

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

COPY

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

CHARLES MANSON, SUSAN ATKINS,
LESLIE VAN HOUTEN, PATRICIA KRENWINKEL,

Defendants.

172

No. A253156

REPORTERS' DAILY TRANSCRIPT

Friday, January 29, 1971

APPEARANCES:

For the People: VINCENT T. BUGLIOSI,
DONALD A. MUSICH,
STEPHEN RUSSELL KAY,
DEPUTY DISTRICT ATTORNEYS

For Deft. Manson: I. A. KANAREK, Esq.

For Deft. Atkins: DAYE SHINN, Esq.

For Deft. Van Houten: ~~RONALD J. HUGHES, Esq.~~
MAXWELL KEITH, Esq.
For Deft. Krenwinkel: PAUL FITZGERALD, Esq.

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Official Reporters

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1 LOS ANGELES, CALIFORNIA, FRIDAY, JANUARY 29, 1971

2 9:30 o'clock a.m.

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4 (The following proceedings were had in the
5 chambers of the court, out of the presence of the jury,
6 the defendants and the attorneys, the Court, the court
7 reporter and the bailiff only being present:)

8 THE BAILIFF: This is Ken Daut, your Honor.

9 THE COURT: I understand you want to talk to me.

10 JUROR DAUT: Yes, your Honor, I would like to be
11 excused from further jury duty. I feel I have done my
12 civic duty and I have a family and other things to take
13 care of and it is really becoming quite a hardship.

14 I can also say that part of my request is based
15 on the fact that there is a personality difference between
16 Mr. Murray and myself, and I just don't feel it is worth
17 it, personally.

18 I can honestly say that in my opinion, my civic
19 duty ended when they brought in the verdict. That is the
20 way I feel about it.

21 I want out.

22 THE COURT: Well, no question about it, you have done
23 your civic duty. However, the civic duty has not ended.
24 In this kind of a case the penalty trial is also part of
25 the trial.

26 MR. DAUT: Well, I think you have five other -- four

1 other alternates. What do you want me to do, bring my kids
2 up and have them sit in the audience?

3 Murray knows my wife was in an automobile
4 accident, and she had a concussion.

5 THE COURT: Mr. Murray does not make the decision,
6 Mr. Daut.

7 MR. DAUT: I know that, but the point is, who is
8 going to take care of these kids?

9 THE COURT: Is that the basis of your request?

10 MR. DAUT: That is part of it, yes, all of these
11 things together.

12 I just feel I have reached the end of the line.

13 THE COURT: Is your wife incapacitated at the
14 present time?

15 MR. DAUT: She cannot drive, and she is taking
16 medicine and she has a concussion.

17 She is home, but she cannot drive.

18 THE COURT: Who was your employer?

19 MR. DAUT: The State of California Division of
20 Highways.

21 THE COURT: How long is your wife going to be
22 incapacitated?

23 MR. DAUT: I don't know, the accident was last Monday
24 morning.

25 THE COURT: Was she hospitalized?

26 MR. DAUT: No, she was hospitalized for one day, but

1 somebody had to take care of the kids so she came home.

2 My mother-in-law lives with us but she had a
3 stroke last summer and she does not have her faculties.

4 THE COURT: Of course one of the problems is -- it
5 is true we have five alternates, but we have no way of
6 knowing whether any or all of them may be used.

7 I know it is a hardship on all of the jurors.
8 The case is going longer than anybody had anticipated.

9 But the penalty phase is definitely part of
10 the trial. The fact they came back with guilty verdicts is
11 only the end of that particular phase.

12 MR. DAUT: But you can see my point that that is not
13 the only part of my problem. The way I feel there are
14 these other things.

15 THE COURT: Of course, any differences you have with
16 Mr. Murray, I cannot really understand how that can affect
17 your duty as a juror.

18 What sort of differences are you talking about?

19 MR. DAUT: We just cannot get along on anything that
20 happens. He seems to be at me all the time.

21 THE COURT: What do you mean, at you, in what way?

22 MR. DAUT: Any little thing that happens, like
23 yesterday, as an example, I could not get my laundry done
24 because Mr. Murray said I spent over the limit last week.

