

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.

151
No. A-267861REPORTERS' DAILY TRANSCRIPT

Tuesday, September 28, 1971

VOLUME 51APPEARANCES:

For the People:

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

For Defendant Manson: IRVING A. KANAREK, Esq.

DEFENSE: SARTUCCHE
WHITELEY
STANSEL
RUSSELL
BERGER
SHEPARD

MARY LOU BRIANDI, C.S.R.
ROGER K. WILLIAMS, C.S.R.
Official Court Reporters

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I N D E XDEFENDANT'S WITNESSES: DIRECT CROSS REDIRECT RECROSS

SARTUCHE, Philip L.	7800			
WHITELEY, Paul J.	7806	7809		
STANSEL, Robert, Jr.	7821			
RUSSELL, Beverly	7828 7838	7898	7919	
BERGER, Christine Marie	7926	7929		
SHEPARD, Ernest X.	7942			

E X H I B I T SDEFENDANT'S: FOR IDENTIFICATION IN EVIDENCE

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1 LOS ANGELES, CALIFORNIA, TUESDAY, SEPTEMBER 28, 1971 9:38 AM

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4 THE COURT: Mr. Kanarek, I note that you are late again.

5 MR. KANAREK: Your Honor, I -- I -- it's a matter of
6 mechanically getting these -- I -- as your Honor knows, I
7 don't have --

8 THE COURT: Start earlier.

9 MR. KANAREK: Pardon?

10 THE COURT: If you have to haul something up here, start
11 up here so you won't have to have a problem.

12 MR. KANAREK: Yes, your Honor. I wonder, could I be
13 excused to take my car to a place of repose again? I am
14 parked -- I don't have -- as your Honor knows, no private
15 attorney has the privileges --

16 THE COURT: Well, this has -- you have done this now --
17 this is the second morning.

18 MR. KANAREK: Yes, because --

19 THE COURT: Make your move, so that you can -- earlier,
20 so that you can get this done. You should anticipate this.
21 That's no excuse.

22 MR. KANAREK: Well, your Honor, these are the -- all
23 of the transcripts, as your Honor --

24 THE COURT: Now, you --

25 MR. KANAREK: -- knows, there are mechanical problems
26 in --

27 THE COURT: Time after time you have done this.

28 MR. KANAREK: Only --

1 THE COURT: I'll excuse you once again. But again
2 warning you, I'll give you ten minutes to get your car in
3 some place and be back here.

4 MR. KANAREK: Yes, your Honor. And thank you very
5 much.

6 (Proceedings had on unrelated matters.)

7 THE COURT: All right. The case of People vs. Manson.

8 Mr. Kanarek came in some eight minutes late,
9 Mr. Manzella, indicating that he had to transport an unknown
10 quantity of documents up here, and he still had to go down and
11 move his car.

12 So I gave him permission to move his car -- and
13 here he is right now.

14 (Proceedings had on an unrelated matter.)

15 THE COURT: Good morning, ladies and gentlemen.

16 (Murmurs of "Good morning, your Honor," were
17 heard from members of the jury.)

18 THE COURT: Off the record.

19 (Whereupon a discussion was held off the record
20 among the Court and members of the jury.)

21 THE COURT: All right. In the case of People vs.
22 Manson, the record will show that all the jurors are present,
23 the jurors and alternates. Mr. Kanarek is present for the
24 defendant; Mr. Manzella for the People.

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

27 THE COURT: Mr. Manson, --

28 THE DEFENDANT: Good morning.

1 THE COURT: Good morning. Can you be --

2 THE DEFENDANT: No. I would like --

3 THE COURT: -- quiet today, so that you won't interrupt
4 the proceedings?

5 THE DEFENDANT: I am being held incommunicado in the
6 County Jail, behind the Judge's orders to have me kept down
7 in an anteroom, over the noon hour.

8 Between you and Mr. Pitchess, I've followed that
9 order all the way up to you and Mr. Pitchess. I don't think
10 that's quite fair, your Honor.

11 You know, I don't have any communications outside
12 the jail at all, in any direction, other than that -- than
13 at the noon hour. Is there --

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1 THE COURT: Well, the situation is this -- and the Court
2 has discussed it with Mr. Kanarek -- that you are in the
3 course of trial; and in the course of trial, each prisoner
4 is held in a detention tank separate from the regular jail.

5 You are not returned to your regular cell during
6 the noon hour. That does foreclose you from --

7 THE DEFENDANT: I always was before your Honor made
8 this order. You know, like what you have done is, you've
9 put me in a state of incommunicado. I have no communication
10 with the outside world at all.

11 THE COURT: Well, that's not true. Your attorney --

12 THE DEFENDANT: That's not my attorney. I don't
13 accept this man.

14 THE COURT: And you have weekend visitors.

15 THE DEFENDANT: The weekends, they're not allowed in
16 the building. My friends aren't allowed in the building.

17 There's much fear apparently there, you know.
18 I just --

19 THE COURT: Well, that's not the Court's information.
20 If that is the case, --

21 THE DEFENDANT: Well, then, the Court should be
22 informed --

23 THE COURT: -- I will determine whether or not you are
24 permitted visits on the weekend. And my information thus far
25 is that you are permitted such visits.

26 And you are permitted visits with your attorney
27 and with witnesses.

28 THE DEFENDANT: No. No, he tells me that you say that

1 I can't visit with witnesses.

2 THE COURT: That's not true.

3 THE DEFENDANT: Well, then, there is much lying going
4 on, isn't there?

5 THE COURT: You have the same privileges as any other --

6 THE DEFENDANT: I don't have any privileges at all.

7 THE COURT: So long as you are not under punishment for
8 having committed some violation of jail rules, you have the
9 same privileges as any other person up there in that County
10 Jail, who is an inmate.

11 And those privileges include the right to have
12 your attorney, with witnesses, visit you daily, --

13 THE DEFENDANT: This record --

14 THE COURT: -- or prospective witnesses may visit you
15 after you return from court.

16 THE DEFENDANT: This record speaks that I am being held
17 incommunicado in the County Jail, without letters, without
18 phone calls, without visits, and without attorney-client
19 privilege.

20 THE COURT: All right. What I'm interested in now is
21 whether you wish to stay in the courtroom. If you wish to,
22 you will have to be quiet and not disturb the proceedings.

23 You can converse in low tones with your attorney,
24 as you know, but I don't want you to disturb the proceedings
25 or interrupt.

26 I would prefer that you do that -- that is, that
27 you do remain in the courtroom. But you'll have to promise
28 me that you won't interrupt the proceedings. Otherwise, this

1 is simply a time-consuming thing, and with the foregone
2 conclusion that you will interrupt.

3 THE DEFENDANT: (No response.)

4 THE COURT: Can you promise me that you will not disturb
5 the proceedings?

6 THE DEFENDANT: (No response.)

7 THE COURT: Since you don't choose to answer --

8 THE DEFENDANT: I still don't see why you've got me locked
9 up here, so I can't get my noon visits. I can't even think
10 about putting on a defense, if I can't see anybody from the
11 outside, if I can't communicate with anybody from the outside.

12 You've shut me off completely.

13 THE COURT: As I have said, it's my understanding you
14 are able to do that.

15 THE DEFENDANT: No. Don't say something that ain't true,
16 Mister. If you are going to --

17 THE COURT: You are returned from court at approximately
18 4:30.

19 THE DEFENDANT: Right.

20 THE COURT: And you can have the same privileges --
21 you have the same privileges as anyone else in connection
22 with the visitation of prospective witnesses.

23 THE DEFENDANT: Will you tell this man what you have
24 told me?

25 MR. KANAREK: Your Honor, in terms of -- there are
26 certain people that -- that Mr. Manson wishes to speak with --

27 THE COURT: Who are those people?

28 MR. KANAREK: Those people are Brenda McGann -- otherwise

1 known as Nancy Pitman, --

2 THE COURT: All right.

3 MR. KANAREK: -- Lynn Fromme, otherwise known as
4 Squeaky --

5 THE COURT: Yes.

6 MR. KANAREK: -- and Sandy Good -- or, I mean, sometimes
7 known as Sandra Pugh.

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THE COURT: Yes.

MR. KANAREK: Those are the people that Mr. Manson is speaking of.

THE COURT: Yes. And what about it?

MR. KANAREK: Well, those are the people --

THE COURT: There is nothing that I know of that has prevented those people from visiting Mr. Manson with you, if they are prospective witnesses.

MR. KANAREK: Well, no. First of all --

THE COURT: If they are not prospective witnesses, then they may visit him at times when he's free from court.

MR. KANAREK: Well, that is --

THE COURT: Now, tomorrow's a day when --

MR. KANAREK: Well, your Honor --

THE COURT: Tomorrow is a day when he will be able to have such visitations, because tomorrow, this case is recessed. Now, at Mr. Kanarek's request, I have recessed it, and you will be accorded visitation.

But the problem is whether you should be treated differently than any other prisoner who is currently on trial.

THE DEFENDANT: Everybody is so afraid that --

THE COURT: During the time that you are on trial, you will be held in the detention tank at noon, rather than returned to your cell.

THE DEFENDANT: That's a dirty trick. That's a dirty trick. You see, that's why I got my ribs cracked the other day, see?

Now, if you want me to start jumping on your boys

1 back there, I will. And when I do, there's a whole lot --
2 I've got a whole lot of friends, old buddy.

3 You'd better start looking at me. You have been
4 overlooking this child.

5 THE COURT: We have digressed here.

6 THE DEFENDANT: Yeah.

7 THE COURT: And the question I've put to you is whether--

8 THE DEFENDANT: I've got 24 years of being a pretty
9 decent human being.

10 THE COURT: All right.

11 THE DEFENDANT: Listen to me. I'm telling the truth;
12 and you can see it in your penitentiaries right now.

13 THE COURT: All right. The defendant will be --

14 THE DEFENDANT: You'd better count the bald heads that
15 are walking in those yards, fellow.

16 THE COURT: All right. Let's proceed.

17 THE DEFENDANT: Okay.

18 (Whereupon, the following proceedings were had
19 in open court, within the presence and hearing of the
20 jury:)

21 THE COURT: Mr. Kanarek?

22 MR. KANAREK: Yes, your Honor.

23 Call Mr. Sartuche.

24 MR. MANZELLA: Your Honor, I believe Sergeant Whiteley
25 was still on the stand, was he not? Isn't that correct?

26 MR. KANAREK: Your Honor, may I get Mr. Sartuche? He
27 was here, so may I get him, so I don't lose him?

28 THE COURT: Yes, you may.

1 MR. KANAREK: Pardon?

2 THE COURT: Yes, you may.

3 THE DEFENDANT: (From within the detention room door.)

4 This is not my lawyer. This is not my defense.

5 This is not my Judge. This Judge is a liar, --

6 THE COURT: Mr. Manson, --

7 THE DEFENDANT: -- a cheat and a snake.

8 THE COURT: Mr. Manson, you are going to have to be
9 quiet, or --

10 THE DEFENDANT: And that's the truth.

11 THE COURT: -- or the door to the detaining tank will
12 be closed.

13 THE DEFENDANT: You people have the right to do anything
14 you want to do to me, and I don't have the right to do anything
15 to any --

16 THE COURT: Close the door.

17 THE DEFENDANT: Fuck you, you dog.

18 (Whereupon Mr. Kanarek returned to the courtroom,
19 and the following proceedings were had:)

20 MR. KANAREK: Your Honor, Officer Sartuche of the Los
21 Angeles Police Department is here, and Mr. Manzella tells me
22 he does not mind if Officer Sartuche goes on out of order.

23 THE COURT: Officer Sartuche?

24 OFFICER SARTUCHE: Yes, sir.

25 THE COURT: Come forward.

26 Raise your right hand and face the Clerk.

27 THE CLERK: You do solemnly swear the testimony you
28 may give in the cause now pending before this court shall be

1 the truth, the whole truth, and nothing but the truth, so
2 help you God?

3 THE WITNESS: I do.

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PHILIP L. SARTUCHE,

called as a witness by and on behalf of the defendant, having
been first duly sworn, was examined and testified as follows:

THE CLERK: Please take the stand and be seated.

THE BAILIFF: State and spell your name, please.

THE WITNESS: Philip L. Sartuche, --

MR. KANAREK: Your Honor, if I may have --

THE WITNESS: -- Last name --

MR. KANAREK: Oh, I'm sorry.

THE WITNESS: Last name is S-a-r-t-u-c-h-e.

MR. KANAREK: If I may have a moment? I contemplated
that Officer Sartuche would be here at 2:00 p.m. So if I may
have just a moment?

THE COURT: You may.

THE REPORTER: One "1" in Philip or two?

THE WITNESS: One "1".

DIRECT EXAMINATION

BY MR. KANAREK:

Q Officer Sartuche, in connection with your -- first,
would you tell us your business or occupation, Officer?

A I'm a Sergeant of Police for the City of Los
Angeles, assigned to Robbery-Homicide Division.

Q And in connection with alleged events which
occurred on August 8th, 9th and 10th, in connection with
the so-called Tate-La Bianca case, were you an investigator?

A I was.

Q And in connection with those events which

1 allegedly occurred on August 8th, 9th and 10th of 1969, in
2 connection with that investigation, did you speak to one
3 Barbara Hoyt?

4 A I did.

5 Q And in connection with that investigation, did
6 Barbara Hoyt tell you that -- that between August 19 and
7 August 31st of a particular evening, she recalled hearing
8 screams that sounded as if they were coming from the creek
9 area, and these screams sounded as if they were from a male,
10 m-a-l-e?

11 Did she so tell you?

12 A Yes.

13 Q Officer, I -- do you -- can you tell when it was
14 that you interviewed Barbara Hoyt?

15 A I interviewed Barbara Hoyt on numerous occasions,
16 Counsel.

17 Q Many times?

18 A Yes.

19 Q On how many different occasions, would you say?

20 A Oh, six or seven.

21 Q Can you name any date for us? Any particular
22 date when you interviewed Barbara Hoyt?

23 A No, I can't.

24 Q I will show you what appears to be a couple of
25 sheets that are -- at the top of one, it says "Interview,"
26 and at the bottom, it says: "Investigators making interview,
27 Sartuche and Neilsen."

28 Now, I'll ask you, does -- do you recall that

1 interview, by looking at those two pieces of paper?

2 A Yes, I do.

3 Q And the date that is written on those two pieces
4 of paper is the date that, I gather, you have no independent
5 recollection of; is that correct?

6 A That's correct.

7 Q In other words, if you read that date to us, you
8 are merely reading what's on that piece of paper?

9 A That's correct.

10 Q By looking at that date, it does not trigger
11 in your memory a recollection of that date, independent of
12 the wording on the paper; is that correct?

13 A That's correct.

14 Q So you had no -- your recollection cannot be
15 refreshed, independently of looking at the paper; right?

16 A That's correct.

17 Q Then would you tell us, what is written on the
18 paper, as to the date of that interview?

19 A 12-29-69.

20 Q And you and other officers interviewed Barbara
21 Hoyt on many occasions? As well as yourself, there was
22 Officer Gutierrez, there was Officer McGann, Deputy District
23 Attorney Bugliosi, Kay -- those people all interviewed her,
24 to your knowledge; is that correct?

25 A Hmm -- not all of those people.

26 Q Well, would you tell us which ones of those did
27 interview her, to your knowledge?

28 A Sergeant McGann, Mr. Bugliosi -- I don't remember

1 the rest of the names you --

2 Q Mr. Kay?

3 A Yes.

4 Q Mr. Kay interviewed her?

5 A That's correct.

6 Q Mr. Musich? Donald Musich, a Deputy District
7 Attorney?

8 A Just to clarify a point, Counsel, regarding
Ad fls. 9 this case?

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ad 1 Q Well, as to whether it's regarding this case or
2 not would really be up to the jury.

3 The question is whether or not she was interviewed.

4 MR. MANZELLA: Objection, your Honor. It's not relevant,
5 and it's vague and ambiguous.

6 THE COURT: Sustained.

7 Q BY MR. KANAREK: Well, was she interviewed by the
8 people you mentioned?

9 MR. MANZELLA: Objection, your Honor. It's vague and
10 ambiguous, as to what case we are talking about.

11 MR. KANAREK: Well, your Honor, that's calling for a
12 conclusion. It's for the jury to determine what -- what
13 case it's for.

14 THE COURT: Do you have any personal knowledge of any
15 interview with Barbara Hoyt by any of these persons?

16 THE WITNESS: Yes, your Honor.

17 THE COURT: Tell us whom you know has interviewed her.

18 THE WITNESS: Sergeant McGann; Mr. Kay -- of the group
19 that counsel has mentioned to me, your Honor?

20 THE COURT: Anyone else whom you know.

21 THE WITNESS: Mr. Bugliosi; Mr. Musich; Deputy Gleason.

22 That's about all.

23 Q BY MR. KANAREK: Now, Officer, was she also
24 interviewed by law enforcement officials of Inyo County?

25 THE COURT: If you know?

26 THE WITNESS: I don't know.

27 Q BY MR. KANAREK: The District Attorney of
28 Inyo County, to your knowledge, did he interview her?

1 A I don't know, Counsel.

2 Q Or any investigators of Inyo County?

3 A Not to my knowledge.

4 Q Inyo County Sheriff's Department?

5 A Not to my knowledge.

6 MR. KANAREK: Thank you, Officer.

7 MR. MANZELLA: No questions, your Honor.

8 THE COURT: Call your next witness.

9 MR. KANAREK: Well, just -- if I may have one question?

10 Q Officer, this -- this language, "These screams
11 sounded as if they were from a male," actually, that is part
12 of your interview; is that correct? Those words?

13 A Would you show me the part?

14 Q "These screams sounded as if they were from a
15 male."

16 MR. MANZELLA: Your Honor, I object to that question.
17 I object to it as being vague and ambiguous, as to what it
18 means, "Part of your interview."

19 THE COURT: Objection sustained.

20 MR. MANZELLA: The question has already been asked and
21 answered.

22 THE COURT: Sustained.

23 MR. KANAREK: Very well. Thank you, Officer.

24 Yes, your Honor. I believe Mr. Whiteley was on the
25 stand.

26
27 PAUL J. WHITELEY,

28 called as a witness by and on behalf of the defendant, having

1 been previously duly sworn, resumed the stand and testified
2 further as follows:

3
4 DIRECT EXAMINATION (CONTINUED)

5 BY MR. KANAREK:

6 Q Officer, were you able to get your notes in
7 connection with what we were speaking of yesterday?

8 A No.

9 Q You could not locate those notes?

10 A I didn't have to.

11 Q Well, did you locate -- did you look for the
12 notes that you spoke of?

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

15 MR. KANAREK: This is the very reason, your Honor, that
16 -- well, may we approach the bench?

17 THE COURT: No, you may not.

18 Q BY MR. KANAREK: Did you bring with you the notes
19 that you spoke of, that you said you had, the ones we spoke
20 of yesterday?

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

23 MR. KANAREK: This --

24 THE COURT: You may answer.

25 THE WITNESS: No, I did not.

26 MR. KANAREK: Thank you. Thank you, your Honor.

27 Then I would order -- I would ask your Honor to
28 order that those notes be brought; that Officer Whiteley

1 bring those notes to court, your Honor.

2 THE COURT: The request is denied.

3 Mr. Manzella?

4 MR. MANZELLA: Thank you, your Honor.

5
6 CROSS-EXAMINATION

7 BY MR. MANZELLA:

8 Q Sergeant Whiteley, during the course of your
9 investigation of this case, did one of the homicide investi-
10 gators assigned to the case contact Phyllis Shea?

11 A Yes.

12 Q As a result of that contact, were you able to
13 locate Donald Jerome Shea?

14 MR. KANAREK: Object, your Honor, on the grounds it's
15 calling for a conclusion; no foundation; irrelevant,
16 immaterial, and outside the scope of direct examination.

17 It's -- it invades the province of the jury.

18 It's --

19 THE COURT: Sustained as to that.

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1 MR. MANZELLA: May we approach the bench briefly, your
2 Honor?

3 THE COURT: Yes, you may.

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: You haven't established a sufficient
8 foundation to ask that question, it would appear to me.

9 MR. MANZELLA: With regard to the first objection,
10 "It's outside the scope of direct," Mr. Kanarek went into his
11 efforts to contact Phyllis Shea --

12 MR. KANAREK: But not --

13 MR. MANZELLA: -- on direct examination.

14 The second point is that Mr. Kanarek went into
15 the same -- actually, it's the same point that I went into.
16 He asked Sergeant Whiteley if he had contacted Phyllis Shea;
17 and one of the other homicide investigators did contact
18 Phyllis Shea during the course of the investigation, and that
19 as a result of that, they were unable to locate Donald Shea.

20 Now -- in other words, it's the same evidence
21 that I -- substantially the same evidence I put on before.
22 And the only reason I am going into it is because Mr. Kanarek
23 brought it out on direct.

24 THE COURT: Certainly, the inference is there, that
25 there is a wife of the alleged decedent --

26 MR. MANZELLA: Um-hmm.

27 MR. KANAREK: Well, the jury --

28 THE COURT: -- with whom he may be residing or living;

1 and that inference is raised by the suggestion that she does
2 exist, and that there has been no investigation of her.

