

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.

162

No. A-267861

REPORTER'S DAILY TRANSCRIPT

Tuesday, October 19, 1971

VOLUME 62APPEARANCES:

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

A-1

1 LOS ANGELES, CALIFORNIA, TUESDAY, OCTOBER 19, 1971 9:45 A.M.

2 - - - - -

3
4 THE COURT: Good morning, gentlemen.

5 MR. MANZELLA: Good morning, your Honor. Can we take
6 up that point we discussed last night?

7 THE COURT: Yes, we might as well do that before the
8 jury gets here. This will be off the record.

9 (Whereupon a discussion off the record ensued
10 among Court and counsel.)

11 THE COURT: All right. We have been discussing here
12 in court, outside the presence of the -- what do you wish --

13 MR. KANAREK: The Penal Code, your Honor.

14 THE COURT: (Continuing) -- outside the presence of the
15 jury --

16 MR. KANAREK: Thank you, your Honor.

17 THE COURT: (Continuing) -- the proffered instruction
18 by the defense of CALJIC 14.76, CALJIC Third.

19 MR. KANAREK: Well, that's not just the only one, your
20 Honor. May I make argument, then, since we are on the
21 record now?

22 THE COURT: Why don't you --

23 MR. KANAREK: I would like to make --

24 THE COURT: -- simply present whatever instructions
25 you wish, and then the Court will --

26 MR. KANAREK: Well, because it's -- I can do it quite
27 speedily, your Honor. I will be very brief on it.

28 THE COURT: All right. I'll give you a minute.

A-2

1 MR. KANAREK: It may take a little longer than that.

2 THE COURT: No, it won't.

3 MR. KANAREK: I am asking for CALJIC Instruction 8.45,
4 8.46, 9.00, 8.33, 8.55, 14.35, 14.36, 14.37, 14.70, 14.71,
5 14.72, 14.73, 14.74, 14.76.

6 I ask the jury also -- the Court also to instruct
7 the jury that false imprisonment, the unlawful violation
8 of the personal liberty of another, accompanied by violence
9 or menace or both is a crime. That's one instruction I'm
10 asking for.

11 Another instruction I am asking for is false
12 imprisonment, the unlawful violation of the personal liberty
13 of another, not accomplished by violence or menace, is a
14 crime.

15 I am also asking the Court to -- to allow us to --
16 or, allow the jury to consider conspiracy -- let's see --
17 yes. That's 8.33, the second degree felony-murder in
18 pursuance of a conspiracy, wherein the conspiracy would be a
19 conspiracy to commit extortion.

20 That's one instruction. The other would be the
21 conspiracy to commit false imprisonment, which would be
22 another instruction, and would be -- and then there would be
23 a third.

24 One would be false imprisonment with violence;
25 false imprisonment without violence -- in other words,
26 three separate instructions that we are asking for -- no,
27 two separate instructions in connection with 8.33.

28 Then, we are also asking the Court for lesser

A-3

1 and included instructions as to robbery, for first degree
2 felony-murder, and extortion, and false imprisonment with
3 violence, as separate and included offenses for second
4 degree felony-murder.

5 That's our request of the Court, and it's our
6 belief that we are also entitled to what is in essence the
7 involuntary manslaughter instruction, because the conspiracy--
8 or, the passing away, by way of false imprisonment, without
9 force or violence, being a misdemeanor, it's our view that
10 that would -- that that could be -- if the death occurred in
11 connection with that, that that could be actually involuntary
12 manslaughter, or perhaps voluntary manslaughter.

13 THE COURT: In other words, simply the -- a death which
14 came about as the result of the false imprisonment?

15 MR. KANAREK: That's correct. Because it's up to the
16 jury to decide. You see, Mr. Manson's -- this is a separate
17 trial. They may well decide on a proximate cause basis that
18 there is -- that Mr. Manson's wrong, or his -- his wrongful
19 activities only contributed as far as a misdemeanor false
20 imprisonment is concerned.

21 If they believe, for instance, that Danny DeCarlo
22 or someone else cut Mr. Hinman -- and as your Honor well
23 knows, we are entitled to instructions on any tenable theory--

24 THE COURT: Well, the Court finds that the evidence
25 is such that none of the offered instructions which you have
26 just mentioned are warranted under the law. And the Court --

27 MR. KANAREK: Well, we are --

28 THE COURT: -- refuses to give those instructions.

A-4

1 MR. KANAREK: Well, then, we are also asking, of course,
2 for assault.

3 THE COURT: As a lesser and included offense?

4 MR. KANAREK: That is, assault with a deadly weapon,
5 assault GBI, and --

As fls.

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1 THE COURT: As a lesser included offense?

2 MR. KANAREK: That's right. And also a simple assault,
3 a lesser and included offense in --

4 THE COURT: Well, the Court has already replied to
5 that, and the Court finds that the evidence, again, does not
6 warrant the giving of those instructions.

7 The Court, I believe, has already discussed with
8 you the case of People vs. Ireland, and doesn't believe that
9 it would -- that murder second -- that a murder second instruc-
10 tion should be given, based upon the assault.

11 You understand that?

12 MR. KANAREK: Well, yes. I understand what the Court
13 has -- has stated; but the fact is, when they allege murder --
14 just murder, 187 -- it's our view that it's not only murder
15 first and murder second, in the classical sense, but also
16 murder first, felony -- that is, felony first degree murder,
17 and then second degree felony murder also is encompassed.

18 THE COURT: Based upon assault?

19 MR. KANAREK: Well, based upon -- upon their indictment,
20 which just says "murder." Therefore, included in that would
21 be second degree felony murder; and under the second degree
22 felony murder, if we have a felony that fits in to second
23 degree felony murder, we are entitled to an instruction on
24 second degree felony murder, as well as a lesser and included,
25 just in case they don't believe that there is a murder that's
26 proximately caused by Mr. Manson's conduct.

27 But he may be -- he may have proximately caused
28 a lesser and included offense. And that's why we are asking

Aa-2
1 also for robbery to be lesser and included, because you can't
2 accomplish, for instance, first degree felony murder, robbery
3 murder, without committing a robbery. And, your Honor --

4 THE COURT: Of course, the Court is not going to give
5 those as lesser included offenses. If the jury should deter-
6 mine that there was a lack of proximate cause in connection
7 with Mr. Hinman's death, they can find Mr. Manson not guilty
8 of murder, robbery, assault -- any of the charges that are not
9 stated in the Information, and are not given by way of lesser
10 included offenses.

11 MR. KANAREK: But the gist of the --

12 THE COURT: That's all.

13 Let's get the jury in.

14 MR. KANAREK: Well, your Honor, is your Honor saying
15 I can't -- your Honor is not going to give the -- the extortion--

16 THE COURT: That's correct.

17 MR. KANAREK: Your Honor is not going to allow me to
18 argue --

19 THE COURT: That's right.

20 MR. KANAREK: Well, I can argue it. What I mean is,
21 your Honor is not going to give a jury instruction on that
22 offense, but we certainly should be entitled to have them know
23 what extortion is, so I could make my argument, so that they
24 can know whether or not -- in other words, on your Honor's
25 approach -- on your Honor's approach, assuming that that is
26 the way it's going to be, I should be able to have the jury,
27 in the jury room, have the law on extortion, even though
28 your Honor is not going to allow a verdict to come in that

Aa-3

1 way, so that they will know -- they will be able to distinguish
2 robbery from extortion.

3 And this is my request, is that your Honor allow
4 the extortion jury instruction to go to the jury, and all
5 the jury instructions to go to the jury.

6 THE COURT: Mr. Manzella?

7 MR. MANZELLA: I thought we just decided that point. I
8 don't understand the difference between what was just decided
9 and what he's now requesting.

10 THE COURT: He wants the Court to give an instruction
11 defining extortion, so that he may argue to the jury that this
12 was not a robbery; it was an extortion.

13 MR. KANAREK: The same way with false imprisonment,
14 assault with a deadly weapon, all of these crimes that we --
15 that are -- that we are arguing, we have a right that the
16 jury know what they are, so that they can make a rational
17 distinction with the -- in connection with the evidence.

18 Because if they -- if they do not hit within the
19 ambit of the indictment, we are entitled to a not guilty,
20 based upon --

21 THE COURT: Well, they're not charged, Mr. Kanarek.

22 MR. KANAREK: Pardon?

23 THE COURT: They're not charged, and --

24 MR. KANAREK: No, but there is evidence --

25 THE COURT: -- in view of the fact that they're not
26 charged, you have the right to argue that the charges that
27 are charged have just not been proved.

28 MR. KANAREK: I know. But we are entitled to have the

Aa-4.

1 law before them, in the jury room, as to these defenses.

2 THE COURT: The Court believes it would only be
3 confusing to -- for example, to give an "assault with a
4 deadly weapon" instruction. It's not charged. It's -- it
5 would simply be confusing to them to give --

6 MR. KANAREK: Your Honor --

7 MR. MANZELLA: Your Honor, may I be heard just
8 briefly?

9 Your Honor, it's certainly my position that Mr.
10 Kanarek can argue that all Mr. Manson did -- if this is what
11 he wants to do -- is go to the house and commit an assault
12 upon the body of Gary Hinman, and then he left, and he had
13 nothing to do with what happened before or what happened
14 after.

Ab fls.

Ab-1

1 THE COURT: Of course, Mr. Kanarek --

2 MR. MANZELLA: And he can argue that. But that doesn't
3 require the giving of an assault instruction. He can argue
4 anything which says that the crime that Mr. Manson did had
5 nothing to do with what went on at Mr. Hinman's house --
6 robbery, murder, anything.

7 He can argue anything that says that Mr. Manson
8 had nothing to do with it; and in effect, that he's not
9 guilty.

10 But that doesn't require the giving of an assault
11 instruction or an extortion instruction.

12 THE COURT: The Court believes --

13 MR. KANAREK: Well, your Honor --

14 THE COURT: -- that that's true.

15 MR. KANAREK: Well, if I may, your Honor -- if I may --

16 THE COURT: Bring the jury in.

17 THE BAILIFF: Yes, sir.

18 MR. KANAREK: The fact is that 211 does not mention
19 consent. I just want to point that out.

20 THE COURT: Does not mention what?

21 MR. KANAREK: Consent, as extortion does.

22 (Whereupon the members of the jury entered
23 the courtroom, and the following proceedings were
24 had:)

25 THE COURT: Good morning, everyone.

26 (Whereupon, murmurs of "Good morning," were
27 heard from members of the jury:)

28 THE COURT: Sorry to keep you waiting out there, but we

Ab-2

1 had a little argument to take care of.

2 A JUROR: Quite all right.

3 THE COURT: The record will show that everyone's
4 present.

5 Mr. Kanarek?

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

9 THE DEFENDANT: Good morning.

10 THE COURT: Good morning, Mr. Manson.

11 Mr. Manson, can you maintain order in the
12 courtroom? I mean by that, can you maintain quiet in the
13 courtroom, so that you don't interrupt us this morning?

14 If you can, then, of course, the Court would
15 prefer having you here so that you can hear this argument.

16 THE DEFENDANT: So I can hear this argument? This
17 confusion? This madness?

18 THE COURT: All right. The Court will allow you to
19 be present this morning. And the Court will ask you that you
20 restrain yourself.

21 If you have any comments that you wish to make --

22 THE DEFENDANT: That's impossible.

23 THE COURT: Pardon?

24 THE DEFENDANT: It's impossible to speak in that
25 direction.

26 THE COURT: What do you mean by that?

27 THE DEFENDANT: If I say for him to say something, he
28 doesn't say it. If I say for him to call a witness, he doesn't

Ab-3

1 call a witness. If I say for him to come and see me, he
2 doesn't come to see me.

3 If I say for him to do anything, he just doesn't--
4 it's just impossible. There's never been any communication.
5 It's just impossible.

6 I have tried to explain that to the Court.

7 THE COURT: This may be the last day of argument. I
8 don't know whether --

9 THE DEFENDANT: It may be the last day of the world,
10 Mister, the way you're treating --

11 THE COURT: Pardon?

12 THE DEFENDANT: It may be the last day of the world.

13 THE COURT: Well, Mr. Kanarek may be pointing up his
14 argument. It may be that you may have something important
15 to say. If so, communicate with him by whispering, talking
16 to him, send him a note, without disturbing the Court.

17 THE DEFENDANT: You couldn't be serious!

18 THE COURT: Let's try.

19 THE DEFENDANT: There must be somebody out there who
20 knows what's going on.

21 THE COURT: Let's try it.

22 Did you have some paper you wanted to give him?

23 THE DEFENDANT: Do I have some paper you wanted me to
24 give you?

25 THE COURT: Him.

26 THE DEFENDANT: Oh, no.

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

Ab-4

1 jury:)

2 THE COURT: Mr. Kanarek, you may proceed.

3 MR. KANAREK: Thank you, your Honor.

4 THE DEFENDANT: I still can't recognize this confusion
5 as being any part of my defense. Were I allowed to defend
6 myself, --

7 THE COURT: Just be quiet, please, Mr. Manson.

8 THE DEFENDANT: You don't see the other side of this
9 case. There is another side.

10 THE COURT: Mr. Manson, just be quiet and sit down.
11 Mr. Kanarek is about to begin.

12 THE DEFENDANT: I don't know how much a man can take,
13 before he gets angry with you people of California -- if you
14 do represent California, which I don't believe that.

15 I believe you guys control what the People of
16 California think. You have your minds clouded with confusion,
17 so that you don't -- but you don't have mine clouded.

18 This is not justice. This is just one.

19 THE COURT: The record will show that Mr. Manson has
20 been removed from the courtroom to the detaining tank.

Ac Fls.

21 Mr. Kanarek, you may begin.
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AC-1 1 MR. KANAREK: Yes, your Honor.

2 (Pause in the proceedings.)

3 MR. KANAREK: Good morning, your Honor, and ladies and
4 gentlemen of the jury, and Mr. Manzella:

5 We were -- we were speaking yesterday concerning
6 Mr. Watkins; and in connection with Mr. Watkins' testimony,
7 it's -- there's no question but what he had an enormous
8 intake of drugs; that is, he -- he tells us -- "and up until,
9 let's say, the end of 1969, from the time you were 16 until
10 the end of 1969, you had taken LSD in many, many different
11 places?

12 "A. Yes.

13 "Q Is that right?

14 "A. That's right."

15 And then he goes on to tell us he took LSD
16 at the Barker Ranch, the Meyers' Ranch, the Spahn Ranch, on
17 Gresham Street, in the Topanga Canyon area, and on literally
18 hundreds of occasions he smoked marijuana.

19 On top of that, the other drugs that he's taken
20 are mescaline, psilocybin, belladonna, opium, hashish, heroin,
21 barbiturates and so forth.

22 And he's, of course, taken heroin with a needle.

23 And then he goes on to tell us, in -- in some
24 detail, that he's used speed or amphetamine approximately 50
25 times; hashish -- hash or hashish approximately 70 times;
26 belladonna, 20 times; and he included mescaline and psilocybin
27 in the LSD trips of 150 to 200 times, including LSD.

28 And he then goes on to tell us that -- and the

1 question was asked:

2 "And in connection with the events which
3 have occurred in the past, that you recollect,
4 did some of these events occur while you were
5 under the influence of one or more of the drugs
6 or narcotics that you have indicated to us?"

7 And the answer is: "Yes," that this man -- he says
8 he was -- he was under the influence of one or more of these
9 drugs, when these various things that he says that -- that
10 he's bringing to us in this courtroom -- primarily, really,
11 statements which they wish to attribute to Mr. Manson -- that
12 this occurred while he was under the influence of these
13 drugs.

14 And then the question was:

15 "And do you --" just -- I haven't finished
16 the question, and he says:

17 "Not the events which I have spoken of
18 here today." He's quick to tell us -- he's quick to
19 tell us, before the question is even asked, he's quick to tell
20 us that he -- that nothing that he told us here today, of
21 course, he was never under the influence of a drug when that
22 happened.

23 Well, the question is: Is that so or is it not
24 so? Is he behaving -- is he behaving as a neutral witness,
25 an impartial witness, or is he here to try and foster a
26 particular viewpoint?

27 And when he says, "Not the events which I have
28 spoken of here today," clearly, he's trying to clean it up

1 for purposes that he wishes to convey to us.