25 Well, hell, I can't send my stuff home. Who
26 is going to come and bring it back? I brought down here my

1 laundry list so you can see, your Honor, you can see the
2 Ambassador Hotel laundry is not cheap.

3 That is the two-day list. They have a one-day
4 service that is more.

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1 THE COURT: Well, I don't think that poses a great
2 problem. I mean, if your laundry runs over a little bit
3 nobody is going to make an issue out of that.

4 MR. DAUT: I know it, but that is just an example of
5 how Murray and I just don't get along.

6 THE COURT: This isn't something that Mr. Murray
7 dreams up for his own personal benefit, Mr. Daut. He is
8 trying to carry out the policies that have been set, that
9 is all. He is doing his duties just as you are doing
10 yours. You don't fault him for that, do you?

11 MR. DAUT: I fault him for being biased.

12 I feel if it was Bob Douglas or Gene Roseland
13 or Evelyn Hines, he wouldn't have said nothing to them.

14 THE COURT: I think these are matters which should be
15 overlooked.

16 MR. DAUT: Maybe they should, but it is all part of
17 the ball of wax.

18 I am there; I can't do nothing else and that
19 is that.

20 But yet I still have my own life to lead. I
21 still have my own problems. I still have my own family.

22 All of these things put together, I would like
23 to be released.

24 THE COURT: Well, I can certainly understand your
25 desire to have this thing end. We are all in the same
26 boat. Everyone would like to see it terminate, and it will

1 terminate.

2 Unfortunately we still have some distance
3 to go. If I excuse a juror -- you know, there is no more
4 reason to excuse you than perhaps a half dozen of them,
5 and I obviously cannot do that.

6 MR. DAUT: I can honestly say, we just had a meeting
7 upstairs that was called by the foreman, and there were only
8 two of us want out.

9 THE COURT: Only what?

10 MR. DAUT: Two of us that want out of the whole
11 group.

12 THE COURT: I don't understand.

13 MR. DAUT: There's only two of us want to leave.
14 Herman just called a meeting upstairs a few minutes ago
15 and we had a big discussion about this, and there's only
16 two of us who expressed a desire to leave, who feel the same
17 way I do.

18 THE COURT: I see what you mean. Who is the other
19 one?

20 MR. DAUT: Johnny Ellis.

21 THE COURT: Well, I will discuss this matter with
22 the attorneys, Mr. Daut, and give it some careful thought
23 myself.

24 I wish you would reconsider it, however.

25 MR. DAUT: I cannot do it, your Honor. I have got
26 problems of my wife being ill and someone to take care of

1 my children. My mother-in-law does not have her mental
2 faculties since she had her stroke.

3 Up until the auto accident it wasn't too bad,
4 but now my wife cannot get around. It's just impossible.

5 THE COURT: All right. Well, I will consider it
6 carefully and let you know.

7 MR. DANT: Thanks very much.

8 THE COURT: All right.

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(The following proceedings occur in chambers.

All counsel present. Defendants absent.)

THE COURT: All counsel are present.

With respect to the motions that were filed by Mr. Kanarek yesterday, I am going to have to put them over to permit the County Counsel to prepare whatever he cares to in opposition.

MR. BUGLIOSI: May I briefly be heard on that?

THE COURT: Yes.

MR. BUGLIOSI: Even assuming Mr. Kanarek's allegations are true, your Honor, so what?

All this is going to do is slander this woman's reputation.

On Channel 11 last night, my wife said she saw a drawing of the woman and an allegation that she is turning to alcohol.

My point is that even assuming that she is drinking, his declaration itself sets forth nothing actionable, and I think by having the County Counsel brought

THE COURT: Well, I was really referring to the other motion. This combines two motions under one cover.

MR. BUGLIOSI: I am sorry.

THE COURT: Another one supported by Mr. Fitzgerald's declaration.

MR. BUGLIOSI: I see.

THE COURT: I agree, the declaration with respect to

1 Mrs. Hines is so totally lacking in any content that I can
2 only assume that Mr. Kanarek -- well, it is hard for me to
3 understand this kind of a motion. It is obviously done
4 maliciously with intent to slander this woman without any
5 factual basis whatever.