3 So there is the possibility --

4 MR. MANZELLA: Right. That's why I am bringing it out
5 on cross-examination.

6 MR. KANAREK: That's argument to the jury. Why not
7 ask him: Did Mr. Manson kill Mr. Shea?

8 This is -- it's outside the scope of my direct.
9 You can -- you can do anything you want --

10 THE COURT: This is very nebulous, to say, "Did you
11 contact Phyllis Shea?" And, "Did you find --"

12 MR. MANZELLA: "As a result of that contact, were you
13 able to locate Donald Shea?"

14 THE COURT: Well, you've asked that in connection with
15 the Veterans Administration and the --

16 MR. MANZELLA: That's correct.

17 THE COURT: -- Registrar of Voters and so forth.
18 But you at least laid a foundation here that there was an
19 inquiry about Shorty Shea.

20 You have not laid any such foundation in
21 connection with this.

22 MR. MANZELLA: I see your point.

23 THE COURT: And you have -- I don't know whether you can,
24 with this man. You may have to produce the man who actually
25 did the investigation.

26 MR. MANZELLA: All right.

27 THE COURT: Now, in connection with the address of
28 Phyllis Shea, --

1 MR. MANZELLA: Yes.

2 THE COURT: -- do you have any knowledge of an address?

3 MR. MANZELLA: No, I don't, your Honor. I have been
4 advised -- we -- we've contacted the attorneys; we have not
5 contacted Phyllis Shea. We have also contacted the attorneys
6 for Phyllis Shea yesterday, on the telephone, and they advised
7 that Mr. Kanarek had phoned them several times, and that they
8 refused to divulge the address of Phyllis Shea.

9 THE COURT: And to your knowledge, is -- does
10 Officer Whiteley have it?

11 MR. MANZELLA: I don't know if he has it or not. I
12 don't know. He -- I surmised that he does not have it,
13 because he asked me yesterday if -- if the address of Phyllis
14 Shea was on the papers which Mr. Kanarek had marked as
15 defense exhibits.

16 All that was on those papers was the address of
17 her attorneys.

18 THE COURT: But he indicated to you, in the presence of
19 the Court and Mr. Kanarek yesterday, at the close of the
20 session, that his notes would only reveal that she was in a
21 certain city. And I've forgotten which one, San Jose or --

22 MR. MANZELLA: I believe that's correct. Sergeant
23 Whiteley said he contacted her through her social worker,
24 and I think it was Sonoma, California, and -- as I say, we
25 called the attorneys listed on the Petition filed by
26 Mr. Kanarek, and they refused to divulge the address of
27 Phyllis Shea.

28 THE COURT: Of course, there is a way to do this, without

1 bringing it before the jury, Mr. Kanarek. And it's a proper --
2 at the proper time, that the Court is -- the Court's
3 proceeding to bring the thing before the jury in that way, if
4 you wish to have something subpoenaed, and you think it's
5 material, and you wish to have a person subpoenaed --

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1 MR. MANZELLA: May I inquire of Mr. Kanarek if -- if
2 the attorneys have refused to divulge the address to him?

3 MR. KANAREK: Well, your Honor, may I --

4 MR. MANZELLA: I was just going to point that out, as
5 a suggested way of getting the address.

6 THE COURT: Do you wish to have this woman here?

7 MR. KANAREK: What's that, your Honor?

8 THE COURT: Do you wish to have Mrs. Shea in court?

9 MR. KANAREK: Well, your Honor, I -- at this point, we
10 are at the bench on a --

11 THE COURT: On another point.

12 MR. KANAREK: -- on another point, your Honor. I --
13 as I say, I -- I think there's a point that we are here on --
14 and I -- and when I am not responding to your question --

15 THE COURT: I'll sustain your objection. I have
16 sustained your objection, and I will sustain it.

17 MR. KANAREK: And I don't want your Honor to think that
18 I am not -- I am being impertinent, in not responding to the
19 Court; but I -- I think that in terms of --

20 THE COURT: The thing is, you have asked for --

21 MR. KANAREK: Because of Mr. Manzella's presence,
22 there are certain aspects that I --

23 THE COURT: The thing is that you have asked for these
24 notes, and the Sergeant has indicated to you and to Mr.
25 Manzella and me, yesterday, that all he had was a -- he
26 didn't have an address; all he had was the town, the city in
27 which this lady lived.

28 If you wish to have it, the Court will assist you

QAc-2

1 in connection with it. And this is for you to decide at a
2 later time, and let me know if I can be of help to you.

3 All right. Let's proceed.

4 (Whereupon the following proceedings were had
5 in open court, within the presence and hearing of the
6 jury:)

7 Q BY MR. MANZELLA: Sergeant Whiteley, was -- strike
8 that.

9 For what purpose was Phyllis -- was the person
10 known as Phyllis Shea contacted?

11 MR. KANAREK: Object. Calling for a conclusion;
12 irrelevant, immaterial.

13 THE COURT: Sustained.

14 MR. KANAREK: No foundation.

15 THE COURT: Sustained.

16 Q BY MR. MANZELLA: Sergeant Whiteley, directing your
17 attention to the tape which was played yesterday, which was a
18 portion of a tape of an interview with Mark Arneson, can you
19 tell us, what was the length of that interview, that was
20 recorded on the tape?

21 MR. KANAREK: Irrelevant and immaterial; no foundation.

22 THE COURT: Overruled.

23 THE WITNESS: Over an hour.

24 MR. MANZELLA: All right. Thank you. I have no
25 further questions, your Honor.

26 MR. KANAREK: Your Honor, I have one other point.

27 THE COURT: Go ahead.

28 MR. KANAREK: Well, I would like to approach the

Ac-3

1 bench, in connection with --

2 THE COURT: Do you have a question that you wish to
3 ask?

4 MR. KANAREK: Oh, no. I have no questions of this
5 witness at this instance.

6 THE COURT: All right. You may step down.

7 MR. KANAREK: But --

8 THE COURT: All right. You may approach the bench.

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

12 MR. KANAREK: Your Honor, there is another point --
13 another tape of Ella Jo Bailey, that -- that contains certain
14 language on it, and I notice Officer Whiteley doesn't have it.
15 I didn't want to say it in the presence of the jury, but I
16 notice he doesn't have his tape recorder here.

17 Now, there were certain words that I definitely
18 heard, and I thought he was going to do that over the evening
19 hour.

20 THE COURT: Well, it's not his job to seek out the words
21 that you want.

22 MR. KANAREK: Oh, I've sought the words out. I've told
23 him exactly the words I want.

24 Now, he claims that he can't find them.

25 MR. MANZELLA: Well, yesterday that tape was here; and
26 in the presence of the Court, you and Sergeant Whiteley went
27 through that tape. And so far as I know, neither you nor he
28 were able to find it. Isn't that true?

Ac-4

1 MR. KANAREK: No, that's not true, in the sense that
2 we did not go through the tape completely.

3 Those words are on there. I represent to the
4 Court that I heard them. I know it's in there.

5 THE COURT: All right. The words that you are talking
6 about are what?

7 MR. KANAREK: They're words that are in substance
8 words that -- Ella Jo Bailey wanted to know something about
9 what concessions and benefits she was going to get by virtue
10 of her -- of what she was doing.

11 THE COURT: By virtue of her conversation?

12 MR. KANAREK: Right. And cooperating with the police,
13 and --

Ag fls.

ag-1

1 THE COURT: Mr. Manzella?

2 MR. MANZELLA: Your Honor, Sergeant Whiteley --

3 THE COURT: Is there such a passage in any tape
4 concerning -- or, does any tape of Ella Jo Bailey exist,
5 wherein such language --

6 MR. MANZELLA: Sergeant Whiteley advises me that he
7 found the only portion of any of the tapes which mentioned
8 money; and he played that for Mr. Kanarek here in the court-
9 room, while we were in session; and Mr. Kanarek indicated to
10 him that that was not the portion he was talking about.

11 Sergeant Whiteley advises me that that is the
12 only portion of the tapes that refers to money.

13 MR. KANAREK: Well, no, it wasn't money. I am referring
14 now to the --

15 MR. MANZELLA: Or concessions or anything.

16 THE COURT: The Court would order that, during one of
17 the recesses today, that Sergeant Whiteley make the tape and
18 the recorder available to Mr. Kanarek; and, either in the
19 presence of Sergeant Whiteley or some other officer, that
20 the tape be played for Mr. Kanarek, so that it can be
21 determined whether or not such a passage exists.

22 If it does, then it should be segregated in
23 some way, or marked in some way so Mr. Kanarek can offer it,
24 if he wishes to.

25 MR. KANAREK: Yes, your Honor.

26 THE COURT: All right.

27 What is your next point?

28 MR. KANAREK: Well, we have here --

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THE COURT: Or who is your next witness?

MR. KANAREK: Well, the next witness I have here --

THE COURT: Let's proceed, then.

MR. KANAREK: What I am saying here, your Honor, is the words are "concessions and benefits." My notes indicated that those are the words that were used in the conversation.

THE COURT: Well, whatever it is.

MR. KANAREK: It was not just a matter of --

THE COURT: All right. You will have it available to you to be played.

MR. KANAREK: Your Honor, I have a witness subpoenaed for 10:30. Now, I don't see the -- it's now 10:25. The witness is supposed to be here at 10:30.

I don't know if that difference in time is -- but I will show the subpoena to the Court. It's a juvenile from Juvenile Hall.

THE COURT: You are not ready to proceed now?

MR. KANAREK: Well, I can -- I'm not out in the hallway. I can't tell; perhaps the juvenile people --

THE COURT: All right. Go look in the hallway and see if the person is there.

(Whereupon Mr. Kanarek exited the courtroom, returning shortly, and the following proceedings were had:)

MR. KANAREK: And -- and/or our female deputy, I'm told by Mr. Kuczera, has just gone down to get her this instant.

THE COURT: All right. We'll take a ten-minute recess

Ag-3

1 and -- I hope she's here at that time.

2 MR. KANAREK: She's subpoenaed.

3 THE COURT: Do you have anything else you can put on?

4 MR. KANAREK: No, not at this instant, your Honor.

5 THE COURT: All right.

6 MR. KANAREK: I --

7 THE COURT: All right. Let's proceed and take the
8 recess.

9 (Whereupon the following proceedings were had
10 in open court, within the presence and hearing of
11 the jury;)

12 THE COURT: We'll recess for ten minutes, ladies and
13 gentlemen. During the recess, you are obliged not to converse
14 amongst yourselves nor with anyone else, nor permit anyone to
15 converse with you on any subject connected with this matter,
16 nor form or express any opinion on the matter until it is
17 finally submitted to you.

18 Mr. Kanarek?

19 MR. KANAREK: Yes?

20 THE COURT: And Mr. Manzella? Mr. Kuzerza?

21 (Whereupon, the following proceedings were had
22 at the bench among Court and counsel, outside the
23 presence and hearing of the jury;)

24 THE COURT: Do you intend to put the defendant on?

25 MR. KANAREK: Pardon?

26 THE COURT: Do you intend to put the defendant on?

27 MR. KANAREK: Your Honor, I would rather not respond
28 to that, if I may.

1 THE COURT: Well, before you rest, inform me you are
2 about to, so that I may inform him of his right to take the
3 witness stand.

4 All right. That's all.

5 (Midmorning recess.)
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I file.

1 THE COURT: Case of People versus Manson.

2 All right, the record will show the jurors and
3 alternates are all present.

4 Ladies and gentlemen, there was kind of a scuffle
5 and a lot of noise and confusion and altercation during the
6 recess. The Court was handling another case. I just wanted
7 to tell you, the Court wanted to tell you that it had nothing
8 whatever to do with this case.

9 Mr. Kanarek is present, Mr. Manzella for the
10 People.

11 Mr. Kanarek, call your next witness.

12 MR. KANAREK: Yes, your Honor.

13 If I may, I would like to change the order
14 indicated.

15 THE COURT: Whatever. Go ahead.

16 MR. KANAREK: For the convenience of the witness,
17 Mr. Stansel, your Honor.

18 THE CLERK: Would you raise your right hand, please.

19 You do solemnly swear the testimony you may give
20 in the cause now pending before this court shall be the
21 truth, the whole truth, and nothing but the truth, so help you
22 God?

23 THE WITNESS: I do.

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

25
26 ROBERT STANSEL, JR.,
27 called as a witness by and on behalf of the defendant, having
28 been sworn, was examined and testified as follows:

1 THE BAILIFF: Please state and spell your full name.

2 THE WITNESS: Robert Stansel, Jr., S-t-a-n-s-e-l.

3
4 DIRECT EXAMINATION

5 BY MR. KANAREK:

6 Q Now, Mr. Stansel, would you tell us your business
7 or occupation?

8 A I am a private investigator.

9 Q Would you tell us what your address is, your
10 residence address?

11 A 4708 South Crenshaw, Los Angeles.

12 Q And directing your attention, then, to your
13 telephone number.

14 Would you tell us your telephone number?

15 A My telephone number is 296-5665.

16 Q And directing your attention, Mr. Stansel, to the
17 City of Las Vegas.

18 Have you had occasion to do work in Las Vegas?

19 A I have.

20 Q And in that connection have you had occasion to
21 observe whether mixed marriages -- I'll withdraw that --
22 whether people of mixed marriages have had housing in Las Vegas?

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

25 MR. KANAREK: It is relevant and material.

26 THE COURT: Sustained.

27 MR. KANAREK: May we approach the bench, your Honor?

28 THE COURT: Yes, you may.

1 MR. KANAREK: Pardon?

2 THE COURT: Yes, you may.

3 (Whereupon, the following proceedings were had
4 at the bench among Court and counsel, outside the hearing of
5 the jury:)

6 THE COURT: What do you seek to prove by this witness?

7 MR. KANAREK: The allegation has been made that Niki and
8 Mr. Shea left Las Vegas because they couldn't get housing.

9 THE COURT: Because they encountered prejudice?

10 MR. KANAREK: That's right.

11 Well, we have a right to show that this -- if
12 we just accept that and don't rebut it -- we have a right to
13 show that this is absolutely fabrication.

14 THE COURT: Does he know Niki and Shorty Shea?

15 MR. KANAREK: He doesn't have to know Niki and Shorty
16 Shea. This has to do with racial prejudice.

17 THE COURT: People?

18 MR. MANZELLA: Yes, sir. I made an objection to the
19 question in the first place because even assuming there was
20 an allegation on the part of the People they left Las Vegas
21 because of racial prejudice, the opinions and conclusions of
22 this witness are not relevant to the opinions and conclusions
23 of Niki and Shorty Shea.

24 And, secondly, the People made no allegation
25 whatever --

26 THE COURT: And whether they would be capable of
27 encountering -- or subject to is properly the phrase --
28 subject to such prejudice --

1 MR. MANZELLA: Yes, your Honor, unless this witness
2 knew them and -- he would have no way of knowing whether they
3 were subject to race prejudice.

4 And whether race prejudice, in general, is relevant
5 on this particular issue of whether or not Niki and Shorty
6 actually encountered race prejudice, I don't know. We've
7 never made an allegation that they left Las Vegas because of
8 race prejudice. We've never made that allegation.

9 THE COURT: It was said from the witness stand by one
10 witness and I can't recall who now. I think probably
11 Mrs. Shea. I can't recall. I don't believe she said that.
12 I think someone else said it.

13 MR. MANZELLA: I believe that what -- of course,
14 referring to Jerry Binder's testimony on cross-examination
15 by Mr. Kanarek.

16 THE COURT: Yes, I think so, it come out on cross.

17 MR. KANAREK: Well, it doesn't matter --

18 THE COURT: Well, now, you intend to show what, that
19 there is no race prejudice in Las Vegas?

20 MR. KANAREK: That the jury can make the inference that --
21 that --

22 THE COURT: Now, what is the ultimate purpose of this,
23 to impeach Mr. Jerry Binder?

24 MR. KANAREK: Yes, to show that this is, in fact, not
25 true. He said that this is the reason that they left Las
26 Vegas, your Honor.

27 THE COURT: Well, I think --

28 MR. KANAREK: We have a right --

1 THE COURT: This is a situation wherein it would be
2 immaterial as to what this man's opinions are concerning
3 racial prejudice in Las Vegas or the existence of racial
4 prejudice in Las Vegas.

5 MR. KANAREK: Well, I --

6 THE COURT: It has no bearing on what Shorty Shea and
7 Mrs. Shea may have encountered and, also, it is impeachment
8 on something which is --

9 MR. KANAREK: Well, your Honor, it is --

10 THE COURT: It is of a minor nature, minor importance in
11 the testimony.

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1 MR. KANAREK: Well, that's for the jury. Your Honor's
2 always -- the point I want to make, your Honor, is this:
3 It shows -- it shows -- the jury has a right to infer that
4 Mr. Binder is not telling the truth and he made the point.
5 That's the reason that Shorty Shea and Niki left Las Vegas.

6 THE COURT: That's the reason they gave him --

7 MR. KANAREK: All right, we have a right to show that
8 isn't true.

9 THE COURT: All right, let's say that you are able to
10 establish by this witness that there is no racial prejudice
11 in Las Vegas. Let's say you're -- that's what you anticipate
12 he will testify to.

13 MR. KANAREK: That's right.

14 THE COURT: How does that impeach Mr. Binder?

15 What Mr. Binder received was a statement from
16 them to the effect that the reason was they encountered
17 prejudice.

18 MR. KANAREK: But you let that all in over objection.

19 THE COURT: That doesn't really impeach Mr. Binder.

20 MR. MANZELLA: That's wrong? Mr. Kanarek brought that
21 out on cross-examination of Mr. Binder.

22 MR. KANAREK: I did not.

23 MR. MANZELLA: I never brought that out.

24 THE COURT: I'll sustain the objection.

25 MR. KANAREK: I'm going to attempt to continue to lay
26 a foundation, because I have a right --

27 THE COURT: I think you will be in contempt of court
28 if you do on that subject.

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1 MR. KANAREK: Well, your Honor, if I may -- if I may be
2 heard on this, the fact of the matter --

3 THE COURT: The Court orders you to desist questioning
4 on that subject, if this is --

5 MR. KANAREK: I have a right --

6 THE COURT: -- the subject you wish to pursue.

7 MR. KANAREK: May I say this --

8 THE COURT: You wished to have an offer of proof and
9 your offer of proof has been denied.

10 MR. KANAREK: The point I want to make --

11 THE COURT: Give me your offer of proof again.

12 MR. KANAREK: Well, all right.

13 My offer of proof is that this witness will
14 testify that he has been to Las Vegas many, many times. That
15 he has been there in connection with his profession as an
16 investigator many, many, many times. That in connection with
17 his work he has dealt with mixed couples. That black men
18 and white women, black women and white men who have been
19 married and who have lived in the Las Vegas area as husband
20 and wife have had housing and this -- there's no dearth of
21 housing and that this -- from which the jury can infer that
22 this is a specious reason for leaving Las Vegas. And, also,
23 we have a right to point out that this jury has seven or
24 eight black people, and for your Honor to foreclose us with
25 this proof, this proof -- because we have a right to show
26 reputation in the community and the reputation of Las Vegas,
27 among other rights that we have, by virtue of this witness.
28 We have a right to show that in Las Vegas there is -- there

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1 was no racial prejudice in 1969 for mixed couples living --
2 they could live all over Las Vegas. We have a right to show
3 that.

4 THE COURT: All right, the Court believes that the
5 objection is well taken, and the Court sustains the objection.

6 (Whereupon, the following proceedings were had
7 in open court within the presence and hearing of the
8 jury:)

9 THE COURT: You may step down.

10 MR. KANAREK: Well, your Honor, if I may have a moment?

11 THE COURT: Did you have any other questions of this
12 man?

13 MR. KANAREK: Not in view of the Court's ruling at
14 this time.

15 THE COURT: Very well.

16 MR. KANAREK: Call Beverly Russell, your Honor.

17 THE COURT: Miss Russell, are you she?

18 MISS RUSSELL: Yes.

19 THE COURT: Come forward, please.

20 THE CLERK: Would you raise your right hand, please.

21 You do solemnly swear the testimony you may give
22 in the cause now pending before this court shall be the truth,
23 the whole truth, and nothing but the truth, so help you God?

24 THE WITNESS: Yeah.

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

26 THE BAILIFF: Please state and spell your full name.

27 THE WITNESS: Beverly Russell, B-e-v-e-r-l-y, R-u-s-s-e-l-l,
28 and my middle name is Jane.

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1 BEVERLY RUSSELL,
2 called as a witness by and on behalf of the defendant, having
3 been first duly sworn, was examined and testified as follows:
4

5 DIRECT EXAMINATION

6 BY MR. KANAREK:

7 Q Miss Russell, how old are you, Miss Russell?

8 A 17.

9 Q And, Miss Russell, directing your attention to
10 Shorty Shea.

11 Do you know Shorty Shea?

12 A (No response.)

13 (Long pause.)

14 THE COURT: Read the question to me.

15 (Whereupon, the record was read by the reporter
16 as follows:17 "Q And, Miss Russell, directing your
18 attention to Shorty Shea.

19 "Do you know Shorty Shea?"

20 THE COURT: Go ahead, Miss Russell, answer the question.

21 THE WITNESS: (No response.)

22 THE COURT: Miss Russell, do you hear me?

23 THE WITNESS: (No response.)

24 THE COURT: Mr. Kanarek, ask your next question.

25 MR. KANAREK: Well, your Honor, may the record reflect
26 ten minutes have passed between the time I asked the question--

27 THE COURT: Just ask your next question.

28 MR. KANAREK: Well, your Honor, may we have an answer

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1 to that question? I think --

2 THE COURT: You may not. Go ahead.

3 The jurors are present, they've observed what's
4 happened.

5 Q BY MR. KANAREK: You understand that last question,
6 Miss Russell?

7 A (No response.)

8 THE COURT: All right, ladies and gentlemen of the
9 jury, the Court will ask you to leave the courtroom and stay
10 out in the corridor just a moment.