2 Now, furthermore, he -- on top of all of that,
3 on top of all of that, on top of all of that aspect of
4 credibility that we're talking -- that we've spoken of here,
5 is the fact that he's been given immunity. He says -- the
6 question was asked:

7 "May I ask you this, has any police
8 officer or any representative of the District
9 Attorney's office told you that you would not
10 be prosecuted in connection with your testimony?

11 "A Yes.

12 "And you have -- you were told this by
13 law enforcement officers in 1969?

14 "A Yes.

15 "Q Is that right?

16 "A Yes.

17 "And your state of mind is -- was that
18 meant that you would not be prosecuted for anything
19 that you had done while you were associated with
20 people that you called the Manson Family?

21 "A Yes."

22 Uh, then, there was a question:

23 "Is that right?"

24 There was colloquy with the Court.

25 The Court asked me, "Did you answer it?"

26 And the witness said, "Yes, I did."

27 And the Court said, "The answer may remain."

28 So there we have an aspect of credibility as to

1 this man Mr. Watkins which means that we -- there is --
2 there is nothing that he tells us that we can depend upon.
3 And there's an interesting point in connection with that.

4 Talk about consciousness of guilt, when Mr. Manson
5 spoke to that man in the County Jail, if he thought, looking
6 at human nature what it is, Mr. Manson thought that anything
7 that he had done with Mr. Watkins, anything that he had done
8 with Mr. Watkins was of a negative nature, he'd sign anything,
9 wouldn't he, when a man is charged with murder? Mr. Manson
10 behaved as an innocent man when Mr. Watkins came over to the
11 jail and wanted him to sign, wanted him to sign papers with
12 this lawyer so that -- so that they could make some money off
13 of everything that has happened to Mr. Manson. But Mr.
14 Manson didn't sign that. That has anything -- does that tell
15 us anything in connection with what we're discussing here
16 today?

17 It certainly -- it certainly seems like it is
18 telling us -- it is telling us that Mr. Watkins is -- is
19 here -- he's here before us, stating things that are not
20 true.

21 And in connection with -- with this, rather than
22 -- as I say, I tried to -- I'm not going to read -- try to
23 cut down on the amount of reading from the transcript, but --
24 but I think that -- that if there's any question about this,
25 whatsoever, ask Judge Choate to have it read back, have it
26 read back. And I think -- and I think that we will all
27 agree, we will all agree that the testimony of Paul Watkins
28 is testimony that is suspect, to say the least.

1 Then, we go into Mr. Poston. And Brooks Poston
2 is a carbon copy, a carbon copy of Mr. Watkins.

3 Without reading that, I'm sure we all remember
4 that Mr. Watkins, for instance, mentioned about climbing the
5 walls and not knowing where he was and all of this, which was
6 the -- which was the effect of taking LSD, for instance,
7 time after time after time.

8 But, then, when we get into Mr. Poston, we have
9 Mr. Poston telling us that at the time that Mr. Manson
10 supposedly made this statement to him, he says that -- when
11 he was asked who was present at the time Mr. Manson made the
12 statements, Mr. Poston says:

13 "Myself, Paul Crockett, Bruce Davis, Tex Watson,
14 Kitty Lutesinger, Sherry Cooper was there, Barbara
15 Hoyt, and I believe Brenda and Snake, but I'm not
16 sure they were there.

17 "Now, was Paul Watkins present at the time
18 Mr. Manson made the statements?

19 "A No."

20 Now, so what Mr. Poston is doing, is with all
21 of those people that are there, he's deliberately leaving
22 Mr. Watkins out of this particular statement because of the
23 fact that he knows, that he knows that if Mr. Watkins is
24 there, that he will then be asked about it and there will
25 be this difference, this difference because of the fact that
26 the people are excluded from the courtroom, the witnesses
27 who are not now testifying. No question about it.

28 Mr. Poston also got \$1100 and -- in connection

1 with the future, he says -- the question was:

2 "You personally got \$1100, right?

3 "Uh, that was approximately my cut, yeah.

4 "Your cut. And you got some future
5 royalties, also, for your story to these editorial
6 people, these writers?

7 "Not yet.

8 "Q Pardon?

9 "A Not yet.

10 "Do you have an arrangement whereby you
11 are getting future royalties?

12 "We don't have -- we haven't gotten any-
13 thing. We have a contract with the people that we
14 worked with."

15 That's what he tells us.

16 Now, Poston tells us that he, when asked whether
17 he's taken LSD, he says about 25 times, 25 to 30 times.

18 "And is this in your entire life?

19 "A Yes.

20 "And what drugs, what other drugs, if
21 any, or narcotics, if any, have you taken besides
22 LSD?

23 "Uh, mescaline, some synthetic grass --
24 no, I didn't take that. Uh, marijuana, hashish and
25 opium.

26 "And on how many occasions have you taken
27 marijuana in your lifetime?

28 "A I don't know the exact number.

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"Q Hundreds of times?

"No.

"Thousands of times?

"No, not even close. Much fewer.

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1 Well, at one -- she was asked -- at one time he
2 went into a catatonic state in 1968 and he -- he was asked
3 did he go into a trance, and he -- for some three or four days,
4 and he says: "No, I was not immobile."

5 And he says he wasn't in a state where he could
6 take care of himself physically -- where he could not take
7 care of himself physically. He says, "I laid on the couch,
8 but I was not immobile."

9 In other words, he knows about -- he knows about
10 the event that we are speaking of here, and he says that the
11 time involved was not as long as several days or something
12 like that.

13 But I'm sure, and I'm sure we will remember, and
14 if there's any question about it -- and that's why we advert
15 to the transcript so much, because that's where the testimony
16 is, is in the transcript.

17 We remember where his friend, Mr. Watkins, said
18 that he was immobile for a long period of time. Remember
19 where he testified he just stayed -- like laid around for
20 weeks. I'm sure that we all remember that. And so this is
21 Mr. Posten.

22 Then, Mr. Posten stated, for whatever it may be
23 worth, the question is:

24 "Now, how long was it after you got to
25 Shoshone that you talked to Sergeant Whiteley?

26 "Uh, not exactly. Uh, but it was after
27 everyone had been busted up in the wash, the
28 Family had been busted up there. We went through

1 "Inyo or Independence. They called us over that.

2 "All right, in relation to these arrests,
3 when did you talk to Sergeant Whiteley?

4 "A After the arrests."

5 Now, this shows you -- this shows you that Mr.
6 Posten did not make any statements about anything that he is
7 telling us here until after Mr. Manson is arrested.

8 Now, if that were not true, I'm sure that the
9 prosecution would have introduced evidence before us here to
10 show that this wasn't so. But this -- this is indeed the
11 fact. There's no question but what all of these conversations
12 and all of these statements and all of this comes into play
13 supposedly after Mr. Manson is arrested.

14 And when we think about -- when we think about
15 what has happened in connection with the events surrounding
16 Mr. Manson, now, there's no way that I -- that I can say that
17 this is for sure. I'm sure that no one in this courtroom
18 pretends to be an expert on propaganda or how information goes
19 through the community or the country or why people spread
20 rumors and how this happens. I suppose this is for people
21 who deal with mass -- that is, the great groups of people and
22 the psychology of it.

23 But it seems in going through these transcripts
24 and reading, that there is one very interesting point, and
25 that's when Officer Purcell told us -- Officer Purcell told us
26 -- and I think maybe it would help -- it would help to read
27 the exact words of the police officer.

28 Where -- may I have a moment? I'm trying to

1 locate a particular --

2 I'll locate that because it is important, the
3 exact words that he uttered.

4 But the -- what I am speaking of, is when he -- is
5 when he stated -- when he stated that there was a rumor --
6 there was a rumor at the Inyo County Station that Mr. Manson
7 was Jesus Christ.

8 If we look at it, and look at the way newspaper
9 people follow these events, and people concerned with these
10 events, around, it is a good chance that that is the -- that
11 is the beginning, really, of the intense focus on Mr. Manson,
12 when a police officer says that the rumor was at the Inyo
13 County Station that Mr. Manson was Jesus Christ.

14 This is the kind of thing that newspaper people
15 latch onto. And once -- once the ball gets rolling, it is
16 just -- there is no stopping to it.

17 And so in a way, in a way, that is a very, very
18 interesting event in connection with this case. Because
19 there's no showing -- there is no showing -- they didn't bring
20 anything -- anything here by way of -- of exhibit, nothing in
21 writing, nothing to show that Mr. Manson claimed he was Jesus
22 Christ.

23 But remember there was a man arrested, named
24 Christopher Jesus or Jesus Christopher, and who knows how
25 these things get mixed up and misunderstood. And as a result,
26 he said the rumor was at the Inyo County Station that Mr.
27 Manson was Jesus Christ. And that could well be the beginning
28 of all of this, what you might call, for want of another

1 word, Manson media that we are seeing, that we are visualizing
2 right here today. Because when you get right down to it,
3 when you get right down to it, what has Mr. Manson -- what is
4 there before us, for instance, in connection with Shorty Shea
5 that would allow even a murder charge to be brought? There is
6 nothing. Nothing here to connect Mr. Manson with the alleged
7 murder of Shorty Shea. There's nothing here to even show that
8 Shorty Shea is not now living.

9 And in that regard, I think it is interesting
10 to consider what the prosecution has done in connection with
11 the searching and all of that.

12 We know that they practically dug up the Spahn
13 Ranch in order to look supposedly for Mr. Manson.

14 All right, now, with -- and these are some of
15 the things that go into this -- to this doctrine of reasonable
16 doubt.

17 Here we have a map. We have a map which shows
18 the relationship between the Spahn Ranch and Gresham and
19 Independence Street. This map is drawn by the prosecution.
20 They had a -- they had such an interest in this automobile at
21 the Spahn Ranch, they even drew a line here (indicating), and
22 they tell us it is five miles from Gresham and Independence
23 and the Spahn Ranch, and supposedly they're searching for
24 Mr. Shea. But they don't do anything anywhere except at the
25 Spahn Ranch.
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1 A -- it would seem like -- it would seem like that
2 with this being Bill Vance's house, with everything that we've
3 heard that Mr. Manson and his friends lived at this address
4 on Gresham Street, it would seem like they would do some
5 digging in this area, because supposedly these people have
6 some kind of -- some kind of intimacy with this house. But
7 they don't do that. They don't do that. Mr. Whiteley tells
8 us:

9 "And there -- that automobile is at a home which
10 Bill Vance had occupied, is that correct?

11 "Yes, he was one of the occupants.

12 "And Bill Vance was the person that used
13 the alias of William Rex Cole or Rex William Cole
14 or something like that?

15 "A Yes.

16 "Q Did you search the basement? Did you
17 dig up the basement of that home near Gresham and
18 Independence?

19 "A No, sir.

20 "Q Did you -- you knew that Danny De Carlo
21 had lived in Inglewood with Barbara Hoyt?

22 "A Yes.

23 "Q Did you dig up the area around that
24 home?

25 "No, sir.

26 "To look for the body of Mr. Shea?

27 "No, sir.

28 "You knew Danny De Carlo lived in Venice

1 "and so on, and you knew that he was friendly
2 with Mr. Springer, is that right?

3 "Yes, sir.

4 "But they didn't dig anywhere except at
5 the Spahn Ranch?"

6 Uh, that's one part of the investigation, one
7 part of the investigation that you can talk about that seems
8 to be wholly and absolutely inadequate if they actually believe
9 that Mr. Shea -- that Mr. Shea is not alive. But they don't
10 believe that Mr. Shea is not alive if we look at the
11 testimony, the -- what we saw in this courtroom concerning
12 Beverly Russell.

13 Now, we have a probation officer, a Los Angeles
14 County Probation Officer called up the Sheriff's Department
15 on March or April in 1970, long before this indictment comes
16 out, which is December of 1970, calls up and tells homicide,
17 Sheriff's Homicide, about what Beverly Russell has told her.
18 And the Sheriff's Homicide does nothing about it.

19 In other words, they purport to bring to us a
20 so-called investigation.

21 Now, the -- so, actually, this piece of paper
22 that says "817 South Burlington, L.A., Shorty, 389-8921," that
23 these piece of paper has been available and was within any-
24 thing that the Sheriff's Homicide wanted to do since the
25 early part of 1970.

26 Now, again, I'm not going to -- I'm going to try
27 to -- in connection with the testimony of Beverly Russell,
28 it would be -- it is fascinating, though, and I know we can't

1 take the time for it, but it is fascinating to read that
2 little girl's testimony because -- because it is clear from
3 reading her testimony and the -- and then, the testimony of
4 Christine Berger, it is clear that Beverly Russell, Beverly
5 Russell saw Mr. Shea at a time long after, long after September
6 or August of 1969.

7 Now, I think that just if -- if you will bear with
8 me, I want to read -- let's see if I can -- excuse me.

9 Beverly Russell testified, uh, -- and there's no
10 question about it from her testimony here, that for one reason
11 or another she doesn't wish to be associated with Mr. Shea at
12 this time in history.

13 And she testified as follows -- Mrs. Berger did.

14 The question was asked:

15 "All right, would you tell us what else
16 was said about the piece of paper by Miss
17 Russell?"

18 And this is what Miss Russell said.

19 "Well, she --" Mrs. Berger said.

20 "Well, she told me that she had visited Shorty
21 Shea at that address before she was arrested, shortly before
22 she was arrested, and she was arrested in March.

23 "Of what year?

24 "Of 1970."

25 So in March of 1970 Beverly Russell came to the
26 Probation Department and this piece of paper was in Beverly
27 Russell's effects.

28 Now, you look at the impartiality of evidence.

1 One of the criteria, one of the criteria the Court is going
2 to give us on the credibility of witnesses is the bias and
3 prejudice of a witness in connection with their testimony.

4 Now, when Beverly Russell came in March of 1970
5 to the Probation Department, was she there in anything
6 connected with this case? This case wasn't even in existence.

7 If you look at the quality of testimony, we know
8 from this little girl's testimony here, the more she says,
9 "No," the more she says, "No," about not ever having heard
10 the word Shorty Shea, and all of that, and giving us the
11 statements, for instance, that this is her handwriting, but
12 she doesn't -- she never seen the paper before -- I mean,
13 things that, you know, defy reason -- then, you have the
14 probation officer coming here to testify and telling us what,
15 in fact, occurred.

16 Is that testimony -- is that testimony touched
17 with any bias or prejudice? Is there anything about that?

18 Beverly Russell -- remember witnesses are excluded.
19 Beverly Russell comes in here -- for one reason or another,
20 she wants -- she wants to have nothing to do with Shorty
21 Shea. She -- the name Shorty Shea at this point in her life
22 is so -- is a name that she wants to disengage herself from.

23 When we see her testimony, there's no question
24 but what she knows Shorty Shea. She's been with Shorty Shea.

25 And then, we have Christine Berger coming to the
26 witness stand and telling us exactly about this. And so there
27 is no question, there is no question but what as of at least
28 March, 1970, at least March, 1970, Mr. Shea was alive.

1 Now, -- and so there's no reason to believe that
2 Mr. Shea is not alive at the present time.

3 And what does the prosecution do? The prosecution
4 -- first of all, they don't investigate, do anything or present
5 to us anything about what occurred to that. They -- in other
6 words, when Sergeant Whiteley gets on the witness stand and
7 tell us about all the flyers they sent out and all of that,
8 he doesn't tell us about the fact as to what they have done in
9 connection with Beverly Russell. He doesn't tell us. There
10 are all kinds of aspects of the investigation that we are
11 not told of. He only tells us about what he wishes to tell us
12 about.

13 But after this comes up in the courtroom, as the
14 only rebuttal in the case, the only rebuttal in the case that
15 the prosecution has, is they bring on this lady, Mrs. Black.
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1 And Mrs. Black tells us that she merely collected
2 rents; she tells us that she doesn't live at that place, she
3 doesn't live on Burlington.

4 She tells us that -- she tells us about a couple
5 of families living there, but the -- interestingly enough,
6 a part of this evidence that the prosecution doesn't even
7 mention on rebuttal -- on rebuttal is the telephone number.

8 Now, with the resources that the prosecution has,
9 they can find out anything that they want to find out about
10 a telephone number, probably in less than a half hour, because
11 of the power of law enforcement in their relationship with
12 phone companies, and everything that they do with phones.