6 The declaration itself is about third-rate hearsay.
7 And even if it were true, even if everything in the
8 declaration were true, it wouldn't establish anything that
9 has any relevance.

10 MR. KANAREK: Well, your Honor --

11 THE COURT: I don't want to hear from you, Mr. Kanarek.
12 I will give you a chance to be heard at the proper time.
13 But that is my present feeling about it.

14 MR. KANAREK: Very well. I understand.

15 Your Honor has made a statement --

16 THE COURT: I don't want to hear any reply at this time.

17 But it just defies imagination that a responsible
18 attorney would engage in this kind of practice.

19 MR. KANAREK: Well, your Honor, her own husband has
20 stated that she would be coerced by the other jurors.

21 THE COURT: Mr. Kanarek, I don't want to hear from you
22 at this time. I will give you an opportunity to be heard --

23 MR. KANAREK: Very well, your Honor.

24 I did not generate this hearsay.

25 THE COURT: -- on what can laughingly be described as
26 a motion of some kind with regard to Mrs. Hines.

1 But as I say, I question your good faith, as it
2 is obviously done with malicious intent, in my opinion,
3 without any basis whatever.

4 MR. KANAREK: Your Honor is prejudging.

5 THE COURT: I am basing it on what you have said in
6 your declaration, Mr. Kanarek. That is what I am basing my
7 statement on.

8 MR. KANAREK: Well, your Honor, if someone is drinking
9 while they are --

10 THE COURT: I don't want to hear from you now. I
11 will give you a chance to be heard.

12 Now, one of the alternate jurors, Mr. Daut, has
13 asked to be excused. His wife was in an accident on
14 Monday and she is unable to drive. He has young children.
15 His mother-in-law is living with them.

16 I know this from having had him in chambers this
17 morning. It is on the record, and I can have the reporter
18 read back our conversation, if you like. It will be a part
19 of the record.

20 He asked to see me, and I did see him, and that
21 is his request, that he be excused.

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1 MR. FITZGERALD: Could I make a remark off the
2 remark? May we go off the record?

3 THE COURT: All right.

4 (An off the record discussion was had.)

5 THE COURT: We will go back on the record.

6 MR. FITZGERALD: The defendants and each of them, by
7 their counsel, would offer to stipulate that Mr. Daut,
8 the alternate juror, may be excused for cause -- or may be
9 excused by stipulation, excuse me.

10 MR. BUGLIOSI: The People so stipulate.

11 THE COURT: All right. Then Mr. Daut will be excused.

12 Will you ask Mr. Daut to come on down?

13 (Whereupon Mr. Daut enters the court's chambers
14 and the following proceedings occur;)

15 THE COURT: Mr. Daut is now present.

16 Counsel have agreed by stipulation, Mr. Daut,
17 to excuse you from further service as a juror.

18 I will, however, order you to refrain from
19 discussing with anyone your participation in this case as
20 a juror until the case is over.

21 MR. DAUT: All right.

22 THE COURT: By "over," I mean until the jury has
23 returned a verdict in the penalty phase, if they do return
24 a verdict, or until they have been excused from further
25 service.

26 MR. DAUT: Yes.

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1 THE COURT: And by that, I mean any conversations
2 you may have had with other jurors, either in court or out
3 of court.

4 MR. DAUT: Yes.

5 THE COURT: Or your own reflections and comments on
6 the trial, and so forth.

7 MR. DAUT: Thank you very much.

8 THE COURT: And I do wish to thank you very much. I
9 know this has been a sacrifice for you and all the other
10 jurors, and on behalf of all the counsel and on behalf of
11 the Court, the courts of this state and the people of this
12 country, I want to thank you very much for your valuable
13 public service.

14 As you can well appreciate, it is an unusual
15 case from the standpoint of jurors, and probably the
16 longest that any juror has ever been sequestered in any
17 case, so far as I know. ✓

18 In any event, whether it is a record or not
19 is unimportant. The fact is that your service has been
20 extremely valuable to the People of this state, and they
21 and we are grateful for it.

22 MR. DAUT: Thank you very much, your Honor. I
23 appreciate the fact that you are excusing me under the
24 circumstances.

