

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.

159

No. A-267861

REPORTERS' DAILY TRANSCRIPT

Thursday, October 14, 1971

VOLUME 59

APPEARANCES:

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

For Defendant Manson: IRVING A. KANAREK, Esq.

COPY

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

1 LOS ANGELES, CALIFORNIA, THURSDAY, OCTOBER 14, 1971 9:55 A.M.

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4 THE COURT: The case of People vs. Manson.

5 The record will show that Mr. Kanarek is present;
6 Mr. Manzella for the People; all the jurors and alternates
7 are present.

8 Good morning, ladies and gentlemen.

9 (Whereupon murmurs of "Good morning" were heard
10 from members of the jury.)

11 THE COURT: Good to see you all.

12 Mr. Kanarek, would you approach the bench?

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

16 THE COURT: You may ask Mr. Manson whether or not he
17 will conduct himself properly in the courtroom, and not
18 disturb the proceedings. If he will, then he may remain in
19 the courtroom.

20 (Whereupon, a discussion off the record ensued
21 through the screen in the detention room door between
22 Mr. Kanarek and the defendant.)

23 MR. KANAREK: Your Honor, Mr. Manson says: No.

24 THE COURT: Very well. Then you may proceed with your
25 argument.

26 (Whereupon, the following proceedings were had
27 in open court, within the presence and hearing of the
28 jury:)

1 MR. KANAREK: Your Honor, ladies and gentlemen of the
2 jury, and Mr. Manzella:

3 I've tried to set up a little tripod here, so
4 that -- so that some of these diagrams would be available for
5 all of us, just as readily -- as the People at this (indicat-
6 ing) end of the jury box.

7 Now, you'd think, with -- with everything that we'd
8 have today, that we'd have visual aids in the courtroom, for
9 instance. But you can see the mechanical problems that we
10 have, even in -- in such a thing as setting up the diagram.

11 Now, going again to this diagram on conspiracy --
12 oh, I'm sorry.

13 If we look again at this diagram concerning
14 conspiracy, and then go into some evidence that -- that we
15 are going to talk about this morning, I think that it will be
16 clear that, in fact, there's grave doubt as to whether there
17 was any conspiracy.

18 And there is no question but what Mr. Manson had
19 nothing to do with any conspiracy.

20 Now, I think we will all recall the testimony of
21 Sergeant Christansen. Sergeant Christansen testified that
22 he went to the home on January the 8th, 1970, as the result
23 of a leading question by the prosecution:

24 "Q All right.

25 "Now, directing your attention to the date
26 of January 8th of 1970, on that date did you go to the
27 location of 964 Old Topanga Canyon Road in Malibu?

28 "A Yes, I did.

1 "Q And what did you do there?

2 "A I examined a bullet hole under the
3 -- in the cabinet under the sink, in the kitchen area,
4 and recovered a bullet from the exterior siding of the
5 house at that location."

6 Now, so we have evidence before us -- no need
7 to get the bullet, but we have in evidence before us a bullet.

8 Again, looking at the conspiracy, and remembering
9 that it has to be within the -- within the area of the time
10 that the -- that the prosecution alleges -- and this is set
11 out as January 8th, 1970, as when the bullet was recovered --
12 now, does that make sense to us? Or is there something
13 there that gives us pause, to wonder.

14 Here we had, back in July, we had police officers
15 at the scene; we had police officers going over that house
16 with a fine tooth comb.

17 Does that raise our suspicions about anything,
18 as to why it was January 8th, 1970, that this police officer
19 went over and allegedly recovered a bullet?

20 There is nothing about the bullet; there's
21 nothing about the -- about the testimony of the police
22 officer that puts us in the area of the alleged conspiracy.

23 Furthermore, if you don't use the testimony of
24 accomplices -- people that the prosecution allege are
25 accomplices of Mr. Manson -- there's nothing here concerning
26 Mr. Manson in this case, as in -- maybe other situations,
27 where you have a political type of prosecution, where you
28 have a person who is prosecuted because people, somewhere in

1 our fabric of our society, somewhere are after Mr. Manson.

2 When you have a political type of situation like
3 this, these kinds of things become more significant.

4 What is there to tie that bullet to Mr. Manson?
5 Why January the 8th, 1970? And in a trial as long as this,
6 again, I'm sure that the Judge will allow any testimony that
7 any of us on the jury want to -- want read back. He will
8 have it read back to you.

9 Now, I'm trying to make some of these -- some
10 of these bits of evidence part of what we are talking about
11 here. And it's -- it's very significant that they waited
12 until January 8th, 1970, for something or other.

13 And then, when we go on further, we have the
14 aspect of the gun, the gun itself, being a gun -- if I may
15 read -- if I may read the transcript, which is the actual
16 evidence.

17 "Q All right. Mr. -- or Sergeant Christansen,
18 based upon your examination and microscopic comparison
19 between the bullet you recovered in the laboratory and
20 the People's 31 for identification, did you form an
21 opinion as to whether or not People's 31 was fired
22 from the Radom, which is People's 30?"

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1 And then he stated that he did form an opinion.

2 And then:

3 "What was the opinion?

4 "A. My opinion, the bullet in People's
5 31 could have --" that's the key word -- "could
6 have been fired from the Radom."

7 Now, then, further on, the police officer
8 testified, and he was asked whether he made a certain report,
9 and he said: "Yes, I did."

10 "Q. And directing your attention to
11 this second document, dated March 16, 1970, with
12 the same file number, 069, et cetera, that I've
13 just stated -- 13974, and 114500 at the top, did
14 you make this report?

15 "A. Yes, I did."

16 And it's not a very glamorous type of evidence,
17 but -- but it's very, very significant.

18 "Q. Directing your attention to --
19 well, I'll withdraw that and ask you:

20 "Could this bullet have been fired
21 in an Astra?

22 "A. Yes.

23 "Q. Could this bullet have been fired
24 in a Browning?

25 "A. Yes.

26 "Q. Could this bullet have been fired in
27 a Luger?

28 "A. Yes.

1 "Q Could this bullet have been fired
2 -- filed -- I'm sorry -- fired in a Starr?

3 "A Yes.

4 "Q And could this bullet have been filed
5 -- fired in a Walther semi-automatic pistol?

6 "A Yes."

7 Now, so we have a situation wherein we have a gun
8 that has no relationship to Mr. Manson. We have a gun which
9 was allegedly purchased by Bruce Davis.

10 We have a gun which was purchased by Jack Paul
11 McMillian; and the evidence shows -- the picture is that of
12 Bruce Davis -- on July the 2nd, 1969.

13 Now, what does that have to do with Charles
14 Manson? What does that have to do with a specific intent,
15 which is necessary to find someone guilty of a conspiracy?

16 What relationship does this evidence have to even
17 prove the conspiracy, before you can start talking about whether
18 or not a particular person is guilty of the conspiracy?

19 There it is, right here. And there was testimony
20 concerning this, from the -- this surplus distributors.

21 July 2nd, 1969 is the date that this gun was
22 allegedly purchased. Clearly, having nothing to do with
23 Mr. Manson. And this is not the trial -- this is not the
24 trial of Mr. Davis. This is the trial of Charles Manson.

25 Now, then, we have the testimony of Officer Grap,
26 and the testimony of this officer is that a check -- is that a
27 check was run on a certain automobile, on July the 28th, 1969.

28 Now, I don't know if any of us have had the

1 misfortune of being stopped by a police officer, late at night.
2 But it is -- in this community, what's done, they stop you;
3 and they run a little interrogation, a little interrogation on
4 you, whether they take you in and book you or not; and this
5 little interrogation slip goes into -- nowadays -- computers.

6 And then, if there's anything about that automobile,
7 or anything about that person that is connected up, later,
8 by other events, something else that happens in the area,
9 that interrogation slip is used as a basis for coming back and
10 talking to the guy who may not be booked at that particular
11 instant.

12 "Q Did you do anything in connection
13 with that vehicle, the vehicle shown in
14 People's 1 for identification?"

15 Here is the Fiat automobile. This is People's 1.
16 I mean, it's -- this is the automobile concerning which we
17 all know what the testimony was. There's the -- Officer
18 Whiteley testified about it, and the gentleman from San Luis
19 Obispo, the police officer -- whose name was Mr. Humphrey --
20 testified about that automobile.

21 "Q Did you do anything in connection
22 with that vehicle, the vehicle shown in People's
23 1 for identification?"

24 "A. Yes. I ran a check on it for the
25 registered owner of the vehicle."

26 Now, remember, this is at the Spahn Ranch, which --
27 which, from what we have seen here, was the most intensively
28 viewed area; the surveillance on it was -- from what we've

1 learned in this courtroom -- was fantastic.

2 It was viewed constantly. There were police
3 cars all around -- all around the area, day and night --
4 which is something to think about, by way of the supposed
5 killing of Shorty Shea; when you think of surveillance that
6 was on that ranch, whether someone could be screaming at night,
7 and not have a police officer hear it, is something to think
8 about. But that's a different matter, at this point.

9 But with the -- with the intense interest on the
10 Spahn Ranch, with the intense interest on the people on the
11 Spahn Ranch, and with the intense interest on what was going
12 on there, we have this vehicle -- which later on, just a short
13 time later on, results in -- in Mr. Beausoleil being arrested.

14 We have this -- "Yes, I ran a check on it for the
15 registered owner of the vehicle.

16 "Q Is that a vehicle registration
17 check?

18 "A Yes, sir."

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1 And then further on -- I'm trying to save time
2 here, trying to read as little testimony as possible, but I --
3 I think that some of it is indispensable.

4 "Q And have you ever seen that Fiat
5 station wagon, showing you People's 1 for
6 identification, before July 28, 1969?

7 "A Yes, I had.

8 "Q And where had you seen it?

9 "A In Topanga Canyon, in the City of
10 Topanga.

11 "Q And can you be more specific as to a
12 location where you saw it before?

13 "A It was at the junction of Old Topanga
14 Canyon and Topanga Canyon Boulevard; and the owner --"

15 And then:

16 "Q Did you -- have you ever seen that
17 vehicle, the Fiat station wagon, in front of 964
18 Old Topanga Canyon Road?"

19 The answer is: "Yes." Which is -- which is
20 Gary Hinman's. That's a leading question right there,
21 suggesting its own answer.

22 The man says: "Yes." And so we have the -- the
23 incredible situation that this automobile was connected with
24 the ranch -- and remember, remember that supposedly, they tell
25 us that the body of Gary Hinman was found August -- on July
26 30th, 31st, or something like that.

27 And so here we have this interrogation, this
28 field interrogation slip, connecting the Spahn Ranch with that

1 automobile.

2 Does that tell us anything? Well, it tells us --
3 it tells us that, when they filed this Indictment, in
4 December of 1970, after the Tate-La Bianca case -- remember
5 that the Tate-La Bianca -- the alleged Tate-La Bianca murders
6 occurred on August 8th and 9th and 10th of 1969.

7 Can you imagine the intense focus upon Charles
8 Manson? Mr. Manson being arrested in October of 19-- October
9 the 12th of 1969?

10 But that's part of the staging that has gone into
11 this prosecution.

12 There's nothing here -- there's nothing here
13 except -- except -- I mean, it's less than skyhooking. It's
14 -- it's the kind of thing that shows the wish on the part of
15 some people to convict Charles Manson, no matter what.

16 And the fact that nothing was done about it shows
17 that they -- at that time -- at that time, of course, there
18 was nothing to connect Mr. Manson; and so at a later time,
19 for political reasons, for reasons of somebody wanting to get
20 a certain result, the -- no matter what -- they come up with
21 this charge against Mr. Manson.

22 Now -- just a minute, please.

23 (Pause in the proceedings.)

24 MR. KANAREK: As part of this -- as part of this so-
25 called conspiracy against Mr. -- in connection with
26 Mr. Hinman, I want to read, if I may, the exact words that were
27 in the transcript of the Bobby Beausoleil case.

28 Because the prosecution read to us -- the prosecution

1 read to us Mary Brunner's testimony. And I think we will all
2 recall that the prosecution did not read what we are now going
3 to read.

4 It was after the prosecution had read what they
5 chose to read that this was read to you. And it's part of the
6 same testimony of Mary Brunner.