13 But they don't mention a word in this courtroom
14 about 389 -- what looks to be -- 8921.

15 And that speaks eloquently of the fact that Mr.
16 Shea was alive as of at least the spring of 1970.

17 Now, the prosecution has the power -- has the
18 power to do all of these things. And they purported --
19 superficially, they gave us a facade of investigation, but
20 they didn't tell us about this.

21 Also, they didn't tell us about what investigation
22 they did in connection with Mr. Vance or Mr. DeCarlo, even
23 though they -- they had Mr. DeCarlo's -- the home where his
24 parents lived, that address on Colegio Drive.

25 But you see, this conduct of Mr. Shea's is so
26 typical of Mr. Shea and his itinerant habits because it --
27 the address around 817 Burlington, the address around
28 Alvarado -- that's roughly around 8th and Alvarado -- that is

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1 a transient area; that's a rooming house area.

2 And so Mr. Shea, as of at least -- as of at least
3 the March period of 1970, was -- was -- there's no question
4 about it -- was alive.

5 And -- and so -- and Mr. Manson, in -- in the
6 spring of 1970 was in jail. He has been in jail continuously
7 since October the 12th of 1969.

8 So, in a way, this does more than just raise a
9 reasonable doubt. It's affirmative evidence -- which, of
10 course, in a criminal case, what we have spoken of before,
11 the prosecution has to prove that a man -- that a man is
12 guilty. That is the law.

13 And this raises not only a reasonable doubt, this
14 is affirmative evidence of the fact that Shorty Shea is alive
15 at the present time.

16 Now it -- it -- it -- because of the fact that we
17 are inundated with all of the perjury and all of the -- all
18 of the browbeating of witnesses, and all that has occurred
19 concerning Mr. Manson, doesn't mean that we should -- that
20 we should -- that we should allow ourselves -- allow ourselves
21 to be engulfed by the mass of words that have come from the
22 witness stand.

23 It's -- it's pretty much -- I mean, we can feel
24 awfully smug and complacent as we sit here in this quiet
25 courtroom; we can feel awfully smug and complacent, and we
26 can think -- we can think -- that what they present to us is
27 gospel.

28 But we have to look at -- we have to look at the

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1 way, the way some of these things happened, the way some of
2 these things operate, the way some people in law enforcement
3 think.

4 For instance -- for instance, when you take the
5 situation involving Mr. Jackson up in San Quentin, the way
6 that man was murdered -- they didn't have to shoot Mr. Jackson --

7 THE COURT: Excuse me, Mr. Kanarek. Stick to this case,
8 please.

9 MR. KANAREK: I am sticking, by way of -- by way of --

10 THE COURT: All right.

11 MR. KANAREK: -- analogy, your Honor.

12 When you think of the law enforcement intellect,
13 that will shoot a man who is -- who is going to try to climb
14 a 12-foot wall, shoot him in the back, shoot him in the head--

15 THE COURT: Mr. Kanarek, --

16 MR. KANAREK: Yes, your Honor.

17 THE COURT: -- the Court cautions you again.

18 MR. KANAREK: Well, this is by way of analogy. And I --
19 and I -- if your Honor wishes, I'll --

20 THE COURT: Proceed with your --

21 MR. KANAREK: -- approach the bench on it.

22 THE COURT: Proceed with your argument. I don't wish
23 you to approach the bench.

24 MR. KANAREK: Well, the fact of the matter is that this
25 is law enforcement intellect. This is law enforcement
26 approach. And you take a situation -- you take a -- you have
27 to look at the reason behind the situation.

28 Now, Mr. Manson is just as much -- is just as much

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1 mistreated as anyone that we can think of. Anyone that we
2 can think of.

3 The fact that law enforcement has allowed -- has
4 allowed this kind of information to -- to saturate us, so that
5 our minds are slaves to what they wish us to think --

6 THE COURT: We'll take a recess now.

7 During the recess, you are admonished that you
8 are not to converse amongst yourselves nor with anyone else,
9 nor permit anyone to converse with you on any subject
10 connected with the matter, nor to form or express any opinion
11 on the matter until it is finally submitted to you.

12 A little over ten minutes, ladies and gentlemen.

13 (Midmorning recess.)
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1 THE COURT: Go ahead, Mr. Kanarek.

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

3 THE COURT: The record will show that the jurors and
4 alternates are present.

5 (Pause in the proceedings.)

6 THE COURT: Go ahead, Mr. Kanarek.

7 MR. KANAREK: Yes. I apologize, ladies and gentlemen,
8 but some of these exhibits are in another courtroom. So, we
9 are trying to work around them. Thank you.

10 Now, the type of person that Mr. Manson is -- is
11 projected as being to all of us -- and, as I say, as a result
12 of what you've seen and heard in the mass media -- and I did
13 locate, during the -- during the recess, what Officer Purcell
14 testified to.

15 "Officer, directing your attention to
16 Mr. Manson, did Mr. Manson use the name Jesus
17 Christ?

18 "A. I have no personal knowledge of that."

19 Then: "Was Mr. Manson also known as Jesus
20 Christ on October 12, 1969, Mr. Purcell?

21 "A. Rumor had it he was known by that
22 name."

23 "Rumor had it he was known by that name."

24 And according to what he brought to this courtroom,
25 he had "Charles Miles Manson, aka --" also known as -- "Jesus
26 Christ."

27 He tells us, from his own personal observation
28 and hearing, when he first -- when he first came into

1 Mr. Manson's presence, Mr. Manson said -- he said, "What's
2 your name?"

3 And he said, "My name's Charles Manson."
4 And this is on October the 12th.

5 Now, the fact is that if there is any other kind
6 of representation by Mr. Manson, we would have the documents
7 here. The documentation would be here, if there was any
8 other -- any other representation.

9 Now, it's true that the people -- the people that
10 populate our prisons are generally black or Negro people;
11 people of Mexican or Latin or Spanish descent; people -- white
12 people, Caucasians who are not in great income groups.

13 That's the type of people that populate our
14 prisons. And the fact of the matter is that Mr. Manson --
15 Mr. Manson has -- there's no question about it, this record
16 reveals -- has spent a great number of years -- a great number
17 of years of his life in a prison atmosphere.

18 Now -- now, does that mean that because a man may
19 have the misfortune of being thrown in, when he's nine or ten
20 or eight or twelve years old, into a -- into a prison at that
21 age, because of whatever his family may have done, as far as
22 abandoning him or whatever -- at those ages, we are not
23 responsible for our livelihood or what we do -- but does that
24 mean that because a man has that kind of a background, that
25 he should be lynched?

26 Does that mean that because a man has that kind of
27 a background, that he should not be -- that he should not be
28 treated, as far as the prosecution is concerned, with -- with

1 that kind of respect that the mayor of -- that the mayor of
2 San Diego gets when he's arrested for a crime?

3 The mayor of San Diego gets arrested for a crime.
4 He's treated with deference. He gets a chance for a fair
5 trial.

6 A man like George Jackson goes to jail for ten
7 years, for a \$70 robbery. Dr. Finch was convicted of murder
8 and released on parole in the time that Mr. Jackson was staying
9 in prison, on a \$70 alleged robbery.

10 Why? Because of the same thing that Mr. Manson
11 has done in this courtroom: because he sounded off. Because
12 he was unhappy with conditions. Because he was unhappy with
13 conditions, and he let people know it.

14 He then was made to stay in prison a fantastically
15 long time, even if he were guilty of the original charge,
16 from 1959 to 1960, until he died in this year.

17 That is not -- that is not the way justice should
18 be administered.

19 And the same type of thinking, the same type of
20 thinking that administers that kind of justice administers
21 the bringing of evidence to this courtroom; the same thinking
22 of that -- that -- that you can do to witnesses; you can get
23 the witnesses here; you can bring it here, and it matters not
24 what's happened, because who is going to do anything about it?
25 Who is going to do anything about it?

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And that's the kind of thing that is in the background; and this is the circumstantial evidence kind of thing that's in the background, that you have to consider when you listen to supposed words from this witness stand, as to whether or not certain things have occurred.

And in that regard, just by way of example, these are some of the names -- these are some of the names, for instance, that Barbara Hoyt used in her lifetime:

Barbara Lipsett; Barbara Whyer; Stephanie Gail Rowe; Shirley McNabb; Yvonne De Carlo; Yvonne Caruso; Whyer, W-h-y-e-r, and God knows how many other names.

But this -- this girl, and all of the suggestiveness, all of the -- everything that she -- that she made -- that she may have in her personality, because of the taking in of LSD, we are asked -- we are asked to take and accept what she says, at face value, and use those words in this courtroom in order to get a certain result.

Some of these -- excuse me.

(Pause in the proceedings.)

Here's some circumstantial evidence for us to consider, as to whether we can believe these people or not.

"Mr. Watkins, is it a fair statement that from October -- well, from sometime in the latter part of 1969 -- that is, September, October, November of 1969, until -- oh, April or maybe May of 1970, you lived with Steve Grogan, the person you know as Clem?

"A. Yes.

1 "Q You lived with him; that is,
2 shared quarters and all of that; is that right?

3 "A Until what was the -- what was the
4 date that you quit?

5 "Q I said April or May of 1970.

6 "A Yes, that's a fair statement."

7 Now, let me ask you: If somebody had told you
8 that Clem had cut someone's head off, would you share quarters
9 with that person, from October of 1969 until sometime in 1970?

10 Could you go to sleep at night? Remember, Mr.
11 Grogan is an alleged co-defendant. Mr. Grogan is named in
12 the Indictment.

13 Is that circumstantial evidence that tells us
14 that -- that tells us that Mr. -- that Mr. Watkins maybe is
15 not telling us exactly the way it is?

16 It's buried here in the transcript. You have to
17 sort of dig it out, dig some of these things out; and they --
18 and they're not necessarily romantic; it's not necessarily the
19 way -- the way you make an oration or get up and recite things.

20 Because these things are buried deep in the
21 transcript. But they're there. They're there.

22 That speaks so powerfully. People being what
23 they are, you don't go to sleep with somebody, if you think --
24 if you think that he chopped someone's head off.

25 Now, again, it's -- it was -- we remember the
26 testimony of the boy whose name is Barber or Barker --Richard
27 David Barber.

28 And Mr. Barber testified that in February of 1970

1 -- February of 1970 -- he found the briefcase and the suitcase.
2 And he found them -- and, of course, at that time Mr. Manson
3 was in custody.

4 And he found that suitcase -- and all that we have
5 gone through, and all that -- in connection with the items
6 that are inside of that suitcase.

7 And he said that there was an adding machine and
8 a checkwriter that he found.

9 The question is asked -- well, the adding machine
10 and the checkwriting machine are not there, in connection with
11 all of these things that he found.

12 Well, where are they? Why isn't the adding
13 machine and the checkwriter brought to this courtroom? Why
14 doesn't the police officer tell us about that in his investi-
15 gation?

16 Adding machines and checkwriters are the kinds of
17 things which can be traced.

18 They talk about an investigation. They talk about
19 sending out these papers to places, to places far removed
20 from Los Angeles.

21 But the adding machine and the check writer were
22 found by Mr. Barber. Does that tell us anything about the --
23 about the staging, about what's going on in connection with
24 this case?

3-1

1 Well, the checkwriter, the checkwriter is consistent
2 with the participation by Mr. Vance in the making of those
3 checks that we've seen. The checks where they're all the same
4 date and the same amount at the Spahn Ranch.

5 The -- well, look at the Sirhan case. They're
6 making a big deal about something that was done wrong by the
7 County Clerk's office, that something -- a copy of something
8 or other was missing in the Sirhan case. And the District
9 Attorney conducted a big investigation about that.

10 But here we have a checkwriter and an adding
11 machine in connection with this, which the boy says he found,
12 and nothing -- no explanation. No reason -- no part of the
13 investigation is brought to us as to why or what or how or
14 anything concerning that.

15 So it sends up -- sends up a, uh, a red flare.

16 But there's got to be some reason. You don't,
17 in an investigation of this type -- you don't just take a
18 checkwriter and an adding machine and just forget about it.

19 Now, we know that the car was found -- that the
20 car was found on October -- let's see -- I forget that
21 exact date. The exact date -- excuse me. Excuse me.

22 (Whereupon, Mr. Kanarek conferred with the Clerk.)

23 December 8, 1969, is the date that the car was
24 found.

25 Now, on that date, on that date we know for sure
26 that Mr. Manson was in jail. Mr. Manson was arrested on
27 October 12, 1968. We know that Mr. Davis was arrested on
28 December 11, 1970. 1970. Not 1969, but 1970.

3-2

1 We know that this car -- talk about an investiga-
2 tion -- we know that this car supposedly was not running.
3 The keys, they tell us, were in the car, but not in the
4 ignition. They were, like, on the floorboard or something
5 like that.

6 So our reason tells us -- our reason tells us
7 that that car was very, very recently placed where it was
8 found. Our reason tells us that for a few reasons.

9 One, Gresham and Independence Street is an area
10 that is very well known to this lawsuit. It is an area
11 where Mr. Vance lived and where some people, Mr. Manson
12 included, lived. If -- look at the pictures that we have
13 here and see if there's any reason to believe that this car
14 was parked there any great length of time.

15 The officer says the car wouldn't start, but he --
16 no mechanic looked at it, no scientist, no person -- if you
17 are charging a man with murder, there has to be some kind of
18 proof in connection with these things.

19 Now, I'm sure -- I'm sure it would take -- it
20 would take the most average type of mechanic, even, to go
21 over that car and be able to come here and testify or some
22 ex- -- auto expert as to what the reason was that that car
23 was immobile. And you could get some kind of an indication
24 of time as to when the car was last driven. I mean, that
25 certainly is not unreasonable with our present state of
26 technology what it is.

27 But that isn't brought to us. That isn't brought
28 to us concerning that automobile as part of this investigation.

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1 We looked at these pictures.

2 There's nothing here to show that this car was
3 sitting there for any great length of time.

4 There's a picture (indicating). I mean, there's
5 nothing there to show -- to show --

6 Here's another one (indicating). Here's another
7 one (indicating). There -- and then, there's pictures of the
8 footlocker and so forth.

9 But it would seem like -- it would seem like with
10 Mr. Manson being in jail, that there is no question -- there's
11 no question but what this automobile is affirmative evidence
12 that Mr. Manson has nothing to do with Mr. Shea.

13 Then, we have the further -- the further proposition
14 which is very, very interesting to sort of turn over in your
15 mind, and that is the name "Enfield." Mr. Shea supposedly
16 bought this car from somebody named Enfield.

17 Now, we're told that -- and we see all kinds of
18 documentation about Gary Hinman's automobiles. We see docu-
19 mentation and we have -- we have -- we have the -- the pink
20 slips, we have the registration, and we have the various
21 things concerning Mr. Hinman. And Mr. Hinman has passed
22 away. But presumably Mr. Enfield has not passed away.

23 Why isn't Mr. Enfield here, if there was any kind
24 of a -- if -- if Mr. Shea really was driving this car and if
25 Mr. Shea really did buy that car? Why isn't there something
26 here from -- by way of direct evidence by Mr. Enfield?

27 Because probably whatever Mr. Enfield would tell
28 us would prove even further that Mr. Shea is alive. And so

3-4

1 Mr. Enfield is not right here. If Mr. Enfield is not -- he's
2 not here to talk about the transaction, -- whether there ever
3 was a transaction. But it -- it is part -- isn't it really a
4 part of the investigation? Isn't it really? Isn't it really
5 part of what you ask to be told, and, as a matter of fact, the
6 subject matter of investigation concerning Mr. Shea was
7 brought up by the prosecution, the very subject matter of
8 investigation.

9 But this is not brought to us. And when it is
10 not brought to us concerning this automobile, concerning
11 everything that we know that they want us to believe about
12 the automobile, about the footlockers, uh -- it is just --
13 when you turn it over in your mind, you say it is one of
14 the things that certainly falls within the reasonable doubt
15 propositions that we've talked about.

16 Now, what -- pardon me.

17 There's certain dates in here that are sort of --
18 that are sort of -- of some interest.

19 We have the date of September 1, 1969.

20 Now, that's an artificial date.

21 What I mean by "artificial" is that that date is
22 because of the fact that these people have been spoken to
23 that they talk about the last part of August as if it were
24 some breaking off point. But it is in the testimony, September
25 1, 1969.