25 THE COURT: I hope that your wife is better.

26 MR. DAUT: Thank you.

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(Whereupon Mr. Daut leaves the Court's chambers.)

THE COURT: Now, then, are there some other matters?

I think I will make an announcement in open court that Mr. Daut has been excused by stipulation of all counsel at his -- well, let's see -- I don't want to word it in such a way that it creates more problems than it solves.

I think I will just leave it that way. By stipulation of all counsel, at his request, he has been excused, without going into the details.

It is all on the record, as I say. You will get a copy of the transcript of my conversation with Mr. Daut in which he sets forth his reasons for it.

Is there anything else?

MR. FITZGERALD: Yes. There is another matter.

It is our understanding, the defendants' understanding, that the prosecution -- and it may happen today -- intends to put on evidence concerning another homicide as to Susan Atkins. And without getting into the merits of the admissibility of that testimony, one aspect of their case is going to be the attempted admission into evidence of certain photographs that perhaps your Honor ought to take a look at.

I have been associated with a number of murder cases and I have seen a number of photographs, but these are very, very, very gruesome photographs.

1 And I'd like to point out that, assuming
2 arguendo that the evidence of the other homicide is
3 admissible in the penalty phase of the trial, the prosecution
4 may not appeal to the passions of the jurors. And these
5 photographs are such, it is a very, very badly decomposed
6 body with thousands of maggots crawling in and out of the
7 body. They are horrible, gruesome.

2b fls.

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1 THE COURT: Whose body is this?

2 MR. FITZGERALD: The body of one Gary Hinman.

3 These photographs, I would say to you, are far,
4 far more gruesome than any of the photographs admitted in
5 the case in chief.

6 The only reason I bring it up now is so that your
7 Honor --

8 THE COURT: I thought he was killed in a house up in
9 Topanga Canyon.

10 MR. BUGLIOSI: That's right, he was, but we don't know
11 how long he was dead.

12 There are maggots. They are extremely gruesome
13 photographs.

14 THE COURT: What would be the relevance of the
15 photographs that don't accurately depict, for example, the
16 body at the time of the crime?

17 MR. BUGLIOSI: Well, we were not going to introduce
18 those photographs at the scene anyway. They are in color.

19 MR. FITZGERALD: You are not?

20 MR. BUGLIOSI: Just the Coroner's.

21 MR. SHINN: You told me you were going to introduce
22 those pictures.

23 MR. BUGLIOSI: Just the black-and-white Coroner's
24 photographs.

25 MR. FITZGERALD: But they are horrible, too.

26 MR. KAY: But they are relevant. The Coroner has to

1 testify from those photographs. They show the stab wounds,
2 and this corresponds with Susan Atkins' confession, the
3 location and the number.

4 MR. BUGLIOSI: I might make one comment.

5 During the penalty trial, the People can appeal
6 to the passion of the jury.

7 In fact, I think there is a case where the Court
8 instructed the jury, using the same instruction as during
9 the guilt phase, and --

10 MR. FITZGERALD: I will cite you some authority.
11 I will get some authority for it.

12 THE COURT: I believe, unless I am mistaken, that
13 Mr. Bugliosi is correct, but the probative value still has
14 to outweigh the prejudicial effect.

15 MR. FITZGERALD: Right.

16 MR. BUGLIOSI: Of course.

17 THE COURT: And that, of course, is a question, a
18 determination that the Court has to make.

19 Well, all I can say is, gentlemen, I hope this
20 penalty phase is expedited because I can't see any
21 benefit to either side in dragging it out.

22 MR. SHINN: One other matter, your Honor.

23 The defendants want to meet at lunch time for half
24 an hour to talk about their defense, your Honor.

25 THE COURT: Defense?

26 MR. SHINN: Maybe shorter than that. I don't know.

1 Is it possible, your Honor?

2 THE COURT: A joint defense in a penalty phase?

3 MR. SHINN: This afternoon, during the lunch hour.

4 They want to talk about the defense.

5 I don't know what they want to talk about.

6 MR. BUGLIOSI: That it is raining outside and they want
7 an umbrella?

8 THE COURT: Yes.

9 MR. SHINN: 1:00 to 1:30, your Honor?

10 THE COURT: The time will be subject to whatever the
11 Sheriff's problems are in moving them around, and for lunch,
12 and so on, but they may meet together, yes.