11 The Court admonishes you that you are not to
12 converse amongst yourselves, nor with anyone else, nor permit
13 anyone to converse with you on any subject connected with this
14 matter.

15 (Whereupon, the jury retired from the courtroom,
16 and the following proceedings were had:)

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

18 THE COURT: No, you may not.

19 MR. KANAREK: I would like to make a statement or a
20 point to the Court out of the hearing of the witness.
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1 THE COURT: Miss Russell, you've sat on the witness
2 stand here for two questions now and you act as if you are
3 dazed.

4 Will you look at me, please.

5 Take your hand away from your mouth and look at
6 me.

7 It is your obligation to respond to the questions
8 that are put to you when you are in court. Do you understand
9 that?

10 THE WITNESS: (No response.)

11 THE COURT: Do you understand that?

12 THE WITNESS: (No response.)

13 THE COURT: Can you speak?

14 THE WITNESS: (No response.)

15 THE COURT: The record may show that the witness appears
16 to be sitting in a dazed condition, not responding to the
17 Court's questions by any facial expression.

18 Miss Russell, let me tell you that if you do not
19 respond, you can be held in contempt of court and you can be
20 punished.

21 Do you understand that?

22 THE WITNESS: No.

23 THE COURT: Can you explain your reluctance to answer
24 here? Have you misunderstood the questions or what?

25 THE WITNESS: I don't trust him. (Indicating.)

26 THE COURT: You don't trust whom?

27 THE WITNESS: (No response.)

28 THE COURT: I didn't hear your answer.

1 Now, I don't wish to punish you, but I will unless
2 you come to life here and respond to these questions.

3 If there is anything here that tends to
4 incriminate you, you have a right to refuse to answer,
5 and you have the right to have an attorney represent you,
6 if that is the case, or if you believe that you need to have
7 the assistance of an attorney; do you understand that?

8 THE WITNESS: (No response.)

9 THE COURT: Do you understand me?

10 THE WITNESS: Yes.

11 THE COURT: Now, I didn't understand you when you said
12 whatever it was.

13 Would you explain that to me?

14 THE WITNESS: I just don't trust you people.

15 THE COURT: What people?

16 THE WITNESS: Him.

17 THE COURT: You mean Mr. Kanarek, who is asking you
18 these questions? Is that what you mean?

19 THE WITNESS: (No response.)

20 THE COURT: You pointed at Mr. Kanarek, did you?

21 THE WITNESS: Yeah.

22 THE COURT: Well, whether you trust him or not, it is
23 your obligation to answer the questions that are put to you;
24 do you understand?

25 THE WITNESS: That's why I'm not answering them,
26 because they might be used against me.

27 MR. KANAREK: I didn't hear her last statement. May
28 that be read, your Honor? I didn't hear what she said.

1 THE COURT: No, it need not be read. It was understand-
2 able.

3 MR. KANAREK: She's a few feet away from the microphone
4 and I can't hear what she is saying. She is speaking so low.

5 THE COURT: In other words, you mean that the answers
6 might tend to incriminate you?

7 THE WITNESS: Uh-huh.

8 THE COURT: In connection with Shorty Shea?

9 THE WITNESS: I don't know him.

10 THE COURT: Well, all the Court is asking you for is
11 simply responses to the question. You're not going to get
12 in trouble unless the matter would tend to incriminate you.
13 In fact, if that would tend to incriminate you -- of course,
14 if you believe that is the case, you need an attorney
15 appointed.

16 Do you want me to appoint an attorney to represent
17 you?

18 THE WITNESS: I don't trust them.

19 THE COURT: Pardon?

20 THE WITNESS: I don't trust any lawyer or anything.

21 THE COURT: This would be a Deputy Public Defender who
22 would be a lawyer who is assigned to the Court.

23 Do you want the Court to do that?

24 THE WITNESS: No.

25 THE COURT: Now, understand that you can be punished
26 if you refuse to answer questions. The Court can jail you.

27 Are you in jail at the present time?

28 THE WITNESS: Uh-huh.

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THE COURT: Serving any sentence?

THE WITNESS: I'm just waiting to be placed.

THE COURT: I'm sorry, I can't hear you.

THE WITNESS: I'm waiting to be placed.

That's all I am waiting for.

1 THE COURT: You might be placed, is that what you are
2 saying?

3 THE WITNESS: Uh-huh.

4 THE COURT: Well, I can cause you -- if you are found
5 to be in contempt -- to serve additional time in the County
6 Jail.

7 Now, you don't want that, do you?

8 All you have to do is answer the questions.
9 The Court will protect you if you tell me any particular
10 question -- that the answer to any particular question would
11 tend to incriminate you.

12 I will not cause you to answer it; do you under-
13 stand me?

14 THE WITNESS: (No response.)

15 THE COURT: The Court in this instance is telling you
16 that it will protect your rights.

17 But on the other hand, you have to comply
18 and answer questions that are put to you. I haven't any idea
19 what Mr. Kanarek is going to ask you, but you have to respond;
20 do you understand? Those are the rules, and you play by the
21 rules when you are sitting in that chair.

22 Do you understand me?

23 THE WITNESS: (No response.)

24 No, not very good.

25 THE COURT: Well, ask me some questions, then, and see,
26 when you ask me the questions, if I can explain it to you.

27 THE WITNESS: (No response.)

28 THE COURT: Do you have any questions in your mind that

1 you wish to ask the Court?

2 THE WITNESS: (No response.)

3 THE COURT: Now, if I bring this jury back here, would
4 you please respond to these questions, because if you don't,
5 I'm going to have to find you in contempt.

6 THE WITNESS: I have the right to be quiet if I don't
7 want to talk.

8 THE COURT: No, you don't.

9 THE WITNESS: That's --

10 THE COURT: Unless the answer would tend to incriminate
11 you. If somebody has advised you that you have a right to be
12 quiet, they've advised you incorrectly. And I can cause you
13 to be in jail until such time as you will answer or I can
14 find that you have willfully disobeyed the order of the
15 Court and that you are in contempt of the Court and put you
16 in jail for that contempt and sentence you forthwith; do you
17 understand that?

18 THE WITNESS: No.

19 THE COURT: You don't?

20 Well, you should understand it, and the Court
21 will simply appoint a lawyer for you to explain it to you.

22 The Court will appoint the Public Defender to
23 represent you, get a Deputy Public Defender to represent you.

24 Mr. Kanarek, come here to the bench, and Mr.
25 Manzella.

26 What do you intend to elicit from this witness?

27 MR. KANAREK: May we have a reporter, your Honor?

28 THE COURT: Yes, of course. The Court would not

1 proceed without having the reporter here.

2 Would you get down from the witness stand,
3 please, and sit over there.

4 (Whereupon, the following proceedings were had
5 at the bench among Court and counsel, outside the hearing
6 of the witness:)

7 MR. KANAREK: Your Honor, I must respectfully decline
8 to tell your Honor what it is --

9 THE COURT: I'm sure it's relevant and material.

10 MR. KANAREK: Oh, most material and I think your Honor
11 would agree. I can represent when it comes out --

12 THE COURT: Very well, let's proceed question by
13 question.

14 MR. KANAREK: Yes.

15 MR. MANZELLA: If it does come out.

16 (Whereupon, the following proceedings were had
17 in open court:)

18 THE COURT: The Court will be in recess. The Court
19 has appointed Mrs. McKissack to talk to the lady.

20 (Short recess.)
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1 (Whereupon, the following proceedings were had
2 in open court, outside the hearing of the jury:)

3 THE COURT: She has been called to the witness stand
4 and she would not respond to questions, and it is the
5 Court's opinion that if she does not respond she should be
6 found in contempt and should be punished by confinement to the
7 County Jail. And I intend to do that unless there is some
8 legal reason why she should not respond.

9 The only question that was put to her thus far,
10 so far as I can remember, is that, "Do you know Shorty Shea?"
11 She responded not in the presence of the jury, but to the
12 Court that she did not know Shorty Shea. That she would
13 not answer in the presence of the jury.

14 And I wished, before I found her in contempt, if
15 I do find her in contempt, I wish to give her another chance
16 to respond to the questions. And I wish you to explain to
17 her her rights and her obligations as a witness. She
18 apparently has gotten the idea, she told me on the record
19 outside the presence of the jury, that she had a right to
20 remain silent.

21 Now, I did explain to her her right under the
22 Fifth Amendment.

23 Thank you, Mr. Reppetto. Would you talk to her
24 for just a moment. The Court does appoint you under 987.2
25 to talk to her.

26 MR. REPPETTO: Yes, your Honor.

27 THE COURT: We'll be in recess.

28 (Short recess.)

2-1

1 THE COURT: All right. Miss Russell?

2 MR. REPPETTO: May I remain, your Honor, while she
3 testifies?

4 THE COURT: Yes, I wish you would, please.

5
6 BEVERLY RUSSELL,
7 having been previously duly sworn, resumed the stand and
8 testified further as follows:

9 THE COURT: Would you get closer to that microphone?
10 It won't pick you up unless you are closer.

11 Just a little closer. Thank you.

12 Mr. Kanarek, ask your question.

13 MR. KANAREK: Yes, your Honor. Thank you.

14
15 DIRECT EXAMINATION (Continued)

16 BY MR. KANAREK:

17 Q Miss Russell, do you know a person by the name of
18 Shorty Shea?

19 A No.

20 Q Pardon?

21 A No.

22 Q Have you ever seen a person that you have known
23 by the name of Shorty Shea?

24 THE COURT: Kindly approach that microphone.

25 THE WITNESS: (No response.)

26 THE COURT: Do you want it to be read?

27 THE WITNESS: Yes.

28 THE COURT: Would you read it, Mr. Williams?

2-2

1 (Whereupon the record was read by the reporter
2 as follows:

3 "Q Have you ever seen a person that you have
4 known by the name of Shorty Shea?"

5 THE WITNESS: No.

6 THE COURT: I'm sorry. I didn't hear it.

7 THE WITNESS: No.

8 THE COURT: You know, these people over here on your
9 right, they have to hear you, too; and you have to keep your
10 voice up.

11 Q BY MR. KANAREK: Miss Russell, did you tell
12 anyone that Mr. Shorty Shea was living at 817 South
13 Burlington?

14 A What?

15 MR. KANAREK: May that be read, your Honor?

16 THE COURT: You may restate it to her.

17 MR. KANAREK: Very well.

18 Q Have you told anyone that Shorty Shea was living
19 at 817 South Burlington, in the City of Los Angeles?

20 A No.

21 Q Did you tell anyone that 389-8321 was a telephone
22 number where Shorty Shea was living?

23 A No.

24 Q Did you give anyone a brown piece of paper,
25 wherein the address of 817 South Burlington was on that piece
26 of paper?

27 A When?

28 Q Ever, in your lifetime.

2-3

1 A No.

2 Q You -- did you give anyone a piece of paper on
3 which was written the phone number, 389-8321?

4 A No.

5 Q Do you remember -- I'll withdraw that.

6 Did you give a brown piece of paper with a
7 telephone number and an address on it to another person?

8 A No.

9 Q Do you know Christine Berger?

10 A Yes.

11 Q Have you had conversations with Christine Berger?

12 A (No response.)

13 THE COURT: Have you talked with Christine Berger?

14 THE WITNESS: About what?

15 THE COURT: About -- any conversation with Christine
16 Berger? Did you say "Hello" to her or "Good day" or "How are
17 you feeling," anything?

18 THE WITNESS: Yeah. She was my PO.

19 Q BY MR. KANAREK: Pardon?

20 A When she was my PO.

21 Q Your probation officer?

22 A Yeah.

23 Q And did you give Christine Berger a brown piece
24 of paper on which was written "817 South Burlington"?

25 A No.

26 Q At no time in your lifetime did you give that to
27 her?

28 A No.

2-4

1 Q When did you first talk to Christine Berger?

2 A I don't remember.

3 Q Will you give us your best estimate -- would you
4 give us -- I'll withdraw that.

5 Would you give us -- when do you think that you
6 first talked to Christine Berger?

7 A When I first got her.

8 Q Pardon?

9 A When I first got her.

10 Q Well, when was that?

11 A (No response.)

12 THE COURT: As best as you can remember.

13 THE WITNESS: (No response.)

14 THE COURT: Can you remember?

15 THE WITNESS: No.

16 Q BY MR. KANAREK: Do you know Randy Starr?

17 A Um-hmm.

18 THE COURT: Yes?

19 THE WITNESS: Yeah.

20 Q BY MR. KANAREK: And you know that Randy Starr
21 has passed away, is no longer living?

22 A (No response.)

23 Q Do you know that? Or had you heard that?

24 A I heard it, but I don't know it for sure.

2a fls.

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2z-1

1 Q BY MR. KANAREK: When -- where was it that you
2 spoke to Christine Berger?

3 A Sylmar.

4 Q And when you say Sylmar, you mean a particular
5 branch of Juvenile Hall at --

6 A Um-hmm.

7 Q -- that's called Sylmar, --

8 A Yeah.

9 Q -- is that right? Out in the San Fernando Valley?

10 A (No response.)

11 Q In the area of Sylmar, --

12 A Yeah.

13 Q -- is that correct?

14 A (Indicating affirmatively.)

15 Q And that's near the Golden State Freeway or San
16 Diego Freeway; is that right?

17 A It's by a freeway, but I don't know which one.

18 Q And in your -- when you spoke to Christine Berger,
19 did you tell Christine Berger that you had seen Shorty Shea?

20 A No.

21 MR. KANAREK: May I have a moment, your Honor, to
22 get a certain document?

23 THE COURT: Yes, you may.

24 (Whereupon, Mr. Kanarek exited the courtroom,
25 during which time Mr. Reppetto approached the bench
26 and engaged in an unreported discussion with the Court.)

27 THE COURT: You may stay, Mr. Reppetto, if you will,
28 please, until you have to -- do you have to leave at 12:00

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1 o'clock? The Court would prefer that you stay.

2 MR. REPPETTO: Yes, your Honor. I'll stay.

3 THE COURT: Go ahead, Mr. Kanarek.

4 Q BY MR. KANAREK: I show you a brown piece of
5 paper, and I ask you if you gave this brown piece of paper
6 that says "817 South Burlington, L. A., Shorty --" the
7 name "Shorty," and 389-8321.

8 Did you give that to Christine Berger?

9 A No.

10 Q Pardon?

11 A No.

12 Q Would you -- would you look at that? Perhaps take
13 it in your hand, please, Beverly?

14 THE COURT: Have you looked at it?

15 THE WITNESS: I never gave it to her.

16 Q BY MR. KANAREK: Does that refresh your recollec-
17 tion --

18 It isn't working, your Honor.

19 Does this refresh your recollection, Miss Russell--

20 THE COURT: The bailiff says it should be working.

21 THE WITNESS: No.

22 MR. KANAREK: Testing -- yes, it's working. Yes, your
23 Honor.

24 Your Honor, may this be marked as an exhibit for
25 identification at this time?

26 THE COURT: No, it may not be.

27 MR. KANAREK: Well, I wish it to remain in the custody
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2a-3

1 of the court. I can represent to the Court, there will be
2 further testimony concerning it.

3 I am just marking it for identification, your
4 Honor.

5 THE COURT: All right. I'll allow you to mark it for
6 identification.

7 Let's see. Next in order, that would be J,
8 Defendant's J, a brown piece of paper with writing on it,
9 penciled writing on it.

10 Did you look at that slip, Beverly?

11 THE WITNESS: Yeah.

12 THE COURT: Is that in your handwriting?

13 THE WITNESS: Yeah, but it's not mine.

14 THE COURT: What do you mean by that?

15 THE WITNESS: I never wrote it. I don't --

16 THE COURT: When I asked you, "Is that in your hand-
17 writing?" you said --

18 THE WITNESS: Yeah, but it's not mine, because I never
19 wrote it, anything like that.

20 THE COURT: Well, if it's in your handwriting, that
21 means that you wrote it.

22 THE WITNESS: It's in my writing, but it's not mine.

23 THE COURT: Can you explain that to me?

24 THE WITNESS: I just did.

25 THE COURT: You mean that you did write on that paper?

26 THE WITNESS: Um-hmm. But it's not mine. I don't
27 know how it -- how they're trying to say it's mine.

28 THE COURT: Trying to say what's yours?

D's J Id.

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2b Fls.

1 THE WITNESS: The paper.

2 At least, that's the way I got it from him.

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1 THE COURT: Well, the question that Mr. Kanarek put to
2 you was whether you gave it to somebody else.

3 Did you give it to somebody else after writing
4 that?

5 THE WITNESS: I -- I never wrote that.

6 THE COURT: Go ahead, Mr. Kanarek.

7 BY MR. KANAREK:

8 Q Miss Russell, in answer -- or, it may be
9 repetitive. But is this your handwriting?

10 A Yes, it's my handwriting. But it isn't mine.

11 Q But may I ask you --

12 THE COURT: Mr. Kanarek, perhaps you could stand back
13 away from the witness.

14 MR. KANAREK: Yes, your Honor.

15 Q When you say that that is not yours, Miss Russell,
16 you mean that the piece of paper -- well, tell us what you
17 mean. It's your handwriting, but it's not yours?

18 A I don't know how you guys are trying to put on me,
19 that it is mine.

20 At least, that's the way I get it from the way you
21 are talking.

22 Q But you wrote on that piece of paper, yourself; is
23 that --

24 A Yes, but it's not mine.

25 Q And when you say, "It is not mine," what is the
26 "it" that you are referring to?

27 A (No response.)

28 THE COURT: Do you mean the paper itself?

1 THE WITNESS: (No response.)

2 THE COURT: Is that what you mean? The piece of paper
3 is not yours?

4 THE WITNESS: The whole thing is not mine -- except
5 the writing.

6 Q BY MR. KANAREK: What do you mean by "the whole
7 thing," Miss Russell?

8 A (No response.)

9 THE COURT: Ask your next question.

10 Q BY MR. KANAREK: Yes. When you said, "the whole
11 thing," in your last statement, Miss Russell, what did you
12 mean by that, by the word -- or the words, "the whole thing"?

13 A I don't know how I can put it into words.

14 THE COURT: Try. Explain what you are talking about.

15 THE WITNESS: (No response.)

16 THE COURT: Can't you do that?

17 THE WITNESS: (No response.)

18 THE COURT: Beverly?

19 THE WITNESS: Yeah?

20 THE COURT: Go ahead. Ask your next question.

21 Q BY MR. KANAREK: Well, Miss Russell, the words,
22 "the whole thing," when you used those words, would you tell
23 us what you meant or mean by that?

24 THE COURT: She has been asked that about twice, now.

25 MR. KANAREK: I know. But we haven't received an answer
26 to it.

27 THE COURT: That's correct. She says she is unable to
28 explain.

1 Go on to another question.

2 MR. KANAREK: Well, then --

3 Q If I may, Miss Russell, that piece of paper was
4 in your possession. You had it at a time before you talked
5 to Christine Berger; is that correct?

6 A I don't understand what you are saying.

7 Q Miss Russell, if I may, if -- actually, what I am
8 doing is, I am not saying anything. I am merely asking you
9 to tell us. If you -- I'm not saying anything at all. I
10 am merely asking questions.

11 A I know. And I didn't understand your question.

12 MR. KANAREK: Oh. Okay. I'll try to rephrase it.

13 Q At a time before you talked to Christine Berger,
14 you had this piece of paper in your possession; right?
15 Is that correct?

16 A No.

17 Q Did you see this piece of paper, with what's
18 written on it --

19 A I seen it when you just now showed it to me.

20 Q Is this the first time in your life you've ever
21 seen it?

22 A Yes, it's the first time in my life I've ever
23 seen it.

24 Q Is just this instant, this morning?

25 A I never seen it before in my life.

26 Q And you are telling us that written on that
27 paper is your handwriting?

28 A It's my handwriting, but I never seen it before,

1 until just now.

2 Q Then, do you -- can you tell us how your hand-
3 writing got on that piece of paper? If you have never seen it
4 before this morning?

5 THE COURT: Tell us what happened in connection with
6 that piece of paper and your handwriting on it.

7 Can you do that?

8 THE WITNESS: (No response.)
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1 THE COURT: Do you remember?

2 THE WITNESS: No.

3 THE COURT: Will you look at that again, Beverly?

4 THE WITNESS: I am looking at it.

5 THE COURT: Do you recognize that as being your
6 handwriting?

7 THE WITNESS: It is my handwriting.

8 THE COURT: You don't remember why or how you wrote
9 that on this piece of paper?

10 THE WITNESS: No. I don't even know where it came
11 from.

12 THE COURT: Ask your next question.

13 Q BY MR. KANAREK: When you say "it" in that
14 sentence, that you don't know where "it came from," what
15 are you referring to, Miss Russell?

16 A (No response.)

17 THE COURT: Do you wish to ask another question?

18 Did you understand that last question, Miss
19 Russell?

20 THE WITNESS: (No response.)

21 THE COURT: Miss Russell, you mean you don't know
22 where this paper that I am holding in my hand came from?
23 Is that what you mean?

24 THE WITNESS: Yes.

25 THE COURT: Have you ever seen it before in this form?

26 THE WITNESS: I never seen it before until just now.

27 THE COURT: All right. Have you ever seen the writing
28 before?

2c-2

1 THE WITNESS: It's my handwriting.

2 THE COURT: All right. But you don't know -- are you
3 stating to us that you don't remember the circumstances under
4 which you wrote it? Is that what you are saying?