26 Now, on that date, September 1, 1969, the
27 prosecution would have us believe that Mr. Manson is at the
28 Barker ranch.

3-5

1 Now, I see this as September 3, that particular
2 stamp on this -- might almost make an 8 out of it. I don't --
3 it is really -- I'm sure that -- no, I guess it is a 3. I
4 guess it really -- it is a 3.

5 But, in any event, September 3, 1969, is a date
6 when the -- when Mr. Shea and someone named Smith, that we
7 know is Danny DeCarlo, was at this pawnbroker's.

8 Now, I'm sure the prosecution is going to say,
9 "Well, Mr. Shea wasn't there. Mr. Shea wasn't there." But
10 the handwriting expert testified in connection with the
11 question as to whether it was Mr. Shea's handwriting as to
12 People's 57, and the man is a handwriting expert, and we have
13 every reason to believe that he looked at -- when he looked
14 at People's 57, he looked at every one of these documents.

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1 And as a handwriting expert, he would -- he would
2 certainly -- now, admittedly, this looks like it's been
3 erased or tampered with or something. But -- but on September
4 3rd, 1969, in any event, if we can believe that stamp,
5 Mr. Manson was -- we know, based on their evidence --
6 in the Barker Ranch area, Barker and Meyers' Ranch.

7 Mr. Manson had nothing to do with the redemption
8 of these guns. We know that Mr. Smith is Mr. De Carlo. So
9 here we have a couple of firm dates, based upon -- if you
10 want to accept the prosecution viewpoint -- which means that
11 Mr. Manson was far removed -- was far removed from the
12 redemption of those guns.

13 And if we add to that the testimony of the
14 Barber boy, concerning the fact that when he found -- when he
15 found what he found, the suitcase and the briefcase, that
16 there was no dust on them, they were clean he indicated -- he
17 indicated that -- and that's why the transcript is much better
18 -- much better than my memory.

19 I think his question and answer there --
20 (pause in the proceedings.)

21 Here's his question and answer:

22 "Now, is this a dusty area?

23 "A Yes.

24 "Q Is that right? Was there any dust on these
25 items?

26 "A I can't remember right now.

27 "Q Well, did you have to dust off the
28 items?"

1 And it says in the transcript h-m-m, meaning sort
2 of thinking to himself -- and then he said: "No."

3 So here we have -- we have a desert area, where
4 he finds these items, in 1970, and there's no dust on them.

5 Does that mean anything in connection with these
6 things? Because Mr. Manson -- Mr. Manson, in February, 1970
7 was in jail. Mr. Manson, in December -- on December the 11th,
8 1970, when Bruce Davis is arrested, is in jail.

9 And what is it, December the 9th, 1970? That's
10 the car -- and that's Bruce Davis. And this is the -- this
11 is Barker testimony -- or Barber testimony. And this is the
12 pawnbroker. And this is Charles Manson at Meyer and Barker
13 Ranch.

14 Do those dates have any circumstantial evidence
15 for us, any significance for us, concerning Mr. Manson?

16 Well, we -- we think that possibly they do.
17 Possibly they do.

18 When you charge a person with murder, you charge
19 him with murder, which includes malice aforethought. Your
20 -- the instructions say that -- that there must be the malice,
21 the premeditation, and you must show the intent on the part
22 of the defendant to commit the murder.

23 Where is there any kind of malice? Where is
24 there any kind of a showing that Mr. Manson had any kind of
25 intent to kill Mr. Shea?

26 Oh, I know we've got lots of -- lots of people
27 up here that are testifying about what Mr. Manson says; they
28 say these are things that he -- that he spoke.

1 But what they're repeating -- what they're
2 repeating is what they have read in the newspapers, what they
3 have -- what they have built up in their minds, by the
4 interrogation and the re-interrogation.

5 Now, you have different classifications of evidence.
6 Some evidence has greater value than other evidence. These
7 dates, we think, at least -- and really, the jury is the one
8 to decide -- we think these dates speak eloquently; they speak
9 much more eloquently than a drug-infested brain.

10 The -- the September the 3rd, that pawnbroker
11 type of thing, Danny De Carlo -- Danny De Carlo lived in what
12 was called the gun room. Danny De Carlo is the person who was
13 weapon-conscious at that Spahn Ranch.

14 Danny De Carlo, they tell us, is the one who
15 broke down the guns, along with Mr. Vance. And the interest-
16 ing thing about it is: You have to break down the guns after
17 you get 'em.

18 Barbara Hoyt tells us -- Barbara Hoyt tells us
19 certain things about the Spahn Ranch. Barbara Hoyt, a person
20 who could not -- who could not see -- literally. I mean, she --
21 I mean, there -- although she has contact lenses at the
22 present time, she had no vision while she was at the Spahn
23 Ranch.

24 Now, she tells us that certain events occurred in
25 connection with the going, the leaving of the Spahn Ranch,
26 and the coming back, and Barbara Hoyt -- Barbara Hoyt, herself,
27 tells us that she left the Spahn Ranch at times when Mr. Manson
28 did not go with her, where she went on her own.

1 But the important thing -- the important thing is
2 the time; the important thing is the time. When was it -- when
3 was it that those guns were broken down? What was the date?
4 What was the date that Mr. Swartz tells us he saw what he
5 saw?

6 Because if Mr. Manson is not at the Spahn Ranch,
7 and these guns are broken down, they have to be broken down
8 after September -- after you get 'em. That's the -- that's
9 affirmative evidence, not just reasonable doubt.

10 That's affirmative evidence that Mr. Manson has
11 nothing to do with Mr. Shea.

12 THE COURT: We'll recess at this time, ladies and
13 gentlemen.

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

19 Let's see. There's a meeting I must attend,
20 and which -- let's make it 2:00 o'clock.

21 (Whereupon, at 12:01 p.m., an adjournment was
22 taken until 2:00 o'clock p.m. of the same day.)
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1 LOS ANGELES, CALIFORNIA, TUESDAY, OCTOBER 19, 1971

2 2:00 P.M.

3 ---O---

4 THE COURT: Case of People versus Manson.

5 Ladies and gentlemen, I'm sorry to keep you
6 waiting. I had more to handle than I thought I had.

7 And, excuse me, Counsel, for keeping you both
8 waiting.

9 The record will show that all the jurors and
10 alternates are present.

11 Mr. Kanarek, you may proceed.

12 MR. KANAREK: Thank you, your Honor.

13 (Whereupon, Mr. Kanarek conferred with the clerk.)

14 THE COURT: Incidentally, ladies and gentlemen, Mr.
15 Kanarek has requested until tomorrow noon to complete his
16 argument and so the Court is granting him until that time.

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

19 THE COURT: No, you need not. You have until tomorrow
20 noon, then, to complete your argument.

21 MR. KANAREK: Well, I would like to approach the bench,
22 if I may, your Honor.

23 THE COURT: No, you may not.

24 MR. KANAREK: Your Honor, that's why I would like to
25 approach the bench, because I don't think your Honor is being
26 candid with the jury.

27 THE COURT: The Court is being unfair to the jury?

28 MR. KANAREK: Your Honor --

1 THE COURT: Would you state, then, Mr. Kanarek --

2 MR. KANAREK: I don't wish to appear --

3 THE COURT: You wish more time?

4 MR. KANAREK: That isn't the point. Your Honor has made
5 a statement. Your Honor is forcing me to state to the Court --

6 THE COURT: How much time do you wish, Mr. Kanarek?

7 MR. KANAREK: That isn't the point, your Honor.

8 May I approach the bench?

9 THE COURT: No, you may not.

10 MR. KANAREK: I must state the Court is not being candid
11 with the jury.

12 THE COURT: Whatever the point may be, Mr. Kanarek,
13 whether the Court is being candid with the jury or not, you
14 have until noon tomorrow.

15 MR. KANAREK: Then, I would like to approach the bench,
16 if I may?

17 THE COURT: You may not.

18 MR. KANAREK: I apologize, ladies and gentlemen, again,
19 if I may. Some of these exhibits are the -- are in another
20 court.

21 THE COURT: You may proceed, Mr. Kanarek.

22 MR. KANAREK: Yes, your Honor.

23 The actual -- the actual days, as far as these
24 events are concerned that we're speaking of, are not important
25 in the sense that we cannot rely upon the memory of people.
26 But if you -- if you consider -- if you consider how people
27 remember when something happened with respect to something,
28 that is probably more reliable than somebody getting on the

1 witness stand and saying that on a certain date something
2 happened, because unless that date -- unless that date is a
3 date that stands out for some reason, like we know Christmas is
4 December 25th, and we know New Year's Eve is January 1st, and
5 we know the date of our birthday, the same way Mark Arneson
6 remembers the date of his birthday, and he says that he got
7 this automobile before his birthday -- I mean, unless there is
8 some kind of a -- of an association of a date with an event,
9 it is more reliable to place events in connection with -- in
10 connection with other events as far as sequence goes, as far as
11 what happened first and what happened afterwards.

12 So in connection with the matters pertaining to the
13 guns, for instance, the people -- the prosecution has made
14 much of the affection, the supposed affection that -- that
15 Mr. Shea has for these guns. That he bought these guns.
16 And you would get the impression that these guns were some-
17 thing that he -- in other words, he would rise in the morning,
18 look at the guns and say, "What beautiful guns," and all of
19 that. And then, he would -- that is his entire life revolved
20 around these guns.

21 You take the evidence that's been presented to us
22 here, you take that evidence. That is the implication. But
23 if you look at some of the events and when they occurred in
24 connection with other events, it may -- it is clear that
25 Mr. Shea does not have that affection for these guns that
26 the prosecution would make us believe.

27 For instance, we know that -- we know that these
28 guns, based upon what has been told us here, if we can

1 believe it, we were told that the prosecution created a report
2 when Mr. Hall says that he transferred these guns in October
3 of 1968. That's in evidence before us.

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1 When the police officer got on the witness stand,
2 he testified that it was the middle of 1968. But then, when
3 he read over the prosecution report, he changed that to what
4 the report supposedly says -- namely, October of 1968.

5 Well, in October of 1968, in that period of time,
6 Mr. Shea was, we have reason to believe, thinking in terms
7 of Northern California.

8 If we look at the -- at the Leslie Salt file, the
9 Leslie Salt file tells us that it was in September of 1968
10 that Mr. -- that Mr. Shea went up to Northern California.

11 So October of 1968, or the fall of 1968 is a
12 time period when two -- in any event, which is the beginning
13 of Mr. Shea's relationship with these guns.

14 These guns are not -- guns that have come down
15 in his family from generation to generation. They're guns
16 that he had in October of '68.

17 Now, the -- the focus upon these guns by the
18 prosecution --

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

22 We have here -- we have here a check which is
23 People's 71. Now, this check is dated July 10th, 1969.

24 And in the back of the check, it says: "To the
25 account of the Robinson Apartments."

26 We know -- we know from the evidence -- and
27 we won't read it, but I am sure that we will -- we will
28 remember that Officer Nuckles testified, from his report,

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1 that Mr. Binder told him that the hundred dollar check --
2 the very check -- the very check that's in evidence -- was
3 used -- Mr. Shea told Mr. Binder, according to what's in
4 the report of Officer Nuckles -- and this is on the state of
5 mind thing we are talking about, and it's very, very
6 interesting to think about what happened in connection with
7 this check -- Mr. Binder has been so brainwashed by the
8 prosecution in this case -- I would assume, unless he's being
9 deliberately -- unless he's showing lack of -- lack of -- of
10 honesty on purpose, sorta -- his testimony is -- that his
11 testimony, Mr. Binder tells us had to do with rent, with
12 living expenses, rent for an apartment.

13 Although, Mr. Binder, on one occasion in the
14 testimony, indicates that the check was given at one time;
15 and later on, on cross-examination, he says at different
16 times, as far as the actual check being transferred with
17 reference to Mr. Shea and Magdalene Shea.

18 But the -- but it is crystal-clear from the
19 check -- and that's why there are degrees of reliability of
20 evidence -- it's crystal clear from the check that this is
21 to the account of Robinson Apartments.

22 Well, Mr. Binder, who was brought here from out
23 of state by the prosecution, Mr. Binder tells us, here in the
24 courtroom, about negotiations on the check. He tells Officer
25 Nuckles -- Officer Nuckles, knowing the prosecution has --
26 has this -- has this great and wonderful attitude towards
27 those guns, as far as Mr. Shea is concerned, Mr. -- Mr. Nuckles
28 tells us that when he -- when he talked to Mr. Binder, that

1 Mr. Binder talks about that these -- this money was to be
2 used for the guns.

3 Well, really, that is not as important as what
4 Mr. Shea did with the money. What Mr. Shea did with the
5 money is not use it for the guns.

6 Now, according to what they tell us, these guns
7 have this great big importance in Mr. Shea's mind. Well, if
8 that were so, he would have used this check -- he would have
9 used this check to pay Mr. Hall for the guns.

10 But he didn't do that. He used it to pay for the
11 apartment. So -- so the question of whether or not -- whether
12 or not Mr. Shea had this big focus on the guns, that these
13 guns were his entire existence -- I mean, it's -- it's
14 obviously -- it's obviously not -- it's less than a thin
15 argument. It's just no argument at all.

16 What it is, it's a make-shift type of arrangement,
17 because they have to come here with some kind of a focus.
18 And Mr. Shea is such an itinerant person that the only thing
19 that they can show that Mr. Shea likes, in his lifetime --
20 he doesn't care about, evidently, about Magdalene, really.

21 Because otherwise, he could find her.

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1 He doesn't care about his children, children that
2 were born of Sandra Harmon, or he could find them.

3 As far as Karen Arlene Shea is concerned, and
4 Phyllis Shea, they don't tell us anything about those two
5 individuals. The -- it is most unusual, most unusual that a
6 human being would have this over-all feeling for a pair of guns,
7 so that his whole life revolved around these two matched
8 pistols.

9 Well, we know that that's not so. That's not --
10 that just isn't real life.

11 But the reason that it's made to -- they try to
12 make it real life in this courtroom is because of the fact
13 that these guns are guns that have some relationship with
14 Mr. Shea, and it makes a good story at first blush.

15 At first blush, it makes a good story, because it
16 ties in -- supposedly -- with Mr. Shea's desire to be in the
17 movies and all of that.

18 But if you look at it, in connection with the
19 evidence, and you look at it in connection with the conduct
20 of Mr. Shea, it doesn't hold water. Mr. Shea -- these two
21 guns were objects that he -- that he owns; these are -- these
22 are his property, as much as other property that we've seen
23 that he owns.

24 Now, the fact is, when -- when we were -- when we
25 are presented with that kind of a -- with that kind of an
26 emphasis on these guns -- after all, he didn't get them until
27 October of '68 -- it tells us -- it tells us how unreal the
28 picture is that the prosecution wants us to believe concerning

1 Mr. Shea.

2 (Pause in the proceedings.)

3 And if anyone thinks that this is not so, here it
4 is, right in the record:

5 "And so, Officer, your report contains the
6 word P.I., meaning person interviewed, 'claims that
7 the money went toward the payment of two pearl-
8 handled guns, pistols, which were allegedly
9 purchased by Shorty for \$150 at a Valley gun shop.'"

10 Well, we know -- now, if this goes to the state of
11 mind of Mr. Shea, then Mr. Shea told Mr. Binder that he bought
12 these guns, and he owes the gun shop, and he has to pay the
13 money to the gun shop -- this is what Mr. Binder tells Officer
14 Nuckles -- we know, from the prosecution's own report, that
15 that is not so.

16 We know that those guns came from Mr. Hall; that
17 those guns came from Mr. Hall. And so what happened is that
18 Shorty put the touch on Mr. Binder for a hundred bucks, and
19 he wanted a hundred dollars, and so we have before us the
20 problem of: Is Mr. Binder telling us the truth? Is he telling
21 us the truth? Or did he tell the truth to Officer Nuckles?

22 Because you can't have it both ways. There
23 certainly was nothing before us from Mr. Binder concerning the
24 use of this hundred dollars to buy these guns. So -- but it
25 would seem like -- it would seem like, when we talk about
26 investigation, it would seem like it would be most important,
27 if these guns are this man's life, the way they want to portray
28 it to us, if these guns are this man's life, then why don't

1 they trace the guns -- why don't they -- why don't they --
2 if these guns go along with Mr. Shea, then the investigation --
3 which we haven't seen at all, except somebody's statements
4 about these flyers going out -- why don't they trace the guns?

