

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.

175

No. A-267861

REPORTERS' DAILY TRANSCRIPT

Thursday, November 18, 1971

VOLUME 75

PENALTY PHASE

APPEARANCES:

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

For Defendant Manson: IRVING A. KANAREK, Esq.

COPY

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

I N D E X
E X H I B I T S

DEFENDANT'S:FOR IDENTIFICATIONIN EVIDENCE

RR - Document dated 11/12/71 10,623

SS - Document dated 9/15/71

10,626

TT - Indictment dated 7/15/70

10,628

UU - Indictment

10,628

VV - Declaration of Mary
Brunner by reference
dated 11/16/71

10,652

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1 LOS ANGELES, CALIFORNIA, THURSDAY, NOVEMBER 18, 1971

2 9:47 A.M.

3 ---O---

4 THE COURT: All right. All the jurors are present.
5 Both counsel are present.

6 Mr. Kanarek? And Mr. Williams?

7 MR. KANAREK: Oh, yes, your Honor.

8 THE COURT: I understand somebody forgot you this
9 morning, and they didn't pick you up at the right time.

10 (Whereupon, murmurs of "Yes, that's right," were
11 heard from members of the jury.)

12 THE COURT: Mr. Kuczera was busy this morning, I suppose.

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

16 THE COURT: Go ahead, Mr. Kanarek. Would you inquire of
17 your client whether he will comport himself properly in
18 court?

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

22 MR. KANAREK: Your Honor, he says that he represents
23 nothing.

24 THE COURT: All right. Let's proceed without him, then.

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

27 THE COURT: You may continue, Mr. Kanarek.

28 (Pause in the proceedings while a discussion off

1 the record ensued at the counsel table between Mr. Kanarek and
2 Mr. Manzella.)

3 MR. KANAREK: Shall I go ahead?

4 THE COURT: Yes, proceed.

5 MR. KANAREK: Thank you. Continuing the reading of
6 Mary Brunner's testimony.

7 For context and continuity, I will go back a
8 couple of questions, your Honor, I believe this has been
9 -- part of this was -- had already been stated, very briefly,

10 "Q All right. Would you tell us if
11 you can -- would you tell us when each conversation
12 occurred and what was said at each conversation?
13 Can you do that? Is that possible?

14 "A Not exactly. Sadie talked about
15 killing Gary several times, and it was all within
16 a period of a couple of weeks. And every time she
17 told it, it came out a little bit different.

18 "Q Now, will you tell us as best
19 you can -- were all of these conversations at
20 the Spahn Ranch?

21 "A Yes.

22 "Q Was anyone else present other than
23 yourself when you spoke to Sadie concerning these
24 matters?

25 "A I think one time I talked to her alone
26 about it; and other times, I talked to her with
27 other people present.

28 "Q All right. Will you tell us who

1 "the other people were, who were present?

2 "A Just other girls, other girls in the
3 Family. I don't remember for sure who.

4 "Q All right. Then would you tell us --
5 would you tell us each of the versions that Sadie
6 told you?

7 "You may -- you say -- she told it a little
8 different each time.

9 "One version was that Gary was attacking her
10 and that she had stabbed him.

11 "One version had it that Gary was after Bobby
12 for some reason, and she had stabbed him.

13 "One version was that Gary had gotten in a
14 fight with some other people, when she had gone up
15 there, gotten in a fight with other people, that she
16 had been with, and he got stabbed.

17 "It wound up that he got stabbed by other
18 people. She had stories, you know. Sadie's
19 imagination runs sometimes.

20 "One version had Bobby -- one version had
21 Bobby stabbing Gary, and then she stabbing him
22 afterwards.

23 "Q Have you finished?

24 "A That is all I can remember. There are
25 a lot of details, but they went in one ear -- I
26 heard them, and I put them in my head, but I
27 don't remember them exactly.

28 "Q What did she say occurred at the Hinman

1 "house prior to the stabbing?

2 "A. They all involved the fight in which
3 Bobby's ear had been cut by someone, and some of it
4 was by other people. Sometimes it was cut -- not
5 by Bobby; Gary. Excuse me.

6 "It had been cut with a knife. I don't remem-
7 ber exactly how it happened in her story.

8 "Q. How did she -- now, did she say anything
9 concerning Gary Hinman's dealing in dope?

10 "THE WITNESS: Yes.

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1 "Q What did she say?

2 "THE WITNESS: She mentioned -- in one
3 version that I heard, she mentioned there was
4 some dealers at Gary's house; that he had burned
5 them, or they had burned him.

6 "I don't remember which way it went.

7 "Q What do you mean by 'burn'?

8 "A Burned? Well, it means either that he's
9 gotten something from them and hadn't paid them for
10 it, or they had gotten some dope from him and hadn't
11 paid for it, or else they had given him bad dope.

12 "Q Now, did she state that Leslie was with
13 her at the Hinman house?

14 "A Yes.

15 "Q Did she state how long Leslie was with
16 her at the Hinman house?

17 "A For a couple of days.

18 "Q Did she tell you what she observed
19 Leslie do at the Hinman house?

20 "A I don't really recall what she said
21 she saw Leslie do. She was there with her. They
22 were doing whatever they were doing together."

23 And your Honor, there was an order by the
24 Court that the last portion -- "The latter portion will
25 be stricken." I -- I'm sorry I read that. I don't
26 exactly know what -- I imagine it would mean the last sentence
27 I read.

28 (Whereupon Mr. Kanarek handed the transcript to the

1 Court, which transcript the Court perused.)

2 THE COURT: "The latter portion of the answer will
3 be stricken. The jury is admonished to disregard
4 it," Judge Older said.

5 The latter portion appears to be: "She was
6 there with her. They were doing whatever they were
7 doing together."

8 I think you are correct.

9 MR. KANAREK: Thank you.

10 "Q. Was there any discussion with Sadie
11 concerning the words 'Political Piggy'?

12 "A. She told me that she wrote them on a
13 wall.

14 "Q. Did she tell you why she wrote them on
15 the wall?

16 "A. No."

17 (Pause in the proceedings while Mr. Kanarek
18 perused the transcript.)

19 MR. KANAREK: Your Honor?

20 (Whereupon, a discussion ensued at the bench
21 between Mr. Kanarek and the Court, which discussion the
22 reporter was unable to hear.)

23 MR. KANAREK: After consulting with Judge Choate, I will
24 read a portion of Lines 22 and -- through 24, of 27010.

25 "Did she tell you whose idea it was to
26 write them on the wall?

27 "A. No.

28 "Q. Now, after you were arrested, you

1 "spent some weeks in jail; is that right?

2 "A That's right.

3 "Q About six weeks?

4 "About six weeks?

5 "A About that.

6 "Q After you got out of jail, did you
7 go somewhere?

8 "A I went first to the ranch.

9 "Q How long did you stay at the ranch
10 after you got out of jail?

11 "A Just overnight; part of the next day.

12 "Q Do you remember what day it was that you
13 went to the ranch?

14 "A No.

15 "Q Now, you recognize that you are testifying
16 under oath?

17 "A Yes.

18 "Q Under penalty of perjury?

19 "A Uh-huh."

20 U-h dash h-u-h.

21 (Pause in the proceedings while Mr. Kanarek
22 perused the transcript.)

23 "Q Did you have occasion to go into the
24 trailer where Randy Starr lived when you got back
25 to the ranch?

26 "A Yeah, I think I did. Because Sandy
27 was getting stuff ready -- oh, no. I think Sandy
28 was in there, maybe, then with her baby.

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"Q Had you been in that trailer before?

"A Yeah."

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1 MR. KANAREK: Your Honor, may I have a moment with
2 the clerk? I need an exhibit.

3 THE COURT: Yes. you may.

4 MR. KANAREK: Thank you.

5 (Whereupon, there was a pause in the proceedings
6 while Mr. Kanarek conferred with the clerk off the record.)

7 MR. KANAREK: "Q Had you been in that
8 trailer before?

9 "A Yeah.

10 "Q Were there cupboards in that trailer?

11 "A Yes.

12 "Q Now, I will show you a picture --

13 "Q I show you this panel. It appears
14 to be a door or a panel depicted in People's 61.

15 "First I will ask you, have you ever seen
16 that panel before?"

17 MR. KANAREK: Your Honor, may the record reflect I have
18 People's 261 in A-253 156 which has previously been admitted
19 by reference in our court?

20 THE COURT: Very well, the record may so show.

21 MR. KANAREK: And the jury has seen it.

22 "A Yeah, I think I remember seeing this
23 some place. I don't remember, it is probably all
24 on the same panel. This would stand out more.

25 "Q Now, directing your attention to the
26 time before you were arrested on August 8, 1969.

27 "Was this writing on that panel on the trailer
28 that Randy Starr occupied?

1 "A. Before I was arrested?

2 "Q. Yes.

3 "A. No.

4 "Q. Did you see this writing on this
5 panel before you were arrested?

6 "A. Not that night. I went back to the
7 ranch. I did not see it, no.

8 "Q. When did you see it, if at all in your
9 lifetime, what appears to be depicted in People's
10 261? When did you first see it?

11 "A. I only saw it once. I was at the
12 ranch in October when all the Family was in the
13 desert and it was on the wall then.

14 "Q. Now -- and is it your statement that
15 prior to the time that you saw it in October, you
16 had never seen this, what is depicted here -- what
17 is written on this panel? You have never seen it
18 before?

19 "A. That's right.

20 "Q. And on how many different occasions had
21 you been in the trailer that was occupied by Randy
22 Starr?

23 "A. Oh, really, I was in there, in and out,
24 you know. I might go in there every day, several
25 times, and I might not go in there -- you know, I
26 have been in there hundreds of times, I imagine.

27 "Q. So you had ample opportunity to look at
28 the panels that were covering the cupboard, right?

1 "A Yeah.

2 "Q And the doors that were covering the
3 cupboard?

4 "A Sure, I cleaned that trailer several
5 times.

6 "Q Does this panel, this door appear to be
7 a cupboard door or panel for that very trailer?

8 "A Yeah, I saw that panel. I saw it painted
9 in there.

10 "Q And is this the very panel that we are
11 speaking of, the panel that you saw in Randy Starr's
12 trailer?

13 "A I imagine when I saw it a lot of this
14 writing was not on it. Part of it was on it. I
15 don't think this Peace symbol was there on it then.

16 "Q Well, was anything written on it at all
17 before your arrest of August 8, 1969?

18 "A No, nothing at all was written on it
19 before my arrest.

20 "Q And this came into existence in the form
21 that you see it here, with these writings on it --
22 after August 8, 1969, is that right?

23 "A After the middle of September, 1969.

24 "Q Now, who lived in that trailer? Who
25 lived in that trailer, to your knowledge, between
26 August 8, 1969, and sometime in October, 1969?

27 "A Sandy lived there, I think for a while
28 with her baby, and then after she left and went to

1 "the desert, Juan --" J-u-a-n. It is spelled Juan
2 in the transcript. I'm spelling it. It is not spelled in
3 the transcript. That is, letter for letter.