7 "Q And before going there, did you
8 have a conversation with anybody about going
9 to Mr. Hinman's house?

10 "A Yeah.

11 "Q And with whom? And with whom?

12 "A Bobby asked me if I wanted to go
13 up there.

14 "Q And did he tell you what for at that
15 time?

16 "A Not right then.

17 "Q And when was it that he asked you
18 about going to Gary Hinman's house? Was it during
19 the morning or evening or afternoon of that day?

20 "A That night, shortly after dark, when
21 I got home."

22 Now -- now, in this connection, if I may, I
23 would like to discuss the law of accomplice. The law of
24 accomplice which the Court is going to give us in great detail
25 -- I'm not going to read the -- I'm not going to read the
26 jury instructions which go on for some length.

27 But -- but basically, basically and historically,
28 the reason that the law of accomplice came into being is

1 because, by its very nature, the testimony that comes from
2 someone who is claimed to be an accomplice -- someone the
3 prosecution claims did certain things -- is untrustworthy.

4 As a matter of fact, the Court, in one of its
5 instructions, will tell us that there is a lack of trustworthi-
6 ness in accomplice testimony.

7 Now, so what the Court is going to instruct us to
8 determine, whether or not the law of accomplice is corroborated,
9 the Court is going to tell us that what we do is -- let's say
10 that we have here a body of evidence; let's say that there's
11 evidence of an accomplice.

12 And let's diagram it that way. And that that some-
13 how or other comes before us when we are listening to the
14 evidence. The Court says: "To find out if there is
15 corroboration, you remove -- you remove all of the accomplice
16 testimony. You take it out of your mind, discard it, and see
17 if there is anything left to connect up the defendant with
18 what allegedly went on."

19 Because a -- because of what we have spoken of,
20 about an accomplice's testimony being deemed untrustworthy,
21 so you remove it, take it out.

22 That would be the testimony of Ella Jo Bailey;
23 the testimony of Mary Brunner. Those people are accomplices.

24 Now, again -- and I'm sure that when the prosecu-
25 tion speaks, speaks to us again, the prosecution will tell us
26 -- will try to -- try to dwell upon the proposition that
27 Ella Jo Bailey is not an accomplice.
28

Ac-1

1 We suggest that Ella Jo Bailey -- there's no
2 question about it, that Ella Jo Bailey is an accomplice.
3 Remember that the jury has the power -- the jury has the
4 power to reject the testimony of any witness.

5 And just because -- because somebody takes that
6 witness stand doesn't mean that we have to accept one word
7 of it as being true.

8 Evidence does not equal fact. Evidence becomes
9 fact only when the jury decides that it's fact.

10 Now, so the jury -- you are going to be given
11 instructions as to what an accomplice is. An accomplice is
12 someone who is liable to be indicted or charged with the
13 very same crime.

14 Let's -- let's for a moment think. If Ella
15 Jo Bailey -- if Ella Jo Bailey didn't do what law enforce-
16 ment wanted her to do, is she liable to be prosecuted for
17 the very same crime?

18 There's no question about it, that she would be
19 prosecuted for the very same crime.

20 They have dwelt much upon the Manson Family.
21 They've dwelt much upon -- why do they say that? Why do
22 they -- why do they advocate evidence, reams of evidence,
23 concerning the Manson Family?

24 Because they want -- they want us to think in
25 terms of -- that Mr. Manson was responsible for everything
26 that happened at that ranch. That's why they dwell upon
27 the Manson Family.

28 It's a -- it's a technique to try to capture our

Qc-2

1 thinking, so that whatever these people do, we will think
2 that this is -- that Mr. Manson is responsible for it.

3 Now, Ella Jo Bailey testified that she -- she
4 suggested Gary Hinman and all of that. I'm sure we all
5 remember that. But -- but there is no question but what
6 Ella Jo Bailey is liable to be prosecuted for this very
7 crime.

8 Now, the fact that they didn't prosecute her --
9 the fact that she's not named in the indictment doesn't mean
10 that we should allow ourselves to be hoodwinked.

11 Because in that jury instruction, it's for the
12 jury to determine whether Ella Jo Bailey -- whether Ella Jo
13 Bailey was liable to be prosecuted.

14 Of course, she was liable to be prosecuted.

15 The fact that somebody didn't decide to ask for --
16 ask the Grand Jury for an indictment doesn't mean she wasn't
17 liable.

18 Tex Watson -- Tex Watson is present on that
19 ranch. Tex Watson, according to -- according to Ruby Pearl,
20 had a certain -- uh -- place, she says, in connection with
21 Mr. Shea.

22 Tex Watson is liable to be prosecuted. The
23 District Attorney's office chose not to -- not to ask for an
24 indictment, for reasons of strategy with the mass media.

25 The intermingling of the Tate-La Bianca case and
26 this case -- it's the -- it's a clever attempt to -- to use
27 the publicity, and get certain people in the public's eye,
28 along certain criminal lines, and then come back with this

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kind of an indictment.

If you look at the big picture of it, and you look at the politics involved, and you look at the press releases that the District Attorney has accomplished, it's clearly a strategy, using us -- using all of us in a -- in a scheme for the political advancement of certain individuals.

Now, Tex Watson -- Tex Watson was just as much a part of -- was just as much a part, according to Ruby Pearl, as Charles Manson.

Bill Vance -- Bill Vance -- can you think of a more non-judicious use of public power, than not indicting Bill Vance?

But the reason they didn't is obvious; because Bill Vance is the boy friend of Ella Jo Bailey. Bill Vance and Ella Jo Bailey, according to what we have been told here, were very tight; they were very close to each other.

And if they indict Bill Vance, then they don't get Charles Manson, because if they indict Bill Vance, can you picture Ella Jo Bailey on this witness stand?

These are some of the things that we have to think about, in connection with Mr. Manson.

Mr. Manson is arrested, thrown into a dungeon, and then the publicity begins to grind out (indicating), so that our minds are captured.

And if we think of some of these other factors, and the motivation behind them, maybe it may give us some -- some insight as to why we are in this very -- in this very courtroom, as we are today, with Charles Manson, who, we

Ac-4

1 all know, allegedly having been convicted of seven counts of
2 murder, and having received seven death sentences, and a
3 conspiracy count.

4 So these are some of the things that are important,
5 because this jury has the power -- this jury has the power,
6 because of the intense focus upon Charles Manson, to set this
7 country straight on the administration of criminal justice.

8 This jury has the power -- out of this courtroom
9 can come an awakening, so that the law is -- is impartially
10 administered; not this wheeling and dealing kind of thing that
11 we have seen in this courtroom.

12 This jury has that power. And the -- the power
13 that this jury has in -- is because of the evidence.

14 There's no question about it. We can do our
15 obligation as jurors; and at the same time, do something for
16 ourselves and our country. Because what is happening in
17 this country today, in the administration of criminal justice,
18 is deplorable.

19 The things that are happening in the prisons, the
20 things that are happening is because of the sense of unfairness
21 that people in our prisons get from this very kind of wheeling
22 and dealing that we see in this -- this very case, this very
23 case.

Ad fls.

Ad-1

1 And there's no question, there's no question but
2 what Bill Vance is not a defendant here because of Ella Jo
3 Bailey and someone's -- someone's insane desire to get
4 Charles Manson, no matter what.

5 So, in looking -- in looking at the law of
6 accomplice, it will be what we decide is whether or not there
7 is any evidence to connect the defendant, after you take away
8 -- after you take away all of the accomplice testimony.

9 Now, in the case of the Hinman matter, there's
10 nothing -- there's nothing to connect Mr. Manson with the
11 conspiracy to rob and murder, except -- and we'll get into
12 that -- except purported statements of Mr. Manson.

13 Now, if -- remember, don't let -- don't let
14 anyone tell us that there is any evidence to connect Mr.
15 Manson by way of the physical evidence; because remember,
16 take for instance -- well, excuse me.

17 (Pause in the proceedings, while a discussion
18 off the record ensued at the Clerk's desk between
19 Mr. Kanarek and the Clerk.)

20 MR. KANAREK: Take for instance this sword. Now, this
21 sword is in two pieces, and the same principles apply in
22 connection with this sword that apply in connection with the
23 knife that was in the Fiat.

24 It isn't corrob -- corroboration does not come
25 by a mere piece of physical evidence, other than the testimony
26 of an alleged accomplice, before a piece of evidence -- a
27 piece of evidence can be determined to be corroborative,
28 it must somehow or another, independent of the alleged

Ad-2

1 accomplice, it must connect the defendant with the events,
2 with the alleged crime.

3 Now, this sword -- this sword was not found by
4 anyone at the residence of Gary Hinman. The only way that
5 this sword can be connected with Mr. Manson is by the most
6 remote -- by the most remote of testimony, showing people
7 something like this (indicating) -- which is now in two
8 parts -- and asking them leading and suggestive questions.

9 And then, surmising that this sword is the sword
10 that had something to do with Mr. Hinman.

11 The testimony of Mary Brunner, at the Bobby
12 Beausoleil trial, cannot corroborate this sword, because Mary
13 Brunner is liable to be prosecuted for this very same crime.

14 The fact that she's not named in the indictment
15 does not -- does not mean that she's not liable to be
16 prosecuted, the same way that Bill Vance and Ella Jo Bailey --
17 the same way that those people are liable to be prosecuted
18 and not named.

19 By the same token, Mary Brunner is liable to be
20 prosecuted for this -- for the events at the Gary Hinman home.

21 And so we have before us this sword, which is
22 broken up into two pieces -- and remember, the prosecution has
23 the burden to convince beyond a reasonable doubt; and there is
24 no explanation for this, nothing except Mr. Springer's statement
25 that he got this somewhere in a motel; no explanation as to
26 this most unusual and most unique situation, wherein this
27 sword is in two parts before us, without any explanation.

28 And so the question is -- the question is: Is

Ad-3

1 there any evidence to connect Mr. Manson with what went on
2 in the Hinman house?

3 This sword was -- was, according to the testimony
4 here of Mr. Springer, this sword was retrieved from a place --
5 and certainly, it had no -- certainly, it wasn't within any
6 time that's alleged in the indictment.

7 So the question is: Whether or not this sword
8 is corroborative. Can we make -- can we corroborate the
9 testimony of the alleged accomplices by using this sword?
10 That's for -- that's for -- that's for us to determine. But
11 it defies the imagination.

12 I have gone through the transcript, and I've
13 tried to connect up the various -- the various bits of
14 evidence pertaining to this sword.

15 And when you ask someone a leading question,
16 "Have you ever seen this sword, like in the dune buggy?" or
17 something like that, when it's in two parts, and you are
18 charging a man with murder and conspiracy to rob and murder,
19 is that -- is that the kind of testimony that should be
20 used for any purpose in a courtroom? Without -- without
21 some explanation?

22 Because the fact that the prosecution alleges that
23 certain people were at the Hinman house, it could have happened
24 completely differently. It could have happened -- it could
25 have happened with people who had nothing to do with the
26 Spahn Ranch.

27 It doesn't have to be the way that the prosecution
28 says it is, with these witnesses.

Ad-4

(Pause in the proceedings.)

MR. KANAREK: Now, we know -- and this is why it's -- actually, it's interesting, if it wasn't so tragic. If it wasn't so tragic, it would be -- the interest in it, as a problem, would be -- would be something that you could -- might want to talk about, over coffee or over a beer, just discussing it, because it's such an interesting situation.

And this is referring to the lift of the print:

"Q All right. Mr. White, directing your attention to the exhibit which has been marked People's 24 for identification, now, have you ever seen that exhibit before?

"A Yes, sir.

"Q And when and where did you see it?

"A August 1st, 1969. I lifted this latent print at 964 Old Topanga Canyon Road from the south facing of the door frame, between the kitchen and the hall. It was approximately 36 inches above the floor."

Ae fls.

AE

1 Now, again, as we know, this print is connected up
2 with Mr. Beausoleil. Now, that does not corroborate.

3 When you talk about the law of accomplice, first
4 of all, the over-all situation is: It doesn't corroborate,
5 because clearly, Mr. Beausoleil, who isn't named in this
6 Indictment at all, is liable to be prosecuted for what happened
7 in the Hinman home.