5 Why is it necessary for us to bring up the subject
6 matter of what Officer Nuckles has in his report, and about
7 Arch Hall and all of that?

8 Because you see, if these matters concerning the
9 guns had not been brought up the way they were brought up by
10 Officer Nuckles, and by -- referring to Arch Hall and all of
11 that -- we -- we would have the impression that Mr. -- that
12 Mr. Shea had those guns with him practically in the room when
13 he was born, back there in Boston.

14 Because that was the impression -- that's certainly
15 the impression we got. And we certainly didn't believe that
16 those guns were Mr. Shea's guns for only a matter of a few
17 months.

18 They portray those guns as Mr. Shea's right arm;
19 but they are -- but obviously, they are not his right arm.

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1 And I won't read it all, but there are some
2 statements in here -- for instance, there's no question about
3 it, is that Mr. Binder told Mr. Nuckles that he personally
4 gave the check to Mr. Shea.

5 Now, we come to the testimony of Linda Kasabian.
6 Now, it is interesting -- this is, again, something that --
7 these are some of the circumstances that the jury has the
8 power, the last bulwark of defense, the last bulwark of
9 defense for all of us, is the jury system. The people that
10 wield the power in the jury system are the people that are
11 the last line of defense against the kind of thing that is
12 happening to Mr. Manson. Mr. Manson -- we see it here. We
13 see it here.

14 You take the -- even take the prosecution view-
15 point, the prosecution viewpoint and it is not -- take that
16 just for the sake of argument, what Mr. Manson did, according
17 to them, is cut the cheek and ear of Mr. Hinman.

18 Just for the sake of argument, let's take that.

19 And all of everything that's been alleged against
20 Mr. Manson, that is the only act in the Tate-La Bianca matters
21 and all of these -- the only bad act that Mr. Manson is
22 supposed to have done, is that against -- against the physical
23 person of Gary Hinman. Absent that, there is nothing that
24 Mr. Manson has done against any human being.

25 But the butcher, Linda Kasabian, is walking the
26 streets free. She's walking free because it is politically
27 better to get Mr. Manson. That's why. And that's where the
28 jury has the power, has the power to redress such kind of

1 wrong.

2 It is incredible. It is incredible of belief.
3 And the fact is, the fact is that people in political power,
4 people in political power want to perpetuate that political
5 power. And the best way to perpetuate the political power
6 is by having someone like Mr. Manson there that you can throw
7 the dirt at, that you can throw all the mud at, and that way
8 keep yourself before the public politically. And that's
9 exactly -- that's exactly what has been done in the case of
10 Charles Manson. He is hung on the -- on public opinion. He
11 is lynched on public opinion because it is good politics. It
12 is good politics.

13 I am sure, I am sure that those of us on the jury
14 here, when we think of Charles Manson, will agree with me,
15 will agree with me that there is no -- there just is no
16 evidence against him. Absent that one where they say that
17 supposedly, supposedly he cut the chin or the skin, the cheek,
18 and the ear of Mr. Hinman.

19 Now, in connection with that, there are certain
20 relationships which occurred which came into existence at the
21 Spahn Ranch.

22 Now --

23 (Whereupon, Mr. Kanarek conferred with the Clerk.)

24 MR. KANAREK: Now, when we think of -- when we think
25 of the picture of Bobby Beausoleil, what he looks like, for
26 instance, and Linda Kasabian, it makes sense that these two
27 young people -- that these two people liked each other. That
28 Linda Kasabian likes Mr. Beausoleil. She slept with him.

1 And here is a picture of Mr. Beausoleil. He is
2 obviously -- appears to be a person who is, we might say, an
3 attractive male person.

4 And so it makes sense -- it makes sense that
5 Linda Kasabian likes Mr. Beausoleil.

6 Now, Mr. Beausoleil was one of a large group.
7 Linda Kasabian tells us that she associated with --

8 "While you were at the Spahn Ranch, did
9 you have occasion to eat dinner with other people
10 that lived at the Spahn Ranch?

11 "Sure, many times.

12 "Many times, right?

13 "Yeah."

14 So we have -- there's no question about it that
15 Linda Kasabian, Linda Kasabian was in a position to know what
16 went on at the Spahn Ranch.

17 Now, -- and furthermore, remember when she got
18 up and she went through the geography there. We can -- we
19 can assume that she had occasion to know the geography of
20 the Spahn area very well. And we know that -- if I may --

21 We know, for instance, that Linda Kasabian is --
22 you know, she's -- she's -- her state of mind, I think, is
23 reflected best by this kind of a question:

24 "Has the District Attorney's office of
25 Los Angeles County given you certain benefits?

26 "A Okay. Yeah.

27 "Would you tell us what they are?

28 "A Immunity. Immunity --"

1 And then, the question is "Immunity from what?

2 "From prosecution, I guess. I don't
3 know. I don't really understand."

4 Well, -- uh, then, whether she -- I think that
5 when she says that, she's sort of playing games with us.

6 "You don't understand?

7 "A I guess that's the word that you use,
8 immunity from prosecution.

9 "Q Prosecution from what, Mrs. Kasabian?

10 "A Murder.

11 "Q Would you tell us what murders?

12 "The Tate and La Bianca murders."

13 The Tate and La Bianca murders, wherein there were
14 seven people that were killed, and she's walking around. She
15 lives in two states, she tells us. I guess New Hampshire and
16 Massachusetts, something like that. And Charles Manson is
17 where he is.

18 Now, Linda Kasabian tells us that she states
19 this:

20 "Directing your attention, Mrs. Kasabian,
21 to the word -- what appears to be 'p-o-l-i-t-i-c- and
22 an -a-l' underneath "piggy," do you see those? See
23 that from where you are?

24 "A Yes, I do.

25 "Q Now, in that connection, in connection with
26 those words, did you have any discussion with Bobby
27 Beausoleil?"

28 She says "No."

1 "Q Did you discuss with Bobby Beausoleil
2 his being present at the Hinman house?

3 "A No.

4 "Q You never did?

5 "A No."

6 THE COURT: Indicating no? With a question mark.

7 And the witness says in a positive way: "No."

8 Now, so, that being -- I mean, can we -- can we
9 believe that? That's one of the things, one of the things
10 to consider. That she's sleeping with Mr. Beausoleil and
11 she tells us that Mr. Beausoleil told her nothing about that.

12 Remember, remember that this is before the Tate-
13 La Bianca murders. This is supposedly the latter part of
14 July and the first part of August. And this girl -- this girl
15 who went out and butchered these people, this girl is a girl
16 who -- how shall we put it? Was -- was there doing things
17 with Bobby Beausoleil before the Tate-La Bianca events
18 occurred.

19 And, so, her statement there is equivalent. And
20 we suggest this, and we think that -- that it is analogous
21 and similar, when Beverly Russell was on the witness stand,
22 the "No's" that she said, "No, I don't know Shorty Shea;
23 no, I don't -- never heard the words before, but that's my
24 handwriting on the paper. Never saw the paper before.
25 That's my handwriting."

26 I mean, things that are absolutely -- I mean,
27 just inconsistent with any kind of -- with any kind of
28 truthfulness.

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1 It's the same way here, ladies and gentlemen.
2 Linda Kasabian saying, "No," is the same way as Beverly Russell
3 saying, "No," she doesn't know Shorty Shea.

4 When she says, "No," that means: "Yes." There's
5 no question about it.

6 But -- and this is again -- this is -- this is --
7 I am sure that the prosecution has a viewpoint on it. There's
8 no question but what Linda Kasabian participated in whatever --
9 in whatever Mr. Beausoleil participated.

10 He and she were very close. I don't know how close.
11 I don't know how close Beverly Russell has been to Shorty Shea.
12 But I am sure that we can assume that Shorty Shea and Beverly
13 Russell are friends; that they have a boy-girl, man-woman
14 relationship.

15 Linda Kasabian and Bobby Beausoleil have a boy-girl,
16 man-woman relationship.

17 And then she goes on and says to us:

18 "And you've only --

19 "You tell us you've only discussed

20 Mr. Hinman with Sadie off of the Spahn Ranch; is
21 that right?

22 "A With Sadie?

23 "Q Pardon?

24 "A With Sadie? I discussed with Sadie?

25 "Q Would you speak --

26 "A Did you say I discussed with Sadie?"

27 And the -- and the question is -- then, the actual
28 question that was asked was:

1 "Well, do you understand the previous question,
2 Mrs. Kasabian?

3 "A. Hmmm -- the one you just asked me
4 right now? Now, I don't. No, I don't know the
5 one before that. I'm sorry.

6 "Q. You have never discussed Gary Hinman or
7 heard Gary Hinman mentioned, except off of the Spahn
8 Ranch, with Sadie, on that one occasion?

9 "A. Right, his name."

10 That's what the record reveals.

11 "Q. Right. You've never heard that, other
12 then on that one occasion, with Susan Atkins?

13 "A. Right. I have never heard his name.

14 "Q. You have never heard his name?

15 "A. Right."

16 Now, she has gone through all of the dinners
17 and all of the meetings and all of the times that everybody on
18 the Spahn Ranch ate and did whatever they did; and she says
19 that she never heard his name -- except that one time.

20 Well, why should -- why would that be any
21 different than Charles Manson? Why -- why -- why do -- why is
22 her relationship with that name any different?

23 She's on the ranch. Mr. Manson is on the ranch.
24 Mr. -- Mr. Manson -- uh -- has undoubtedly, being in custody
25 for many years, Mr. Manson likes being with people of the
26 opposite sex.

27 And I -- and there's no doubt that he had -- that
28 he spent a good deal of his time, not going out and doing

1 these things they're talking about -- committing murders --
2 but Mr. Manson was having relationships, primarily with --
3 with -- with people of the opposite sex.

4 That's what Mr. Manson -- that's what this --
5 this commune living and this atmosphere, that's what Mr.
6 Manson is interested in.

7 The -- the -- the statement here by Linda
8 Kasabian, where she says that she heard that name only once
9 "off the ranch," at a place near Mr. Hinman's home, that's the
10 only time in her life she ever heard the name.

11 Well, there's one thing about these people.
12 These people that lived on the Spahn Ranch, these people
13 were what they were before they ever came to the ranch. These
14 people -- these people were people who, for one reason or
15 another, had a certain -- they had done certain things in
16 their life, but -- but Mr. Manson -- Mr. Manson didn't ask
17 Susan Atkins to leave wherever she was living and come to the
18 Spahn Ranch, or Bruce Davis, or Steven Grogan, or Tex Watson,
19 or Linda Kasabian.

20 All of these people -- these people that came in
21 and out of the Spahn Ranch -- those people came in and out,
22 of their own free will; and their backgrounds and their
23 history and whatever they are, they had with them.

24 Mr. Manson didn't convert these people to
25 the life of the commune type of life on the Spahn Ranch.
26 These people gravitated to that life, because of backgrounds
27 that each individual had. That's the reason that they
28 gravitated.

1 And so if -- if Susan Atkins, if that's the only
2 time Linda Kasabian ever heard Gary Hinman's name, there's no
3 reason to expect that Mr. Manson had any intimacy with Gary
4 Hinman.

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1 THE COURT: We'll recess at this time, ladies and
2 gentlemen.

3 You are obliged, during the recess, not to con-
4 verse amongst yourselves, nor with anyone else, nor permit
5 anyone to converse with you on any subject connected with the
6 matter, nor form or express any opinion on it until it's been
7 finally submitted to you.

8 We will be in recess for about ten minutes.

9 (Whereupon, the members of the jury exited the
10 courtroom, and the following proceedings were had:)

11 THE COURT: The Court will allow you to go longer tonight,
12 Mr. Kanarek, because I started the afternoon session quite
13 late.

14 Now, did you want to put on the record something
15 concerning your --

16 MR. KANAREK: Yes, your Honor.

17 THE COURT: -- your request that you had for the time
18 to argue?

19 MR. KANAREK: Yes, your Honor, if I may.

20 THE COURT: Yes. Now, let me recount what my --

21 MR. KANAREK: Well, that--

22 THE COURT: -- remembrance of it was.

23 MR. KANAREK: Yes, your Honor.

24 THE COURT: At first, I asked you, in -- in chambers,
25 I believe it was, because it was off the record -- how long
26 it would take you to argue. And Mr. Manzella was present.

27 And you said: Three or four days. That might have
28 been at the bench, off the record.

1 Then, I believe that we have it on the record,
2 later on -- and if not, this is at least my recollection --
3 that you had indicated it would be four or five days.

4 You began your -- you began your argument at 11:00
5 o'clock last Wednesday. So tomorrow at 12:00 o'clock will be
6 one hour over the five days --

7 MR. KANAREK: Well, your Honor --

8 THE COURT: -- that you required.

9 Now, what do you have to say?

10 MR. KANAREK: Well -- well, your Honor, first of all,
11 I -- I am -- my -- my only -- or, my primary rejoinder is:
12 It's somewhat analogous to you -- you don't add up the number
13 of witnesses; you don't add up the number of hours.

14 THE COURT: But a lawyer -- a lawyer should be able,
15 within reasonable limitations, --

16 MR. KANAREK: Yes, but you don't cut --

17 THE COURT: -- should be able, within reasonable
18 limitations, be able to spell out the time in which he will be
19 able to present an orderly summation to the jury.

20 MR. KANAREK: Yes, I agree with that. But I don't see
21 why a -- well, I won't belabor that. The fact of the matter
22 is that we -- and the denial of due process and fair trial
23 and all of that, that -- that your Honor engaged in, is doing --
24 in doing that, your Honor has made much in front of the jury,
25 in doing that, and your Honor saying that gratuitously for no
26 reason, in the presence of the jury.

27 THE COURT: It wasn't for no reason, Mr. Kanarek. It was
28 to point out to you on the record, and to point out to the jury

1 on the record, that you had requested five days -- or that you
2 had requested that period of time; and that the time would be
3 up.

4 MR. KANAREK: Well, if this is to be used --

5 THE COURT: It wasn't -- it was, really, indeed a cour-
6 tesy to you and to the jury, to let them know that -- that you
7 would terminate at that time.

8 MR. KANAREK: I deem it no courtesy. As a matter of
9 fact, because of that statement, I make a motion for a mis-
10 trial.

11 THE COURT: Well, the motion for a mistrial is denied.

12 MR. KANAREK: Because it is --

13 THE COURT: Now, what are you asking for?

14 MR. KANAREK: Because it's --

15 THE COURT: Are you asking for further time?

16 MR. KANAREK: Your Honor, I'm not asking. I am saying,
17 what it is, it's done to embarrass me, in the presence of the
18 jury.

19 THE COURT: It is not.

20 MR. KANAREK: Yes, it is. It has no other purpose.
21 Your Honor could have taken us to the bench in order to do
22 that. There's no necessity for that.

23 And the point of the matter is, the point of the
24 matter is, you don't -- you don't go over this kind of a
25 time thing.

26 The prosecution spent weeks and weeks --

27 THE COURT: All right. Now, you have gone over that
28 before.

1 MR. KANAREK: Well -- well, your Honor made the point.
2 I am making the point. They have spent such a fantastic
3 amount of time, they have made -- they have had things on
4 law and motion; they have done certain things with the Grand
5 Jury that has created an enormous burden upon the court
6 system.

7 They are --

8 THE COURT: What do you have to say about the subject
9 at hand?

10 MR. KANAREK: Well, I have --

11 THE COURT: Which is the length of time that you wish
12 to argue?

13 MR. KANAREK: Well, I say that the Court setting that
14 time, and doing it in the presence of the jury, the way the
15 Court did, is an unfair -- it's an unfair statement by the
16 jury (sic); and it is such a statement --

17 THE COURT: Why?

18 MR. KANAREK: Because there is no need for it. It has
19 nothing to do with --

20 THE COURT: Why is it unfair?

21 MR. KANAREK: Because of the fact --

22 THE COURT: How does it prejudice you or Mr. Manson?

23 MR. KANAREK: Because it shows that the Court -- that
24 the Court clearly -- those people hear the Court making the
25 statement, and the Court is -- is, in effect, telling them:
26 "After 12:00 o'clock tomorrow, it doesn't make any difference.
27 That's the final deadline."

28 And you sort of have to -- it's like digging a few

1 ditches. You dig so many, and after you put out so much dirt,
2 so much -- so many words or whatever you want to say, then
3 that's the end of it. You've had it.

