

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 130

HON. EDWARD A. HINZ, JR., JUDGE

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THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

NO. A253156

LESLIE VAN HOUTEN,

Defendant.

REPORTERS' DAILY TRANSCRIPT

Tuesday, May 24, 1977

Volume 31

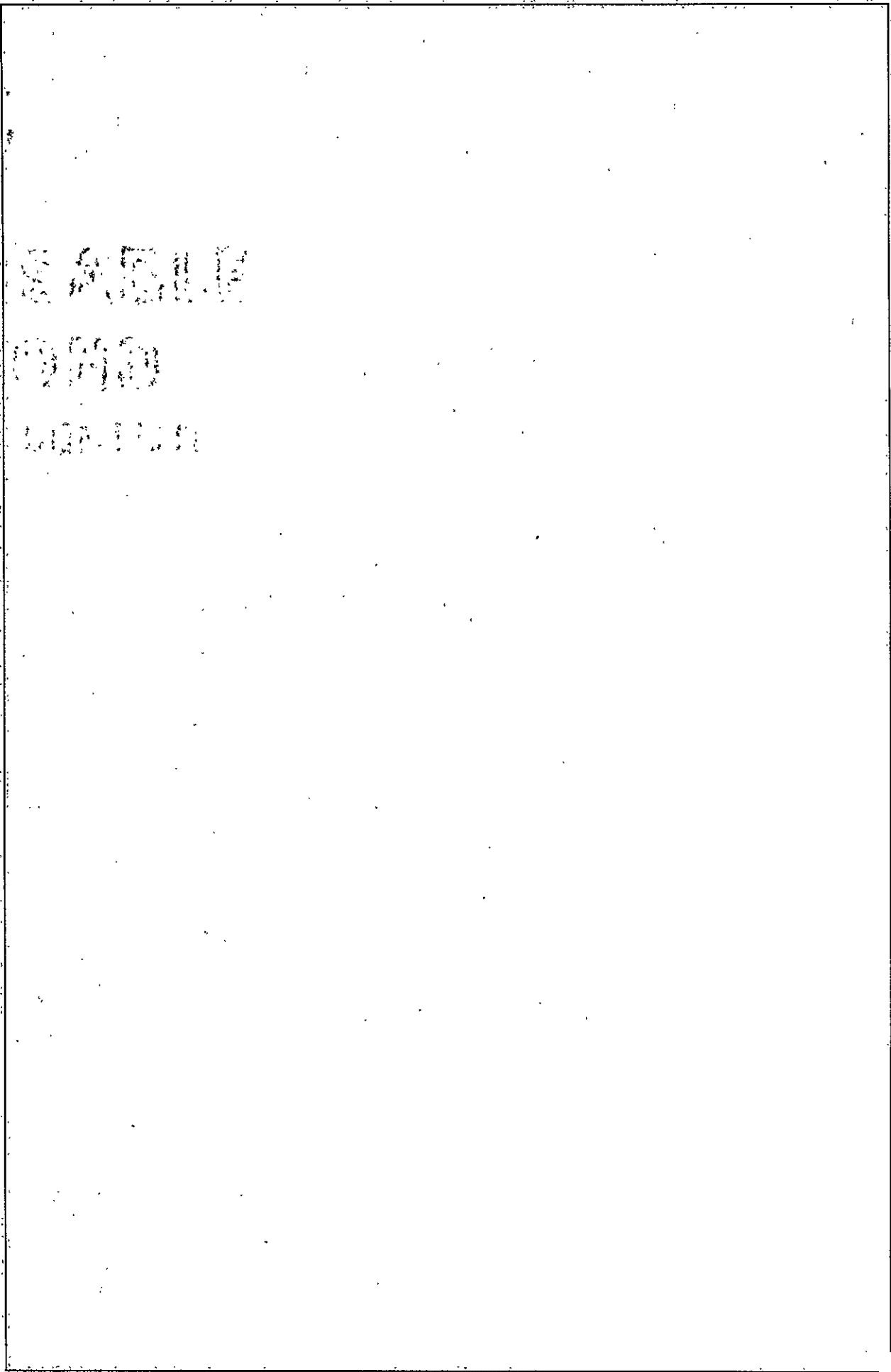
Pages 4425 to 4497, incl.

APPEARANCES: (See Volume 1.)

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3 DAY DATE PAGE

4 Tuesday May 24, 1977 A.M. 4425

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7 DEFENDANT'S WITNESSES DIRECT CROSS REDIRECT RECROSS

8 DITMAN, Keith S.

9 (Resumed) 4426 4455 4481

10 (Resumed) 4495

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1 LOS ANGELES, CALIFORNIA; TUESDAY, MAY 24, 1977; 10:20 A.M.

2 DEPARTMENT NO. 130

HON. EDWARD A. HINZ, JR., JUDGE

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4 (Appearances as heretofore noted.)

5
6 THE COURT: Good morning, ladies and gentlemen.

7 People versus Van Houten.

8 Let the record show the defendant is present,
9 represented by counsel, the People are represented by counsel.

10 You may resume cross-examination, Mr. Kay.

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1 MR. KAY: Thank you, Your Honor.

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3 KEITH S. DITMAN,

4 called as a witness by the defendant, having been previously
5 duly sworn, resumed the stand and testified further as follows:

6
7 CROSS-EXAMINATION (Resumed)

8 BY MR. KAY:

9 Q Dr. Ditman, I believe that you told Mr. Keith
10 during your direct examination that the underlying personality
11 structure of an individual was very important in determining
12 what effect LSD had on them; is that true?

13 A Yes.

14 Q Now, I believe you told us that in your opinion
15 Leslie had a strong ego.

16 A Yes.

17 Q And you told us that Leslie had a superior I.Q.;
18 is that right?

19 A I said that she was bright, yes.

20 Q Well, and, of course, the testing showed, at least
21 at Frontera, and by Dr. Maloney of S.C., that she did have a
22 superior I.Q.; is that right?

23 A Yes, if you want to classify it that way.

24 Q Well, isn't that --

25 I mean, aren't I.Q.s broken down into classifi-
26 cations, and isn't 121 or 122 I.Q. considered to be superior?

27 A I don't think it's quite superior; I'd say it's
28 bright.

1 Q Well, it's in the top five percent of the nation,
2 isn't it?

3 A Yes.

4 Q Now, assume the following things, Doctor:

5 Assume that Dianne Lake, who joined the Family
6 long before Leslie did, that she joined the Family when she
7 was about 13 or 14 back in December of 1967;

8 That she testified that while Leslie was a member
9 of the Family, that Leslie appeared to be cold and aloof and
10 appeared to do basically what she wanted to do;

11 And that she did not help out with the jobs the
12 way that the other girls did.

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1 And assume that Barbara Hoyt, who is now a
2 registered nurse, employed in a hospital, testified that she,
3 Barbara Hoyt, joined the Family on April -- in April of 1969,
4 April 1st; and that she testified, from observing Leslie --
5 and this is a quote from her -- "Well, I would describe her
6 as kind of a loner, not particularly overly friendly but just
7 doing what she wanted."

8 Further assume that Paul Watkins -- and he testified
9 he joined the Family before Leslie did, and he also stated
10 that he had about 300 LSD trips; a lot of these were before --
11 actually, most of them were before he joined the Family.

12 But he stated that he observed Leslie take LSD
13 during the group LSD sessions; and he stated that some people
14 did appear to have problems on LSD, some of them kind of
15 flipped out, but that he never saw Leslie have any problems on
16 LSD, he never saw Leslie flip out.

17 He stated that she appeared more level-headed than
18 the others on LSD.

19 Further assume that Leslie testified in the
20 penalty phase of her first trial that she never had a bad
21 trip.

22 By the way, when you interviewed her did she also
23 tell you that she had never had a bad trip?

24 A There was one episode that was described as what
25 you would call a bad episode -- a bad trip.

26 Q Did she tell you how many times -- She had
27 taken LSD about 300 times?

28 A Yes.

1 Q So she said, she described one bad trip out of
2 300?

3 A Yes.

4 Q Now, doesn't this show --

5 Assuming all these things and the reaction of
6 Leslie to LSD, the absence of bad trips, so to speak, the
7 fact that your opinion is that she had a strong ego, and the
8 opinion of Dianne Lake and Barbara Hoyt that she was kind of a
9 loner, kind of an independent personality.

10 Doesn't this reflect that Leslie is the type of
11 individual that LSD doesn't have that strong an effect on?

12 A No, it doesn't mean that because if you have a
13 strong ego it's not going to have an effect on you.

14 Q I didn't say "an effect"; I said a great effect,
15 a strong effect.

16 A No; it doesn't mean that it's not going to have a
17 great effect on you.

18 Q What does it mean?

19 A Well, LSD and ego strength -- that is, the effect
20 of LSD and ego strength do not necessarily go together in the
21 same direction.