5 THE WITNESS: Wait a minute. I don't understand what
6 you said.

7 THE COURT: Are you stating that you don't remember how
8 the handwriting got on the paper?

9 THE WITNESS: I don't know how it got on it.

10 THE COURT: Do you remember what the incident was that
11 caused you to write this on the paper?

12 Does it come back to your mind now?

13 THE WITNESS: No. I never seen it until just now.

14 THE COURT: Well, that's kind of confusing. You state
15 that you've never seen it until now, but you state that at
16 one time you wrote the -- you wrote this on the paper.

17 Can you explain that to us?

18 THE WITNESS: (No response.)

19 THE COURT: I'm not trying to confuse you. I simply
20 want to straighten it out for myself; do you understand?

21 THE WITNESS: (No response.)

22 THE COURT: Can you explain to us how -- what you mean?

23 THE WITNESS: (No response.)

24 THE COURT: All right. Mr. Kanarek, ask your next
25 question.

26 Q BY MR. KANAREK: Who was present, Miss Russell,
27 when you wrote on that paper, when you -- when your
28 handwriting was put on -- was put by you upon that brown piece

2c-3

1 of paper?

2 A (No response.)

3 THE COURT: Answer the question, Miss Russell.

4 THE WITNESS: (No response.)

5 THE COURT: Who was present when you wrote on the
6 paper?

7 THE WITNESS: (No response.)

8 THE COURT: Will you answer the question, Miss Russell?

9 THE WITNESS: I'm thinking.

10 (Pause in the proceedings.)

11 THE COURT: Who was present when you wrote on the paper?
12 Are you still thinking?

13 THE WITNESS: I'm trying to remember if I ever had that
14 piece of paper.

15 THE COURT: At this moment, do you remember who was
16 present?

17 THE WITNESS: I don't -- if I wrote that, I don't
18 even know whether I wrote it; and I'm trying to think back.

19 THE COURT: All right.

20 Ask your next question.

21 MR. KANAREK: Well, your Honor, since it's a quarter
22 after 12:00, this may be an appropriate time to adjourn, and
23 allow the lady to think over the noon recess.

24 THE COURT: Ask your next question.

25 Q BY MR. KANAREK: Miss Russell, you say you are
26 thinking about where you were -- I'll withdraw that. Who
27 you were with.

28 You were thinking about who you were with when

2c-4

1 you wrote on that paper; is that right?

2 A I'm trying to think when I wrote on that paper,
3 not who was there.

4 Q Right now, you are trying to think of when; is
5 that right?

6 A That's right.

7 Q Would it assist you to take the noon recess,
8 now that it's 12:15, and over the noon recess try to
9 remember?

10 THE COURT: You needn't answer that.

2d fls.

11 Ask your next question.
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1 Q BY MR. KANAREK: When was it, Miss Russell, that
2 you wrote on that paper?

3 A (No response.)

4 THE COURT: Do you remember?

5 THE WITNESS: No.

6 Q BY MR. KANAREK: Well, about how long ago was it
7 that you wrote on the paper, Miss Russell?

8 THE COURT: That's asked and answered. She doesn't
9 remember.

10 Q BY MR. KANAREK: You were trying to think of who
11 you were with when you wrote on it. Can you -- would you tell
12 us who?

13 A I wasn't thinking that.

14 THE COURT: Pardon?

15 THE WITNESS: I didn't say I was thinking that. I
16 says, "When I wrote it."

17 Q BY MR. KANAREK: That's what you are trying to
18 figure out, is that right?

19 A Yes. Not who was there.

20 Q All right. Would you tell us -- would you think
21 about that, and tell us when it was that you wrote on that
22 paper?

23 A (No response.)

24 THE COURT: Do you remember when you wrote on the
25 paper?

26 THE WITNESS: No.

27 THE COURT: Can you remember the year in which you
28 wrote it on the paper?

1 THE WITNESS: (No response.)

2 THE COURT: Can you remember the year in which you wrote
3 it on the paper?

4 THE WITNESS: (No response.)

5 THE COURT: This year, last year?

6 THE WITNESS: I don't even know whether I wrote it,
7 so how am I going to know the year?

8 THE COURT: How about the month?

9 THE WITNESS: I don't remember.

10 THE COURT: Ask your next question.

11 Q BY MR. KANAREK: Did you -- oh, did you write
12 this on this paper? Now, I am asking you to think of --
13 before, you were telling us that you were thinking about
14 when. Now, I am asking you, if you would, please, Miss
15 Russell, think about who was present when you wrote on that
16 paper.

17 Are you thinking about that now?

18 A How am I going to know who was there when I
19 don't remember when I wrote it?

20 Q Well, would you -- would you try to think of who
21 was there, in your immediate presence, when you wrote on
22 that paper?

23 A (No response.)

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1 THE COURT: You now remember that?

2 THE WITNESS: No.

3 THE COURT: Ask your next question.

4 Q BY MR. KANAREK: Did you talk to Miss Berger
5 during the year of 1970, last year?

6 A Over the phone.

7 Q Pardon?

8 A Over the phone.

9 Q Did you ever talk to Miss Berger in person, where
10 you and she were in each other's presence?

11 A No, it was mostly over the phone. I don't think
12 I ever talked to her in the same room.

13 Q You say it was mostly over the phone?

14 A Uh-huh. I don't think I ever talked to her in
15 the same room.

16 Q Well, you know Miss Berger when you see her,
17 right?

18 A Uh-huh.

19 Q Would you answer yes or no or --

20 THE COURT: That was yes? "Yes," was it?

21 THE WITNESS: I talked to her this year at Central
22 when I first came there.

23 Q BY MR. KANAREK: You talked to her --

24 THE COURT: Ladies and gentlemen, we'll recess now
25 until 1:30. I'm treating you rather shabbily today, making
26 you stand out in the hallway and giving you a short recess,
27 but perhaps we can get something done, so come back at 1:30.

28 Would that inconvenience anybody on the jury or --

1 MR. KANAREK: If your Honor would make it 1:45.

2 THE COURT: 1:30. Sorry I asked.

3 You are advised, ladies and gentlemen, not to
4 converse amongst yourselves, nor with anyone else, nor permit
5 anyone to converse with you on any subject connected with this
6 matter, nor are you to form or express any opinion on the
7 matter until it has finally been submitted to you.

8 I'll see all of you at 1:30.

9 The witness is ordered to return at 1:30.

10 Mr. Reppetto, thank you very much for coming, and
11 the Court will ask you to return at 1:30 likewise.

12 Do you have an appointment over in 103?

13 MR. REPPETTO: 103.

14 THE COURT: Sorry to delay you on that.

15 Do you want me to call the Judge?

16 MR. REPPETTO: I'll walk over there, that's all right.

17 THE COURT: All right.

18 (Whereupon, a recess was taken at 12:25 p.m. to
19 reconvene at 1:30 p.m., same day.)
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LOS ANGELES, CALIFORNIA, TUESDAY, SEPTEMBER 28, 1971

1:42 P.M.

---O---

THE COURT: Is the witness here yet?

THE BAILIFF: Yes, sir.

BEVERLY RUSSELL,

the witness on the stand at the time of the noon recess,
resumed the stand and testified further as follows:

THE COURT: All right. The record will show that
Mr. Reppetto is here; Mr. Kanarek also for the defendant,
and Mr. Manzella for the People.

(Pause in the proceedings while a discussion off
the record ensued at the bench between the Court and counsel
in an unrelated matter.)

THE COURT: Mr. Kanarek, you may proceed.

MR. KANAREK: Yes, your Honor. Thank you.

DIRECT EXAMINATION (CONTINUED)

BY MR. KANAREK:

Q Miss Russell, the word "Shorty" that you wrote
on this piece of paper, would you tell us what that word
refers to?

A (No response.)

THE COURT: Do you understand the question?

THE WITNESS: No.

THE COURT: Try again, Mr. Kanarek.

MR. KANAREK: Did she say "no," your Honor?

1 THE COURT: She said, "No."

2 Q BY MR. KANAREK: Do you see this brown paper
3 that's in the manila folder, that we were speaking about
4 this morning?

5 A Yeah.

6 Q Directing your attention to the word "Shorty" that
7 is on that brown paper, in the lower left-hand corner --
8 remember that, --

9 A Um-hmm.

10 Q -- the word "Shorty"?

11 A Yeah.

12 Q Would you please tell us, what does that word
13 "Shorty" refer to?

14 A Just Shorty.

15 Q But what person or thing or object does it refer
16 to?

17 A (No response.)

18 THE COURT: Be direct.

19 Does it refer to Shorty Shea?

20 THE WITNESS: (No response.)

21 THE COURT: Miss Russell, does the word "Shorty" that
22 you wrote refer to Shorty Shea?

23 THE WITNESS: (No response.)

24 THE COURT: Would you answer, please?

25 THE WITNESS: (No response.)

26 THE COURT: Miss Russell, would you lean forward and
27 answer? Get yourself a little closer to that microphone, so
28 that we can hear you.

1 You understand me, don't you?

2 THE WITNESS: (No response.)

3 THE COURT: Miss Russell?

4 THE WITNESS: Yeah.

5 THE COURT: Well, does the writing on the paper refer
6 to Shorty Shea?

7 THE WITNESS: I don't know.

8 Q BY MR. KANAREK: Well, would you please tell us
9 to whom or to what that word "Shorty" refers? Miss Russell?

10 A (No response)

11 THE COURT: Do you know, Miss Russell?

12 THE WITNESS: No.

13 MR. KANAREK: What did she answer?

14 THE COURT: The answer is, "No."

15 MR. KANAREK: Your Honor, may the record reflect, as to
16 all of these questions, that the witness hesitates many,
17 many seconds, if not minutes, before responding?

18 THE COURT: The jury is able to determine how many
19 minutes or how many seconds it is, Mr. Kanarek.

20 We don't need to have you estimate.

21 MR. KANAREK: Well, I'm not saying that for the jury,
22 your Honor. I am saying it for the record, --

23 THE COURT: Well, you needn't --

24 MR. KANAREK: -- because the record, absent that, would
25 not reflect that.

26 Q The "389-8321," that is on this brown piece of
27 paper, Miss Russell, to what does that refer?

28 A A phone number.

1 Q And whose phone number?

2 A I don't know.

3 Q What was your reason for writing that phone number
4 down, Miss Russell?

5 A I don't even know when I wrote it down or why I
6 wrote it down.

7 Q Did you have a reason for writing it down?

8 A I don't know. I don't remember.

9 Q When you wrote the word "Shorty" down, did you
10 have a reason for writing that down?

11 A I don't know.

12 Q Have you known a person named Shorty?

13 A No.

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1 THE COURT: Do you wish to approach the witness?

2 MR. KANAREK: Yes, your Honor.

3 THE COURT: For what purpose?

4 MR. KANAREK: To show some pictures to her.

5 THE COURT: All right.

6 Q BY MR. KANAREK: Miss Russell, I show you a
7 picture which is People's 47, and I ask you if you would look
8 at that picture, please, and tell me if you've seen that
9 person before.

10 A (No response.)

11 THE COURT: Speak into the microphone when you answer;
12 would you?

13 THE WITNESS: No.

14 Q BY MR. KANAREK: I show you a picture, People's
15 46, and ask you if you've seen that person that's in that
16 picture before.

17 A (No response.)

18 THE COURT: Answer into the microphone; would you
19 please?

20 THE WITNESS: No.

21 Q BY MR. KANAREK: Have you ever, in your lifetime,
22 Miss Russell, have you ever in your lifetime uttered the
23 words "Shorty Shea"?

24 A Wait a minute. Can you say that over again?

25 Q Certainly. In your lifetime, have you used the
26 word "Shorty Shea"? Have you ever spoken those words?

27 A (No response.)

28 THE COURT: Answer into the microphone.

1 THE WITNESS: Yeah, I have.

2 Q BY MR. KANAREK: And did you speak those words,
3 "Shorty Shea" to Christine Berger?

4 A (No response.)

5 THE COURT: Would you answer the question?

6 THE WITNESS: I don't think so.

7 Q BY MR. KANAREK: Did you speak the words "Shorty
8 Shea" to Christine Berger, when you spoke with her at
9 Sylmar?

10 A I can't remember what I even talked about.

11 Q Did you speak with Christine Berger at Sylmar,
12 in the year 1970?

13 A I wasn't in there in '70.

14 Q Were you at Sylmar in 1971?

15 A 1969.

16 Q Pardon?

17 A That was '69.

18 Q It was 1969 --

19 A Yeah.

20 Q -- that you were at Sylmar?

21 A Yeah.

22 Q All right. When you were at Sylmar, Christine
23 Berger was your probation officer; is that correct?

24 A Yeah.

25 Q And on how many occasions did you speak with
26 Christine Berger at Sylmar?

27 A (Pause.) A few times.

28 Q And at the times that you spoke to her at Sylmar,

1 you were living at the Sylmar facility, --

2 A Yeah.

3 Q -- is that correct?

4 A Um-hmm.

5 Q And this is a Juvenile Hall?

6 A Um-hmm.

7 Q Is that -- would you answer -- the man here,
8 it's difficult for him to take down "uh-huhs" or -- would you
9 -- that is -- is that correct?

10 A Yeah.

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1 Q And on one occasion when you were speaking with
2 Christine Berger, did you give Christine Berger this brown
3 paper?

4 A No.

5 Q You say that you have used the words "Shorty
6 Shea"; you have spoken those words, right?

7 A Yeah.

8 Q Now, while you were at Sylmar did you speak the
9 words "Shorty Shea"?

10 A I don't know.

11 Q You hesitated a very long time before answering,
12 uh, Miss Russell.

13 Would you think about that?

14 THE COURT: Think about what?

15 MR. KANAREK: About that same question, your Honor.

16 THE COURT: Put it to her again, would you, please?

17 MR. KANAREK: Yes, your Honor.

18 Q While at Sylmar, did the words "Shorty Shea"
19 come out of your mouth at any time? Did you ever speak those
20 words?

21 A I don't think so.

22 Q But you're not 100 percent sure, is that what you
23 are telling us?

24 A Yeah.

25 Q You might have spoken those words?

26 A I might have, and I might have not.

27 Q And you might have spoken those words to Christine
28 Berger, is that correct?

1 A Yeah.

2 Q Pardon?

3 A Yeah.

4 Q Your answer is yes?

5 A "Yes."

6 Q And Christine Berger is the lady that you have
7 seen outside the courtroom here?

8 A Yeah.

9 Q You've seen her?

10 A Um-hmm.

11 Q Today?

12 A Yeah.

13 Q And in your discussions with Christine Berger,
14 might you have told Christine Berger that you had seen Shorty
15 Shea?

16 A No.

17 Q Well, when you spoke -- when you might have spoke
18 of Shorty Shea with Christine Berger, might you have discussed
19 with her your seeing Shorty Sheas?

20 A No.

21 Q When you might have used the words "Shorty Shea"
22 at Sylmar, how long after you came to Sylmar might it have
23 been that you spoke of -- that you spoke those words?

24 A Well, I didn't understand you.

25 Q Directing your attention to the words "Shorty
26 Shea."

27 When, after you came to Sylmar, might you have
28 spoken those words, Miss Russell?

1 A I wouldn't know.

2 Q Now, this brown paper with your writing on it that
3 includes this telephone number 389- --

4 (Whereupon, Mr. Kanarek approached the witness.)

5 THE COURT: Do you wish to approach the witness?

6 MR. KANAREK: Yes, your Honor.

7 THE COURT: You ask beforehand.

8 You may approach the witness.

9 MR. KANAREK: Your Honor, I allege a violation of due
10 process of the law --

11 THE COURT: You won't allege anything unless you wish
12 to come before the bench.

13 MR. KANAREK: Yes, may I?

14 THE COURT: Yes.

15 (Whereupon, the following proceedings were had
16 at the bench among Court and counsel, outside the
17 hearing of the jury:)

18 MR. KANAREK: On innumerable occasions, perhaps hundreds
19 of times, Mr. Manzella has approached witnesses without asking
20 permission of the Court and your Honor has made nothing of it.

21 During the course of this trial I have tried and
22 have asked to approach the bench on many occasions. Your
23 Honor, -- and I say it respectfully -- your Honor, I believe,
24 has arbitrarily -- has arbitrarily refused me the right to
25 approach witnesses on many occasions, and I allege a violation
26 of equal protection of the law under the 14th Amendment, and
27 a violation of due process under the 14th Amendment.

28 And I ask for a hearing, where we can go through

1 the record and have an evidentiary hearing, wherein it will
2 be shown that your Honor has so conducted this trial in that
3 manner.

4 And I do allege a violation of equal protection
5 under the law.

6 In the context of these proceedings, your Honor,
7 to ask me permission in view of these other occurrences --
8 I ask for an evidentiary hearing and go through the record
9 and I think, your Honor, it will bear out what I have stated.
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1 THE COURT: Anything further?

2 MR. KANAREK: No, your Honor.

3 THE COURT: The request for an evidentiary hearing is
4 denied. The Court has noted that when you have approached
5 witnesses in the past that you have crowded the witnesses,
6 that you have put yourself on the and in the witness stand.
7 That you have put your face close to the witnesses and have
8 raised your voice to the witnesses, and the Court believes
9 that that is not proper conduct for an attorney to engage in
10 in the course of a trial.

11 MR. KANAREK: Well, I --

12 THE COURT: Stand back from the witness stand and give
13 the witness an opportunity to view whatever it is that you
14 might be holding. The Court has not noted that Mr. Manzella
15 has done that. The Court has observed that Mr. Manzella,
16 in approaching the witness, has not asked each time to
17 approach the witness, but it has asked at the beginning of
18 the sequence of questions concerning which he wished to
19 approach the bench and has asked.

20 MR. KANAREK: I --

21 THE COURT: Your observations are entirely inaccurate.

22 As long as you observe the proper conduct that's
23 required of an attorney in approaching a witness, the Court
24 will not reproach you.

25 All right, now, let's proceed.

26 MR. KANAREK: Well, then, I must disagree with your
27 Honor's statements.

28 THE COURT: I have heard from you now and say no more.

1 MR. KANAREK: Well, then, may I approach this witness
2 at this time?

3 THE COURT: Yes, you may.

4 MR. KANAREK: Yes, your Honor.

5 THE COURT: Do not crowd her. We have had enough
6 difficulty with your witness now without getting in the
7 witness box with her.

8 MR. KANAREK: I do -- I am not ever getting in the
9 witness box with any witness, your Honor.

10 (Whereupon, the following proceedings were had
11 in open court within the presence and hearing of the
12 jury:)

13 THE COURT: You may approach the witness.

14 MR. KANAREK: Thank you, your Honor.

15 Q BY MR. KANAREK: Miss Russell, you see the
16 letters 389-8921 that were written by you?

17 A Uh-huh.

18 Q Is that fifth number a 9? It seems to have --
19 if you would look at that, please, it seems to be a number
20 wherein something was written over something that had already
21 been written; is that correct?

22 Do you see that fifth number I am speaking of?

23 A Uh-huh.

24 Q Would you answer so the lady here --

25 A Yes.

26 Q -- can write it down?

27 A Yes, it --

28 Q Did you intend that fifth number to be a 9 when

1 you wrote it?

2 A I don't know what it is supposed to be.

3 Q Well, did you intend that first number to be a 3
4 when you wrote it?

5 A I don't know.

6 Q That 3 is in your handwriting?

7 A The whole thing is in my handwriting.

8 Q And you intended that that series of seven numbers
9 to be a telephone number, is that correct?

10 A Yes, it is a telephone number.

11 Q All right.

12 Would you tell us whose telephone number that is?

13 A I don't know.

14 Q Whose number did you intend it to be when you
15 wrote it down?

16 A I don't know.

17 Q May I see the -- thank you.

18 You will notice the 817 and SO with a period after
19 it, and then "Burlington," and then AVE with a period. You
20 tell us that that is all in your handwriting, is that right?

21 A The whole thing is in my handwriting.

22 Q Did that SO with a period, did you intend that
23 to mean South?

24 A I don't know what the address is supposed to
25 even mean or where -- or whose it is or nothing.

26 Q When you wrote this address down, did you have
27 a purpose in doing it, Miss Russell?

28 A I don't know.

1 Q Did you have a purpose in writing LA -- LA and
2 a dot, it appears to be? Did you have a purpose in writing
3 that?

4 A I don't know.

5 Q Did you carry this -- did you carry this brown
6 piece of paper in your handbag?

7 A No.

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Q Pardon?

A No.

Q How did you carry this piece of paper around with you?

THE COURT: That assumes a fact not in evidence.

You need not answer.

You may rephrase the question.

Q BY MR. KANAREK: Miss Russell, did you have this brown piece of paper in some possession of yours at some time in the past?

A Not that I know of.

(Pause in the proceedings.)

THE COURT: Anything further, Mr. Kanarek?

MR. KANAREK: Yes, your Honor.

Q Now, you say that you have uttered the words "Shorty Shea"; right? Is that correct?

A Yeah.

Q Would you speak up, Miss Russell, please?

A Yes.

Q Would you speak into that microphone?

You have uttered the word "Shorty Shea," you have told us?

A Yes.

Q And in your mind, does the word "Shorty Shea" -- does that -- do those words stand for a name?

THE COURT: You needn't answer that.

Put another question to her.

Q BY MR. KANAREK: Directing your attention to

1 the words "Shorty Shea," in your mind do those words signify
2 a person?

