying. He just told me he found
7 an apartment.

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

9 THE COURT: Yes, you may.

10 Q BY MR. KANAREK: Mr. Binder, you'll notice that
11 this check is dated -- hello -- oh -- you'll notice this
12 check is dated July 10, 1969.

13 Did you postdate that check or was it written on
14 the date that you gave it to him?

15 A It was on the date that I gave it to him.

16 THE COURT: Speak into that microphone, Mr. Binder.
17 Repeat the answer.

18 A It was on the date. It was not postdated.

19 Q BY MR. KANAREK: So July 10, 1969, is the date
20 that you gave him this check?

21 A Yes.

22 Q Now, you will notice that this check was put
23 through for collection only.

24 Do you notice that?

25 A Yes.

26 Q At the time that you gave him that check, did you
27 have the money in the bank to pay that check?

28 A At the time I gave him the check there was

1 sufficient money in the account to cover it, but I notice
2 that it was not deposited until the 25th of the month.

3 Q Right.

4 A At the time there may not have been enough to
5 cover it and that's why they sent it through for collection.

6 Q So that check was not cashed until the 25th of
7 July, is that correct?

8 A According to the records there, according to the
9 way it is stamped.

10 Q Well, this is your check? You are the one that
11 gave this check to the District Attorney, right?

12 A Yes.

13 Q And so as far as this check is concerned, your
14 state of mind was that this was to be used for rent, is that
15 right?

16 MR. MANZELLA: Objection, your Honor, as not relevant.

17 MR. KANAREK: It is -- we're talking --

18 THE COURT: Sustained.

19 Q BY MR. KANAREK: You had a discussion with Mr.
20 Shea as to the purpose of the use of this check?

21 MR. MANZELLA: Objection, your Honor, it is not rele-
22 vant.

23 THE COURT: Well, it has been asked and answered,
24 sustained.

25 Q BY MR. KANAREK: Well, how much were you paying
26 Mr. Shea? What were his wages?

27 MR. MANZELLA: Objection, your Honor, it has been asked
28 and answered.

1 MR. KANAREK: It has not. We have not gone into that.
2 THE WITNESS: Yes, it has.
3 THE COURT: Yes, it has been asked and answered.
4 Sustained.
5 MR. KANAREK: Well, then, I do confess a lack of memory
6 for that item, your Honor. I would ask the Court to allow
7 me -- I --
8 THE COURT: It has --
9 MR. KANAREK: Pardon? May I ask that question, your
10 Honor?
11 THE COURT: All right, you may answer it again.
12 A Yes, I said he was making approximately \$125 a
13 week.
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1 Q BY MR. KANAREK: At the time, then, that you gave
2 him his check -- which was July the 10th, 1969 -- on that day,
3 he was staying at your home?

4 A I don't recall that he was staying at my home. I
5 don't believe he was at that time, no.

6 Q But at least for several days subsequent to the time
7 he went through a marriage ceremony, he was staying at your
8 home?

9 A It was -- that was at the end of June. You are
10 talking now -- this is approximately ten days, two weeks
11 later.

12 Q Well, was -- do you recall the day that Mr. Shea
13 went through a marriage ceremony with Magdalene?

14 A It was the end of June.

15 Q Or was it July the 1st?

16 A (Witness shrugging shoulders.)

17 Q July the 4th, July the --

18 A I don't recall the exact date.

19 Q All right. But whatever date that was that he
20 went through the marriage ceremony, or some days thereafter,
21 he was living with you, he and his wife?

22 A Correct.

23 Q And when he moved to the Robinson Apartments --
24 well, let me withdraw that.

25 Do you recall his moving to the Robinson Apartments?

26 A I remember him coming home and telling me that he
27 found a place to stay for him and Magdalene.

28 Q And it was the Robinson apartments?

1 A I don't recall if that's where they were or not.

2 Q But do you recall that he -- at any time he lived
3 at the Robinson Apartments?

4 A Well, he must have. That's where he cashed the
5 check.

6 Q Well, I am asking for your recollection, Mr. Binder,
7 your independent --

8 A I don't recall the name of the apartments he was
9 living in.

10 Q When you wrote this check, were you at your place
11 of business, or were you at home?

12 A I was --

13 MR. MANZELLA: Objection.

14 THE WITNESS: -- at my place of -- all right. Shall I
15 answer it?

16 MR. MANZELLA: I withdraw the -- well, I'll object on
17 the grounds it's not relevant, your Honor.

18 THE COURT: The answer may remain. The objection is
19 overruled.

20 Q BY MR. KANAREK: Do you remember testifying
21 previously in another courtroom, in July of this year?

22 A Yes.

23 Q Did you testify, "How long --"

24 Did you answer these questions as follows:

25 "Q How long did you live at Hollywood
26 Boulevard?

27 "A About two and a half years.

28 "Q Did Shorty ever come over and visit

1 "you there?

2 "A He lived at our house for weeks at a
3 time."

4 A That's correct.

5 Q Is that correct?

6 A That's correct.

7 Q You so testified?

8 A Yes.

9 Q And so that was the case?

10 A Pardon?

11 Q That is correct?

12 A Yes.

13 Q And your wife was living there, too?

14 A Yes.

15 Q That's Marion Binder?

16 A That's right.

17 Q Now, you saw Mr. Shea in July or August or September
18 of 1969; is that right?

19 A No, I did not see him in September. And the last
20 I saw him was the end of July.

21 Q Well, did -- did you keep a calendar of your visits
22 with Mr. Shea or his visits with you?

23 A No, I did not.

24 Q Did you keep any notations concerning your
25 visits with Mr. Shea?

26 A No, I did not.

27 Q And then, as far as your recollection is concerned,
28 you may have seen Mr. Shea in August, September, October of

1 1969?

2 A No. That, I recall very clearly, because he left
3 the end of July, and he gave me notice, and I had to replace
4 the man.

5 Q Now --

6 A And I did not see him after he left my employ.

7 Q Well, he gave you notice at the end of July?

8 A Right.

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1 Q What kind of -- would you tell us the conversation
2 when he gave you notice?

3 MR. MANZELLA: Objection, your Honor. It's not relevant.

4 MR. KANAREK: It's -- your Honor, may we approach the
5 bench?

6 THE COURT: Would you please wait until I've ruled?

7 MR. KANAREK: I'm sorry, your Honor.

8 THE COURT: The objection is overruled.

9 You may answer the question.

10 THE WITNESS: He told me that he was unhappy there in
11 Las Vegas, and he wanted to go back to Los Angeles and be
12 together with Magdalene; and this is why he was leaving.

13 Q BY MR. KANAREK: And at that time, your wife was
14 living in Los Angeles; right?

15 A That is correct.

16 Q And Miss -- and Mr. Shea left at a time when your
17 wife was living in Los Angeles; right?

18 A Yes.

19 Q And he went, and he moved in for some period of
20 time at the home which your wife occupied in Los Angeles?

21 THE WITNESS: Your Honor, may I refuse to answer that
22 question, that type of question?

23 THE COURT: Sir, I've instructed you before simply to
24 answer the question.

25 THE WITNESS: He stayed at my house for a few days with
26 my family.

27 Q BY MR. KANAREK: Now, did Mr. Shea tell you why he
28 was unhappy in Las Vegas, Mr. Binder?

1 MR. MANZELLA: Objection, your Honor. It's not relevant.

2 THE COURT: The objection is overruled.

3 You may answer the question.

4 THE WITNESS: One of the problems was the amount of
5 racial prejudice that Magdalene faced in Las Vegas. That was
6 one.

7 Number two, he felt he was -- he could not get
8 anywhere under those circumstances, if she was unhappy and
9 wanted to return to Los Angeles.

10 That was part of the conversation there.

11 Q BY MR. KANAREK: Well, would you give us the entire
12 conversation?

13 A They were living in a motel. She was there in
14 Los Angeles, and he was here. That's the balance of the
15 conversation.

16 Q All right. Any other -- any other statements?

17 A Not that I recall. But those stand out in my
18 memory very distinct.

19 Q But there was other parts of the conversation that
20 you -- that occurred, that you do not recollect; is that
21 correct?

22 A Just general conversation, period. Nothing of
23 importance.

24 Q Well, whether you consider it important or not,
25 Mr. Binder, there were other words uttered, other subject
26 matter?

27 A Yes, like "Good morning," and "Goodnight," and
28 "Good afternoon." There were other generalities involved.

1 Q I see. Now, were there any -- any things stated
2 other than "Good morning" and "Goodnight"?

3 A No.

4 Q And the racial prejudice matter --

5 A No.

6 Q -- that you are speaking of, --

7 A No, that's it.

8 Q -- is that correct?

9 A That is.

10 THE COURT: We will take a short recess now, -- or, we'll
11 take our noon recess now, and we will be in recess until
12 2:00 o'clock.

13 Remember the admonition that I must give you, and
14 that is that you must not converse amongst yourselves nor with
15 anyone else, nor allow anyone else to converse with you on any
16 subject connected with this case, nor are you to form or
17 express any opinion on the matter until it is finally submitted
18 to you.

19 Come back at 2:00 o'clock.

20 And you, too, Mr. Binder. You come back at 2:00
21 o'clock.

22 MR. KANAREK: Your Honor, may we approach the bench for
23 a moment, before we recess?

24 THE COURT: No. I'll see you at 2:00 o'clock.

25 (Whereupon, at 12:01 p.m., an adjournment was
26 taken until 2:00 o'clock p.m. of the same day.)
27
28

7-1

1 LOS ANGELES, CALIFORNIA, WEDNESDAY, SEPTEMBER 8, 1971 2:18 P.M.

2 - - - -

3
4 THE COURT: The record will show that Mr. Kanarek is
5 now present, all the jurors are present, and we're ready to
6 proceed.

7 Will counsel approach the bench?

8 (Whereupon, the following proceedings were had
9 at the bench among Court and counsel, outside the
10 hearing of the jury:)

11 THE COURT: Mr. Kanarek, this is the second time today
12 now, at the beginning of the morning session and the beginning
13 of this afternoon's session, that you were tardy. Now, what
14 was the problem?

15 MR. KANAREK: Your Honor, I don't believe I was
16 actually tardy this morning.

17 THE COURT: Yes, you were. This was supposed to start
18 at 9:45. At five minutes after 10:00 you had still not
19 arrived or made your presence known to the Clerk.

20 MR. KANAREK: Well, your Honor --

21 THE COURT: And now it is 2:20.

22 MR. KANAREK: Yes. I think I was here at 12 minutes
23 after 2:00.

24 THE COURT: Can you explain why you were late?

25 MR. KANAREK: Mr. Manzella would not let me use the
26 transcript. Even notwithstanding your Honor's order that I
27 be allowed to look at this transcript. That's why I asked
28 to approach the bench. Mr. Manzella deliberately withheld

1 this transcript from me. And I was trying to get this
2 transcript --

3 THE COURT: Now, Mr. Kanarek, the Court observed that
4 Mr. Manzella -- that you requested this transcript of Mr.
5 Manzella --

6 MR. KANAREK: He refused it.

7 THE COURT: Excuse me.

8 MR. KANAREK: Yes, your Honor, I'm sorry.

9 THE COURT: The Court observed that you requested this
10 transcript of Mr. Manzella just at the conclusion of his
11 direct examination. He had maybe two or three questions left.
12 He asked those two or three questions and I saw that he
13 delivered the transcript to you.

14 MR. KANAREK: But I wanted to use --

15 THE COURT: Now, what does that have to do with your
16 coming in, if as you say it was, at 12 minutes after 2:00?

17 MR. KANAREK: Actually, I have here a -- this is a
18 parking ticket that shows 1354 -- but I don't know about the
19 -- I went -- that's certainly --

20 THE COURT: Why were you late?

21 MR. KANAREK: One of the reasons, your Honor, is that
22 Mr. Manzella refused at the noon session to allow me to keep
23 the transcript and look at it over the noon session. I was
24 trying to somehow or other get ahold of this thing.

25 THE COURT: Well, he indicated to me it was his only
26 copy.

27 MR. KANAREK: But Mr. Binder --

28 THE COURT: Mr. Kanarek, it is your obligation to be

1 here on time. That's not a sufficient excuse. I am going
2 to overlook it again because we've just gotten back in the
3 swing of this trial, but let me caution you and tell you
4 once again, I expect you to be here whether I'm ready or
5 not to proceed with it. I want each of you attorneys to be
6 here.

7 MR. KANAREK: Yes, your Honor.

8 I want to show your Honor this parking ticket
9 shows 1354. That's the County lot 145 North Broadway. I
10 came directly from there.

11 THE COURT: It took you a long time.

12 MR. KANAREK: I think there is some difference in
13 clocks but, your Honor, Mr. Manzella did withhold this
14 transcript.

15 THE COURT: See if you can be here on time.

16 MR. KANAREK: I certainly -- yes, your Honor, thank you.
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8 fls.

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1 (Whereupon, the following proceedings were had in
2 open court, within the hearing of the jury:)

3 THE COURT: Let's proceed.

4 MR. KANAREK: Yes, your Honor.

5 I would like to apologize to the Court and the jury
6 and the witness and counsel for being late, your Honor.

7 THE COURT: Very well.

8
9 JERRY BINDER,
10 having been previously duly sworn, resumed the stand and
11 testified further as follows:

12
13 CROSS-EXAMINATION (CONTINUED)

14 BY MR. KANAREK:

15 Q Mr. Binder, would you state the names of the three
16 businesses that you owned, in which you say Shorty Shea had
17 some employment?

18 THE COURT: Would you use the microphone, Mr. Kanarek?

19 MR. KANAREK: Yes, your Honor.

20 THE WITNESS: (No response.)

21 THE COURT: Did you hear the question?

22 THE WITNESS: Yes, I thought he was going to repeat it
23 on the mike.

24 He worked for me at the Swinger's Boutique. He
25 worked for me at the House of Paperbacks; and he worked for me
26 at the Hollywood Shopper; and also, in the animal business,
27 in which I just went under my own name.

28 Q BY MR. KANAREK: Is Book City a separate

1 organization?

2 A That's including the House of Paperbacks. There
3 were two separate stores, but one management.

4 Q All right. Now, would you tell us the periods of
5 time when he was employed at each of those establishments?

6 A I couldn't give you the exact times or -- I would
7 have to go back to the records.

8 Q Well, would you give us -- would you state to us,
9 as you sit there on the witness stand, please, the answer to
10 that question? Would you take each of those establishments
11 and tell us the periods of time that Mr. Shea, you say, worked
12 at those establishments, respectively?

13 A In the animal business, he worked for me approxi-
14 mately one year.

15 In the --

16 Q And would you state the times, the duration of
17 time and also the beginning and end?

18 A Part of '67 and '68, he worked in the animal
19 business. And I am going to give you approximate, just like
20 you asked for.

21 He worked at the Hollywood Shopper over two or three
22 different periods of time. Total time probably was four or
23 five months. He worked --

24 Q Would you state -- would you give us the beginnings
25 and ends of each of these periods of time?

26 A Well, I prefaced that with the fact that he worked
27 at different times, and there were different -- he left and
28 came back and worked again. And I can't give you the exact

1 time or approximately when and where it was.