4 "-- Juan moved into that trailer.

5 "Q So if Sandy -- do you know when Sandy
6 went to the desert?

7 "A No, I do not.

8 "Q Do you know the exact date or can you
9 give us an approximate time that Juan Flynn moved
10 into that trailer?

11 "A No. I know when I was out of jail in
12 the middle of September, I think it was. Sandy was
13 living in the trailer with her baby. And then, I
14 went back east. And when I came back in October,
15 none of the family was there. The only people I
16 knew there was Juan.

17 "On August 8, 1969, who lived in that trailer
18 the day you were arrested?

19 "A I don't rightly recall.

20 "Q The trailer we are speaking of.

21 "A I don't remember Randy being there then.
22 I don't know who was using it right then. I think
23 Randy just left the ranch. I don't know if anyone
24 was using it.

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1 "Q When you got out of jail, then,
2 Sandy was living there, is that right?

3 "A That's right.

4 "Q When was the first time to your
5 knowledge that Juan Flynn lived in that trailer?

6 "A I know the first time that I knew of
7 him living in there was when I was here in October.

8 "Q October, 1969?

9 "A Uh-huh."

10 U-h hyphen h-u-h.

11 "Q Is that right?

12 "A That's right.

13 "Q Now, you went to Wisconsin, and while
14 you were in Wisconsin were you interrogated by
15 Los Angeles Police officers?

16 "A Yes.

17 "Q Did you at some time, then, come back to
18 Los Angeles?

19 "A Several times.

20 "Q In other words, you went back and forth
21 several times?

22 "A At least three.

23 "Q Now, do you remember when it was --
24 do you remember the date that you were interrogated
25 by Los Angeles Police officers in Wisconsin?

26 "A Twice. Once in December of '69 and
27 once in March of '70.

28 "Q You say you made arrangements to come

1 "but you didn't come?

2 "A That's right.

3 "Q Now, when was it that you came to
4 Los Angeles, in fact? The first time?

5 "In '70.

6 "Well, then, without telling us what was
7 said, Miss Brunner, you were spoken to in Wisconsin
8 by Mr. Katz of the District Attorney's Office as well
9 as Los Angeles Police officers, is that right?

10 "A That's correct, yeah.

11 "Q Then, subsequent to some conversation
12 with a member of the District Attorney's Office, to-
13 wit, Mr. Burton Katz, you then came to Los Angeles?

14 "A That's right.

15 "Q When was that?

16 "A Probably in the end of March, I'm not
17 sure. I was only here for a weekend to talk to a
18 lawyer.

19 "Q Then, after speaking to whoever you spoke
20 to here in Los Angeles, you went back to Wisconsin?

21 "A That's right.

22 "Q When did you return after having gone
23 back?

24 "A The Sheriff's Department brought me
25 back in April.

26 "Q You mean you were brought back in
27 custody in April?

28 "A Well, yeah, they did not call it custody,

1 "but that was what the effect was.

2 "Q In April you were accompanied to
3 California by certain people, is that right?

4 "A That's right.

5 "Q Who were these people?

6 "A A member of the Wisconsin Sheriff's
7 Department.

8 "Q Anyone else?

9 "A No.

10 "Q Between the time that Mr. Katz spoke
11 to you and the time that you came out in April,
12 were you spoken to by any law enforcement officers?

13 "A I don't believe so -- oh, yeah, a
14 telephone conversation, but that was all.

15 "Q Now, on how many occasions in your life-
16 time, Miss Brunner, have you been at the Gary Hinman
17 house?

18 "A Several.

19 "Q And were these times during the year
20 1968?

21 "A Yeah, a lot of times. I lived there in
22 1968.

23 "Q When you lived at the Gary Hinman house,
24 who else lived there?

25 "A Gary and Bear, my son, and usually one
26 other girl.

27 "Q And another girl?

28 "A Yeah. Brenda was there sometimes with

1 "me and sometimes another girl, maybe Ella.

2 "Q And so it was you, Gary Hinman, Pooh
3 Bear, your son --

4 "A That's right.

5 "Q -- whose true name is Michael Manson,
6 is that right?

7 "A Yeah.

8 "Q And this new girl, Ella?

9 "A Ella or Brenda, either one, they switched
10 off.

11 "Q Miss Brunner, did you observe Mr.
12 Bobby Beausoleil in the company of Leslie Van
13 Houten?

14 "A Yeah, a lot of times. They were real
15 close.

16 "Q Would you describe the relationship that
17 you saw between the two?

18 "A Like Leslie lived with Bobby for a while
19 and when he came back to the ranch, they were very
20 tight, like they were with each other all the time.

21 "Q Now, directing your attention, Miss
22 Brunner, to on or about July 15, 1969.

23 "Do you know where Leslie Van Houten
24 was living?

25 "A She was living at the ranch.

26 "Q Do you know where Bobby Beausoleil was
27 living or where his residence was?

28 "A He was staying at the ranch then. He had

1 "another apartment some place but at the time he
2 was staying at the ranch.

3 "Q And at a time when Bobby Beausoleil was,
4 as you put it -- well, you think he had another
5 apartment and was staying at the ranch also.

6 "Did you see Leslie Van Houten in the
7 company of Bobby Beausoleil?

8 "A Almost all the time.

9 "Q Did you see Leslie Van Houten in the
10 company of Bobby Beausoleil at different times of
11 the day and night?

12 "A Yes.

13 "Q Now, did you have occasion to know whether
14 or not Bobby Beausoleil and Leslie Van Houten shared
15 sleeping quarters at the ranch?

16 "A I know they did. I don't know if I
17 ever saw them together, but I know they did.

18 "Q Upon what do you know this, upon what
19 do you base this? You say that you know that they
20 did.

21 "A They were just together all the time.

22 "Q Directing your attention to the time
23 after Bobby Beausoleil was arrested, August 4, 1968,
24 and before your arrest of August 8, 1968, did you
25 have occasion to speak with Leslie in that interval
26 of time?

27 "A Yes.

28 "Q Can you tell us whether Leslie showed

1 "any concern concerning Bobby Beausoleil?

2 "A Yes. She wanted him out of jail a
3 lot.

4 "Q Now, did Bobby Beausoleil, Bobby
5 Beausoleil to your knowledge make any phone call
6 after his arrest to anyone at the Spahn Ranch?"

7 Uh, your Honor, I would like to approach the bench
8 on that, if I may.

9 (Whereupon, there was a pause in the proceedings
10 while the Judge perused the transcript.)

11 THE COURT: The objection there -- counsel has asked
12 about testimony which was offered by reason of a question which
13 was not even responded to.

14 MR. KANAREK: Yes, it was. It was. The one that was
15 sustained after --

16 THE COURT: The question was, "Now, to your
17 knowledge did Bobby Beausoleil make any phone call after his
18 arrest to anyone at the Spahn Ranch?

19 "A He called the ranch. I'm not sure
20 who he talked to. I know he called and he told
21 us that --" and then, thereafter, the Court also sustains
22 the objection as hearsay.

23 MR. KANAREK: "Q To your knowledge do you
24 know where that telephone call came from?"

25 Well, that was sustained, too.

26 Well, your Honor, did your Honor look at the top --

27 THE COURT: Why don't you just go ahead and edit it,
28 leaving in the portions that were unobjected to or that were

1 not stricken.

2 MR. KANAREK: That's why I would like to have your
3 Honor make -- because I think that -- the top -- that --

4 THE COURT: You're speaking about the answer on the top
5 of page 27036. And, of course, it was stricken. It shouldn't
6 be read.

7 MR. KANAREK: That's what I am asking the Court to
8 consider, that de novo.

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1 THE COURT: If you are asking the Court to consider
2 de novo, I would make the same ruling that the Judge made
3 there, that the answer should be stricken.

4 MR. KANAREK: Very well, your Honor.

5 THE COURT: It does appear to be improper.

6 "Q Do you know what automobile Bobby
7 Beausoleil was arrested in?

8 "A Yeah. The one I usually drive, the
9 white Fiat.

10 "Q And this is an automobile that you
11 started driving at about what time?

12 "By time, I mean what date? Do you
13 remember when it was you started driving that
14 automobile?

15 "A No. I know I was going shopping and
16 using it to go shopping with the credit cards I
17 had, but I don't know -- you know, when I started
18 using it.

19 "Q Who is it that transferred physical
20 possession of that automobile to you?

21 "A The car was parked at the ranch, and
22 the keys were in the ignition, like all our keys
23 were always in the ignition.

24 "I just happened in and took it.

25 "Q I see. So that your relationship
26 with that automobile was because it was located
27 at the ranch; is that correct?

28 "A That's correct -- that's right.

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1 "Q Now, at the time that you were at the
2 ranch, was your son Michael Manson, also known as
3 Pooh Bear, was he at the ranch?

4 "A Yes.

5 "Q And was this child from the same group
6 of children as Linda Kasabian's child, Tanya?

7 "A Yeah, Linda's and Sadie's, and sometimes
8 Danny DeCarlo's.

9 "Q These children were all kept together,
10 and they were together at a certain area in the
11 ranch; is that right?

12 "A Yeah, more or less. But Tanya and Bear
13 could both walk, so they got around more than the
14 other two.

15 "Q Now, directing your attention to
16 Mr. Hinman, have you seen Mr. Hinman in the
17 company of Juan Flynn?

18 "A I have seen them in company together
19 at the ranch.

20 "Q Directing your attention to a time
21 when Juan Flynn and Gary Hinman were together,
22 at the ranch, do you have such an occasion in
23 mind?

24 "A Gary came to the ranch a few times,
25 and I have seen him talking to Juan.

26 "Q Did you see Mr. Hinman and Juan
27 Flynn leave the ranch together?

28 "A I don't recall them -- I don't recall

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1 "seeing them leave together.

2 "Q Do you know the voice of Juan Flynn
3 when you hear it?

4 "A Yes.

5 "Q Did you know the voice of Gary Hinman
6 when you heard it?

7 "A Yes.

8 "Q During the year 1968, did you hear the
9 voice of Juan Flynn and Gary Hinman together? Those
10 two voices in the Hinman home, while you were living
11 there in '68?

12 "A Yes.

13 "Q Did you see and hear Gary Hinman at
14 the Spahn Ranch?

15 "A Yes.

16 "Q Directing your attention to this
17 occasion in 1968, you say you did hear Juan
18 Flynn's voice at the Gary Hinman home; right?

19 "A Right.

20 "Q And you heard Gary Hinman's voice
21 at the Gary Hinman home?

22 "A Right -- that's right.

23 "Q And they were speaking together?

24 "A That's right."

25 (Pause in the proceedings while Mr. Kanarek
26 perused the transcript.)

27 "Q Have you, in the last couple of
28 weeks, in company with other individuals,

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1 "attempted to serve Juan Flynn with process to
2 come to this court?

3 "A Yes.

