

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.

167
NO. A-267861

REPORTERS' DAILY TRANSCRIPT

FRIDAY, NOVEMBER 5, 1971

PEALTY HASE

VOLUME 67

APPEARANCES:

For the People:

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

For Defendant Manson: IRVING A. KANAREK, ESQ.

COPY

MARY LOU BRIANDI, CSR
ROGER K. WILLIAMS, CSR
Official Court Reporters

1-1

1 LOS ANGELES, CALIFORNIA, FRIDAY, NOVEMBER 5, 1971

2 9:45 A.M.

3 ----O----

4 THE COURT: Would you gentlemen approach the bench.

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

8 THE COURT: Mr. Kanarek, will you inquire of your client
9 whether, if he comes in to court today, the Court permits him
10 to come into court today, he will not disrupt the proceedings?
11 If he will promise that, we will let him stay.

12 (Whereupon, Mr. Kanarek conferred with the defendant
13 Manson through the screen of the holding tank door.)

14 MR. KANAREK: He says he cannot make a representation,
15 your Honor.

16 THE COURT: Well, I think he only prejudices himself by
17 his conduct before the jury and I don't wish to have that
18 happen again. I think it will happen if I permit him to come
19 into the courtroom, so let's proceed without him.

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

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

23 MR. KANAREK: Yes.

24 THE COURT: The record may show that both counsel are
25 present. The jurors and alternates are present.

26 MR. KANAREK: Lynn Fromme, your Honor, but --

27 THE COURT: Is she outside in the hallway?

28 MR. KANAREK: No, your Honor, she is not allowed in the

1 building, your Honor.

2 THE COURT: Well, have you subpoenaed her?

3 MR. KANAREK: Yes. She is available, but she --

4 THE COURT: Where?

5 MR. KANAREK: Well, I can get her, if the Sheriff will
6 allow her.

7 THE COURT: Well, this is the time set to proceed.

8 MR. KANAREK: Yes, I understand, your Honor.

9 THE COURT: Where is your witness?

10 MR. KANAREK: Well, I can get her.

11 THE COURT: From where?

12 MR. KANAREK: Well, the immediate adjacent -- outside
13 at Temple and Broadway.

14 THE COURT: Well, that's your obligation.

15 MR. KANAREK: Well, I --

16 THE COURT: We'll give you five minutes to produce her,
17 then.

18 We're in recess. We'll remain in recess. During
19 the recess you are obliged not to converse amongst yourselves
20 nor with anyone else, nor permit anyone to converse with you
21 on any subject connected with this matter, nor are you to form
22 or express any opinion on the matter until it is finally
23 submitted to you.

24 MR. KANAREK: May I have Mr. Kuczera go with me so I
25 do not have any problem in getting her in the building in
26 connection with other deputy sheriffs?

27 THE COURT: You won't have any problem.

28 We're in recess.

(Short recess.)

1 THE COURT: Have you found your witness, Mr. Kanarek?

2 MR. KANAREK: Yes, I knew where the witness was at all
3 times, your Honor.

4 THE COURT: Well, in the future, subpoena the witness,
5 and if the witness is not here, then the Court will issue a
6 warrant for the arrest of the witness. Don't take it upon
7 yourself to delay the case as you have done now in procuring
8 the witness. You know the processes of the Court and they
9 are available to you.

10 MR. KANAREK: I have not delayed, your Honor.

11 THE COURT: The record will show that the jurors are
12 all present.

13 MR. KANAREK: I would like to apologize to the Court
14 and the jury and Mr. Manzella.

15 THE COURT: All right, your apology is accepted and you
16 may follow the suggestion of the Court. Please follow the
17 suggestion of the Court so you don't delay it again.

18 MR. KANAREK: I didn't -- I would welcome taking evidence
19 and let the jury hear.

20 THE COURT: Mr. Kanarek, there is no reason why you
21 should not have proceeded via the subpoena to have the witness
22 here and let's follow that procedure in the future. The
23 Court accepts your apology and I assume the jury does, too.

24 MR. KANAREK: Thank you, your Honor.

25 THE COURT: The jurors and alternates are present.
26 Both counsel are present. You may proceed.

27 MR. KANAREK: Call Lynn Fromme, your Honor.

28 THE CLERK: Would you raise your right hand, please, to be

1 SWORN.

2 You do solemnly swear the testimony you may give
3 in the cause now pending before this Court shall be the truth,
4 the whole truth, and nothing but the truth, so help you God?

5 THE WITNESS: I do.

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

7
8 LYNNETTE FROMME,

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

11 THE WITNESS: I have one thing to say.

12 THE COURT: You will have nothing to say until you are
13 asked a question, and if you persist in making any statement --

14 THE WITNESS: I wish to testify in Charlie's defense.

15 THE COURT: Not another word from you, other than in
16 response to a question, and you will be jailed for contempt.
17 Do you understand that?

18 THE WITNESS: Thank you.

19 THE COURT: Be seated.

20 THE WITNESS: Uh, I have nothing to say.

21 THE COURT: Be seated.

22 THE WITNESS: I have nothing to say unless it is in
23 Charlie's defense.

24 You all look to him as your father. He's not
25 your father.

26 THE COURT: Miss Fromme, you'd better be seated. Your
27 conduct constitutes contempt of this court. You have been
28 sworn as a witness. Now you take the witness stand and if,

1 in response to the questions put to you, you refuse to testify
2 and the grounds are proper, the Court will acknowledge that.

3 Do you understand me?

4 THE WITNESS: I am not aware of proper grounds. Any
5 grounds to me are proper.

6 THE COURT: Do you understand me at this moment that
7 you are to take that witness stand?

8 THE WITNESS: Or else you are going to hold me in con-
9 tempt?

10 THE COURT: Correct.

11 THE WITNESS: There's nothing I have to say.

12 THE COURT: Take the witness stand.

13 THE WITNESS: Unless it is in Charlie's defense.

14 THE COURT: Take the witness stand.

15 All right, the Court finds her in contempt. The
16 Court orders she be jailed for a period of five days for a
17 willful refusal to take the witness stand.

18 THE WITNESS: You are not my father and not only are you
19 not my father, you're not these people's father, and they're
20 all looking to you.

21 MR. KANAREK: Your Honor, I ask she have counsel. Your
22 Honor has allowed other people in this court -- your Honor has
23 appointed counsel. We ask she be appointed counsel and be
24 given the same equal protection.

25 THE WITNESS: (As she was being escorted from the court-
26 room) You mother fuckers, you know -- you know what's happen-
27 ing here. You know who the father is, and he's not sitting
28 on the bench. That's a woman.

1 THE COURT: Call your next witness.

2 MR. KANAREK: Well, your Honor, I would ask for --
3 I would have to -- well, I would ask for a short recess, your
4 Honor.

5 THE DEFENDANT: (From out of the detention room, through
6 the screen in the detention room door:) See, you can do any-
7 thing you want, can't you, father?

8 THE COURT: How long a recess do you wish?
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 MR. KANAREK: I would ask your Honor to adjourn until
2 the afternoon session.

3 THE COURT: That request is denied.

4 I'll grant you a recess for 20 minutes. Have your
5 next witness here at that time.

6 Ladies and gentlemen, again we are in recess.

7 MR. KANAREK: I --

8 THE COURT: Remember the admonishment I've given you.
9 You are admonished that you are not to converse amongst your-
10 selves, nor permit anyone to converse with you on any subject
11 matter connected with the case, nor are you to form or express
12 any opinion on the matter until it is finally submitted to you.