22 In other words, a person can still develop a
23 very strong or delusional belief system from LSD taking and
24 being exposed to certain types of stimuli.

25 And it doesn't necessarily mean that they have a
26 weak ego if that develops.

27 Q But isn't the single-most important factor in
28 determining what effect LSD has on a person, the person's

1 underlying personality structure?

2 A No.

3 As I said earlier, it depends on the person's
4 personality, yes; but also on their set, that is, their
5 expectancy.

6 And also the setting in which they take LSD. And
7 it depends upon the dosage.

8 Now, a person may take LSD 300 times and have no
9 bad trips. They may take it 50 times and then have a bad trip.

10 In other words, what determines whether or not a
11 person has a bad trip often is determined by getting into a
12 disturbing kind of environment.

13 In other words, being put to certain stimuli.

14 And in my studies I have seen people who have gone
15 along fine, have had no difficulty as far as they were
16 concerned in taking LSD, and then suddenly have a bad trip
17 and even need hospitalization.

18 So that 50 or 100 or even two- or 300 good trips,
19 to use that term, doesn't preclude a bad trip and --

20 Q But it indicates --

21 A And a strong ego doesn't preclude forming thought
22 systems or delusional systems.

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1 Q But it kind of gives an indication, doesn't it,
2 Doctor, that if one takes LSD 300 times and doesn't have any
3 bad trips, as Miss Van Houten testified to in the penalty
4 phase of the first trial, that that is a strong indication
5 that LSD doesn't have that great effect on her?

6 A No. It doesn't insure her or anyone that it
7 does not have a strong effect on them. And it doesn't insure
8 them against having a bad trip.

9 Q Now, you talked about LSD changing someone's
10 values.

11 Isn't it true that, generally speaking, for a
12 person to get to the point that they'd want to take a drug
13 such as LSD, or some such drug as that, that they'd already
14 have, say, a different value system than the average person
15 who didn't want to take such a drug?

16 A Yes.

17 MR. KEITH: Can I have that question and answer read
18 back? I am sorry, I --

19 THE COURT: Could you read the last question and
20 answer back, please.

21 (Record read.)

22 Q BY MR. KAY: Now, Doctor, did you ever examine
23 Leslie Van Houten while she was under the influence of LSD?

24 A No.

25 Q Have you ever interviewed anyone who has seen
26 Miss Van Houten on an LSD trip other than Miss Van Houten
27 herself?

28 A Probably Charles Watson.

1 Q Oh, did you have a chance to review your interview
2 with Mr. Watson?

3 A No, I don't think I have those records any more.
4 I think they were based on records that I returned to
5 Mr. Keith.

6 Q You got my expectations up there, Doctor.

7 A Sorry about that.

8 Q Now, isn't it true that the concepts of delibera-
9 tion and premeditation are legal concepts as opposed to
10 psychiatric concepts?

11 A Yes.

12 Q Now, you wrote a report for Mr. Keith in this
13 case, did you not, a brief report containing a summary of
14 your findings?

15 A Yes.

16 Q All right.

17 And in that --

18 Well, you remember you testified on direct
19 examination by Mr. Keith that in your opinion Miss Van Houten
20 could not deliberate and premeditate the LaBianca murders.

21 Do you recall that?

22 A Well, not maturely; right.

23 Q All right.

24 Now, in your report, isn't it true that you did
25 not say that she could not premeditate and maturely reflect
26 on her actions, but you concluded that she had an impaired
27 ability to do so?

28 A Yes.

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1 Q Now, assuming that Leslie Van Houten was not under
2 the influence of LSD, and you told us earlier that your
3 opinion was that she was not on the night of the LaBianca
4 murder, what specifically can you point to that she did or
5 said on the night of the LaBianca murders that led you to
6 believe that she did not deliberate or premeditate the
7 LaBianca murders?

8 A I said that she was not under the acute effects
9 of LSD.

10 Q Right.

11 A That I thought she was under the chronic effects
12 of LSD;

13 That her value system was so changed, so altered,
14 that her judgment was not -- was impaired, was not capable
15 of maturely reflecting upon the acts and the consequences of
16 the acts.

17 Q Well, now, Doctor, my question was, what did she
18 do or say on the night of the LaBianca murders that led you
19 to conclude that she didn't have the ability to deliberate
20 or premeditate?

21 A In general, she showed, from the discussions I
22 had with her about it and from the tape that was played here,
23 that she didn't show an adequate or mature concern about her
24 own welfare or the welfare of others.

25 Q Well, how didn't she show a concern for her own
26 welfare when she, by the tape recording, brought up the
27 subject of fingerprints, wiped fingerprints off, hid in the
28 bushes, went back to Spahn Ranch and burned evidence connecting

1 her to the LaBianca murders?

2 How does that show that she didn't have a concern
3 for her own welfare?

4 A Well, in that sense it did. But her overriding
5 consideration was in the belief of what she was doing was
6 correct.

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1 Q Doctor, let me ask you this: You are aware, are
2 you not, that there are legal instructions that the judge
3 will read to the jury at the end of the case concerning the
4 law of first degree murder of different varieties.

5 Are you aware of that?

6 A Yes.

7 Q All right.

8 Now, when is the last time that you read those
9 instructions?

10 A I don't recall that I ever have read them in their
11 entirety.

12 Q How do you define the term "malice aforethought"?

13 A That one has in mind to do harm to someone else.

14 Q All right.

15 And, in your opinion, did Leslie Van Houten have
16 in mind to do harm to someone else on the night of the
17 LaBianca murders?

18 A Yes.

19 Q So, in your opinion, did Leslie Van Houten have
20 malice aforethought?

21 MR. KEITH: I'm going to object to the question, Your
22 Honor.

23 May we approach the bench?

24 THE COURT: Yes, will counsel approach the bench.

25 (The following proceedings were held
26 at the bench:)

27 MR. KEITH: My objection is that apparently the good
28 doctor has the misunderstanding of the term "malice

1 aforethought."

2 And for Mr. Kay to ask him based on what the
3 doctor thinks "malice aforethought" is, whether she had that
4 capacity to entertain malice aforethought, is unfair.

5 It is based on an erroneous apprehension of the
6 law or understanding of the law.

7 I would be happy to -- I sent him the instructions;
8 maybe he didn't read them.

9 MR. KAY: This is cross-examination. He's giving
10 opinions. I think that we should find out what he means by
11 his opinion.

12 MR. KEITH: He gave an opinion in response to a question
13 of mine that she was unaware of her duty to conform her
14 conduct within the laws of society.

15 That's my definition of "malice aforethought." I
16 don't know what his is. I don't think it's material.

17 THE COURT: Well, the objection is overruled. This is
18 proper cross-examination.

19 He gave his opinion as to premeditation and
20 deliberation, and as part of cross-examination the district
21 attorney can explore these ideas as well as his definitions
22 of them.

23 You will have a chance to go on redirect.

24 MR. KEITH: All right.

25 THE COURT: The objection is overruled.

26 (The following proceedings were held in
27 open court in the presence of the jury.)

28 Q BY MR. KAY: Now, Doctor, how do you define the

1 word "deliberate"?

2 A Deliberate?

3 Q Yes. We're talking about a deliberate, premedi-
4 tated murder.

5 How do you define the word "deliberate," or how
6 did you in arriving at your conclusion in this case that
7 Miss Van Houten did not have the capacity to commit a
8 deliberate, premeditated murder?

9 How do you define the word "deliberate"?

10 A To do in a thoughtful or an orderly fashion.

11 Q And how do you define the term "premeditate"?

12 A To think on beforehand.

13 Q To consider beforehand?

14 A Yes.

15 Q All right.

16 You've already told us last Thursday that you
17 felt that Miss Van Houten did consider this beforehand, the
18 murders.

19 A Yes.

20 Q And how do you define "maturcly reflect"?

21 A To think and to consider with all of one's
22 faculties functioning properly in regard to some concept or
23 action.

24 Q And how do you define the term "meaningful"?

25 A That it has purpose or importance to the individual.
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1 Q Well, obviously --

2 Well, is it your opinion that the murders of the
3 LaBiancas had purpose and importance to Miss Van Houten?

4 A Yes, within the framework of her altered value
5 system and thinking.

6 Q Now, if I may, Doctor, refer to the definitions
7 in the instructions.

8 First from reading CALJIC 8.11, a 1974 revision,
9 "Malice Aforethought Defined."

10 It says:

11 "Malice may be either express or
12 implied. Malice is express when there is
13 manifested an intention unlawfully to kill a
14 human being."

15 Now, in your opinion did Miss Van Houten express
16 an intention unlawfully to kill a human being on the night of
17 the LaBianca murders?

18 A Yes.

19 Q All right.

20 "Malice is implied --"

21 There are two types of malice; but we talked about
22 express.

23 "Malice is implied when the killing
24 results from an act involving a high degree of
25 probability that it will result in death."