4 "Q Would you tell us what you have done
5 in the attempt to serve process, a subpoena upon
6 Juan Flynn to come to this court?

7 "A We have gone to where he has been
8 living or known to be or -- you know, where he
9 has friends; to try to find him to give him a
10 subpoena."

11 (Pause in the proceedings while Mr.
12 Kanarek perused the transcript.)

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1 "Q And for what period of time has this
2 gone on, Miss Brunner, have you been trying to
3 find him?

4 "A I think since about the middle of
5 February."

6 (Pause in the proceedings while Mr. Kanarek
7 perused the transcript.)

8 MR. KANAREK: Then, questioning by Mr. Keith, the attorney
9 for Leslie Van Houten.

10 "Q I take it that you knew Bobby Beausoleil?

11 "A That's right.

12 "Q You did not dislike him; did you?

13 "A No. I liked him, as a matter of fact.

14 "Q Miss Brunner, didn't you testify as a
15 witness for the prosecution in the case of the
16 People against Beausoleil?

17 "A Yes, I did.

18 "Q Now, in that case, Mr. Beausoleil was
19 convicted of murder in the first degree; is that
20 not correct?

21 "A That's correct.

22 "Q And he was convicted of the murder of
23 Gary Hinman?

24 "A That's right.

25 "Q And you testified in that case at his
26 trial, did you not?

27 "A That's right.

28 "Q And you --

1 "Q And you also testified in that
2 case before the Grand Jury, did you not?

3 "A That is true.

4 "Q Did you talk to police officers in
5 the past concerning the Hinman case?

6 "A Yes, I have.

7 "Q Did you ever mention to any law
8 enforcement officer to whom you may have talked
9 the conversation that Leslie purported had --
10 Leslie purported had --" That's what it says. I'll
11 start again.

12 "Q Did you ever mention to any law enforce-
13 ment officer to whom you may have talked the conver-
14 sation that Leslie purported had with you at the
15 Spahn Ranch, which you have related on the witness
16 stand -- which you have related on the stand today?

17 "THE WITNESS: Okay. What is the question?

18 "MR. KEITH: Would you read the question,
19 please, Mr. Mehlman?

20 "THE COURT: Yes. Read the question.

21 "(The question was read by the reporter.)

22 "A I mentioned it, but I substituted people
23 in place, and I substituted myself for Leslie in the
24 conversation that I had with law enforcement officers.

25 "Q So you didn't use Leslie's name, I take
26 it?

27 "A No, I didn't.

28 "Q Did you talk to any deputy District

1 "Attorney about the Hinman case?

2 "A. I talked to Burton Katz about it,
3 and I might have talked to Aaron Stovitz about it.

4 "(Pause in the proceedings while Mr. Kanarek
5 perused the transcript.)"

6 MR. KANAREK: Further examination by Mr. Kanarek:

7 "Q. I have here a Grand Jury transcript,
8 Miss Brunner.

9 "You testified just a few minutes ago that
10 you testified at the Grand Jury; right?

11 "A. Right."

12 (Pause in the proceedings while Mr. Kanarek perused
13 the transcript.)

14 "Q. Would you tell us, Miss Brunner --
15 you've said that you substituted yourself for
16 Leslie Van Houten; is that correct?

17 "A. That's right."

18 (Pause in the proceedings while Mr. Kanarek
19 perused the transcript.)

20 MR. KANAREK: Well, the Court sustains -- your Honor, I
21 would like to approach the bench on that, if I may, because of
22 the -- because it wasn't sustained on the grounds of relevancy
23 or materiality or hearsay -- or, it appears that the Court
24 sustains it. It's not quite clear from the record.

25 (Whereupon, Mr. Kanarek handed the transcript to
26 the Court, and the Court perused the transcript.)

27 THE COURT: Well, it doesn't add anything to the testi-
28 mony. 24,047.

1 MR. KANAREK: Then may I read the answer?

2 THE COURT: You've read it. The Court believes that you
3 should go on, and resume her testimony where it takes off after
4 that page.

5 MR. KANAREK: "Q Miss Brunner, at some time
6 in the past, were you and Mr. Manson going to be
7 married?

8 "A. Yeah. We got a marriage license and
9 took the test -- and took the blood tests. We were
10 going to get married.

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2b-1

1 "Q And you actually were going to go through
2 a ceremony; is that right?

3 "A Right -- that's right.

4 "Q Is there some reason that you and Mr.
5 Manson did not become married?

6 "A We were going to get married; and then
7 we were talking about his record, and the way that
8 we were having a lot of hassles with the police,
9 and he could see that he was going back to jail
10 at sometime, and we decided it would be better
11 if he did not have a wife to get into trouble and
12 to pull through all of it.

13 "He knew he was going back to jail.

14 "Q Now, directing your attention, then, to
15 a time when you were testifying before the Grand
16 Jury concerning the Hinman matter.

17 "A Um-hum." U-h dash h-u-m.

18 "Now, do you have in mind that time?

19 "Is that firmly in mind -- in your mind
20 when you were before the Grand Jury in this very
21 building, testifying?

22 "A Yeah."

23 (Pause in the proceedings while Mr. Kanarek
24 produced the transcript.)

25 "Q I will show you at page 85 of the
26 transcript and ask you --

27 "Would you read over to yourself at
28 page 85, lines 10 through 15? Would you read that

2b-2

1 "over to yourself?

2 "A Is this from the beginning?

3 "A No, you may look at the transcript to --

4 "Q No, you may look at the transcript to
5 refresh your recollection, look at the front piece,
6 the table of contents; look at any part of it that
7 you may wish to look at to see if that --

8 "A I don't --

9 "Q Would you just read those lines over?

10 "My question is: Did you so testify
11 at the Grand Jury?

12 "A Yes.

13 "Q In answer to the question: 'All right' --"

14 (Pause in the proceedings while Mr.
15 Kanarek perused the transcript.)

16 MR. KANAREK: (Reading.)

17 "'Q All right. Now, when you got
18 to the house --'" and this is the reading from
19 the transcript, by Mr. Kanarek.

20 "'Q All right. Now, when you got
21 to the house --'"

22 Objection overruled.

23 "'Q All right. Now, when you got
24 to the house, did you see Gary Hinman?

25 "'A Yeah.

26 "'Q Was he alone or with someone?

27 "'A Alone.'

28 "Q You gave those answers to those questions;

2b-3

1 "is that right?

2 "A That's right.

3 "Q I show you and ask you to read lines
4 23 at the bottom of page 85 through -- well, lines
5 22 through 26 at the bottom of page 25.

6 "Would you so read these -- read those
7 over?

8 "(Pause while the witness reads.)

9 "Q Did you so testify?

10 "A I suppose so.

11 "Q This doesn't make much sense out of
12 context.

2c fls.

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"Q Showing you Grand Jury Exhibit 13.

Is that a fair representation of how Gary Hinman looked at that time?

"Yes, I guess so."

"You so answered to that question; right?

"A Sure.

"Q And the picture that was shown you was a picture of Gary Hinman in life? That was a life picture; is that right?

"A I don't remember what kind of a picture it was.

"Q Well, does it refresh your recollection?

"A It says a picture of a male individual.

"I don't know when that picture was taken.

"Q Was that a picture that you thought was a picture taken while Gary Hinman was alive?

"A I don't know what I thought about it at the time.

"I don't remember what the picture looked like."

(Pause in the proceedings while Mr. Kanarek perused the transcript.)

"Q Miss Brunner -- Miss Brunner, when you answered Mr. Keith's question this morning, do you remember the question about substituting yourself for Leslie Van Houten?

"A Yes.

"Q Do you remember that?

"A Yes.

1 "Q You testified at the Grand Jury;
2 right?

3 "A Right.

4 "Q You testified in the presence of a
5 court reporter and the members of the Grand Jury;
6 right?

7 "A Yes -- right.

8 "Q All right. You've stated that you
9 substituted yourself for Leslie Van Houten?

10 "A In the Hinman -- in the Hinman case.

11 "Q Miss Brunner, when you answered
12 Mr. Keith this morning, did you answer truthfully
13 to that question?

14 "A Yes."

15 Further examination by Mr. Keith.

16 "Q In this conversation with Leslie that
17 you supposedly had, it was very brief, wasn't it?

18 "A I don't know how long it took.

19 "Q Do you understand the word 'brief,'
20 short?

21 "Was it short? It was a short conversation,
22 wasn't it?

23 "A It was as long as it was.

24 "Q You did not answer my question. It
25 was a short conversation of, say, two or three
26 minutes' duration?

27 "A I don't know how long Leslie and I
28 talked.

1 "Q Leslie told you that Beausoleil did
2 not have anything to do with Hinman's death; isn't
3 that right?

4 "A Leslie told me that Sadie killed him.

5 "Q And Beausoleil did not?

6 "A I don't know what she had Beausoleil
7 doing. She had him there.

8 "Q Now, you have told us you substituted
9 yourself for Leslie; isn't that right?

10 "A That's right.

11 "Q Now, Leslie told you that she was
12 there; is that right?

13 "A That's right.

14 "Q For a couple of days?

15 "A That's right.

16 "Q And she told you, although she did not
17 see Sadie do anything, she knew that Sadie had
18 stabbed Hinman?

19 "A I don't know what she said about that.
20 She said Sadie stabbed him.

21 "I don't know whether she said she saw it,
22 or whether she was present when it happened, or she
23 was there.

24 "Q And she also told you that Mr. Hinman's
25 ear was cut; isn't that right?

26 "A That's right.

27 "Q But she did not tell you who cut it;
28 isn't that right?

1 "A That's right.

2 "Q And Sadie told you four or five different
3 versions of what had happened; isn't that right?

4 "A Uh-hum."

5 U-h dash h-u-m.

6 "Q Maybe more than four or five?

7 "A Sadie never said the same thing twice.

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1 "Q At the trial of the Beausoleil case --"
2 That was objected to.

3 "Q BY MR. SHINN: Miss Brunner, you
4 testified that you did testify at the Grand Jury;
5 correct?

6 "A Right.

7 "Q Now, before --"

8 (Pause in the proceedings while Mr. Kanarek
9 perused the transcript.)

10 'MR. KANAREK: That's -- that finishes that, your Honor.

11 THE COURT: That finishes her testimony?

12 MR. KANAREK: Yes, your Honor.

13 THE COURT: Very well. We'll give the jury a recess now.

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

20 About 15 minutes.

21 (Mid-morning recess.)

23

3-1

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

2 MR. KANAREK: Yes, your Honor. I offer into evidence,
3 your Honor, by reference, a declaration of Mary Theresa
4 Brunner that is in the file in A277393, dated November 12,
5 1971, which contains the signature of Mary Theresa Brunner.