13 Incidentally, what has happened here in front of you,
14 the exchange between counsel and the Court, the exchange
15 between the witness and the Court, none of that is to enter
16 into any decision that you might be called upon to make.

17 All right.

18 MR. KANAREK: Your Honor, may I --

19 THE COURT: Excuse me. You may approach the bench --

20 MR. KANAREK: Oh. Well, I --

21 THE COURT: -- to make any statement that you might wish
22 to make.

23 MR. KANAREK: Well -- very well. I --

24 THE COURT: All right. Thank you, ladies and gentlemen.

25 (Whereupon, the following proceedings were had at
26 the bench among Court and counsel, after the jurors had
27 exited the courtroom.)

28 THE COURT: Didn't you anticipate this from the conduct

1 of Miss Brunner yesterday?

2 MR. KANAREK: No, I did not anticipate this. As a
3 matter of fact, the --

4 THE COURT: All right. Now, what do you have to say?
5 You have something that you wanted to put on the record.

6 MR. KANAREK: Well, yes. I ask for a mistrial, because
7 of your Honor's -- your Honor should excuse the jury, before
8 summarily doing that, in the -- in the presence of the jury.
9 Your Honor, I believe, has admonished -- although I'm not --
10 and I would ask your Honor to declare a mistrial.

11 I do make a motion for a mistrial. I ask your
12 Honor to admonish them, once again -- I didn't quite hear
13 what your Honor -- the exact words your Honor uttered before
14 they left.

15 But out of an abundance of caution, I ask your
16 Honor to ask them not to consider what happened for any
17 purpose; and mere admonishment not sufficing, in view of your
18 Honor's summarily finding Miss Fromme in contempt of court,
19 in the presence of the jury, I move for a mistrial.

20 I also move for a hearing on a violation of
21 Mr. Manson's constitutional rights, in that your Honor, in --
22 for instance, with Beverly Russell, was -- you appointed
23 counsel. Your Honor -- your Honor treated her with kid
24 gloves.

25 Your Honor -- although she -- she refused to
26 answer question after question, your Honor did not find her
27 in contempt, did not send her to jail. And I ask -- I allege
28 it's a denial of equal protection and due process, under the

1 Fourteenth Amendment, the different handling of these witnesses.

2 THE COURT: Your statements --

3 MR. KANAREK: And I ask for a hearing, so that we can
4 have a full-fledged hearing.

5 THE COURT: Your motion for mistrial is denied; your
6 motion for a hearing is denied. And your statements, as
7 usual, Mr. Kanarek, are extremely disrespectful.

8 The Court did not in any way treat Miss Russell
9 in any different way than this witness. This witness'
10 approach was entirely different than Miss Russell's.

11 MR. KANAREK: But your Honor --

12 THE COURT: All right. Now, be ready with your next
13 witness, then, at 10:30.

14 MR. KANAREK: Well --

15 THE COURT: And it's the view of this Court that -- that
16 this really -- what has occurred here this morning was some-
17 thing that you probably anticipated -- or very well could
18 have anticipated, and perhaps did anticipate.

19 MR. KANAREK: That is untrue, your Honor, and I ask
20 to be sworn on that. I ask to be sworn. I -- and I ask for
21 a hearing on your Honor's allegation.

22 And I ask your Honor to declare a mistrial,
23 because of your Honor's obvious bias, as indicated by that
24 statement, your Honor.

25 THE DEFENDANT MANSON (From within the detention room,
26 through the screen in the detention room door:) (Singing)
27 My country 'tis of thee, sweet land of liberty, of thee I sing.

28 THE COURT: That motion for mistrial is denied; your

1 motion for a hearing is denied.

2 Get your next witness here at --

3 MR. KANAREK: Well, I would like to make one other
4 point here, if I might.

5 THE COURT: All right.

6 MR. KANAREK: In connection with your Honor's statements
7 here yesterday, concerning racial prejudice and all that.

8 THE COURT: The Court doesn't even wish to hear from
9 you in connection with that.

10 You know very well that those questions were
11 improper; that they were unprofessional, and that they were
12 unethical.

13 MR. KANAREK: Well, no. That's not --

14 THE COURT: And you were appealing to something which
15 has no real place in this case --

16 MR. KANAREK: Well, if I --

17 THE COURT: -- or in any decision that must be made.

18 MR. KANAREK: May I be heard on that?

19 THE COURT: No, you may not.

20 MR. KANAREK: May I be heard?

21 THE COURT: No. (The Court leaving the bench.)

22 (Recess.)

2a

2a

1 (The following proceedings were had in
2 chambers, outside the presence or hearing of the jury:)

3 THE COURT: All right. The record will show both
4 counsel are present --

5 MR. KANAREK: Yes, your Honor.

6 THE COURT: -- in chambers.

7 MR. KANAREK: Out of an abundance of caution, I am not
8 bringing my next witness, your Honor, and I would --

9 THE COURT: Who is your next witness?

10 MR. KANAREK: Well, my next witness would have been
11 Brenda Mc Cann -- or Nancy Pittman -- and I don't want to
12 bring her into the courtroom, except outside the presence of
13 the jury.

14 And I would like --

15 THE COURT: For what reason?

16 MR. KANAREK: And I would like -- I repeat, once more,
17 I would like to be sworn, in view of your Honor's allegations.
18 I had no knowledge that Lynn Fromme would do this. As a matter
19 of fact, I have here (indicating) an entire --

20 THE COURT: Just a moment.

21 MR. KANAREK: -- examination of her that I have.

22 THE COURT: Just a moment, Mr. Kanarek.

23 THE WITNESS: Yes.

24 THE COURT: The Court simply wishes to proceed with this
25 case now, without any further interruption.

26 Now, you say your next witness is Brenda Mc Cann?

27 MR. KANAREK: Right. But I don't want to bring her in
28 now, your Honor.

1 THE COURT: Why don't you want to put her on? Don't you
2 wish --

3 MR. KANAREK: I wish to put her on. I wish Lynn Fromme
4 to be put on. Remember, this --

5 THE COURT: Wait a minute. Excuse me.

6 MR. KANAREK: Yes.

7 THE COURT: Then why not bring her into court and put her
8 on the witness stand?

9 MR. KANAREK: Because if -- in view of what your Honor
10 has indicated, I want to do it outside the presence of the
11 jury first and have-- and have -- and make sure that it's going
12 to be -- that she's going to testify.

13 THE COURT: That's a simple request. Then just put the
14 request, without all the verbiage. What you are requesting of
15 me is to bring Brenda Mc Cann in and have her sworn out of the
16 presence of the jury?

17 MR. KANAREK: And have her told --

18 THE COURT: And then, if she's sworn, then have her --
19 if she's sworn, then put her on the witness stand, in the
20 presence of the jury?

21 MR. KANAREK: No. No. In view of this, what has
22 transpired here -- and by the way, I still need Lynn Fromme;
23 not having her testimony is a denial of due process and equal
24 protection to --

25 THE COURT: All right. Mr. Kanarek, it is apparent to
26 the Court that Lynn Fromme does not wish to testify for you.
27 All right. She --

28 MR. KANAREK: That is not the way the law operates, your

1 Honor. The Court -- The Court says, "You answer those
2 questions."

3 THE COURT: "And if you don't answer the questions,
4 then you are found in contempt."

5 MR. KANAREK: "And if you keep -- and you still don't,
6 you are still found in contempt."

7 We need that evidence.

8 THE COURT: All right. That's correct, Mr. Kanarek. You
9 are completely correct on that point of law.

10 Now, the Court intends, if you wish to reproduce
11 Lynn Fromme -- and we know where she is now.

12 MR. KANAREK: Yes, your Honor.

13 THE COURT: And if you wish to produce her again in the
14 courtroom, simply give the word, and the Court will do that,
15 will have her here; and the Court will have counsel available
16 to caution her, --

17 MR. KANAREK: Thank you.

18 THE COURT: -- because the Court believes that the
19 consequences could be serious for her. She could spend some
20 considerable amount of time in custody, as a result of her
21 contemptuous actions.