2 I don't have those records in front of me.

3 Q Well, would you state to the best of your ability
4 when each time period began and when it ended? And associate
5 it with each of these establishments? Is the question clear?

6 A Yeah, but I'm afraid the answer won't be.

7 From '67 to '68, ending in June, July or August --
8 I don't remember -- he worked in the animal business with me.

9 And then he was employed by the Hollywood Shopper
10 over the fall and winter months of '68.

11 In '69 is when -- in June and May, beginning of
12 June, the month of June or July -- I can't give you again the
13 exact figures -- but it was some time in June that he came to
14 work at the House of Paperbacks and Book City. That was '69.

15 Q What about the organization known as the Swinging
16 Boutique?

17 A I mentioned that. The Swinger's Boutique --

18 Q Without mentioning that, the periods of time that
19 he worked there.

20 A They overlapped into the House of Paperbacks. He
21 worked for approximately three weeks, again in that June
22 period, at the -- for the Swinger's Boutique, and then went to
23 the House of Paperbacks and then came back to Swinger's
24 Boutique.

25 Q Now --

26 A Swinger's Boutique was a management firm for
27 House of Paperbacks and Book City.

28 These were newsstands that sold Life, Time,

1 Newsweek, that sort of periodical.

2 Q And paperbacks? It was known as an adult bookstore?

3 A No. House of Paperbacks and Book City were not
4 known as adult bookstores.

5 Q They were not?

6 A No, they were not. Swinger's Boutique was.

7 Q That was known as an adult bookstore, right?

8 A Right.

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1 Q Now, did Mr. Shea discuss with you his interest in
2 the movie business?

3 A Definitely.

4 Q And Mr. Shea told you that he was singularly un-
5 successful in obtaining speaking or acting parts in the motion
6 picture industry; is that correct?

7 A That's correct.

8 Q And over the period of time that you knew him, over
9 the years that you knew him, he spoke to you concerning his
10 desires concerning the movie industry?

11 A That's correct.

12 Q Now, directing your attention, then, to the Spring
13 of 1969, and the early Summer of 1969, did you hear any
14 discussions wherein Mr. Shea stated that -- well, I'll withdraw
15 that.

16 Did you have any discussions with him concerning
17 Niki?

18 A Naturally.

19 Q And Niki is Magdalene Shea, the lady he went through
20 the marriage ceremony with in Las Vegas?

21 A I told you I was his best man.

22 Q And were there any discussions wherein Niki had
23 stated that she had to go back to her Negro boy friend,
24 because she feared her boy friend would kill Mr. Shea?

25 A Not to me. I never heard any conversation to that
26 effect.

27 Q You've not entered into any conversations where
28 that was the subject matter?

1 A No, sir.

2 Q You never heard of that before?

3 A Nope.

4 Q Was there -- did you ever have any discussions with
5 Marion Binder, your wife, concerning Mr. Shea?

6 MR. MANZELLA: Objection; your Honor. That's not
7 relevant.

8 THE COURT: Sustained.

9 MR. KANAREK: Your Honor, I am asking not for the
10 conversation, but whether or not he discussed -- whether there
11 were discussions.

12 THE COURT: The objection is sustained.

13 MR. KANAREK: Well, your Honor, then based on equal
14 protection of the law, under the Fourteenth Amendment, I
15 -- I would like to make argument to the Court, and -- in view
16 of other testimony that the Court has allowed in, in connection
17 with Mr. Spahn and this girl Linda -- or Squeaky.

18 THE COURT: The objection is sustained.

19 You may proceed.

20 MR. KANAREK: Well, may I approach the bench on --

21 THE COURT: No, you may not.

22 Q BY MR. KANAREK: Now, did Mr. Shea -- I will with-
23 draw that.

24 The last time that Mr. Shea and you spoke -- the
25 last time that you have spoken up to this point was on what
26 day?

27 A It was the day I called my house, and he was staying
28 there, and that was the end of July, the last few days of July.

1 Q The last few days of July, 1969, or the first part
2 of August, 1969?

3 A Correct.

4 Q Right?

5 A Right.

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Q You don't know whether it --

A I can't remember whether it was the 31st or the 1st.

Q You made no notations?

A No, I don't use it.

Q And at the time you had this conversation, you had no reason to note what date it was, right?

A No.

Q You had no reason to note what month it was?

A I pretty well know what month I'm in.

Q Did you have a reason to make a note mentally in writing or otherwise as to what date it was?

A No, there was no reason for that.

Q So you don't know whether it was August, September, October, July, June; is that correct? You made no mental note or otherwise?

A I made a mental note --

MR. MANZELLA: Excuse me, Mr. Binder.

The question is compound, your Honor. There were two questions in there.

THE COURT: The objection is sustained.

Q BY MR. KANAREK: Did you make a mental note of it or any other note, Mr. Binder, or did you not?

A I know it was in the end of July or the beginning of August, that I am sure of.

Q That is not my question.

A I made a mental note that it was either July or August.

9-2

1 Q All right. What was the reason that you made
2 the mental note?

3 A Again, he had given me notice and this is
4 repeating what I had told you before. He had given me notice
5 and I had to replace him and I replaced him with someone
6 else that started at the first of the month, because my
7 pay period was from the 1st to the 15th.

8 Q My question is, what was the reason you made the
9 mental note?

10 MR. MANZELLA: Objection, it has been asked and
11 answered.

12 THE COURT: Sustained.

13 Go ahead, Mr. Kanarek. Move along.

14 Q BY MR. KANAREK: The notice Mr. Shea had given
15 you, you have previously told us was weeks before this
16 conversation that you are now speaking of?

17 A No, it was a week or ten days before he left.
18 And he left at the end of July, which I am repeating now for
19 the third time.

20 THE COURT: Just answer the question. Don't argue with
21 Mr. Kanarek.

22 Q BY MR. KANAREK: Now, did you pay Mr. Shea under
23 the table --

24 A Absolutely not.

25 Q Didn't pay him that way?

26 A No, sir.

27 Q So you made some kind of notation concerning his
28 last employment in your books and records?

9-3

1 A The company did. It was a corporation.

2 Q And who has those corporate records at the
3 present time?

4 A Swinger's Boutique.

5 Q Pardon?

6 A Swinger's Boutique at 711 Fremont Street.

7 Q In Las Vegas?

8 A In Las Vegas.

9 Q And directing your attention to the name that
10 Mr. Shea took his pay under, what was that name?

11 A Donald Shea.

12 Q And, therefore, prior to coming to court to
13 testify here, did you refresh your recollection concerning
14 these dates?

15 A No, sir, I did not.

16 Q Now, at the time that Mr. Shea gave you this
17 note, was he in Las Vegas or was he in Los Angeles?

18 A He was in Los Angeles working at the House of
19 Paperbacks Bookstore.

20 Q And directing your attention, then, to the time
21 when he came to Los Angeles and you spoke with him, on that
22 occasion did -- would you tell us what the conversation was;
23 what you said and what he said?

24 A "Don, how are you doing?

25 "Have you found any work?

26 "Where are you going to stay?

27 "Have you talked to Niki?

28 "Are you going to be living together with her?

9-4

1 "What's happening?"

2 That's basically the conversation right there.

3 Q All right. What did he answer? What words did
4 he utter?

5 A "No, I haven't found a job yet, but I'm going
6 up to the Spahn Ranch and stay there for a while because,
7 you know, old man George will always give me a place to stay
8 and things are still up in the air with Niki and I."

9 Q Things were still up in the air with Niki and him?

10 A Uh-huh.

11 Q What else was said?

12 A That's basically it. And then, he put my wife
13 back on the phone.

14 Q And when he said "up in the air," could you tell
15 us what was actually said?

16 A That's it.

17 Q That things were still up in the air between him
18 and Niki, is that right?

9a fls. 19 A Uh-huh, right.

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1 Q Then, you and he had previously spoken of some kind
2 of a dispute between him and Niki, is that right?

3 MR. MANZELLA: Objection, your Honor, it assumes facts
4 not in evidence.

5 MR. KANAREK: He says still up in the air, your Honor.
6 That assumes that there has been a previous discussion con-
7 cerning that subject matter, obviously, from the use of that
8 English.

9 THE COURT: The objection is sustained. You may rephrase
10 your question.

11 Q BY MR. KANAREK: When you had previously spoken
12 with Mr. Shea, had he discussed with you any dispute that he
13 had had with Niki or Magdalene?

14 A We discussed the racial prejudice that they were
15 having in Vegas and that she wanted to go back to Las Vegas --
16 Los Angeles where she was a lot happier. And he wanted to
17 stay in -- and start a new life in Las Vegas. That's where the
18 dispute came in, as far as I could tell from the conversations.

19 Q So there was a dispute -- Mr. Shea wanted to stay
20 in Las Vegas and Niki wanted to come to Los Angeles?

21 MR. MANZELLA: Objection, your Honor, to Mr. Kanarek's
22 rephrasing of the witness' answer.

23 THE COURT: Overruled. You may answer.

24 MR. MANZELLA: Your Honor, the question has been asked
25 and answered.

26 THE COURT: Overruled. You may answer.

27 THE WITNESS: Well, you could say this was a discussion
28 between the husband and wife about where they were going to

1 live and there could be a dispute between something like that.
2 Not necessarily an argument, but a dispute.

3 Q BY MR. KANAREK: And that is what Mr. Shea told you
4 what had occurred?

5 A This is what I presumed meant up in the air.

6 Q Were you present in Las Vegas when Mr. Shea and
7 Niki discussed the reasons for the trip to Los Angeles?

8 A No.

9 MR. MANZELLA: Objection, your Honor, it is not relevant.

10 THE COURT: The answer may remain. The objection is
11 overruled.

12 THE WITNESS: The answer is no.

13 Q BY MR. KANAREK: At no time did you hear Niki say
14 anything concerning racial prejudice in Las Vegas?

15 A She discussed it with me in Las Vegas.

16 Q She discussed the racial prejudice with you in
17 Las Vegas?

18 A That's correct.

19 Q Did she ever discuss it with you when you were in
20 the presence of any other person?

21 MR. MANZELLA: Objection.

22 THE COURT: That's not relevant.

23 MR. KANAREK: We're entitled to a foundation, your Honor,
24 as to who's present.

25 THE COURT: The objection is sustained.

26 Q BY MR. KANAREK: Well, was anyone else present
27 with you and Niki when she supposedly discussed with you
28 racial prejudice in Las Vegas?

1 MR. MANZELLA: Objection, your Honor, it is irrelevant.

2 THE COURT: Sustained. You don't have to answer it. It
3 is irrelevant.

4 Let's move along, Mr. Kanarek.

5 Q BY MR. KANAREK: Well, when you spoke with Mr. Shea
6 concerning Niki on this -- in connection with this telephone
7 call you have spoken of, did he discuss racial prejudice in
8 Los Angeles?

9 A No, he did not. Our conversation was only for a
10 few seconds, 30 or 40 seconds at the most.

11 Q 30 or 40 seconds at most.

12 And Mr. Shea didn't tell you that there was racial
13 prejudice in Los Angeles and that's the reason he didn't find a
14 place with Niki?

15 MR. MANZELLA: Objection, the question has been asked and
16 answered.

17 THE COURT: Sustained.

18 Q BY MR. KANAREK: Well, did he -- did he discuss --
19 did he mention anything to you, anything about racial
20 prejudice between -- concerning Niki, as being a reason for
21 their having a dispute?

22 THE COURT: In that conversation?

23 MR. KANAREK: Yes.

24 THE WITNESS: No.

25 Q BY MR. KANAREK: Did he ever discuss with you
26 racial prejudice in Los Angeles as that being a reason for
27 their dispute?

28 A No.

1 Q Now, directing your attention to Mr. Shea, did you
2 at any time make any reports to any police agencies concerning
3 Mr. Shea?

4 A Better clarify that one. I don't know what you are
5 talking about.

6 Q Well, do you -- you mean you wish to consult a
7 lawyer before you answer, Mr. Binder?

8 A No, I wish you to make it a little more clear what
9 you are referring to.

10 Q You don't understand the question?

11 A I don't understand the question.

12 Q Mr. Binder, have you had any disputes with
13 Mr. Shea?

14 MR. MANZELLA: Objection, your Honor, as not relevant.

15 MR. KANAREK: It is most relevant and material, your
16 Honor, this man has culpability --

17 THE COURT: Mr. Kanarek, would you please let me rule on
18 the question again, Mr. Kanarek, before you argue?

19 MR. KANAREK: Yes.

20 Then, may I approach the bench?

21 THE COURT: No, you may not. The objection is overruled.
22 Please observe the rule I have set out for you. Do not argue
23 until I wish to have you argue, and you may argue at the
24 bench.

25 MR. KANAREK: Yes, your Honor.

26 THE COURT: The objection is overruled.

27 Have you ever had a dispute with Mr. Shea?

28 THE WITNESS: Not one I ever called the police.

1 Q BY MR. KANAREK: But you did have differences of
2 opinion?

3 A Oh, surely.

4 Q Would you tell us about those differences of opinion?

5 MR. MANZELLA: Objection, it is not relevant.

6 MR. KANAREK: It is relevant and material.

7 May we approach the bench?

8 THE COURT: No, you may not.

9 You may answer the question. The objection is
10 overruled.

11 THE WITNESS: The only time I ever argued with the man is
12 if he drank a little too much and I admonished him for it.
13 And that's the extent of our arguments.

14 Q BY MR. KANAREK: Well, Mr. Binder, on this occasion
15 when he -- you say he spoke with you at a time when he was
16 living in a home where your wife was living in Hollywood; at
17 that time you knew that Mr. Shea was without employment; is
18 that correct?

19 A That's correct.

20 Q Did you initiate any kind of relationship with
21 Mr. Bromberg, the person that you had previously obtained
22 employment for Mr. Shea?

23 A No, I hadn't talked to Mr. Bromberg for a year and
24 a half or a year prior to that.

25 Q Well, had you not, early in the year of 1969, in
26 the Spring of 1969, arranged for Mr. Shea to work at Mr. --
27 one of Mr. Bromberg's beer bars?

28 A No, it was in '68 that he worked that I originally

1 got the job for him in the beer bar.

2 Q What month in '68 was it that you got the job for
3 Mr. Shea in the beer bar, Mr. Binder?

4 A It was one of the summer months. I don't recall the
5 exact day or month.

6 Q How long did Mr. Shea work at this beer bar?

7 A If I recall, Mr. Shea worked for four or five months.
8 Left the employment of Mr. Bromberg, and then came back again.
9 I didn't keep records on when he worked for Mr. Bromberg.

10 Q But you tell us that you spoke with Mr. Shea at
11 great length concerning many matters?

12 A Uh-huh.

13 Q Is that right?

14 A True.

10-1

1 Q And your state of mind -- and you knew that Mr.
2 Shea had worked the early spring, or the -- at least, during
3 the spring or early summer of '69 at Mr. Bromberg's beer bar,
4 where he met Niki or Magdalene?