6 THE COURT: 11/12/71, just last Monday?

7 MR. KANAREK: That's correct. It is in her case
8 where she is charged in the Superior Court, and I would like
9 also the Court to take judicial notice the fact that in that
10 case she is charged with murder and perjury by the District
11 Attorney's office. And I ask the Court to take judicial
12 notice of that in connection with --

13 THE COURT: Of course, the proper way to do that,
14 if you are making such an offer is to do it at the bench.

15 MR. KANAREK: Well, it is so obvious, I don't think
16 the District Attorney opposes it, your Honor.

17 THE COURT: Any opposition?

18 MR. MANZELLA: To -- I object to what I think was
19 referred to as a declaration. I haven't seen it, but if
20 it is a declaration, I object on the grounds it is hearsay.

21 MR. KANAREK: Well, it is not offered --

22 THE COURT: Excuse me, you may argue at the bench.

23 MR. KANAREK: Yes, thank you.

24 (Whereupon, the following proceedings were had
25 at the bench among Court and counsel, outside the
26 hearing of the jury:)

27 MR. KANAREK: Your Honor, if -- if, uh, the District
28 Attorney will stipulate to the foundation that Mary Brunner,

3-2

1 in fact, wrote the People's 61 -- well, first of all,
2 this, according to the Evidence Code, which I have here,
3 this signature being in a court file, the jury can assume
4 that this is Mary Theresa Brunner's and they can equate the
5 signature with her handwriting.

6 THE COURT: What you are speaking of is a declaration
7 under penalty of perjury under 170.6 in which Miss Brunner
8 files an affidavit against Judge Breckenridge?

9 MR. KANAREK: Right, but it is offered not for the
10 filing against Judge Breckenridge, but for her signature.
11 And I have the Evidence Code provision which allows this
12 equation to be made if, in fact, the jury does -- if they
13 don't want to stipulate to the obvious that she, in fact,
14 wrote the letter and it is her signature on the affidavit,
15 she signed the letter, she signed that affidavit.

16 THE COURT: Now, when you're speaking of the letter,
17 you are referring to --

18 MR. KANAREK: Well, it is --

19 THE COURT: When you're speaking of the letter, you're
20 speaking of what?

21 MR. KANAREK: Well, it is one of C, D, and E.

22 THE COURT: Yes.

23 MR. KANAREK: The three, I don't remember.

24 THE COURT: Which one of those things -- it was
25 admitted, what, in the course of the motion for new trial?

26 MR. KANAREK: Yes, and referred to in connection with
27 her testimony.
28

3-3

1 THE COURT: In the course of the motion for new
2 trial?

3 MR. KANAREK: Yes, your Honor, right.

4 And, but, independent of that, the first --

5 THE COURT: You believe that the People -- first, do
6 you believe that the People, even given that there is
7 testimony admissible under 1291, have the right to object
8 to this testimony or does it all have to come in?

9 MR. KANAREK: Well, the fact is, in fact, while I was
10 reading, of course, Mr. Manzella from time to time did
11 object, and probably -- he didn't object to any of these
12 references at the time it was read before the jury, so if
13 he -- if you want to be technical about it, he waived any
14 objection because it -- they were referred to. I can show
15 -- if your Honor wishes to take the time, and I'm sure your
16 Honor recalls, the references to this -- these matters
17 before the jury in the testimony before the Honorable Judge
18 Keene.

19 And so Mr. Manzella didn't object.

20 THE COURT: Well, of course, the motion for a new
21 trial, a letter can be presented, an affidavit can be
22 presented. The issue is not the same as is before us now.

23 MR. KANAREK: Well, it is not the same, your Honor, in
24 a preliminary hearing, and yet in California vs. Green,
25 a preliminary hearing transcript was allowed.

26 If you take the Evidence Code, even a police
27 report can be used in -- as evidence.

28 THE COURT: What you are offering, -- what you are

3-4

1 offering is the letter of Mary Brunner directed to Judge
2 Keene in the motion for new trial?

3 MR. KANAREK: A letter and, also, her affidavit, which
4 is signed by her, offered to show her state of mind.

5 THE COURT: People.

6 MR. MANZELLA: I've already argued the point.

7 THE COURT: Okay.

8 MR. MANZELLA: There's nothing else I can say. I
9 have argued. It is hearsay. It doesn't come within any
10 exceptions. Mary Brunner's testimony was read under 1291
11 of the Evidence Code which permits the admission of prior
12 testimony as an exception to the hearsay rule.

3a fls.

3-5

1 THE COURT: All right, the Court's ruling is the same.

2 MR. KANAREK: Well, your Honor, I am laying the
3 foundation now.

4 THE COURT: The Court's ruling is the same. The
5 Court believes even if you do lay a foundation to the effect
6 that Mary Brunner signed these documents, they would be
7 hearsay.

8 MR. KANAREK: They're not offered as hearsay. I have
9 a right to offer them to show her state of mind. As a matter
10 of fact, we are denied due process and equal protection under
11 the 14th Amendment because this was the very issue as to
12 whether that affidavit was right in the motion for new trial.
13 That's the very affidavit that was before the court.

14 MR. MANZELLA: That was not the issue. The issue was
15 whether or not her testimony at the Beausoleil trial was
16 true or false.

17 MR. KANAREK: That affidavit was a very major source
18 of the dispute before Judge Keene. That's the very -- that
19 is one -- that is the primary purpose, and I will show
20 your Honor right here -- here, I am quoting now, and I am
21 reading, actually --

22 THE COURT: You needn't read it.

23 MR. KANAREK: Well, I want to, if your Honor is
24 going to -- this is obviously -- he says, "I have in my
25 hand --" --

26 THE COURT: All right, you may --

27 MR. KANAREK: This is a question, I believe, by Mr.
28 Katz.

3-6

1 MR. MANZELLA: By Mr. Beausoleil.

2 MR. KANAREK: By Mr. Beausoleil, I'm sorry.

3 "I have in my hand at this time, People's
4 Exhibit 61, which appears to be an affidavit signed
5 by Mary Brunner on May 21, 1971, and notarized by
6 O. E. Rees.

7 "Would you, Mary, would you take a look
8 at this affidavit, a copy of this affidavit, and would
9 you tell me if that appears to be what was sent in
10 the mail?

11 "A Yes, that's it.

12 "THE COURT: Go ahead.

13 "I have here another affidavit which
14 appears to be signed by you on June 1st. This is
15 your signature?

16 "A Yes.

17 "And would you read the statement and
18 tell me if that is true?

19 "A 'I, Mary Theresa Brunner, do hereby
20 swear that an affidavit regarding testimony given
21 to me at the trial of Robert Kenneth Beausoleil,
22 and before the Grand Jury, and dated May 21, 1971,
23 was written and signed by me voluntarily, no
24 pressure, force or even encouragement was put
25 on me by anyone to write, sign or send said
26 affidavit.'

27 "Was that statement true?

28 "A Yes.

3-7

1 "THE COURT: Let me state for the record that
2 the original affidavit has been ordered filed and
3 is part of the court file.

4 "Q BY MR. BEAUSOLEIL: I'm not sure if I
5 asked you, is this statement true, the affidavit
6 from May 21, 1970; is that statement true?

7 "A Yes."

8 When the Evidence Code was created, it wasn't a
9 sterile thing that included just bare words, obviously, it
10 has to be taken reasonably, and the reason includes
11 statements.

12 THE COURT: Why is an affidavit necessary when she's
13 already testified from the witness stand that --

14 MR. KANAREK: Because --

15 THE COURT: -- if her statements at the Beausoleil trial
16 is untrue, and the reason she testified thusly was because of
17 the pressures. She testified substantially as she has testi-
18 fied in the -- or has she -- or as she stated in the affidavit.

19 MR. KANAREK: But the jury are not tape recorders. We
20 have a right, especially in a penalty trial, where Mr. Manson's
21 life is at stake, that that affidavit be here so they can
22 read it in the jury room.

23 THE COURT: You don't believe the affidavit is hearsay,
24 then?

25 MR. KANAREK: Your Honor, this was part and parcel of
26 those proceedings.

27 THE COURT: Sure it was, but this is not a motion for
28 new trial.

3-8

1 MR. KANAREK: No, it isn't. That matter is not, and
2 neither is a preliminary hearing or a trial in chief. Cali-
3 fornia vs. Green --

4 THE COURT: All right, I think I've heard about enough
5 from you in connection with that. The motion is denied.

6 What else do you want.

7 MR. KANAREK: Well, then, I offer into evidence --
8 into evidence before the jury, all of the file of A277393.
9 And when I say that, what I am asking to be -- actually I
10 don't mean all the file, I'm sorry. What I am offering in,
11 is the indictment in case No. A277393, and ask that that --
12 offer that in evidence, an indictment to show -- an indict-
13 ment to show to the jury what effect, if any, this has upon
14 Mary Brunner's state of mind as far as her testimony and
15 all of her conduct in this courtroom is concerned. We're
16 entitled to have the full picture before the jury. And this
17 indictment goes to show that. It shows what effect, if any
18 -- we can certainly argue what effect this murder and this
19 perjury charge would have upon her state of mind. We're not
20 limited to the mere verbiage that comes out from the witness
21 stand.

22 MR. MANZELLA: I would like to inquire if we've
23 settled the issue of the declaration of Mary Brunner yet
24 that was offered by Mr. Kanarek? Have we settled that yet?

25 MR. KANAREK: Well, I'm offering that. I'm offering
26 that.

27 THE COURT: He's offering that as part of the file.

28 MR. KANAREK: No, no, not at all.

3-9

1 MR. MANZELLA: I thought he really offered two things
2 separately.

3 MR. KANAREK: I am. The declaration because --

4 THE COURT: He wants the affidavit which was submitted
5 during the course of the motion for new trial.

6 MR. MANZELLA: All right, we've settled that issue;
7 I believe.

8 MR. KANAREK: That's to authenticate People's 61 and
9 C and the two -- may I -- may I -- excuse me just a moment.

10 THE COURT: He wants the letter of Mary Brunner
11 submitted during the course of the motion for new trial,
12 and he wants the affidavit under 170.6 admitted in to
13 establish that the letter and the affidavit referred to were
14 actually signed by Mary Brunner.

15 MR. KANAREK: Right. There's ample evidence for the
16 foundation, but it is my belief that the jury, under the
17 Evidence Code, has a right to take this document and compare
18 this signature and this handwriting here in the declaration
19 here to see if it is Mary Brunner's -- Mary Brunner in fact
20 wrote those documents, People's -- may I see those, your
21 Honor?

4 fls.

4-1

1 THE COURT: As I gather, it's not so much the people
2 quarreling with whether Mary Brunner wrote the documents
3 that you referred to, but whether or not they're admissible.

4 And the Court has ruled in connection with that.

5 MR. KANAREK: I am laying the foundation, your Honor.

6 MR. MANZELLA: All right. Then that would mean that
7 the declarations of Mary Brunner that he offered this
8 morning would be irrelevant.