22 Now, it's apparent to me, from the way Miss
23 Brunner acted, and from the way Miss Fromme acted, that you
24 are not likely to get a great deal of cooperation from these
25 other people whom you mentioned, whom the Court knows are
26 associates of Mr. Manson.

27 And so I can understand your caution, in not
28 wishing to place them before the jury.

1 But let me ask you this: Did you talk with Miss
2 Fromme this morning before you put her on the witness stand?

3 MR. KANAREK: Yes. I said, "You're coming ---" I have
4 here a complete examination --

5 THE COURT: And you had no knowledge of it?

6 MR. KANAREK: I had no knowledge whatsoever.

7 THE COURT: All right. Now, have you talked with
8 Miss Mc Cann --

9 MR. KANAREK: Not -- not since --

10 THE COURT: -- about what she proposes to do, or how she
11 promises to act?

2b

2b

1 MR. KANAREK: No. What happened, I went down, and when
2 I spoke to Miss --

3 THE COURT: Well, don't tell me what happened. Just
4 answer this: You have not spoken to her?

5 MR. KANAREK: Not on the subject of whether or not she's
6 going to do the kind of thing that --

7 THE COURT: Fromme has done?

8 MR. KANAREK: -- that Fromme has done, and -- well,
9 and/or Mary Brunner.

10 THE COURT: All right. Besides McCann, who else --
11 what other persons?

12 MR. KANAREK: Well, Leslie Van Houten. Now, the way
13 your Honor is -- if your Honor can protect us --

14 THE COURT: Well, have you spoken with Miss Van Houten?

15 MR. KANAREK: No, I haven't had an opportunity, your
16 Honor.

17 THE COURT: Great Scott, Mr. Kanarek. It seems to me
18 as though you would have been working on this.

19 MR. KANAREK: Well, I have been working. I have been
20 working. I have been working day and night on this case, your
21 Honor. I can't --

22 THE COURT: All right. Let me ask you this: What
23 specifically did you wish the Court to do, other than what you
24 have requested?

25 MR. KANAREK: Well, I would ask, out of an abundance of
26 caution, that Miss Van Houten -- that I be -- well, see, I
27 don't know how Sybil Brand keeps these people, but --

28 THE COURT: The Court -- if there's anybody in custody,

1 whom you wish to talk to, the Court would order that the
2 Sheriff make him available to you, so that you can discuss
3 these matters.

4 MR. KANAREK: Well, when I tried to talk to Mary Brunner,
5 before her testimony, I was told I could not talk to her,
6 period. In fact, I couldn't even serve her; I had to --

7 THE COURT: Well, that's something that probably should
8 have occurred to you. And that probably comes about as a
9 result of her -- her being charged with murder in a new
10 Indictment, and she having other counsel, as you know.

11 That's not unusual. But, of course, the thing
12 you should have done was probably have been to talk with
13 Mr. Weitzman and get permission, and then talk with her.

14 And it was obvious from her attitude towards you
15 that she was very hostile. Now, I am not -- I can't in any
16 way intervene or run your lawsuit, but I would like to move
17 this along.

18 What do you propose?

19 MR. KANAREK: Well, what I propose, your Honor, is that
20 -- that we bring up Brenda McCann, also known as Nancy Pittman
21 and -- and the thing that I -- I think the Court can use its
22 power, and when -- when somebody says, "I'm not going to
23 testify," the Court says -- I think the Court should say,
24 "I, the Court, I am going to decide whether you testify or
25 not."

26 And -- and these people have the idea that it's up
27 to them to testify on behalf of a person or on behalf of the
28 prosecution. A witness is a witness, your Honor. They

1 belong, really, to the Court.

2 THE COURT: Well, would you --

3 MR. KANAREK: And I ask the Court to give us that
4 protection.

5 THE COURT: Without further verbiage, what do you
6 propose? Just to have Miss McCann brought here now, outside
7 of the presence of the jury, to ascertain her attitude?

8 MR. KANAREK: To -- well, out of an abundance of caution --

9 THE COURT: I'm not sure if it's a matter in which the
10 Court should really intervene. This is a matter of your
11 choice. And if you wish to put her on, call her, the Court
12 will assist you with subpoenas; the Court will assist you with
13 -- as it attempted to do with Lynn Fromme -- to threaten her
14 with contempt, if she would not take the witness stand.

15 But I'm not certain that it's the function of the
16 Court, before you call a witness, to --

17 MR. KANAREK: I don't have --

18 THE COURT: -- intervene in the manner you suggest.

19 MR. KANAREK: All right. I'll call her. But I want
20 to do it outside the presence of the jury. There are many
21 situations in which there's a voir dire type of hearing,
22 before the jury is --

23 THE COURT: I've never heard of one like this, where the
24 Court inquires as to whether or not a witness is going to be
25 cooperative with an attorney who calls her.

26 MR. KANAREK: Well --

27 THE COURT: Have you?

28 MR. KANAREK: Well, ye-- if I may put this out?

1 Because the witness is adverse does not mean we -- we should
2 be deprived of the testimony.

2c
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2c-1

1 THE COURT: All right.

2 MR. KANAREK: If it has probative value.

3 THE COURT: Correct.

4 MR. KANAREK: So, therefore, a witness is a witness,
5 your Honor. So, therefore, it's not a matter of --

6 THE COURT: That's what I am saying.

7 MR. KANAREK: Right.

8 THE COURT: I am saying that this is a matter for the
9 Court to possibly ignore and let you determine, whether or
10 not what you wish to elicit from this witness is worth
11 presenting.

12 MR. KANAREK: Well, it's worth presenting. We have --
13 we have a right to it.

14 THE COURT: All right.

15 Then if you believe that, produce the witness,
16 and the Court will go on and assist you in whatever way it can
17 from there.

18 MR. KANAREK: All right. But I want to do it outside
19 the presence of the jury.

20 THE COURT: Do you have any comment or any thought in
21 regard to this, Mr. Manzella?

22 MR. MANZELLA: The only thought I had, your Honor, was
23 that Miss Fromme -- and any other witness who does the same
24 as Miss Fromme did -- I think the Court already did it -- but
25 I'm not sure; I didn't hear everything that you said -- that
26 the Court should advise the witness that the witness is in
27 contempt until the witness does decide to testify.

28 THE COURT: Well, that is one way to do it.

2c-2

1 MR. MANZELLA: In other words, to protect Mr. Kanarek's
2 right to have the testimony of the witness.

3 THE COURT: The Court -- that is one way to do it. That
4 is, to put the witness in custody until such time as the witness
5 decides that he or she will take the stand, or -- yes, will
6 take the stand; not just because of her failure to answer
7 questions, because there may be legitimate reasons for not
8 answering the questions.

9 MR. MANZELLA: Right.

10 THE COURT: But --

11 MR. MANZELLA: My point is that --

12 THE COURT: But that sentence, of course, could be
13 changed, I suppose, to that type of sentence.

14 MR. MANZELLA: But my point is that it makes it clear to
15 the witness that the matter's not over and done with. In
16 other words, that the witness has not been excused from
17 testifying, merely because she has been held in contempt for
18 her conduct.