5 A He worked in four or five different ones of
6 Mr. Bromberg's. I don't know the names of them, and I don't
7 keep track of Mr. Bromberg's employees, how long they worked
8 there.

9 Q Well, my question is: At the time when you knew
10 that Mr. Shea was without employment, at a time when he spoke
11 to you and was living in the same home that your wife was
12 living in in Hollywood --

13 A That my family was living in.

14 Q -- that your family was living in, in Hollywood,
15 did you do anything to attempt to get Mr. Shea any employment?

16 A I did not, because he told me he was going to the
17 Spahn Ranch to live.

18 Q He told you he wasn't interested in employment?
19 Is that what he told you?

20 A No, he did not say that.

21 Q Well --

22 A He did not bring the subject of employment up
23 to me.

24 Q Well, he had left Las Vegas, you tell us -- he
25 left gainful employment because, you say, of racial prejudice
26 concerning his wife; is that right?

27 A That's correct.

28 Q And was there any discussion at any time,

10-2

1 subsequent to this time that he was in Las Vegas, about his
2 getting future employment?

3 A Oh, yes. He talked about a movie job that was
4 coming up, that he -- with Mr. Bixel.

5 Q With Mr. Bixel?

6 A Bixel -- Bob; I think that's his name. Bikel,
7 Bixel, Bixby. I'm not sure just what his last name was.

8 A fellow that owned a gunshop in Burbank.

9 Q And when did he discuss that with you?

10 A Over the period of time that he was working for
11 me in Vegas.

12 Q And so the reason he left Vegas was because he
13 wanted to come to Los Angeles to get the movie job, his
14 big opportunity, and not because of the racial prejudice
15 concerning Niki?

16 MR. MANZELLA: Objection, --

17 THE WITNESS: No.

18 MR. MANZELLA: Your Honor. That's argumentative.

19 THE COURT: The objection is sustained.

20 The answer is stricken. It is argumentative.

21 Q BY MR. KANAREK: Well, then, he stated to you
22 that a reason for coming to Los Angeles was to get this big
23 movie opportunity?

24 A No, he did not state it that way. That was not
25 the reason he came.

26 He was coming to look for his wife, and get
27 together with her again. And he said when he got here, he
28 would look up Bob, because there was a part coming up; and he

10-3

1 would be working.

2 Q And when -- withdraw that.

3 Where was he when he stated this to you?

4 MR. MANZELLA: Objection. The question has been asked
5 and answered.

6 THE COURT: Sustained.

7 MR. KANAREK: Not --

8 THE COURT: The objection is sustained.

9 Q BY MR. KANAREK: Well, did he state this to you
10 in the conversation that you had with him, the 35 or 40
11 minutes when he was in Los Angeles, and you were in Las
12 Vegas?

13 MR. MANZELLA: Objection. It misstates the evidence,
14 your Honor.

15 THE COURT: Sustained.

16 MR. KANAREK: I am merely asking the question, your
17 Honor.

18 THE COURT: The objection is sustained.

19 Q BY MR. KANAREK: You have in mind this conversa-
20 tion that you've spoken of that was some 35 or 40 seconds?

21 A I've already told you that the extent of that
22 conversation was a very short -- very brief; just generally,
23 "How are you doing? What are you going to do?" Period.

24 Q And no -- no movie work was discussed; right?

25 A No, not in that conversation. But we worked
26 together for eight and ten hours a day, in the retail store,
27 and there were many little short conversations that we had,
28 and there were a lot of little things like that discussed.

10a fls.

10a-1

1 Q And so at a time when Mr. Shea left Las Vegas,
2 did he tell you that a reason for leaving Las Vegas was to
3 get this movie job?

4 MR. MANZELLA: Objection. The question has been asked
5 and answered.

6 MR. KANAREK: No, it hasn't, your Honor.

7 THE COURT: The objection is sustained.

8 Q BY MR. KANAREK: How many conversations were
9 there, Mr. Binder, with Mr. Shea, before he left Las Vegas,
10 concerning his leaving Las Vegas?

11 A He gave me notice a week to ten days prior. We
12 saw each other daily for eight to ten hours a day.

13 In the course of conversations in those eight
14 and ten hours, I can't give you an exact track record of
15 how many times we talked about different things.

16 Q And so you talked about many things that you
17 can't now relate to us; right?

18 A No, I didn't make any recordings on it.

19 Q And so you can't relate many of the things you
20 spoke about; is that correct?

21 A That's correct.

22 Q One of the things you spoke about was Mr. Shea's
23 desire to return to Los Angeles for movie work; is that right?

24 MR. MANZELLA: Objection, your Honor. The question has
25 been asked and answered.

26 THE COURT: Sustained.

27 Q Now, on how many occasions, Mr. Binder -- on how
28 many occasions, Mr. Binder, have you seen Mr. Shea with these

10a-2

1 guns?

2 A I can't give you the exact count, but I would say
3 30, 40 times.

4 Q And that was subsequent to what initial time that
5 you had seen Mr. Shea with these guns?

6 A The day he bought them.

7 Q Which was -- what day was that?

8 A I don't recall the date he bought them.

9 Q Well, can you give us your best estimate of that?

10 A I can't even begin to give you an estimate,
11 because I can't remember. Guns are very unimportant to me.

12 Q And so it was very unimportant to you to make note
13 of how many times you've seen these guns?

14 A You can -- when a man dislikes guns as much as
15 I do -- and I put my time in the Service shooting them -- I
16 don't like guns, and any time somebody handles one, I get
17 upset.

18 Q I see.

19 A So I remember quite vividly the guns.

20 Q And you became upset with Mr. Shea because of the
21 fact --

22 A I didn't say --

23 MR. MANZELLA: No, just a minute. Objection, your Honor.
24 That's not relevant.

25 MR. KANAREK: It's most relevant, your Honor.

26 THE COURT: The objection is overruled.

27 You may state your question.

28 Q BY MR. KANAREK: You became upset with Mr. Shea

1 from time to time, because he flashed these guns and wore them
2 and aimed with them and put guns -- put bullets in them and
3 that type of thing; is that correct?

4 A He never put bullets in those guns in my presence.
5 I just don't like guns, period. I get emotionally
6 upset with guns, so I did not get angry with Mr. Shea about
7 his guns.

8 I get upset with guns, period.

9 Q I see. So your emotion was directed towards
10 the guns, and not towards Mr. Shea?

11 A That's right. They -- so I would remember quite
12 vividly his having the guns.

13 Q And you were mad at the guns?

14 A I'm not mad at anybody.

15 MR. MANZELLA: Objection --

16 THE COURT: Sustained.

17 MR. MANZELLA: -- on the grounds it's argumentative,
18 your Honor, and it's harassing the witness.

19 Q BY MR. KANAREK: When is the last time, Mr. Binder,
20 that you saw these guns, other than in a courtroom, or in a
21 room where there were District Attorney's investigators with
22 you, talking to you?

23 A In July, in Las Vegas.

24 Q And --

25 A Well, I didn't -- I saw the attache case. I saw
26 the -- I didn't see the guns.

27 I asked him if he still had his guns.

28 Q And that was in July that you saw -- that you saw

1 Mr. -- Mr. Shea with the attache case, --

2 A Right.

3 Q -- right? You didn't see what was inside it?

4 A No.

5 Q And Mr. Shea had used that attache case to
6 carry items of your store around and sell them from place
7 to place; right?

8 A Not at that time, in Las Vegas, no.

10b fls.

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1 Q Well, at times, within your knowledge, Mr. Shea
2 had used that attache case to carry items that you sold in
3 your stores; is that correct?

4 A In Hollywood, prior to coming to Las Vegas, a year
5 before, yes.

6 Q And so you don't know what was in that attache case --

7 A Not at that time.

8 Q -- when you saw it?

9 A I said that.

10 Q Well, when is it -- would you please tell us, when
11 is the last time, Mr. Binder, that you saw the guns?

12 A Uh -- I can't give you an answer. I just don't
13 remember the exact time I saw them.

14 Q Might have been a year before that?

15 A It might have been. Might have been six months
16 before that; I don't remember.

17 Q Now, did Mr. Shea, in your presence, ever hold
18 himself out as a Reverend, as a man of the cloth?

19 MR. MANZELLA: Objection, your Honor. That's immaterial.

20 THE COURT: Overruled. You may answer.

21 THE WITNESS: No. It was a thing that he and another
22 fellow -- a couple of fellows did as a joke. They wrote to
23 that mail order company up North, and they had gotten the so-
24 called papers, the documentation.

25 Q BY MR. KANAREK: You say this was done as a joke?

26 A Uh -- yes. Facetiously speaking, yes.

27 Q Pardon?

28 A Well, yes. Let's call it that, yes.

1 Q Well, did you see any personal effects of Mr. Shea
2 that had "Reverend" --

3 A I told you, I put that thing on that case myself.
4 He also had a document from the mail order company -- the
5 mail order bishop in Modesto, California, stating the fact that
6 he was ordained by that church.

7 Q And did you see any personal effects of Mr. Shea's
8 that had the name "Reverend Donald Jerome"?

9 MR. MANZELLA: Objection -- oh, I'll withdraw the objection.

10 THE WITNESS: The only thing I ever saw that had it was
11 this attache case, and his credentials from the church.

12 Q BY MR. KANAREK: Did you ever see any trunks of
13 Mr. Shea's?

14 A Yeah, he had a blue metal trunk, a foot locker type.

15 MR. KANAREK: Yes. May I have a moment, your Honor?

16 (Pause in the proceedings while a discussion off
17 the record ensued at the clerk's desk between Mr. Kanarek and
18 the clerk.)

19 MR. KANAREK: May I have a moment, your Honor?

20 (Pause in the proceedings, during which time
21 Mr. Kanarek entered the exhibit room, returning shortly with
22 some exhibits.)

23 Q BY MR. KANAREK: Referring to these foot lockers,
24 Mr. Binder, have you ever seen those before?

25 A Yes.

26 Q Have you seen both of them, or have you seen one of
27 them?

28 A I only saw one of them. I haven't seen two.

1 Q In all the years that you knew Mr. Shea, you don't
2 recall seeing more than one; is that right?

3 A No -- unless he got the other one recently.

4 Q And do you notice the name "Donald Jerome"?

5 A Yes. That's the name he used in movie work.

6 Q He did not use the name Shea?

7 A Sometimes he did and sometimes he didn't.

8 Q And these footlockers -- or trunks -- were used by
9 him in movie work?

10 A These were used by him to hold his personal effects.

11 Q And were they used -- did you ever see them with him
12 on location?

13 A No, I never went with him on location.

14 Q Well -- excuse me,

15 Would you -- Mr. Binder, would you step down and
16 look at the contents of that foot locker? And tell me whether
17 you recognize anything in that foot locker as belonging to
18 Mr. Shea?

19 THE COURT: For the record, would you identify which foot
20 locker it is?

21 MR. KANAREK: This is --

22 THE COURT: It's 65 --

23 MR. KANAREK: We are now looking at -- at --

24 THE CLERK: 65-G.

25 MR. KANAREK: 65-G, your Honor.

26 THE WITNESS: May I open this?

27 Q BY MR. KANAREK: Yes. Go ahead.

28 A I can identify these two objects right here

1 (indicating).

2 THE COURT: Would you speak into the microphone, please?

3 THE WITNESS: This suit (indicating) I bought Donald Shea
4 myself, and had it -- and he took it in to a tailor, and had
5 it altered to fit him.

10c

10c-1

1 THE COURT: Would you identify it? It appears there's a
2 label.

3 THE WITNESS: Right. A suit.

4 THE COURT: Well, would you identify it for the record?
5 There's a label in it.

6 THE WITNESS: "Fabric by Petrozini."

7 THE COURT: All right.

8 THE WITNESS: And these two cuff link sets were purchased
9 by me, in my retail store; and I have the exact duplicate sets.
10 I gave Donald three sets, and three I kept myself.

11 And then I bought six more from the same company in
12 New York that is a supplier, a surplus store.

13 THE COURT: What you are holding is a -- let's see. A
14 triangularly-shaped box, two triangularly-shaped boxes with
15 cuff link sets in them. The cuff link sets are labeled
16 "Marc Antoni."

17 THE WITNESS: Correct.

18 Q BY MR. KANAREK: Now, the other items, Mr. Binder,
19 did you know these other items? Have you ever seen these other
20 items before?

21 A This looks like a pair --

22 Q Now, my question is: Can you say that those items
23 belong to Mr. Shea?

24 A No, I can't say that. But this, I can. This is --

25 THE COURT: That, you can?

26 THE WITNESS: Yes. This was mine.

27 THE COURT: And you are holding up what appears to be a
28 paisley patterned neckerchief of some type?

1 THE WITNESS: That's correct. It was mine. He wore it
2 one night when we went out together.

3 Q BY MR. KANAREK: All right. Now, when did he wear
4 that, Mr. Shea?

5 A Oh, I don't recall the -- I'm not Mr. Shea. I am
6 Mr. Binder. Mr. Shea wore it one night when we went out.

7 Q Did you ever use the name "Mr. Shea", Mr. Binder?

8 A No, I never have.

9 Q Never have?

10 A No.

11 Q But the other items --

12 THE COURT: Mr. Binder, speak into a microphone, either
13 the one that Mr. Kanarek has in his hand or --

14 THE WITNESS: All right. I'll use this one.

15 THE COURT: -- or pull that one to you.

16 THE WITNESS: All right.

17 Q BY MR. KANAREK: The other items, other than the
18 items that you've pointed out, have you ever seen those items
19 before?

20 A I can't say for sure.

21 Q You don't know?

22 A I don't know.

23 Q All right. Now, would you please open the other
24 foot locker?

25 THE COURT: You needn't do that, Mr. Binder. This is
26 outside the scope of the direct examination.

27 MR. KANAREK: Is your Honor foreclosing me from --

28 THE COURT: Yes. I -- the Court believes --

1 MR. KANAREK: Then I would like --

2 THE COURT: -- this is outside the scope of the direct.

3 MR. KANAREK: We believe that -- may I approach the bench
4 then, your Honor?

5 THE COURT: Yes, the Court will hear from you.

6 We will take -- you have been sitting over an hour,
7 ladies and gentlemen, so we'll take a short recess at this
8 time. Remember the admonition. Don't converse amongst your-
9 selves or with anyone else, or allow anyone else to converse
10 with you, and don't form or express any opinion on the matter
11 until it is finally submitted to you.

12 (Whereupon, the following proceedings were had at
13 the bench, outside the hearing of the jury;)

14 MR. KANAREK: It's manifestly unfair for your Honor to --

15 THE COURT: Is it within the scope of the direct?

16 MR. KANAREK: The door was opened, and no one objected,
17 your Honor, and they --

18 THE COURT: Oh, you mean on cross-examination?

19 MR. KANAREK: He can't object. He can't object --

20 THE COURT: Do you mean once having allowed -- the People
21 not raising any objection, and having allowed you to question
22 about the first --

23 MR. KANAREK: Well, I don't --

24 THE COURT: Excuse me.

25 (Continuing) -- about the first foot locker,
26 thereby opening the door, --

27 MR. KANAREK: Yes.

28 THE COURT: -- that an objection cannot be raised?

1 The Court does not believe so.

2 MR. KANAREK: And furthermore, it's in the ambit of the
3 cross, because this man has claimed his -- the cross-
4 examination is not delineated, your Honor, by -- you know,
5 like by how many feet in an acre.