26 Now, in your opinion is stabbing people an act
27 which involves a high degree of probability that it will result
28 in death?

1 A Yes.

2 Q And is driving around the City and County of Los
3 Angeles looking for people to kill an act which involves a
4 high degree of probability that it will result in death?

5 A Yes.

6 Q All right.

7 ". . . which act --"

8 I'm reading again:

9 ". . . which act is done for a
10 base, antisocial purpose."

11 Now, in your opinion is fomenting a race war, is
12 that a base, antisocial purpose?

13 A Yes.

14 Q (Reading)

15 ". . . and with a wanton disregard
16 for human life, by which is meant an awareness
17 of a duty imposed by law not to commit such acts,
18 followed by the commission of the forbidden act
19 despite that awareness."

20 Now, in your opinion, Doctor, didn't Leslie Van
21 Houten realize that it was against the law to kill people?

22 MR. KEITH: Well, now, I'm going to object to that
23 question. He left out the key word in the whole question.

24 THE COURT: Well, the objection is overruled.

25 MR. KAY: Well, let me read it again. I certainly don't
26 mean --

27 MR. KEITH: You left out "duty." The "duty" is the
28 whole thing.

1 THE COURT: If we are going to argue it, let's come to
2 the bench.

3 MR. RAY: All right; let me read it again. I don't
4 remember leaving that out.

5 Q All right.

6 ". . . with a wanton disregard --"

7 All right; let me start over again.

8 "Malice is implied when the killing
9 results from an act involving a high degree of
10 probability that it will result in death, which
11 act is done for a base, antisocial purpose, with
12 a wanton disregard for human life, by which is
13 meant an awareness of a duty imposed by law not
14 to commit such acts, followed by the commission
15 of the forbidden act despite that awareness."

16 Now, my question is to you, Doctor, didn't
17 Miss Van Houten realize on the night of the LaBianca murders,
18 and even the day before that, and even before that, that it
19 was wrong -- excuse me -- that it was -- not "wrong," but it
20 was against the law to kill people?

21 A Now --

22 Q The law of society. Didn't she realize it was
23 against the law of society to kill people?

24 MR. KEITH: I'm going to make the same objection, and
25 ask to approach the bench.

26 THE COURT: All right; will counsel approach the bench.

27 Could we have the court reporter.
28

1 (The following proceedings were held
2 at the bench:)

3 MR. NEITH: I'm going to object to the question because
4 it's inappropriate.

5 He's asking him about the instructions; and the
6 real question is was she aware of the duty imposed by the law,
7 not aware of the law, but her duty under the law.

8 THE COURT: Well, he can take them in parts.

9 If he were to ask the whole thing, we'd have a
10 compound question beyond belief.

11 He has read the instruction. Now he can take it
12 in pieces and ask what his opinion is --
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1 MR. KEITH: But he's asking her was, in his opinion,
2 was she -- did Leslie know it was against the law or --

3 MR. KAY: That's right; that was my question.

4 MR. KEITH: All right. But I say, that's an improper
5 question because the proper question should be was she aware
6 of her duty under the law, not just against the law.

7 There is a big difference.

8 THE COURT: Well, there is a big difference; and of
9 course that's --

10 MR. KEITH: But, all right; I'm just making my objection.
11 All right.

12 THE COURT: All right. The objection is overruled.

13 (The following proceedings were held in
14 open court in the presence of the jury:)

15 Q BY MR. KAY: Do you remember the question, or do

16 you --

17 A It would be better if you restate it.

18 Q All right.

19 I'm saying, didn't she realize, didn't Miss Van
20 Houten realize that even before she left Spahn Ranch on the
21 night of the LaBianca murders it was against the law to kill
22 people?

23 A Yes.

24 Q And didn't she realize before she left Spahn Ranch
25 on the night of the LaBianca murders that if she got caught
26 killing somebody she would be punished?

27 A I think so.

28 Q And by realizing it was against the law, in your

1 opinion didn't she realize that she had a duty not to kill
2 people, and that if she violated that duty she would be
3 arrested and might be in big trouble?

4 A Well, it's two questions.

5 I think her -- in view of her altered value system
6 and belief in Manson and loyalty to Manson, I think her duty
7 that she felt was in that direction, not in upholding the law.

8 Though, on the second part of the question, I do
9 think she was aware she could be punished if caught.

10 Q Well, even if she felt that her overriding duty
11 was to Manson, didn't she still realize that she had a duty
12 not to break the law, and if she did she would be arrested,
13 if caught, and punished?

14 A Well, I think her altered thinking was such that
15 she didn't have, as it were, two duties to serve, but that she
16 had one.

17 Q Now, in your opinion, Doctor, a person who commits
18 a willful, deliberate, premeditated murder, so to speak, any
19 person, would you consider that person to be psychiatrically
20 healthy?

21 A Well, I wouldn't say they were or they weren't
22 just on the basis of that.

23 Q In other words, you think that a person can commit
24 a cold, calculated murder and be psychiatrically healthy?

25 A Yes.

26 Q In what type of a situation do you envision that?

27 A Well, let me put it this way:

28 There are a lot of crimes committed; and I wouldn't

1 say they are all committed by people who are mentally ill.

2 Q Well, I'm asking you to envision a set of circum-
3 stances where a person --

4 I'm not talking about somebody that kills in self-
5 defense, or somebody that kills a burglar burglarizing into
6 their house in the middle of the night.

7 I'm talking about somebody that commits a cold,
8 calculated first degree murder, shall we say.

9 In your opinion --

10 MR. KEITH: Well, may the court please, a cold, calculated
11 murder doesn't have to be first degree; it could be manslaughter.

12 I'm going to object.

13 THE COURT: Well, I am going to sustain the objection to
14 the form of the question.

15 Q BY MR. KAY: All right.

16 Would you tell us the circumstances under which
17 you think a person who commits a cold, calculated murder can
18 be psychiatrically healthy.

19 A You want me to give you an example?

20 Q Yes.

21 A Killing for hire.

22 Q You think a hired killer is psychiatrically
23 healthy?

24 A May be, yes.

25 Q Now, isn't your conclusion that Leslie Van Houten
26 couldn't deliberate and premeditate the LaBianca murders --
27 doesn't that rest on your assumption that she told you the
28 truth during your interview and on this tape recording to

1 Marvin Part?

2 A In part, yes.

3 Q And what's the other part that it doesn't rest
4 on?

5 A Well, my observations of her and knowledge of
6 psychiatric cases, and types reactions to drugs, and that
7 sort of thing.

8 Q What did you say; types' reactions to drugs?

9 A Types reactions.

10 Q Oh, types reactions.

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1 Now, you were telling us, I believe, under
2 Mr. Keith's examination, that you felt that Mr. Manson had a
3 great deal of control over Miss Van Houten at the time of the
4 murders; is that right?

5 A Yes.

6 Q Now, let me ask you this:

7 What is your background and experience in the
8 field of attitude change?

9 A Attitude change?

10 Q Yes, or, as we commonly call it, brainwashing?

11 A Well, attitude change is -- I'd say it takes in
12 the whole field of psychotherapy.

13 I mean, psychotherapy takes into consideration or
14 attempts often to change attitudes. Drug effects on
15 individuals can change attitude. Situations or fulfilling
16 expectancies can change attitudes. Reward and punishment can
17 change attitude.

18 Q Let me ask you this: Do you consider yourself an
19 expert in the field of brainwashing?

20 A You mean brainwashing per se?

21 Q Yes.

22 A I haven't worked in that primarily, no.

23 Q Well, have you ever testified in court as an expert
24 in the field of brainwashing?

25 A No.

26 Q Now, you said you believed what Miss Van Houten
27 said on the tape recording to her attorney Marvin Part. And
28 you read Linda Kasabian's testimony, I believe; is that right?

1 A To your first question, I believe she was
2 attempting to tell the truth on the tape.

3 Second, I did read Linda Kasabian's testimony in
4 the transcript, yes.

5 Q All right.

6 Now, assuming that -- Well, as you said, you
7 believed the tape.

8 Assuming that Mr. Manson had such control over
9 Miss Van Houten, and assuming that Mr. Manson directed
10 Miss Van Houten and the others to kill the LaBiancas -- the
11 people in the house, not by name LaBiancas, but the people
12 in the house -- why is it that Miss Van Houten waited until
13 after she thought Rosemary LaBianca was dead before she
14 stabbed her?