9 THE COURT: That's true.

10 MR. MANZELLA: And I would object on those grounds
11 to that document.

12 THE COURT: Well, he's apparently withdrawn his offer
13 in connection with that.

14 MR. KANAREK: No, I haven't withdrawn any offer.

15 THE COURT: Then the motion is granted.

16 MR. KANAREK: Just so that the record will be clear, may
17 we go through one thing at a time, your Honor, and --

18 THE COURT: All right. The motion is granted, then.

19 The Court denies the admittance into evidence of
20 the declaration under penalty of perjury, 170.6 GCP.

21 MR. KANAREK: Well, may it be marked as --

22 THE COURT: It may be marked by reference as your
23 next in order.

24 MR. KANAREK: May it be Xeroxed?

25 THE COURT: No, it may be marked next in order, by
26 reference to file A-277393.

27 What is the next in order, of Mr. Kanarek's
28 exhibits?

4-2

RR Id.

1 THE CLERK: The next will be R.

2 THE COURT: It will be RR.

3 MR. KANAREK: All right. That's dated November the
4 12th, 1971. It's filed that date, and it's dated that date.

5 THE COURT: I think we have that of record.

6 MR. KANAREK: And the purpose of that would be to
7 authenticate --

8 THE COURT: I think you have also stated the purpose of
9 that, yes.

10 MR. KANAREK: And actually, the letter is Defendant's
11 C, and the affidavit is Defendant's D, in the motion for new
12 trial, which are marked for identification by reference in
13 this case.

14 Are they already marked?

15 THE CLERK: Yes.

16 MR. MANZELLA: Yes. The markings show on the outside
17 of the files you are holding in your hand.

18 MR. KANAREK: Oh, yes. They're -- Defendants' OO and
19 Defendant's PP are the letter from Mary Brunner dated May
20 31, 1970, and the affidavit dated June 1, 19 -- dated June
21 1, 1970, respectively.

22 THE COURT: All right. And you are offering those
23 to show her state of mind in connection with her testimony
24 given in the People vs. Beausoleil case?

25 MR. KANAREK: And also -- well, first, I would offer
26 them for -- to go in to prove the truth of the matter
27 asserted.

28 THE COURT: I see.

4-3

1 MR. KANAREK: If your Honor denies it on that ground,
2 then I offer it on state of mind, and ask your Honor to
3 give a limiting instruction.

4 My view --

5 THE COURT: Well, they would not be substantive
6 evidence, because of the fact that they are hearsay.

7 As to her state of mind, the Court believes
8 that you've amply developed that, in the course of what you
9 have read of her testimony in previous cases.

10 The Court has also -- as the Court has indicated,
11 she has --

12 MR. KANAREK: May I point out --

13 THE COURT: She has stated from the witness stand her
14 state of mind.

15 MR. KANAREK: May I point this out to the Court? If
16 she were in the court, I would be able to take this letter
17 and go over it word for word with her, as to whether or
18 not --

19 THE COURT: And some parts of it might be admissible,
20 yes.

21 MR. KANAREK: Well, no. But I would be able to
22 impeach her; I would be able to cross examine her. And
23 this is part of the unavailability.

24 If she were here -- I'm referring now to what
25 has been marked Defendant's 00 in this case, and Defendant's
26 C by -- by reference to the A-057452.

27 If she were here --

28 THE COURT: All right. Let's terminate this

4-4

1 discussion.

2 Mr. Kanarek, the Court has ruled in connection
3 with it and has heard from you extensively concerning it on
4 the record and off.

5 All right. Anything further?

6 MR. MANZELLA: Is there anything else -- I believe
7 Mr. Kanarek asked -- for the introduction of a file.

8 MR. KANAREK: No, the indictment.

9 MR. MANZELLA: The indictment?

10 THE COURT: The indictment?

11 MR. KANAREK: In A-277393. That's what I'm asking for
12 at this time.

13 MR. MANZELLA: Because Mr. Kanarek's offer of proof
14 was that it goes to Mary Brunner's state of mind, my objection
15 to the indictment is that if it wasn't filed until recently,
16 it would only go to her state of mind since the document was
17 filed, and it would appear to me that her state of mind now
18 just isn't relevant to any issue in this case.

4a fls.

4a-1

1 MR. KANAREK: Will you look at the date this was filed?
2 9-15-71 is when it was filed. And we brought her into this
3 court --

4 THE COURT: The Court will permit it to be received.

5 MR. MANZELLA: All right. Then I withdraw my objection.
6 I didn't know the exact date it was filed.

7 THE COURT: The Court will permit it to be received
8 by reference. We'll Xerox it and put it in.

9 MR. KANAREK: All right.

10 THE COURT: Xerox a copy of the indictment here, will
11 you, Joyce?

12 MR. KANAREK: And I do not ask, and I am not asking
13 that --

14 MR. MANZELLA: I would like to see it, your Honor, if
15 I may.

16 I haven't read the indictment.

17 MR. KANAREK: And I am not asking that the witness list
18 go in. The witness list is not part of the indictment.

19 I'm asking only that the indictment --

20 THE COURT: It's in the file.

21 MR. KANAREK: Well, that doesn't mean -- I am not
22 asking for the witness list. That's purposeless. I am not
23 asking for the witness list; just the indictment.

24 Who they desire to call as witnesses is
25 irrelevant.

26 THE COURT: How about the other parts, the other parts
27 of the file?

28 MR. KANAREK: No, just the indictment itself is all I

1 am asking for.

2 If the People have something they want to offer,
3 let them try -- let them make their offer when they --
4 but I'm not asking for the list.

5 THE COURT: How about the demurrer to the indictment?

6 MR. KANAREK: Well, as I say, I am not asking for it,
7 your Honor.

8 THE COURT: Nothing at all except the indictment?

9 MR. MANZELLA: May I take a quick look at it?

10 THE COURT: All right. The Court would permit the
11 indictment to be --

12 MR. KANAREK: Without the witness list. I am not
13 asking --

14 THE COURT: Yes. That may be admitted.

15 MR. KANAREK: Thank you.

16 THE COURT: Anything further now, Mr. Kanarek?

17 MR. KANAREK: Yes, your Honor.

18 (Pause in the proceedings while Mr. Kanarek
19 repaired to the counsel table, returning shortly,
20 whereupon the following proceedings were had:)

21 MR. KANAREK: Excuse me. I have here another indictment
22 for murder, against Mary Brunner, dated July 15, 1970, in
23 case No. A-260899B. And I ask that that be -- I offer that
24 into evidence. That can be Xeroxed.

25 And I offer case No. -- in case No. A260889A.
26 These both being Superior Court of the State of California,
27 for the County of Los Angeles, indictments.

28 I ask that they be -- I offer them into evidence--

1 not the witness list, but the bare indictment in each of
2 those cases, your Honor.

3 THE COURT: All right. So ordered.

4 MR. KANAREK: Thank you, your Honor.

5 THE COURT: Joyce, Xerox both of these, and they will
6 be --

7 THE CLERK: TT and UU.

8 THE COURT: Mr. Manzella can -- these are prior
9 indictments which the Court will admit into evidence, so
10 that it could be -- it can be argued by Mr. Kanarek that the
11 statements given at the time of the case of People vs.
12 Beausoleil were given with those indictments in mind.

13 Anything further?

14 MR. KANAREK: Yes, your Honor.

15 THE COURT: All right.

16 THE CLERK: The three indictments are admitted?

17 THE COURT: Three indictments.

18 THE CLERK: They are admitted?

19 THE COURT: Yes.

20 MR. MANZELLA: Your Honor, the indictment in case No.
21 A260889 was filed after she testified at the -- in the
22 Beausoleil case. It was returned after she testified in
23 the Beausoleil case.

24 MR. KANAREK: Well --

25 MR. MANZELLA: So it would seem it would have no
26 relevance when she testified in the Beausoleil case, since
27 it was not in existence at that time.

28 MR. KANAREK: But it's before she testified here.

Obviously, it's before she testified here.

4b-1 1 THE COURT: Well, her testimony here was all exculpatory
2 of Mr. Manson.

3 MR. KANAREK: Pardon?

4 THE COURT: Well, the District Attorney can argue that.

5 MR. KANAREK: Yeah. The weight is for the jury to
6 determine.

7 THE COURT: All right. The Court will let the District
8 Attorney argue that, if it wants to, and let you argue whatever
9 inference you may take from that.

10 MR. KANAREK: Thank you.

11 THE COURT: From those indictments.

12 MR. KANAREK: Now --

13 THE COURT: The thing would be true, actually, of
14 the latest indictment.

15 The District Attorney has an argument in respect
16 to the indictments: In view of the indictment pending at the
17 time she took the witness stand, she wouldn't -- she would not
18 want to state that she was at the Hinman house. So that's
19 consistent.

20 On the other hand, Mr. Kanarek has his argument,
21 that her state of mind was such that she was coerced into
22 giving her prior testimony.

23 All right. What else?

24 MR. KANAREK: Well, your Honor, the -- I have one point
25 that Mr. -- a point that Mr. Manzella knows about, and I --
26 in order to expedite this, I have independently checked and
27 I have checked with the telephone company, and Mr. Manzella
28 has -- he tells me, and I certainly have no reason not to

1 believe him -- he's tried to have Mr. Whiteley do something
2 or other in connection with this.

3 But I would request at the bench, outside the
4 presence of the jury, a stipulation that Mr. Manzella and I
5 know about -- we have spoken about it -- and that's that in --
6 oh, December of '69, through January, February, March, April,
7 May of 1970, in that period of time, at 817 South Burlington
8 in Los Angeles, the telephone number -- the telephone -- there
9 was a telephone listed; that telephone number being 389-8921.

10 I represent to the Court that I have gone to the
11 business officer of the telephone company -- Mr. Manzella
12 knows it; I've given him the phone number of the lady who is
13 the business office representative that I spoke with.

14 And there's no question about it. In the times
15 that I am speaking of, she tells me -- that is, the business
16 office representative -- that this phone was listed. And he
17 wants to check it independently.

18 And rather than delay these proceedings, if Mr.
19 Manzella will stipulate to that --

20 THE COURT: Listed what? In Shorty Shea's name?

21 MR. KANAREK: No. But it was a phone listed -- people
22 can live at other people's homes, your Honor. It doesn't have
23 to be in Shorty Shea's name.

24 MR. MANZELLA: In whose name was it listed?

25 THE COURT: Somebody named Rodriguez?

26 MR. KANAREK: No, Salvadore -- what was that? Santana
27 or --

28 MR. MANZELLA: I don't know, Mr. Kanarek.

1 MR. KANAREK: Well, it was a name like -- it was a
2 name -- it was a Latin -- something like Salvador Saldana.
3 But I mean, all he has to do is call this lady -- or your
4 Honor can call this lady --

5 THE COURT: I don't want to call the lady. Why should I
6 call the lady?

7 MR. KANAREK: Well, if your Honor is interested in
8 expedition --

9 THE COURT: Well, you call the lady if you want to put
10 her on the witness stand.

11 MR. KANAREK All right. I am trying to -- Mr. Manzella
12 has indicated to me he will stipulate, when he independently
13 verifies it.