6 The point is, when he claims that he knows this man,
7 that intimately, we have a right to examine.

8 And I feel it's a denial of due process and fair
9 trial and protection for your Honor to foreclose me.

10 THE COURT: Very well. You have made your record.

11 (Mid-afternoon recess.)

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1 THE COURT: All right, the record may show the jury and
2 alternates are all present.

3 Mr. Kanarek, you may proceed.

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

5 BY MR. KANAREK:

6 Q Mr. Binder, do you know a Lance Victor?

7 A I answered that question once before. I don't
8 know.

9 Yes, wait a minute. Not by that name. Not by that
10 name.

11 Q You don't -- you don't know him by that name?

12 A No.

13 Q Did you testify previously in July of this year
14 in another courtroom?

15 A Yes.

16 Q Were you asked these questions, and did you give
17 the answers indicated in what I am now going to read to you:

18 "Q" -- page 2632.

19 "Q All right.

20 And do you recall meeting an Arlene Marlatt?

21 "A Yes.

22 "Q Where did you meet her?

23 "A Shorty and a fellow named Lance brought her
24 to the house.

25 "Q Lance Victor?

26 "A Lance Victor, yes. And she was in her last
27 months of pregnancy. And they had no place to go."
28 Did you so testify?

11-2

1 MR. MANZELLA: Your Honor, I object on the grounds
2 that constitutes hearsay.

3 MR. KANAREK: I'm asking if he so testified.

4 MR. MANZELLA: It is irrelevant, your Honor.

5 THE COURT: Excuse me, the objection is overruled.

6 Q BY MR. KANAREK: Did you so testify?

7 A Yes.

8 Q Well, then, you do know a Lance Victor?

9 A Not by that name. When you refreshed my memory --
10 when you recalled -- Lance went under another name.

11 Q On July 27, 1971, you were in a courtroom and so
12 testified, Mr. Binder?

13 A That's correct. When you recalled my memory
14 just now, I recall the name Lance Victor, but he did not use
15 that name at my home when he was staying there with Arlene.

16 Q But you so testified?

17 A Yes.

18 Q Now, in 1968, did you discuss with Mr. Shea any
19 employment that he intended to -- that he intended to take
20 up?

21 MR. MANZELLA: Objection, your Honor, the question has
22 been asked and answered.

23 THE COURT: I'm sorry, would you read it to me, please?

24 (Whereupon, the record was read by the reporter
25 as follows:

26 "Q Now, in 1968, did you discuss with Mr.
27 Shea any employment that he intended to -- that he
28 intended to take up?"

11-3

1 THE COURT: Sustained.

2 I'll overrule the objection. You may answer
3 that.

4 In 1968 --

5 A Were you referring to movie work?

6 Q BY MR. KANAREK: All I want -- I'm not, Mr. Binder
7 -- I'm not referring to anything. I am just asking you the
8 question. If the question is not clear, sir, I'll be glad to
9 rephrase it.

10 Is that question --

11 A I'd rather you rephrase it. I don't understand
12 what you mean.

13 Q Well, did you, in 1968, discuss with Mr. Shea
14 any employment that he intended to take up, any employment?

15 A Well, we talked about movie industry work of many
16 kinds.

17 Q All right. Any other employment?

18 A Not to my recollection.

19 Q Did Mr. Shea tell you in 1968 that he was leaving
20 this area?

21 A Yes, when he went up to Sausalito to work in the
22 salt mines.

23 Q Now, do you -- you don't -- do you understand
24 the question?

25 A Yes.

26 Q Well, then, did he discuss with you employment
27 in the salt mines?

28 A We didn't discuss employment. He told me he had a

11-4

1 job there. He was going up there, getting work. He didn't
2 discuss me getting the job or employment for him or
3 anything like that. It was a fact accomplished that he told
4 me about.

5 Q And he told you that he was leaving the area, is
6 that right?

7 A Yes, that's correct.

8 Q And did he tell you how long he was going to be
9 gone?

10 A For the winter months.

11 Q And did he --

12 A He called it -- excuse me. He called it the
13 season.

14 Q The salt season?

15 A Yes.

16 Q In Sausalito?

17 A Yes.

18 Q I see. And did he say how long this season would
19 last?

20 A Over the winter months.

21 Q I see. And while he was up there, did he speak
22 with you?

23 A Yes.

24 Q Did he call you?

25 A Three, four times.

26 Q I see. And during these conversations did he --
27 what did he talk about?

28 MR. MANZELLA: Objection, your Honor, it is not

11-5

1 relevant, and it calls for hearsay.

2 THE COURT: Sustained.

3 Q BY MR. KANAREK: Well, did he discuss with you --
4 this is the end of 1968, right, Mr. Binder?

5 A Yes.

6 MR. KANAREK: Well, then, I would like to approach the
7 bench, your Honor. We are entitled to have these discussions.

8 THE COURT: The motion is denied. Ask your next
9 question.

10 Q BY MR. KANAREK: Did Mr. -- you -- in these
11 conversations, how many conversations were there with Mr.
12 Shea?

13 MR. MANZELLA: Objection, the question has been asked
14 and answered, your Honor.

15 THE COURT: Sustained.

16 Q BY MR. KANAREK: Would you tell us what was said
17 during the first conversation?

18 MR. MANZELLA: Objection, the Court has already ruled
19 on that question, your Honor.

20 THE COURT: Sustained.

21 MR. KANAREK: May I approach the bench, your Honor?

22 THE COURT: No, you may not. Ask your next question.

23 Q BY MR. KANAREK: Did Mr. Shea discuss with you
24 the pregnancy of a certain girl named Arlene Marlatt?

25 MR. MANZELLA: Objection, your Honor, it is not
26 relevant.

27 THE COURT: Overruled. You may answer.

28 A No, Mr. Shea didn't. Mr. Lance Victor did.

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11-6

1 MR. MANZELLA: Objection, your Honor, and ask that the
2 answer be stricken on the grounds that it is based on
3 hearsay. That it is hearsay.

4 MR. KANAREK: It is offered on state of mind, your
5 Honor.

6 THE COURT: Again, let me ask you not --

7 MR. KANAREK: Well, then, may I approach the bench,
8 your Honor?

9 THE COURT: No, you may not. The objection is over-
10 ruled. I mean, the motion is denied.

11 THE WITNESS: Where are we?

12 THE COURT: Just wait for the next question.

13 Q BY MR. KANAREK: In your presence did Mr. Shea
14 at any time discuss the pregnancy of one Arlene Marlatt?

15 A Yes.

16 Q And did Mr. Shea live in the home with you at
17 a time that Arlene Marlatt lived in your home?

18 A Yes.

19 Q And was -- did Arlene Marlatt appear to be
20 pregnant?

21 A She was in her last couple days of her pregnancy.
22 It was very apparent.

23 MR. KANAREK: May I have a moment, your Honor?

24 THE COURT: Yes, you may.

25 Q BY MR. KANAREK: How long after the marriage of
26 Niki and Mr. Shea, Mr. Binder, did Niki leave Las Vegas?

27 A A couple weeks.

28 Q How long after Niki left Las Vegas did Mr. Shea

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1 leave Las Vegas?

2 A A couple of weeks.

3 Q And they were married on July 1st?

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4 A That's correct.

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12 1 Q Now, did Mr. Shea tell you the reason that he
2 stayed in Las Vegas after Niki left, before he left to come to
3 Los Angeles?

4 A Yes.

5 Q All right. Would you tell us what that reason was?

6 A Because he wasn't going to leave me stuck until I
7 a replacement for him. He was that kind of employee.

8 Q That's the reason, you say?

9 A Yes, that's the reason he told me, and this is the
10 reason I believe.

11 Q All right. Directing your attention to -- again
12 to July 27, 1971, you testified in court on that date; right?

13 A Um-hmm.

14 Q In answer to this question, did you give the
15 indicated answer?

16 "Q Now, during the period of time between
17 Niki leaving Las Vegas, around July 14, 1969, and
18 Shorty leaving Las Vegas to return to her in
19 California, did he continue to work for you?

20 "A Yes. He owed me some money, which I
21 had advanced him to find an apartment with, and he
22 stayed long enough to pay that off."

23 Did you give that answer --

24 A Yes, I did.

25 Q -- to that question? Yes?

26 That's all I'm asking you, Mr. Binder.

27 A Yes, I did.

28 Q You gave that answer to that question?

1 A Yes, I did.

2 Q Now, in answer to this question, did you give the
3 indicated answer?

4 MR. MANZELLA: Your Honor, I would object on the grounds
5 that at this point, this testimony that Mr. Kanarek is reading,
6 any further testimony would constitute hearsay, your Honor.

7 There's no foundation for reading any further
8 testimony.

9 MR. KANAREK: This -- may we approach the bench?

10 THE COURT: You may show the passage that you intend to
11 read to counsel.

12 MR. KANAREK: To counsel?

13 THE COURT: Yes.

14 MR. KANAREK: Certainly, your Honor.

15 MR. MANZELLA: The People object on the grounds that
16 there's no foundation, your Honor.

17 MR. KANAREK: Well --

18 THE COURT: You may approach the bench.

19 MR. KANAREK: Thank you, your Honor.

20 (Whereupon, the following proceedings were had at
21 the bench, outside the hearing of the jury.)

22 THE COURT: You contend that this particular passage which
23 you referred to, which the Court has not seen, is contradictory?

24 MR. KANAREK: Yes, your Honor.

25 THE COURT: Of his present testimony?

26 MR. KANAREK: Yes, your Honor.

27 THE COURT: All right. And you say it's not?

28 MR. MANZELLA: That's right, your Honor.

1 MR. KANAREK: It's contradictory, clearly, yes, your Honor.
2 It's the last portion (indicating).

3 If the Court doesn't agree with me -- I think the
4 Court will agree with me just by reading it -- but if not,
5 I will be glad to point out to the Court how it's clearly
6 impeaching.

7 THE COURT: All right. I'll permit you to ask it.

8 MR. KANAREK: Thank you, your Honor.

9 (The following proceedings were had in open court,
10 within the presence and hearing of the jury:)

11 THE COURT: The objection is overruled. You may put your
12 question.

13 MR. KANAREK: Yes, your Honor.

14 This is at the bottom of 2647 and the top of 2648.

15 THE COURT: Begin with your question.

16 MR. KANAREK: Yes.

17 Q Mr. Binder, would you listen to these questions
18 and answers and let us know whether in fact you gave the
19 answers indicated?

20 "Q All right. Now, before leaving
21 Las Vegas to return to Niki in California, did
22 you loan him any additional money?

23 "A I loaned him \$100, because I knew
24 he would need it when he got back to Los Angeles,
25 to have any eating money until he found something.

26 "Q In what form did you give Shorty the
27 \$100?

28 "A In a check.

1 "Q. Was this check cashed?

2 "A. Yes."

3 A. I said that.

4 Q. Now, was the check that you were referring to the
5 same check that Mr. Manzella and I have both shown to you this
6 date, today?

7 A. No.

8 Q. That's a different check?

9 A. Yes, that's a different check.

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1 MR. KANAREK: I see. May I see the exhibit? The check?

2 Q Do you recall being asked, on July 27th, 1971, with
3 respect to what is now --

4 THE COURT: 71.

5 MR. KANAREK: Yes, your Honor. July 27, 1971.

6 THE COURT: The exhibit is 71. People's 71, is it not?
7 Are you looking at the check?

8 MR. KANAREK: But it's also -- it's just a coincidence.
9 I am asking him concerning the date, July 27, 1971, your Honor.
10 It's just a --

11 THE COURT: Yes. But you are referring to Exhibit --

12 MR. KANAREK: Also, yes.

13 THE COURT: -- No, 71?

14 MR. KANAREK: Yes.

15 Q On July 27, 1971, Mr. Binder, were you shown
16 People's Exhibit -- what is termed Exhibit 71?

17 May I approach the witness, your Honor?

18 THE COURT: No, you may not. You can ask him your
19 question from there.

20 MR. KANAREK: All right.

21 Q In your presence, was it stated by a lawyer in that
22 court, "I have a check, your Honor, which bears the imprinted
23 matter --" quote --

24 MR. MANZELLA: Objection, your Honor. What Mr. Kanarek
25 is reading constitutes hearsay, and there is no foundation for
26 it.

27 MR. KANAREK: Your Honor would not allow me to approach
28 the witness --

1 THE COURT: May I see the question you wish to ask?

2 MR. KANAREK: Certainly, yes.

3 THE COURT: About which you wish to ask?

4 MR. KANAREK: Certainly.

5 (Whereupon, the following proceedings were had at
6 the bench, outside the hearing of the jury:)

7 THE COURT: And you are directing my attention to --

8 MR. KANAREK: This (indicating), your Honor. It's the
9 same check --

10 THE COURT: To Page 2648 of the transcript in the case of
11 People vs. Grogan; and you wish to ask about what?

12 MR. KANAREK: This subject matter here (indicating).

13 MR. MANZELLA: Line 14, he's --

14 THE COURT: From Line 14 on down?

15 MR. MANZELLA: Right, What the District Attorney said in
16 that case.

17 And my objection is: There's no foundation for
18 reading the District Attorney's remarks into the record.

19 THE COURT: There doesn't appear to be. This is all --
20 this is all material which identifies the check. And it has
21 previously been identified.

22 It is not contradictory of anything that he has
23 said here, is it?

24 MR. KANAREK: Your Honor wouldn't allow me to approach
25 him. I am trying to identify this. We are entitled to have
26 the jury know that we are talking about the same --

27 THE COURT: Well, the jury would know. If you wish,
28 I'll state for the record that it is the check that we are

1 talking about.

2 MR. KANAREK: All right. If your Honor will --

3 THE COURT: Is that what you are concerned about?

4 MR. KANAREK: Yes.

5 MR. MANZELLA: Your Honor, excuse me. I don't understand.

6 THE COURT: I don't understand it either. It's not --

7 MR. MANZELLA: Well, then, I don't want your Honor --

8 I would object to your Honor saying anything to the jury, just
9 because Mr. Kanarek can't -- doesn't understand how to make the
10 point that the check we are talking about is the same check,
11 by asking the witness.

12 MR. KANAREK: I understand.

13 THE COURT: I am sure that the jury knows what Exhibit 71
14 is.

15 No, go on and ask your question. But the question
16 referring to the foundational material in that other case
17 would appear -- I mean, based upon what was said concerning
18 the foundational material in that other case would appear to
19 be improper.