19 THE COURT: Well, what I --

20 MR. MANZELLA: That she has an obligation to come
21 back; that she's aware that she has an obligation to come back
22 to court and take the witness stand.

23 THE COURT: Well, the Court has made an effort to
24 assist Mr. Kanarek in this way. I have asked for other
25 counsel to come in, and to confer with Miss Fromme, and to
26 explain to her that she has that obligation.

27 And while the Court may not modify the sentence,
28 if a motion were made to modify it, should she take the witness

2c-3

1 stand, the Court might view it favorably.

2 And there will be counsel talking to her, so that
3 possibly, Mr. Kanarek, we can get her to testify.

4 MR. KANAREK: Well, may I make this point to the Court?
5 It's, I think, a fair statement that if -- if a question is
6 asked, and then not answered, and there is no legitimate
7 reason for not answering it, each time is a separate
8 contempt.

9 THE COURT: It's a contempt --

10 MR. KANAREK: But it's a separate contempt.

11 THE COURT: Well, we haven't gotten to that point yet,
12 have we?

13 MR. KANAREK: No. But I think it would be helpful --
14 and especially, if I may advert to --

15 THE COURT: Excuse me just a minute.

16 MR. KANAREK: Yeah.

17 THE COURT: In respect to McCann, I am not going to
18 enter into it before you call her. This is your judgment,
19 as to whether or not you will call her. And you certainly
20 can determine from her whether or not she's going to do the
21 same thing that Fromme has done.

22 MR. KANAREK: How can I? How can I, your Honor?

23 THE COURT: Won't she talk to you?

24 MR. KANAREK: Well, she talks to me. But what if I ask
25 her, and she says, "No," and she does it?

26 THE COURT: Well, that's not what happened with Fromme.

27 MR. KANAREK: Well, no. I had no -- I didn't have the
28 slightest idea that she was going to do what she did.

2c-4

1 THE COURT: All right. Well, then, you are forewarned
2 now.

3 MR. KANAREK: That's why I'm in here, asking to speak to
4 the Court.

5 THE COURT: Well, now, you know what might happen to
6 McCann or anyone else who is closely associated with
7 Mr. Manson. And so the Court would permit you to have some
8 time now to -- to get these people up here and to talk to
9 them.

10 Now, have you subpoenaed them?

11 MR. KANAREK: No, sir.

12 THE COURT: You don't need to?

13 MR. KANAREK: The relationship is so good that I have
14 not -- I have never had any necessity to subpoena such
15 witnesses.
16
17
18
19
20
21
22
23
24
25
26
27
28

2d fol

2d-1

1 THE COURT: Might I just suggest that if the relation-
2 ship is very good, that you ask to have them outside in the
3 hallway? They can be here. I have checked on the matter, and
4 there's no way that -- that they have been prevented from
5 coming into the Hall of Justice.

6 MR. KANAREK: Well, I hear differently from them, your
7 Honor.

8 THE COURT: Well, I -- I've talked with the Sheriff's
9 Office, and I've talked with the people down in the
10 information booth, in the foyer of the Hall of Justice; and
11 they don't keep them out -- except at night. They keep them
12 out at night.

13 But during the hours that this building is open,
14 they're permitted to come in, with the public. And I've
15 issued -- in your presence, I have made such orders.

16 And if anybody is disobeying it, I want to know
17 about it.

18 All right. Now --

19 MR. KANAREK: Well, this is -- we have a mechanical
20 problem also. Miss Fromme and Miss McCann both stay on the
21 corner of Temple and Broadway. Now that Miss Fromme is in
22 custody, they have certain possessions there that I'm sure
23 that Miss McCann -- or Nancy Pitman -- that she will -- that
24 something has to happen to those belongings while she's
25 up here testifying.

26 And also, in the event that she does not return to
27 the corner, I imagine that they -- so that's a matter, I
28 think -- I know that that will be a mechanical problem. Of

1 course, there wouldn't be that if Miss Fromme went back to the
2 corner to -- because they're there with their various and
3 sundry possessions.

4 THE COURT: How many girls are down there on the corner?

5 MR. KANAREK: Just Miss Pitman --

6 THE COURT: Just Miss Pitman now?

7 MR. KANAREK: -- and Miss Fromme, yes.

8 THE COURT: Well, see whether you can resolve that.

9 MR. KANAREK: I don't know how I can.

10 THE COURT: Have they --

11 MR. KANAREK: Well, they have a van out there; but that
12 van, during the day, can no longer be in --

13 THE COURT: How voluminous is this?

14 MR. KANAREK: Oh, they have got quite a few things.

15 THE COURT: Well, if they have them all in one pack,
16 perhaps the information booth in the foyer of the Hall of
17 Justice would accept them.

18 MR. KANAREK: Not unless your Honor --

19 THE COURT: And I will give you a little note to that
20 effect.

21 MR. KANAREK: All right. Thank you, your Honor. Thank
22 you.

23 THE COURT: Now, what other -- now, I can't resolve
24 the problem for you of making them testify with a thumbscrew
25 and rack; all I can do is threaten contempt.

26 And if they're willing to endure the time in jail,
27 well, then, that is -- it's something that just cannot be
28 resolved, if they're willing to accept that jail time, rather

1 than testify for you.

2 That's a problem that -- that I cannot resolve,
3 beyond trying in the way that the law permits me to.

4 MR. KANAREK: Well, your Honor, if I may, I would
5 welcome your Honor taking the kind of approach your Honor took
6 with Beverly Russell, when we bring Miss McCann in the court-
7 room. If your Honor -- I'll ask her her name and so forth,
8 and then I -- I will ask her a few questions, and I would
9 welcome your Honor telling her: It's not up to her to decide
10 whether she testifies. It's up to the judge. And they --
11 some people have the idea -- like Mary Brunner, for instance --
12 that she's not going to testify.

13 Well, it's not her -- it's a judicial determina-
14 tion, not the individual witness.

15 MR. MANZELLA: If I may, I think the Court's made that
16 clear, that it's not up to the witness to determine whether the
17 witness answers questions.

18 Miss Lynn Fromme never took the witness stand at
19 all, before she began speaking. I think the Court made it
20 clear that --

21 MR. KANAREK: Well, but the Court --

22 MR. MANZELLA: -- that she was to take the witness
23 stand and remain silent until she was asked a question.

24 MR. KANAREK: But the Court at that time --

25 THE COURT: I saw she was speaking to you, Mr. Kanarek,
26 even before she took a step toward the witness stand.

27 She was at that time informing you of her
28 determination not to testify. And I couldn't quite get the

1 reason; it was something concerning --

2 MR. KANAREK: Well --

3 THE COURT: I'm not sure but --

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

2e fol

2a- 1 MR. KANAREK: Well, she was right adjacent to the witness
2 box when she started talking. She didn't start talking as
3 she entered the rail.

4 She was actually within a step of the --

5 THE COURT: Well, her remarks, Mr. Kanarek, were
6 directed to you before she took the witness stand.

7 MR. KANAREK: Well, the record --

8 THE COURT: And I think that's true, that she realized
9 what the alternatives were. And so did Miss Brunner --
10 although it should be said, for the record, that as to Miss
11 Brunner, she's in custody, charged with murder and perjury;
12 and there were no sanctions that the Court could have employed
13 against her.

14 She -- the Court did acknowledge that she had the
15 right -- did grant her right and privilege not to testify under
16 the Fifth Amendment.