14 THE COURT: That what?

15 MR. KANAREK: That --

16 THE COURT: That there was a phone at that address --

17 MR. KANAREK: Listed, in that period of time, at 817
18 South Burlington.

19 THE COURT: In the name Salvador Saldana?

20 MR. KANAREK: Well, I am not going to --

21 MR. MANZELLA: Well, I would only stipulate if that name
22 were --

23 MR. KANAREK: Well, that wasn't our agreement.

24 MR. MANZELLA: Mr. Kanarek, we have had no agreement on
25 this point.

26 MR. KANAREK: Yes, it was. That's not so. Mr. Manzella --

27 MR. MANZELLA: This is ridiculous.

28 MR. KANAREK: No, I am not going to stipulate that it was

in that name.

THE COURT: Well, then, don't bother the Court with it unless you have a stipulation.

What else do you have?

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1 MR. KANAREK: Well, that was -- there was -- that was
2 our arrangement. I mentioned only --

3 THE COURT: Please don't even discuss it.

4 Unless there's a stipulation, let's not even waste
5 our time discussing it.

6 What else do you have?

7 MR. KANAREK: Well, that's -- that is --

8 THE COURT: Except for that, you rest; is that right?

9 MR. KANAREK: Well -- yes, your Honor. The --

10 THE COURT: All right. If you want to present the phone
11 company people --

12 MR. KANAREK: Well, I'll have to go down -- I'll have to
13 go down and subpoena them.

14 But there is another matter that I am trying to
15 ferret out, but I --

16 THE COURT: Well, this is -- you've just about run out
17 of time for ferreting.

18 MR. KANAREK: No, that's not the point. I have consulted
19 with Mr. Manzella days ago concerning this, in order to save
20 time, and he has indicated to me that --and I gave him the
21 phone number of the lady at the telephone company and her name,
22 where he can call up independently the business office --
23 there's no question about it -- in order to save time.

24 And he indicated to me he was going to do it.
25 But so far, he hasn't done it.

26 MR. MANZELLA: I did call her once.

27 THE COURT: Are you sure it wasn't listed under Donald
28 Jerome Shea's name?

1 MR. KANAREK: The Court is attempting to be facetious.

2 THE COURT: Not at all. Not at all.

3 I should think that would have a great deal of
4 bearing, if that were the case.

5 MR. KANAREK: Well, the People --

6 THE COURT: Otherwise, it's difficult to see it.

7 MR. KANAREK: Well, a person can say -- in this
8 community, it doesn't make -- your Honor, of course, is being
9 facetious. People live at other people's homes.

10 THE COURT: Of course not.

11 MR. KANAREK: People live at other people's homes without
12 having -- and use the phone of the people they're living with,
13 without having the phone listed in their name.

14 THE COURT: Yes, I've heard of that.

15 MR. KANAREK: Well, that could well be the case in
16 this case, because it -- the paper that Beverly Russell had
17 has a phone number and an address that go together.
18 The phone number and the address are at the same place; the
19 phone company so tells me. And I represent that to the Court.

20 THE COURT: Well, find the man's name, the subscriber's
21 name, and --

22 MR. KANAREK: Well, the prosecution may wish to offer
23 that. I am not offering that.

24 THE COURT: All right. Then there's no stipulation, is
25 there?

26 MR. KANAREK: Well, that wasn't part of our stipulation,
27 to begin with.

28 THE COURT: Then there is no stipulation until it's

1 formally presented and offered by the Court -- I mean, offered
2 to the Court.

3 MR. KANAREK: Very well. Then I --

4 MR. MANZELLA: My position should be clear by now:
5 that unless the subscriber's name is part of the stipulation,
6 there will be no stipulation.

7 MR. KANAREK: Mr. Manzella never -- never mentioned that
8 to me until this instant.

9 THE COURT: Well, the reference, of course, is obvious.
10 If you indulged in such a stipulation, the -- anyone trying
11 any issue of fact in connection with the Shea case -- I would
12 think -- would wonder: Now, who was the person who was the
13 subscriber to that telephone? It must mean that Shorty Shea
14 was a subscriber.

15 Otherwise, its relevance is rather -- the relevance
16 of there being a phone at that address is rather remote.

17 MR. KANAREK: That's not so, your Honor. People live
18 with other people.

19 THE COURT: I see.

20 MR. KANAREK: I mean, everybody who is --

21 THE COURT: All right. Let's not discuss that any
22 further. We have wasted enough time and enough words on that.

23 Now, what else do you have?

24 MR. KANAREK: Well, I would try, if your Honor will --
25 if your Honor will -- well, then, would your Honor take a
26 short recess? I'll talk to Mr. Manzella. Maybe we can work
27 out a stipulation about that -- and another matter; maybe we
28 can -- another matter I have in mind.

1 Maybe we can work out a package arrangement, to
2 save time.

3 For that purpose, would the Court take a short
4 recess?

5 THE COURT: All right. How long? Ten minutes?

6 MR. KANAREK: All right.

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

9 THE COURT: All right. We'll recess for ten minutes,
10 ladies and gentlemen. During the recess, you are admonished
11 not to converse amongst yourselves nor with anyone else, nor
12 permit anyone to converse with you on any subject connected
13 with the matter.

14 About ten minutes.

15 (Recess.)
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1 THE COURT: Gentlemen, you may proceed.

2 Mr. Kanarek, do you have anything further?

3 MR. KANAREK: Yes, your Honor.

4 Well, would your Honor announce the reception
5 into evidence of those documents with the --

6 THE COURT: There are three indictments which have
7 been offered into evidence. The Court received them into
8 evidence in -- and they are marked.

9 What are they marked?

10 THE CLERK: SS, TT, UU.

11 THE COURT: SS, TT, UU?

12 THE CLERK: Yes.

13 THE COURT: SS, TT, UU, three exhibits.

14 (Whereupon, there was a pause in the proceedings
15 while Mr. Kanarek and Mr. Manzella confer at the
16 counsel table off the record.)

17 MR. KANAREK: Yes, your Honor, we have a stipulation
18 that on August 7, 1969, in the company of Stephanie Schram,
19 in the San Diego area, in Oceanside, California, that Mr.
20 Manson and Stephanie Schram were together at a time when
21 Mr. Manson was given a ticket, a traffic ticket by the
22 California Highway Patrol in connection with the van wherein
23 he and Stephanie Schram were sleeping. That is, this is the
24 van they were sleeping in.

25 MR. MANZELLA: So stipulated.

26 THE COURT: They were sleeping in on August 7th?

27 MR. KANAREK: That's right, your Honor.

28 THE COURT: Anything further?

5-2

1 MR. KANAREK: Pardon?

2 THE COURT: All right, so stipulated?

3 MR. MANZELLA: So stipulated.

4 MR. KANAREK: So stipulated.

5 THE COURT: All right, the Court receives that
6 stipulation, ladies and gentlemen.

7 MR. KANAREK: Your Honor, I wonder if we could recess
8 until 2:00 o'clock. I'll approach the bench and tell the
9 Court why. It is just a few minutes before 12:00, but --

10 THE COURT: All right, approach and tell me why.

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

14 MR. MANZELLA: May I say something first?

15 MR. KANAREK: Go ahead. Go ahead.

16 MR. MANZELLA: What I have told Mr. Kanarek with
17 regard to his stipulation, upon talking with his --

18 THE COURT: Concerning the phone number?

19 MR. MANZELLA: -- concerning the phone number, upon
20 talking with a person at the Telephone Company that gave
21 Mr. Kanarek the information, I find that her source of
22 information is not sufficiently accurate for me to accept
23 the stipulation.

24 I have advised Mr. Kanarek that if I could have
25 some more time I might be able to stipulate. I can't say
26 that I can stipulate because I have to check some other
27 sources of information.

28 MR. KANAREK: Well, during the noon hour, your Honor,

5-3

1 I will be more than glad to go with Mr. Manzella to the
2 Phone Company or I'll do whatever I -- or I'll subpoena her
3 to court. I hate to take the time. That's why I solicited
4 the stipulation.

5 THE COURT: Well, you've known this --

6 MR. KANAREK: Many days ago.

7 THE COURT: You told us that you have known this many
8 days ago, and you wait until the last minute. This is quite
9 typical.

10 MR. KANAREK: What do you mean? I'm not waiting until
11 the last minute. Mr. Manzella told me --

12 THE COURT: This is the last thing you intend to
13 present, is that correct?

14 MR. KANAREK: Yes, your Honor. It is not a matter of
15 waiting, it is cooperating with the Court.

16 THE COURT: It is simply a matter of --

17 MR. KANAREK: Of what? Mr. Manzella told me he was
18 going to have Officer Whiteley check it out.

19 THE COURT: -- simply subpoenaing the witnesses.

20 MR. KANAREK: Because Mr. Manzella represented to me he
21 was going to have Officer Whiteley check it out, and I have
22 every reason to believe if the Phone Company tells me so --

23 MR. MANZELLA: Your Honor --

24 MR. KANAREK: I'm not here to inconvenience people and
25 to subpoena them to court unnecessarily. Mr. Manzella stated
26 he was going to have Mr. Whiteley check it out. That's what
27 he told me many -- quite a few days ago. I hate to just
28 inconvenience people. And I believe during the noon hour Mr.

5-4

1 Manzella and I can probably arrive at a stipulation.

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

5 THE COURT: The Court will allow you to recess now.

6 We'll permit the recess, then, until 2:30. That
7 should suffice. And it is anticipated that the presentation
8 of evidence will conclude this afternoon, shortly after we
9 resume session at 2:30, and the Court would release you
10 probably before 3:00 o'clock.

11 Both of you concur?

12 MR. KANAREK: Yes, your Honor.

13 MR. MANZELLA: Yes, your Honor.

14 THE COURT: And then, the Court would hear argument,
15 will hear argument tomorrow. I'll release you over the weekend.
16 Argument will resume on Monday. It sounds about like the
17 schedule to me. I just wanted to keep you apprised.

18 During the recess now until 2:30, you are
19 admonished not to converse amongst yourselves, nor with
20 anyone else, nor permit anyone to converse with you on any
21 subject connected with this matter, nor form or express any
22 opinion on the matter until it is finally submitted to you.

23 See you at 2:30.

24 (Whereupon, at 11:57 o'clock a.m. the noon
25 recess was taken, proceedings to resume at
26 2:30 o'clock p.m. of the same day.)
27
28

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1 LOS ANGELES, CALIFORNIA, THURSDAY, NOVEMBER 18, 1971 2:50 PM

2 - - - -

3
4 THE COURT: Both counsel are present.

5 Have you -- do you wish to approach the bench
6 to talk to the Court?

7 MR. KANAREK: No, your Honor, I think --

8 THE COURT: Do you have a stipulation?

9 MR. KANAREK: Your Honor, we do have one that is actually
10 two stipulations. One stipulation is, your Honor, it is
11 stipulated that at least from January 1, 1970, through July
12 30, 1970, Salvatore Santana had the telephone number 389-8921,
13 at 817 South Burlington, Los Angeles, California. That's
14 one stipulation.