8 And we happen to know that Mr. Beausoleil has
9 been convicted of what happened in the Hinman home.

10 This print -- this print was lifted on August the
11 1st, 1969. But when was it laid down?

12 Again, because it was found on August the 1st,
13 1969, does it mean that it was laid down or had anything to
14 do with the crime that's alleged in the Indictment, July 25th
15 and July 28th?

16 We know that Mr. Beausoleil -- we know that
17 Mr. Beausoleil was in that home frequently. We know that
18 Mr. Beausoleil and Paul Watkins, from the evidence that's been
19 told us here, they were thrown out; they were thrown out of
20 the Gary Hinman home sometime earlier.

21 Mr. Watkins was quick to protect himself and indi-
22 cate, in that bit of testimony, that it was Bobby Beausoleil
23 who was really being thrown out, because Mr. Watkins didn't
24 want to become involved with what supposedly happened in the
25 Gary Hinman home.

26 So, Mr. Beausoleil was privy to the -- to the
27 Gary Hinman home on many, many, many occasions. And this one
28 fingerprint is -- we are brought one fingerprint; we are not --

1 the bullet, somehow or other, was not brought to us as of
2 August 1st, 1969. But this fingerprint is brought to us.

3 And so, based upon what the Court is going to tell
4 us, there is nothing about that fingerprint of Bobby Beausoleil
5 that has anything to do with Mr. Manson and this case, and the
6 -- any kind of attempt to corroborate these hypotheses, because
7 of the fact that it doesn't connect Mr. Manson to the Gary,
8 Hinman home.

9 And for evidence to be corroborated, it must
10 connect the defendant, independent of the testimony, or
11 objects that are testified to, or any events that are testified
12 to by accomplices.

13 And so -- so, having that in mind, we shouldn't
14 allow ourselves to -- to use that fingerprint for any attempt
15 at corroboration.

16 (Pause in the proceedings.)

17 MR. KANAREK: Now, in connection with Mr. Beausoleil,
18 the Court is going to instruct you -- and not specifically, but
19 we -- but we -- we suggest that this is -- this is what --
20 this is what applies.

21 The Court is going to instruct you that the --
22 the acts or declarations and so forth that happened after --
23 happened after the time period of the conspiracy cannot be
24 used against the defendant that's on trial; that is, other than
25 his own acts or declarations.

26 Now, Mr. Beausoleil, he's the one that fled the
27 scene. He's the one that fled the Spahn Ranch area, if we are
28 to believe the evidence.

1 Mr. Beausoleil is the one who was up in San Luis
2 Obispo on August the 6th. Mr. Beausoleil is the one who was
3 in that automobile, and was leaving Southern California. It
4 wasn't Mr. Manson.

5 Now, the prosecution is going to probably suggest
6 to us that Mr. Manson ran away. Mr. Manson ran away.

7 Well, when you look at the harassment that was
8 going on at that Spahn Ranch, the police officers coming there,
9 day and night, police officers focusing their attention upon
10 this -- upon Mr. Manson, it's up to -- it's up to us, on the
11 jury, to decide: Was Mr. Manson running away because he was
12 afraid that he was going to be prosecuted for some crime?

13 Can we -- can we -- is there any -- is there any
14 way that we can assume that what Mr. Manson did, when he left
15 the Spahn Ranch area, was consistent with innocence?

16 Because the Court's going to instruct us about
17 circumstantial evidence. The Court's going to say that if
18 there are two reasonable interpretations of circumstantial
19 evidence -- and this -- this is why -- this is why it's
20 productive to take the law and integrate the law with the
21 evidence.

22 If there are two interpretations that are
23 reasonable, and one interpretation points to the defendant's
24 innocence and the other interpretation points to his guilt,
25 the Court's going to instruct us, in cold black type, that
26 this is -- it's our duty to take the -- that which points to
27 his innocence, if both of them are reasonable.
28

1-1

1 Now, if we can put ourselves in this situation,
2 the supposed Tate-La Bianca murders occurred on August 8,
3 9th, and 10th, but what the prosecution calls the crime of
4 the century.

5 Mr. Manson is accused in connection with those,
6 the Hinman case which occurred on August -- allegedly at the
7 end of July, 1969. For Shea, which allegedly occurred
8 before September 1, 1969.

9 Did Mr. Manson, when he went up in that desert
10 area, was he running away from the police? Yes, he was
11 running away from the police.

12 THE COURT: We'll take a break at this time, ladies
13 and gentlemen. You are admonished that during the recess you
14 are obliged not to converse amongst yourselves, nor with
15 anyone else, nor permit anyone to converse with you on any
16 subject connected with this matter, nor are you to form or
17 express an opinion on it until it has finally been submitted
18 to you.

19 (Morning recess.)

20 THE COURT: All right, both counsel and all the jurors
21 are present.

22 You may proceed, Mr. Kanarek.

23 MR. KANAREK: If I may, I would like to, if I may, pass
24 among the jury pictures, because I'm sure that the prosecution
25 is going to suggest to us that Mr. Manson was running away
26 when he went to the desert and the -- I mean, it is -- it is
27 so obviously not so, you would think that this would not be
28 advocated.

1-2

1 But the fact is that these pictures that we're
2 passing now, these pictures are -- plus this one that we
3 remember that was marked especially People's K, these
4 pictures were taken on August 16, 1969. That these pictures
5 were taken on a date when the Gary Hinman -- the Gary Hinman
6 case had already supposedly, as far as the murder was
7 concerned, that already was an accomplished fact.

8 What would any one of us do if we were harassed
9 the way that Mr. Manson was personally harassed by these
10 people at the Spahn Ranch?

11 It's an unreasonable -- is it unreasonable to
12 expect that what he did was something that anyone of us might
13 have done?

14 It is -- this operation on August 16, 1969, was
15 like a military invasion of the Spahn Ranch. There was --
16 there was just like a briefing, like D-Day. There was the
17 soldiers or the -- these police officers met at Malibu
18 Station in early -- the morning of August 16th. They were
19 briefed. They had air cover. They had automatic or semi-
20 automatic weapons. Mr. Manson was arrested on that date. He
21 was then again arrested on August 24, I believe it was, he
22 was arrested.

23 What -- how much does a person have to take
24 before leaving an area where this type of harassment goes
25 on? Is it reasonable to expect -- is it reasonable to
26 expect that you can only take so much?

27 And we suggest that what was done is certainly
28 reasonable. This was, in fact, a raid.

1-3

(Whereupon, there was a long pause in the proceedings while the photographs were passed throughout the jury.)

MR. KANAREK: Now, when we speak about this sword on August 16th, and we think about what happened to this sword, and we think of the place that Mr. Springer has and whatever went on, -- sit down and put these people -- diagram these people and consider the relationships of these people that have come here to the courtroom. Mr. Springer -- and this is sort of obscure in the transcript when you read it, and it just sort of -- it sort of stands out, the fact that Mr. Springer, remember, was there on August 15th, and if we go a little bit behind what people say on the witness stand, if we think of the relationships of the people involved, rather than just the words that they utter, maybe we will get a kernel of truth in a trial where things are more or less formalized.

That is, we get a witness, and another witness, and another witness, and there's a tendency for some of these things to become mechanical. And just because we hear the words, they're sort of a response that -- that those words create standing alone, which gives us a different response, if we consider the relationship of the people involved.

And in that regard -- in that regard, let's -- let's -- I'll just say, "D.D.C," that's Danny DeCarlo.

There's Alan Springer.

There's Charles Manson.

1-4

1 There's Bruce Davis.

2 Mary Brunner.

3 Ella Jo Bailey.

4 Tex Watson.

5 Linda Kasabian.

6 Steve Grogan.

7 Paul Watkins.

8 Bruce Poston -- pardon me, Brooks Poston.

9 Barbara Hoyt.

10 Ruby Pearl.

11 George Spahn.

12 That gives us some of them that we've heard about
13 in this courtroom.

14 Now, then, if you take the mere words that are
15 uttered from the witness stand and integrate that with time,
16 along with the people involved, you come to some very, very
17 strange results.

18 Now, Mr. Springer was there, he says, on August
19 15th. We know that Mr. Springer had a great affection for
20 Danny DeCarlo. He came up to the ranch and he testified that
21 on August 15th he got this sword.

22 Now, why? Why would he take that sword on
23 August 15th?

24 If we consider his relationship and affection and
25 so forth for Danny DeCarlo, he was up there to protect Danny
26 DeCarlo.

27 Does the taking of this sword have anything to do
28 with protecting Danny DeCarlo?

1 What was he up there for?

2 What was his motive?

3 Why was Mr. Springer there?

4 He wasn't there to protect Charles Manson. He
5 was there to protect Danny DeCarlo. He wanted to take Danny
6 DeCarlo, as a matter of fact, back home with him to Venice.

7 And he took this sword.

8 Now, because -- because somebody -- because the
9 people -- that the prosecution chooses to bring to this
10 courtroom, because those people do not include Danny
11 DeCarlo, who has -- who has a fantastic place in these
12 proceedings, like with the Shea guns and so forth, why isn't
13 Danny DeCarlo named as a defendant?

1a fls.

1A

1 Why isn't Danny De Carlo brought here to testify?

2 Because Danny De Carlo is not here and he is not
3 before us, doesn't mean that he wasn't at the Hinman house.

4 How do we place him in these proceedings?

5 Why would Mr. Springer take this knife and slice
6 it in two? And why doesn't the prosecution, with all of this
7 investigative capacity and all of that, why don't they tell us
8 why that knife was sliced in two?

9 Maybe the reason the knife was sliced in two might
10 just take a little bit off of the back of Charles Manson and
11 put it upon Mr. De Carlo. It is something to consider in view
12 of the testimony of Mr. Springer.

13 When you consider, in addition, the -- when you
14 consider, in addition, the benefits that Mr. Springer got
15 personally, by virtue of his conversations there in the
16 Venice Police Station, by virtue of his -- whatever he did
17 after Mr. Manson, after the focus is upon Mr. Manson -- does
18 the slicing up of this weapon have any significance?

19 It's got to be. There's got to be a reason.
20 There's got to be a reason that that weapon was cut in half.
21 And there's no question about it.

22 "You mean --" and this is the interrogation
23 of, uh, Mr. Springer.

24 "And at the time that you were in jail,
25 you did memorize that date, though?

26 "October the 15th.

27 "Q. It is October 15th, that's the
28 date you were in jail?

1 "A Give or take a day or two.

2 "Q You mean October 13th, 14th,
3 15th or 16th, something like that?

4 "I believe it was October the 15th
5 the police were after me, and approximately
6 a week and a half later they caught me. Now,
7 that's as close as I can come.

8 "And after they caught you, you were
9 put in custody in the Venice Jail?

10 "A Yes.

11 "Q When you were in custody in this
12 Venice Jail is when you made the statements?

13 "A Uh, I was asked a lot of questions
14 right up to the point about what was going on.
15 It was a beat-around-the-bush and not on my side.

16 "My question is, after you were in jail
17 you told the police about these statements that
18 you spoke of to Mr. Manzella?

19 "A Right.

20 "Then, the date that you spoke of them
21 was not August the 15th, it was some other date?

22 "A A later date, yes.

23 "Q So when you said it was August 15th --

24 "A I didn't say I talked to them August
25 15th.

26 "It was near October 15th to the 25th or
27 something of that order, within that length of
28 time.

1 "You don't even know within a range of
2 10 or 15 days what day it was, is that true?

3 "A. I was making one thing my personal con-
4 cern at that time.

5 "Q. What's that?

6 "A. I was making one thing my personal
7 concern at that time. I remember that date better
8 than I would any other.

9 "Q. When you say 'that date,' are you
10 referring to the time you spoke to the police
11 officers first concerning the statements that you
12 have mentioned concerning Mr. Manson to Mr. Manzella?

13 "A. No, that date I meant was August the
14 15th and the 16th, while the 11th and 12th --
15 because I was trying to retrieve my motorcycle
16 friend back to where he belonged before he got
17 himself in a lot of trouble."

18 Now, is the relationship of Danny De Carlo and
19 Alan Springer, is that significant in connection with viewing
20 -- in connection with viewing what Mr. Springer told us?

21 Would Mr. Springer -- say, Danny De Carlo said,
22 "I killed Gary Hinman." Would Mr. Springer tell that to the
23 police on August -- or October 15th?