20 MR. KANAREK: Well, I --

21 THE COURT: It's not contradictory of anything.

22 MR. KANAREK: Well, it shows that --

23 THE COURT: Of anything that's been said in this case.

24 MR. KANAREK: It shows that he's lying. He says that
25 there was another check. Your Honor, this is the check that
26 he paid that money --

27 THE COURT: That particular passage of conversation,
28 questions and answers, does not show that he's lying.

1 MR. KANAREK: It shows that he was in court when that --

2 THE COURT: It does -- it is not in any way contradictory
3 of what he's testified to in this case.

4 MR. KANAREK: He has testified here, your Honor, that
5 this check was not a check -- he's testified -- I asked him --

6 THE COURT: He has testified that he gave Mr. Shea
7 another check.

8 MR. KANAREK: That's right.

12b

12b-1

1 THE COURT: All right. Now, everyone, I believe, in
2 his right mind would assume that it is a check other than
3 People's 71.

4 MR. KANAREK: All right. But --

5 THE COURT: Do you have any other questions?

6 MR. KANAREK: Yes.

7 THE COURT: All right. Go ahead.

8 (Whereupon, the following proceedings were had
9 in open court, within the presence and hearing of
10 the jury:)

11 THE COURT: People's 71 is the check dated July 10; is
12 that the check you are referring to, Mr. Kanarek?

13 MR. KANAREK: Yes, your Honor.

14 THE COURT: I'll sustain the objection.

15 Oh, would counsel approach the bench again?
16 With the reporter?

17 (Whereupon, the following proceedings were had
18 at the bench among Court and counsel, outside the
19 hearing of the jury:)

20 THE COURT: Miss Mary Brunner is available now. The
21 bailiff is holding her for appearance in this courtroom.

22 And if either of you gentlemen wish to have her
23 examined any further on direct or cross, I will hear your
24 motions to reopen in that respect, either of you.

25 Do you wish to have her here on Friday morning?

26 MR. KANAREK: I'm not asking that she --

27 THE COURT: You don't wish to cross-examine her any
28 further?

12b-2

1 MR. KANAREK: Well --

2 MR. MANZELLA: I've completed my questions of her,
3 your Honor.

4 MR. KANAREK: I -- I -- in other words, what I am
5 saying is this, your Honor. She was brought -- she was
6 ordered back by the People's -- while the People's case
7 concerning her testimony was going on. And I -- I hear what
8 your Honor says, but I have no motion at this time.

9 THE COURT: All right.

10 MR. KANAREK: At this instance in time, I don't have any.

11 THE COURT: All right.

12 (Whereupon, the following proceedings were had
13 in open court, within the presence and hearing of the
14 jury:)

15 THE COURT: Go on with your questioning.

16 MR. KANAREK: Yes. Thank you, your Honor.

17 Q Referring to People's 71, which is the check
18 dated July 10th, 1969, concerning which you have testified
19 previously, did you give the answers indicated in the
20 testimony that I am now going to read to you, Mr. Binder,
21 on July 27th, 1971?

22 THE COURT: Have you shown that to counsel?

23 MR. KANAREK: Yes, your Honor.

24 THE COURT: The passage to which you --

25 MR. KANAREK: Yes, counsel has seen it.

26 (Pause in the proceedings while Mr. Manzella
27 perused the transcript.)

28 THE COURT: Is it the same passage we have examined

12b-3

1 at the bench?

2 MR. KANAREK: No. It's a subsequent passage, in the
3 same testimony, your Honor.

4 "Q Mr. Binder, would you carefully look at
5 this check and tell me whether you recognize this
6 check as having seen it before?

7 "A Yes, it is my signature, and it is my
8 handwriting, and it is my check.

9 "Q And you indicated before that Donald --
10 Donald returned to California from Las Vegas, and
11 you gave him a hundred dollars; is that correct?

12 "A That is correct.

13 "Q This is the \$100 you have reference to?

14 "A Yes.

15 "Q And this check was in fact cashed; is
16 that correct?

17 "A Yes."

18 Q Did you give those questions -- those answers to
19 those questions?

20 A Yes, I did.

21 Q And that question -- and when you wrote that
22 check, Niki was in Los Angeles; is that correct?

23 A I believe so, yes.

13 fls.

13-1

1 Q In your relationship with Mr. Shea, did he at
2 one time go to Bakersfield, Mr. Binder?

3 MR. MANZELLA: Objection, your Honor, it is not
4 relevant.

5 THE COURT: Well, the question is ambiguous. Sustained.
6 Rephrase your question.

7 Q BY MR. KANAREK: To your knowledge did Mr. Shea,
8 while you, since you have known him, go to Bakersfield for
9 a period of time?

10 A No, I don't recall any time that he stayed any
11 period of time in Bakersfield.

12 Q You were never with Mr. Shea in Bakersfield?

13 A Yes, I've been with Mr. Shea in Bakersfield.

14 Q And you were there for some period of time?

15 A Not for a period of time, no.

16 Q You mean did you just drive through or what was
17 the period of time?

18 A We were there a day or so.

19 Q You and Mr. Shea?

20 A Yes.

21 MR. KANAREK: Your Honor, may we approach the bench?

22 THE COURT: Yes, you may.

23 (Whereupon, the following proceedings were had
24 at the bench among Court and counsel, outside the
25 hearing of the jury!)

26 MR. KANAREK: Your Honor, I have here -- I want to
27 follow the Court's orders. Clearly this man and Mr. Shea
28 were engaged in items of erotic sexual nature, including the

13-2

1 selling of books that involve sexual instruction of an erotic
2 pornographic type.

3 THE COURT: So the man has said, the witness has said
4 that that was true. That those items were sold in one store
5 and that Shea was a salesman, as I understood it, part time
6 at that store.

7 MR. KANAREK: There are pages now --

8 THE COURT: You are speaking now of the transcript,
9 for the record, of the case of People vs. Grogan. And that
10 was a mistrial in Department 52?

11 MR. KANAREK: Yes, your Honor.

12 THE COURT: And --

13 MR. KANAREK: And I would like to read -- and follow-
14 ing the Court's instructions, I would like him to read this
15 testimony of 26 -- well -- actually, about --

16 THE COURT: I can't see the relevance of any such --

17 MR. KANAREK: Well, to show the state of mind.

18 THE COURT: Show the state of mind of whom?

19 MR. KANAREK: Of Mr. Shea.

20 THE COURT: To show that he was a seller of erotic
21 materials?

22 MR. KANAREK: To show that he was a seller of erotic
23 materials, right.

24 THE COURT: What bearing --

25 MR. KANAREK: It has this bearing, the People are going
26 to argue that he was so interested in the movie business,
27 this was his big opportunity. That he wouldn't be in any
28 other place except Los Angeles. And it is our position he is

13-3

1 an itinerant salesman of pornographic and sexual devices,
2 artificial penes and matters -- items that stimulate the
3 female -- that stimulate the vagina and things of that type.
4 And we have a right to show that Mr. Shea -- that this is
5 malarkey, to use the language -- to use it in that language,
6 that Mr. Shea having this big movie interest -- that actually
7 Mr. Shea --

13a fls.

13a-1

1 THE COURT: The Court believes that you have established
2 Mr. Shea's connection with that.

3 MR. KANAREK: Well, we would like --

4 THE COURT: That type of sale, and I see no point in
5 allowing you to expand upon it.

6 MR. KANAREK: Well, it is our position this is a big
7 point, your Honor.

8 THE COURT: The Court would raise its own objection
9 to it.

10 MR. KANAREK: This is our position. It is a big point,
11 because of the fact that the People are making out that Mr.
12 Shea, during this period of time, was so interested in the
13 movie business. It is our position he could have gone to
14 school to study movies, he could have taken courses, but
15 actually he was engaged in selling pornographic material and
16 artificial and sexually stimulating items. And this is most
17 important.

18 THE COURT: Well, the gentleman has testified -- the
19 gentleman has testified to that.

20 MR. MANZELLA: May I interrupt you a moment?

21 I wouldn't lean on that. It is not that strong.

22 THE COURT: All right, let's proceed.

23 MR. KANAREK: Yes.

24 As a matter of fact, I just ask the Court to
25 read, for instance --

26 THE COURT: All right.

27 I'll --

28 MR. KANAREK: Some of these pictures depicted oral

1 copulation. We have a right -- we have a right, we are
2 talking about the state of mind of Mr. Shea -- we have a
3 right to go in and show --

4 THE COURT: He may have been -- he may have been a
5 very immoral person from your viewpoint to have sold such
6 materials and to have had such materials in his possession.
7 And he may have been a very depraved person from my stand-
8 point or your standpoint, but I can't see this material that
9 you are going into --

10 MR. KANAREK: But it shows a state of mind that the
11 witness -- I am not sitting in moral judgment on the man,
12 but I think we have a right for the jury to know the kind --

13 THE COURT: The Court will deny your --

14 MR. KANAREK: Just so the record will be complete,
15 your Honor --

16 THE COURT: You are referring to page --

17 MR. KANAREK: I want to go --

18 THE COURT: You want to go into the subject matter that
19 was covered in that other trial?

20 MR. KANAREK: Yes.

21 THE COURT: And it involves page 2663 and 2664?

22 MR. KANAREK: Well, it begins before that.

23 THE COURT: Well, at what point?

24 MR. KANAREK: 2656 through -- through the top of 26 --
25 through line 6 at 2666, Volume 20, which was before Judge
26 Call, which is dated July 27, 1971, which clearly is denying
27 a right to a fair trial. It shows that he sold pictures
28 involving homosexual --

1 THE COURT: Do you also wish to --

2 MR. KANAREK: -- conduct between -- we're entitled that
3 subject matter be before the jury, because they're trying to
4 paint Mr. Shea as a certain type of person and we have a
5 right that they -- that the subject matter be allowed.

6 Is your Honor also foreclosing me from asking
7 questions concerning the subject matter?

8 THE COURT: That's correct.

9 MR. KANAREK: Well, then, so the record will be clear,
10 it is our position --

11 THE COURT: I think the record is clear.

12 MR. KANAREK: It is a denial of a fair trial, due
13 process and equal protection because this shows a -- what
14 Shea's state of mind, what his attitudes were. That he was
15 a person dealing in these type of materials, his daily life,
16 his day by day occupation. And we have a right to interrogate.

17 THE COURT: The Court's ruling would be the same. It
18 would be immaterial, though all of that material on those
19 pages that you have referred to I see refers to his selling
20 of erotic materials.

21 All right, let's proceed with your next question,
22 will you, please?

23 MR. KANAREK: So it is clear --

24 THE COURT: Mr. Kanarek, I don't wish to hear any more
25 concerning it.

26 MR. KANAREK: I want to obey the Court's order.

27 THE COURT: Very well, then, be quiet. Proceed with
28 your next question.

MR. KANAREK: All right.

13b-1 1

(Whereupon, the following proceedings were had
in open court within the presence and hearing of the
jury:)

BY MR. KANAREK:

Q In connection with the adult bookstore, Mr.
Binder, was Mr. Shea manager --

MR. MANZELLA: Objection, your Honor.

Q BY MR. KANAREK: -- of one of those stores?

MR. MANZELLA: Objection, your Honor, the question has
been asked and answered.

THE COURT: Sustained. Immaterial.

MR. KANAREK: May I make an offer of proof, your Honor?

THE COURT: No, you may not.

MR. KANAREK: May I approach the bench on that?

THE COURT: No, you may not.

Q BY MR. KANAREK: Well, was Mr. -- was Mr. Shea --
did he have a title of manager of any of your -- of the
establishments that you have testified to in this courtroom?

MR. MANZELLA: Objection, your Honor, the question has
been asked and answered.

MR. KANAREK: I don't believe it has, your Honor.

THE COURT: The Court will sustain the objection. It
is immaterial.

Q BY MR. KANAREK: When Mr. Shea came to Los
Angeles, Mr. Binder, did he tell you where Niki was living?

A No, I told you I only had a 30-40 second conversa-
tion with him.

Q Did you give this answer to this question on

1 July 27, 1971 --

2 A I don't recall.

3 Q Well, I will read you the question and answer
4 and see if you gave that answer.

5 "So far as you know when Niki had
6 returned to Los Angeles, Mr. --" --

7 THE COURT: Mr. Kanarek, would you use the microphone.

8 Q BY MR. KANAREK: (Reading.)

9 "So far as you know, when Niki had
10 returned to Los Angeles, Mr. Shea didn't really
11 know exactly where she was living?

12 "A I really can't answer that question.
13 I don't know for sure."

14 A That's what I just said.

15 Q Did you give that answer?

16 A Yes.

17 Q Well, then, you didn't know for sure, not
18 because of the shortness of the conversation that you have
19 testified to when you spoke to Mr. Shea when he was in Los
20 Angeles, but because of your conversations with him before
21 he left for Los Angeles, is that correct?

22 MR. MANZELLA: Objection, your Honor, the question is
23 argumentative.

24 MR. KANAREK: I'm asking him, your Honor.

25 MR. MANZELLA: The question is argumentative, your
26 Honor.

27 THE COURT: The objection is overruled. You may
28 answer.

1 A Do you want to repeat that question?

2 MR. KANAREK: May it be read?

3 (Whereupon, the record was read by the
4 reporter as follows:

5 "Q Well, then, you didn't know for sure,
6 not because of the shortnesss of the conversation
7 that you have testified to when you spoke to Mr. Shea
8 when he was in Los Angeles, but because of your conver-
9 sations with him before he left for Los Angeles, is
10 that correct?")

11 A Yes, essentially.

12 Q BY MR. KANAREK: So -- so, at the time when Mr.
13 Shea was still in Las Vegas, he told you that he did not know
14 where Niki was?

15 A I didn't say that. I said we never discussed
16 that.

17 Q Never discussed that with him?

18 A Where she was staying, no.

19 Q Do you remember testifying before the Grand Jury?

20 A Certainly I remember that.

21 Q Do you remember testifying before the Grand Jury
22 that the marriage was on rocky ground at that time and "I
23 loaned him some money to get an apartment"?

24 A Yes.

25 Q Did you so testify?

26 A Yes, I did.

27 Q Well, -- and that time that you are speaking of
28 is the time when Mr. Shea was in Las Vegas at a time when Niki

1 wasn't present, is that correct?

2 A No, that was the time they first came there when
3 they first got married and they were running into all the
4 racial prejudice about renting an apartment.

5 Q And --

6 A That's where the rocky ground started, right
7 there.

8 Q And so, would you tell us, tell all of us here,
9 the rocky ground was because of the racial prejudice in Las
10 Vegas?

11 MR. MANZELLA: That question has just been answered.

12 MR. KANAREK: I'm asking, your Honor.

13 MR. MANZELLA: I object on the grounds this question
14 has been asked and answered, your Honor.

15 THE COURT: Sustained.

16 Q BY MR. KANAREK: Did you testify before the Grand
17 Jury:

18 "Q" -- in answer to this question, did you give
19 this answer:

20 "How long did he stay there from the
21 time of his marriage until he left?

22 "A The marriage was on rocky ground at
23 that time and I loaned him some money to get an
24 apartment."

25 Is that right; did you so testify?

26 MR. MANZELLA: Your Honor, that question was just
27 asked and answered.

28 THE WITNESS: It is the same one you asked.

1 THE COURT: The objection is --

2 MR. KANAREK: I want to make it -- I paraphrased it
3 before and I just wanted to make it -- to give the exact
4 wording that was before the Grand Jury.