15 Another stipulation, is stipulated that the
16 number 389-8921 was listed to Salvatore -- it is either
17 Salvatore or Salvadore. I think it is --

18 MR. MANZELLA: Salvadore.

19 MR. KANAREK: -- Salvadore Santana at 817 South
20 Burlington, Los Angeles, California, in the April, 1970
21 telephone directory for Los Angeles, California.

22 MR. MANZELLA: So stipulated as to both stipulations,
23 your Honor.

24 THE COURT: All right.

25 MR. KANAREK: And shall we approach the bench?

26 THE COURT: Salvatore Santana --

27 MR. KANAREK: Or Salvadore.

28 MR. MANZELLA: (Spelling) S-a-l-v-a-d-o-r-e.

5a-2

1 THE COURT: And may the stipulation be and/or?

2 MR. MANZELLA: It is not necessary. It is S-a-l-v-a--
3 d-o-r-a.

4 THE COURT: All right, Salvadore Santana of that
5 address and phone number at that time was so listed.

6 MR. KANAREK: Those are the two -- well, there are two
7 separate stipulations, actually.

8 THE COURT: I'm not sure I understand. One is, he
9 was listed as the -- January 1st --

10 MR. KANAREK: Well --

11 THE COURT: State it again.

12 MR. KANAREK: There are two stipulations.

13 The first stipulation is, it is stipulated that
14 at least from January 1, 1970, through July 30, 1970 --

15 THE COURT: July 30. Go ahead.

16 MR. KANAREK: I'm sorry.

17 -- through July 30, 1970, Salvadore Santana had
18 the telephone number 389-8921 at 817 South Burlington, Los
19 Angeles, California. That's one stipulation.

20 THE COURT: All right.

21 MR. KANAREK: The other stipulation is, it is stipulated
22 that the number 389-8921 was listed to Salvadore Santana at
23 817 South Burlington, Los Angeles, California, in the April,
24 1970, telephone directory for Los Angeles, California.

25 THE COURT: All right.

26 MR. MANZELLA: So stipulated.

27 THE COURT: Now, I've understood it and the Court
28 receives the stipulation.

1 MR. KANAREK: Thank you, your Honor.

2 Uh --

3 THE COURT: Did you wish to approach the bench?

4 MR. KANAREK: I guess, yes, if we may, your Honor.

5 THE COURT: All right, you may.

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

9 MR. KANAREK: Your Honor, I want the jury to be told
10 by -- and this can be done by way of judicial notice --
11 that Leslie Van Houten was charged with the homicides of
12 Leno La Bianca and Rosemary La Bianca and was not charged
13 with the homicides of Sharon Tate, Voltyek Frykowski, Steven
14 Parent, Abigail Folger, and Jay Sebring.

15 I'm asking the Court -- that's a clear judicial
16 notice point.

17 And as to all of the homicides -- uh, well, may
18 I have that exhibit?

19 (Whereupon, there was a pause in the proceedings
20 while the Clerk obtained the exhibit from Mr. Kanarek.)

21 MR. KANAREK: Thank you.

22 Well, actually, it would be the -- it is Thomas
23 John Sebring and Voltyek Frykowski's name is spelled --

24 THE COURT: Are you still referring to the same thing
25 you wish to have said to the jury?

26 MR. KANAREK: Well, no, that's my -- in a way, it is.
27 That's my request.

28 THE COURT: Then, could it be said that Leslie Van

1 Houten was charged only with the homicides of the La Blancas?

2 MR. KANAREK: That's really true. She was charged with
3 the conspiracy count, also.

4 THE COURT: So far as homicide cases, so far as murder
5 is concerned, Leslie Van Houten was charged only with the
6 murder of the La Blancas?

5b fls.

5b-1

1 MR. KANAREK: Well, yeah, but the point is the difference
2 between -- it may not be recognized by the jury, the
3 difference between conspiracy. That's why by doing it this
4 way, I am saying -- this is explicit.

5 THE COURT: The conspiracy was to --

6 MR. KANAREK: I'm not interested in mentioning that.
7 In my request, I'm not asking that the -- well, no, the reason
8 I am doing that is because in -- in the document that your
9 Honor has allowed into evidence, there is the conspiracy to
10 commit murder as Count VIII.

11 THE COURT: The murder of the La Biancas?

12 MR. KANAREK: No -- well, it is -- it is a very complicated
13 conspiracy, in fact, that's been alleged.

14 THE COURT: You have any objection? Have you talked
15 it over with him?

16 MR. MANZELLA: Briefly I have.

17 THE COURT: Any objection?

18 MR. MANZELLA: My objection was, I said I had no
19 objection if everyone who was charged with the homicides was
20 listed for the jury: Tex Watson, Susan Atkins, Patricia
21 Krenwinkel and Leslie Van Houten. It seemed to me that it was
22 irrelevant to say Leslie Van Houten was charged. It would be
23 relevant to say she was convicted of the homicides because it
24 goes to the impeachment, but to say she was charged with the
25 homicides, I don't see the relevancy. But I stated that it
26 was agreeable to me, and I would have no objection, if every-
27 one was -- strike that -- if the entire indictment in the
28 Tate-La Bianca case was made known to the jury.

1 I don't mean the Indictment itself, I mean who was
2 charged with what. But that would be agreeable with me.

3 MR. KANAREK: Well --

4 MR. MANZELLA: But just to say that Leslie Van Houten
5 was charged with the La Bianca killings, I would object on
6 the grounds that, one, it is somewhat misleading and, two,
7 it is not relevant.

8 MR. KANAREK: Well, I -- I --

9 THE COURT: Sounds to me to be correct. It would be
10 misleading.

11 MR. KANAREK: No.

12 THE COURT: It would be misleading to state it in that
13 way.

14 MR. KANAREK: Why would it be misleading?

15 THE COURT: Can't you see?

16 MR. KANAREK: No, I don't see, your Honor.

17 THE COURT: All right, to indicate that she was --
18 to single her out and indicate that she was the person who
19 was charged with this homicide is incorrect.

20 MR. KANAREK: Well, there are lots of cases of evidence
21 that come in that way and counsel can argue --

22 THE COURT: Besides, what's its relevancy?

23 MR. KANAREK: Pardon?

24 THE COURT: Besides, what is its relevancy?

25 MR. KANAREK: The relevancy?

26 THE COURT: Yes.

27 MR. KANAREK: Well, the relevancy --

28 THE COURT: She refused to testify.

1 MR. KANAREK: Right.

2 THE COURT: What's its relevancy?

3 MR. KANAREK: Well, the relevancy was that she was at the
4 La Bianca house and she wasn't -- the prosecution does not
5 allege she was at the Tate house. That's the relevancy.

6 MR. MANZELLA: That's part of my point.

7 THE COURT: Let me see that -- let me hear that again.

8 MR. KANAREK: The relevancy was she was present at the
9 La Bianca house but she was not present at the Tate house,
10 and that's the relevancy.

11 THE COURT: And take the next step, because I don't
12 yet see it.

13 MR. KANAREK: That's it.

14 THE COURT: How is that point relevant?

15 MR. KANAREK: That's what I wish to make use of in my
16 argument.

17 THE COURT: But in as far as the record now stands,
18 how is that relevant to this record?

19 MR. KANAREK: How is it relevant?

20 THE COURT: Yes.

21 MR. KANAREK: Well, it is relevant in that she was
22 not, for reasons of argument that I wish to make, she was not
23 present at the Tate house. That's --

24 THE COURT: The Court will indicate from the Indictment
25 in that case who was charged with what, if you like.

26 MR. KANAREK: No, no, I'm not asking for that.

27 THE COURT: I --

28 MR. KANAREK: Then, I --

1 THE COURT: I think the entire thing should be made
2 known to them as to what these counts were, if any part of it
3 is to be made known.

4 MR. KANAREK: Then, I won't ask for anything of this,
5 then.

6 THE COURT: At least you can argue -- I think you are
7 correct, that judicial notice can be taken of it.

8 MR. KANAREK: That's my request, the way I have worded
9 it, your Honor.

10 THE COURT: It could be -- it could be argued, because it
11 is a matter of judicial knowledge.

12 MR. MANZELLA: I agree with that, it still have to be
13 relevant to something in order to do it.

14 THE COURT: That's correct. I don't see the relevancy
15 yet.

16 MR. KANAREK: The relevancy is she was present at the
17 La Bianca house and not present at the Tate house.

18 THE COURT: You've said that. I don't see --

19 MR. KANAREK: I wish to make certain points --

20 THE COURT: She wasn't at my house either.

21 MR. KANAREK: Right, but your house is not involved,
22 your Honor, to carry your Honor's thinking through.

23 I'm -- but the Tate house and the La Bianca house
24 are involved and I wish to make points in argument which is
25 backed up by this matter -- judicial knowledge, this is true.

26 Now, whether Mr. -- Mr. Manzella wants to
27 advocate other things after I rest --
28

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1 THE COURT: All right, I will say this, we'll take
2 judicial knowledge of the convictions.

3 MR. KANAREK: No.

4 THE COURT: In the Tate-La Bianca --

5 MR. KANAREK: Oh, I'm not asking that at all.

6 THE COURT: -- of all persons.

7 MR. KANAREK: No, I'm not asking that.

8 THE COURT: All right.

9 MR. KANAREK: I either ask for that, and if your Honor
10 denies it, all right. But I think the Court, in view of my
11 request, must give it.

12 THE COURT: All right, I agree with the People that
13 there's no relevancy at this time shown.

14 MR. KANAREK: Your Honor says it is not relevant and
15 not material?

16 THE COURT: It does not appear to be relevant or
17 material.

18 MR. KANAREK: But it is factual.

19 THE COURT: I think in addition to that, the Court
20 thinks that it would be confusing in that it singles out
21 in the case a certain defendant from other defendants in that
22 case.

23 MR. KANAREK: Now, my request --

24 THE COURT: What other request do you have?

25 MR. KANAREK: I have a request that the Court state
26 that Tex Watson was charged in all -- in connection with each
27 of the seven homicides.

28 MR. MANZELLA: My objection is the same.

1 THE COURT: Well, the Court's ruling would be the same.

2 MR. KANAREK: All right, that's my request.

3 THE COURT: Anything further now? Do you wish to argue
4 on anything more?

5 MR. KANAREK: No, not at the bench.

6 THE COURT: Okay.

7 In regard to the Brunner affidavit or Brunner
8 letter, do you have anything further to add that you haven't
9 added?

10 MR. KANAREK: No, I think that your Honor -- well, I
11 think the Evidence Code -- I gather we are past the point,
12 your Honor would agree, that there is sufficient foundation,
13 that is to prove -- there is no question in this record and
14 what we have offered which substantiates that she wrote those
15 two items or three items.