13 MR. SHINN: Thank you.
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1 THE COURT: Now, is there anything else before we
2 proceed?

3 As I say, I will have to put the hearing on
4 Mr. Kanarek's motions over until probably sometime next week,
5 probably about a week, to give the County Counsel an oppor-
6 tunity to review the motion about security and preparing
7 any opposition they want.

8 So, tentatively, I think I will set it for a week
9 from today.

10 MR. KANAREK: Your Honor, if I may, and I am sure your
11 Honor, though your Honor has attacked my integrity, I
12 prefer not to attack the Court's integrity --

13 THE COURT: I wouldn't think that would be a good idea. ✓

14 MR. KANAREK: There is no such thing as contempt of
15 lawyer in our law yet. There is contempt of court, but I
16 think there should --

17 THE COURT: Maybe you are going to invent something new ✓
18 before this case is over.

19 MR. KANAREK: No, it is not a matter of inventing
20 something. The law is dynamic, your Honor.

21 THE COURT: If you have something to say, get to the
22 point, Mr. Kanarek.

23 MR. KANAREK: Yes. And that is this. I say, I don't
24 want to, certainly, attack the integrity of the Court, and
25 I say this, I think that the Court is being dilatory on this,
26 and I say it in this manner: That the County Counsel has no

1 position in this, or need have no position, for this reason --

2 THE COURT: I will make that determination.

3 MR. KANAREK: I am trying to convince the Court.

4 What I am saying is this. The point is that the
5 security aspect, we are not dealing with security per se,
6 what we are trying to get across is --

7 THE COURT: Mr. Kanarek, I am not going to clutter up
8 the record with any more of your comments. I told you that
9 I would hear you at the time of the hearing on the motions.

10 MR. KANAREK: Very well.

11 I was trying to convince the Court.

12 THE COURT: The People of this County have a right to
13 oppose a motion which is, in effect, attacking the conduct
14 of this trial or the security arrangements surrounding the
15 trial.

16 I don't know what your point is, but if you are
17 saying that you have the right to file a motion and nobody
18 has a right to oppose it, I can disabuse you of that
19 notion.

20 MR. KANAREK: What I am saying, your Honor, the gist
21 of our motion is the state of mind of the jurors. At this
22 point we are talking about whether or not the jurors --
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1 THE COURT: That is not the point at all. The
2 point is whether anyone is going to have some time to
3 prepare some opposition to what you have put in your
4 affidavits or your declarations.

5 MR. KANAREK: It is the People of the State of
6 California, your Honor, because our position is, I think
7 the People are the ones who have the standing here, not
8 the County Counsel.

9 It is our position that the states of mind
10 of the jurors are involved.

11 THE COURT: In any event, the motions will be put
12 over for hearing to a week from today at 8:45 a.m.

13 Anything further before we resume?

14 (No response.)

15 The same rules apply so far as the defendants'
16 presence in the courtroom is concerned.

17 The female defendants will be brought into
18 court this morning. Mr. Manson will not.

19 However, I want to tell you, Mr. Kanarek,
20 again -- I don't think it is necessary, it has been said
21 dozens of times throughout this trial -- that whenever he
22 indicates a desire to return to the courtroom and conduct
23 himself in a proper manner, I will permit him to do so.

24 If he takes advantage of that as he has in the
25 past and indicates he is acting in bad faith, I may not
26 make that offer again, but I make it now.

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1 Please to inform your client.

2 (No response.)

3 I can't hear you.

4 MR. KANAREK: Yes, your Honor.

5 THE COURT: All right.

6 We will see you in court.

7 (The following proceedings were had in open
8 court in the presence and hearing of the members of the
9 jury, all defendants with the exception of Mr. Manson
10 being present, all counsel with the exception of Mr. Hughes
11 being present.)

12 THE COURT: All of the defendants except Mr. Manson
13 are present; all counsel and all the jurors are present.

14 Mr. Kenneth Daut, at his request, has been
15 excused by stipulation of all counsel from further service
16 as an alternate juror in the case.