17 Now, let's proceed.

18 MR. KANAREK: Yes, sir.

19 Now, I have one other request of the Court to
20 make, and that is: In view of the testimony of Mr. Guillory
21 yesterday, I make a motion that the Court ask the District
22 Attorney or the Attorney General or the United States Attorney
23 -- if nobody will do it in the State process -- to investi-
24 gate the allegations made by Mr. Guillory, under oath from
25 the witness stand, in connection not only with Mr. Manson, but
26 in connection with the general administration of justice.

27 These are very serious matters. He made them
28 under oath, and I -- and your Honor heard them; and I -- and

1 I do make that request of the Court.

2 I think it's -- that the Court has the power to --
3 in fact, the duty to bring this to the attention of the Grand
4 Jury and the appropriate prosecuting authorities.

5 And I do make that --

6 THE COURT: How will that help your client?

7 MR. KANAREK: Pardon?

8 THE COURT: How will that help your client?

9 MR. KANAREK: How? Well, it may well -- it may well
10 show some of the machinations that have gone on concerning
11 Mr. Manson, your Honor.

12 THE COURT: Well, Mr. --

13 MR. KANAREK: Plus the fact --

14 THE COURT: -- Kanarek, if there were any machinations
15 concerning Mr. Manson, you had a right to bring them out with
16 Mr. Guillory yesterday on the witness stand.

17 MR. KANAREK: Well --

18 THE COURT: The Court is not going to make such an
19 order as you request.

20 The Court believes that if you had some contest
21 with the District Attorney's Office and the Sheriff's Office --
22 which it appears to me as though you do -- that should be
23 set aside for the purpose of your representing your client.

24 Now, yesterday, Mr. Guillory testified, and it --
25 and you told the Court the reason for the testimony at the
26 bench. You told me what the reason was for introducing him.
27 And the Court could see that, because of the nature of this
28 proceeding, that if you could engender some sympathy for

1 Mr. Manson, as being a target of unusual and oppressive police
2 agency action, I suppose you could show that in a penalty
3 phase.

4 But that is the reason why all of that testimony
5 was allowed in, because of the nature of this penalty phase.

6 MR. KANAREK: Well, your Honor, I have no contest with
7 the District Attorney's Office or the Sheriff -- per se -- for
8 any reason. It's just that, as a lawyer, I think -- I think
9 that the Court has an obligation -- I would like to suggest to
10 the Court, the Court has an obligation.

11 We have a statement under oath of certain allega-
12 tions, by a man who was a Deputy Sheriff. It would seem like --

13 THE COURT: They're on the record, and I am sure that
14 if the District Attorney believes that there's any basis in
15 fact for the allegations, that the District Attorney's
16 Office will proceed to investigate them.

17 Now, let's get on. What is the next step that you
18 propose?

19 MR. KANAREK: Well --

20 THE COURT: To go down to the corner and find Brenda
21 McCann?

22 MR. KANAREK: Yes, your Honor.

23 THE COURT: All right. I'll --

24 MR. KANAREK: May I have the note?

25 THE COURT: -- give you a note to --

26 MR. KANAREK: Thank you.

27 THE COURT: -- the officer in the foyer, so that he will
28 pack her belongings for her -- or rather, keep her belongings

1 for her.

2 MR. MANZELLA: Your Honor, are you including belongings
3 in the van?

4 THE COURT: Oh, no. The van can be locked, I assume,
5 so that --

6 MR. KANAREK: But the van -- I don't believe it's
7 immediately -- I don't know where the van is.

8 THE COURT: Well, all you are talking about are the
9 belongings on the corner, --

10 MR. KANAREK: Right.

11 THE COURT: -- isn't that right?

12 MR. KANAREK: Right.

13 THE COURT: All right.

14 MR. KANAREK: The belongings on the corner. And I
15 would ask -- would your Honor implement that with a telephone
16 call? Because I know their feelings. They probably would be --
17 or maybe Mr. Kuczera can help implement it.

18 (Pause in the proceedings while the Court wrote
19 a note.)

20 THE COURT: Off the record.

21 (Short recess.)
22
23
24
25
26
27
28

3-1

1 THE COURT: All right, the record will show that we are
2 in chambers once again, both counsel are present.

3 MR. KANAREK: I spoke to Nancy Pitman, also known as
4 Brenda McCann, and she indicated to me that there's no one on
5 the corner when she leaves and so she tells me that a friend
6 of hers, whose name is Sue Bartell, was supposed to be there
7 during the noon hour. So, since it is about 11:30 now, I
8 wonder if we could adjourn until 2:00. I'm telling your Honor
9 what the situation is.

10 THE COURT: All right.

11 MR. KANAREK: And she doesn't want to leave.

12 THE COURT: Would you get -- the Court will assist you
13 in subpoenaing --

14 MR. KANAREK: I think on balance, all we are going to
15 do -- I can. All it is going to do is just make her more --
16 I -- I don't relish seeing her in custody unnecessarily, and
17 the point is, as I say, on balance, we have waited for
18 witnesses for the prosecution, during the prosecution -- when
19 the -- during the guilt or innocence, when the prosecution
20 didn't have a witness we adjourned for a day or a whole day or
21 part of a day, I'm sure your Honor will recall, and this is
22 just a matter of a half hour or so.

23 THE COURT: It's been the whole morning.

24 MR. KANAREK: I understand, your Honor. I had no
25 knowledge that Lynn Fromme was going to --

26 THE COURT: If what Miss Lynn Fromme said is true as she
27 left the courtroom, she stated she told Irving she wasn't
28 going to testify, and I assumed she meant you. If what she

1 said is true when she uttered that, then your statement is not
2 true.

3 MR. KANAREK: Well, that is not true. What I am
4 saying is -- in connection with these matters pertaining to
5 Mr. Manson, sometimes people take a certain particular state-
6 ment and when it serves a particular purpose, accept that as
7 gospel when others --

8 THE COURT: Well, it is probably beside the point as to
9 whether or not you knew what she was going to do when she came
10 in here this morning.

11 MR. KANAREK: I had no knowledge that she was going to
12 do this. I --

13 THE COURT: Very well, let's not burden the record with
14 any further discussion in connection with that.

15 How many more witnesses do you have?

16 MR. KANAREK: I think four, your Honor.

17 THE COURT: You'll need --

18 MR. KANAREK: But this will be at 2:00 o'clock.

19 THE COURT: You'll need Miss McCann at 2:00?

20 MR. KANAREK: Yes, your Honor, and as I say --

21 THE COURT: Now, do you wish to -- is it your position
22 you don't wish to have her subpoenaed because it might arouse
23 her or --

24 MR. KANAREK: Well, I can subpoena her, but what I mean
25 is I'm not -- if everything else being equal, a lawyer would
26 not rather have a witness brought in in custody and so I can --

27 THE COURT: In other words, you believe that she will
28 not honor the subpoena and you'll have to have her picked up

1 and brought in?

2 MR. KANAREK: I'm not saying that at all. I am saying
3 I do not -- I have not needed to subpoena her or friends of
4 Mr. Manson's previously. And I -- from what she tells me,
5 she will, when this Sue Bartell comes, then she'll come to the
6 court.

7 THE COURT: Well, the Court doesn't wish to be put in
8 the position of waiting until somebody named Sue Bartell shows
9 up on the corner of Temple and Broadway in order to resume court
10 proceedings.

11 MR. KANAREK: Well, I understand that. She -- I had it
12 worked out between them that Brenda McCann, also known as
13 Nancy Pitman, would be there while Miss Fromme spoke -- while
14 she was in the courtroom.

15 THE COURT: All right. I've asked Mr. Levy to speak to
16 Miss Fromme, and if you have any further suggestions in
17 connection with your attempting to extricate testimony from
18 Miss Fromme, the Court would hear from you.