3 A (No response.)

4 THE COURT: Answer the question, Miss Russell.

5 THE WITNESS: (No response.)

6 THE COURT: You know the "Shorty Shea" to be the name
7 of a person, don't you?

8 THE WITNESS: Yeah.

9 MR. KANAREK: Pardon?

10 THE COURT: "Yes," she said.

11 Q BY MR. KANAREK: All right. Whose name do you
12 know that to be?

13 MR. MANZELLA: Objection. The question is vague and
14 ambiguous, your Honor.

15 THE COURT: Sustained.

16 Q BY MR. KANAREK: Now, where did you live,
17 Miss Russell, before you -- just before you went to Sylmar
18 and spoke with Miss Christine Berger? Where were you living?

19 A Sue's.

20 Q Pardon?

21 A Sue's.

22 Q Would you speak up?

23 I didn't hear that, your Honor.

24 A Sue.

25 Q Sue?

26 A Um-hmm.

27 Q Who is Sue?

28 A Some girl that I knew.

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Q Sue what?

A Some girl that I knew.

Q And what is Sue's last name?

A (No response.)

THE COURT: Do you know Sue's last name?

THE WITNESS: Yes.

THE COURT: Answer the question.

THE WITNESS: (No response.)

THE COURT: What is Sue's last name?

THE WITNESS: (No response.)

THE COURT: Would you answer the question?

THE WITNESS: (No response.)

THE COURT: Do you understand that question?

What is Sue's last name?

THE WITNESS: (No response.)

THE COURT: Beverly, will you answer the question,
"What is Sue's last name?"

THE WITNESS: (No response.)

THE COURT: Mr. Reppetto, do you wish to approach her?

MR. REPPETTO: Thank you, your Honor.

THE COURT: You may move that microphone.

MR. REPPETTO: Yes, sir.

(Pause in the proceedings while a discussion off
the record ensued at the witness stand between the witness
and her counsel, Mr. Reppetto.)

MR. REPPETTO: Your Honor?

THE COURT: Come around this way, please.

(Whereupon, the following proceedings were had

1 at the bench among Court and counsel, outside the hearing of
2 the jury:)

3 MR. REPPETTO: I have spoken to Miss Russell, and she
4 indicates to me that the answer to that question might tend
5 to incriminate her.

6 I have advised her that she might utilize the
7 Fifth Amendment as an answer. I don't think she quite clearly
8 understands that, how to voice the Fifth Amendment, or on
9 the grounds that it might tend to incriminate her, the answer.

10 THE COURT: All right. You inform her that -- that the
11 Court determines that if she does not answer that question,
12 she will be in contempt of court, and that she will be, in
13 the Court's judgment, put in the County Jail as a result of
14 being in contempt; and she can remain there until she's
15 ready to answer this question and any other questions that
16 are asked of her -- until she is able to -- willing and able
17 to answer these questions.

18 Well, not willing and able to, but until she is
19 willing to try to answer the questions. Whether she's able
20 to answer them, I -- I can't say.

21 MR. REPPETTO: Well, she feels that the answer might
22 tend to incriminate her. She can voice that as an answer
23 without being held in contempt.

24 THE COURT: If the Court determines -- yes, that's
25 true. But it's for the Court to determine whether or not
26 the answer to a question will incriminate, finally and fully,
27 I believe.

28 And I can't see any reasonable basis on which she

1 could claim the privilege, as to that question.

2 If you can explain it to me, without going any
3 farther, going any farther in incriminating your client,
4 I would like to hear it, if you know it.

5 MR. REPPETTO: I don't know it at this time, your
6 Honor.

7 THE COURT: Well, tell her that I have determined
8 that she must answer the question, then.

9 MR. REPPETTO: Yes, your Honor.

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

12 (Pause in the proceedings while a discussion off
13 the record ensued at the witness stand between the witness
14 and her counsel, Mr. Reppetto.)

15 THE COURT: Let's proceed.

16 All right. Ask the question, Mr. Kanarek.

17 MR. KANAREK: Yes, sir.

18 THE COURT: Lean forward a little bit, Miss Russell, and
19 answer right into the microphone.

20 Q BY MR. KANAREK: Miss Russell, would you tell us
21 Sue's last name?

22 A Witter.

23 Q Pardon?

24 A Witter.

25 Q How do you spell that?

26 A I don't know. I just know it's Widdard.

27 Q Widdard?

28 A Uh-huh.

1 Q W-i-d-d-a-r-d?
2 A I don't know how you spell it.
3 Q Would you say it again, please?
4 A Widdard.
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1 Q Widdard?

2 And where was it that you lived with this Sue
3 Widdard?

4 A It is either Northridge or Reseda.

5 THE COURT: Northridge or Reseda?

6 THE WITNESS: Uh-huh.

7 Q BY MR. KANAREK: And what is the address?

8 A (No response.)

9 THE COURT: Do you know the address?

10 THE WITNESS: I'm trying to think.

11 THE COURT: Have you read the address now?

12 THE WITNESS: It starts with an S. That's all I know.

13 THE COURT: You mean the name of the street starts
14 with an S?

15 THE WITNESS: Yeah.

16 THE COURT: You don't remember it at this time, then?

17 THE WITNESS: No.

18 THE COURT: Go on to your next question.

19 Q BY MR. KANAREK: What -- do you know the number
20 of that street address?

21 A I think the two first numbers are 12.

22 Q And near what big intersection in Northridge or
23 Reseda is this place?

24 A Reseda Boulevard.

25 Q What cross street?

26 A I'm not sure.

27 THE COURT: Ask your next question.

28 Q BY MR. KANAREK: Now, how long did you live there,

1 Miss Russell, before you went to Juvenile Hall at Sylmar?

2 A Between a week and a half or two weeks.

3 Q And during this period of time that you lived
4 there, were you in the company of gentlemen, males, people
5 of the opposite sex?

6 A Yeah.

7 Q And directing your attention to the place where
8 you lived just before this place you have just told us about,
9 where was that?

10 A Could you repeat that again?

11 Q Yes.

12 Directing your attention to the time that you say
13 you lived with the lady you call Sue Widdard for, you say,
14 about a week and a half, where did you live just prior to
15 that week and a half?

16 A I don't understand what you mean.

17 Q Pardon?

18 THE COURT: Where did you live before you lived with
19 Sue?

20 THE WITNESS: At the ranch.

21 Q BY MR. KANAREK: And while you were at the ranch,
22 you saw a person you knew as Shorty Shea, is that correct?

23 A I don't know him.

24 Q Pardon?

25 A I don't know him.

26 Q You don't know Shorty Shea?

27 A No, I don't.

28 Q You never -- I'll withdraw that.

1 Directing your attention to this brown piece of
2 paper that we have been speaking of.

3 Did you have a brown piece of paper with you
4 at Sue Widdard's?

5 A I don't know.

6 Q When you say you don't know, you mean -- what
7 do you mean? You don't know whether you did or not, Miss
8 Russell?

9 A Yes, that's right.

10 Q Well, when did you first see this brown piece of
11 paper?

12 A When you brought it here.

13 Q Pardon?

14 A When you showed it to me today.

15 Q When I showed it to you today is the first time
16 you've ever seen it in your life?

17 A Yeah.

18 Q Then, do you have -- can you tell us how your
19 handwriting got on that brown piece of paper?

20 MR. MANZELLA: I'll object on the grounds that the
21 question has been asked and answered, your Honor.

22 MR. KANAREK: Well, in view of this witness' testimony --

23 THE COURT: I'll allow her to answer.

24 The objection is overruled. You can answer that.
25 Will you answer that, please?

26 THE WITNESS: I don't --

27 THE COURT: Want it re-read?

28 THE WITNESS: I don't know how my handwriting got on that

1 paper.

2 Q BY MR. KANAREK: And did you live, Miss Russell,
3 in a house in Chatsworth before you went to Sylmar?

4 A Yeah.

5 Q What was the address of that house in Chatsworth
6 in which you lived before you went to Sylmar?

7 A 10120 Canoga Avenue.

8 Q What is that?

9 A 10120 Canoga Avenue.

10 Q 10120 Canoga Avenue?

11 A Uh-huh.

12 Q Is that right?

13 A Yeah.

14 Q And when you lived at this house on Canoga Avenue,
15 did you, on occasion, have male visitors to that house?

16 THE COURT: You need not answer that.

17 MR. KANAREK: Well, then, may I approach the bench,
18 your Honor?

19 THE COURT: No, you needn't -- very well, you may.

20 (Whereupon, the following proceedings were had at
21 the bench among Court and counsel, outside the hearing of the
22 jury:)

23 THE COURT: Mr. Reppetto.

24 Do you wish to be heard in respect to this?

25 MR. REPPETTO: Yes, your Honor. I don't see what
26 relevancy men visiting her in the house in Chatsworth has to
27 do with this lawsuit.

28 THE COURT: Now, if Shorty Shea visited her, I think it

1 might be relevant.

2 MR. KANAREK: Well --

3 THE COURT: But there is a problem in that she is held
4 by the Juvenile authorities. It may be a -- it may be a
5 proceeding against her wherein she's alleged to be a -- wanting
6 in morals or lacking in control, parental control. And it is
7 quite possible that such question would incriminate --

8 MR. KANAREK: Well, then, we are denied due process.

9 THE COURT: Are you?

10 MR. KANAREK: Yes.

11 THE COURT: In what way?

12 MR. KANAREK: Well, because if -- in other words, --

13 THE COURT: What's the materiality?

14 MR. KANAREK: The materiality, it might be Shorty Shea,
15 obviously.

16 THE COURT: Well, then, ask whether it is Shorty Shea.

17 MR. KANAREK: Well, I don't -- well, if your Honor's
18 position is tenable --

19 THE COURT: All right, that's the Court's ruling.

20 MR. KANAREK: It matters not who the male is, but I
21 also have the right --

22 THE COURT: That's the Court's ruling. You can show
23 her the pictures again and ask if Shorty Shea visited --

24 MR. KANAREK: I am -- I mean what questions that I, as
25 a lawyer,^{am} going to most likely elicit material that is
26 going to -- like I don't -- especially with this witness,
27 this particular witness, we have the problem that's obvious.

28 THE COURT: This is your witness. What do you hope to

1 elicit from this witness in respect to this?

2 MR. KANAREK: Well, your Honor, it -- what I am saying,
3 because of the recalcitrance of this witness and the big
4 moments of pause --

5 THE COURT: Recalcitrance what?

6 MR. KANAREK: In testifying. There's no reason why --

7 THE COURT: What do you hope to elicit from such a
8 question that you believe is so important?

9 MR. KANAREK: Well --

10 THE COURT: Yes, Mr. Kanarek, I'm waiting.

11 MR. KANAREK: Your Honor, I --

12 THE COURT: Yes, I'm waiting.

13 MR. KANAREK: I understand, your Honor. I must respect-
14 fully decline, and I think your Honor understands why, when
15 the District Attorney is here.

16 THE COURT: The Court will sustain --

17 MR. KANAREK: On the grounds of self-incrimination?

18 THE COURT: The Court believes --

19 MR. MANZELLA: On the grounds it is not relevant --

20 MR. REPPETTO: On the grounds it is not relevant. And
21 in addition, the witness, apparently, in some respects,
22 seems to lack comprehension of the fact that she might even
23 be incriminating herself.

24 THE COURT: The Court noted that, and I don't know the
25 nature of the proceedings against her. I do know that she
26 is in custody of the Probation Department at the present
27 time and that she apparently is pregnant or has just been
28 delivered of a child in the last few days, and in view of

1 that situation I must say that there's more than one ground
2 to raise an objection to the question.

3 Ask your next question. I'm not interested in
4 hearing anything further from you at the bench.
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(Whereupon the following proceedings were had in open court, within the presence and hearing of the jury:)

THE COURT: Beverly, you saw the man whose picture was shown to you by Mr. Kanarek -- strike that.

You saw the pictures that Mr. Kanarek brought to the witness stand, did you not?

THE WITNESS: Yes.

THE COURT: Did that man visit that address?

THE WITNESS: No.

THE COURT: Did you ever see that man at that address?

THE WITNESS: No.

THE COURT: Mr. Kanarek?

Q BY MR. KANAREK: Miss Russell, at the time that you were living in Chatsworth, did you have this brown paper with you, the one that has your handwriting on it (indicating)?

A I don't know.

Q You don't know?

A (Indicating negatively.)

Q Would you speak into the microphone, please, Miss Russell?

A I don't know.

Q And so when you lived in Chatsworth, at the address that you've spoken of on Canoga Avenue, you may have had this brown piece of paper with you; is that correct?

A That's right.

Q And when you lived at this address on Canoga Avenue, did you have someone visit you that you knew by the

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1 name of Shorty, at that address?

2 A No.

3 Q Pardon?

4 A No.

5 Q When was it, to the best of your recollection,
6 Miss Russell, that your handwriting was put on this brown
7 piece of paper?

8 A I don't know when it was put on there.

9 Q Was it put on there while you were living at the
10 address in Chatsworth? On Canoga Avenue?

11 A I don't even know when I wrote it.

12 Q You are not -- you don't know for sure when you
13 wrote it?

14 A That's right.

15 Q But you did write it?

16 A It's my --

17 THE COURT: It's been asked and answered.

18 THE WITNESS: -- handwriting.

19 THE COURT: It's been asked and answered.

20 Q BY MR. KANAREK: How long was it that you lived
21 in Chatsworth? I'll withdraw that.

22 What was the total amount of time that you lived
23 at the address on Canoga Avenue in Chatsworth, that you are
24 speaking of?

25 A It's been a pretty long time. It was a long
26 time.

27 Q My question is -- my question now is: In
28 duration of time -- like weeks, months, days, that kind of

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1 thing -- how long -- I'm not now asking for the date, but
2 the period of time over which you lived there, the elapsed
3 time; do you understand the question?

4 A Yeah.

5 Q Now, my question is: How many months or days
6 or weeks did you live at Chatsworth, before you lived with
7 Sue Widdard?

8 MR. MANZELLA: Objection, your Honor. This does not
9 appear to be relevant.

10 THE COURT: Sustained.

11 MR. KANAREK: Well, then, may we approach the bench,
12 your Honor? I can --

13 THE COURT: Yes, you may.

14 (Whereupon the following proceedings were had
15 at the bench among Court and counsel, outside the
16 hearing of the jury:)

17 THE COURT: What is your offer of proof?

18 MR. KANAREK: I have no offer of proof, your Honor.
19 I can't make an offer of proof.

20 THE COURT: You mean you are simply putting this witness
21 on the witness stand to explore --

22 MR. KANAREK: No, no. I can't make an offer of proof,
23 though.

24 THE COURT: -- what she does know?

25 MR. KANAREK: No. As I say, I can't make, in good faith,
26 a -- I don't see -- in fact, I think that it's obvious.

27 THE COURT: Well, how is it material?

28 MR. KANAREK: Well, it's --

8-4

1 THE COURT: Where she lived?

2 MR. KANAREK: Well, because it's material, if, during
3 this period of time that she lived there, we can show --
4 this is after the date in the indictment -- that Mr. Shea
5 lived there; and that is most material. And Mr. Shea --

6 THE COURT: But you don't know that you can show that?

7 MR. KANAREK: Well, but asking her --

8 THE COURT: Why don't you ask her?

9 MR. KANAREK: I'm asking her how many -- how long she
10 lived there, your Honor. That's the exact question.

11 And you calculate back in time, because we can
12 begin with the time of when she was in Sylmar, and we come
13 back a week and a half; we can calculate that; then, we
14 can go back and calculate the time she was here.

15 And clearly, it's -- we are in times that are
16 relevant to this case.

8a fls.

8a-1

1 THE COURT: You could conceivably bring it back to her
2 date of birth. But what relevance would that have?

3 MR. KANAREK: But I am not bringing it back to her date
4 of birth. I am asking for a period of time that encompasses
5 a period of time after the date of the indictment.

6 It's most material, obviously --

7 THE COURT: Yeah. But why is it material?

8 MR. KANAREK: Because Mr. Shea may have visited there.
9 Mr. Shea may -- may have seen her.

10 Obviously, she is an adverse witness. I mean,
11 it's -- there couldn't be a more relevant question in this
12 trial.

13 THE COURT: Than what?

14 MR. KANAREK: Than where -- than this period of time,
15 if in fact Mr. Shea did visit her there.

16 We have a week and a half --

17 THE COURT: But you -- you don't purport to know whether
18 or not Mr. Shea ever visited her; is that correct?

19 MR. KANAREK: Well, I purport --

20 THE COURT: And thus far, she has -- she has stated
21 she does not know Mr. Shea.

22 MR. KANAREK: Well, I have -- well, in the context of
23 these proceedings, she says she knows the name Shorty Shea;
24 she has uttered it.

25 We have a piece of paper in her handwriting with
26 the name "Shorty" on it. We have a witness who's adverse;
27 there's clear relevance in that question, as to time. It
28 couldn't be more relevant.

8a-2

1 And she's obviously --

2 THE COURT: I'll permit you to continue your explora-
3 tion.

4 MR. KANAREK: But it -- it's -- she obviously has been
5 less than candid with the Court, stating that it's her
6 handwriting, but she doesn't know how it got on the paper,
7 and things like that. Obviously, she's --

8 THE COURT: All right. Let's proceed.

9 (Whereupon, the following proceedings were had
10 in open court, within the presence and hearing of the
11 jury:)

12 THE COURT: Ask your next question.

13 MR. KANAREK: Yes, your Honor.

14 Q Miss Russell, if you would please tell us, how
15 long, prior -- before -- how long before the time you lived
16 with Sue Widdard did you live at the address on Canoga Avenue
17 in Chatsworth, that you've spoken of?

18 A About four years -- or less.

19 Q And you lived at that address for four years;
20 right, --

21 A That's right.

22 Q -- is that correct? And from that address, did
23 you move directly to Sue Widdard's?

24 A No.

25 Q Pardon?

26 A No.

27 Q Where did you live in between the time that you
28 lived at that Chatsworth address and lived with Sue Widdard?

8a-3

1 A Glendora.

2 Q And what was the address in Glendora at which
3 you lived?

4 A I don't know about the numbers, but the street
5 was Sunflower.

6 Q How do you spell that?

7 A S-u-n-f-l-o-w-e-r.

8 Q Sunflower Street?

9 A Um-hmm -- yeah.

10 Q And with whom did you live there?

11 A My aunt.

12 Q And what is her name?

13 A Ruth Russell.

14 Q Ruth Russell; is that correct?

15 A Yes.

16 Q And after you lived with your aunt, did you
17 then move in with Sue Widdard?

18 MR.MANZELLA: Objection, your Honor. This does not
19 appear to be relevant.

20 THE COURT: Sustained.

21 Q BY MR. KANAREK: How long did you live with
22 your aunt?

23 MR. MANZELLA: Objection. It does not appear to be
24 relevant.

25 MR. KANAREK: Then I would like to approach the bench,
26 your Honor. We --

27 THE COURT: You may not approach the bench. Sustained.

28 Q BY MR. KANAREK: Just prior to the time that you

8a-4

1 moved in with Sue Widdard, Miss Russell, where did you live?

2 A I don't understand what you just said.

3 THE COURT: Before you moved in with Sue Widdard, where
4 did you live?

5 THE WITNESS: At the ranch.

6 Q BY MR. KANAREK: At the Spahn Ranch?

7 A Yeah.

8 THE COURT: Do you know when you -- when you first went
9 to Spahn Ranch? To your best memory?

10 THE WITNESS: I know I was living in Chatsworth --

11 THE COURT: When you were what?

12 THE WITNESS: I was living in Chatsworth.

13 THE COURT: Living in Chatsworth?

14 THE WITNESS: Um-hmm.

15 THE COURT: What year was that? How old were you? Can
16 you remember by year or month, when you first arrived at the
17 Spahn Ranch?

18 THE WITNESS: Hmm --

19 THE COURT: All right. Can you remember it by how old
20 you were? The date -- the year of your birthday, something
21 like that, to connect you with --

22 THE WITNESS: No.

8b fls.

8b

1 THE COURT: You can't recall just when it was you
2 arrived at the Spahn Ranch?

3 THE WITNESS: No.

4 THE COURT: How long did you stay at the Spahn Ranch?

5 THE WITNESS: Not very long.

6 THE COURT: What does that mean? You might not consider
7 a period of time very long, and I might consider it a long
8 time.

9 It's a matter of each individual's interpretation.
10 What do you mean by "not very long"?

11 THE WITNESS: Oh, it was less than a month.

12 THE COURT: You can't place the year?

13 THE WITNESS: No.

14 THE COURT: During the time that you were there at the
15 Spahn Ranch, less than a month, did you see that man whose
16 picture Mr. Kanarek showed you?

17 THE WITNESS: No.

18 THE COURT: Did you ever meet that man?

19 THE WITNESS: No.

20 THE COURT: Did you ever -- while you were at the
21 Spahn Ranch there, less than a month, did you ever hear the
22 name Shorty Shea?

23 THE WITNESS: Yeah.

24 THE COURT: Now, search your memory and see whether or
25 not you can tell us whether it was winter or spring or summer
26 or fall, whenever it may have been that you arrived there.

27 THE WITNESS: (No response.)

28 THE COURT: Can you remember?

1 THE WITNESS: No.

2 THE COURT: After you left Spahn Ranch, where is the
3 next place you went? Was that Sue Widdard's?

4 THE WITNESS: Yes.

5 THE COURT: When did you arrive at Sue Widdard's, then?
6 Do you remember that? The year or month, or both?

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1 THE WITNESS: January.