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1 And it's sort of like the due process they have
2 in Texas, where the Judge says, "Go on out and talk fair and
3 square for four hours, before you bring in a guilty verdict."

4 That's the kind of statement that the Court is
5 getting across to that jury, when it tells them that at 12:00
6 o'clock, there's a deadline.

7 There's no necessity for it. As a matter of fact,
8 the Court --

9 THE COURT: You indicated that the Court was less than
10 candid with the jury. In what way?

11 MR. KANAREK: Because I did not agree or accede to that
12 five days. Your Honor has set -- has set it.

13 THE COURT: Did you not say that you wanted four or five
14 days?

15 MR. KANAREK: But I -- yes. But I'm not -- I didn't
16 agree to any cut-off time at 12:00, like with a stop watch.

17 THE COURT: Are you in agreement that five days would be
18 11:00 o'clock tomorrow?

19 MR. KANAREK: I -- whether I am or not, the record --
20 I don't know, your Honor. The record speaks for itself.

21 THE COURT: Well, I will tell you that the record is
22 clear on that.

23 MR. KANAREK: But it isn't -- that isn't even true,
24 because your Honor has cut us off, I think, a couple of
25 minutes before 4:00 o'clock on a couple of occasions.

26 And so, when you add up days -- you know, it's a
27 matter of -- if you are going to do that kind of --

28 THE COURT: I am giving you an hour over the five days

1 that you requested.

2 MR. KANAREK: Well, your Honor, as I say, your Honor
3 didn't record the time that we quit, that your Honor ordered
4 certain --

5 THE COURT: You have until tomorrow noon, Mr. Kanarek.

6 MR. KANAREK: Well, as I say, your Honor --

7 THE COURT: And the Court finds no prejudice in what
8 has been said in front of the jury.

9 MR. KANAREK: Well, I --

10 THE COURT: As a matter of fact, the Court believes
11 that it's more or less to your advantage to have done it in
12 that way.

13 MR. KANAREK: Well --

14 THE COURT: And I do find that, again, your poor taste
15 and your brazen manner do not set well with me, --

16 MR. KANAREK: I asked to approach the bench, your Honor.

17 THE COURT: -- with this Court.

18 MR. KANAREK: Well, I asked to approach the bench. I
19 asked to approach the bench, and your Honor wouldn't allow me
20 to.

21 THE COURT: Mr. Manzella and Mr. Kanarek, did you read
22 the instruction that was prepared?

23 MR. MANZELLA: Yes, your Honor.

24 THE COURT: If you have any objection to it, let me
25 know.

26 MR. MANZELLA: No objection.

27 (Mid-afternoon recess.)

9-1

1 THE COURT: The jurors are all present.

2 You may proceed, Mr. Kanarek.

3 MR. KANAREK: Thank you, your Honor.

4 "And then, Mrs. Kasabian, did you discuss
5 Gary Hinman with Susan Atkins at the Spahn Ranch?

6 "A No.

7 "And at no time while you were at the
8 Spahn Ranch did you discuss Susan Atkins?"

9 Hmm, right where --

10 "Did you discuss Susan Atkins with Gary
11 Hinman?"

12 And then, she answers "She discussed it with
13 me.

14 "And you were at the Spahn Ranch during
15 July and August of 1969?

16 "July and August of 1969.

17 "Q Now, did you ever discuss Susan Atkins
18 with Gary Hinman in the shopping center of Old Topanga?

19 "A No.

20 "Q Where did you speak with Gary Hinman?

21 "I never spoke to him.

22 "Q You never have spoken to Gary Hinman?

23 "A That's right."

24 Is that right or is that a Beverly Russell-type
25 of statement? Which way is it?

26 "Q You lived in Old Topanga, is that right?

27 "A No.

28 "You lived in Topanga?

9-2

1 "Right."

2 "A Right.

3 "What is the difference between Topanga
4 and Old Topanga?

5 "A I don't know. I guess Old Topanga was
6 up in the hills more. I'm not really sure."

7 And then, she says again, "I guess Old Topanga
8 is in the hills more than Topanga Canyon. I don't
9 really know.

10 "In the time that you were at the Spahn
11 Ranch, did you discuss Gary Hinman with Bobby Beauso-
12 leil?

13 "A No."

14 Now, do we believe that? Do we believe that Linda
15 Kasabian -- Linda Kasabian never discussed Gary Hinman with
16 Bobby Beausoleil? Is that -- is that within the realm of
17 reason?

18 "Q And the only time you ever heard the word
19 'Gary Hinman,' is when you were away from the Spahn
20 Ranch, is that correct?

21 "A Right.

22 "Now, then, she --

23 "Q Now, have you had occasion, Mrs. Kasabian--
24 Miss Kasabian, to be in the parachute room?

25 "A Yeah.

26 "And have you seen Mr. Manson in the
27 parachute room sleeping?

28 "A Yes.

9-3

1 "And have you seen Mr. Manson in the
2 parachute room sleeping with a female named Stephanie
3 Schram?

4 "A Yes."

5 Now, the parachute room, we know that that -- that
6 Barbara Hoyt testified about the parachute room. If there's
7 anything that we know about these people at the Spahn Ranch,
8 one thing is that their sexual activities were -- were quite
9 extended.

10 In other words, the -- these people, whether we
11 approve of it or disapprove of it, there's no question but
12 sex and sexual activity plays a large part in what these
13 people participate in.

14 And interesting, too, just as an aside, to think
15 of Barbara Hoyt, she alone heard the screams. She was, she
16 says, alone in the parachute room at some time when she says
17 she heard these screams. Everything that happens in connec-
18 tion with critical aspects of the -- of the evidence happens
19 with a person alone. There is never anyone else that testi-
20 fies to important events. It is one, one, one, right after
21 the other.

22 Now,

23 "Q Now, did you leave the ranch one night
24 with Susan Atkins on a night that you and she
25 discussed Gary Hinman, is that correct?

26 "A Yeah.

27 "And on a night, now, is that -- where
28 were you and where was Susan Atkins when you talked

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1 "with Gary Hinman?

2 "We were on our way to Topanga Canyon
3 Lane and we were -- I don't know the streets. I
4 know that -- I don't know, it was before the shopping
5 center. Quite a ways before the shopping center,
6 walking down the road.

7 "What were you and Susan Atkins doing
8 that night?

9 "We were on our way to speak to somebody.

10 "Q Pardon?

11 "We were on our way to speak to somebody.

12 "You were on your way to speak to somebody?

13 "A Right.

14 "And after you spoke to somebody, where did
15 you go?

16 "Up to a house -- no, uh (spelling) u-h, to
17 a house near the Malibu feedback."

18 Now, in connection -- in connection with Mrs.
19 Kasabian and her testimony in this case, she says that she --
20 how does she put it here?

21 "Q You were granted immunity in the Tate-
22 La Bianca case?

23 "A Yes.

24 "And this is the case that resulted in
25 the prosecution for some seven homicides, is that
26 right?

27 "A Yes.

28 "Q And also conspiracy to commit murder?

9-5

"A Yes."

Now, then, the Court interjected this question:

"Incidentally, Mrs. Kasabian, you were granted no immunity with respect to anything involved in this case, were you?"

"THE WITNESS: No."

And the Court says that -- uh, the Court says:

"Did you get the answer?"

"THE REPORTER: I believe so."

"Q Well, Mrs. Kasabian, you testified previously at the penalty phase --" let's see -- well, that question wasn't allowed.

10 fls.

(Pause in the proceedings.)

Now, the question is -- the question is: Do we believe Linda Kasabian does not have immunity from what she testified to in this case?

This is -- this is something the prosecution may argue, may discuss. The immunity that she has been granted in connection with the conspiracy to commit murder, the question is: As she testified from the witness stand there, is she testifying truthfully?

Do we -- do we -- does anyone in this room believe that Linda Kasabian has not been given immunity for what she testifies to in this courtroom?

Her saying, "No," that she has not been granted immunity -- and she's now -- and she has now testified, she has now testified, shows a state of mind which, upon analysis, is something that -- that is important; and the analysis is this:

We have seen in this courtroom -- we've seen Mary Brunner; we've seen even Beverly Russell; we've seen lawyers appointed for them, come right in our view and speak with them.

But Linda Kasabian required no consultation -- although her lawyer was here (indicating). She required no consultation about what she was testifying about.

In other words, she's -- she's testifying in this case, right now before us, and she is not granted immunity?

She's talking about murder. She's talking about

1 being related -- that is, having a friendship with Bobby
2 Beausoleil. She is not worried. She is not worried.

3 Beverly Russell was worried. Beverly Russell
4 indicated to the Court that she wanted a lawyer.

5 Mary Brunner had a lawyer -- but not Linda
6 Kasabian. Because Linda Kasabian's state of mind is that
7 anything that she says or anything that she does, she's not
8 scared of what she says or whatever she does.

9 And so she says, "No, I do not have immunity."
10 She says that with the idea that this is going to help the
11 prosecution's case. Because if Linda Kasabian doesn't have
12 immunity, and she goes ahead and says and says and does and
13 does, this is going to help the prosecution.

14 There we have -- there we have a little goddess,
15 who is created by the political desire on the part of the
16 powers that be, to get Mr. Manson.

17 She's a product -- she's a product of that desire.
18 And she therefore says what she says and what she wills from
19 the witness stand; and that goes in, all into the consider-
20 ation of her credibility.

21 Because when she says, "No, I don't have immunity,"
22 and her lawyer is sitting in the courtroom, and she's testify-
23 ing about murder, why isn't he doing something about it?

24 Because she has immunity. She has immunity.
25 It's -- there is -- there is -- to every word she says, no
26 matter what she says or does, there is no chance that
27 Linda Kasabian would be prosecuted for anything.

28 And so she goes on, and she -- going on into her

1 testimony:

2 "On what day was this, Mrs. Kasabian?

3 "A. I don't know the date. I know it
4 was the end of July."

5 Let me see if I can get the prior reference there.

6 (Pause in the proceedings.)

7 "Q. Now, did you, with Mary Brunner,
8 in fact discuss Gary Hinman at the Spahn Ranch?

9 "A. Yeah, she told me some things.

10 "Q. So you -- pardon?

11 "A. She told me some things."

12 Then: "On what day was this, Mrs. Kasabian?

13 "A. I don't know the date. I know it was
14 the end of July."

15 Now, she has told us, earlier in the morning, she
16 told us that she had no -- she -- the only place that she had
17 ever heard the word Gary Hinman was on that evening with Susan
18 Atkins, on old Topanga Canyon Road, which is across Ventura
19 Boulevard, which is miles from the Spahn Ranch.

20 So there is obviously -- in her testimony there,
21 there's obviously something that is not adding up with what
22 she said in the morning.

23 And then she says: "I don't know the date.

24 I know it was the end of July."

25 Well, she knows it was -- she knows it's the end
26 of July, because she's spoken to police officers; she has
27 been briefed; she has been briefed the same way, the same way
28 that -- that some -- that some executive of a company, when

1 he goes off to a sales meeting or something like that, he's
2 briefed by people as to what he's supposed to say when he
3 gets there.

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1 And Linda Kasabian is here, selling us what
2 somebody wants us to buy. And she says:

3 "I know it was the end of July."

4 That is, she knows that, by talking to a lot of
5 people --

6 "Well, would you tell us, what the day of
7 the week was it?

8 "A I have no idea.

9 "What day of the month?

10 "A I have no idea.

11 "When you say that it was the end of July,
12 do you know that it wasn't August 1st?

13 "A No.

14 "So it could have been August 1st?

15 "A Yeah.

16 "Q It could have been August 2nd?

17 "A I don't know. I didn't know then, and I
18 don't know now the dates or the days."

19 But she volunteered previously, "I know it was
20 the end of July," because that tells what she knows is the
21 prosecution viewpoint in this case.

22 "Q And on some particular night, Mrs. Kasabian,
23 did Bobby Beausoleil come to your immediate presence
24 and lie down and sleep with you?

25 "A No.

26 "Q Did Bobby Beausoleil lay himself down
27 near you?

28 "A Yes.

10a-2

1 "Q And did Bobby Beausoleil speak with you
2 concerning Gary Hinman?

3 "A No.

4 "Q When Bobby Beausoleil -- where were you
5 and where was Bobby Beausoleil when he came in and
6 laid himself down beside you?

7 "A In the saloon.

8 "Q Did Bobby Beausoleil tell you that he
9 had killed Gary Hinman?

10 "A No.

11 "Q Did he tell you that he had been to
12 Gary Hinman's home?

13 "A No.

14 "Did you hear the name Gary Hinman that
15 night?

16 "A I don't think so.

17 "Q You don't think so?

18 "A No, I don't think that was the night that
19 I heard his name.

20 "Pardon?

21 "I don't think that was the night that I
22 heard his name.

23 "That's not the night that you heard the
24 name?

25 "I don't think it is referring to the
26 night that I did hear his name.

27 "And the one night that you heard his
28 name was when you were with Susan Atkins; is that

10a-3

1 "correct?

2 "A Yes."

3 Now, is this, what she's telling us, is that true?
4 Or is it a Beverly Russell kind of situation, wherein, when
5 she says, "No," she means, "Yes"? "And other -- and other
6 than that one occasion, you never had heard his name?"
7 Referring to Gary Hinman.

8 "A No.

9 "Q Is that right?

10 "A Yes.

11 "That is correct; no question?

12 "A I don't think so, no.

13 "What do you mean, 'I don't think so'?

14 "I don't think I ever heard his name,
15 other than that time.

16 "Well, did you or didn't you, Mrs. Kasabian?

17 "A I don't think I did, no.

18 "Well, is your answer yes or no?"

19 The answer is: "No,"

20 "Your answer is that you never heard it
21 except the one time that Susan Atkins mentioned his
22 name on Topanga Canyon or Old Topanga Canyon Lane;
23 is that right?

24 "A Yes.

25 "Q Mrs. Kasabian, did you, in your handwriting,
26 state that Mary Brunner told you about matters
27 concerning Gary Hinman?

28 "A Uh -- yeah, I think I did.

10a-4

1 "Q Then you have heard the name Gary Hinman,
2 other than from Susan Atkins?

3 "A I don't recall her saying 'Gary Hinman',
4 no.

5 "You didn't hear her say 'Gary Hinman'?

6 "A No, not --"

7 Now, it is -- it is certainly fair to assume --
8 it is certainly fair to assume that Mr. Beausoleil spoke to
9 Linda Kasabian.

10 It's fair to assume that Mr. Beausoleil spoke
11 to Mary Brunner. And because Mary Brunner gets on the
12 witness stand, when she's threatened with -- with whatever
13 she was, with what we've heard in this courtroom that she
14 was threatened with -- does that mean that she's percipient?

15 Does that mean that she knows, because she was
16 there, or does that mean that she knows because Bobby Beauso-
17 leil told her, the same way that there's no question that
18 what Bobby Beausoleil told Linda Kasabian?

10b fs.

10b-1

1 The difference between Mary Brunner and Linda
2 Kasabian is that Linda Kasabian -- Linda Kasabian is a person
3 who has not, shall we say -- has not -- uh -- I don't know
4 the best way to put it.

5 Linda Kasabian goes along with everything that
6 the prosecution wants. Linda Kasabian tells the People --
7 tells the prosecution that this -- that this, that and the
8 other thing happened.

9 And so, notwithstanding the immunity, we have an
10 apparent -- a superficial consistency; that is, it appears to
11 be the same, because she hasn't -- she hasn't done what
12 evidently Mary Brunner has done -- which goes to the very
13 heart of why credibility is involved with immunity.

14 In other words, let's look at Mary Brunner. If
15 Mary Brunner had said, at the Bobby Beausoleil trial, if she
16 had -- out of her mouth, at the Bobby Beausoleil trial, if
17 Mary Brunner had said what she said in this courtroom, there
18 wouldn't be the words written down for Mr. Manzella to read
19 to us, that she said in the -- that she said in the Bobby
20 Beausoleil trial.

21 It's close to Halloween.

22 But you see, the reason Mr. Manzella can read
23 to us what -- what Mary Brunner has said, and the reason that
24 we have all these rules for corroboration of -- of accomplices,
25 of alleged accomplices, whatever way you want to term it,
26 is because of the nature of immunity, the nature of the
27 situation where people are getting the benefit.