24 No. Whatever happened -- he's going to tell it
25 the way they want to hear it on October 15th.

26 On October 15th, Mr. Manson has been arrested
27 already three days. In the entire world, for some reason or
28 other, -- is dumping all of -- all of these events upon

1 Mr. Manson.

2 And so the police want to -- want to make it
3 heavier, and heavier, and heavier. And this man who has
4 extensive police experience in how to get out of trouble --
5 so what does he do? He tells them what they want to hear.
6 He's not going -- Danny De Carlo was right at the Spahn Ranch.
7 He was right in the middle of -- of events that were going on
8 there. There's no question about it.

1 The prosecution's own evidence shows that
2 Mr. Smith is Danny De Carlo.

3 Can we believe, can we take the statements of a
4 man like Mr. Springer and use them -- and use them in this
5 context, in connection with what's going on as far as what
6 they want to do with Mr. Manson?

7 Can we use them the way that the prosecution wants
8 us to use them?

9 Or should we back off a little bit and think of
10 the motivations of people, what makes people tick.

11 And clearly, Alan Springer could accomplish two
12 things when he was sitting in that Venice Jail. He could
13 accomplish two things. He could help himself get out of
14 legal difficulty, which he did; and he can take it off the
15 back of Danny De Carlo, his friend, and put it upon Mr.
16 Manson by just telling these people what they wanted to hear.

17 Now, significant -- and again, this is -- this is
18 the reason -- this is the reason that we have reasonable doubt
19 in our law. That's the reason -- that's one of the reasons
20 that the fact that the police can go out and do these things.
21 Someone on the other side of the counsel table, you just
22 can't do it. You can't go out and get evidence the way the
23 police can do it. And they use this arbitrary naked power just
24 that way, arbitrarily, to just get a result. And that is
25 clear in this case, that that is what -- that that is what
26 has happened.

27 Here we have Mr. Springer testifying.

28 "Now, did you see -- now, you saw Mr. Hinman

1 "in Venice, you say; is that right?

2 "A That's right.

3 "Q Where did you see Mr. Hinman in
4 Venice?

5 "A A little place where the club and
6 everybody used to hang out, called the Potpourri
7 down by Rose Avenue at the beach, dead ends at
8 Rose Avenue into the ocean.

9 "Q Rose Avenue dead-ends into the ocean?

10 "A Right, in Venice.

11 "Q And Mr. Hinman was there?

12 "A Right.

13 "Q When was it that you saw Mr. Hinman
14 there last? The last time you ever saw him there.

15 "A That was about a month before Danny
16 decided to go up and start hanging around the
17 ranch, or so. Maybe three or four months before
18 all this happened.

19 "Q And you -- you were -- your state of
20 mind was, you were unhappy at not having Mr. De Carlo
21 around?

22 "A That's right.

23 "Q Now, this -- you say you saw
24 Mr. Hinman driving this truck at the Potpourri,
25 near the Potpourri?

26 "A Yes. Some time before all the trouble
27 came down, or the incidents happened or whatever.

28 "Q Well, did you actually see Mr. Hinman

1 "drive this automobile?

2 "A. Yes. He was -- he drove it down
3 to the Potpourri, in the big parking lot, and
4 then he had left with it."

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1 "Q Well, was Mr. Hinman -- did you speak to
2 Mr. Hinman on this occasion?

3 "A No, I didn't.

4 "Q Did someone introduce you to Mr. Hinman?

5 "A I wasn't introduced. I was told that that
6 was Mr. Hinman by Danny DeCarlo.

7 "Q When you saw this bus, you were telling us
8 about?

9 "A Right. He says that --

10 "Q No. I'm not asking you for what Mr.
11 DeCarlo told you.

12 "A All right. Yes.

13 "Q And that was what date? Can you give us
14 the date?

15 "A About a month.

16 "Q Well, give me the date.

17 "A I don't know the date.

18 "Q Like February 7, 1922, or something? Could
19 you give us the -- your best estimate of the date?

20 "A About the middle of June.

21 "Q Of what year?

22 "A '69.

23 "Q And is that the only time in your life
24 that you ever saw Mr. Hinman?

25 "A Yes, it is. As I said, I don't know him
26 well. I just seen him."

27 Now, the fact of the matter is, that Danny
28 DeCarlo was there at the ranch. Danny DeCarlo was right in

2-2

1 the middle of something that Mr. Springer didn't like,
2 didn't want for his friend.

3 And he took, and he did what he could to get Mr.
4 Springer (sic) away from the Spahn Ranch.

5 Now, Danny DeCarlo was arrested on August the
6 16th, 1969. And in connection with that, that type of police
7 activity, we had -- I think we have -- I think we have to
8 speak to the fact, which is, again, apparent to all of us,
9 from what we've seen, the fact that Mr. Manson is not in the
10 courtroom right now.

11 Mr. Manson's -- uh -- speech -- now, we talk about
12 free speech in this country. Now, the press go out and --
13 the press go out, and they say anything that they want to say.
14 There's no limitation.

15 As a matter of fact, in the Pentagon papers,
16 I remember a few weeks ago reading what I thought was a very
17 significant short letter to the editor.

18 The person who wrote this letter said, "I now
19 know who runs this country: the media. That's who runs this
20 country," this man said in this letter.

21 And in many ways, that is true. The mass media --
22 television, the Los Angeles Times, radio. What was done with
23 the Pentagon papers, if you and I did it, we'd be -- we'd
24 be -- Mr. Ellsberg is being prosecuted.

25 But the New York Times isn't being prosecuted.
26 The media run this country, regrettably. And so Mr. Manson,
27 feeling this undiluted publicity, feeling the burden of it,
28 has reacted the way he's reacted, in connection with what

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1 you've heard, in connection with this -- his attempts to, in
2 his way, in his way, fight back for this -- this horrendous
3 publicity that has -- that has been put upon him since
4 October the 12th, 1969.

5 This man has been in a dungeon. He didn't
6 generate this publicity. He didn't make any money off of
7 this publicity.

8 All of the advertisers on television, all of the
9 advertisers in the newspaper business, and on radio, they're
10 the ones that made money off of Mr. Manson.

11 And so he has done -- he has reacted in the way
12 that he has reacted. He has made statements, and he has done
13 what he has done.

14 Now, how much can -- how much can the human
15 animal take? Can any of us conjure up -- can any of us
16 conjure up what it must be like to be in the type of
17 custody that Mr. Manson is? It is -- it is -- if you sit
18 down and try to think about it, you just can't conceive of
19 it. Searched and researched --

20 MR. MANZELLA: Excuse me, Mr. Kanarek.

21 Your Honor, may we approach the bench?

22 THE COURT: Yes, you may.

23 Ladies and gentlemen, we'll recess at this time.
24 You are advised not to converse amongst yourselves nor with
25 anyone else, nor permit anyone to converse with you on any
26 subject connected with this matter, nor to form or express
27 any opinion until it is finally submitted to you.

28 2:00 o'clock. See you then.

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(Whereupon, at 11:59 o'clock a.m., the jury exited the courtroom, whereupon, the following proceedings were had, still at the bench:)

THE COURT: Yes?

MR. MANZELLA: I was going to object to that portion of Mr. Kanarek's argument with regard to what happens to Mr. Manson while he is in custody, or what he does; because I don't recall any evidence being introduced with regard to that point.

THE COURT: Would you read it to me, Mr. Williams, Mr. Kanarek's last statement?

(Whereupon, the record was read by the reporter as follows:

"Can any of us conjure up -- can any of us conjure up what it must be like to be in the type of custody that Mr. Manson is? It is -- it is -- if you sit down and try to think about it, you just can't conceive of it. Searched and researched --")

MR. MANZELLA: Now, Mr. Kanarek has --

THE COURT: Yes. There's nothing that has been produced by way of evidence before the jury about the conditions of incarceration.

MR. KANAREK: Well, you can make an inference, your Honor, because -- in other words --

THE COURT: The Court believes not.

MR. KANAREK: Pardon?

THE COURT: The Court believes not. The Court believes that none of the details of the incarceration could be

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1 discussed.

2 Of course, the fact that he has been in custody
3 and is obviously in custody can't be discussed.

4 Let's see. It's 12:00. I'll see you both at
5 2:00.

6 (Whereupon, at 12:01 o'clock p.m., an adjournment
7 was taken until 2:00 o'clock p.m. of the same day,
8 Thursday, October 14, 1971.)
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1 LOS ANGELES, CALIFORNIA, THURSDAY, OCTOBER 14, 1971 2:02 P.M.

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4 THE COURT: The record will show that all jurors and
5 alternates are present.

6 Mr. Kanarek, you may proceed.

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

8 If I may, ladies and gentlemen, I would like to
9 correct an error that I believe I made in connection with the
10 date of the gun on -- on the gun that was purchased, the
11 Radom gun by Mr. McMillian or Mr. Davis.

12 Now, I -- I said -- the piece of paper that we
13 saw there says July 2nd, I believe. But because of the law
14 that -- in other words, that's when he came in, evidently,
15 to actually negotiate the purchase. But then I gather
16 because of the law of guns in connection with buying them,
17 that there's a certain time lag. The actual date of the
18 purchase was July 14, according to, I think it was, Mr.
19 Stanoff.

20 And so there is that difference. I mean,
21 actually when did he purchase the gun? Did he purchase it
22 on the date that's set forth in that -- in that sales slip
23 or did he purchase it some days later.

24 But in any event, it is certainly before July the
25 25th, 1968, before the date that's set forth in the indict-
26 ment.

27 In connection with the visit to the Spahn Ranch
28 of the police officers, when they viewed the automobile, and

1 when they filled out their field interrogation and did every-
2 thing they did, uh, the time that they were at the ranch,
3 -- I think it was July 28th -- there was testimony -- there
4 was testimony by this police officer that Mr. Manson gave his
5 name as Charles Miles Summers.

6 Now, the prosecution, I am sure, is going to
7 suggest to us certain significance from that. Mr. Manson
8 supposedly giving that name.

9 Now, there are degrees -- there are degrees of --
10 of, uh, -- of certainty as far as evidence goes. The spoken
11 word -- if we try to remember what was said this morning at
12 breakfast, I'm sure we would have great difficulty in relating
13 what one person said, what one person said, maybe what a
14 third person said with any degree of accuracy, whatsoever.
15 The spoken word has an inherent inaccuracy in it. I'm sure
16 that all of us would agree to that.

17 Now, if Mr. Manson gave the name Charles Miles
18 Summers, we can rest assured that it is written down somewhere
19 in the official files of the Los Angeles Sheriff's Office.
20 There's no question about that, that that area was under
21 intense surveillance.

22 Where is -- where is that interrogation form?
23 That is something that -- that, uh, sort of makes you a
24 little curious because the man can come here a couple of
25 years later -- he's been in police work in his -- whatever
26 he does every day -- and he comes here and he tells us that
27 Mr. Manson gave the name Charles Miles Summers.

28 Is that something that actually happened or is

1 that something that was suggested to him by virtue of whatever
2 he may have spoken with other people?

3 It is significant because -- because these
4 records are there, and when they wish to bring in the records,
5 we have seen in this courtroom that there's no scarcity of
6 them. So it is something to consider as far as the authenticity
7 of that particular statement is concerned.

8 Now, getting to the testimony of Ella Jo Bailey,
9 and recognizing that, I'm sure, that we -- we have not
10 memorized what she said.

11 Now, Ella Jo Bailey states, and this -- this is
12 again why it is significant in connection with the law of
13 conspiracy.

14 The question was "Do you recall the months of 1969
15 during which the statements were made?"

16 "At the Gresham Street house?"

17 The answer -- the question -- err, the response
18 of the witness was "At the Gresham Street house."

19 And the question was:

20 "All right, what did Mr. Manson say with
21 regard to the desert?"

22 "THE WITNESS: Well, he spoke of the need for
23 us to get money to get dune buggies together so that
24 we could all go out to the desert.

25 "And did you speak of that on one occasion
26 or more than one occasion?"

27 "A On more than one occasion."

28 Then, that subject matter is left and the question

1 you'll notice does not encompass the days alleged in the
2 conspiracy in the indictment.