17 Are you ready to proceed with your examination,
18 Mr. Kanarek --

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

20 THE COURT: -- of Mr. Crowe?

21
22 BERNARD CROWE,
23 called as a witness by and on behalf of the People, resumed
24 the stand and testified further as follows:

25 THE CLERK: Will you state your name, please.

26 THE WITNESS: Bernard Crowe.

1 THE CLERK: You are still under oath, sir.

2 MR. KANAREK: May I have just a moment, your Honor.

3
4 CROSS EXAMINATION (Continued)

5 BY MR. KANAREK:

6 Q Mr. Crowe, the \$2400 that you have spoken of,
7 that 2400 was for how much marijuana?

8 A I guess -- I couldn't remember quite how much
9 this was, somewhere around 24 or 25, somewhere in that area.

10 Q You mean 24 or 25 kilos?

11 A Yes.

12 Q A kilo is roughly \$100?

13 A Roughly, yes.

14 Q It's \$100 on the wholesale market, is that
15 right?

16 A I refuse to answer that question on the ground
17 I may incriminate myself.

18 MR. KANAREK: Your Honor, I submit the witness has
19 testified -- has been called by the prosecution -- that is
20 not going to incriminate him in anything.

21 MR. BUGLIOSI: I object on the ground it is irrelevant,
22 your Honor.

23 THE COURT: Sustained.

24 MR. KANAREK: Well, then, your Honor, may I make an
25 offer of proof.

26 THE COURT: Ask your next question.

1 BY MR. KANAREK:

2 Q What is a lid of marijuana, Mr. Crowe?

3 A Excuse me, may I call my attorney to the
4 stand?

5 THE COURT: Very well.

6 (Whereupon Mr. James Morgan, attorney for the
7 witness, approaches the witness for an off the record
8 conference, after which the following proceedings were had
9 in open court on the record.)

10 THE WITNESS: It has been sometime ago so I cannot
11 quite remember that amount. I don't remember.

12 BY MR. KANAREK:

13 Q You don't remember what a lid is?

14 A Right, it has been quite sometime since I, you
15 know, indulged --

16 THE COURT: Just answer the question. Do you remember
17 or do you not?

18 THE WITNESS: No.

19 THE COURT: All right.

20 BY MR. KANAREK:

21 Q How many lids are there in a kil?

22 A I don't know.

23 Q Now, Mr. Crowe, when you left the house to go
24 over to pick up Steve, do you remember that?

25 A Yes.

26 Q Was your state of mind such that -- let me

1 withdraw that and I will ask you:

2 What was your state of mind as to what the
3 person that you spoke with on the telephone was going to
4 do?

5 MR. BUGLIOSI: Calls for a conclusion.

6 MR. KANAREK: It calls for his state of mind, your
7 Honor.

8 THE COURT: Sustained.

9 BY MR. KANAREK:

10 Q You had had a conversation with a person on the
11 telephone, right?

12 A Yes.

13 Q And you were told that that person was Charles
14 Manson, is that right?

15 A Not quite like that, just "Charlie."

16 Q Charlie?

17 A Right.

18 Q And you had a conversation with Charlie, is
19 that right?

20 A Yes.

21 Q The person that you thought was Charlie, right?

22 A Yeah, right.

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1 Q And in that conversation did you have words as to
2 what Mr. Manson or Charlie was going to do, where he was
3 going to go after the conversation?

4 A Will you repeat the first part of your statement?

5 MR. KANAREK: Surely; I will repeat it all.

6 Q You had a conversation with a person that you
7 thought was Charlie, or someone had told you was Charlie,
8 right?

9 A Yes.

10 Q And having that in mind, did you have a conver-
11 sation with the person that you thought was Charlie as to
12 what he was going to do, where he was going to go after he
13 hung up the telephone?

14 A No. When I handed the phone back to Rosina I
15 didn't think anything else would happen.

16 I thought perhaps the guy would come out, which is
17 Charlie Tex.

18 Q What was that?

19 A I thought maybe it was a good possibility that he
20 would show up.

21 Q That who would show up?

22 A Charlie Tex.

23 Q Well, now, is your state --

24 When you were on the telephone talking, did you
25 think you were talking to Mr. Watson, the man that had run
26 off with the \$2,400?