15 A My understanding, she was -- her role was assisting
16 the other girl in the killing.

17 Q Well, I'm asking you, why did she wait until
18 after the person -- she felt that Rosemary LaBianca was
19 already dead before she stabbed her if --

20 A As I recall, she waited until she was instructed
21 by Watson to do something.

22 Q Oh, are you saying that she was under the power
23 of Tex Watson?

24 A No, I'm not saying that.

25 Q Now, are you aware that Dianne Lake testified
26 when Miss Van Houten came back to the back house at Spahn
27 Ranch about 7 o'clock in the morning, the morning of the
28 LaBianca murders on August the 10th, that one of the things

1 Miss Van Houten had was a bag of coins, no paper money but
2 coins, and some of them were foreign, some of them were old
3 American coins;

4 And further assume, and of course you said you
5 read Dianne --

6 Well, further assume that Mr. LaBianca had a coin
7 collection in which he had foreign coins and old coins.

8 Now, why, in your opinion, if Miss Van Houten was
9 ordered to kill, why did she apparently steal something from
10 the LaBianca house in addition to participating in the killing
11 if she was so under the influence of Mr. Manson and he did not
12 say anything about stealing anything from the house?

13 In your opinion, why did she do that?

14 A Well, now, did she take the coins, or did she have
15 them when she arrived back at the Spahn Ranch?

16 Q Well, we know from Dianne Lake's testimony, or you
17 can assume that, that she had them when she came back to the
18 ranch.

19 And you can further assume that nobody testified
20 that they saw her carrying a bag of coins going into the
21 LaBianca house.

22 So assume that she did take them from the LaBianca
23 house.

24 In your opinion, why did she do this?

25 And assume that she also had a purse, a small
26 brown purse, which she burned when she came back to the ranch.

27 In your opinion, why did she do this, which
28 apparently she wasn't ordered to do by Mr. Manson, at least

1 by the --

2 MR. KEITH: Well, now --

3 Q BY MR. NAY: -- by the testimony of Linda Kasabian
4 and what Miss Van Houten says on the tape, assuming those two
5 things?

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1 MR. KEITH: I'm going to object to the question.

2 THE COURT: Well, the objection to the form of the
3 question is sustained.

4 MR. KAY: All right.

5 Q Doctor, let me ask you this:

6 Assuming the testimony of Dianne Lake about
7 Miss Van Houten bringing the bag of coins back to the back
8 house;

9 And further assume the testimony of Linda Kasabian
10 that Mr. Manson directed Leslie Van Houten and Tex Watson and
11 Patricia Krenwinkel to go in and, in effect, kill the people,
12 he didn't say anything about stealing anything in the house;

13 And further assume that Miss Van Houten did not,
14 either on the tape or in the testimony of Linda Kasabian, have
15 this bag of coins, was not carrying this bag of coins when she
16 entered the LaBianca residence.

17 Now, in your opinion, why did she apparently take
18 things from the LaBianca house if she was not directed to do
19 so by Mr. Manson?

20 MR. KEITH: Well, I'm going to object to the question
21 again, other than the form --

22 May we approach the bench?

23 THE COURT: Yes. May we have the court reporter.

24 (The following proceedings were held
25 at the bench:)

26 MR. KEITH: I don't think it's a fair question, because
27 I know Manson told them to do something witchy, that's number
28 one, which included all kinds of things.

1 MR. KAY: Well, Leslie said she couldn't buy that on
2 the tape, remember?

3 I think it's --

4 THE COURT: Well, let Mr. --

5 MR. KAY: Okay.

6 MR. KEITH: And furthermore, I don't know that there
7 is any evidence that Leslie did, in fact, take the coins out
8 of the house.

9 There's certainly evidence she had the coins when
10 she returned to the Spahn Ranch.

11 MR. KAY: Circumstantial evidence.

12 MR. KEITH: But it was my understanding that Tex took
13 the coins and gave them to Leslie to keep.

14 MR. KAY: We don't --

15 I think by circumstantial evidence that that is a
16 fair question to ask him.

17 There are two types of evidence, direct evidence
18 and circumstantial evidence, and I think this is one inter-
19 pretation that we can make.

20 Mr. Keith can make another interpretation if he
21 wants.

22 But I think that my interpretation is certainly a
23 fair interpretation that can be drawn from the evidence that
24 we have at this point.

25 THE COURT: Well, based on the hypothetical question,
26 the evidence has to be within the realm of possibility. And
27 the court finds that your interpretation is within that
28 realm.

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2 Of course, the court will instruct the jury as to
3 the hypothetical questions and the fact that each part of it
4 must be proved, and that the court permitting the question
5 only says that it is within the range.

6 So objection is overruled.

7 You may proceed.
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1 (The following proceedings were held in
2 open court in the presence of the jury:)

3 Q BY MR. NAY: Do you remember the question?

4 A I think so.

5 Q All right. Could you answer it, then?

6 A I didn't cover specifically the point whether or
7 not she took the coins. That they did take -- the three of
8 them did take various things, some food, some clothing, and,
9 presumably, the coins.

10 Who initiated that I don't know.

11 Q Well, assume that she took it.

12 A I gather it was to -- the food, the clothing, and
13 the coins were to answer some need that they had at the moment.

14 Q By the way, Doctor, when we were talking last
15 Thursday, you were telling me on cross-examination that it
16 was your belief that you had testified for the prosecution in
17 a murder case since Mr. Keith called you on the Watson case in
18 1971, and that you -- in this case you testified that the
19 defendant could maturely and meaningfully reflect on the
20 gravity of his contemplated act of murder.

21 Have you had a chance to check your records to find
22 out the name of that case and where it was located and who
23 the D.A. was?

24 A No, I haven't had a chance to hardly do anything
25 but take care of immediate things.

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7-1
1 Q Now, you said that you took into consideration the
2 medical records of Miss Van Houten at Frontera; is that right?

3 A Yes.

4 Q And you thought that she was telling you the
5 truth when you spoke to her during your interviews about this
6 case?

7 A Yes.

8 Q Did you take into consideration in these reports
9 the custodial evaluation of --

10 Well, I take it you read all these reports.

11 A Yes.

12 Q All right.

13 Did you take into consideration the custodial
14 evaluation done by a C. Hernandez, done on July 21st, 1971,
15 in formulating your opinion about Miss Van Houten and her
16 mental state?

17 A Is there a particular page for that?

18 Q Yes; that's page 13, Doctor.

19 (Pause.)

20 A Yes.

21 Q Did you take into consideration that this
22 C. Hernandez wrote about Miss Van Houten that -- and this is
23 the first, second, third, fourth paragraph, the second sentence:

24 "She is very manipulative and also
25 plays one staff against another, along with her
26 crime partners. So adept is she in manipulating
27 that there was dissension among the watch women."

28 Did you take that into consideration?

1 A Yes.

2 Q But your opinion is that she didn't manipulate
3 you; is that right, Doctor?

4 A That's correct.

5 MR. KAY: I don't have any further questions.

6 THE COURT: Mr. Keith.

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REDIRECT EXAMINATION

9

BY MR. KEITH:

10 Q Do you have that file with you, Doctor, from
11 Frontera?

12 A Yes.

13 Q Do you know who C. Hernandez is?

14 A No.

15 Q Do you know when this report was even written by
16 C. Hernandez, whoever she might be?

17 MR. KAY: I stated that it was in July '71. It's at
18 the bottom.

19 MR. KEITH: Oh, you're right.

20 Q Do you know what "WC S-II" is? That's --
21 May I approach the witness, Your Honor?

22 THE COURT: Yes.

23 Q BY MR. KEITH: That's appended to C. Hernandez'
24 name.

25 A It's some title for a watchwoman, I guess. Watch
26 commander?

27 Q It's some kind of guard, wouldn't you say?

28 A Yes.

1 Q There's nothing in this report to indicate
2 G. Hernandez, whoever he or she might be, has any training
3 in the field of sociology or criminology or psychiatry or
4 psychology or any other discipline; isn't that right?

5 A That's correct.

6 Q Did you read a report from a Dr. Flanagan?

7 A Yes.

8 Q And he was apparently a psychiatrist that worked
9 with Leslie at Frontera?

10 A Yes.

11 MR. KEITH: If I can find it.

12 (Brief pause.)

13 Q BY MR. KEITH: Did Leslie tell you about seeing
14 psychiatrists and social workers and psychologists during her
15 stay at Frontera?

16 A Yes.

17 Q Incidentally, did Leslie tell you, in substance,
18 that it took a long time for her to be free from Manson's
19 influence?

20 A Yes.

21 Q And that it's only been within the last two or
22 three years when she felt that she was out from under him,
23 so to speak?

24 A Yes.

25 Q Did you read certain psychologists' reports, too,
26 in the Frontera file?

27 A Yes.

28 Q Incidentally, did you consider that file in

1 reaching a determination at the present time that Leslie
2 evidences, I believe you say, no psychopathology?

3 A Yes.

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1 Q Did you read a report of Dr. Flanagan, read and
2 consider a report of Dr. Flanagan, M. D., Senior Psychiatrist,
3 dated August 31st, 1973, that says at the end, the last
4 paragraph:

5 "At this time there is no evidence
6 of psychopathology that would warrant inclusion
7 in any particular diagnostic category. Her
8 intelligence, perceptiveness, self-discipline
9 and capability of being truthful and
10 establishing loyal and trusting relationships
11 are positive prognostic findings."