3 And we're here -- we're all here, uh, in a lawsuit
4 involving technical points of law. And those of us that are
5 on the jury are, in fact, judges. There's no question about
6 it, that -- that the jury is made up of 12 judges here to
7 take the law, the law that is given for this purpose, and
8 apply the law to the evidence and see what facts, if any,
9 spring out of what we have seen here. And there is not --
10 there is not tied into this period of time anything concerning
11 the supposed purpose of why somebody went to Gary Hinman's
12 house.

13 Even assuming for the sake of argument the position
14 of the prosecution, because after that, the next question was:

15 "All right, Miss Bailey, when you moved
16 from Haight-Ashbury to Sacramento, who decided to
17 make the move?"

18 And-- I shouldn't have read that because the
19 Judge sustained the objection to that question.

20 But in any event, the subject matter that -- that
21 was gone into did not go into and zero in on this period of
22 time.

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1 Because that's the period of time that we have to
2 work with, in connection with the conspiracy.

3 Now, the -- at page 5063, the prosecution -- I
4 will go back a page -- elicited a statement that is most
5 significant, in the suggestions we are speaking of, about the
6 proof that has to be here before anybody can be convicted of
7 a conspiracy.

8 And again, it's right here (indicating); it's
9 right here in the transcript.

10 The question was:

11 "Q And it was made --" referring to a statement
12 above -- I will go one question back.

13 "Q All right. And it was made at the campsite
14 in Devil's Canyon?

15 "A Yes."

16 Referring to a statement supposedly made by Mr.
17 Manson.

18 "Q And it was made in the latter half of
19 July, 1969?

20 "A That's right."

21 Now, is that the witness testifying? Or is that
22 the prosecution testifying through the witness? The witness--
23 even Ella Jo Bailey didn't zero in on this time; but the --
24 the question -- the questioner suggested it in his question.

25 And she says: "That's right."

26 And then the question:

27 "You say approximately 13 members of the
28 Family were present when Mr. Manson made the statement?

1 "A Oh, yes.

2 "Q And then would you name some of the people
3 who were present?"

4 And she says: "I'll do my best."

5 And the question is: "Yes. Would you name all
6 the names?"

7 "A I'll do my best. Mary Brenner, Susan
8 Atkins, Ruth Morehouse, Sherry Cooper, Bill Vance,
9 Danny DeCarlo, Steven Grogan, Bruce Davis, Beau --
10 I don't recall Beau's last name, Little Patti -- I'm
11 sorry. I don't recall names. I don't remember.

12 "Q Do you recall that Mr. Robert Beausoleil
13 was present?"

14 "A Yes, he was."

15 Now, in that context, in connection with this case
16 and everything that this witness has discussed with police
17 officers, who is doing this testifying? Who's bringing Mr.
18 Beausoleil into that conversation?

19 Is the prosecution doing it? Did the girl really
20 remember Mr. Beausoleil being there? Or is she answering
21 because she knows that the questioner wants her to give out
22 that answer?

4a fls.

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4a-1

1 And then the question is:

2 "Now, would you tell us what Mr. Manson said?

3 "THE WITNESS: He spoke of the need, the
4 immediate need, to get money from any person that
5 we knew, that we thought -- you know, would have
6 the money to support us and our dune buggies."

7 The witness again:

8 "Mr. Manson said that, 'We need money to
9 get our stuff together, supplies and our dune
10 buggies, to go out to the desert, because we
11 have been spotted at the campsite by the Fire
12 Patrol.'

13 "Q. Now, was -- during this conversation,
14 or during the statements made by Mr. Manson, were
15 any names mentioned other than names of Family
16 members?

17 "A. Yes, sir.

18 "Q. And what names were mentioned?

19 "THE WITNESS: Gary Hinman's name was
20 mentioned, and also Terry Melchner."

21 And the Court granted the motion that -- that the
22 name Terry Melchner be stricken, so -- I'm sorry; I shouldn't
23 have read that.

24 "Q. And in what connection was the
25 name --" Well, there was an objection. Let's see.

26 "THE WITNESS: It was --"

27 "THE WITNESS: It was believed that Gary
28 Hinman had -- was the owner of the house that he

1 "lived in, and it was spoken of that if the Family
2 could talk Gary Hinman into joining them -- or,
3 if not, that he would sign over his house and his
4 vehicles to the Family."

5 Now, is that robbery? First of all, we know from
6 the way she's talking there, she's trying to hide the fact
7 that she, Ella Jo Bailey, in fact suggested Gary Hinman.

8 The way she says, "It was believed," and,
9 "It was spoken of." And there's no question, later on, as we
10 know, she said that she suggested Gary Hinman.

11 Is that robbery? Is that robbery? Assuming, for
12 the sake of argument, that that in fact happened? To go over
13 and try to convince somebody to do something is not robbery.

14 That -- even taken alone, that is not even
15 illegal. That wouldn't be -- that's the kind of -- the kind
16 of action that's taken when anybody goes and tries to borrow
17 money from a bank, or tries to get money from a friend.

18 But assuming -- assuming for the sake, again of
19 discussion, for some of these things that maybe we should
20 consider, was it robbery?

21 Is this what was talked about in the group of
22 people, even taking the prosecution viewpoint? And taking,
23 just for the moment, at face value what she's testified to
24 here? That would not be robbery. It wouldn't even be extor-
25 tion.

26 Extortion is the taking -- with the consent of
27 the person who has the property -- by force and fear of that
28 persons' property. But here, they haven't even alleged

1 extortion. The -- the Indictment alleges robbery.

2 The Indictment alleges 211 of the Penal Code.
3 Robbery is when someone goes into a liquor store and says --
4 and says, "Give me everything that's in the cash register."
5 That's robbery.

6 Robberies do not take place in the context of
7 this kind of thing. And before you can have a conspiracy,
8 you have to have the words spoken and the acts done that
9 constitute the intent for the underlying conspiracy. But we
10 have to go one step further. The Indictment reads -- the
11 Indictment reads not only robbery, it says: "Robbery and
12 murder."

13 Where is there any agreement, even taking --
14 even taking the -- the statements of Ella Jo Bailey at its
15 face value? Where is there any intent among those people to
16 commit murder?

17 Conceptually, all 13 -- or whatever number of
18 people that were present at this time -- were part of
19 this group, in taking the prosecution's viewpoint at face
20 value.

21 Anyone in that group that went out would be
22 guilty of what everyone agreed to do. And if you take even
23 the words of the prosecution, is there robbery? Is there
24 murder? Is there robbery and murder?

25 Clearly, there isn't, because it's written, right
26 here, exactly what the words are that this lady uttered.

27 Now, going on further:

28 "Q And would you tell us what Mr. Manson

1 "said with regard to Gary Hinman?"

2 And the witness said: "He said he was
3 a possibility."

4 And: "Q Did he say anything
5 about -- specifically about the property of
6 Gary Hinman?

7 "THE WITNESS: Would you repeat the
8 question, please?

9 "Q Did he say anything specifically
10 about the property of Gary Hinman, if you recall?

11 "A. No, I don't remember."
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4b

4b-

1 "Q All right. Sometime thereafter, did you
2 leave -- did the Family and Mr. Manson move from Devil's
3 Canyon back to Spahn Ranch?

4 "A Yes.

5 "Q And how much time had elapsed after the
6 conversation in Devil's Canyon to the time you went
7 back to Spahn Ranch?

8 "A Only about three or four days."

9 Now, if we -- if we take what this lady has said
10 with regard to time, and we take the statements that she now
11 says, at this point in the transcript, are we even within the
12 time period alleged in the indictment, in the context that
13 you have to prove people guilty beyond a reasonable doubt, and
14 to a moral certainty?

15 There's grave doubt that it is within the time
16 period that we are speaking of here.

17 "Q All right. Miss Bailey, during this
18 conversation that -- or, these statements that were
19 made by Mr. Manson at the campsite in Devil's Canyon,
20 did he say anything else with regard to Gary Hinman,
21 if you recall?

22 "THE WITNESS: Not that I remember."

23 And again, a suggestive question, where the
24 prosecution is suggesting the answer:

25 "Q All right. Now, when you moved to Spahn
26 Ranch a few days after the statements were made by Mr.
27 Manson, was this still during the latter part of July
28 of 1969?

4b-2

"A Yes, it was."

Now, we've -- from what we've heard of life at the Spahn Ranch, these people had no concept of time; they had no concept even of -- of the calendar; they had no -- no notation; they made not even any mental notes as to when anything happened.

So is this -- is this time period a time period that we can depend upon? The time period that is being suggested by the prosecution?

"Q Now, after you moved back to the Spahn Ranch, did Mr. Manson make a statement to you with regard to Gary Hinman?

"THE WITNESS: Yes.

"Q And when did he make that statement?"

And the witness says: "The 26th of July."

Now, that's not -- that's not a statement that's suggested by the prosecution. That's the witness there: "On the 26th of July."

Now, can we believe -- can we believe that detail from this witness? Why would she say the 26th of July?

Is she saying it because, as she sits here on the witness stand, she remembers it's the 26th of July?

Or is she saying that because she has, on innumerable occasions, she has spoken to law enforcement officers, and she knows that she has immunity coming? And she knows what is happening in connection with this case?

This is -- this is for -- this is a question for the jury to decide: Is she -- when she's making that statement,

4b-3

1 that statement does put the matter right in this time period.
2 But does it put it into that time period legitimately, so
3 that we can convict someone -- even assuming that there's
4 robbery, which there isn't; or even assuming that there's
5 conspiracy to commit murder, which there isn't?

6 "Q Now, what had you been doing prior to the
7 time that Mr. Manson spoke to you?

8 "A I was down in the area which we referred
9 to as the dump, where the semi-trailers were parked,
10 and I was cleaning up the area, as we had worked on a
11 dune buggy down there.

12 "Q And who were you with at the time?

13 "A I was with Bill Vance.

14 "Q And did you say where Mr. Manson spoke to you?

15 "A Down at the area we called the dump, by the
16 semi-trailers.

17 "Q And this is on the Spahn Ranch; is that
18 correct?

19 "A Yes, it is.

20 "Q Well, what part of the day was this?

21 "A It was approximately supertime -- or,
22 around 6:00 o'clock.

23 "Q Do you recall what day of the week it was?

24 "A I believe it was a weekend.

25 "Q Would it have been a Friday?

26 "A Yes."

27 "Q All right. And was Bill Vance present
28 when Mr. Manson spoke to you?

4b-4

"A Yes, he was.

"Q And what did he say to you?

4c fls.

"THE WITNESS: First, he spoke to Bill Vance and I personally, and then he told me that he wanted me to accompany Bobby Beausoleil to Gary Hinman's house.

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4c-1

1 "Q And did Mr. Manson at that time say why
2 he wanted you to go to Gary Hinman's house?"

3 I'm sorry. The Court sustained the objection to
4 that particular question.

5 "Q What else if anything did he say about
6 Gary Hinman or Gary Hinman's house?

7 "A That he wanted us to either get Gary
8 Hinman to come with us, or get Gary Hinman to sign
9 over all the property and the automobiles that he
10 owned."

11 This is what she says. This is what she says
12 was said.

13 Even if you take it at its face value, that is
14 not robbery. That is not, by any manner or means, robbery.

15 In divorce cases, lawyers tell -- maybe someone
16 has had a bad experience; I don't know. But lawyers --
17 lawyers tell -- let's say a husband or wife to -- to, before
18 the divorce litigation gets going, to get somebody to sign
19 something over to him or her, whatever it may be.

20 Now, that is not even illegal, if it's done with
21 consent, if somebody agrees to do it.

22 If it's done by force or the threat of force, it's
23 extortion. And it's not robbery, if the consent is really
24 given.

25 And the interesting thing here is that Mr. Hinman's
26 name is on those -- those certificates of ownership, as far
27 as those automobiles are concerned. His name is written there.
28 There's no indication that the automobiles were taken without

4c-2

1 the name being on the pink slips.

2 So clearly, this is not robbery. And clearly,
3 there is no intent here for robbery; and clearly, no intent
4 for murder.

5 "Q Now, after Mr. Manson spoke to you, did
6 he then leave you and Bill Vance alone?"

7 Now, in view of what she says the next day, in
8 the -- obviously, this is a situation where the prosecution is testi-
9 fying through her. He -- because the answer is: "Yes, he did.