1 A No, I did not know who I was talking to. All I
2 know, a Charlie, another Charlie.

3 Q It was another Charlie?

4 A Yes.

5 Q And your state of mind was such that you did not
6 think it was the person that took the \$2,400, right?

7 A No, the thought did not go through my mind.

8 Q Pardon?

9 A The thought did not go through my mind at the
10 time.

11 Q In your mind this was a different person with the
12 same name, Charlie?

13 A Right.

14 Q There is no question about that?

15 A Right.

16 Q Now, having in mind your conversation with this
17 person that you say was another Charlie, was your state of
18 mind such that this other Charlie was going to leave the
19 area where he was and come into Hollywood?

20 A No, I had no indication that someone was coming.

21 Q You had no indication, right?

22 A No.

23 Q Now, there is no question in your mind that
24 you went over there to get Steve, right, and you came back
25 with Steve?

26 A Yes.

1 Q No question about that?

2 A No question about it.

3 Q Do you remember having a conversation with this
4 gentleman, Mr. Bugliosi, on January the 27th, a mere two
5 days ago?

6 A Yes, I believe so, yes.

7 Q In answer to a question:

8 "Who was in the apartment if anyone when you
9 returned?

10 "A Manson was in the apartment with a
11 guy named T.J., Rosina and Steve and Del were
12 also there."

13 Do you remember telling that to Mr. Bugliosi?

14 A Yes.

15 MR. KANAREK: May I approach the witness, your Honor --

16 Q You remember that; I don't have to show it to you.

17 A Yes, I remember.

18 Q So Steve was already at the apartment when you
19 returned, right?

20 A No, I did not say that. I said I went to get
21 him.

22 Q Well, so there is no question about it, what time
23 did you return after having left?

24 A Like I said yesterday, I think it was around
25 anywhere between 1:00, 1:30 or 2:00 o'clock, somewhere in
26 that area.

1 Q What time did you return? You left about 1:30 or
2 2:00 o'clock, right? When did you return, Mr. Crowe?

3 A All I can say, it was within a period of from
4 11:00 o'clock that night until about 2:30 or 3:00 that
5 morning that all this happened, so I cannot actually keep
6 pinpointing the exact time, though I made certain statements
7 yesterday.

8 I cannot say I came back 11:30 or 1:30 or 2:00
9 o'clock, or I left that time. It was before 3:00 a.m., the
10 balance of the evening, what happened on the 1st of August,
11 1969.

12 Q Did you tell Mr. Bugliosi in answer to a question
13 by him:

14 "Q Did you return?

15 "A Yes.

16 "Q About what time?

17 "A 3:00 or 4:00 a.m."

18 Did you give those answers to the questions that
19 I just uttered, to Mr. Bugliosi on January 27, 1971?

20 A Rephrase the same question that you asked me do
21 I remember.

22 MR. KANAREK: May I approach the witness, your Honor?

23 THE COURT: No, just read the question.

24 MR. KANAREK: Very well.

25 Q You had a conversation?

26 THE COURT: Do you want the question read or are you

1 withdrawing the question?

2 MR. KANAREK: Very well, I will have the question read.

3 (Whereupon, the reporter reads the pending
4 question.)

5 THE WITNESS: I said from that time I was in the
6 hospital, I remember that time was 4:00 o'clock on the way
7 to the hospital, about 4:00 o'clock, either that I seen the
8 time in the house, or in the hospital, one or the other.

9 Actually I was not unconscious, so I can say
10 perhaps to the hospital at 4:00 o'clock, something like that.

11 Q Mr. Crowe, I am now speaking of when you returned
12 to the apartment after having left the apartment, this is
13 before the time that you tell us that you were shot.

14 A Okay, I can say it's about 2:00 or 2:30, something
15 like that, perhaps.

16 Q You say it was 2:00 or 2:30?

17 A Yes, around there.

18 MR. KANAREK: Your Honor, Mr. Bugliosi and I have a
19 stipulation that in response to the question:

20 "Q Did you return?

21 "A Yes.

22 "Q About what time?

23 "A 3:00 or 4:00 a.m.," that that is what
24 Mr. Crowe told or stated in Mr. Bugliosi's presence.