2 THE COURT: January?

3 THE WITNESS: Yeah.

4 THE COURT: And what year was it?

5 THE WITNESS: '69.

6 THE COURT: In January of '69 was when you arrived at
7 Sue Widdard's?

8 THE WITNESS: Yeah.

9 THE COURT: Mr. Kanarek.

10 Q BY MR. KANAREK: While you were living with
11 Sue Widdard, Miss Russell, did you see Shorty Shea?

12 A No.

13 Q Did you tell Miss Berger, Christine Berger, that
14 you saw Shorty Shea?

15 A No.

16 Q You never -- you never said -- you never told
17 -- I haven't finished my question, but I'll rephrase it.

18 Did you ever tell Christine Berger that you saw
19 Shorty Shea?

20 A No.

21 THE COURT: All right, anything further, now, Mr.
22 Kanarek?

23 MR. KANAREK: Well, your Honor, I would like to
24 withdraw this witness and put Christine Berger on, and I
25 don't want to excuse this witness.

26 THE COURT: It is five minutes to 3:00. She is
27 excused at this time, and if you wish to ask her any
28 further questions, you may, at this time.

1 MR. KANAREK: Well, your Honor, as I say, I am asking
2 that she not be excused, that she be ordered back to court
3 on Thursday.

4 THE COURT: The Court excuses her.

5 MR. KANAREK: Well, then --

6 MR. MANZELLA: I just have a few questions.

7 THE COURT: However, there has not been a cross-
8 examination yet.

9 MR. MANZELLA: Just a few questions.

10 THE COURT: Have you finished with your direct?

11 MR. KANAREK: No, I --

12 THE COURT: Go on with your direct.

13 Q BY MR. KANAREK: Then, Miss Russell, you did
14 speak to Christine Berger other than over the telephone, is
15 that right? You spoke to her when you were at Sylmar in her
16 immediate presence?

17 A In '69.

18 MR. KANAREK: Your Honor, may that be stricken? I'm
19 not asking for time.

20 THE COURT: The answer may remain.

21 Q BY MR. KANAREK: Miss Russell, then you have spoken
22 to Miss Berger, Christine Berger, when you were in her
23 immediate presence at Sylmar?

24 THE COURT: That's been asked and answered.

25 Q BY MR. KANAREK: And, Miss Russell, I ask you
26 once again, if I may, have you ever seen Shorty Shea?

27 A No.

28 Q Never have?

1 A. Never.

2 MR. KANAREK: Well, I ask that this witness not be
3 excused, your Honor.

4 THE COURT: Cross-examination -- I mean -- yes, cross-
5 examination.

6
7 CROSS-EXAMINATION

8 BY MR. MANZELLA:

9 Q Miss Russell, is Christine Berger still your
10 probation officer?

11 A No.

12 Q Do you know a Catherine Share, who is also known
13 as Gypsy?

14 MR. KANAREK: Object, outside the scope of direct
15 examination.

16 THE COURT: Sustained.

17 MR. MANZELLA: May we approach the bench?

18 THE COURT: No, the objection is sustained.

19 Q BY MR. MANZELLA: Do you know a Brenda McCann?

20 MR. KANAREK: Object, outside the scope of direct
21 examination.

22 THE COURT: Sustained.

23 Q BY MR. MANZELLA: While you were living at Spahn
24 Ranch, Miss Russell, were you living there alone or were you
25 living with other people?

26 MR. KANAREK: Object, outside the scope of direct
27 examination. I did not --

28 THE COURT: Overruled. You may answer that.

1 THE WITNESS: I didn't understand his question.

2 Q BY MR. MANZELLA: I'll rephrase it.

3 While you were living at Spahn Ranch, were you
4 living there with -- were you living there with other people
5 or were you living there by yourself?

6 MR. KANAREK: I'll object on the grounds of improper
7 foundation, it is ambiguous. This record reveals --

8 THE COURT: The objection is overruled.

9 MR. KANAREK: May I make my objections, your Honor?
10 It is irrelevant and immaterial.

11 THE COURT: You may make your objection, but do not
12 argue.

13 MR. KANAREK: Calls for a conclusion.

14 THE COURT: The objection is overruled.

15 Go ahead, you may answer that.

16 THE WITNESS: He never did finish.

17 Q BY MR. MANZELLA: I didn't finish my question, is
18 that what you said?

19 A Yeah.

20 Q All right, I'll rephrase the question.

21 While you were living at Spahn Ranch, were you
22 living there alone or were you living there with other people?

23 MR. KANAREK: It is compound. Furthermore, I'll
24 object on the grounds of improper foundation. It is ambigu-
25 ous, and it is irrelevant and immaterial, and solicits a
26 conclusion, your Honor.

27 THE COURT: The objection is overruled. You may answer
28 that question.

1 THE WITNESS: Do you mean was there other people
2 with me?

3 Q BY MR. MANZELLA: Yes.

4 A Or -- from there?

5 MR. KANAREK: Well, I -- if she doesn't understand the
6 question, the proper procedure, your Honor, is for her to ask
7 that it be rephrased rather than to have colloquy back and
8 forth between her and Mr. Manzella. I ask that your Honor
9 ask Mr. Manzella to rephrase the question, if the question is
10 not clear.

11 THE COURT: The motion is denied.

12 Do you understand the question now?

13 THE WITNESS: (No response.)

14 THE COURT: Do you understand now?

15 Do you want it read back? This lady will read it
16 back to you.

17 Read it back, Miss Briandi.

18 THE WITNESS: I understand the question, but I don't
19 know if he means people outside the ranch --

20 THE COURT: Talk into the microphone. Move your chair
21 a little bit closer, then, you won't have to lean forward.

22 THE WITNESS: Does he mean people from the ranch or
23 away from it?

24 THE COURT: Well, that's -- that's a legitimate
25 question.

26 You may rephrase your question.

27 MR. MANZELLA: Yes, your Honor.

28 Q Miss Russell, do you know Charles Manson, the

1 defendant in this case?

2 MR. KANAREK: Object, outside the scope of direct
3 examination. No foundation, irrelevant and immaterial.

4 THE COURT: Sustained.

5 Q BY MR. MANZELLA: Have you ever lived with
6 Catherine Share, who is also known as Gypsy, at the Spahn
7 Ranch?

8 MR. KANAREK: Object, calling for a conclusion. It is
9 outside the scope of direct examination. No foundation.
10 Irrelevant and immaterial.

11 THE COURT: Sustained.

12 Q BY MR. MANZELLA: Do you know Randy Starr?

13 MR. KANAREK: Object -- oh.

14 (Laughter.)

15 THE COURT: You may answer the question.

16 (Laughter.)

17 THE COURT: You may answer the question.

18 I think we'll take a recess.

19 MR. KANAREK: On that note.

20 THE COURT: You are admonished, ladies and gentlemen,
21 during the recess, not to converse amongst yourselves, nor
22 with anyone else in connection with this case, nor are you
23 to form or express any opinion on the matter until it is
24 finally submitted to you. About ten minutes.

25 (Afternoon recess.)
26
27
28

12-1

1 THE COURT: The record may show that the jurors and
2 alternates are present.

3 Mr. Kanarek, you may proceed.

4 MR. KANAREK: I think Mr. Manzella was --

5 THE COURT: Yes. Mr. Manzella, you may proceed with
6 your cross-examination.

7
8 CROSS-EXAMINATION (CONTINUED)

9 BY MR. MANZELLA:

10 Q Miss Russell, did you live at Spahn Ranch during
11 part of last year, 1970?

12 MR. KANAREK: Well, your Honor, I think that's outside
13 the scope --

14 THE COURT: Overruled.

15 MR. KANAREK: -- of the record, your Honor.

16 THE COURT: Overruled.

17 MR. KANAREK: Well, may I have that question read back?

18 THE COURT: Read it, please, Mr. Williams.

19 (Whereupon the record was read by the reporter
20 as follows:

21 "Q Miss Russell, did you live at Spahn
22 Ranch during part of last year, 1970?"

23 THE WITNESS: (No response.)

24 MR. KANAREK: Your Honor, I object on the grounds it's
25 outside the scope of direct.

26 THE COURT: Overruled.

27 Q BY MR. MANZELLA: Are you thinking about your
28 answer, Miss Russell?

12-2

1 A Yes, I am trying to think of whether I was or --

2 THE COURT: You have to keep about an inch away from
3 that microphone, so that everybody in the jury can hear you.

4 MR. KANAREK: I didn't hear what she just uttered.

5 THE COURT: Say it again, so Mr. Kanarek and the
6 members of the jury can hear you.

7 THE WITNESS: I am trying to remember if I have -- if
8 I was.

9 No.

10 Q BY MR. MANZELLA: Miss Russell, did you ever
11 leave Spahn Ranch in the custody of a law enforcement
12 officer?

13 MR. KANAREK: Outside the scope of direct examination,
14 your Honor.

15 THE COURT: Overruled.

16 MR. KANAREK: And also irrelevant, immaterial; calling
17 for a conclusion; no foundation; ambiguous as to time.

18 THE COURT: Overruled. You may answer.

19 Did you ever leave Spahn Ranch in the custody of
20 a law enforcement officer?

21 THE WITNESS: Yeah.

22 Q BY MR. MANZELLA: And do you recall now whether
23 that was last year, 1970?

24 MR. KANAREK: Object; outside the scope of direct.

25 THE COURT: Overruled.

26 MR. KANAREK: Argumentative.

27 THE COURT: Overruled.

28 MR. KANAREK: And -- may I finish, your Honor?

12-3

1 THE COURT: Yes, please do.

2 MR. KANAREK: There's no foundation.

3 THE COURT: Outside the scope --

4 MR. KANAREK: And it's irrelevant and immaterial, your
5 Honor.

6 THE COURT: Overruled. You may proceed.

7 MR. KANAREK: And I would ask your Honor, then, to --
8 may we approach the bench?

9 THE COURT: No, you may not. State your objection.
10 Have you finished?

11 MR. KANAREK: Well, on equal protection of the law,
12 then, she should be allowed to invoke the privilege against
13 self-incrimination.

14 THE COURT: The objection is overruled, and the motion
15 is denied.

16 You may answer the question, if you remember
17 what it was. I'm not sure I do.

18 Would you read it, please?

19 (Whereupon the record was read by the Court
20 as follows:

21 "Q And do you recall now whether that was
22 last year, 1970?"

23 THE WITNESS: It was in February of '69.

24 Q BY MR. MANZELLA: Have you talked to Catherine
25 Share, otherwise known as Gypsy, about Shorty Shea?

26 MR. KANAREK: Object, your Honor, on the grounds it's
27 outside the scope of direct examination; irrelevant,
28 immaterial; no foundation; hearsay.

12-4

1 THE COURT: Overruled. You may answer that.

2 THE WITNESS: No.

3 Q BY MR. MANZELLA: Have you talked to Brenda McCann
4 about Shorty Shea?

5 MR. KANAREK: Object on the same grounds of no founda-
6 tion; it's irrelevant, it's immaterial; it solicits a
7 conclusion; hearsay, your Honor.

8 THE COURT: Anything further?

9 MR. KANAREK: It's outside the scope of direct,
10 clearly.

11 THE COURT: Anything further?

12 MR. KANAREK: No, your Honor.

13 THE COURT: The objection is overruled.

14 You may answer.

15 THE WITNESS: I don't know any of their first names.

16 Q BY MR. MANZELLA: Do you know a girl by the
17 name of Squeaky?

10a fls.

10a-1

1 MR. KANAREK: Object, your Honor; irrelevant, outside
2 the scope of direct.

3 THE COURT: Sustained.

4 MR. KANAREK: Immaterial.

5 Q BY MR. MANZELLA: Did you talk to Squeaky, a
6 girl by the name of Squeaky, about Shorty Shea?

7 A No.

8 MR. KANAREK: Hearsay, conclusion; outside the scope of
9 the direct, your Honor; irrelevant and immaterial.

10 THE COURT: The objection is overruled, and the answer
11 may remain in the record.

12 Q BY MR. MANZELLA: Did you talk to a girl by the
13 name of Sandy about Shorty Shea?

14 MR. KANAREK: Object, your Honor, on the same grounds:
15 irrelevant, immaterial, no foundation; solicits a conclusion,
16 and hearsay.

17 It's the same -- it's just using different
18 names; it's the same question.

19 THE COURT: Anything further?

20 MR. KANAREK: It's outside the scope of direct, your
21 Honor.

22 THE COURT: Any more?

23 MR. KANAREK: No, your Honor.

24 THE COURT: The objection is overruled.

25 You may answer the question.

26 THE WITNESS: No.

27 Q BY MR. MANZELLA: And while you were living at
28 the Spahn Ranch, were you living there with the girls that I

10a-2

1 have mentioned?

2 MR. KANAREK: Object, your Honor; outside the scope of
3 direct. Solicits a conclusion; it assumes facts not in
4 evidence. There's no foundation for it; irrelevant and
5 immaterial.

6 THE COURT: Sustained.

7 Q BY MR. MANZELLA: Did you live with members of the
8 Manson Family?

9 MR. KANAREK: Object, your Honor. It's assuming facts
10 not in evidence. There's no foundation for it. It solicits
11 a conclusion; irrelevant, immaterial; there's nothing --
12 and I would like to approach the bench, if I may, your Honor.

13 THE COURT: No, you may not.

14 MR. KANAREK: It's outside the scope of direct examina-
15 tion. We did not inquire into that subject matter.

16 THE COURT: Sustained.

17 Q BY MR. MANZELLA: Prior to the time you placed
18 your handwriting on the brown piece of paper that's been
19 shown to you by Mr. Kanarek, had you discussed the -- had you
20 discussed Shorty Shea with anyone?

21 MR. KANAREK: It's assuming facts not in evidence,
22 your Honor, in that this witness has stated that she doesn't
23 know when she placed her handwriting; so therefore, it's
24 clearly -- it's -- this question assumes her knowledge of
25 when she did it.

26 THE COURT: Objection.

27 MR. KANAREK: And there's no foundation for it.

28 THE COURT: Have you finished?

1 MR. KANAREK: Yes. And it's hearsay, and it's
2 conclusion; and it's irrelevant and immaterial.

3 THE COURT: The objection is overruled. Do you
4 understand the question? The word "prior"?

5 THE WITNESS: No.

6 THE COURT: Would you rephrase your question?

7 MR. MANZELLA: Could it be read back, your Honor? I've
8 forgotten what the question was.

9 THE COURT: All right.

10 (Whereupon the record was read by the reporter
11 as follows:

12 "Q Prior to the time you placed your hand-
13 writing on the brown piece of paper that's been shown
14 to you by Mr. Kanarek, had you discussed -- had you
15 discussed Shorty Shea with anyone?"

16 THE WITNESS: No.

17 Q BY MR. MANZELLA: Did you discuss your testimony
18 here in this court with anyone?

19 A What do you mean?

20 Q Did you talk about testifying in this case with
21 anyone, prior to the time you came here to court today?

22 A No.

23 Q Did you say "No"?

24 A "No."

25 Q Now, when you were -- strike that.

26 When you left Spahn Ranch in the custody of the
27 law enforcement officer, did you have in your possession a
28 list of people that you knew from Spahn Ranch?

1 MR. KANAREK: Object. Outside the scope of direct,
2 your Honor; no foundation; it's irrelevant, it's immaterial;
3 and it calls for a conclusion.

4 THE COURT: Mr. Manzella, do you wish to be heard?

5 MR. MANZELLA: Yes, your Honor.

6 THE COURT: All right.

10b fls.

10b
11x

1 (Whereupon, the following proceedings were had
2 at the bench among Court and counsel, outside the hearing of
3 the jury:)

4 MR. MANZELLA: When she was arrested at Spahn Ranch on
5 -- in February of 1970 -- I believe it was February 14th of
6 1970 -- at that time she had in her possession, I believe,
7 two sheets of paper, approximately 8-1/2 x 11, and the heading
8 of the paper, imprinted, was: "Here's all the people that I
9 know from Spahn Ranch."

10 And there was a list of approximately 77 names,
11 including Brenda, Squeaky and Gypsy -- and about 73 other
12 names.

13 I don't intend to go into all the names, but I
14 did want to establish that she knew Gypsy and Squeaky and
15 Brenda Mc Cann.

16 THE COURT: Is it within the scope of direct?
17 The Court doesn't believe that it is.

18 MR. MANZELLA: Well, I believe it goes to her credi-
19 bility, in that it establishes that she was associated with
20 the Manson Family.

21 You see, your Honor, I have to contend with the
22 fact that Mr. Kanarek is going to put on a probation officer,
23 who is -- ; to testify that this witness told her that she
24 heard at some period of time.

25 KANAREK: Well, that hasn't --

26 MANZELLA: If it was before August 16th of 1969, I
27 clearly care one way or the other.

28 But I am assuming that it would be after August

1 of 1969; and for that reason, I have to -- I have to attack
2 the credibility of this witness --

3 THE COURT: Oh, I see.

4 MR. MANZELLA: -- at the time that she told the
5 probation officer that she saw Shorty Shea alive. And this
6 is what I am trying to do.

7 MR. KANAREK: Well, that denies Mr. Manson a fair
8 trial. You can't -- it denies him also equal protection --

9 THE COURT: You mean to ask her whether or not she's
10 associated with the Manson Family --

11 MR. KANAREK: Well, yes. Absolutely, your Honor. I
12 mean, I -- I hope that the Manson syndrome hasn't -- hasn't
13 crept into this Court's thinking.

14 The point is, we still have the rules of evidence,
15 and -- and there's -- if he wishes to put on evidence or
16 do whatever he wants, he may; but it's outside the scope of
17 direct examination, and it's --

18 THE COURT: I see your point, in connection with the
19 issue of credibility. But I can't see that you need to --
20 in order to pursue that point -- ask about this list.

21 MR. MANZELLA: All right.

22 THE COURT: The Court believes it's -- it was
23 probably an error in sustaining Mr. Kanarek's objection about
24 her connections with the Manson Family.

25 I think you can explore that on the issue of
26 credibility.

27 MR. MANZELLA: All right.

28 MR. KANAREK: But Mr. Manson is the only defendant here,

1 your Honor.

2 THE COURT: You may proceed.

3 MR. KANAREK: And I object to --

4 THE COURT: All right. You may also ask whether or
5 not she was acquainted with or a friend of Mr. Manson.

6 MR. MANZELLA: Thank you, your Honor.

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

Q BY MR. MANZELLA: Miss Russell, do you know Mr. Charles Manson, the defendant in this case?

A Yes.

Q When did you -- strike that.

Have you ever met Mr. Manson?

MR. KANAREK: Object, your Honor, that's improper impeachment. He can inquire as to her state of mind towards Mr. Manson. Otherwise, it is irrelevant, immaterial, no foundation, and outside the scope of direct. There's a proper way to do it and that question is improper, your Honor.

THE COURT: The objection is overruled.

Do you want the question read back?

Read the question back.

(Whereupon, the record was read by the reporter as follows:

"Q When did you -- strike that.

Have you ever met Mr. Manson?")

A Yes.

Q BY MR. MANZELLA: Where did you meet him?

MR. KANAREK: Irrelevant, immaterial, and outside the scope of the direct. No foundation.

THE COURT: Overruled.

THE WITNESS: At the ranch.

Q BY MR. MANZELLA: At Spahn Ranch?

A Yes.

Q Do you recall what year that was?

1 MR. KANAREK: Irrelevant, immaterial, outside the
2 scope of the direct.

3 THE COURT: Overruled.

4 Q BY MR. MANZELLA: You may answer the question if
5 you recall what year that was.

6 A It was towards the end of '69.

7 MR. KANAREK: Your Honor, may the record reflect that
8 once again she has hesitated many, many seconds, if not over
9 a minute, before answering?

10 THE COURT: The jury is able to determine the period
11 of hesitation.

12 MR. KANAREK: I'm not saying it for the benefit of
13 the jury, I'm sure the jury is very capable. That's not the
14 point.

15 THE COURT: Very well, you may be seated, then,
16 Mr. Kanarek.

17 Q BY MR. MANZELLA: Some time after you met Mr.
18 Manson, did you live at Spahn Ranch with a girl by the name
19 of Gypsy?

20 MR. KANAREK: Outside the scope of the direct, your
21 Honor, irrelevant, immaterial, calling for a conclusion.

22 THE COURT: Overruled.

23 THE WITNESS: Yes.

24 Q BY MR. MANZELLA: While you were living at Spahn
25 Ranch, were you living there also with a girl by the name of
26 Squeaky?

27 MR. KANAREK: Calling for a conclusion, irrelevant,
28 immaterial, no foundation, outside the scope of the direct.

1 THE COURT: Overruled. You may answer.

2 THE WITNESS: Yes.

3 Q BY MR. MANZELLA: And also while you were living
4 at the Spahn Ranch, during this period of time, were you living
5 there with a girl by the name of Brenda?

6 MR. KANAREK: Calling for a conclusion, outside the
7 scope of the direct, no foundation, irrelevant and immaterial.

8 THE COURT: Overruled.

9 You may answer that.

10 THE WITNESS: Yes.

11 Q BY MR. MANZELLA: And during the same period of
12 time, while you were living at Spahn Ranch, were you living
13 there with a girl by the name of Sandy or Sandra?

14 MR. KANAREK: Object on the grounds it is irrelevant,
15 immaterial, outside the scope of direct, calling for a
16 conclusion, and no foundation.