5 THE COURT: The objection is sustained.

13c fls.

13c-1

1 Q BY MR. KANAREK: When you used the words "to get
2 an apartment," you were referring to an apartment in Las
3 Vegas, is that right?

4 A That's correct.

5 Q And when you say "rocky ground," the marriage was
6 on rocky ground, Mr. Binder, you say the -- would you tell
7 us, did Mr. Shea and Mrs. Shea, in your presence, tell you
8 why the marriage was on rocky ground?

9 MR. MANZELLA: Objection, the question has been asked
10 and answered, your Honor.

11 MR. KANAREK: Not so, your Honor.

12 THE COURT: You may answer it.

13 MR. MANZELLA: Your Honor --

14 A Well, I'll tell you again.

15 Q BY MR. KANAREK: Would you listen to the question,
16 please?

17 May the question be read, your Honor?

18 THE COURT: Do you have the question in mind?

19 THE WITNESS: Yeah.

20 THE COURT: It needn't be read. Go ahead and answer
21 it.

22 THE WITNESS: They discussed it in my presence, the
23 fact that they were having problems getting an apartment
24 because everywhere they were turned down because they didn't
25 want to rent to a mixed racial couple. I suggested a place
26 over on the west side of Las Vegas that I knew of and I also
27 called a friend of mine who was a judge in that area to see
28 if he could help them find a place. Uh, they were unhappy.

1 Because then -- and naturally a lot of problems evolved where
2 -- if two people are unhappy in a place like that -- where
3 they were having these problems.

4 Q BY MR. KANAREK: Well, would you tell us, then,
5 Mr. Binder, which way it is? Did you give that hundred
6 dollars to Mr. Shea at a time when Niki was in Los Angeles
7 or did you give the \$100 for the apartment at a time when
8 Mr. and Mrs. Shea were both in Las Vegas?

9 A That particular check was given to him when both
10 of them were there at the time. I have given him --
11 subsequently, I gave him additional money, cash out of my
12 pocket, plus the company issued a paycheck, plus he received
13 another check for an advance for future pay, because he
14 needed money to go back to Los Angeles with.

15 MR. KANAREK: Well, may that last portion be stricken?
16 I asked a question concerning that particular check and he's
17 giving an answer --

18 THE COURT: All right, the response after the reference
19 to that particular check is stricken.

20 Q BY MR. KANAREK: I think, Mr. Binder, it was
21 untrue a few moments ago in this courtroom when you stated
22 that that check, People's Exhibit 71, your check No. 125 --
23 when you stated in this courtroom a few minutes ago that that
24 was given to Mr. Shea at a time when Mrs. -- at -- when, uh --
25 when Mrs. Shea was in Los Angeles? That was untrue, is that
26 correct? You told an untruth in this courtroom, then?

27 A I did not tell an untruth.

28 Q Then, which --

1 A I cannot keep track of all the silly questions
2 you're asking me.

3 Q I see. But that was untrue a few moments ago
4 when you stated that you gave Mr. Shea a check at a time when
5 Mrs. Shea was in Los Angeles; that was untrue?

6 A Mrs. Shea was in Los Angeles at the time when I
7 gave him that check. If you will notice the check was not
8 deposited and cleared for almost ten days later.

9 Q My question is, was that answer untrue?

10 A No, the answer was not untrue.

11 Q So you did give the check -- you are now telling
12 us that you gave the check to Mr. Shea when Mrs. Shea was
13 in Los Angeles, right?

14 A She was in Las Vegas, as far as I know. I didn't
15 keep a daily log of where she was at any particular moment.

16 Q At the time that you wrote that check, Mrs. Shea
17 had left Las Vegas; is that correct, Mr. Shea?

18 A I am not Mr. Shea, and you are not F. Lee Bailey.
19 My name is Binder.

20 THE COURT: Mr. Binder, I am going to caution you again,
21 just respond to the question.

22 THE WITNESS: Your Honor, he has called me Mr. Shea --

23 THE COURT: Don't argue with Mr. Kanarek.

24 It is Mr. Binder.

25 MR. KANAREK: Yes, your Honor.

26 THE COURT: It is a slip of the tongue.

27 THE WITNESS: I think it is a Freudian slip.

28 THE COURT: Go ahead, rephrase your question.

1 MR. KANAREK: Yes, your Honor.

2 Q BY MR. KANAREK: When you wrote that hundred
3 dollar check, Mrs. Shea had gone -- had left Las Vegas? You
4 knew that she was not in Las Vegas; is that correct, Mr.
5 Binder?

6 A I have no knowledge of that, whatsoever. As far
7 as I knew she was still there when he asked me for the hundred
8 dollars and I gave him that money at that time to look for
9 an apartment with. And that's what I gave him the money for.
10 What he used it for, I don't know.

13d fls.

13d-1

1 Q Did you not tell us a few moments ago in this
2 courtroom that Mrs. Shea had left Las Vegas?

3 THE COURT: You needn't answer that. The record speaks
4 for itself.

5 Let's move along.

6 MR. KANAREK: Yes, your Honor.

7 Q BY MR. KANAREK: Mr. Binder, in fact Mr. Shea
8 never paid you for the guns, is that correct?

9 A I have loaned Mr. Shea so much money over the
10 years that he has paid back in dribs and drabs and in big
11 money when he had it that I can't give you a really honest
12 answer to that.

13 Q And then, a few -- a little while ago, today,
14 when you stated that Mr. Shea paid you for those guns, that
15 was untrue?

16 A No, he paid for it many times with labor that
17 he produced.

18 Q Then, did you testify on July 27, 1971, in the
19 City of Los Angeles, in another courtroom:

20 "Q Can you tell us whether or not Mr. Shea
21 actually ever finished paying for those guns?

22 "A No.

23 "Q No?

24 "A No. That was his personal business."

25 Did you so testify?

26 MR. MANZELLA: I object to that, your Honor, the way
27 Mr. Kanarek read that. The question asked in the Grogan
28 trial was the question that was asked about whether Mr. Shea

1 paid the man he bought the guns from, not whether he paid back
2 Mr. Binder.

3 MR. KANAREK: Your Honor, counsel -- if he wishes to
4 argue this in front of the jury, I'd be delighted. He's making
5 argument in front of the jury.

6 THE COURT: Well, you have two questions before the
7 witness now. The Court will sustain the objection and begin
8 your question again, would you, please?

9 Q BY MR. KANAREK: Did you testify in another
10 courtroom on July 27, 1971:

11 "Can you tell us whether or not Mr. Shea
12 actually ever finished paying for those guns?

13 "A No.

14 "Q No?

15 "A No, that was his personal business."

16 Did you so testify?

17 MR. MANZELLA: Your Honor, I object on the grounds it
18 is irrelevant, your Honor.

19 THE COURT: Sustained.

20 MR. MANZELLA: And I ask that the questions and answers
21 read by Mr. Kanarek be stricken from the record.

22 MR. KANAREK: Well, how --

23 THE COURT: All right, the question in its form put by
24 Mr. Kanarek may be stricken. The objection is sustained.
25 You need not answer that.
26
27
28

14 fls.

1 MR. KANAREK: Your Honor, then I ask to approach the bench.
2 Mr. Manzella has made a misrepresentation to the Court.

3 THE COURT: All right. You may approach the bench.

4 (Whereupon, the following proceedings were had at
5 the bench among Court and counsel, outside the hearing of the
6 jury:)

7 THE COURT: All right. Now --

8 MR. KANAREK: This is absolutely --

9 THE COURT: You understand that, in order to use this
10 record, --

11 MR. KANAREK: Yes.

12 THE COURT: -- that it must be a prior contradictory
13 statement?

14 MR. KANAREK: Yes. It --

15 THE COURT: You don't have to show it to me. But if you
16 are going to continue to use this record, I would suggest that
17 you go to Mr. Manzella, show it to him, so that he can make a
18 proper objection.

19 MR. KANAREK: Well, he --

20 THE COURT: And you need not show it to the witness, of
21 course. But if it's not contradictory -- and some of these
22 questions that you have asked about, from the previous
23 record -- that is, the Grogan record -- are not contradictory --
24 then you shouldn't ask them.

25 Now, as to this particular question, is it contra-
26 dictory of his present testimony?

27 MR. KANAREK: Yes. It's got nothing to do with pawn shops.

28 MR. MANZELLA: No. When he -- your Honor? In the first

1 place, when Mr. Kanarek asked him if he -- if he knew whether
2 Shea had finished paying -- repaying him for the loan for the
3 guns, the witness on the stand right now said, "Honestly, I
4 can't tell you, because he paid me in dribs and drabs."

5 How the hell -- excuse me. How is that contradictory
6 with what's in that?

7 MR. KANAREK: Your Honor?

8 THE COURT: Excuse me. Just let me read this. It's
9 Page 2672.

10 MR. MANZELLA: It's the same answer.

11 THE COURT: And it begins over on Page 2671, where there
12 was colloquy between Mr. Weedman, apparently -- is this on
13 cross?

14 MR. KANAREK: Yes, I believe it is.

15 THE COURT: (Continuing) -- between Mr. Weedman and the
16 witness.

17 Mr. Weedman did ask him: "Did Shea ever repay you
18 that \$150?"

19 And the answer was: "Yes." As shown on 2672.

20 And then the next question is: "Can you tell
21 us whether or not Mr. Shea actually ever finished
22 paying for those guns?"

23 "A. No.

24 "Q. No?

25 "A. No. That was his personal business."

26 It does not seem to be contradictory --

27 MR. KANAREK: He previously --

28 THE COURT: It does not seem to be contradictory of

1 what he has testified to here.

2 MR. KANAREK: He testified earlier today that that money
3 was paid off. He -- it's in the record. It's in the record
4 in this courtroom.

5 He stated that Mr. -- Mr. Shea paid him that money
6 back, except the cameras, he never evaluated --

7 THE COURT: Mr. Kanarek, --

8 MR. KANAREK: He stated --

9 THE COURT: -- I would assume, as I think that
10 Mr. Manzella has assumed, and as I think a reasonable reading
11 of that record would show -- and when I say "that record,"
12 I mean Page 2672, Lines 12 through 16, which you have asked
13 him about -- that he is referring -- the questioner and the
14 witness were referring to the payment of the seller of guns.

15 MR. KANAREK: No. Not at all. Not at all. That --

16 THE COURT: That's the Court's --

17 MR. KANAREK: But I am entitled --

18 THE COURT: That's the Court's ruling, that statement
19 which you --

20 MR. KANAREK: I am entitled to --

21 THE COURT: Which you purport to ask this man about at
22 this time is not contradictory of his present testimony.

23 MR. KANAREK: I am entitled to argue that -- this has to
24 do with the payment to him, your Honor,

25 THE COURT: Mr. Kanarek, --

26 MR. KANAREK: My --

27 THE COURT: -- I have made my ruling. The record is clear.

28 (Whereupon, the following proceedings were had

1 in open court, within the presence and hearing of the jury:)

2 THE COURT: The objection is sustained.

3 Q BY MR. KANAREK: Mr. Binder --

4 THE COURT: And the question is stricken, ladies and
5 gentlemen.

14a

14a-1

1 Q BY MR. KANAREK: Mr. Binder, referring to these
2 two guns, did you have any discussions with Mr. Shea as to
3 where he obtained these guns?

4 A Only some fellow in Burbank. He never did tell me
5 the man's name.

6 Q And would you tell us, what did he tell you con-
7 cerning the purchase of these guns?

8 MR. MANZELLA: Objection, your Honor. It calls for hearsay,
9 and it's not relevant.

10 MR. KANAREK: It goes to state of mind, It's one of the
11 very points that -- may I approach the bench, then, your Honor?

12 THE COURT: No. The objection is sustained. It's
13 immaterial.

14 Q BY MR. KANAREK: Did Mr. Shea ever tell you whether
15 or not he had paid the man in Burbank for these guns?

16 A No, he never discussed that.

17 Q You never discussed that, one way or the other, --

18 A No.

19 Q -- is that correct?

20 A No.

21 Q That is correct?

22 A That is correct, yes.

23 MR. KANAREK: Then I would like to approach the bench in
24 connection with this subject matter, your Honor.

25 THE COURT: You may not.

26 MR. KANAREK: And may I make an offer of proof at the
27 bench?

28 THE COURT: No, you may not.

1 Q BY MR. KANAREK: At the time when you had a dis-
2 cussion with Mr. Shea concerning these guns, Mr. Binder, did
3 you give Mr. Shea \$100 in cash?

4 A I don't recall if it was cash or a check. I really
5 don't recall. But I remember giving him a hundred dollars.

6 Q It was only \$100; right?

7 A Yes, plus the cameras.

8 Q I see. Did you testify as follows?

9 "Q When Shorty brought Lance Victor
10 over and thereafter brought this girl, Arlene,
11 to your house, did you observe some guns that
12 Shorty had?

13 "A I gave Shorty the money to buy the
14 guns, and some cameras to use for a trade for those
15 guns.

16 "Q I see. How much money did you give
17 him?

18 "A I gave him \$150 at that time."

19 A That's correct.

20 Q Well, was it \$100 or was it \$150?

21 A The hundred dollars, he told me he needed for the
22 guns; and he needed \$50 for expense money, for pocket money.

23 Q So now you are saying you gave him \$150?

24 A That's right. And this is exactly what I said
25 there.

26 MR. KANAREK: Well, then, your Honor, I would ask to be
27 able to go into -- may I approach the bench?

28 THE COURT: No, you may not.

1 Q BY MR. KANAREK: And then referring, Mr. Binder --
2 you say -- referring to what you've already said there, the
3 \$150 that you are speaking of is \$150 that you loaned Mr.
4 Shea; is that right?

5 A Correct.

6 Q When did you loan that \$150 to Mr. Shea?

7 A I don't recall -- I don't remember the dates at all.
8 I told you repeatedly, I gave him money on so many numerous
9 occasions that I could not possibly answer that question as to
10 the date.

11 Q You don't know the date, the month, or the year;
12 is that right?

13 A No.

14 Q Is that correct?

15 A That is correct.

16 Q And do you know whether or not Mr. Shea ever repaid
17 that \$150?

18 A To the best of my knowledge, he did.

19 MR. KANAREK: Then I would ask to approach the bench,
20 your Honor.

21 THE COURT: You may not.

22 Do you mean in reference to the same passage of the
23 case -- of the case of People versus Grogan --

24 MR. KANAREK: Yes.

25 THE COURT: -- that you've referred to?

26 MR. KANAREK: Yes, your Honor. In view of this last
27 answer.

28 THE COURT: You may not.

1 Q BY MR. KANAREK: Well, can you tell us, Mr. Binder,
2 whether Mr. Shea actually ever finished paying for those guns?

3 MR. MANZELLA: Objection, your Honor. It calls for
4 hearsay, and it's not relevant.

5 MR. KANAREK: It has to do with --

6 THE COURT: The objection is sustained.

7 MR. KANAREK: All right. May I ask you --

8 THE COURT: It is immaterial.

9 Q BY MR. KANAREK: -- did Mr. Shea ever finish
10 paying you, Mr. Binder, for those guns?

11 A I --

12 THE COURT: It's asked --

13 MR. MANZELLA: Objection, your Honor. It's asked and
14 answered.

15 THE COURT: -- and answered. And you need not answer
16 again. It is asked and answered.

17 MR. KANAREK: Well, your Honor, I would -- I have no
18 further questions at this time, but I would ask that this
19 witness be ordered to return.