12 Did you read that --

13 A Yes.

14 Q -- and consider it?

15 A Yes.

16 Q Did you also read and consider the paragraph above,
17 this report dated August 31st, 1973:

18 "From a therapeutic standpoint she --"
19 meaning Lettie, "-- is capable of gaining and
20 growing from interactions with personalities who
21 have successfully established themselves in
22 organized society."

23 Did you read and consider that?

24 A Yes.

25 Q And Dr. Flanagan's final report doesn't seem to be
26 here, but it's somewhere.

27 A (Witness hands counsel document.)

28 Q Oh; part of the file fell apart; I see.

1 All right.

2 A I'm sorry; I didn't realize you were looking for
3 it. It's that latter one.

4 Q Did you read a report of Randall L. Black, M. D.,
5 Staff Psychiatrist, dated August 25th, 1975?

6 A Yes.

7 Q Did you also consider that report in reaching your
8 diagnosis that presently she evidences no psychopathology?

9 A Yes.

10 Q And did he say --

11 MR. KAY: Excuse me, counsel; what page is that?

12 MR. KEITH: That would be page 43.

13 MR. KAY: I only go up to 41.

14 MR. KEITH: You can share it with me.

15 Q Did he say:

16 "As described above --"

17 I can't read it when you are doing that.

18 (Laughter.)

19 "As described above, there is no
20 specific psychopathology found in this woman's
21 mental examination."

22 A Yes.

23 Q (Reading)

24 "Nevertheless, it is easy to see
25 that she has a history of multiple drug abuse."

26 A Yes.

27 Q Do you remember reading that?

28 A Yes.

1 Q (Reading)

2 "Abuse of hallucinogens can effect
3 that portion of the personality (i.e. the ego)
4 that controls ones impulses."

5 Did you read that?

6 A Yes.

7 Q Is that generally an accurate statement?

8 A Yes.

9 Q Not necessarily about Leslie, but about people
10 in general who use LSD to excess?

11 A Yes.

12 Q (Reading)

13 "Such loss of control could have
14 made it more easy for her to become involved
15 in aggressive acts as she has been in the past.
16 At the time of our interview there appeared to
17 be no residual effects of chronic hallucinogen
18 abuse. I have not observed this woman over a
19 long period of time but during her initial two
20 weeks of programming on the Psychiatric Treatment
21 Unit she has been eager to program well."

22 Did you read and consider those remarks and
23 observations?

24 A Yes.

25 Q All right. Did you read Dr. Flanagan's report?
26 He's a psychiatric consultant at Frontiers, and he's
27 an M.D.?

28 A Yes.

1 Q And did he say --

2 First let me ask you, did you consider

3 Dr. Flanagan's report? I think that's important to ask you.

4 A Yes.

5 Q And does he say:

6 "There is no evidence of any mental
7 disorder and no gross clinical findings that
8 would be indicative of any neurological impair-
9 ment. Intellectual level is estimated to be
10 bright normal to superior."

11 Do you remember reading that?

12 A Yes.

13 Q Incidentally, this report was written July 20th,
14 1976.

15 A Yes.

16 Q You understand that.

17 A Yes.

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1 Q And did he go on to say,

2 "Although there is a history of
3 drug dependence, hallucinogens, there are no
4 findings at this time that would warrant
5 inclusion in any category of mental disorder"?

6 Did you read that --

7 A Yes.

8 Q -- and consider that?

9 And did Dr. Flanagan say,

10 "At the time this young woman
11 involved herself in circumstances leading to
12 the offenses and the aftermath which followed,
13 the time was the late 1960s. Abuse of psych-
14 delic drugs was widespread and openly advocated
15 by certain sectors of the academic community
16 as well as by the communications and entertain-
17 ment media. Value systems were under open
18 assault, with rebellion and revolution being
19 openly advocated. These conditions have ebbed
20 and faded with the passage of time. Ms. Van
21 Houten has disassociated herself from that
22 situation. She has ability and potential and
23 is considered motivated to develop her positive
24 assets. The overall prognosis in terms of her
25 becoming a productive and contributing member
26 in the community is considered to be favorable.

27 "From a psychiatric point of view,
28 there are no contraindications for parole

1 consideration."

2 Did you consider that language I have just read
3 to you in reaching your diagnosis about her mental state?

4 A Yes.

5 Q All right.

6 Now, Doctor, Mr. Kay discussed certain law with
7 you, did he not, concerning definitions of deliberate and
8 premeditated murder, definitions of malice aforethought, and
9 definitions of manslaughter.

10 Recall his discussing those terms with you?

11 A Yes.

12 MR. KAY: I didn't discuss anything about manslaughter.

13 MR. KBITH: Well, you talked about malice aforethought.

14 Q And he told you, did he not, that malice is
15 implied when the killing results from an act involving a high
16 degree of probability that it will result in death; and you
17 answered his question that what Leslie and the other people
18 did involved an act carrying a high degree of probability of
19 death, right?

20 89 A That's correct.

21 Q All right.

22 Now, he also asked you, and he was reading at the
23 time from the law, whether or not what Leslie did was an act
24 done for a base, antisocial purpose.

25 Now, isn't it true, Doctor, that in the minds of
26 Manson and his followers this wasn't done for a base, antisocial
27 purpose, it was done in the highest motivation of society.

28 Did you consider that in answer --

1 Well --

2 Q Isn't there that feature?

3 A Yes.

4 His question was did I consider it a base, antisocial
5 act, and I, of course, do.

6 Q We are talking about Leslie's state of mind.

7 A Right.

8 Q Did they do it because of a base antisocial
9 purpose, or did they do it because they felt it was perfect
10 and ordained by God and Jesus Christ, and that it was the best
11 thing that they could possibly do to foment Helter Skelter?

12 A Yes.

13 Q So, in your opinion, Doctor, as a psychiatrist, did
14 Leslie involve herself in the LaBianca homicides for a base
15 antisocial purpose in her mind; not your mind or my mind but
16 her mind?

17 A No.

18 Q And you have told us, Doctor, that you believed
19 that Leslie appreciated that it was against the law to go out
20 and kill somebody, right?

21 A Yes.

22 Q And you have told us that she was aware or
23 appreciated she could be punished if she were caught, I believe?

24 A Yes.

25 Q Did you not also tell us in your opinion she was
26 not aware of her duty, of her duty, not just aware of what
27 the law was, but her duty to conform her conduct to the laws
28 of society?

1 A That's correct.

2 Q I mean, in your opinion, was she aware of that
3 duty at the time of the LaBianca homicides, or was her
4 awareness of that duty, if any, grossly impaired by reason of
5 her connection with Manson and all the other factors that you
6 have told us about?

7 A I believe it was grossly impaired.

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1 Q Now, did anybody ever tell you, Doctor -- I thought
2 I did, but maybe I didn't -- did anybody ever tell you that
3 if someone is unaware of one's duty to act in conformance with
4 the laws of society, and as a result thereof perpetrates a
5 homicide, that that mental state -- that mental state, lack of
6 awareness of duty, can and does negate the existence of malice
7 aforethought?

8 Are you aware of that?

9 A Yes.

10 Q All right.

11 And were you aware that in order to be guilty of
12 murder, either first or second degree, the perpetrator has to
13 harbor the mental state comprising malice aforethought?

14 A Yes.

15 Q And were you aware that manslaughter is a homicide
16 committed in the absence of malice aforethought?

17 Were you aware of that?

18 A Yes.

19 Q In other words, the sine qua non of murder, whether
20 first or second degree, is malice aforethought; and, on the
21 other hand, the sine qua non of manslaughter, whether voluntary
22 or involuntary, is the absence of malice aforethought?

23 A Yes.

24 Q Now, Mr. Kay told you about -- or at least asked
25 you, I don't know whether he told you, but he asked you about
26 deliberation and premeditation --

27 A Yes.

28 Q -- did he not?

1 Now, are you aware that one kind of first degree
2 murder can be based on deliberation and premeditation?

3 In other words, a premeditated deliberate murder
4 is murder in the first degree?

5 A Yes.

6 Q Now, there's other kinds of first degree murder,
7 but that's one kind.

8 Are you aware of that?

9 A Yes.

10 Q And were you aware of the definition of deliberate
11 and premeditated murder at the time you formed your opinion
12 that Leslie lacked the capacity to deliberate and premeditate,
13 or were you fully aware of it or --

14 A Well, not in the technical legal sense.

15 Q Well, let me read from it and find out if you are
16 aware of it now.

17 I'm going to read an instruction.

18 "The word 'deliberate' means formed
19 or arrived at or determined upon as a result of
20 careful thought and weighing of considerations
21 for and against the proposed course of action.

22 "The word 'premeditated' means
23 considered beforehand."