17 THE COURT: Overruled, you may answer.

18 THE WITNESS: I'm not sure.

19 Q BY MR. MANZELLA: While you were living at Spahn Ranch
20 during this period of time, was there also living there a
21 girl by the name of Sue?

22 MR. KANAREK: Object on the grounds it is -- well,
23 that's ambiguous, your Honor.

24 THE COURT: Sustained.

25 Q BY MR. MANZELLA: Was there a girl living at
26 the Spahn Ranch during this period of time by the name of
27 Sue Bartell?

28 MR. KANAREK: Object, and it is outside the scope of

1 the direct, irrelevant, and immaterial, no foundation, calls
2 for a conclusion.

3 THE COURT: Overruled, you may answer.

4 THE WITNESS: I don't know a Sue Bar-- whatever her
5 last name was.

6 Q BY MR. MANZELLA: During this period of time
7 that you were living at Spahn Ranch, were you living there
8 with other members of the Manson Family?

9 MR. KANAREK: Calling -- it is assuming facts not in
10 evidence. It solicits a conclusion. It is ambiguous, no
11 foundation for it, your Honor. It is outside the scope of
12 the direct, irrelevant and immaterial.

13 THE COURT: Sustained. It does call for a conclusion.

14 Q BY MR. MANZELLA: During this period of time
15 that you were living at Spahn Ranch, did you hear the name
16 Shorty Shea being used by any of the people you've identified?

17 MR. KANAREK: Object, your Honor, on the grounds of
18 hearsay, outside the scope of direct. It solicits a
19 conclusion. There's no foundation for it. It is irrelevant
20 and immaterial. It denies Mr. Manson a fair trial under the
21 equal protection and due process clause, and it clearly
22 -- in our direct examination we solicited only evidence from
23 this witness concerning what she said, not what anybody else
24 said, your Honor.

25 THE COURT: State your objection.

26 MR. KANAREK: I have, your Honor. It is -- now, if
27 your Honor is going to rule adversely, I would ask to approach
28 the bench because --

1 THE COURT: I'll sustain the objection.

2 Q BY MR. MANZELLA: During the time -- strike that.

3 In answer to a question asked by Mr. Kanarek on
4 direct examination you said that you heard the name Shorty
5 Shea while you were at Spahn Ranch.

6 MR. KANAREK: I'll object.

7 Q BY MR. MANZELLA: From whom did you hear the name
8 Shorty Shea?

9 MR. KANAREK: I'll object to the form of that question,
10 in that he is just paraphrasing. It is assuming facts not
11 in evidence.

12 THE COURT: The objection is sustained. You may
13 rephrase your question.

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1 Q BY MR. MANZELLA: While you were living at Spahn
2 Ranch, from whom did you hear the name Shorty Shea?

3 MR. KANAREK: Object, your Honor, on the grounds it is
4 outside the scope of my direct examination. It is assuming
5 facts not in evidence. There's no foundation for it. It is
6 not relevant or material.

7 THE COURT: All right, the Court overrules the
8 objection. You may answer it.

9 THE WITNESS: Could you repeat the question?

10 MR. MANZELLA: May it be read, your Honor?

11 THE COURT: While you were at Spahn Ranch, from whom
12 did you hear the name Shorty Shea?

13 THE WITNESS: (No response.)

14 THE COURT: Can you remember?

15 THE WITNESS: No.

16 MR. KANAREK: May the record reflect she hesitated many,
17 many seconds before -- may I say this --

18 THE COURT: Go on to your next question.

19 MR. KANAREK: Before your Honor -- may I make the record,
20 your Honor?

21 THE COURT: No, you may not. Be seated.

22 Q BY MR. MANZELLA: During the time that you were
23 living at Spahn Ranch with the people you've identified, did
24 you discuss with anyone at Spahn Ranch the case against Mr.
25 Manson for the alleged killing of Shorty Shea?

26 MR. KANAREK: Object, your Honor, on the grounds it
27 is assuming facts not in evidence. It is hearsay. It is
28 ambiguous as to time. There's no foundation for it. It

11a-2

1 is irrelevant. It is immaterial. It solicits a conclusion.

2 THE COURT: Overruled. You may answer.

3 A No.

4 MR. MANZELLA: Thank you, I have no further questions,
5 your Honor.

6 THE COURT: Mr. Kanarek, direct examination --
7 redirect.

8 MR. KANAREK: Yes, thank you.

9
10 REDIRECT EXAMINATION

11 BY MR. KANAREK:

12 Q Beverly, may I ask you, you see this brown paper
13 that you say had your handwriting on it or has your hand-
14 writing on it?

15 A Yes.

16 Q To whom -- when you -- looking at that name
17 "Shorty," to whom does that name refer?

18 A I don't know.

19 Q Did you intend that name to refer to Shorty Shea?

20 A I don't know who I intended it to when I wrote
21 it.

22 Q Pardon?

23 A I don't know who I -- it was intended to be to
24 when I wrote it.

25 Q When you wrote it, did you intend the word
26 "Shorty" to mean Shorty Shea?

27 A I don't know.

28 Q Did you intend this address 817 South Burlington

11a-3

1 Avenue, Los Angeles, to be the address of Shorty Shea?

2 A I don't even know whose address that is.

3 Q My question is, did you intend for that to
4 represent the address of Shorty Shea?

5 A I don't know.

6 Q Did you intend that phone number 389-8921 to be
7 the phone number of Shorty Shea?

8 A I don't know.

9 Q And I ask you, if I may, when did you write this
10 on this brown piece of paper, Miss Russell?

11 A I don't remember when I wrote it.

12 Q But you remember writing it, is that correct?

13 A I wrote it, but I don't know when.

14 MR. KANAREK: Thank you.

15 MR. MANZELLA: No questions, your Honor.

16 THE COURT: May she be excused now?

17 MR. KANAREK: No, your Honor, we ask that she not be
18 excused.

19 THE COURT: The Court will excuse her.

20 MR. KANAREK: And ask that she -- may we approach the
21 bench, your Honor?

22 THE COURT: No, you may not.

23 She is excused at this time.

24 MR. MANZELLA: May we approach the bench, your Honor?

25 THE COURT: Yes.

26 Would you wait just a minute with her, please?

27 (Whereupon, the following proceedings were had
28 at the bench among Court and counsel, outside the

11a-4

1 hearing of the jury:)

2 THE COURT: If there is any good reason for ordering
3 her back, she is in custody, the Court will order her back.
4 It is anticipated, as I understand it, from talking to her
5 probation officer, that she will not be released.

6 MR. MANZELLA: Yes, your Honor.

7 Your Honor, the reason I asked to approach the
8 bench was the witness that we were attempting to contact,
9 John Swartz, S-w-a-r-t-z, is available and is present outside
10 the courtroom now. And the People at this time would ask
11 permission to reopen and call Mr. Swartz.

12 I believe that under Section . 32 of the Evidence
13 Code the Court has the discretion to do that.

14 In other words, it places within the trial Judge
15 the discretion to regulate the order of proof and permit
16 reopening on behalf of the People.

17 I would like to say further that the evidence
18 that Mr. Kanarek has introduced so far is not pertinent to
19 what Mr. Swartz will testify to.

20 In other words, I don't feel that Mr. Swartz'
21 testimony comes in the nature of rebuttal of what Mr. Kanarek
22 has presented thus far in his defense.

23 The point I am making is that I don't believe
24 there is any prejudice to the defense by calling Mr. Swartz
25 out of order at this time.

26 THE COURT: What is it that you anticipate Mr. Swartz
27 will show?

28 MR. MANZELLA: Well, Mr. Swartz will testify that he

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1 was arrested in the August 16th raid at Spahn Ranch. That
2 after his release he spoke to Donald Shea. And that Donald
3 Shea told him that he was going to accept a job offer from
4 Frank Retz as a night watchman.

5 That sometime thereafter Mr. Swartz noticed that
6 he -- that Shorty was not at the ranch, and that that conver-
7 sation was about the last time that he saw Shorty Shea at
8 the ranch.

9 That about ten days to two weeks later he asked
10 Mr. Manson if he had seen Shorty, and Mr. Manson said, "No,
11 I haven't -- yes, I have seen him. That he got a job in
12 San Francisco through a friend of mine. I gave him a few
13 dollars and Shorty left to go to San Francisco."

14 That a few days later Mr. Manson and other members
15 of the Family left the Spahn Ranch.

16 And that three or four days after that, Danny
17 DeCarlo and Bill Vance arrived at Spahn Ranch in the
18 possession of Mr. Shea's guns and attache case.

19 That while Mr. Swartz was in the gun room, that
20 Mr. Vance and Mr. DeCarlo entered the gun room with the guns
21 and the attache case and that each one of them broke down
22 and began to clean one of Mr. Shea's guns, and those are the
23 matched set of revolvers, People's 53-A and -B for identifica-
24 tion.

11b Fls.

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1 MR. KANAREK: Well, I object to my case being
2 interrupted, your Honor, absolutely. There's no reason --

3 THE COURT: Do you have your next witness?

4 MR. KANAREK: My next witness is ready and has been
5 here all day.

6 THE COURT: Who is that?

7 MR. KANAREK: Christine Berger, and it interferes with
8 my continuity, and there is no necessity --

9 THE COURT: If it really would interfere with your
10 continuity, the Court will permit you -- the Court will permit
11 you to do that, but not at this moment.

12 MR. MANZELLA: The reason I offered it at this time,
13 because this was the soonest opportunity I had to offer Mr.
14 Swartz' testimony.

15 THE COURT: Mr. Swartz is here?

16 MR. MANZELLA: Yes, your Honor.

17 THE COURT: Do you wish me to order him back for tomorrow
18 or for Thursday?

19 MR. MANZELLA: All right, fine.

20 MR. KANAREK: I would object to the People reopening at
21 this time in the middle of our case, absolutely. People vs.
22 Carter -- they cannot bifurcate, they cannot do this very
23 thing that they are trying to do. They cannot -- they cannot,
24 after they've rested -- they've rested and they cannot reopen.
25 And I object. It is a denial of equal protection and due
26 process, and it is a denial of a fair trial for Mr. Manson
27 for your Honor to allow them to reopen in the middle of my
28 case. It is absolutely --

11b-2

1 THE COURT: Well, some latitude is allowed to the
2 discretion -- is left to the discretion of the Court to permit
3 latitude on the part of either party to introduce evidence
4 out of order, and it is my inclination to permit it.

5 The Court has allowed considerable latitude
6 towards you, Mr. Kanarek, in the presentation of this last
7 witness's testimony.

8 MR. KANAREK: The latitude wasn't --

9 THE COURT: The Court would permit it, but I think that
10 your comment about interrupting the continuity of your
11 presentation this afternoon is well taken.

12 MR. MANZELLA: I'll call Mr. Swartz, then, your Honor.

13 THE COURT: All right.

14 MR. REPPETTO: May I be excused now, your Honor?

15 THE COURT: The Court thanks you for being here, and in
16 the event we should call Miss Russell back, I'll ask the
17 Clerk to call your office and see if you can be present.

18 MR. REPPETTO: Yes, your Honor, and I'll make every
19 effort to be here.

20 THE COURT: The Court thanks you for accepting the
21 appointment today on such short notice.

22 MR. REPPETTO: Thank you, your Honor.

23 (Whereupon, the following proceedings were had
24 in open court within the presence and hearing of the
25 jury:)

26 MR. MANZELLA: Your Honor, Mr. John Swartz entered the
27 courtroom. He's a witness on behalf of the People.

28 THE COURT: Mr. Swartz, you needn't take the witness

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1 stand at this time. The Court would order that you return
2 tomorrow morning at 9:00 o'clock -- 9:30, without further
3 notice or subpoena.

4 MR. SWARTZ: Okay.

5 MR. MANZELLA: Your Honor, the court will be in recess
6 tomorrow.

7 THE COURT: Thank you. Thank you. I saw somebody jump
8 over there in the jury box.

9 Mr. Swartz, I'm in error in ordering you back
10 tomorrow.

11 Would you come back on Thursday?

12 MR. SWARTZ: Yes.

13 THE COURT: Thursday morning at 9:30. The Court orders
14 you back without further notice or subpoena, that you be here
15 on Thursday morning, at 9:30.

16 You are excused now until Thursday morning at
17 9:30.

12 fls. 17

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1 The Court will be in session tomorrow, but not
2 on this case.

3 Call your next witness, Mr. Kanarek.

4 MR. KANAREK: Yes, your Honor. Call Christine Berger.

5 THE COURT: Miss Berger?

6 THE CLERK: Will you raise your right hand, please?

7 You do solemnly swear that the testimony you may
8 give in the cause now pending before this Court shall be the
9 truth, the whole truth, and nothing but the truth, so help
10 you God?

11 THE WITNESS: Yes, I do.

12
13 CHRISTINE MARIE BERGER,
14 called as a witness by and on behalf of the People, being
15 first duly sworn, was examined and testified as follows:

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

17 Would you state and spell your full name?

18 THE WITNESS: My name is Christine M. -- Marie --
19 Berger; C-h-r-i-s-t-i-n-e, M-a-r-i-e, B-e-r-g-e-r.

20
21 DIRECT EXAMINATION

22 BY MR. KANAREK:

23 Q Yes. Is it Mrs. Berger?

24 A Yes, it is.

25 Q Mrs. Berger, what is your business or occupation?

26 A I am a Deputy Probation Officer for Los Angeles
27 County.

28 Q And were you in that capacity when you first

1 spoke to Beverly Russell?

2 A Yes, I was.

3 Q And where were you when you first spoke to
4 Beverly Russell?

5 A I was in San Fernando Valley Juvenile Hall.

6 Q Located in an interview room, or in what kind of
7 a -- what part of the facility?

8 A I believe it was her bedroom.

9 Q And at a time -- would you tell us when that was?

10 A That was in April of 1970.

11 Q And at that time did she -- just a moment.

12 May I approach the witness, your Honor?

13 THE COURT: Yes, you may.

14 Q BY MR. KANAREK: Mrs. Berger, I show you a brown
15 piece of paper, which is attached to a manila envelope,
16 and marked -- or a manila folder, rather -- and marked
17 Defendant's J for identification, and ask you if -- would
18 you take that, please?

19 Would you tell us if Beverly Russell gave you that
20 piece of paper?

21 A No, she didn't. Her counsellor gave it to me.

22 Q And who was her counsellor?

23 A I don't know her name. It was the person in
24 charge of Beverly's property.

25 Q And directing your attention to that piece of
26 paper, did you and Beverly Russell discuss that piece of
27 paper?

28 A Yes, we discussed it at length.

1 Q And did Beverly Russell tell you that she wrote
2 that piece of paper?

3 A I don't remember that she actually wrote that
4 name, address and telephone number on it, but --

5 Q Well --

6 A -- it was her piece of paper.

7 Q No. Did she tell you that she put the imprint
8 on it?

9 A No, she didn't tell me that.

10 Q And did she tell you what the piece of paper
11 represented?

12 A Yes. She told me that it was Shorty's current --
13 Shorty Shea's current address and telephone number.

14 Q She told you that that was where Shorty Shea was
15 living?

16 A Yes, that's right.

17 Q Would you read that address for us?

18 A 817 South Burlington Avenue, Los Angeles.

19 Q And did she tell you what the phone number was?

20 A Well, it's on the paper.

21 Q Did she tell you what that represented, as to
22 whose phone number it was?

23 A Yes. She said it was his telephone number, if
24 I wanted to call him.

25 Q And did she tell you what the name "Shorty" on
26 that piece of paper meant?

27 A Yes. That was Shorty Shea -- Donald Shea, I think
28 his name is.

1 Q And did you then call the Sheriff's Department
2 and inform them of this piece of paper?

3 A Yes, I did. The next day.

4 Q And you gave someone at the Sheriff's Department
5 Homicide this information, --

6 A Yes.

7 Q -- is that correct?

8 A Yes, that's correct.

9 MR. KANAREK: Thank you.

10 Thank you, your Honor.

11 THE COURT: Any cross?

12
13 CROSS-EXAMINATION

14 BY MR. MANZELLA:

15 Q Is that -- Mrs. Berger, is that all that Miss
16 Russell told you about that piece of paper?

17 MR. KANAREK: Outside the -- well, that is soliciting a
18 conclusion, your Honor; it's irrelevant, it's ambiguous,
19 when he uses the word "that."

20 THE COURT: Sustained on the first ground.

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1 Q BY MR. MANZELLA: Mrs. Berger, did Miss Russell
2 tell you anything else about that piece of paper, other than
3 what you have already testified to?

4 MR. KANAREK: Well, that allows the witness to make a
5 conclusion, and it's -- and I object to the form of the
6 question. It's improper. There's no foundation for it.

7 It solicits hearsay. It's not relevant or
8 material; it's ambiguous.

9 THE COURT: Overruled. You may answer.

10 Yes or no.

11 THE WITNESS: Uh -- I'm trying to remember. We had a
12 long conversation, and --

13 THE COURT: Well -- you may answer the question. Just--

14 THE WITNESS: Could I -- could you ask the question
15 again?

16 THE COURT: Without saying what was said, if anything
17 was said -- do you understand? -- simply answer yes or no.

18 THE WITNESS: Yes.

19 Q BY MR. MANZELLA: That was -- strike that.

20 There was more to the conversation, or that was
21 essentially the conversation, what you have told us about?

22 MR. KANAREK: I'll object on the use of the word
23 "essentially." It's calling for a conclusion, your Honor.

24 THE COURT: Sustained.

25 Q BY MR. MANZELLA: Mrs. Berger, did Miss Russell
26 tell you anything else about the piece of paper, other than
27 what you have already told us?

28 MR. KANAREK: That solicits a conclusion.

1 THE COURT: Excuse me. She has answered that.

2 MR. MANZELLA: Your Honor, could my original question
3 be read back? I don't remember how I phrased it, with the
4 objections made. I have -- I've forgotten how I phrased
5 the question.

6 So I don't know what the witness' answer means,
7 your Honor.

8 THE COURT: She has answered that something more was
9 said about the piece of paper.

10 Is that correct?

11 THE WITNESS: That's right.

12 Q BY MR. MANZELLA: All right. Would you tell us
13 what else was said about the piece of paper by Miss Russell?

14 MR. KANAREK: I'll object to that as soliciting a
15 conclusion; it's assuming facts not in evidence; it's ambigu-
16 ous, your Honor; no foundation for it.

17 We have no reference point to begin "what else,"
18 where the break-off point is.

19 It's an improper -- I object to the form of the
20 question.

21 THE COURT: Overruled. You may answer.

22 THE WITNESS: Well, she told me that she had visited
23 Shorty Shea at that address, before she was arrested --
24 shortly before she was arrested; and she was arrested in
25 March --

26 Q BY MR. MANZELLA: Of what year?

27 A Of 1970.

28 Q And were you her probation officer at that time?

1 A In March?

2 Q No, at the time that you had the conversation with
3 regard --

4 A Yes, I was.

5 Q -- to the piece of paper?

6 And did you do a background investigation on Miss
7 Russell?

8 MR. KANAREK: Object. Outside the scope of direct
9 examination; calls for a conclusion; no foundation; irrelevant
10 and immaterial;

11 My questions were very short and to the point,
12 and --

13 THE COURT: Excuse me. Just state your objection.

14 MR. KANAREK: Yes, your Honor.

15 THE COURT: Sustained.

16 Q BY MR. MANZELLA: Where was Miss Russell living
17 at the time she was arrested, if you know?

18 MR. KANAREK: Object, your Honor, on the grounds it's
19 outside the scope of my direct examination; irrelevant;
20 calling for a conclusion.

21 THE COURT: Anything further?

22 MR. KANAREK: No, your Honor.

23 THE COURT: Overruled.

24 THE WITNESS: She was living at the Spahn Ranch.

25 THE COURT: Excuse me. The question was ambiguous,
26 and the answer is stricken. It's ambiguous as to time.

27 MR. MANZELLA: Your Honor, my question stated: "At
28 the time of the arrest, her arrest." The witness testified

1 that her arrest was in March of 1970.

2 12b file

3 Does the Court still feel it's ambiguous?

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1 THE COURT: Yes, the Court does feel it's ambiguous.
2 The answer would thus be conclusionary.

3 The answer is stricken, ladies and gentlemen.

4 Q BY MR. MANZELLA: Now, how often, after you --
5 strike that.

6 When did you become Miss Russell's probation
7 officer, --

8 MR. KANAREK: Irrelevant, immaterial --

9 Q BY MR. MANZELLA: -- on what date?

10 MR. KANAREK: I'm sorry. Have you finished, Mr. --

11 Or, has Mr. Manzella finished, your Honor?

12 THE COURT: Apparently he has.

13 MR. KANAREK: Then it's irrelevant, immaterial; outside
14 the scope of my direct examination; no foundation.

15 THE COURT: Overruled. You may answer.

16 THE WITNESS: I became her probation officer in April
17 of 1970.

18 Q BY MR. MANZELLA: And was that as a result of
19 her arrest on Spahn Ranch in March of 1970?

20 MR. KANAREK: Objection, your Honor. It's outside the
21 scope of my direct. It solicits a conclusion; no foundation;
22 it's hearsay.

23 THE COURT: Sustained as to the form of the question.

24 Q BY MR. MANZELLA: Now, after you became Miss
25 Russell's probation officer, how often did you have contact
26 with her?

27 MR. KANAREK: Object. Outside the scope of my direct;
28 irrelevant and immaterial.

1 THE COURT: Overruled. You may answer.

2 THE WITNESS: I saw her once in April, once or twice
3 on -- in May; about -- about three times in June and July;
4 and I think once in August.