14b

14b-1

1 THE COURT: Any redirect?

2 MR. MANZELLA: Yes, your Honor. Thank you.

3
4 REDIRECT EXAMINATION

5 BY MR. MANZELLA:

6 Q Mr. Binder, when the girl that you referred to in
7 cross-examination as Arlene was at your home, was she there
8 with Donald Shea or was she there with the man you now know as
9 Lance Victor?

10 A She was --

11 MR. KANAREK: Calling for a conclusion, your Honor, as
12 to who she was there with. It's strictly conclusionary on the
13 part of this witness.

14 THE COURT: The objection is sustained.

15 Q BY MR. MANZELLA: Did she come with Donald Shea or
16 did she come with Lance Victor?

17 MR. KANAREK: That's assuming facts not in evidence,
18 that she came with one of them or separately. The question --
19 I object to the ambiguity of the question.

20 THE COURT: Just state your objection, and the Court
21 will rule on it.

22 The objection is sustained.

23 You may rephrase your question.

24 MR. MANZELLA: Very well.

25 Q Mr. Binder, when the girl you refer to as
26 Arlene was at your home, was she -- did she spend her time in
27 the company of Donald Shea, or in the company of Lance Victor?

28 MR. KANAREK: I object to the ambiguity; improper

1 foundation.

2 THE COURT: The objection is sustained.

3 You may rephrase your question.

4 Q BY MR. MANZELLA: For how long did -- strike that.

5 I'm not sure if I have gotten an answer to any of
6 the questions that I've asked you.

7 When Arlene was at your home, the girl you
8 referred to as Arlene was at your home, was Lance Victor there
9 as well as Donald Shea?

10 A Yes.

11 Q All right. And had she arrived at your home --
12 strike that.

13 Had the three of them arrived at your home at the
14 same time?

15 A Together.

16 Q All right. And was -- did you have any conver-
17 sations with -- strike that.

18 While they were at your home, did you talk to
19 Mr. Shea, Mr. Victor, and the girl you refer to as Arlene?

20 A Yes.

21 Q And what did Mr. Victor say about Arlene?

22 MR. KANAREK: Object on the grounds of hearsay; improper
23 foundation; irrelevant and immaterial.

24 THE COURT: Sustained.

25 Q BY MR. MANZELLA: All right. Did Lance Victor and
26 Arlene and Donald Shea sleep over at your house?

27 A Yes, sir.

28 Q Where did Donald Shea sleep?

1 A He slept on the floor of the living room.

2 Q And where did Arlene sleep?

3 MR. KANAREK: Just a minute. I will object on the
4 grounds of -- and ask on voir dire, your Honor, as to whether
5 this man knows where people are, when he's sleeping.

6 THE COURT: You may ask him on cross-examination.

7 The objection is overruled.

8 The answer may remain.

9 Q BY MR. MANZELLA: Where did Arlene sleep?

10 A With --

11 MR. KANAREK: I'll object on the grounds of the use of
12 the word "sleep," your Honor, as to --

13 THE COURT: The objection is overruled.

14 THE WITNESS: She slept with my oldest daughter.

15 Q BY MR. MANZELLA: And where did Lance Victor sleep?

16 A On the floor, in the living room.

17 Q In the same room with Donald Shea?

18 A Yes.

19 Q All right. Now, did the three of them leave
20 your home at the same time? If you recall?

21 A Hmmm -- they all left that afternoon, and then came
22 back the following day.

23 Consequently, Arlene went to the hospital, to have
24 the baby; and then Lance Victor brought her back.

25 MR. KANAREK: Well, your Honor, I would ask that all
26 this latter part be stricken on the grounds it's not responsive
27 to the question.

28 THE COURT: After the first sentence, the rest is stricken.

1 Q BY MR. MANZELLA: All right. Mr. Binder, subse-
2 quently, did Arlene go to the hospital?

3 A Yes.

4 Q To have her baby?

5 A Yes.

6 Q And who -- did she return to your home after she had
7 the baby?

8 A Yes.

9 Q Who brought her to your home?

10 A My wife.

11 Q And was Lance --

12 A And Lance Victor.

13 Q And Lance Victor?

14 A Yes.

15 Q And was the baby Mr. Victor's baby?

16 MR. KANAREK: Object, your Honor. That's irrelevant;
17 calling for a conclusion.

18 I don't think anyone in this courtroom can -- can
19 possibly --

20 MR. MANZELLA: All right. I'll withdraw the question.
21 It was a stupid question. It's the lateness of the hour.

22 Q BY MR. MANZELLA: Mr. Binder, did Mr. Victor hold
23 himself out to be the father of the baby?

24 MR. KANAREK: Object on the grounds of conclusion and
25 hearsay; irrelevant and immaterial.

26 THE COURT: Sustained.

27

28

14c-1

1 MR. MANZELLA: Your Honor, I would like to approach the
2 bench.

3 THE COURT: The objection is sustained.

4 MR. MANZELLA: I would like to approach the bench, if I
5 may, briefly.

6 THE COURT: You may rephrase your question.

7 MR. MANZELLA: I am running out of ways to rephrase it,
8 your Honor. Could we --

9 THE COURT: That's your problem.

10 MR. MANZELLA: I realize that.

11 I want to consult with my assistant for a moment, if
12 I may, your Honor.

13 (Pause in the proceedings while a discussion off the
14 record ensued at the counsel table between Mr. Manzella and
15 Sergeant Whiteley.)

16 Q BY MR. MANZELLA: Mr. Binder, do you know -- by what
17 name did you know the man you now know as Lance Victor?

18 A Gee, I don't remember the -- the nom de plume he
19 used. But Arlene used the same name.

20 MR. KANAREK: Well, I ask that that be stricken, your
21 Honor, that last statement, as non-responsive.

22 THE COURT: Sustained.

23 MR. KANAREK: And also -- pardon?

24 THE COURT: Sustained.

25 Q BY MR. MANZELLA: Mr. Binder, was the last name
26 Arlene used Marlatt?

27 MR. KANAREK: Objection, your Honor, on the grounds of
28 hearsay.

1 THE COURT: Overruled.

2 MR. KANAREK: It's irrelevant and immaterial, and no
3 foundation.

4 THE COURT: Overruled.

5 THE WITNESS: I'll be honest with you. I don't know
6 what name they used.

7 Q BY MR. MANZELLA: But Lance and Arlene were using
8 the same last name?

9 A Yes.

10 MR. KANAREK: Object, your Honor. Calling for a
11 conclusion.

12 THE COURT: The objection is sustained.

13 The answer is stricken.

14 MR. MANZELLA: I'm sorry. I didn't hear the ruling, your
15 Honor.

16 THE COURT: I sustained the objection and struck the
17 answer.

18 Q BY MR. MANZELLA: Now, did -- when your wife --
19 strike that.

20 When Arlene returned to your home after having the
21 baby, she returned home with your wife and Lance Victor?

22 A That's correct.

23 Q All right. Now, when you referred to a man by the
24 name of Bixby or Bixel, now, were you referring to Bob
25 Bickston?

26 A Bickston. That's the name, yes.

27 Q Now, when you spoke of -- strike that.

28 Directing your attention to that part of your

1 testimony on cross-examination wherein you talked about
2 talking with Donald about his wife, other than Magdalene --
3 I'm not referring to Magdalene now -- when you talked to
4 Donald about his wife, now, do you recall Donald referring to
5 the woman by name, or did he just refer to the woman as his
6 wife?

7 MR. KANAREK: Objected to, your Honor. It's argumentative.
8 It's leading and suggestive. It's irrelevant --

9 THE COURT: Sustained.

10 MR. KANAREK: -- and immaterial.

11 Q BY MR. MANZELLA: All right. How did Donald refer
12 to the woman about which you were talking?

13 MR. KANAREK: Well, that's ambiguous, your Honor.

14 THE WITNESS: Are you talking about --

15 MR. KANAREK: It's a solicitation of a conclusion.

16 THE COURT: Sustained.

17 Q BY MR. MANZELLA: All right. Do you actually
18 remember him speaking of his wife as Phyllis Shea?

19 MR. KANAREK: Object. Argumentative; leading and
20 suggestive, your Honor.

21 THE COURT: Overruled. You may answer the question.

22 THE WITNESS: He -- he had nicknames for a lot of people;
23 and one of them he called his wife was Sandy.

24 Q BY MR. MANZELLA: Sandy?

25 A Yes.

26 Q All right. And when he talked about the -- strike
27 that.

28 During this conversation with him, did you say that

1 he talked about his three children?

2 A Yes.

3 MR. KANAREK: Object on the grounds it's assuming facts
4 not in evidence, when he used the word "this" that it was one
5 conversation.

6 THE COURT: Overruled.

7 You may answer.

8 THE WITNESS: Yes, he talked about his three children.

9 Q BY MR. MANZELLA: And by Sandy; is that correct?

10 A By Sandy.

11 MR. MANZELLA: All right. Thank you. I have no more
12 questions on that point.

13 Q Now, Mr. Binder, directing your attention to that
14 part of your testimony in which you said that you last saw or
15 heard from Donald in a phone call in July of 1969; and then I
16 believe on cross-examination you stated that you saw Donald at
17 a New Year's Eve party on December 31st of 1969 and New Year's
18 Day of 1970.

19 Was that a mistake?

20 A That was a mistake.

14d-1

1 MR. KANAREK: Object, your Honor. And I ask -- first of
2 all, the question is improper in form.

3 THE COURT: Sustained, as to the form.

4 Q BY MR. MANZELLA: All right. Directing your
5 attention to your testimony that you saw Donald at a New Year's
6 Eve party on December 31st of 1969, were you in error as to
7 the year?

8 MR. KANAREK: That is calling for a conclusion, your Honor.
9 It's irrelevant and immaterial, what the record -- the record
10 speaks for itself.

11 THE COURT: You may finish your question.

12 Begin your question again.

13 MR. MANZELLA: I had finished it. Maybe --

14 THE COURT: I didn't hear the end of it. Begin it again,
15 please.

16 MR. MANZELLA: You want me to ask it again?

17 THE COURT: If you would, please.

18 MR. MANZELLA: All right.

19 Q Mr. Binder, directing your attention to your
20 testimony that you saw Mr. Shea at a New Year's Eve party on
21 December 31st of 1969, were you in error as to that year?

22 MR. KANAREK: Object, your Honor, calling for a conclusion
23 on the part of this witness; the record speaks for itself.

24 THE COURT: Overruled.

25 THE WITNESS: I definitely was in error, because it was
26 '68, and -- and January 1st of '69.

27 MR. MANZELLA: All right. Thank you. I have no further
28 questions.

1 THE COURT: Any recross?

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

3
4 RECROSS-EXAMINATION

5 BY MR. KANAREK:

6 Q Mr. Binder, after the noon recess, did you have a
7 skull session with Mr. Manzella and some District Attorney's
8 representatives?

9 A No, I did not.

10 Q Did you speak to anyone in the -- did you speak to
11 Mr. Manzella during the noon recess?

12 A Briefly, for a moment. And I said, "Hello."

13 Q And you spoke to Mr. Whiteley?

14 A In the hallway out here.

15 Q In the hallway.

16 A But it was not a skull session.

17 Q No. But you discussed matters pertaining to this
18 case?

19 A No, we did not.

20 Q You --

21 A We discussed the matter of my ticket back to Reno.

22 Q Do you mean the prosecution bought your ticket here?

23 A The State has bought my ticket, to bring me here
24 to testify.

25 Q Well, you mean the District Attorney's Office;
26 right?

27 A The County of Los Angeles brought me back.

28 Q By way of the District Attorney's Office?

1 MR. MANZELLA: Objection, your Honor. It's all irrelevant.

2 THE COURT: Sustained.

3 Q BY MR. KANAREK: Now, during the noon recess, did
4 you talk to Mr. Manzella or Mr. Whiteley or any law enforcement
5 officer concerning the subject matter of this case?

6 A No, I did not. I discussed mostly with you.

7 Q My question is: Did you speak to these people or
8 not?

9 MR. MANZELLA: Objection. The question has been asked
10 and answered.

11 THE COURT: Sustained.

12 Q BY MR. KANAREK: You had no words with these people
13 during the recess?

14 MR. MANZELLA: Objection. The question has been asked
15 and answered.

16 THE COURT: Sustained.

17 Q BY MR. KANAREK: Well, directing your attention to
18 the name Phyllis, did Mr. Shea use the name Phyllis as his
19 wife, as the name of his wife?

20 A I don't actually recall what his wife's name -- I
21 know he called her Sandy, which was a nickname; but what her
22 real name was, I don't know.

23 Q Now, during the recess, did you discuss -- did you
24 utter the word "Sandy," or did anyone utter the word "Sandy"
25 to you, during the recess, any law enforcement officer or any
26 Deputy District Attorney?

27 A To my knowledge, no.

28 Q To your knowledge, no?

1 A I don't recall anybody bringing that up, no.

2 Q But they might have?

3 A (Witness shrugging shoulders.)

4 Q When -- they might have, Mr. Binder?

5 A I can't answer that, I don't know what they might
6 have done.

7 Q Well, was -- do you recall the word "Sandy" being
8 used in your presence by you or any other human being during
9 the recess? After we adjourned at noon?

10 A I don't recall anybody using the name.

11 Q Well, when, today, did you first have the occasion
12 to think of the use of the word "Sandy"?

13 A When the subject was brought up again just now.

14 Q Just this instant?

15 A Um-hmm.

15

1 Q Then, this morning, when you told us -- well, I'll
2 withdraw that.

3 Did Mr. Shea use the word "Phyllis" in describing
4 his wife?

5 MR. MANZELLA: Objection, the question has just been asked
6 and answered, your Honor.

7 THE COURT: Sustained.

8 Q BY MR. KANAREK: Well, then, this morning, when you
9 told us they used the word "Phyllis" the name Phyllis as
10 describing his wife, that was untrue, Mr. Binder, and you
11 lied in the courtroom, is that right?

12 A Mr. Kanarek, you are the one that kept calling her
13 Phyllis. I didn't. You are the one that kept calling her
14 Phyllis repeatedly. You asked me if I knew of a Phyllis Shea.
15 That was your words exactly.

16 Q When you answered "yes," is that untrue; is that
17 correct, Mr. Binder?

18 A I don't even remember what his mother's name was.
19 And I talked to her a lot of times. I don't have that kind of
20 memory to remember every girl that Donald Shea talked or spoke
21 about.

22 Q My question is: This morning when you said "yes"
23 to the name Phyllis Shea, that Mr. Shea had used that name,
24 that isn't true, then; is that correct, and you lied?