28 Now, Mary Brunner's -- we heard words that she

1 supposedly said in another courtroom. Why is that version
2 any more believable than the version that she gave us in the
3 courtroom here?

4 As a matter of fact, the version that Mary Brunner
5 gave us here is more believable -- you can argue -- because
6 Mary Brunner knows she's going to get the wrath of the
7 District Attorney's office.

8 She knows that, by saying what she says from this
9 witness stand, that has to cause her trouble; that has to
10 cause her trouble, because -- because she's saying what she
11 said here about never being at the Hinman house in 1950 --
12 or, 1969; and that being inconsistent with what she said at
13 the Bobby Beausoleil trial, that that has to cause her
14 problems.

15 So one can -- one can speak on behalf of -- on
16 behalf of the proposition that Mary Brunner is telling the
17 truth in this courtroom; and that she didn't tell the truth
18 when she spoke at the Bobby Beausoleil trial.

19 This is why we have juries. This is why we have
20 12 people. This is why the power is vested; that's why the
21 wisdom of the people who founded this country, in putting
22 that ultimate power in 12 people, and not in the prosecution,
23 not in a political office that wishes to perpetuate itself.

24 And so, in connection -- with what we are seeing
25 here by the statements of Linda Kasabian, obviously, she
26 hasn't told the truth here.

27 In one breath, she says that the only time she
28 heard the name Gary Hinman was out on the road with Susan

1 Atkins, on that night.

2 Then, she tells us -- in her own handwriting,
3 she wrote about Mary Brunner talking to her.

4 But because Mary Brunner talks to her, that
5 doesn't mean that Mary Brunner was there, because Mary
6 Brunner talks to her doesn't mean that Mary Brunner knows
7 the details of what went on in the Hinman home.

8 So these are some of the factors -- these are some
9 of the matters that are of paramount significance, when we
10 are talking about credibility. And it's not a -- it's not
11 an easy -- it's not an easy task.

12 This is one of the underlying reasons why one
13 of the instructions that we have is that any oral confession
14 or any oral admission that is supposedly made must be
15 treated with caution.

16 That is one of the instructions that we get. And
17 that's the reason that we get it, is because the -- the
18 experience has taught us that the spoken word is just not that
19 dependable.

20 You just can't repeat a supposed statement and
21 say it the way it is, and get it across by virtue of -- by
22 the repetition of exactly what was said, if anything was said.

11 fls.

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1 And so she says, uh, after she's asked,

2 "Mrs. Kasabian, did you in your handwriting
3 state that Mary Brunner told you about matters con-
4 cerning Gary Hinman?

5 "Uh, yeah, I think I did.

6 "Q --" that's -- that's -- remember, the
7 only time she ever heard it before, she says, is with Susan
8 Atkins on that road. That's what she said in the morning.
9 This is in the afternoon.

10 "Q Then, you have heard the name Gary
11 Hinman other than from Susan Atkins?

12 "A I don't recall her saying Gary Hinman,
13 no." Referring to Mary Brunner.

14 "Q You didn't hear her say Gary Hinman?

15 "A No, not --

16 "Q What did you hear her say?

17 "A I don't know. Like when I walked into
18 the conversation, like I got just bits and pieces of
19 it, so I don't recall her saying any name.

20 "Then, I show you a piece of paper.
21 I show you a paper and ask you does that appear to
22 be in your handwriting?

23 "A Yes.

24 "Is it in your handwriting?

25 "A Yes, it is.

26 "Q Did you write 'I was in the saloon
27 sleeping and Bobby came in and laid beside me --"
28 laid, l-a-i-d "beside me, and he looked exhausted and

1 "very upset. He asked me to get him some
2 coffee, get him some coffee. I did. He fell
3 asleep. I saw Mary a while later and she told
4 me a part of what happened."

5 Well, that -- that particular question that I
6 stated was stricken. That is the Court -- that question was
7 stricken by the Court.

8 "Q Mrs. Kasabian, this night when --
9 when Bobby Beausoleil came, you say, to where
10 you were in the saloon --

11 "A May I make a correction?

12 "THE COURT: Yes."

13 And then, I state, "Well, your Honor, may I
14 finish my question?"

15 And the Court says, "Yes."

16 And then, I state, "And Mr. Manzella will
17 have a chance to interrogate her when I'm finished."

18 And the Court states, "Let him finish his
19 question."

20 The witness says, "Okay, I'm sorry, Mr.
21 Kanarek, go ahead."

22 And then, the question I asked is: "Now,
23 directing your attention, Mrs. Kasabian, to this
24 time when you say that Bobby Beausoleil came to
25 you and he laid down next to you and so forth. On
26 this night when you say you were in the saloon, did
27 that happen before or after the time that you were
28 with Susan Atkins on Old Topanga Canyon Road, the

1 "time that you tell us is the only time you
2 ever heard the words 'Gary Hinman'?

3 "A First, I have something else I
4 wanted to say.

5 "THE COURT: You may answer the question,
6 and then explain.

7 "THE WITNESS: Okay. It was before. Bobby
8 Beausoleil came to me in the morning, not at night.

9 "Then, may I ask you, Mrs. Kasabian,
10 directing your attention to the time that you had
11 this incident with Bobby Beausoleil, when he lay
12 next to you exhausted, did that happen before or
13 after the time you tell us that you were with
14 Susan Atkins the one time you heard the name
15 Gary Hinman in the Old Topanga Canyon Road?

16 "A It was before.

17 "And did Mary Brunner and you have the
18 conversation just before Bobby Beausoleil fell
19 asleep?

20 "A Yes.

21 "Q And you discussed Bobby Beausoleil
22 in that conversation, is that correct?

23 "A No.

24 "You never mentioned his name?

25 "No."

26 She says that Bobby Beausoleil's name was never
27 mentioned in that conversation.

28 And in connection with deciding the credibility of

1 all these people, we, I'm sure, remember that in the first
2 trial when -- when Mary Brunner testified, Mary Brunner
3 testified that Bobby Beausoleil, Bobby Beausoleil told her to
4 go to Mr. Hinman's home. And Linda Kasabian says, "No, never
5 mentioned Bobby Beausoleil in this conversation with Mary
6 Brunner."

7 "I show you People's 46 and ask you, have
8 you ever seen -- did you ever see the person depicted
9 in People's 46 at the Spahn Ranch?

10 "A. No, I never did," and so forth.

11 And that has to do with Mr. Shea.

12 And she says that she did see a picture which we
13 know and she identified as Danny De Carlo.

14 And then, she has seen Mr. Watson.

15 And then, "Well, did he return exhausted,
16 Mrs. Kasabian?

17 "He seemed to be, yes.

18 "Then, directing your attention to this
19 night that he came back exhausted, had he left
20 that evening --"

21 Oh, that was sustained.

22 "Then, Mrs. Kasabian, did Bobby Beausoleil
23 return at night?

24 "A. No, he didn't.

25 "Q And when he returned, you were
26 sleeping in the saloon, right?

27 "Hmmm, I don't think I was sleeping. I was
28 laying down, maybe.

1 "You were not sleeping?

2 "Maybe with my eyes shut, but I was awake."

3 She wants to be awake now because she changed her
4 mind from before when she says she was sleeping. She
5 decided it was daylight and so -- because this is what's
6 going to help the prosecution viewpoint. And so she changes
7 her testimony that maybe -- she says --

8 "You were not sleeping?"

9 She says, "Maybe with my eyes shut, but I
10 was awake.

11 "Q You had your eyes shut?

12 "Did you say in your own handwriting that
13 you were sleeping, Mrs. Kasabian?

14 "Maybe so, yeah."

15 So, I mean, she said previously that she was
16 sleeping, and she changes it at will because this is going to
17 help something that she wants to foster in this courtroom.
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1 "Q Did you say in your own handwriting,
2 'I was in the saloon sleeping'?

3 "A On the couch.

4 "Well, were you sleeping, Mrs. Kasabian,
5 or were you just there with your eyes shut, as you
6 have told us a few minutes ago?

7 "A It could be both.

8 "Q Either way?

9 "A Right."

10 Now, then --

11 "Well, on August 8th and 9th, do you have those
12 dates in your mind, Mrs. Kasabian?

13 "A Yes."

14 Well, she has those dates in mind because those
15 are the dates of the Tate-La Bianca events, the Tate-La Bianca
16 case.

17 So it is clear by the evidence that since August
18 8th, 9 and 10 comes after August 1st, it is clear that Linda
19 Kasabian participated in -- just taking the prosecution view-
20 point, there's no question but what Linda Kasabian participated
21 in the Gary Hinman events because this -- whether she
22 remembers particular dates or not, the fact that the Tate-
23 La Bianca events occurred after the Hinman events, shows that
24 -- and her relationship with Bobby Beausoleil, it certainly is
25 a -- is a matter to be considered in connection with
26 evaluating the evidence in this case. Because she and Bobby
27 Beausoleil -- she and Bobby Beausoleil were close together.
28 She and Bobby Beausoleil were very close together.

1 "Q. Did you know, now, having the dates
2 August 8, 9th and 10th in your mind, did you know
3 about Gary Hinman being dead before those dates?

4 "I don't --"

5 The witness, Mrs. Kasabian:

6 "I don't know. I can't really say."

7 Now, do we believe that? Do we believe that
8 answer?

9 So in connection -- in connection with Linda
10 Kasabian, another factor, another factor to consider, another
11 factor to think about besides Mr. De Carlo and besides Mr.
12 Vance, because you see human relationships being what they are,
13 what they are, what it -- it would just -- the District
14 Attorney, in connection with Linda Kasabian, much as they
15 know that she participated in the murder of Gary Hinman, as
16 much as they know that, for reasons of politics, for reasons
17 of -- for reasons of their -- their own selfish political
18 purposes, they can't do that. They can't bring that to a
19 courtroom because they've sanctified her, they've deified her.

20 And so this is the testimony of Linda Kasabian.
21 This is what she has -- this is what -- what her position is.
22 But it is not just the bare words. It is not just the bare
23 words she utters from that witness stand that counts. It is
24 what did she have by way of feeling for Bobby Beausoleil.
25 What is her -- what is her relationship with Bobby Beausoleil.

26 Now, in connection with these dates that we've
27 spoken of, if I can -- excuse me.

28 Another date that is of significance is October 10,

1 1969.

2 Now, on that date, People's --

3 (Whereupon, Mr. Kanarek conferred with the clerk.)

4 MR. KANAREK: On that date, People's 72 supposedly came
5 into existence. And that is the date -- there it states it,
6 10-10-69. That is the dates that Danny De Carlo purchased or
7 sold these two guns to Mrs. Feldman, I think it is. No,
8 Mr. Baker. Mr. Baker.

9 "Mr. Baker, would you describe the weapons
10 which you purchased on October 10, 1969, as
11 represented on People's 72 for identification?"

12 And then, he goes on and he describes the two guns,
13 the Dakotas, and he gives their description about the barrels
14 and so forth, numbers 2421 and 2422. And he states that he
15 paid \$75 for these guns. And he states that he bought them from
16 a person named Richard Allen Smith.

17 Now, Richard Allen Smith is not Charles Manson.
18 On those -- on those days -- on this day, Mr. Manson was in
19 the Barker -- whatever the -- whatever that area is, in
20 Meyers' Ranch, the desert and so forth.

21 October 10, 1969, we have -- we have the
22 prosecution saying that these people were arrested on October
23 10, 1969, and that Mr. Manson was arrested on October 12,
24 1969.

25 Now, they have -- the evidence that has come in
26 here before us, is evidence of Mr. Manson's being in the
27 desert.

28 Now, if Mr. Manson were anywhere near where this

1 gun -- these guns were sold, we would certainly have it in
2 evidence here. We would have it in evidence because -- and
3 that's what makes this case so -- I guess, unusual, is the
4 best word -- this is the kind of evidence, the possession of
5 these guns -- this is the kind of evidence that judges issue
6 search warrants on, arrest warrants.

7 You come to a judge with an affidavit and you come
8 to the question and you say, "Richard Allen Smith is Danny
9 De Carlo." Danny De Carlo, and you attach this exhibit to the
10 declaration of the affidavit, and you pray that the magistrate
11 issue a warrant of arrest or a search warrant or something.
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1 What about that investigation concerning Mr. Manson?
2 This is hard-core type of evidence. If they really believe
3 that Mr. Shea -- or if -- or has passed away or if they still
4 even believe that Mr. Shea is not living, and if they
5 can bring Mr. Binder here, if they can bring Mr. Binder here
6 to testify about what he did, obviously money or investigative
7 capacity is unlimited.

8 But what about that part of the investigation?
9 What about that part of the investigation? Mr. Manson is not
10 at Mr. Baker's.

11 "Now, when you -- at the time that you
12 completed People's 72 for identification, and
13 wrote the description of the individual from the
14 driver's license onto People's 72, did you compare
15 that description with the actual physical
16 description of the person standing before you?

17 "THE WITNESS: Yes.

18 "And did the person appear to match the
19 description?

20 "A He appeared to. Sex: Male; Hair:
21 Brown; Eyes: Brown; Height: 5 foot 5 inches;
22 Weight: 130 pounds; Date of Birth: 6-20-42;
23 Residence: 8350 Collegio Drive, L.A., California."
24 The residence that we heard Mr. Whiteley tell us was the
25 residence of the home of Danny De Carlo's parents.

26 "Driver's license number and all of that,
27 CC 225346, Date October 10, 1969.

28 "Then, now, some time thereafter, Mr. Baker,

1 "did you give those guns to representatives of
2 the Los Angeles County Sheriff's Office
3 Homicide Bureau?

4 "A Yes, I did.

5 "Now, the person who placed the signature,
6 'Richard A. Smith' on People's 72, was that the
7 person from whom you purchased the guns?

8 "A Yes, it is.

9 "And he placed that signature there in your
10 presence?

11 "A Yes, he did.

12 "And that was the same person who presented that
13 driver's license to you?

14 "A That's correct."

15 Now, this is the type of investigation that
16 should be done, the type of investigation that should be done
17 is in connection with Mr. Smith, who is Danny De Carlo,
18 instead of coming to the witness stand and telling us that
19 they sent out a great number of papers to various people over
20 the United States. They sent them to Coroner's Offices and
21 they sent that to this, that and the other thing. Why don't
22 they tell us what they investigated in connection with
23 Danny De Carlo? That's part of the investigation. Why don't
24 they tell us what they investigated with Bill Vance? That's
25 part of the investigation. But they don't do that. They don't
26 bring before us the information.

27 And, more important, more important, they show
28 no connection between Charles Manson and this place in Culver

City.

"The name of the place is Baker's Gun Shop. I owned and operated a gun shop in Culver City. And I don't know exactly where Collegio Drive is, but with that 8300 block, there is some possibility it is out west, 8300, beginning with Main Street. We -- and it is probably a street that runs east and west. And 8300 is probably a street that is generally in the westerly part of Los Angeles."

So when they omit that part of the investigation, there is some kind of inference that we can make.

Now, in connection with some of the -- what we have -- we've done is we've discussed the evidence in connection with some of the law in connection with that. The Court is going to instruct us -- the Court is going to instruct us on several different points as to -- well, beginning, first of all, with murder.

12-1

1 The Court's going to give us some long instruc-
2 tions, and I am not going to -- I am not going to -- to read
3 those instructions word for word. But let's discuss some of
4 the -- some of the important points.

5 What is murder? Well, first-degree murder is the
6 premeditated killing of a human being, with what we call
7 malice aforethought; and it -- to be first-degree murder,
8 there has to be the premeditation; there has to be the
9 thinking and all of that, that goes into the -- into the
10 murder.

11 And second-degree murder is basically a killing,
12 where you don't have this kind of -- where you don't have any
13 premeditation; you don't have any -- any -- anything that is
14 the same as sitting around and thinking about it and all of
15 that.

16 Then, we have what's called felony murder. Now,
17 the Court is going to instruct us that if -- and this recurs
18 through the matters pertaining to Mr. Hinman -- that if
19 Mr. Hinman -- if Mr. Hinman is passed away as the result of a
20 robbery, of a robbery, and there is what's called proximate
21 cause -- which we'll discuss -- then the fact that -- if it is
22 a fact -- that a robbery is the -- is the reason for the
23 murder, causes the murder, then you have first-degree felony
24 murder.