5 I'm not too sure.

6 Q And this is August of 1970?

7 A Yes.

8 Q And have you -- strike that.

9 Did you terminate your relationship with her as
10 probation officer in August of 1970?

11 MR. KANAREK: Outside the scope of direct; calling for
12 a conclusion; irrelevant and immaterial.

13 THE COURT: Overruled.

14 THE WITNESS: No, I didn't.

15 Q BY MR. MANZELLA: Did you have any further
16 contact with her after August of 1970?

17 MR. KANAREK: Irrelevant, immaterial; outside the scope
18 of direct examination.

19 THE COURT: Overruled.

20 THE WITNESS: Yes, I did.

21 Q BY MR. MANZELLA: And would you tell us how often
22 after that you had contact with her?

23 MR. KANAREK: Irrelevant, immaterial; outside the scope
24 of direct examination, your Honor.

25 THE COURT: Overruled.

26 THE WITNESS: Our contacts from September of 1970 until
27 May of 1970 were by telephone only.

28 Q Now, other than the conversation you've told us

1 about in April of 1970, when Miss Russell's counsellor handed
2 you the brown piece of paper with the writing on it, other
3 than that conversation, did you have any other conversation
4 with Miss Russell in regard to the information contained on
5 that brown piece of paper?

6 MR. KANAREK: Object to the form of the question; it's
7 compound; it's not relevant; it's not material.

8 There's no foundation for it. It assumes facts
9 not in evidence.

10 THE COURT: Overruled.

11 THE WITNESS: I had a conversation with Beverly every
12 time I visited her, throughout the summer of 1970.

13 Q BY MR. MANZELLA: With regard to --

14 MR. KANAREK: Your Honor, may that be stricken? Because
15 it is not -- Mr. Manzella and my examination refers to that
16 piece of paper, and I believe the answer was not responsive.

17 THE COURT: Overruled -- or rather, denied.

18 Q BY MR. MANZELLA: Are you saying that you had
19 conversation with regard to the information on that brown
20 piece of paper?

21 MR. KANAREK: Object to the form of the question. It
22 solicits a conclusion. It's not relevant or material; there's
23 no foundation for it.

24 THE COURT: Overruled.

25 THE WITNESS: Our ensuing conversations were about the
26 information on the brown piece of paper, as well as periphery
27 information.

28 MR. MANZELLA: May I have a moment, your Honor?

1 THE COURT: You may.

2 (Pause in the proceedings while a discussion off
3 the record ensued at the counsel table between Mr.
4 Manzella and Sergeant Whiteley.)
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12c fls.

1 Q BY MR. MANZELLA: All right. Mrs. Berger, did you
2 discuss with Miss Russell at any time her testimony here in
3 court?

4 A No, I didn't.

5 MR. KANAREK: Object, your Honor --

6 Q BY MR. MANZELLA: Did your relationship with her
7 as probation officer terminate in May of 1971? Or did it
8 continue after that?

9 MR. KANAREK: Object. That's irrelevant and immaterial,
10 and outside the scope of my direct, your Honor.

11 THE COURT: Overruled.

12 THE WITNESS: My relationship with her terminated in
13 August of 1971.

14 Q BY MR. MANZELLA: And you at no time discussed
15 with her the fact that she would be called as a witness to
16 testify; is that correct?

17 MR. KANAREK: Asked and answered, your Honor.

18 THE COURT: Sustained.

19 Q BY MR. MANZELLA: Now, when were you first contacted
20 with regard to being a witness in the case?

21 MR. KANAREK: Irrelevant, immaterial.

22 THE COURT: Overruled.

23 THE WITNESS: On -- well, last Sunday.

24 Q BY MR. MANZELLA: And who contacted you?

25 MR. KANAREK: Irrelevant, immaterial; a denial of due
26 process and equal protection; no foundation.

27 THE COURT: Sustained.

28 Q BY MR. MANZELLA: Now, did you bring the fact of

1 the -- strike that.

2 What did you do with the note, after Miss Russell's
3 counsellor gave it to you?

4 MR. KANAREK: Irrelevant, immaterial, and outside the
5 scope of direct examination, your Honor.

6 THE COURT: Sustained.

7 Q BY MR. MANZELLA: How did the note get here to
8 court, Miss Berger, if you know?

9 MR. KANAREK: Irrelevant, immaterial; outside the scope
10 of direct; calling for a conclusion.

11 THE COURT: Sustained.

12 Q BY MR. MANZELLA: Did you tell anybody about the
13 note? Other than the Sheriff's Homicide?

14 MR. KANAREK: I object, your Honor, on the grounds it's
15 outside the scope of direct examination; irrelevant, immaterial;
16 no foundation.

17 THE COURT: Overruled.

18 MR. KANAREK: Solicits a conclusion.

19 THE COURT: You may answer.

20 THE WITNESS: Yes. I told Mr. Kanarek about it.

21 Q BY MR. MANZELLA: And when did you tell him about
22 it?

23 MR. KANAREK: Irrelevant, immaterial, your Honor. A
24 denial of the right to effective counsel. It -- it -- it's --
25 there's no foundation for it.

26 There's -- it's -- may we approach the bench,
27 if your Honor is going to rule adversely?

28 THE COURT: The objection is sustained.

1 MR. MANZELLA: Thank you. I have no further questions.

2 MR. KANAREK: Thank you. Thank you, Mrs. Berger.

3 THE COURT: Thank you, Mrs. Berger. You may step down.

4 Call your next witness.

5 (Pause in the proceedings.)

13⁹ fls.

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1 THE COURT: Ladies and gentlemen, we'll give you a
2 breather for about five minutes.

3 You are admonished during the recess you are
4 obliged not to converse amongst yourselves, nor with anyone
5 else, nor permit anyone to converse with you on any subject
6 connected with the matter, nor are you to form or express
7 any opinion on the matter until it is finally submitted to
8 you.

9 (Short recess.)

10 THE COURT: You may proceed now, Mr. Kanarek.

11 MR. KANAREK: Yes, your Honor.

12 Yes, your Honor, call Ernest Shepard.

13 THE BAILIFF: Stand right there.

14 MR. KANAREK: Your Honor, we would ask that he be
15 allowed to take the witness stand like any witness.

16 THE COURT: Surely.

17 THE CLERK: Would you raise your right hand, please.

18 THE WITNESS: Uh, I don't swear, I affirm.

19 THE CLERK: Do you affirm that the testimony that you
20 may give in the cause now pending before this court shall be
21 the truth, the whole truth, and nothing but the truth, this
22 you do under pain and penalty of perjury?

23 THE WITNESS: That's correct.

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

25 THE BAILIFF: Would you state your name, please?

26 THE WITNESS: My name is Ernest X. Shepard.

27
28 ERNEST X. SHEPARD,

1 called as a witness by and on behalf of the defendant, having
2 been first duly sworn, was examined and testified as follows:

3
4 DIRECT EXAMINATION

5 BY MR. KANAREK:

6 Q And what does the X stand for, Mr. Shepard?

7 A The X is, uh, a letter given to us by the
8 Honorable Elijah Muhammad. It is given to one who has
9 embraced the Islamic religion and following the teachings of
10 the Honorable Elijah Muhammad. X means ex-slave, too, for
11 white folks, ex-everything. Ex-Negro, ex-everything I was
12 before I joined the Nation of Islam.

13 Q And where do you reside, Mr. Shepard?

14 A Well, do you take that -- if I were released or
15 during my incarceration?

16 Q Your present place of residence.

17 A In the, uh, -- in the Los Angeles County Jail.

18 Q And where is your place of residence other than
19 the Los Angeles County Jail in custody?

20 A Folsom Prison.

21 Q You have come from Folsom Prison to testify in
22 this case?

23 A Yes, sir.

24 Q And directing your attention, Mr. Shepard, to
25 any other name that you may have.

26 What other name do you have besides Ernest Shepard?

27 A Uh, once, uh, I adopted a Swahili name, the name
28 Hekima.

1 Q And how do you spell that?

2 A H-e-k-i-m-a.

3 Q Now, directing your attention, then, to Mr. Manson.
4 Would you say that you are a friend of Mr. Manson's?

5 A A friend?

6 Q Yes.

7 A Uh, I don't understand friend.

8 Q You don't understand the word friend?

9 A No, sir.

10 Q I see. You mean you don't understand what the
11 word is, as I use it?

12 A Friendship as far as an emotional attachment
13 between two people, this type of friendship?

14 Q Yes, this is what I am saying.

15 A Uh, no, sir.

16 Q Then, directing your attention to Mr. Manson.
17 Did you come to know Mr. Manson at a time when
18 you were in custody and he was in custody?

19 A Yes, sir.

20 Q And was that at a time when you were in the Los
21 Angeles County Jail?

22 A Yes, sir.

23 Q Was that at a time -- well, would you tell us
24 when that was?

25 I'll withdraw that and ask you when was it that
26 you first met Mr. Manson?

27 A Yes, sir.

28 This was approximately 18 months ago. This is

1 when I was down in the Los Angeles County Jail, fighting the
2 present case that I am convicted of now. Charlie Manson had,
3 uh, just gotten arrested for the crimes -- had just gotten
4 arrested. We were both placed in the same tank with approxi-
5 mately 50 other persons.

6 Q And you became acquainted with Mr. Manson in that
7 atmosphere?

8 A Yes, sir.

9 Q Is that correct?

10 A Yes, sir.

11 Q Would you tell us what your relationship is with
12 Mr. Manson? How do you feel towards him?

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

15 MR. KANAREK: It has to go -- it goes to show bias and
16 prejudice, your Honor.

17 THE COURT: The objection is overruled.

18 MR. MANZELLA: Your Honor, I would like to approach the
19 bench on this, please.

20 THE COURT: You may not. You may answer it.

21 THE WITNESS: Would you repeat the question, please?

22 MR. KANAREK: Yes, may it be read, your Honor?

23 THE COURT: Yes.

24 (Whereupon, the record was read by the reporter
25 as follows:

26 "Q Would you tell us what your relationship
27 is with Mr. Manson? How do you feel towards him?"
28

13a-1

1 THE WITNESS: Uh, my relationship with Mr. Manson,
2 basically, as a relationship would be with any person, you
3 know, that I would encounter. Uh, I recognize him for what
4 he is, as I recognize or tend to recognize every person for
5 what they are.

6 Uh, my contacts with Mr. Manson, observing his,
7 uh, mind, his mental process, uh, his relation to life, to
8 the world, uh, -- is that what -- is this, uh, the relationship
9 that you would like for me to describe?

10 Q BY MR. KANAREK: Yes.

11 MR. MANZELLA: I object, your Honor, beyond what the
12 witness has already testified to, the answer would be
13 irrelevant.

14 THE COURT: Ask your next question.

15 MR. KANAREK: Is your Honor stopping the witness from
16 testifying further in answer to --

17 THE COURT: Have you finished your answer?

18 Did you finish your answer?

19 THE WITNESS: Well, I asked a question.

20 THE COURT: Have you finished the answer to that last
21 question?

22 THE WITNESS: No, sir.

23 MR. KANAREK: May he be allowed to finish, your Honor?

24 THE COURT: Go ahead.

25 THE WITNESS: Charlie Manson is one who is keenly
26 aware of the times that we're living in.

27 THE COURT: Well, that may be stricken.

28 Do you know what the question is?

1 THE WITNESS: The question is, uh, my relationship
2 with him. Uh, what I, uh, feel in regards to my relation-
3 ship with Charlie Manson.

4 THE COURT: No, that's not the question.

5 Read the question to him.

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

8 "Q And would you tell us what your relation-
9 ship is with Mr. Manson? How do you feel towards him?")

10 THE COURT: That's really two questions. First answer
11 what's your relationship with Mr. Manson.

12 THE WITNESS: My relationship with every person or any
13 person on the planet earth.

14 THE COURT: All right. The other, I will reverse my
15 ruling in respect to the second part of it, how do you feel
16 toward him.

17 THE WITNESS: Well --

18 THE COURT: I will sustain the objection to that.

19 Ask your next question.

20 Q BY MR. KANAREK: Did you observe Mr. Manson obey
21 all the rules of the jail --

22 MR. MANZELLA: Object.

23 Q BY MR. KANAREK: -- Mr. Shepard?

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

26 THE COURT: Sustained, calls for a conclusion, likewise.
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1 Q BY MR. KANAREK: While you were in custody with
2 Mr. Manson, did Mr. Manson violate any jail rules within your
3 observation?

4 MR. MANZELLA: Objection, your Honor. It calls for a
5 conclusion on the part of the witness, and it's not relevant.

6 THE COURT: Sustained.

7 MR. KANAREK: May I approach the bench, your Honor?

8 THE COURT: No, you may not.

9 Q BY MR. KANAREK: While you were in the County Jail
10 with Mr. Manson, Mr. Shepard, were there certain jail rules
11 that you and he were both obliged to obey?

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

14 THE COURT: Sustained.

15 MR. KANAREK: May I approach the bench, your Honor, and
16 make an offer of proof?

17 THE COURT: All right. You may make your offer of proof.

18 (Whereupon, the following proceedings were had at
19 the bench among Court and counsel, outside the hearing of the
20 jury:)

21 MR. KANAREK: This --

22 THE COURT: Yes?

23 MR. KANAREK: Yes, your Honor. Within the context of
24 this trial, your Honor, because of what has gone on before the
25 jury, the jury may well believe that Mr. Manson, in custody,
26 is a person who is cantankerous, recalcitrant, truculent,
27 intransigent; he -- in other words, a very real part of this
28 trial is the impression that these people have concerning

1 Mr. Manson in custody.

2 And we have a right -- we have a right to have this
3 jury recognize that -- and realize that Mr. Manson is not that
4 type of person.

5 His -- it's happened here. The jury -- these are
6 facts of life, in connection with this trial. It's been
7 projected to this jury, all of the various utterances and what
8 has happened with Mr. Manson; and so it's -- and so we have a
9 right to bring to that jury's attention the fact that Mr. Manson
10 is not that type of person, it -- that -- in a custodial
11 atmosphere.

12 Whatever is projected, or whatever view they may
13 have as a result of what has occurred in this courtroom,
14 while he's in custody, is not Mr. Manson; because they are
15 going to evaluate -- they're going to integrate what has
16 happened in this courtroom with the evidence that the
17 prosecution has presented.

18 And it's -- it's a very real and it's a very --
19 in fact, it's a very important part of this trial, as far as
20 Mr. Manson is concerned.

21 That jury has a certain state of mind concerning
22 Mr. Manson, and we have a right to defend on that. We have a
23 right to put forth evidence and show this is not the case.

24 THE COURT: The People?

25 MR. MANZELLA: Yes, your Honor. The People's objection
26 is on the grounds that specific acts of good conduct are not
27 admissible, in the same manner in which specific acts of mis-
28 conduct are not admissible, with regard to the character of an

1 accused or any other witness.

2 Secondly, the People have offered no evidence on
3 Mr. Manson's character for obeying or disobeying rules. We
4 have offered no evidence that he has or has not obeyed rules
5 in jail.

6 And finally, any -- strike that. The jury can
7 have no impression that Mr. Manson does not obey rules in jail.
8 They have -- there's no evidence, no -- nothing's been
9 introduced or brought out before them which would indicate
10 that Mr. Manson does not obey the rules in jail.

11 MR. KANAREK: Not so, your Honor. In connection with
12 the pounding on the door here; in connection with -- in
13 connection with Mr. Manson's utterances in court, in custody,
14 and in the custody of the bailiff.

15 THE COURT: Well, this man is not going to testify to
16 his conduct in court, is he?

17 MR. KANAREK: Well, but if he's in custody, he is not
18 on bail; he is in custody, and --

19 THE COURT: The Court will sustain the objection to this
20 line of questioning.

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

23 Q BY MR. KANAREK: Mr. Shepard, you observed
24 Mr. Manson continuously over a period of months in custody; is
25 that correct, --

26 A Yes, sir.

27 Q -- as you have indicated to us?

28 A He lived three doors down.

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1 Q Do you know Mr. Manson's reputation in that jail --
2 in that custodial atmosphere -- for obeying the jail rules?

3 MR. MANZELLA: Objection, your Honor. That sort of
4 reputation testimony is not relevant in this case.

5 MR. KANAREK: Well, then, I -- then may we approach the
6 bench? I believe --

7 THE COURT: The objection is sustained.

8 You may not approach the bench.

9 MR. KANAREK: Well, then -- in view of the Court's
10 rulings, thank you, Mr. Sheppard.

11 THE WITNESS: I beg your pardon?

12 MR. KANAREK: Thank you. I have no further questions,
13 in view of the Court's rulings.

14 THE COURT: You may step down.

15 Ladies and gentlemen, it's shortly after 4:30.
16 I'll see you on Thursday at -- what does our calendar look
17 like on Thursday?

18 THE CLERK: Bad.

19 THE COURT: Pretty bad?

20 I'll see you on Thursday at 10:00 o'clock.
21 Be here five minutes early, if you would, please. If you
22 would, report in about five minutes early.

23 During the recess, remember the admonition, that
24 you are not to converse amongst yourselves or with anyone else,
25 nor permit anyone to converse with you on any subject
26 connected with this matter, nor are you to form or express any
27 opinion on the matter until it is finally submitted to you.

28 Remember, too, the admonition that I have

1 heretofore given you, that you are not to see, hear or read
2 anything in connection with this trial or any other trial
3 involving any -- Mr. Manson's name.

4 And take care of yourselves. I'll see you on
5 Thursday. Good night.

6 (Murmurs of "good night" were heard from members
7 of the jury.)

8 (Whereupon, the jury was excused at 4:33 p.m.,
9 and the following proceedings were had outside the presence
10 and hearing of the jury:)

11 THE COURT: Mr. Manzella, have you been able to ascer-
12 tain whether Linda Kasabian will be ready for the defense to
13 be present on --

14 MR. MANZELLA: I don't think she will be ready for
15 Thursday, your Honor.

16 THE COURT: On Thursday?

17 MR. MANZELLA: Not on Thursday.

18 THE COURT: How about Friday?

19 MR. MANZELLA: We are making the arrangements now. I
20 think she can be ready Friday or Monday. I am trying to have
21 her available for Friday.

22 THE COURT: All right. See what you can do about having
23 her available Thursday, if you can.

24 MR. MANZELLA: Yes, your Honor.

25 THE COURT: Mr. Kanarek, do you have one other prisoner
26 that you wish to order from --

27 MR. KANAREK: Yes.

28 THE COURT: -- San Quentin, I believe it was?

1 San Quentin or Folsom? To testify?

2 MR. KANAREK: The California Institution For Men at
3 San Louis Obispo.

4 THE COURT: Do you know whether or not that person is
5 in the County Jail?

6 MR. KANAREK: I have no personal knowledge, but I feel
7 that the Court's order -- hopefully, I hope that it's been
8 obeyed.

9 THE COURT: Would you ascertain whether or not that
10 prisoner has been brought to the County Jail or not? Do that
11 by phone call, and let me know.

12 MR. KANAREK: If the Court wishes me to.

13 THE COURT: I don't want there to be any delay.

14 Do you have witnesses ready on Thursday, other
15 than the --

16 MR. KANAREK: Oh, I don't think that there has been --
17 I think the record would reveal that we have not --

18 THE COURT: Mr. Kanarek, do you have witnesses ready
19 for Thursday, other than that man, to proceed with?

20 MR. KANAREK: Well, as your Honor has indicated, I was
21 hoping for Linda Kasabian.

22 THE COURT: On Thursday?

23 MR. KANAREK: Well, as soon as -- I -- I am trying to --

24 THE COURT: All right. Then would you --

25 MR. MANZELLA: Yes, your Honor. We'll try.

26 THE COURT: Do what you can, Mr. Manzella, to have her
27 here on Thursday.

28 MR. MANZELLA: Your Honor, if it's possible to have her

1 here on Thursday, she will be here Thursday.

2 THE COURT: Very well. I should think it could be
3 arranged. The Court will sign the order, if necessary, for
4 the expenses involved.

5 MR. MANZELLA: Yes, your Honor.

6 THE COURT: The Court believes that Mr. Kanarek did
7 serve her properly; and therefore, she should be here.

8 MR. MANZELLA: Yes, your Honor.

9 THE COURT: Is there any other matter concerning
10 witnesses that you wish to discuss?

11 MR. KANAREK: Well, we have Magdalene Shea, that we have
12 asked for.

13 MR. MANZELLA: When do you want her?

14 MR. KANAREK: Well, again, I don't want to inconvenience
15 any witnesses --

16 THE COURT: She will be produced here on Thursday, then?

17 MR. MANZELLA: All right.

18 MR. KANAREK: And also --

19 THE COURT: And who else?

20 MR. MANZELLA: John Swartz, your Honor, will be called
21 by the People.

22 THE COURT: Mr. Swartz may be called by the People.

23 And any other witness on the defendant's part,
24 that you wish to have the Court's help with securing?

25 MR. KANAREK: (No response.)

26 THE COURT: Not at this time?

27 MR. KANAREK: Not at this time, your Honor.

28 THE COURT: All right. We are in recess, then. I'll see

1 you gentlemen --

2 MR. MANZELLA: Good night.

3 THE COURT: -- at 10:00 o'clock on Thursday.

4 (Whereupon, at 4:36 p.m., an adjournment was
5 taken until 10:00 o'clock a.m. of Thursday, September 30, 1971.)
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