16 THE COURT: I don't think the record would substantiate
17 that, but you state that you can't prove that.

18 MR. KANAREK: I would be willing for the sake of this
19 record to assume that I could prove that, because I can prove
20 that. I can call witnesses. The only reason that your
21 Honor denied the foundation was because your Honor was going
22 on to deny my request that it be admitted.

23 THE COURT: Well, you've -- under 352 it can be
24 excluded in that you -- half a dozen times now you've
25 established the point that you wish to establish in the
26 affidavit.

27 MR. KANAREK: I haven't, though. All the wording of
28 the affidavit is not before the jury. There is a long list --

1 there are a lot of things in that affidavit I wish to be
2 before the jury.

3 THE COURT: Well, some of it is factual and would not
4 pertain to her statement, if that's the reason you are
5 offering it, and other points involving her state of mind
6 which would be an exception to the hearsay rule which you've
7 establish by other means half a dozen times in this record.
8 So it would be partially hearsay and part of it would be with-
9 in the Court's discretion to exclude under 352.

10 And as to the latter again, I'll restate to you
11 that much of it is factual statements which would be
12 excludable.

13 MR. KANAREK: Well, then, may I --

14 THE COURT: Let's proceed, then.

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

17 MR. KANAREK: Your Honor, I --

18 THE COURT: Yes.

19 MR. KANAREK: In addition to the November 12, 1971 --
20 may I inquire?

21 Joyce, is this November 12, 1971 document in A-277 393,
22 purports to have the signature of Mary Brunner, is that
23 RR For identification?

24 THE CLERK: Yes.

25 MR. KANAREK: That is RR.

26 Then, your Honor, I do offer into evidence RR
27 for identification, which is, as I have enunciated it, part
28 of the file of A-277 393, filed November 12, 1971. I offer

1 that into evidence.

2 THE COURT: The motion is denied.

3 MR. KANAREK: I offer into evidence the declaration of
4 Mary -- what purports to be the declaration of Mary Theresa
5 Brunner, dated November 16, 1971, which has the signature
6 "Mary Theresa Brunner," and it is in the file A-260 889-D,
7 and it purports to refer to A-260 889-A and A-260 889-B,
8 that is up in the upper right-hand corner, and it has both
9 of those. I offer that. May that be marked for identification?

10 THE COURT: Has it not heretofore been marked?

11 MR. KANAREK: No, it hasn't. It is a different document
12 in a different file.

13 THE COURT: It will be next in order.

14 MR. KANAREK: And I offer --

15 THE COURT: And, of course, this has been -- you've
16 offered these at the bench.

17 MR. KANAREK: No, I haven't. I have not offered this.

18 THE COURT: I see.

19 People?

20 MR. MANZELLA: People have the same objection that they
21 had to the other declaration under 170.6, your Honor.

22 THE COURT: Sustained.

23 That other declaration was under 170.6, too, is
24 that right? The first one you mentioned, the challenge to
25 Judge Breckenridge?

26 MR. KANAREK: Yes, your Honor.

27 If I may have a moment.

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1 THE COURT: All right, the motion, then, to admit those
2 declarations under 170.6 is denied. It is immaterial.

3 MR. KANAREK: If I may have a moment, your Honor.

4 (Whereupon, there was a pause in the proceedings
5 while Mr. Kanarek perused some files at counsel table.)

6 MR. KANAREK: Defendant rests, your Honor.

7 THE COURT: Very well.

8 People have any evidence they wish to present?

9 MR. MANZELLA: No, your Honor. People rest.

10 THE COURT: The next step, ladies and gentlemen, is to
11 hear argument from Mr. Manzella and Mr. Kanarek, and then the
12 Court will instruct you in the penalty phase. Then, the
13 question of penalty will be turned over to you.

14 Begin tomorrow morning at 9:30, gentlemen?

15 MR. MANZELLA: Yes, your Honor.

16 THE COURT: All right, ladies and gentlemen, the Court
17 advises you that you are not to converse amongst yourselves,
18 nor with anyone else, nor permit anyone to converse with you
19 on any subject connected with this matter, nor form nor
20 express any opinion on the matter until it is finally submitted
21 to you.

22 As far as I know, that time table is about the
23 way I spelled it out to you previously.

24 Remember your obligation in respect to publicity,
25 that you are to take an affirmative obligation, affirmative
26 steps to stay away from exposure to any news stories of any
27 kind, radio, television or newspaper concerning Mr. Manson
28 of this case.

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1 The Court would like Mrs. Love to remain briefly.
2 The rest of you are excused until tomorrow morning at 9:30.

3 (Whereupon at 3:13 o'clock p.m. the jury retired
4 from the courtroom with the exception of Juror Love.)

5 THE COURT: Both of you counsel approach the bench.

6 Mrs. Love, you haven't done anything wrong. We
7 just received a letter from your husband and we just wish to
8 discuss it. Don't say anything at this point.

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

12 THE COURT: This is a letter from Mr. Love, from Mrs.
13 Love's husband. Mrs. Love is juror No. 8.

14 He indicates that they have sold their home.
15 That it is a necessity for them to leave the property.
16 Apparently, the escrow is closed, and I judge from that,
17 and he indicates that he has to leave town by November 22nd,
18 which is next Monday. We won't be completed with the case
19 on Monday, but I just wanted to get an idea how long it would
20 take.

21 You anticipate tomorrow you will argue about an
22 hour?

23 MR. MANZELLA: Yes, your Honor.

24 THE COURT: And your argument, Mr. Kanarek?

25 MR. KANAREK: Well, it might be -- it might be three
26 days, your Honor. At least three days.

27 THE COURT: Well, I would say this, let me tell you
28 this, I don't think in view of the recency of having read

5d-3

1 this transcript there would be any need for you to reread
2 any transcript.

3 MR. KANAREK: I don't contemplate rereading that which
4 has transpired to any great length, your Honor. That which
5 has been --

6 THE COURT: Do you really think it will take you that
7 long?

8 MR. KANAREK: Well, as I -- as I go over these
9 transcripts --

10 THE COURT: I know you go over them, and I think that
11 it's too much, just personally, to repeat from a transcript
12 which has been so recently read to them. It would appear to
13 me to be unnecessary. If you can, in your own words, make
14 your notes and argue from your notes, it would probably save
15 a great deal of time, judging from what I have seen of your
16 closing argument in the first phase.

17 I would suggest that you do that for your
18 argument. Perhaps it would shorten it.

19 As you know, the length of argument does not
20 necessarily indicate its effectiveness.

21 MR. KANAREK: Well, I understand that, your Honor.

22 THE COURT: Well, then, you will not be finished until
23 Wednesday. Thursday is Thanksgiving. If I let them go on
24 Thanksgiving -- I don't think we should sequester them over
25 Thanksgiving. So let them go on Thanksgiving and let them
26 come back on Friday, and you would respond, and then Mr.
27 Manzella, and then Mr. Kanarek to conclude. I don't suppose
28 your conclusion, after three days argument, would be too long.

5d-4

1 is that correct?

2 MR. KANAREK: No, I don't -- I -- I am making it -- in
3 other words, I am constantly, uh, working with the idea of
4 making it as short as possible, your Honor.

5 THE COURT: Well, do you suggest that we tell Mrs. Love,
6 then, the case will be submitted to the jury by next Friday?

7 MR. KANAREK: Well, I would leave that -- I mean --

8 MR. MANZELLA: I don't think it will.
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1 THE COURT: Pardon?

2 MR. MANZELLA: I don't think it will.

3 THE COURT: That would be the Court's opinion. If
4 your response is short and Mr. Kanarek's is short --

5 MR. MANZELLA: You still have to instruct.

6 THE COURT: Pardon?

7 MR. MANZELLA: You still have to instruct.

8 THE COURT: That's what I mean. We can instruct on
9 Friday afternoon and give them the case.

10 MR. KANAREK: I would like -- I would do this, though,
11 I would solicit the Court, pointing out that Mrs. -- so Mrs.
12 Love will not think that either counsel is -- is -- is --

13 THE COURT: The Court thinks it will be very bad to --
14 a very poor thing to do to indicate to her that either counsel
15 is causing any delay.

16 MR. KANAREK: No, because --

17 THE COURT: So don't be worried about that.

18 MR. KANAREK: What I would ask your Honor to do in a
19 positive way, is to inform her that because she was a part
20 of the deliberations, it is your Honor's belief she should
21 deliberate at penalty.

22 THE COURT: Of course. Of course. I can't excuse her.
23 I have to tell her that she can't be excused.

24 MR. KANAREK: Right, right.

25 THE COURT: But, on the other hand, I do want to let
26 the lady know, in view of her very urgent circumstances what
27 we believe to be the time element involved, how long she is
28 going to be tied up.

5a-2

1 Do you both suggest we proceed that --

2 MR. KANAREK: Well, yeah. The point is, your Honor
3 is going to mark this as an exhibit?

4 THE COURT: If you wish.

5 MR. KANAREK: Oh, yes, definitely.

6 THE COURT: Definitely?

7 MR. KANAREK: Would your Honor mark this as an
8 exhibit?

9 THE COURT: I don't think it has to be marked as an
10 exhibit.

11 MR. KANAREK: Pardon?

12 THE COURT: Let's put it in the file.

13 MR. KANAREK: Oh, well, as long as it is permitted in
14 the file.

15 THE COURT: Not -- I don't know how to carry it.

16 MR. KANAREK: Pardon?

17 THE COURT: I would not unless you wish to have it as
18 a defense exhibit.

19 MR. KANAREK: No, I have no particular desire, just as
20 long as it is a permanent record in this case.

21 THE COURT: Well, why don't you read it into the
22 record just in the event it should get lost.

23 MR. MANZELLA: Couldn't we just make it a part of the
24 record?

25 MR. KANAREK: Why don't we just put it --

26 THE COURT: A part of the record --

27 MR. KANAREK: I'll make it --

28 THE COURT: It is a letter from Richard Love --

1 Richmond Love, dated November 17, 1971, asking that his
2 wife be excused for reason of a hardship connected with
3 his and Mrs. Love's intended move from Los Angeles.

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

7 THE COURT: Mrs. Love, Court and counsel have read
8 your husband's letter of November 17, 1971, and we're all
9 very sympathetic with your personal situation here. I
10 realize that you do wish to and have to leave the City of
11 Los Angeles now that you sold your home, and you're ready
12 to move out, aren't you?

13 JUROR LOVE: Well, they told us yesterday it would be
14 probably two weeks.

15 THE COURT: Two weeks. So it has changed somewhat
16 from the November 17th --

17 JUROR LOVE: And he also has let his brother stay there
18 if I have to be locked up.

19 THE COURT: Pay Mr. Love my respects. Tell him that I
20 can't excuse you and that I am happy that the situation is
21 such that another two weeks is contemplated before that
22 closes.

23 JUROR LOVE: Yes.

24 THE COURT: All right, thank you for waiting. Good
25 night.

26 JUROR LOVE: Good night.

27 (Whereupon at 3:22 o'clock p.m. the evening
28 adjournment was taken.)