24 Now, you didn't have that definition quite down,
25 did you --

26 A No.

27 Q -- when you testified on cross-examination?

28 A No.

1 Q (Reading)

2 "Deliberate" means formed or
3 arrived at or determined upon as a result of
4 careful thought and weighing of considerations
5 for and against the proposed course of action."

6 Do you understand what "deliberate" means
7 now in the law? Maybe not --

8 A Yes.

9 Q -- to you as a --

10 And I'm going to read you something else, if I
11 can find it.

12 And when you formed your opinion that Leslie was
13 unable to deliberately premeditate, as that term is defined,
14 did you consider this rule of law, and I'll read:

15 "Thus, if you find that the
16 defendant's mental capacity was diminished to
17 the extent that you have a reasonable doubt
18 whether he did maturely and meaningfully
19 premeditate, deliberate, and reflect upon the
20 gravity of his contemplated act, or form an
21 intent to kill, you cannot find him guilty of
22 a willful, deliberate, and premeditated murder
23 of the first degree."

24 Were you aware of that full instruction at the
25 time you formed your opinion that Leslie was unable to
26 deliberate or premeditate?

27 A Not to that extent, no.

28 Q Does that help you at all? Does that reinforce

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your opinion --

A Yes.

Q -- or detract from it?

A It doesn't detract from it.

1 Q And were you aware when you formed your opinion
2 about Leslie's awareness of her duty to conform to the laws
3 of society, were you aware of this instruction that says also,

4 "If you find that the defendant's
5 mental capacity was diminished to the extent
6 that you have a reasonable doubt whether he was
7 able to form the mental states constituting
8 either express or implied malice aforethought,
9 you cannot find him guilty of murder of either
10 the first or second degree."

11 Were you aware of that instruction?

12 A I am now, yes.

13 Q And were you aware of the law that said the one
14 way to define malice aforethought is this problem of awareness
15 that we've been discussing, awareness of one's duty to conform
16 one's conduct in the laws of society.

17 Were you aware that that is a definition of malice
18 aforethought?

19 A Well, I --

20 Q Were you aware then?

21 A No.

22 Q Are you aware now?

23 A Yes.

24 Q Does that reinforce -- Having that awareness,
25 does that reinforce or detract from your opinion?

26 A It certainly does not detract.

27 Q Have you read any articles on thought control or
28 coercive persuasion or attitude change --

1 A Yes.

2 Q -- as Mr. Kay used?

3 A Yes.

4 Q Brainwashing isn't a psychiatric -- accepted
5 psychiatric term, is it, or isn't it? I don't know.

6 A It's --

7 Q It's a popular term, certainly.

8 A Right.

9 Q But have you read some of the literature covering
10 the subject that's popularly known as brainwashing?

11 A Yes.

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1 Q And do you have a better definition of that kind
2 of activity than brainwashing?

3 Or does psychiatry have a better definition for
4 it?

5 A The term "coercive persuasion" would be perhaps
6 better, a more technical term.

7 Q That's used by other psychiatrists, purportedly
8 having expertise in the field; is that not right?

9 A Yes.

10 Q What literature, if any, have you read on the
11 subject of coercive persuasion, if you have read anything?

12 A Well, various articles have appeared, particularly
13 after the Korean conflict, in the psychiatric journals.

14 Q Do you find any elements of that type of conduct,
15 known as coercive persuasion, in Leslie's case, even though
16 you don't claim any particular expertise in the field?

17 A Yes.

18 Q What elements would you find?

19 A One was that Manson had a way to make people fear
20 him. Also want to please him and obey him.

21 Q And did you find any elements, from the facts you
22 have learned about this case, of Manson programming, if I can
23 use that term, his followers?

24 A Yes.

25 Q Is programming a kind of -- or at least a factor
26 in coercive persuasion?

27 A Yes.

28 Q And by programming I mean going over and over and

1 over and over again the same material until somebody believes
2 it.

3 A Yes, and restructuring one's priorities and values.

4 Q Do you feel that LSD played a factor -- rather, the
5 chronic use of LSD played a factor in facilitating this pro-
6 gramming that Manson used?

7 A Very much, yes.

8 Q Doctor, in your research as a clinician, when
9 somebody is under the influence, the acute influence of LSD,
10 actually having an experience or a trip, are they unable to
11 comprehend or do they have difficulty comprehending the words
12 spoken by another?

13 A Yes, and --

14 Q I probably --

15 All right; go ahead and answer that question.

16 A It's a state of altered awareness, which can be
17 altered to varying degrees depending in part on the dose of
18 LSD taken.

19 And in that state of altered awareness, one gets
20 different meanings or concepts of the importance regarding
21 either words or pictures or other types of stimuli.

22 Q Can you be receptive, while on an actual trip,
23 to the outside stimuli?

24 Or are you so introverted during a trip that you
25 don't think about anything but yourself and the mystical
26 experience of the trip?

27 Do you understand my question?

28 A Yes. You are very vulnerable to the setting with

1 which you are in, the stimuli that is presented to you,

2 Q I'm talking about while actually under the acute
3 influence of the drug.

4 A That's what I am speaking of.

5 One is quite suggestible, quite vulnerable to
6 various types of stimuli.

7 Q Now, Doctor, would you expect that an individual
8 such as Leslie, who has taken many, many trips over a period
9 of four to five years, or so, to be unable to articulate or
10 be unable to express views or be unable to speak clearly --

11 A No.

12 Q -- after so many experiences?

13 A No.

14 Q What I am getting at is, you heard that tape, didn't
15 you --

16 A Yes.

17 Q -- made by Marvin Part and Leslie?

18 And you could hear and understand just about
19 everything Leslie said.

20 A Yes.

21 Q And Leslie appeared to be oriented on the tape,
22 did she not?

23 A Yes.

24 Q And she appeared to be able to articulate her
25 thoughts quite well --

26 A Correct.

27 Q -- wouldn't you say?

28 Does that suggest to you that Leslie hadn't taken

1 very much LSD at all?

2 Or isn't there a correlation between being able to
3 articulate and --

4 A No, there is no impairment of verbal facility.
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1 In fact, when we were running LSD experiments,
2 some -- we were doing what we call "double-blind."

3 Some people got distilled water and some people
4 got LSD; and it would take a very trained observer to be able
5 to determine who had LSD and who didn't.

6 It wasn't easy to do. The person who was trained
7 of course would always look for dilated pupils and able to
8 spot it quite readily.

9 But you couldn't always spot it at all from
10 behavior or from what was said.

11 Q Does physical activity become difficult when one
12 is on an actual trip?

13 A The person who is under LSD fears that they are
14 unable to function motorwise.

15 Also, they tend to be somewhat physically indolent,
16 that is, prefer to lie around rather than be physically active.

17 Consequently, most people are fairly passive,
18 from the standpoint of movement, while under LSD.

19 Q Is this one of the reasons why in your opinion you
20 didn't think Leslie was on an actual trip or under the acute
21 effects of LSD on the night of the LaBianca homicides, because
22 of the history that she fell asleep in the car and certainly
23 did perform some motor functions in the LaBianca home and
24 walked all the way home, or at least walked for a distance
25 until they caught a ride?

26 A Right.

27 Particularly the falling asleep. One just doesn't
28 fall asleep under LSD.

1 Q Did you ever talk to this UCLA psychiatrist by
2 the name of Ron Siegel?

3 A I --

4 Q Not about this case, necessarily, but I mean in
5 general?

6 A I think I know him; but I don't recall any
7 conversations with him.

8 Q Is he a researcher there, to your knowledge?

9 A I gather he is now, yes.

10 Q My notes indicate that you were asked on cross-
11 examination by Mr. Kay if everybody didn't do one's own thing
12 under the acute effects of the drug.

13 Is that necessarily so, that one does one's own
14 thing?

15 A No. One --

16 A group may go along with a directed activity.

17 Q What I am asking is, does one person do one's own
18 thing under the --

19 Actually, when one is under the actual acute
20 influence one doesn't do too much of anything, necessarily;
21 isn't that right?

22 Not necessarily, but usually.

23 A Well, they might not carry on a lot of activities,
24 functional activities, but they do an awful lot of thinking
25 and feeling.

26 Q Yet, someone under the influence can do some
27 outrageous things, I presume.

28 A Yes.

1 Q Outrageous in the sense of bizarre.

2 A Yes, they act bizarre and people have done --
3 there have been suicides.

4 All kinds of erratic and peculiar behavior.

5 Q Is what you are saying, that the effects of the
6 drug, at least acute effects, are very unpredictable?

7 A "Un --"?

8 Q Unpredictable.

9 A Yes.

10 Q Now, Doctor, was one of your findings that Leslie,
11 when a child, had a strong ego or a normal ego, or something
12 like that?