19 Of course, she can be asked questions and if she
20 refuses to answer, she can be found in contempt for having done
21 that. But the Court doesn't wish to in any way suggest to you
22 what should be done in connection with it. I simply appointed
23 Mr. Levy in order to discuss with her her predicament and
24 perhaps that will be of some help to the defense in getting
25 Miss Fromme to testify.

26 How long will this testimony take this afternoon?

27 MR. KANAREK: Pardon?

28 THE COURT: How long will the testimony take this

1 afternoon?

2 MR. KANAREK: Of Brenda McCann? Well, it could -- if --
3 I'd say probably about an hour, an hour and a half.

4 THE COURT: All right. I'll recess until 2:00 o'clock
5 for you, then.

6 MR. KANAREK: Thank you, your Honor,

7 (Whereupon, at 11:45 the noon recess was taken
8 to reconvene at 2:00 o'clock of the same day.)
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4X-1
1 LOS ANGELES, CALIFORNIA, FRIDAY, NOVEMBER 5, 1971

2 2:20 A.M.

3 ---O---

4 (The following proceedings were had in chambers,
5 outside the presence and hearing of the jury:)

6 THE COURT: The record will show that both counsel are
7 present in chambers.

8 MR. KANAREK: Yes, your Honor.

9 THE COURT: Are you ready to proceed on it?

10 MR. KANAREK: Your Honor, I can't represent -- I've
11 spoken to Brenda Mc Cann -- Nancy Pittman -- and I can't
12 represent that she will comport with the deportment that --
13 that -- during the noon hour, I went --

14 THE COURT: Well, regardless of that deportment, will
15 she take the witness stand and --

16 MR. KANAREK: Well, I -- I suppose that -- I mean, I
17 can't -- she'll -- she'll take the witness stand, but I can't
18 represent that --

19 THE COURT: Whether she'll testify?

20 MR. KANAREK: Well, she'll -- I can't represent what
21 will occur. Do you understand, your Honor?

22 And -- and --

23 THE COURT: Well, the Court realizes that. I do
24 realize that you may not wish to prejudice your client by
25 putting on such a witness, because possibly some inference
26 could be taken from the outbursts of the witness. I realize
27 that you have a problem.

28 That's why the Court has attempted to assist you

1 here.

2 MR. KANAREK: Well, I thank the Court for the assistance.

3 THE COURT: Now --

4 MR. KANAREK: I went over during the noon hour with the
5 -- with -- that is, to Sybil Brand, and Mr. Levy was speaking
6 to -- to Lynette Fromme; and I wrote out a request to speak to
7 her, but -- but the --

8 THE COURT: Wouldn't she speak to you?

9 MR. KANAREK: Oh, yes, she'll speak to me. But the
10 Captain of the jail -- I have the whole sequence of events
11 set out here -- it went from the Captain -- well, the Captain
12 wasn't there; and when it finally went down to some person who
13 had spoken, I believe, to a Lieutenant Alley, and I was told
14 that only Mr. Levy could speak to her; they went through the
15 whole chain of command --

16 THE COURT: She's in custody now, of course, and under
17 sentence by -- the Court could allow you to speak to her and
18 would take steps to see that you do have access to her, to
19 speak to her, if you wish to do that.

20 But Mr. Levy, at my request, called the Court,
21 called Mrs. Holt, and he informed Mrs. Holt -- or Mr. Kuczera,
22 or both of them -- that he had spoken with her, and that it
23 was her determination that she would not testify.

24 That does not mean that she could not be brought
25 back to court and -- and you could ask her questions, and she
26 might conceivably be in contempt for each question that she
27 refused to answer.

28 But this is a matter for you to determine.

1 MR. KANAREK: Well, I don't --

2 THE COURT: And if you wish to, now, the Court will
3 make her available to you.

4 Is that what you wish?

5 MR. KANAREK: Yes, I wish the Court would make her
6 available to me. If your Honor will arrange --

7 THE COURT: All right. I'll call the jail, or have
8 somebody call the jail -- would you do that, Mrs. Holt? And
9 tell them that it's the Court's wish that Mr. Kanarek have
10 the opportunity to confer with her.

11 MR. KANAREK: Because I certainly do not wish to --

12 THE COURT: I haven't any -- I'm not inquiring, and I
13 haven't the slightest idea as to what you wish to produce
14 with these people. It's a matter for your determination, --

15 MR. KANAREK: Well, I have spoken with them --

16 THE COURT: -- as to why you wish to put them on.

17 But if they are all of the mind that this Miss
18 Fromme is, certainly it does raise some problems for you.

19 Now, what do you wish to do?

20 MR. KANAREK: Well, the point -- the point is that -- I
21 have spoken extensively with these girls and have detailed
22 questions set out, as a result of speaking with them extensive-
23 ly; and so -- I mean --

24 THE COURT: Do you wish the Court to issue subpoenas
25 for them and have them brought in, and --

26 MR. KANAREK: Well, of course, as far as Miss Fromme's
27 concerned, I -- that, the Court doesn't have to do that. She's
28 in --

4a01

1 THE COURT: She's at hand; but as to these others whom
2 you wish --

3 MR. KANAREK: Well, I don't think it would be good
4 psychology; and I would be most reluctant -- in fact, I would
5 prefer not to have -- because -- because it would create a
6 scene, which -- which would be un-- unfortunate in the court-
7 room, and -- now --

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

*a-1

1 THE COURT: Well, we have just been --

2 MR. KANAREK: Well, there's another witness that's
3 at Sybil Brand.

4 THE COURT: Who is that?

5 MR. KANAREK: And that's Leslie Van Houten.

6 THE COURT: Well, do you wish to have her brought here?
7 She can be here within 15 minutes.

8 MR. KANAREK: Yeah, if your Honor would do that?

9 The point is, I wish to inform the Court, the
10 reason that I did not order her out while I was there is
11 because I didn't want -- I wanted as little possibility of
12 there being a chain reaction, in connection with --

13 THE COURT: I'm not sure I understand that. But I will
14 order --

15 MR. KANAREK: Well, what I am saying is -- what I am
16 saying is, obviously, these -- I mean, this last witness,
17 Miss Fromme, seemed to react or to do things which were
18 consistent with -- or could be superficially consistent with
19 what Mary Brunner did, and --

20 THE COURT: Well, there seems to be a concert of
21 action or attitudes, certainly, toward testifying in the case,
22 if one can draw an inference from the experience we've had
23 here in court.

24 MR. KANAREK: Well, we have to -- this -- this, I believe,
25 the root cause -- the root cause is the District Attorney's
26 handling of Mary Brunner, and the -- and the hot-and-cold
27 approach to her that -- that -- these people have a certain --
28 a certain lack of faith --

1 THE COURT: Aside from that, what do you wish to do at
2 this moment?

3 MR. KANAREK: Well, I would welcome --

4 THE COURT: I don't want to waste the rest of the day,
5 if you can proceed, if you can go ahead.

6 Do you have any other witnesses, other than the
7 Manson associates?

8 MR. KANAREK: Yes. Well, yes, if your Honor would
9 bring Leslie Van Houten, that would be most helpful; and I
10 could speak to her in an anteroom, prior to her taking the
11 witness stand, because she testified -- she testified at the --
12 previously concerning these matters.

13 THE COURT: Who's Inspector Graham?

14 Off the record.

15 (Whereupon, a discussion off the record ensued
16 among the Court, counsel, and the court attaches.)