10 "Q All right.

11 "And did you and Bill Vance then have a
12 conversation?

13 "A Yes, we did.

14 "Q And did --"

15 And the -- this statement that I am offering now
16 is not a statement that -- the Court sustained the objection
17 to this, and so what -- the question that I am -- what I'm
18 going to read to you now is not offered to you as evidence,
19 but it's offered because it shows how the witness' thinking
20 is conditioned by the prosecution.

21 Because the prosecution then stated:

22 "Q Did you tell Mr. Manson that you would not
23 go to Gary Hinman's house?"

24 Now, that's not evidence, in connection with any
25 answer, because the Court sustained an objection to it.

26 But then, that question, even though -- even though
27 not answered at that time, clues the witness in what to say in
28 the following question or questions, wherein the objection is

4c-3

1 not sustained.

2 The Court then states:

3 "What else was said in this conversation?"

4 And then the prosecution says:

5 "Q Yes. Could you tell us what else was said?"

6 And the witness stated:

7 "The last part of the conversation, Bill
8 Vance told Charles Manson that I had better things to
9 do on the ranch, and I would not go to Gary Hinman's
10 house."

11 And this is -- it's up to the jury to decide
12 whether or not -- what is set forth here is in fact to be
13 believed.

14 Then, the Court asked:

15 "Was there any more to the conversation?"

16 And the witness said:

17 "No. After that, Charles walked away."

18 All right. Now, we have someone that's intent
19 upon murder, intent upon robbery. And so this person
20 supposedly asks this girl to go over to Gary Hinman's house
21 and commit murder and commit robbery, and she says, "No," and
22 he then walks away. He doesn't try to convince her; he doesn't
23 -- he doesn't say anything further.

24 It never happened, ladies and gentlemen. It
25 never happened. It just doesn't hold water.

4d fls.

4d-1

1 "Q Now, what part of the day was
2 it that Mr. Manson spoke to you?

3 "A It was around suppertime, 6:00
4 o'clock, early evening.

5 "Q Now, later that same evening,
6 did you see or hear Mr. Manson talking to some-
7 one else?

8 "A Yes, I did.

9 "Q Who was he talking to?

10 "A I saw him talking to Bobby Beausoleil
11 and Bruce Davis.

12 "Q And where were they when they were
13 talking?

14 "A They were standing in the parking lot
15 at Spahn's Ranch.

16 "Q And this is later that same evening?

17 "A Yes, it is."

18 And then they're identified, and Ella Jo Bailey --
19 there was a witness that -- Mr. White came in; and for his
20 convenience, we adjourned, as far as Miss Bailey was concerned.

21 And then the following -- after the recess:

22 "Q Miss Bailey, at the time we took our
23 noon recess, you were testifying with regard to
24 having seen Mr. Manson, Mr. Beausoleil and Mr. Davis
25 in the parking lot at Spahn Ranch, sometime during
26 the evening in the latter part of July, 1969.

27 "Now, can you tell us what day of the week
28 that was, if you recall?

1 "A It was a Friday evening.

2 "Q Now, did you see Mr. Manson
3 talking to Mr. Beausoleil and Mr. Davis?

4 "A Yes, I did.

5 "Q Did you hear what was being said?

6 "A No, I did not.

7 "Q Was Mr. Beausoleil carrying anything
8 at the time you saw him with Mr. Manson and Mr.
9 Davis?

10 "A Yes, he was.

11 "Q All right. Would you tell us what
12 he was carrying?

13 "A He was carrying a knife, and it was
14 a sheathed."

15 Now, again, the reason that -- the reason that we
16 are going into this detail is because this is where it is
17 (indicating). We have been -- we have been together -- and
18 I hope we all love each other -- we have been together many
19 weeks on this -- in connection with this case; and we are --
20 and we are only going into this because of the fact -- because
21 of the fact that it's not possible to remember this detail;
22 and a word -- just a word like this, "It was a sheathed," it
23 shows -- I mean, in retrospect, when you look at it in black
24 and white, it shows how this girl was coached.

25 Why would she -- why would she take that knife and
26 put it in a sheath, from the witness stand? If she hadn't
27 gone over it and over it and over it with someone before
28 she took the witness stand?

1 And the next question was:

2 "Q Was the knife in a sheath?

3 "A Yes."

4 Get that sequence again.

5 "Q Would you tell us what he was
6 carrying?

7 "A He was carrying a knife, and it
8 was a sheathed.

9 "Q Was the knife in a sheath?

10 "A Yes.

11 "Q And how was he carrying that?

12 "A It was around his waist.

13 "Q Was he carrying anything else?

14 "A No.

15 "Q Now, for approximately how long did
16 you observe Mr. Manson, Mr. Davis, and Mr. Beauso-
17 leil in the parking lot?

18 "A I only watched them a few minutes.

19 "Q Now, during that period of time, did
20 you see another type of weapon, a gun?"

5-1

1 The question again suggesting its own answer.

2 "A Yes, I did.

3 "And where did you see that?

4 "A Bruce Davis was carrying it."

5 Then, he takes the knife and after she states
6 that she has seen the knife on many occasions, she then, in
7 accordance with the plan, in accordance with the staging, in
8 accordance with the scenario, the script, whatever you want to
9 call it, the final moment of truth arrives and she identifies
10 People's 18.

11 If she didn't, the prosecutor probably would have
12 had a heart attack, fallen away in a faint, because it is all--
13 when you look at this, what's written here, it is all leading
14 up to the final climactic moment. And we supposedly are
15 getting evidence in this courtroom that is going to be
16 something that we can believe, that we can -- that is
17 actually something that is coming out of the mind of this
18 little girl.

19 "All right, after you saw Mr. Manson and
20 Mr. Davis and Mr. Beausoleil in the parking lot, did
21 you see any other members of the Family?

22 "Who did you see?

23 "I saw Mary Brunner and Susan Atkins.

24 "Where did you see them?

25 "I saw them as they came out of the
26 trailer."

27 And so forth and so on.

28 And then, she saw them go out of the parking lot.

5-2

1 "And did you recognize the car?

2 "The car was Johnny Swartz' car," and so
3 forth.

4 Now, this is what the prosecution is telling us.
5 This is what the prosecution states to us is the genesis of
6 the conspiracy. This is the -- this is where Mr. Manson
7 supposedly has created -- created this crime for what happened
8 in Gary Hinman's home.

9 Now, trying to -- after she's up on the mountain
10 and she comes back and she sees, during the night -- and this
11 is still during the nighttime hours -- about where she goes
12 up there, and then:

13 "And approximately what time is this that
14 we are speaking of?

15 "It was between approximately 11:00 o'clock
16 at night or 2:00 in the morning. It was between those
17 hours," she says.

18 And then, we had the prosecution once again
19 testifying in connection with a critical part of the prosecu-
20 tion theory.

21 "And is this approximately two days after
22 you saw Robert Beausoleil, Mary Brunner and Susan
23 Atkins and a fourth person leave in Johnny Swartz'
24 Ford?"

25 Now, who's testifying? Is it the prosecution
26 testifying or is it Ella Jo Bailey?

27 And she answers, "Yes," in connection to this --
28 as far as the time period goes.

5-3

1 So, there we have Ella Jo Bailey, and there we
2 have the testimony of the conspiracy. That is supposedly --
3 that is it, in this courtroom, what we heard concerning the
4 putting of the heads together for a conspiracy to commit
5 robbery and murder, because outside of that, outside of that,
6 we don't have anything in this courtroom in connection with
7 the agreement, the alleged illicit arrangement between the
8 people who supposedly participated in this conspiracy.

9 After -- excuse me.

10 We then -- we then have Ella Jo Bailey testifying--
11 remember that at this point what we are now going to discuss
12 is a time when supposedly the object of the conspiracy has
13 finished. That is, Mr. Hinman -- Mr. Hinman has, according
14 to the prosecution viewpoint, now been robbed and murdered.
15 And Ella Jo Bailey, now a person who supposedly wanted no
16 part, whatsoever, in connection with this, with the matter
17 pertaining to Gary Hinman, counts the money. And she counts
18 the money down to the penny. And this is -- all this time has
19 elapsed. And she states:

20 "And did you see a purse in a microbus
21 which was supposedly being driven by Mary Brunner?

22 "A Yes, I did.

23 "Where was the purse?

24 "It was sitting in between us.

25 "And was there anything in the purse?

26 "Yes, there was.

27 "And what was in the purse?

28 "\$27 .64."

1 Now, that defies the imagination for a couple of
2 reasons, one of them being the ability and the desire to
3 memorize and remember that money down to the very penny.

4 The people at the Spahn Ranch certainly had some
5 money. Outside -- outside of accomplice attained testimony,
6 there's nothing here. There's nothing, whatsoever, except
7 the self-serving statements of Ella Jo Bailey in order to get
8 herself off the hook as far as forgery in the State of
9 Washington is concerned, and also to get Mr. Vance off the
10 hook in connection with Gary Hinman; in connection with Mr.
11 Shea, so that he wouldn't be prosecuted in connection with
12 Mr. Vance's relationship to that suitcase that we saw here in
13 the courtroom, wherein all of this -- all of this material
14 with the check, the Spahn Ranch checks -- we saw the name
15 Schwarm, and we saw pictures here with Mr. Vance posing under
16 that name.

17 So with all of that in Ella Jo Bailey's mind,
18 with all of that in her mind, she tells us that there was
19 \$27.64 in that purse.

20 And at page -- or here, now, then, Miss Bailey
21 testifies:

22 "Sometime after you heard Mr. Manson make
23 these statements --" the statements supposedly when Mr.
24 Manson states that after the phone call had come to the ranch
25 asking for help, he and Bruce Davis had gone to Gary Hinman's
26 house. And he stated at the time that they arrived Mary and
27 Sadie and Bobby had gotten the gun back away from Gary Hinman
28 and so forth and so on. That statement that she says that Mr.

1 Manson made. After that, she and Mr. Vance supposedly left
2 the ranch.

5a fls.

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5a- 1 Now, in connection with her statement that she
2 makes, that she says that Mr. Manson made, is that a state-
3 ment that she actually heard or is that a statement that she
4 stated to us after having spoken with police officers time
5 after time after time after time?

6 She knows. She knows that no matter what she
7 says in this courtroom that she will not be prosecuted for
8 perjury, no matter what she says in this courtroom. It will
9 never happen. And she knows what the prosecution wants to
10 hear for the benefits that we have discussed previously.

11 She states -- it is almost like -- it is almost
12 like in a play where someone -- like you know, they say that
13 -- that Humphrey Bogart got his start in -- on Broadway by
14 coming in and saying, "Tennis anyone?" And that was a cue.
15 When he said, "Tennis anyone?" for the people, that was just a
16 gimmick for the people to then leave the stage so they could
17 then bring on the next scene. And that's very similar to what
18 happens here, because the question is asked:

19 "Now, Miss Bailey, sometime after you heard
20 Mr. Manson make the statements, did you leave the ranch?

21 "A. Yes, I did.

22 "Q. With whom did you leave?

23 "The first time I left the ranch was with
24 Bobby Beausoleil and Bill Vance.

25 "Was that some time later that same day?

26 "A. Yes, it was.

27 "Q. Was this during the afternoon?

28 "A. Yes.

1 "Did you return to the ranch?

2 "A Yes."

3 Who is doing the testifying? Is the prosecution
4 doing the testifying or is Ella Jo Bailey? All of these yeses
5 are Miss Bailey's response to leading and suggestive questions.

6 "Did you then return to the ranch?

7 "A Yes.

8 "That same day?

9 "Yes.

10 "Did you thereafter again leave Spahn Ranch?

11 "Yes, I did.

12 "Q Was this the same day?

13 "A Yes.

14 "Was it during the late afternoon or was
15 it during the evening?

16 "It was late afternoon.

17 "And with whom did you leave the second
18 time?

19 "I left with Bill Vance.

20 "And from that point on did you ever return
21 to Spahn Ranch?

22 "No."

23 Well, we know -- we know from Bill Vance, at
24 least from the prosecution's own viewpoint, we know that Bill
25 Vance by the nature of other testimony, we know that Bill Vance
26 was back at the ranch. Bill Vance was arrested. We saw -- we
27 saw the various aliases that Bill Vance has used.