13 A Well, that she was a fairly healthy, outgoing
14 child who related well with her parents.

15 Q And can LSD have, in and of itself -- at least a
16 continued use -- have the effect of impairing one's ego?

17 A Yes.

18 Q I'm not talking about external stimuli or influence,
19 now; I'm talking about the drug itself.

20 Can it have that effect?

21 A Yes.

22 Q I mean, can it make a strong man weak, for instance?

23 Not a strong man physically, but mentally weak from
24 continued use.

25 A Yes.

26 Q For instance, is it inconsistent, as a result of
27 your experience in researching in the field and your experience
28 as a clinician, for someone with a strong ego to take the drug

1 on a continued basis and have it affect them seriously or
2 adversely?

3 A Yes.

4 Q Is that --

5 I have lost the thread of my question.

6 That's consistent or inconsistent with the continued
7 use of the drug?

8 A It's consistent.

9 Q And a weak personality can get weaker?

10 A Yes.

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1 Q Would you say Dr. Leary is an example of an
2 intelligent, highly educated, person who sort of went to pieces
3 from excessive use of the drug?

4 A That's my opinion, yes.

5 Q That's Timothy Leary?

6 A Yes.

7 Q And has he, to your knowledge, rehabilitated
8 himself?

9 A I gather he has, to some extent.

10 Q Were you aware, Doctor, or did you learn as a
11 result of your exposure to this case, that one of Manson's
12 concepts was ego destruction?

13 A Ego death, yes.

14 Q And that Manson lectured and preached on that
15 subject, that one must let their ego die?

16 A Yes.

17 Q And would you think that someone like Leslie, after
18 using as much LSD as she did, plus having it pounded into them
19 by Manson that one's ego should die, that her ego was likely
20 to die?

21 A Yes.

22 Q Now, we've been talking about ego.

23 What do you mean by "ego" psychiatrically?

24 A It's a psychoanalytic term to express the
25 controlling part of the personality, the ruling part of the
26 personality, between the internal reality and external stimuli.

27 Q What was that again?

28 A The ruling part of the personality, the controlling

1 part of the personality, between the internal reality and
2 the external stimuli and the external reality.

3 Q What happens psychiatrically, if you know, when the
4 ego is, in fact, subjugated?

5 A Well, judgment becomes impaired, critical thinking
6 becomes impaired, reality testing becomes impaired.

7 MR. KEITH: I don't have any further questions.

8 THE COURT: Mr. Kay?

9 MR. KAY: Thank you.

10
11 RE-CROSS-EXAMINATION

12 BY MR. KAY:

13 Q Dr. Ditman, Mr. Keith read a report from Dr. Brown.

14 MR. KEITH: Dr. Brown? I think --

15 MR. KAY: Or Dr. Black, excuse me. I got my colors
16 mixed up.

17 MR. KEITH: Yes.

18 Q BY MR. KAY: Dr. Black.

19 Did you take into consideration that in his report
20 he said that during the interview she was somewhat guarded
21 during the interview and that she attempted to, quote, say the
22 right things?

23 Did you take that into consideration?

24 A Yes.

25 Q Now, you are aware, are you not, Dr. Ditman, that
26 we're talking about the LaBianca murders in this case and that
27 they occurred on August the 10th, 1969?

28 Are you aware of that?

1 A Yes.

2 Q Did you take into consideration -- and you realize
3 that 1971, when Miss Van Houten went to Frontera, is closer to
4 1969 than 1977 is when you interviewed her?

5 A Yes.

6 Q All right.

7 Did you take into consideration the psychologist's
8 report of Dr. Fishman back in May -- May 20th, 1971, when he
9 said that she had superior intelligence, strong drive and
10 ambition, excellent performance in visual motor tests, and
11 handling of numbers, abstraction is also high, subject is
12 mentally able to concentrate for hours.

13 Did you take that into consideration in formulating
14 your opinion?

15 A Yes.

16 Q Did you take into consideration Dr. Coburn's
17 examination of her where he stated that her own individual
18 rage and capability for violence was in tune with the action
19 of the LaBianca murders and provided her with an immense sense
20 of release.

21 Did you take that into consideration?

22 A Yes.

23 Q Did you take into consideration that Dr. Coburn,
24 in his interview with her on June 15th, 1971, said that she
25 was fully alert, oriented, and cooperative; that there was
26 no indication of hallucinations, systemitized allusions --

27 By the way, what is a systemitized allusion?

28 A Well, it is very explainable, as if it could really

1 be so. Hangs together, so to speak.

2 It is not just a loose disorganized delusional
3 system.

4 In psychotic individuals you see both kinds of
5 delusional systems.

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DATE 11-11-1981

1 Q And he continues:

2 -- or indications of overt psychosis.

3 And he says,

4 "Recent and day-to-day memory was
5 excellent, and there appeared to be no evidence
6 of organic brain disease."

7 Did you take that into consideration, Doctor?

8 A Yes.

9 Q Now, Mr. Keith asked you a question about the
10 instruction of malice aforethought.

11 Do you remember him asking you questions about
12 that?

13 A Yes.

14 Q All right.

15 You understand that there are two types of malice,
16 do you not, either it can be express malice or implied malice?

17 A Yes.

18 Q And you don't have to have both.

19 Do you understand that one type of -- well, the
20 deliberate premeditated type of murder, it says, reading from
21 the top of Instruction No. 8.201

22 "All murder which is perpetrated
23 by any kind of willful, deliberate, and
24 premeditated killing with malice aforethought
25 is murder of the first degree."

26 You understand malice can be either express or
27 implied?

28 A Yes.

1 Q Now, Mr. Keith read about the -- in the question
2 I asked you about the base antisocial purpose, and it says:

3 "Malice is implied when the killing
4 results from an act involving a high degree of
5 probability that it will result in death, which
6 act is done for a base, antisocial purpose."

7 Now, does it say in that instruction, Doctor, that
8 it has to be in the mind of a perpetrator that it is a base,
9 antisocial purpose or that it's in the law of society that it's
10 a base, antisocial purpose?

11 MR. KEITH: If the court please, we are arguing about
12 the law, and we --

13 THE COURT: Well, the objection is sustained.

14 MR. KAY: All right.

15 THE COURT: The court will instruct the jury as to the
16 various definitions.

17 Q BY MR. KAY: Now, when Mr. Keith read the questions
18 asking you about the question of deliberate and premeditated --
19 Well, of course, we've already covered premeditated.
20 Now, directing your attention -- Well, when
21 Mr. Keith read to you he said the word "deliberate" means
22 formed or arrived at or determined upon as a result of careful
23 thought and weighing of considerations for and against the
24 appropriate course of action.

25 Now, Doctor, isn't it true that it does not say
26 in that definition that the thought -- the careful thought has
27 to be appropriate thought.

28 Did you hear the word "appropriate" in there --

1 A No.

2 Q -- when Mr. Keith read that definition to you?

3 A No.

4 Q I take it that you feel that if a -- in your
5 opinion -- if a person was thinking appropriately, the person
6 probably wouldn't kill anybody; is that right?

7 A One could use the word in that way, yes.

8 Q All right.

9 Now, directing your attention to the tape recording
10 of Miss Van Houten, which you said that you believed in, on
11 page -- starting at page 18, when she talks about Susan Atkins
12 coming back from the Hinman murder and telling her about that,
13 and she says, "After that --" reading, starting at line 5 --

14 "And after that -- Well, we were
15 all almost fascinated by the thought of killing
16 people just because we'd been, you know, taught
17 to stay away from it and nobody knows about death,
18 really, you know."

19 And then she says at the -- talks about, at the
20 bottom of the page, Mr. Manson coming in to where she and
21 Patricia Krenwinkel were that night, and she says Mr. Manson
22 says, starting at line 26,

23 "Do you see why I believe that we
24 have to kill?"

25 And Miss Van Houten says, "We --" talking about
26 she and Patricia Krenwinkel --

27 "And we both said, 'Yes,' you know,
28 'we see.'

1 "He said, 'Do you want to do it?'

2 "And we said, we said, 'No, but
3 we know that it has to be done; so, yes.'

4 "You know, in other words, we didn't
5 want to go out and actually like do somebody in,
6 but it had, it had to be done; and we were the
7 only ones that saw that it had to be done."
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1 Then she talks about that she went to sleep and
2 Katie did, too, and then Katie -- Charlie came in later and
3 got Katie, and she said, ". . . I sort of had an idea it was
4 to go do some, you know, knock somebody off."

5 And then over at page 20 she talked about Patricia
6 Krenwinkel coming back and filling her in about the Tate
7 murders. And she says, at line 20 and 21, that

8 ". . . I wanted to, too."

9 And then on page 21, she states, and, of course,
10 this is even before going out on the LaBianca murders,

11 "So I was feeling kind of bad,
12 because I didn't get to go.

13 "I was sure hoping that if we did
14 it again I could go."

15 "Because it --" and then she starts at line 15 --

16 "Because it had to be done. It had
17 to be done just in order for the whole thing
18 to be completed," this had to be done.