25 MR. MANZELLA: Objection, your Honor, that's argumentative.

26 MR. KANAREK: I am asking him, and he is suggesting a
27 certain subject matter here, your Honor.

28 THE COURT: The question has been asked and answered.

1 Q BY MR. KANAREK: Well, then, you didn't know whether
2 the name Sandy was used by Mr. Shea at any time?

3 A I remember him calling a girl named Sandy. That's
4 one name I do remember.

5 Q That name you do remember?

6 A Uh-huh.

7 Q On how many occasions, Mr. Binder, have you dis-
8 cussed these matters concerning which you testified with
9 either a District Attorney's representative or the District
10 Attorney -- Deputy District Attorney or a police officer?

11 A I don't understand the question.

12 MR. MANZELLA: Object, your Honor, on the grounds it is
13 vague and ambiguous.

14 THE COURT: Overruled. You may answer.

15 THE WITNESS: I don't understand the question.

16 Q BY MR. KANAREK: On how many occasions -- well,
17 may I have an answer, your Honor, unless the witness doesn't
18 understand the question?

19 THE WITNESS: That's what I just said.

20 THE COURT: Apparently he does not. You may rephrase it.

21 Q BY MR. KANAREK: On how many occasions have you
22 spoken with the Deputy District Attorney or a Deputy Sheriff
23 or District Attorney's investigator concerning the matters that
24 you have now testified?

25 A First time I met Mr. Masserelli was yesterday when
26 I got off the plane for approximately ten minutes in his office.

27 Q But you have spoken previously to other deputy
28 District Attorneys?

1 A In other cases.

2 Q Well, I'm speaking in connection with the subject
3 matter of Mr. Shea.

4 A No.

5 Q You have never spoken to any law enforcement
6 officer or any deputy sheriff, anyone? You never made any
7 reports?

8 A I spoke to Mr. Whiteley when he first questioned me
9 about Mr. Shea.

10 Q That was when?

11 A Before the Grand Jury hearing in last --

12 Q In 1970, is that right?

13 A Uh-huh.

14 Q All right. You spoke to Mr. Whiteley then?

15 A Yes.

16 Q On how many other occasions have you spoken to
17 law enforcement officers?

18 A Three times. Once when I came for the Grogan case,
19 and this one, and the Grand Jury. That's the only time I've
20 ever talked to anybody.

21 Q And speaking of what you spoke to me out in the
22 hallway, did I tell you, Mr. Binder, that all I ever wanted
23 from a witness was the truth and that you were not telling the
24 truth?

25 A No, you didn't say anything like that at all.

26 Q I didn't?

27 A No. I gave you my opinion of you.

28 Q Did I tell you that I --

1 THE DEFENDANT: (From within the holding tank.) What's
2 all this madness got to do with me?

3 THE WITNESS: Fine.

4 THE COURT: Close the door.

5 THE DEFENDANT: It hasn't got anything to do with me.

6 THE COURT: Mr. Kanarek, let's not go into the conversation
7 that you and the witness had outside of the courtroom during
8 the recess. Stick to the proper recross.

9 MR. KANAREK: Well, he has brought up the subject matter,
10 your Honor.

11 THE COURT: Stick to the proper recross.

12 Q BY MR. KANAREK: Did Mr. Shea use the name Phyllis
13 with reference to someone that he called his wife?

15a

15a-1

1 MR. MANZELLA: Objection, your Honor. It is not
2 relevant.

3 MR. KANAREK: This is the exact matter that counsel has
4 adverted to during his redirect, your Honor.

5 MR. MANZELLA: The question has been asked and answered.

6 THE COURT: Sustained.

7 Q BY MR. KANAREK: What is the address on Norton,
8 Mr. --

9 A It is --

10 MR. MANZELLA: Objection, it is irrelevant.

11 THE COURT: Sustained. Also outside the scope of the
12 cross-examination or the redirect, rather.

13 Q BY MR. KANAREK: And would you tell us, Mr. Binder,
14 what did Mr. Shea tell you about Sandy?

15 MR. MANZELLA: Objection, your Honor, calls for hearsay.
16 It is not relevant.

17 MR. KANAREK: He -- his state of mind -- counsel brought
18 up the subject matter, your Honor. I never asked anything
19 concerning Sandy.

20 THE COURT: All right, the Court overrules the objection.

21 THE WITNESS: We had several conversations about how much
22 he had loved her and how much he had missed his children, and
23 that's the basis of the conversations we had over a period of
24 time.

25 Q BY MR. KANAREK: And he told you that -- that,
26 uh -- he told that his wife's name was Sandy?

27 MR. MANZELLA: Objection, the question has been asked
28 and answered.

15a-2

1 THE COURT: Sustained.

2 Q BY MR. KANAREK: Well, on how many different
3 occasions did you have these conversations, Mr. Binder?

4 A I repeat again, we were friends for five years.
5 These sort of things come up in conversations over and over
6 and over again, over a period of years.

7 Q And during this period of time when Mr. Shea
8 professed this great love for his children, did he tell you
9 that he had ever sent one red dime?

10 A That was out of my scope as asking as a friend.
11 I don't ask those questions of another friend.

12 Q I see. Did Mr. Shea ever tell you that he sent
13 any money, whatsoever, to his children?

14 THE COURT: You needn't answer that.

15 MR. MANZELLA: Objection, your Honor.

16 THE COURT: That's improper recross-examination.
17 Unless you wish to ask about the specific conversation that
18 has been gone into on redirect.

19 Q BY MR. KANAREK: Well, directing your attention,
20 then, to this conversation when you say he used the word
21 "Sandy," and he spoke of the three children, Mr. Binder.

22 Would you tell us what are the names of the
23 children?

24 A I don't recall.

25 Q And the only reason you recall the name Sandy
26 was because it was suggested to you during the noon hour, is
27 that right, Mr. Binder?

28 A No, that is not true. I have trouble recalling

15a-3

1 my own children's name. I get confused with all three of
2 them.

3 Q You mean you don't know your own children's
4 names?

5 A That's right.

6 Q Did you --

7 A I said I get confused, mixing them up. I didn't
8 say I didn't know their names. You are twisting what was said.

9 Q Well, did you get Sandy mixed up with Phyllis,
10 Mr. Binder?

11 A No. You brought the name Phyllis up. I didn't
12 get --

13 Q Well, in your mind is the name Sandy mixed up
14 with the name Phyllis at this time?

15 MR. MANZELLA: Objection, your Honor, that's vague and
16 ambiguous.

17 MR. KANAREK: He's bringing it up.

18 THE COURT: The objection is sustained.

19 MR. MANZELLA: Your Honor, may I interrupt? I have
20 two witnesses here I would like to have ordered back for
21 Friday.

22 THE COURT: What are their names?

23 MR. MANZELLA: Audrey Feldman and Delma Baker.

24 THE COURT: Are they here?

25 I'll order them back at the close of this session,
26 which I assume will be very soon.

27 Go ahead.

28 MR. KANAREK: Yes, your Honor.

15a-4

1 Q BY MR. KANAREK: Then, will you tell us what it
2 was, Mr. Binder, that made you remember the name Sandy?

3 A I thought about it a little bit and thought about
4 some of the conversations and switched back about it and I
5 recalled the name Sandy. It came to me.

6 Q I see. And what caused you to think about it
7 a little bit, to think about the conversations?

8 A Well, don't you think this trial is utmost in
9 my mind in everything that was said earlier today --

10 Q And during the noon recess you had occasion to
11 think of these conversations?

12 A When I wasn't being badgered, I was able to think
13 clearly, yes.

14 Q You were able to think about the conversations?

15 A Uh-huh.

16 Q And think about the names, correct?

17 A That's correct.

15b fls.

15b-1

1 Q Before you came to testify here today, and in the
2 afternoon, you spoke with Mr. Manzella concerning these names,
3 is that right?

4 A No. Don't twist again what I said.

5 Q I'm asking you. I'm not twisting --

6 A I didn't discuss that with Mr. Manzella at all.

7 Q But you just -- you didn't discuss it with anyone,
8 but you just happened to think of these things during the
9 noon hour?

10 MR. MANZELLA: Objection, the question has been asked
11 and answered.

12 THE COURT: Sustained.

13 Q BY MR. KANAREK: What about the name --

14 MR. MANZELLA: Excuse me, I hate to interrupt again,
15 your Honor, but may these witnesses be ordered back for
16 Friday? I don't see any reason for them to have to wait,
17 if it is agreeable with the Court. One of them has been here
18 since yesterday.

19 THE COURT: I will order them back at the conclusion of
20 this session.

21 Go ahead, Mr. Kanarek.

22 Q BY MR. KANAREK: With reference to Mr. Shea's
23 wife's name or the names of any of his wives, is Sandy the
24 only name he ever used with reference to any wife of his?

25 A That and Magdalene, is the only one he ever
26 called Mrs. Shea in my presence.

27 Q And he never used the word "Phyllis," the name
28 Phyllis in your presence?

15b-2

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A Yes, there was girls that came to the house with Donald over the time and one of them may have been named Phyllis.

Q I see. It was a girl friend of his that was named --

A I didn't say that. I said one of them may have been named Phyllis.

Q And you heard Mr. Shea use the name Phyllis, right, with reference to a female?

A He came with Barbara, and Mary, and a Susan, and probably a Phyllis. His home was my home. And he had free access. And he came with different girls to the house.

Q Did he ever refer to someone -- a female by the name of Phyllis when that female was not present in your house at the time he was present then --

A I don't recall.

Q -- at the time he was present and you were present?

A I don't recall. You are asking something I really don't know. I really don't remember.

THE COURT: Just answer the question.

Q BY MR. KANAREK: Then, I will ask you, Mr. Binder, did Mr. Shea ever refer to someone that he called his wife by the name of Phyllis?

MR. MANZELLA: Objection, the question has been asked and answered.

THE COURT: Sustained.

MR. KANAREK: Your Honor, not in connection with this

15b-3

1 recross. Mr. Manzella brought this up and has made an issue
2 out of this. We are entitled to a direct answer from this
3 witness on the subject.

4 THE COURT: I believe it has been answered, but I'll
5 permit him -- I'll reverse the ruling and permit him to answer
6 it again.

7 Q BY MR. KANAREK: May that question be read so
8 there is no question about it, your Honor?

9 THE COURT: Do you have the question in mind?

10 THE WITNESS: I'd rather have her read it back.

11 (Whereupon, the record was read by the reporter
12 as follows:

13 "Q BY MR. KANAREK: Then, I will ask you,
14 Mr. Binder, did Mr. Shea ever refer to someone that
15 he called his wife by the name of Phyllis?"

16 A Not to my recollection.

17 Q BY MR. KANAREK: And, Mr. Binder, directing your
18 attention to Mr. Manson.

19 Do you like Mr. Manson?

20 MR. MANZELLA: Objection, your Honor, it is not
21 relevant.

22 MR. KANAREK: It is relevant on the issue -- I'm sorry,
23 but I'm sure your Honor agrees.

24 THE COURT: The objection is sustained.

25 Q BY MR. KANAREK: What is your state of mind,
26 Mr. Binder, towards Mr. Manson?

27 MR. MANZELLA: Objection, your Honor, as outside the
28 scope of direct examination and it is not relevant.

15b-4

1 MR. KANAREK: This is impeachment, your Honor. We have
2 the right to inquire at any time on the matter of impeachment,
3 whether it is cross --

4 THE COURT: The objection is sustained.

5 MR. KANAREK: Thank you.

6 THE COURT: I will --

7 MR. MANZELLA: I have no further questions.

8 THE COURT: I'll reverse that ruling. You may respond
9 concerning your attitude toward Mr. Manson.

10 THE WITNESS: I don't know the man so I really can't
11 have an attitude. All I know is what I read in the news-
12 papers and I don't believe everything I read in the newspapers.
13 I like to see the facts for myself.

14 Q BY MR. KANAREK: My question is, as you sit there
15 on the witness stand, do you like Mr. Manson?

16 MR. MANZELLA: Objection, that question has been asked
17 and answered.

18 MR. KANAREK: He hasn't answered it. I'm asking him
19 about his state of mind towards Mr. Manson.

20 THE COURT: I'll permit him to answer as to whether or
21 not he likes Mr. Manson.

15c fls.

15c-1

1 MR. MANZELLA: I have an objection. It assumes a fact not
2 in evidence. It assumes he has a state of mind, when he has
3 just stated he doesn't have one.

4 THE COURT: All right, the objection is overruled. You
5 may answer the question.

6 THE WITNESS: I don't like what I see he represents, a
7 type I don't agree with, and their philosophy and their thinking.
8 But as a man, I don't hate him or dislike him or not hate him
9 either way. I hate what he stands for,

10 MR. KANAREK: Thank you, Mr. Binder.

11 THE COURT: Any further redirect?

12 MR. MANZELLA: No. May Mr. Binder be excused?

13 MR. KANAREK: I'm asking that he not be excused.

14 THE COURT: The Court will excuse him and you may go back
15 to Reno.

16 THE WITNESS: I'll come back any time the Court needs me.

17 THE COURT: If the Court needs you --

18 MR. KANAREK: Well, your Honor, we are asking --

19 THE COURT: The Court may subpoena you back,

20 MR. KANAREK: He is leaving the State. We are asking
21 that he not be excused and that he be ordered back.

22 THE COURT: Do you live in Reno?

23 THE WITNESS: Yes, Reno or Las Vegas, either one.

24 THE COURT: The Court will permit you to leave at this
25 time.

26 MR. KANAREK: May we approach the bench?

27 THE COURT: No, you may not.

28 All right, ladies and gentlemen, it is twenty to

1 5:00 and you've been very patient, and the Court thanks you.
2 It has been a warm afternoon.

3 You are admonished that you are not to converse
4 amongst yourselves, nor with anyone else during this coming
5 recess, nor are you to form or express any opinion on the
6 matter until it is finally submitted to you. Don't permit any-
7 one to discuss the matter with you.

8 Remember the admonition that I have given to you
9 concerning publicity. You are to take active steps, and it is
10 your moral duty to take active steps to avoid exposure of your-
11 self to any publicity of any type concerning Mr. Manson.

12 Good night. I'll see you tomorrow morning at 9:30.

13 (Whereupon, there were murmurs by some of the jury
14 members, "You mean Friday?")

15 THE COURT: Thank you. Thank you. Tomorrow is
16 Admission Day. I've been doing that all day. Thanks. You've
17 just given me another day. Otherwise, I should have shown up
18 here at 9:00 o'clock. I'll see you on Friday morning. You
19 are excused until Friday morning at 9:00 o'clock, and thanks
20 again.

21 (Whereupon, the jury retired from the courtroom
22 at 4:45 p.m. and the following proceedings were had:)

23 MR. MANZELLA: Your Honor, will the Court ask Mrs.
24 Feldman and Delma Baker to return Friday morning?

25 THE COURT: That's the reason I am staying on the bench.
26 Mrs. Feldman and Delma Baker, the Court does order
27 you to return Friday morning at 9:30. Be here at 9:30 Friday
28 morning without further notice or subpoena. Thank you. Good

night.

(Whereupon, at 4:45 p.m. an adjournment was taken
to reconvene Friday, September 10, 1971, at 9:00 a.m.)