17 THE COURT: Apparently Inspector Graham's matter doesn't
18 deal with anything in connection with your problem today,
19 Mr. Kanarek, so I'll -- but I will contact the people at
20 Sybil Brand, and we will attempt to get Leslie Van Houten here
21 right away.

22 MR. KANAREK: Thank you very much, your Honor.

23 THE COURT: All right. Now, would you do something
24 toward planning this a little more successfully?

25 MR. KANAREK: I had it all planned, your Honor, this --

26 THE COURT: A little more successfully. Issue subpoenas,
27 if you have to, or ask the Court to issue subpoenas, so we
28 can move along on this.

1 If someone fails to show up, then you can ask
2 that they be brought in, so that you won't have to chase around
3 while the jury is sitting in the box.

4 MR. KANAREK: Well --

5 THE COURT: I'll call the jail, or have the clerk call
6 the jail, and we'll remain in recess.

7 MR. KANAREK: Thank you very much for the assistance,
8 your Honor.

9 (Recess.)

10 (The following proceedings were had in open court,
11 in the absence of the jury:)

12 THE COURT: All right. The record will show that we are
13 in open court; both counsel are present.

14 The Court will ask that Mr. Manson be brought out.

15 The jury is coming down now, are they?

16 THE BAILIFF: The jury, we took them back up, sir,
17 because of the possible long wait.

18
19
20
21
22
23
24
25
26
27
28
4b

4b-1

1 THE COURT: I believe that the admonition thus far --
2 well, I'd better admonish the jury again --

3 THE BAILIFF: Yes, sir.

4 THE COURT: -- before we adjourn for the day.

5 I'm informed that Miss Van Houten cannot be brought
6 here until approximately 3:30.

7 Mr. Kanarek has requested the Court time to talk
8 to her; and that will take about 15 or 20 minutes, so that
9 would take just about the rest of the day.

10 I am inclined, therefore, to grant him until
11 Monday morning to arrange his conferences with his witnesses
12 and to resolve matters so that perhaps this will go more
13 smoothly, then, on Monday morning.

14 Bring Mr. Manson out.

15 THE BAILIFF: Do you want the jury down?

16 THE COURT: Yes, but not right now. You may call upstairs
17 and have them be brought down, because they shouldn't -- this
18 conference shouldn't last too long.

19 Let's get Mr. Manson out first, Mr. Kuczera.

20 THE BAILIFF: Yes, sir.

21 THE COURT: Do you want to approach the bench?

22 (Whereupon, the following proceedings were had at
23 the bench among Court and counsel, the defendant Manson also
24 being present:)

25 THE COURT: Mr. Manson -- the record will show we are
26 at the bench; both counsel are present.

27 The Court just wanted to inform you that you have
28 the right to testify --

4b-2

1 THE DEFENDANT: You keep telling me I got a right. You
2 ain't showed me no right.

3 THE COURT: Just listen to me for a moment.

4 You have the right to testify, even though your
5 attorney may disagree. Do you understand that?

6 THE DEFENDANT: Are you calling me up?

7 THE COURT: I don't understand that question. But do you
8 understand me?

9 THE DEFENDANT: You know, if I take that stand, where
10 I'm going to end up?

11 THE COURT: Well --

12 THE DEFENDANT: Are you ready for that?

13 THE COURT: What I am saying to you is that if you choose
14 to testify, you can. You also have the right to refuse to
15 testify; do you understand that?

16 THE DEFENDANT: (No response.)

17 THE COURT: Now, you have indicated your dissatisfac-
18 tion with Mr. Kanarek; but on the other hand, the Court is not
19 of a mind to appoint you to act as your own attorney.

20 I would suggest that you cooperate with Mr. Kanarek,
21 because, for all you know, this may be an important trial for
22 you. So, I would urge you to cooperate with him in any way
23 that you can.

24 Do you understand me? I mean by that --

25 THE DEFENDANT: I don't know whether you understand.

26 THE COURT: I am willing to listen.

27 THE DEFENDANT: Well, like all these thoughts that I
28 stand before you in, they're not my thoughts. I haven't even

4b-3

1 moved in your thinking.

2 I haven't suggested or concluded in any direction,
3 anything whatsoever.

4 I see the ghost of what moves; and if you could take
5 me away from this spot, and put yourself in it, then you would
6 know why I'm here.

7 Your thought brought me here. There's nothing I
8 can say that you ain't supposed to know. And if you don't know
9 it, then you ain't got no business setting there.

10 I don't care to tell anybody anything. I don't
11 care anything about anybody.

12 THE COURT: Well, you are involved in the penalty phase
13 now --

14 THE DEFENDANT: In the penalty phase.

15 THE COURT: -- of this trial, wherein --

16 THE DEFENDANT: What you fail to realize --

17 THE COURT: -- wherein Mr. Kanarek will want to put on
18 witnesses, --

19 THE DEFENDANT: Um-hmm.

20 THE COURT: -- and he's encountering some trouble.

21 THE DEFENDANT: Yeah.

22 THE COURT: Now, if you can cooperate with your counsel --

23 THE DEFENDANT: Yeah. Well, here's the trouble. I
24 have always belonged to you. I don't have any thoughts about
25 anything. I don't care about anything.

26 THE COURT: All right.

27 THE DEFENDANT: You have my will. Do whatever you want
28 to do with it. I don't give a damn.

4b-4

1 THE COURT: All right. Do you have any questions about
2 what I have told you?

3 THE DEFENDANT: You -- questions?

4 THE COURT: Yes.

5 THE DEFENDANT: The only question I have -- the only
6 thing I don't know is: If you do? And I wonder sometimes
7 if -- if there's anybody that really knows what they're doing,
8 or if everyone just passes it around to someone else.

4c fol

1 THE COURT: All right. The Court will recess this matter
2 until 9:30 on Monday morning.

3 I'll admonish the jury when they're brought down,
4 Mr. Kuczera.

5 THE BAILIFF: Yes, sir.

6 THE COURT: All right. That's all.

7 THE DEFENDANT: Can you -- Can you see in my head?
8 There's nothing in there. It's all been beat out in reform
9 school.

10 (Whereupon, the defendant was escorted into the
11 detention room.)

12 THE COURT: Mr. Kanarek?

13 MR. KANAREK: Yes, sir?

14 THE COURT: Now, is there anything further that the
15 Court can do to assist you in connection with subpoenas or --

16 MR. KANAREK: Well, no. I want to thank the Court very
17 much for -- it isn't the matter of the subpoena, your Honor,
18 it's -- at all.

19 It's the -- as I say, the -- and I want to thank
20 the Court very much for this accommodation, as to Leslie Van
21 Houten.

22 THE COURT: I'll see you on Monday morning.

23 Well, first, we'd better have the jury down. I
24 do wish to admonish them, in view of the fact that the Court
25 has heard that the jury is now deliberating concerning the
26 penalty in the case of People versus Grogan, and there may be
27 a news release, which I should not like the jury to hear or
28 see.

1 All right. We are in recess, then, until the jury
2 comes down.

3 (Short recess.)
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5 fol.

5-1
1 THE COURT: The record will show that all the jurors
2 and alternates are present. Both counsel are present.

3 Ladies and gentlemen, we're going to recess now
4 until 9:30 on Monday morning. Hopefully on Monday morning we
5 can proceed and work a full day.

6 During the recess, the Court will permit you to
7 view television in a -- while it is monitored.

8 In other words, you won't have access to individual
9 television sets. And the reason for that is there may be
10 news breaking concerning some other matter which the Court
11 does not wish to have you see or hear even inadvertently.
12 I know that it is my feeling you would not disobey the order
13 of the Court, but it is also the situation that you might
14 suddenly, without realizing that it was going to be on the
15 television screen, see something that the Court would not
16 want you to see or possibly over radio hear something you
17 shouldn't hear.