19 "And I wanted to do it, because I
20 thought that if I could go out and kill someone
21 that I would -- you know -- it's not an easy
22 thing to do it -- and that I -- in a sense I
23 would be giving up totally to what I believed
24 in because I would have to pay the consequences
25 if they were to come back,"

26 And Mr. Part asked her what she means, "if they
27 were to come back,"

28 And on page 22, starting at line 5 -- actually at

1 line 8 --

2 Well, Mr. Part says:

3 "You say, 'They were going to come
4 after me.' Do you mean the people, or you meant
5 the people that were killed would come back, or
6 what do you mean?

7 "MISS VAN HOUTEN: No. That the man would
8 come and try to get me for doing what I did.

9 "MR. PART: What man was that?

10 "MISS VAN HOUTEN: Oh, the police.

11 "MR. PART: Oh."

12 Now, doesn't -- even just this part, not taking
13 into consideration the things that you didn't read in the case,
14 but just taking into consideration this tape recording to
15 Marvin Part, doesn't that show that Miss Van Houten did care-
16 fully think about what she was going to do and she was aware
17 of the considerations, and weighing the considerations: That
18 she might get arrested and punished for it, but decided to go
19 ahead and do it anyway?

20 Doesn't it show that?

21 A Well, it shows that; but it shows a god-awful
22 corrupt value system, too, as if it were serving some person
23 of a higher order.

24 Q But again, the definition Mr. Keith read to you,
25 the word "deliberate" means formed or arrived at or determined
26 upon as a result of careful thought and weighing of
27 considerations for and against the proposed course of action.

28 Now, wouldn't you say under that definition that

1 she did give careful thought and weighed the considerations
2 for and against the proposed course of action?

3 A Well, if we are talking about maturity and if you
4 are leaving out the pathology of the thinking processes, then,
5 yes.

6 Q Do you know, Doctor, how the law defines "mature"
7 and "meaningful"?

8 A (No response.)

9 Q Assuming that it does define it, do you know how
10 it does?

11 MR. KEITH: Well --

12 THE WITNESS: Pardon me?

13 Q BY MR. KAY: Do you know how the law defines
14 "mature" and "meaningful"?

15 A Well, I think so.

16 Q Excuse me?

17 A I think so.

18 Q And where did you read that definition, or those
19 definitions?

20 A Where?

21 MR. KEITH: Well, now I'm going to object.

22 Q BY MR. KAY: Yes.

23 MR. KEITH: May the court please, he's arguing about
24 the law again that comes --

25 THE COURT: Well, the objection is overruled. He's
26 asking concerning where he got the definitions which are part
27 of his opinion.

28 The objection is overruled.

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The witness may answer.

THE WITNESS: Some time ago I read the various defini-
tions of "intent" and "maturity" and "meaningful," and such
descriptions as that.

EXHIBIT

1964-1965

1 Q BY MR. KAY: Where did you read those?

2 A They were actually Xeroxed copies from I guess --
3 what, a legal book or a journal?

4 Q And I take it that your definitions of "mature"
5 and "meaningful" are exactly what you said before, when I
6 asked you.

7 I mean, have they changed between the time I
8 asked you this morning what your definitions were and now?

9 A You mean my definitions of "mature" and "meaningful"?

10 Q Yes.

11 A Or as opposed to the legal ones?

12 Q Well, is there a difference between your definition
13 and what you believed to be the legal definition?

14 A Well, I think there may be a difference between
15 the psychiatric definition of "maturity" and the psychiatric
16 definition of "meaningful" than perhaps the legal.

17 Q Now, you have no doubt, do you, Dr. Ditsman, that
18 Miss Van Houten was able to form an intention to unlawfully
19 kill a human being on the night of the LaBianca murders?

20 A No.

21 Q And you don't --

22 Well, do you believe that she had -- that she
23 was aware of the duty imposed upon her not to commit acts which
24 involved the risk of grave injury or death at the time of
25 the LaBianca murders?

26 A I don't think she was aware of it in the legal
27 sense.

28 I think she was more aware of the duty to Manson

1 and the ideology she had adopted in the relationship to him.

2 Q Well, by "being aware of that duty," if you have
3 an awareness that it's against the law and that if you commit --
4 if you do it you're going to get arrested and punished, isn't
5 that being aware that you have a duty not to do it, in your
6 opinion?

7 A Well, I think it's a matter of definition of
8 awareness; that she was aware of two duties.

9 And how can one be, as it were, aware of both
10 if it merely means that you are obligated to conform?

11 Q Well, now, if a person, say, for example, wants
12 to smoke a marijuana cigarette because they think that that's
13 a pleasurable thing to do, and yet they realize that, you know,
14 it's against the law and if they get caught smoking it by a
15 police officer they might get arrested, but still they go ahead
16 and do it.

17 I mean, don't they have two duties: They have,
18 one, the pleasurable duty, doing what they want to do; but
19 yet an awareness that they could still get in trouble if they
20 got caught doing it.

21 A Yes.

22 Q Well, didn't Miss Van Houten on the night of the
23 LaBianca murders, in your opinion --

24 Even though she had the awareness of two duties,
25 wasn't the one awareness that she had the duty not to violate
26 the law or that she would be arrested?

27 A Well, she had a delusional value system instilled
28 by Manson, which corrupted, let's say, her awareness and sense

1 of duty to the law as we know it.

2 Q But let me ask you this:

3 If her duty -- if her awareness of her duty not to
4 do this was so corrupted, why did she do all these things
5 after the murder, like wiping fingerprints and burning evidence
6 to connect her with the crime, and hiding from somebody that
7 could possibly place her in the location where the LaBiancas
8 lived, the man that gave her a ride home?

9 THE COURT: Well, that question has been asked and
10 answered several times.

11 The court sustains an objection to it.

12 MR. KAY: All right.

13 I don't have anything further, then.
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1 THE COURT: Anything further, Mr. Keith?

2 MR. KEITH: I just want to ask one question.

3 THE COURT: All right.

4 MR. KEITH: If we may. It may evolve into two questions,
5 but --

6 THE COURT: I'm not worried about one or two; but if it
7 is going to be substantially more than that, we are going to
8 have to continue it to another hour.

9 I have a meeting at noon and --

10 MR. KEITH: No; I will be through.

11

12

REDIRECT EXAMINATION (Resumed)

13

BY MR. KEITH:

14

Q Doctor, you give us the psychiatric definition,
15 if there is one, of "mature" and "meaningful" thought.

16

Because I'll let you in on a secret: There isn't
17 any legal one; he was trying to trick you.

18

Now, you told me the psychiatric --

19

A The psychiatric?

20

Q Yes.

21

MR. KAY: Well, I'm going to object to that question
22 as stated by Mr. Keith.

23

THE COURT: Well, the jury is admonished to ignore the
24 statement.

25

The court will instruct the jury concerning the
26 law in this matter.

27

Now, Mr. Keith, do you have a question you want
28 to ask?

1 MR. KEITH: Yes; I want his definition, psychiatrically,
2 Webster's definition; you name it.

3 MR. KAY: Well, I will object to that. That's been asked
4 and --

5 THE WITNESS: Well --

6 MR. KAY: I will object. That's been asked and answered
7 already this morning, his definition.

8 MR. KEITH: All right.

9 Q Doctor --

10 THE COURT: Just a minute.

11 Dr. Ditman, would you give us your definition of
12 "meaningful" and "maturely" as you use the terms.

13 THE WITNESS: I mean that the person is free -- if they
14 are fully mature, and they are free of psychiatric disease or
15 toxicity or impairment.

16 MR. KEITH: I don't have any other questions.

17 THE COURT: All right.

18 MR. KAY: I don't have any further questions.

19 THE COURT: All right.

20 Doctor, you may step down. You are excused. Thank
21 you.

22 THE WITNESS: Thank you.

23 THE COURT: All right.

24 Ladies and gentlemen of the jury, let me advise
25 you at this time that the court is going to recess in this
26 matter until tomorrow morning at 10 a.m., since no other
27 witnesses are available at this time.

28 So in order to accommodate the schedule, we will

1 not be in session this afternoon.

2 Bear in mind during this recess you are not to
3 discuss this case amongst yourselves or with anyone else and
4 you are not to form any opinion concerning this matter or
5 express any opinion concerning this matter until the case is
6 finally given to you.

7 Furthermore, you must not allow yourselves to read,
8 see, or hear any news media accounts of this matter.

9 All right. The bailiff is instructed to take you
10 to lunch. After that you will be free, to return tomorrow
11 morning at 10 a.m.

12 The defendant and counsel are ordered to return
13 tomorrow morning at 10 a.m.

14 The court will be in recess until this afternoon,
15 when we do have two other matters to handle.

16 The court is in recess.

17 (At 12:05 p.m. an adjournment was taken
18 until Wednesday, May 25, 1977, at 10 a.m.)
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