28 And this girl, having the affection that she had

1 and has for Mr. Vance, certainly was with him.

2 And so the question, the question of relationship
3 becomes important.

4 The question is: Does Ella Jo Bailey -- where is
5 she -- is she somewhere here? Here is Ella Jo Bailey and,
6 I guess, that's meant to be Bill Vance.

7 Is the relationship with these people more impor-
8 tant than the words that are uttered from the witness stand?

9 I think -- I think we might agree that they are.
10 That her feeling for Bill Vance dictates that this is just not
11 true when she says that she left the ranch forever and never
12 returned.

13 If you balance her affection and her feeling and
14 whatever for Mr. Vance against the weight of this self-
15 serving statement in this trial from the witness stand, there's
16 no question but what that statement is just not true.

17 Now, -- now, we come to the examination of Ella Jo
18 Bailey in connection -- this is her -- this is her exact
19 testimony.

20 "Q Now, in connection with law enforce-
21 ment officers of Los Angeles County, do you feel
22 a sense of gratefulness to the Sheriff's Depart-
23 ment because of their assistance to you in a
24 forgery matter in the State of Washington?

25 "A. Yes.

26 Would you tell us what the Los Angeles
27 Sheriff's Department did on your behalf in
28 connection with that forgery matter?

1 "A Yes. I was told that if I
2 testified against Mary Brunner, against Susan
3 Atkins, against Bruce Davis, and against Charles
4 Manson, that a forgery charge -- that a charge of
5 forgery would be dismissed against me if I testified
6 completely and truthfully."

7 Now, the question is, who's going to judge whether
8 she testifies completely and truthfully?

9 Well, obviously we know from the experience of
10 Mary Brunner that this idea of testifying truthfully and
11 completely depends upon whether or not you are stating things
12 that help the prosecution's case against Charles Manson.

13 THE COURT: Ladies and gentlemen, we'll take a short
14 recess.

15 During the recess you are admonished that you are
16 not to converse amongst yourselves, nor with anyone else,
17 nor permit anyone to converse with you on any subject
18 connected with the matter, nor are you to form or express any
19 opinion on the matter until it is finally submitted to you.

20 About ten minutes.

21 (Short recess.)

22 THE COURT: Every one is in place, the record should
23 show.

24 Mr. Kanarek, you may proceed.

25 MR. KANAREK: Oh, thank you, your Honor.

26 It is interesting to think about if Ella Jo Bailey
27 -- if there hadn't -- if she wasn't asked questions after the
28 prosecution spoke to her, we would never know -- we would

1 never know, and it is sort of an interesting thing to turn
2 around in your mind, Gary Hinman would probably be alive today,
3 according to the prosecution viewpoint, if Ella Jo Bailey
4 hadn't suggested him.

5 If you take their -- if you take their theory in
6 this case, Mr. Gary Hinman would be alive today except for the
7 fact that Ella Jo Bailey suggested him, according to what they
8 say, and we know that Bobby Beausoleil has been convicted of
9 the passing away of Mr. Hinman.

10 And we also wouldn't know -- we wouldn't know that
11 Ella Jo Bailey is the person who suggested Gary Hinman. If
12 we, let's say, as we have sometimes seen in this courtroom,
13 where one lawyer or the other says, "No questions." If no
14 questions had been asked of Ella Jo Bailey, we would not know
15 that she fingered Mr. Hinman. According to her, she is the
16 one that chose Mr. Hinman for what she says occurred.

17 And -- and on top of all of that, on top of all of
18 that, is the fact -- is the fact that she tried to deceive us.
19 And the Court will instruct us concerning the credibility of
20 witnesses as to what we take into account in deciding the
21 credibility of witnesses. And if we feel that a witness is
22 deliberately trying to deceive that we -- if we find this to
23 be true, may reject all of the testimony of that
24 witness. And who can say that Ella Jo Bailey was not trying to
25 deceive.

26 When she says it was suggested -- it was suggested
27 that Gary Hinman -- that Gary Hinman was to do this and was
28 to have this function and was to be approached and so forth.

6-1

1 And the interesting thing is that, as Miss Bailey
2 testified on the witness stand, the question was asked of her,
3 "Well, has that forgery charge been dismissed?

4 "A Not to this date."

5 In other words, the string is still there in her
6 mind. The prosecution can pull the string away. The prosecu-
7 tion can, by a phone call to the State of Washington, see to
8 it that Ella Jo Bailey does not get the forgery charge dis-
9 missed.

10 So, as she sits here on the witness stand, who is
11 she beholden to? Is she beholden to just telling it the way
12 it is, straight down the middle? Or is she beholden to the
13 prosecution viewpoint?

14 Well, there's no question, there's no question but
15 what she's beholden to the prosecution viewpoint. She wants
16 that forgery charge dismissed.

17 And so, on top of everything else, on top of
18 everything else, there is that aspect involved in her credibility.
19 She was -- "On occasions, you've spoken with Mr. Whiteley,
20 the gentleman to my left; is that correct?

21 "A Yes.

22 "Q And you've spoken with Mr. Guenther, also
23 of the Sheriff's Department?

24 "A Yes.

25 "Q Is that correct? Mr. Katz and Mr. Guenther
26 came to Tacoma, Washington, to speak to you; is that
27 correct?"

28 Excuse me.

6-2

1 "A Yes.

2 "Q And have you spoken -- you've spoken to
3 Mr. Manzella, the gentleman two seats over from me?

4 "A Yes.

5 "Q And have you spoken with any other
6 representatives of law enforcement in Los Angeles
7 County?

8 "A Concerning the case, you mean?

9 "Q Yes.

10 "A No.

11 "Q Did you receive any assistance in connection
12 with any other matters than the forgery matter from the
13 Los Angeles Sheriff's Department?"

14 And this is -- this answer is one that we perhaps
15 should dwell upon for a moment:

16 "A I was told that there would be no charge
17 raised against me.

18 "Q You were granted immunity from any charge
19 of murder, conspiracy to commit murder or anything
20 else involving the passing away of Gary Hinman; is
21 that correct?

22 "A Yes."

23 So here is a lady -- later on, we find out, here's
24 a lady who actually is the one -- is the one who is responsi-
25 ble for Mr. Hinman not being alive today. And she knows it.
26 She knows it, when she says, "It was suggested that Gary
27 Hinman was the person who -- who would be approached," and
28 so forth.

6-3

1 And she -- she -- excuse me. And in connection
2 with Mr. Watson:

3 "Q Well, Mr. Watson was in your presence in
4 the -- for instance, take the groupings of people that
5 you have stated the various names. Mr. Watson was one
6 of the group in each of those cases; is that correct?

7 "A Yes, he was present.

8 "Q And you have failed to mention his name?

9 "A Yes."

10 Now, she certainly -- certainly, in connection
11 with -- with what has happened in the Tate-La Bianca case,
12 she certainly knew of the name Charles Watson, but she knew
13 of the name Charles Watson because he was living there on the
14 Spahn Ranch with her. She knew -- she knew that name, and she
15 did not list his name in the groupings of people that she spoke
16 of.

17 Does that have any significance? Is that -- is
18 that of importance, in connection with this case?

19 "Q Well, may I ask this? Was Linda Kasabian
20 left out by you in connection with the groupings that
21 you have mentioned to us?

22 "A I failed to mention her name."

23 Of all people that she didn't mention was Linda
24 Kasabian!

25 Linda Kasabian was certainly in her mind when she
26 spoke here from the witness stand.

27 Linda Kasabian, the person who got immunity for
28 seven counts of murder and a count of conspiracy in the

6-4

1 Tate-La Bianca case, certainly she was in Ella Jo Bailey's
2 mind as she testified here.

3 And she deliberately withheld two very critical
4 names: Tex Watson and Linda Kasabian.

5 Does that give us an insight into the thinking
6 processes and the motivation and the intent of Ella Jo
7 Bailey?

8 There's -- there's certainly a lot to think about
9 in connection with her lack of mentioning those names.

10 (Pause in the proceedings.)
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6a fls.

6a-1

Now, this is further on in her examination.

"Q And who was at the campfire that night?
Would you tell us the people that were there?

"A Ruth Morehouse was there; Sherry Cooper
was there; Patti Krenwinkel was there; Leslie Van
Houten was there; I was there; Charles Manson was
there.

"Bobby Beausoleil was there; Steve Grogan
was there; Danny DeCarlo was there, and Little Patti.

"Those are the people I remember now.

"Q Tex Watson?

"A Yes, I believe he was there.

"Q Linda Kasabian?

"A I believe so.

"Q Now, was Bill Vance there?

"A Yes."

So, I am cutting -- I am not -- I was going to
read from the transcript in somewhat greater detail, but as
far as that particular -- as far as that particular point is
-- is involved, there's no question about it, that the
statements of Ella Jo Bailey cannot be used for the purposes
that the prosecution is asking that they be used.

If I may have a moment, your Honor?

THE COURT: Yes, you may.

(Pause in the proceedings while a discussion off
the record ensued at the Clerk's desk between Mr.
Kanarek and the Clerk.)

MR. KANAREK: Your Honor, I was going to -- may I --

1 THE COURT: Yes.

2 MR. KANAREK: -- in order to save time, in view of the
3 fact that this other exhibit's in the other courtroom, I can --
4 I'll proceed on another --

5 (Further pause in the proceedings while a
6 discussion off the record ensued at the Clerk's
7 desk between Mr. Kanarek and the Clerk.)

8 THE COURT: The Court is always interested in saving
9 time.

10 MR. KANAREK: I know that.

11 (Inaudible statement by Mr. Kanarek.)

12 (Laughter from members of the jury.)

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

14 MR. KANAREK: Yes, your Honor.

15 (Further pause in the proceedings while a
16 discussion off the record ensued at the Clerk's
17 desk between Mr. Kanarek and the Clerk.)

18 MR. KANAREK: Now I can't be Joyce's hero.

19 THE COURT: I was expecting you to lift it over your
20 head -- or is it too late in the afternoon?

21 Is that what you need, Mr. Kanarek?

22 MR. KANAREK: Yes, your Honor.

23 Well, I -- I am going to use this -- I was going
24 to use this other exhibit, which I will, when it gets here.

25 Now, ladies and gentlemen, we have this blue
26 suitcase here --

27 THE COURT: 65.

28 MR. KANAREK: 65-A, I believe it is, your Honor.

1 Now, this suitcase speaks eloquently in connection
2 with matters pertaining to Bill Vance and Ella Jo Bailey,
3 we suggest.

4 Now, we know that Ella Jo Bailey -- that Ella Jo
5 Bailey has a forgery charge; that, we know for sure. It's
6 part of this record.

7 Now, forgery is a most unique type of -- type of
8 crime. Forgery involves a certain ability to deceive at first
9 blush -- like when somebody takes the witness stand; they
10 might be able to deceive initially until you start digging
11 into it. And a forger has that capacity.

12 But, in any event, we know from the use of the
13 name "Schwarm" -- now, I am not -- I am probably not pronounc-
14 ing that the way Mr. Vance may pronounce it. But we know that
15 -- that Mr. Vance has used that name.

7 fls.

7-1

1 And there are indications that -- for instance, here, it
2 is pretty close to the State of Washington, Portland, or there's
3 a whole raft of what purports to be Lear-Siegler checks. I
4 guess they're payroll checks, Holly Division.

5 Now, what place does this have in this case?
6 The prosecution -- the prosecution says that this has a place
7 in connection with Mr. Shea, as far as Mr. Manson is concerned.

8 Now, again, in connection with -- in connection
9 with the circumstantial evidence instruction, the Court is
10 going to instruct us as we indicated about if there are two
11 reasonable interpretations we adopt that interpretation
12 which points to the innocent. We don't adopt that which,
13 if both interpretations are reasonable, we don't take the one
14 that points to guilt. We take the one that points to innocence.

15 And as you go through this, as you go through this,
16 there's nothing in it that I can see that points to Mr. Manson,
17 in any event.

18 But we have in it a yellow sheet, called "Rex Cole
19 Enterprises," it is called.

20 Now, see the handwriting on the sheet?

21 Again, this has to do with the law of reasonable
22 doubt. Why isn't this handwriting set forth as far as the
23 handwriting experts are concerned as to who wrote these
24 various sheets?