25 Now, if we -- I guess this is -- I don't know.
26 Maybe Mr. -- Mr. Manzella, I seem to have a --

27 (Whereupon, a discussion off the record ensued
28 at the counsel table between Mr. Kanarek and Mr. Manzella.)

1 MR. KANAREK: I guess someone -- excuse me. I guess
2 this is from a prior -- may I have a moment, your Honor?

3 Well, maybe I can --

4 MR. MANZELLA: Maybe you can use it.

5 THE COURT: What's the problem?

6 MR. KANAREK: Well, your Honor, there's a -- there's this
7 piece of paper here that has -- that has some kind of a state-
8 ment on it. But it refers -- it doesn't -- it's evidently
9 there from a previous --

10 THE COURT: I believe that was a statement, was it not,
11 that was offered by someone at the pre-trial arguments?

12 MR. KANAREK: I see. Well, I'll try to make --

13 THE COURT: What's your problem?

14 MR. KANAREK: Well, just that I need some more paper.
15 But that's all right. I will try to work --

16 THE COURT: Mr. Kuczera can get you some more paper.

17 MR. KANAREK: Oh, I'll try to work on this; that is
18 all right.

19 THE COURT: There's some back here.

20 THE BAILIFF: Yes, sir.

21 THE COURT: Looks like about ten sheets there. That
22 ought to be sufficient.

23 You may, of course, if you wish, use the court-
24 room board and the thumb tacks.

25 MR. KANAREK: Thank you, your Honor.

26 Well, the Court's going to instruct us concerning
27 proximate cause, and -- what the Court, in effect, is going
28 to tell us, in connection with proximate cause, is that no

1 matter how gory the pictures are -- and certainly, the
2 pictures pertaining to Gary Hinman are not easy pictures to
3 look at; they're not pleasant pictures to look at -- there has
4 to be what's called proximate cause between the conduct of
5 Mr. Manson and what has been portrayed here.

6 Otherwise, no matter how -- no matter how bad
7 the pictures are, no matter what somebody else did, Mr. Manson
8 is not responsible.

9 Now, the -- the proximate cause aspect of it is
10 important, because just for the sake of argument, assuming --
11 assuming the prosecution viewpoint, there's no question but
12 what the proximate cause of Mr. Hinman dying was the knife of
13 Bobby Beausoleil -- and that's taking the prosecution viewpoint
14 -- because Mr. Manson wasn't there, hadn't been there for a
15 long time -- what is it? A day and a half or something like
16 that? Or how many -- whatever it is.

17 Well, whatever somebody -- somebody tells us
18 occurred there, even taking that for a discussion point,
19 Mr. Manson is not responsible for whatever Gary Hinman -- for
20 what Mr. Beausoleil did.

21 And we have to look at -- to discuss all that,
22 the surrounding circumstances, the "Political Piggy," the
23 -- the preposterous proposition about robbery -- which I
24 haven't seen in the record -- but the proximate cause of
25 Mr. Hinman dying is the knife of Bobby Beausoleil.

26 And so -- and so, that is one type of murder,
27 the premeditated murder, passing away.

28 Now, another type of murder is -- that they are

1 going to argue is the robbery murder. Now, in the robbery
2 murder, first of all, there must be a robbery. And we are
3 going to discuss that, as to whether or not there's a robbery.

4 But assuming for the moment -- assuming for the
5 moment that there is a robbery, that robbery must be the cause
6 of murder.

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1 Because if the robbery is not a cause of the
2 murder -- if the robbery is not a cause of the murder, then
3 the verdict must be not guilty.

4 Because Mr. Manson is not charged with robbery.
5 The counts in the Indictment are murder as to Gary Hinman,
6 Robbery and Conspiracy -- pardon me; Robbery and Conspiracy,
7 the Conspiracy to commit robbery and murder; and as to Shorty
8 Shea, Murder.

9 Now, for instance, there is -- there is, as we all
10 know, the crime of extortion. Now --

11 THE COURT: Would you care to approach the bench?

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

15 THE COURT: The Court doesn't mind your arguing the law,
16 Mr. Kanarek. You should, as a matter of fact, argue the law,
17 and you should relate the facts to the law.

18 But you shouldn't do it incorrectly. The jury, if
19 it finds that there was not a felony murder, in respect to
20 Count --

21 MR. MANZELLA: Count I.

22 THE COURT: -- Count I, can find that there was a wilfull
23 and deliberate --

24 MR. KANAREK: I'm coming to that.

25 THE COURT: -- premeditated murder.

26 MR. KANAREK: I haven't come to second-degree yet.

27 THE COURT: I'm talking about first degree.

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

1 THE COURT: They can find that there was a wilfull,
2 premeditated, deliberate murder.

3 MR. KANAREK: I know.

4 THE COURT: And that would be a murder first.

5 MR. KANAREK: That's what I said.

6 THE COURT: The Court 'didn't understand you, then.

7 All right. You may proceed.

8 MR. MANZELLA: Your Honor, may I ask, the proximate
9 cause instruction, what instruction was that? I don't remember.

10 MR. KANAREK: 8.33, isn't it?

11 THE COURT: Simply the proximate cause instruction --
12 well, 8.55.

13 MR. KANAREK: Well, no, 8.33, isn't it?

14 THE COURT: 8.55, on homicide.

15 MR. KANAREK: 8.55?

16 MR. MANZELLA: All right.

17 MR. KANAREK: Well, wait -- well, yeah.

18 MR. MANZELLA: And 8.58, you are going to give both of
19 them?

20 MR. KANAREK: Well, there wasn't --

21 THE COURT: You haven't requested 8.58, but --

22 MR. KANAREK: 8.58 doesn't apply to this, because
23 Mr. Manson -- there's no evidence to justify 8.58, your Honor.

24 THE COURT: Well, I'll hear from you or Mr. Manzella or
25 both in connection with --

26 MR. KANAREK: There's nothing here about Mr. Manson
27 accelerating; it was Bobby Beausoleil that did the accelerating,
28 not Charles Manson.

1 That is improper, to give that instruction.
2 There's no evidence to substantiate that.

3 THE COURT: I'll hear from you.

4 But just so you don't misunderstand, the --
5 they could find that there was a wilfull and deliberate,
6 premeditated murder in connection with the Hinman count, --

7 MR. KANAREK: Yeah.

8 THE COURT: -- and they don't have to find that there
9 was a robbery.

10 MR. KANAREK: No, I understand.

11 THE COURT: All right.

12 MR. KANAREK: That's what -- that's what I said.

13 THE COURT: All right. You understand.

14 MR. MANZELLA: Your Honor, would you consider recessing
15 now?

16 THE COURT: Now?

17 MR. MANZELLA: Yes.

18 THE COURT: I wanted to give Mr. Kanarek a few more
19 minutes. I did spend some time in chambers on another matter
20 -- or, not in chambers; on the bench on another matter.

21 Another ten minutes.

22 MR. MANZELLA: All right.

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

25 MR. KANAREK: Ladies and gentlemen of the jury, the
26 transcript in this case is some 9,000 pages long, and that's
27 -- that -- for what it may be worth.

28 But now, we were speaking about extortion.

1 Because there -- in order to be first-degree murder -- first,
2 it can be what we call the wilful, premeditated, malice
3 aforethought -- "wilful and premeditated," I'll put it that
4 way -- or it can be felony murder.

5 Now, in order to be felony murder, to be first-
6 degree, as far as this case is concerned, it has to be
7 robbery; because if Mr. Hinman -- and again, I am just -- this
8 is just for the sake of argument; I think the evidence makes
9 it clear that Mr. Manson is not guilty of anything -- but I
10 am sure that -- I am sure we understand that what we are
11 talking about here are some legal theories.

12 To be a felony murder requires that the robbery
13 takes place; that there be a robbery. If -- if, for instance,
14 it's extortion -- now, extortion is the taking of property by
15 force or fear, with the consent -- with the consent of the
16 person who has the property.

17 Now, you remember that Ella Jo Bailey, for instance,
18 spoke of -- spoke of something about Mr. Hinman had a house;
19 and -- and I think there was -- there was talk of about
20 \$20,000 or something like that.

21 But an example of extortion, of an extortion type
22 of murder, would be where someone, with consent -- that is,
23 they give up their property, by virtue of the force or fear,
24 by virtue of someone threatening them, or hurting them.

25 That is extortion.
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1 Now, the consent that we are speaking of there
2 does not mean that it is the kind of consent that would last
3 forever, because obviously anyone who gave up his property
4 that way could get his property back by going to court and
5 saying that this consent is not a real consent. It is a
6 consent under force or under fear.

7 So, for instance, for the sake of discussion,
8 if Mr. Hinman gave up his property as the result of an
9 extortion, and let's look at what the prosecution says
10 occurred in this case. The prosecution says that some
11 people got together at the Spahn Ranch and decided that they
12 were going to go over to Mr. Hinman's house and get his
13 property.

14 And taking their evidence -- assuming, just for
15 the sake of argument, their evidence -- this was to be
16 accomplished by the threat of force. There was nothing in
17 the prosecution evidence, whatsoever, that Mr. Hinman was
18 to be killed or that Mr. Hinman was to be robbed. The idea
19 was -- the evidence that she spoke of, Ella Jo Bailey, that
20 he was to come with us. They were asking that Mr. Hinman
21 join them, join the group. And if he wasn't going to join
22 the group, then, to have this property taken away from him,
23 the implication was -- but the implication was that this was
24 to be done by threats, by the threat of force.

25 If you take their viewpoint of it and think of
26 their viewpoint and the evidence, and if there's any question
27 about it, the Court will read back any -- anything that the
28 jury wishes to hear.

1 So if it is extortion, as far as this case is
2 concerned, the only felony that would -- that can make this
3 first degree murder is robbery. It has to be robbery. If
4 it is extortion, it is not first degree murder. If it is,
5 false imprisonment, false imprisonment is a crime. False
6 imprisonment is the withholding of the liberty of a person by
7 use of force and fear.

8 In other words, if someone is kept in an area
9 against their will, and you threaten them by means of force
10 or you threaten them with the fear of being hurt --

11 THE COURT: Mr. Kanarek, would you approach the bench?

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

15 THE COURT: I've already told you, Mr. Kanarek, I'm not
16 going to give an instruction on false imprisonment.

17 MR. KANAREK: I'm telling them what it is. I have a
18 right to argue it.

19 THE COURT: No, you haven't. The Court does not
20 believe you have the right to argue -- there's not going to
21 be any such instruction.

22 MR. KANAREK: I'm not telling them there is going to be
23 an instruction. That way I'm just telling them what the law is.
24 I have a right to argue that it is not robbery, that it is
25 something else.

26 THE COURT: All right, you may argue in that vein. I
27 just wish to point out to you, however, that there will be
28 no such instruction that you requested, a homicide based on a

1 false imprisonment.

2 MR. KANAREK: Yes, I understand that.

3 THE COURT: I think you have made the record clear.

4 MR. KANAREK: And based on extortion, also.

5 THE COURT: Yes, I think that you have made it clear
6 that you wish to have an instruction based on the homicide
7 occurring in the course of an extortion, a homicide occurring
8 in the course of a false imprisonment.

9 MR. KANAREK: Each of which would be first degree
10 felony murder, is that correct?

11 THE COURT: That's correct that you have asked for.
12 Let's proceed.

13 (Whereupon, the following proceedings were had
14 in open court within the presence and hearing of the
15 jury:)

16 MR. KANAREK: Now, the false imprisonment is a crime,
17 and it is a felony level crime, if it is accompanied by --
18 by force or fear.

19 For instance, it is sort of the opposite, like,
20 kidnapping. Kidnapping somebody is moved around with force
21 and fear. In kidnap, in false imprisonment felony-type,
22 is where someone is kept in a confined space and you use
23 force and fear to keep them there.

24 Now, there is a misdemeanor type of false
25 imprisonment where there is no force or fear used. You just
26 deprive someone of their liberty by, oh, say, locking them
27 in their room or something. And there is no -- there is no
28 use of force and fear. And then, they have to sort of

1 extricate themselves.

2 Now, that would be a misdemeanor form of false
3 imprisonment.
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1 There are various -- there are various and sundry
2 types of misdemeanor conduct, if you -- looking at the evidence,
3 the prosecution evidence, that one could -- that one could
4 think of.

5 In terms of -- in terms of -- of -- uh, if you
6 want to call it misdemeanor conduct. But it has to be
7 robbery, and robbery is the taking of the possessions, the
8 personal property of a person from him by force.

9 Now, he -- he -- there's no consensual aspect
10 necessary in robbery. And robbery, it is not necessary for
11 there to be robbery that someone consent. It is -- it can be
12 -- it is robbery if you just go in like a typical robbery,
13 a strongarm robbery, as we call it, is where someone, say,
14 is strongarmed and their property is taken away from them,
15 their wallet or whatever they have, their watch, whatever,
16 from their person. That is what we know as robbery.

17 The evidence in this case does not show, even
13a fls. 18 from the prosecution standpoint any kind of robbery.

19 Now, I'm sure that they will argue differently.

20 Now, unless -- unless there is this type of
21 robbery, we can't even talk about felony murder. There's
22 no question but what Mr. Manson, even taking their evidence,
23 didn't premeditate, sit around and think about trying to
24 kill Gary Hinman.

25 Now, there -- then, there is another type of
26 murder called second degree.

27 Now, second degree murder is where there is no
28 premeditation, where there was -- where there was a killing

1 but it is not a killing that takes place with premeditation.
2 A killing that -- that occurs without the thinking about it
3 that I am going to do it and all of that, but it is done
4 deliberately and intentionally and so forth. That is what
5 is called second degree murder.

6 Now, the -- the difference or the several
7 verdicts that are going to be possible are going -- it's
8 going to be a verdict which has on it the possibility of
9 the degree of murder, first degree or second degree, where --
10 where the jury can make up its choice.

11 So these are the possibilities as far as the
12 murder goes concerning Gary Hinman.

13 Now, why is proximate cause important?

14 Proximate cause, and this is what requires the --
15 the thinking and the analysis and the -- the detail.

16 The proximate cause of the death of Gary Hinman,
17 as far as Mr. Manson is concerned, must be -- must be either
18 Mr. Manson doing it himself, and they're going to claim
19 about aiding and abetting that -- that he aided and abetted.
20 That he -- that he caused it by this -- this, uh, this what-
21 ever they say that Mr. Manson supposedly did or it has to be
22 done in the course and scope of the robbery.

23 If he -- in order for Mr. Manson to be guilty or
24 anyone to be guilty of a felony robbery murder, it is
25 necessary that he have the specific intent to rob.

26 In other words, we know -- I mean, just a for
27 instance type of case, to point up the specific intent,
28 if someone -- if someone is in a particular place, and a

1 friend of theirs is in an automobile outside, and one person
2 goes in, and one person goes in and kills someone in the
3 course of trying to rob them, the person who is out in the
4 automobile is not guilty of anything unless he had the
5 specific intent to rob. Not to extort, not to commit false
6 imprisonment, not -- not to, uh, spit on the sidewalk.
7 Nothing except robbery. That's the only way that the person
8 who is in the automobile can be guilty of the robbery murder
9 that someone else participates in. He has to have the guilty
10 knowledge, the guilty intention.

11 And if you look at the evidence in this case,
12 just for the sake of argument, assuming just for the sake
13 of argument that it is the way that Ella Jo Bailey wants us
14 to believe it is, there's no robbery there. There's no
15 robbery on the part of Mr. Manson. Had no -- there's nothing
16 to show that he went over there to participate in any kind
17 of a robbery.

18 THE COURT: We'll take a recess at this time, ladies
19 and gentlemen, until 9:30 tomorrow morning.

20 You are admonished during the recess not to
21 converse amongst yourselves, nor with anyone else, nor
22 permit anyone to converse with you on any subject connected
23 with the matter, nor are you to form or express any opinion
24 on the matter until it's finally submitted to you.

25 Remember, too, the admonition that I have given
26 to you before about publicity. Don't hear, see or read
27 anything in connection with this case or any other case
28 in which Mr. Manson might be involved.

1 Good night, I'll see you tomorrow morning.

2 (Whereupon, at 4:45 o'clock p.m. an adjournment
3 was taken until 9:30 o'clock a.m. of the follow-
4 ing day, Wednesday, October 20, 1971.)
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