18 You'll have access to the newspapers over this
19 weekend, but, again, the Court would ask that those be looked
20 at beforehand.

21 I'm sorry to inconvenience you this way, but it
22 is part of the rigors of being a juror.

23 Remember the other admonition, then, that I have
24 given you heretofore, and that is to the effect you are not to
25 converse amongst yourselves, nor with anyone else, nor permit
26 anyone to converse with you on any subject connected with
27 this matter, nor form or express any opinion on it until it is
28 finally submitted to you.

1 Remember your affirmative obligation not to see,
2 hear, or read anything concerning this case.

3 All right, good night. Have a pleasant weekend.

4 I understand you are going to Knott's Berry Farm,
5 whether you like it or not.

6 (Laughter.)

7 THE COURT: See you Monday.

8 (Whereupon, the jury retired from the courtroom
9 at 2:55, and the following proceedings were had:)

10 THE COURT: We're in recess.

11 MR. KANAREK: Yes, your Honor, do you --

12 THE COURT: Off the record.

13 Well, on the record. Stay on.

14 MR. KANAREK: Would your Honor order a visit so that
15 I could have a visit with Mr. Manson and Charles Rich who is
16 here? If your Honor -- that would help me immensely. It is
17 monitored. No problem. Mr. Rich is not in any maximum security
18 facility. He's going to be released next June.

19 THE COURT: All right, the Court will permit that.
20 The Court will order that at the Sheriff's convenience over
21 the weekend.

22 MR. KANAREK: Thank you very much, your Honor.

23 THE COURT: That Mr. Kanarek be permitted to conduct
24 conferences with Charles Rich and Mr. Manson together.

25 MR. KANAREK: For a period of, say, oh, -- could your
26 Honor make it for a maximum of three hours, if possible? I'm
27 sure -- I don't think it will take that long, but that would
28 be out of abundance of caution, just --

1 THE COURT: All right, so ordered.

2 MR. KANAREK: Thank you. Could that minute order be
3 sure to get to the Sheriff so that it will --

4 THE COURT: Mrs. Holt will make sure that it gets to the
5 Sheriff.

6 Anything further?

7 MR. KANAREK: No, thank you, your Honor.

8 THE COURT: All right, that's all. We're in recess.

9 (Whereupon, the following proceedings were had in
10 chambers at approximately 3:25 p.m.:)

11 THE COURT: The record will show we're in chambers with
12 both counsel.

13 I brought you in here to tell you that Mr. Kuczera
14 informed me yesterday that Mr. Rico, one of the jurors,
15 approached him and said to him that he would like for Mr.
16 Kuczera to convey to the Judge that Mr. Rico wished to change
17 his verdict as to Count III, as to Count III on the one
18 involving Mr. Shea. And so Mr. Kuczera told me about it. I
19 did not believe, and I do not believe that Mr. Rico can do
20 that or that the verdict can be changed. I made the statement
21 to the jury yesterday that if they wished to communicate with
22 the Court that they should do so in writing. I'm not quite
23 sure from what Mr. Kuczera said that that was Mr. Rico's intent,
24 but it sounded to me as though that's what Mr. Rico had on his
25 mind that he might wish to change his plea, so that's why I
26 made the statement yesterday about the statement that they were
27 were not to talk to the clerk, the bailiff or no one. And it
28 was incumbent upon them, if they wished to communicate to the

1 Court about anything, to do it in writing through the foreman.

2 Now, I've heard nothing more about it. I don't
3 know if Mr. Rico is of the same mind when he made that state-
4 ment, whatever it was to Mr. Kuczera, or not. But it seems to
5 me that it simply should be made a matter of record that that
6 did get to me and I have not yet received anything in writing
7 from Mr. Rico to the effect that he wishes to in any way change
8 his verdict. Not that it would make any difference, because in
9 my view of the law the verdict has been recorded and it must
10 stand.

11 The defendant would not be prejudiced thereby to
12 go ahead in as far as the penalty phase is concerned, it seems
13 to me, but the People might, if Mr. Rico has second thoughts,
14 that is his state of mind concerning the third count. But I
15 am not sure that at this point the Court should enter into it
16 to do anything.

17 Do either of you have anything --

18 MR. MANZELLA: No, I agree with your assessment of it,
19 your Honor.

20 MR. KANAREK: Well --

21 THE COURT: I don't know what else can happen in this
22 case, but I'm sure if it can --

23 MR. MANZELLA: It will.

24 THE COURT: It will, yes.

25 MR. KANAREK: I would just like to make this statement,
26 that before your Honor mentioned this, while your Honor was
27 in chambers, and after we purportedly had adjourned for the day,
28 the newsman whose -- I gather his first name is Jerry, and I

1 think he's with KNX, he's a short fellow, wears glasses --
2 he may be with some other station -- anyway, he's the one that
3 was in the courtroom and perhaps your Honor knows his name,
4 I don't.

5 THE COURT: I don't know his last name.

6 MR. KANAREK: He approached me.

7 THE COURT: He's from one of the news media.

8 MR. KANAREK: Yeah, he's -- I think he's on radio.

9 THE COURT: Radio or television, I can't remember which
10 one.

11 MR. KANAREK: He approached me and told me that he had
12 heard a rumor to the effect that one of the jurors wanted to
13 change their vote, and he told me that since we have adjourned
14 but before your Honor brought up this matter and I just wanted
15 the record to reveal that.

16 THE COURT: Well, I have talked to one other judge about
17 it yesterday. I talked to one other judge about it to find
18 out whether or not he had ever had a similar experience.
19 Let's see, I talked to Judge Keene and Judge Dell about it,
20 actually. They both know that there has been this situation
21 arise. So other than the bailiff and those judges, I don't
22 think it is widely known. But I don't even know that it should
23 be put on the record, but I felt if it has any ramifications
24 that should be explored, I'd throw it out to you gentlemen
25 and let you kick it around.

26 MR. KANAREK: It would seem like --

27 THE COURT: That's all. I'll see you at 9:30.

28 MR. KANAREK: Oh, I was going to make the motion that

1 your Honor interrogate Mr. Rico.

2 THE COURT: Let's assume it is true, entirely true he
3 wants to change his verdict, I can't do anything about it,
4 The People might be in a position to complain, it seems to me,
5 if Mr. Rico is of such a mind that he could not be fair and
6 impartial in making a decision in the penalty phase. I don't
7 even know that that's true. I certainly would loathe to
8 remove him and replace him with an alternate.

9 MR. KANAREK: We would certainly oppose that.

10 MR. MANZELLA: I haven't made any suggestions yet along
11 those lines.

12 THE COURT: No, he --

13 MR. KANAREK: It would seem to me --

14 THE COURT: Just that he wished to talk with me about
15 changing his plea -- changing his finding, rather, on Count
16 III. And I countered with this message to all of them that if
17 they wished to communicate with me, to do it in writing.
18 And so far I've received no writing. It may be that Mr. Rico
19 has again had a change of mind.

20 MR. MANZELLA: I think we should just let it go, at
21 least until he has communicated with you.

22 THE COURT: At least it is a matter of record. I'll see
23 you gentlemen Monday morning at 9:30.

24 MR. KANAREK: Thank you, your Honor.

25 (Whereupon, an adjournment was taken at 3:30 p.m.
26 to reconvene Monday, November 8, 1971, at 9:30 a.m.)
27
28