25 Is there some reason -- is there some reason that
26 we are not told that the handwriting here belongs to Mr. Manson?

27 Is there some reason that somebody doesn't want us
28 to be too discerning about what is written on this sheet and

1 what this handwriting stands for?

2 A There is a multitude of -- there are so many
3 possibilities involved in this briefcase, that you probably
4 could -- could write an interesting novel based upon this
5 briefcase or this suitcase alone.

6 Here's a rental agreement that has -- and it is
7 dated "September 21, 1969," again, "Ernest Schwarm and Mary
8 Schwarm," for some address in Burbank.

9 Now, is Mary Schwarm Ella Jo Bailey?

10 Is Mary Schwarm someone else?

11 And even though this evidence -- even though this
12 evidence originally involved -- uh, from the prosecution
13 viewpoint --

14 Yes.

15 Even though it involved only the Shea case, we
16 think that there is some merit in considering this evidence
17 in the Gary Hinman matter.

18 Now, People's 57, People's 57 has a most unique
19 signature on it for -- and every time I look at this, I can't
20 make up my mind. But I think it does say September 3, that
21 is the actual redeemed ticket.

22 Now, 57-C, which is in the grouping of papers that
23 Mr. Launer testified about, has clearly on it the name of
24 Donald Shea, meaning that has other implications in connection
25 with the charge concerning Mr. Shea.

26 But as far as this case is concerned, it has
27 significance because I'm sure that the prosecution is going to
28 argue that this is not Donald Shea's signature for reasons

1 involved in the Shea case because if this is Donald Shea's
2 signature, then, of course, that's from the prosecution view-
3 point. That would be sheer catastrophe because of the date
4 here.

5 But the witness was asked, one of the questions the
6 witness was asked is whether an exhibit, whether the signatures
7 in 57 were signatures of Donald Shea. And the handwriting
8 expert said, "Yes" in connection with -- and we'll read that
9 question verbatim so that -- so that there will be no question
10 about exactly what the handwriting expert testified to.

11 But you will remember -- you will remember Mr.
12 Launer's testimony concerning these exhibits. And if it
13 was not Donald Shea who wrote his signature, and really it
14 is -- he has testified that it is, -- if you compare it -- if
15 you compare that which appears to be something that someone
16 tried to obliterate, with the "Donald Shea" for instance, on
17 57-A, the unmistakable conclusion is that it is Donald Shea's
18 -- that it is Donald Shea's signature.

19 And, furthermore, the "R.A. Smith," which we know
20 to be Danny De Carlo is written underneath, underneath the
21 line where the signature for the redeemer is supposed to be
22 located.

23 Now, was the person -- was the person that wrote
24 that name in there, was that Donald Shea? Or was it Bill
25 Vance? We know, we know that it wasn't Danny De Carlo because
26 of the tall, lanky description that was given as the person.
27 Donald Shea is tall and lanky.

28 Now, -- thank you.

1 Now, when you look at -- as you may well do in
2 the jury room, you look at Rex Cole, on a person that we know
3 as much as we can know anything, I suppose, in a courtroom,
4 that this human being is Bill Vance. You take the William
5 Rex Cole there and compare it to all of the writing, including
6 the signature here, on this yellow piece of paper that's
7 inside of this blue suitcase, when you have that in the jury
8 room, there can be no question, there can be no question but
9 what Bill Vance wrote this, which was found, as we know,
10 based upon the testimony that's been brought before us.

11 Now, the -- the interesting part of all of this,
12 the interesting part is lack -- the lack of forthrightness on
13 the part of the people who are bringing this lawsuit, because
14 they have plenty of capacity. They have plenty of capacity
15 to let us know something concerning this mass of evidence
16 that's inside of this blue suitcase.

17 None of this evidence that's inside this blue
18 suitcase has anything to do with Mr. Manson except that it is
19 in favor of the proposition that Mr. Manson is not guilty.

20 And so the question is, is this lack of energy,
21 lack of diligence, lack of doing what could be done with
22 all of this, with crime detection what it is today, with the
23 ability of scientific laboratories to do what they can do
24 today, why is this mass of material left the way that it is
25 in this case?

26 It is left this way because of the fact that
27 nothing in there points to Mr. Manson's guilt. And it might
28 point to his innocence. And some people -- some people just

1 don't want that to be.

2 And so if you, as you will have all of this in the
3 jury room, and take all of this bit by bit, piece by piece,
4 you come to the conclusion what we've indicated as far as
5 Mr. -- as Mr. -- as Mr. Vance is concerned.

6 Now, in connection with the consumption of drugs
7 as far as Miss Bailey is concerned, it is in the transcript
8 here, try to go over it as briefly as possible. There's no
9 question that the people at the Spahn Ranch consumed drugs,
10 took marijuana and took LSD, and mescaline and other materials,
11 dangerous drugs and narcotics.

12 But, again, because if -- and -- and -- if during
13 these periods of time that Miss Bailey is speaking of, during
14 the period of time we don't know from when this suitcase was
15 supposedly discovered, we don't know if Miss Bailey and --
16 and Bill Vance were out where this suitcase was found at a
17 particular -- on what particular day or in what particular month,
18 based upon when this suitcase was found.

8-1

1 But we do know -- we do know that Miss Bailey
2 consumed drugs, and she -- and in answer to this question,
3 "Now, Miss Bailey, during that period of July, 1969, and
4 August that you testified about, from time to time, you smoked
5 marijuana, is that right?

6 "A Yes.

7 "Q And from time to time in that period, you
8 took drugs; right?

9 "A If you are asking July and August?

10 "Q Yes.

11 "A No."

12 She's tailor-making her credibility for the
13 critical times of July and August; she's asking me whether
14 it's July and August. And then she says, "No," as to July
15 and August.

16 So she -- she was asked:

17 "Q You took no LSD during that period of time?

18 "A That's right.

19 "Q Now, did you take any LSD while you were
20 at the Spahn Ranch?

21 "A Over the two-year period, yes.

22 "Q Now, what drugs if any did you take during
23 July and August?

24 "A None.

25 "Q Is there some reason that you -- well,
26 tell us, when was it that you took the drugs that you
27 did take while you were at the Spahn Ranch? What days
28 was it that you took drugs?

8-2

1 "A I don't know the days."

2 So, we have the added aspect -- we have the added
3 aspect of the ingestion of these materials by Ella Jo Bailey.

4 And the interesting part about this is that there
5 is -- there appears to be some kind of a rental agreement
6 (indicating) that was entered into -- and this purports to be
7 entered into the 21st day of September, 1969, by Duane and
8 Mary Ernest Schwarm.

9 Now -- now, this -- how this fits into the picture,
10 I suppose anyone of us might -- might have our opinion; that
11 is, each of may have a different opinion as to how it fits
12 into the picture.

13 But the fact remains that this suitcase,
14 undoubtedly, was in existence, with its contents -- at least
15 some of these contents -- in the very period of time that we
16 are speaking of in this transcript, July and August.

17 It goes to the Gary Hinman matter, because these
18 pieces of evidence that are in this blue suitcase didn't just
19 grow; they didn't just spring into existence on the date that
20 they were supposed to be found.

21 This suitcase was in existence at the Spahn Ranch--
22 presumably -- during June, July, August, September -- whenever
23 -- and this type of evidence conceivably would shed some light
24 on the activities of Bill Vance; on the activities of Ella Jo
25 Bailey, in connection with the period of time that we are
26 concerned with.

27 Because the prosecution brought the indictment
28 that reflects the days that we have spoken of. And by the

8-3

1 same token -- well, I'm not -- this 57, even though it is --
2 even though it's before us in connection with the matter
3 pertaining to Donald Shea, Mr. DeCarlo -- Mr. DeCarlo was at
4 the Spahn Ranch during the same period of time, during the
5 same periods that we are speaking of in the transcript, June,
6 July, August.

7 He was at the Spahn Ranch. And so what we have
8 here -- because I am sure the prosecution and -- and that's
9 the reason that we are mentioning it -- I am sure the prosecution
10 is going to argue that that's not the signature of Donald Shea.

11 I am sure that that's what's going to be told,
12 although -- although the evidence would clearly show that it
13 is the signature of Donald Shea.

14 Well, then, if it wasn't Donald Shea -- if it
15 wasn't Donald Shea, who was it? Who was it that supposedly
16 wrote that?

17 If it isn't Donald Shea, it's an awful good
18 forgery -- an awfully good forgery. You look at that. You
19 look at those -- those -- those two words -- especially the
20 "Shea" and the "Donald" part, and it certainly looks like
21 this over here (indicating).

22 Is it Mr. Vance?

23 Now, Miss --

24 "Q Well, did you, during the summer of 1969 --"
25 speaking again to Ella Jo Bailey -- "lay out on the
26 ground, under the influence of LSD, on the Spahn Ranch?

27 "A At any time during the summer?

28 "Q Yes.

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"A I believe so.

"Q And you don't know what days, what month,
when these occurrences were that you were under the
influence of LSD, do you?

"A No," by Ella Jo Bailey.

She doesn't know -- uh -- when she was under the
influence.

8a fls.

1 "Q Would you tell us what effect LSD has
2 upon your thinking? What does that do to you?

3 "A It would depend on your environment and
4 who you were with. I couldn't tell you specifically,
5 you know, the over-all effect of LSD on any one person.
6 It could be different.

7 "Q On you? That's what we are asking about,
8 Miss Bailey.

9 "A Sometimes it made me afraid. Sometimes I
10 really enjoyed it, and I could just relax on it.

11 "It just depended what I was thinking about
12 at the time I took it."

13 Now, this blue case here (indicating), this blue
14 case has what would certainly appear to be a -- a location
15 where Ella Jo Bailey and Mr. Vance -- Mr. Schwarm -- where
16 they lived together, away from the Spahn Ranch, it would
17 appear.

18 This says September the 21st, 1969. Maybe --
19 maybe those people, the people at this establishment, had
20 some knowledge of Ella Jo Bailey and Bill Vance.

21 The fact of the matter is, the fact that this
22 evidence is brought to us -- and more or less thrown at us,
23 is what it is; if you'll look at it there, it's -- it's --
24 there's just a vast number of pieces of evidence from which
25 you would think that there could be some kind of investigation,
26 with actual physical objects.

27 Now, in -- in connection with -- there's just so
28 many objects in this blue suitcase that -- that obviously,

1 to go through it, would be -- would be -- it would just -- it
2 would just be impossible to do.

3 But there's no reason to believe that the people
4 in law enforcement couldn't go through it. And perhaps they
5 did go through it. But it didn't -- it didn't tell them what
6 they wanted to know; namely, there was nothing in this that
7 connected Mr. Manson with any wrongdoing.

8 (Pause in the proceedings.)

9 MR. KANAREK: Now, Ella Jo Bailey -- and again, she
10 refused to speak with not only me, but she refused to speak
11 with another lawyer. And the question was:

12 "Q And do you recall that when we met on the --"
13 all right. I'll begin again.

14 "Q Now, Miss Bailey, did you have a conversa-
15 tion with Mr. Manzella a few days ago, in which he took
16 notes, while you were speaking with him?

17 "A Yes, I did.

18 "Q And in that conversation, at the time you
19 had the conversation, who was present?

20 "A Mr. Manzella, my mother and myself.

21 "Q That was after you had stated that you
22 didn't want to talk to me; is that right?

23 "A Yes, sir.

24 "Q And do you recall that when we met on the
25 tenth floor of the Hall of Records here --

26 "A Yes.

27 "Q -- a few days ago?

28 "A (Nods head.)"

1 THE COURT: We'll recess at this time, ladies and
2 gentlemen, until 9:30 tomorrow morning.

3 During the recess, you are obliged not to converse
4 amongst yourselves nor with anyone else, nor permit anyone
5 else to converse with you on any subject connected with the
6 matter, nor are you to form or express any opinion on it until
7 the matter is finally submitted to you.

8 Good night. We'll see you tomorrow morning.

9 MR. MANZELLA: Your Honor, did you say what time tomorrow
10 morning?

11 THE COURT: 9:30.

12 (Whereupon, at 4:03 o'clock p.m., an adjournment
13 was taken in this matter until 9:30 o'clock a.m.
14 of the following day, Friday, October 15, 1971.)
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