25 We have the stipulation that he so stated on
26 January 27th, 1971.

1 MR. BUGLIOSI: So stipulated.

2 Q BY MR. KANAREK: Does that refresh your
3 recollection, Mr. Crowe, that you returned about 3:00 or
4 4:00 a.m.?

5 A No, no.

6 Q Well, when you told Mr. Bugliosi --

7 A I mentioned the time element. Maybe it was a
8 mistake, what I was saying to the question that was asked,
9 or something to that effect.

10 Q You think maybe there was a mistake?

11 A Yes, yes.

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3b-1

1 Q Well, you mean this was not put down on this
2 paper right?

3 A I imagine it was, but I am just explaining to
4 you that I probably did mention the time.

5 Now, maybe one of the two people, either Mr.
6 Bugliosi made a mistake, I did, or I did not hear the
7 question right, or whatever.

8 Q Now, then, Mr. Crows, will you tell us which
9 way was it? That was a couple of days ago that you told
10 Mr. Bugliosi it was three or four a.m. Now, you are telling
11 us it is a different time.

12 A I am judging it from the time that I got back
13 from El Monte.

14 Like I said, it was about 11:30, 12:00, 12:30 --
15 about 12:30, maybe 1:00 when we got back to the apartment
16 from El Monte.

17 So I was there roughly a half hour.

18 First we had a discussion, and then she made
19 the phone call and I talked to Charlie for, like I said,
20 about three minutes or less or so and I left.

21 It was about 1:00 when I left perhaps.

22 I got over there, 1:30 or 2:00 I got back
23 perhaps, somewhere around in that area. I don't remember
24 me saying 4:00 o'clock. Probably I was in the hospital
25 because I was rushing to do something, I was in such great
26 pain.

3b-2

1 Q You were not in the hospital on January 27th
2 when you spoke to Mr. Bugliosi?

3 A Oh, no, no, definitely not.

4 Q Were you under the influence of anything when
5 you spoke to Mr. Bugliosi?

6 A No, I was not.

7 MR. KANAREK: It is stipulated, your Honor, that on
8 January the 27th, 1971, in a conversation between Mr.
9 Crowe and Mr. Bugliosi, the following was stated -- this
10 is at lines 1 through 6 of what is the third page in this
11 transcript:

12 "Q Who was in the apartment, if anyone,
13 when you returned?

14 "A Manson was in the apartment with a guy
15 named T.J., Rosina and Steve and Del were also
16 there.

17 "Q Who is Steve?

18 "A A friend of mine."

19 MR. BUGLIOSI: So stipulated.

20 MR. KANAREK: So stipulated that that is what Mr.
21 Crowe told Mr. Bugliosi on January the 27th, 1971.

22 Now, my question, Mr. Crowe, is this:

23 Q When you came back -- when you came back to
24 the apartment you came back with Steve, a person that you
25 had gone out to get and to come back to the apartment with,
26 is that what you are telling us?

3b-3

1 A Right, that is the purpose I left for. For
2 what reason would I leave?

3 Q You are telling us that is the purpose you left
4 for.

5 A Yes, to go get him.

6 Q So you could come back with Steve, right?

7 A Yes, sure.

8 Q So he would be with you when you saw Mr. Manson
9 or Charlie or whoever was on the telephone?

10 A I didn't have any idea to see anyone. No one
11 said they was coming over. I didn't have any indication
12 of the tone of the voice that there would be something of
13 any violence or any physical activity or anything of that
14 sort.

15 So it didn't -- the fact I seen him, whatever,
16 it wasn't anything, I did not think about it.

4 fls.

4-1

1 Q Did Rosina, when you came back, did Rosina and
2 you have any conversation?

3 A Yes. Everyone did.

4 Q Everyone had conversation?

5 A Right.

6 Q Right?

7 A Yes. Right.

8 Q What was said by each of you when you came back,
9 Mr. Crowe?

10 A Like I said yesterday, basically about what
11 happened and how disappointed she was and upset about it.

12 I cannot recall the conversation that was
13 taken word for word in the apartment after we came back.
14 I mean, after all, it was a year and a half ago, possibly
15 two.

16 Q How much do you weigh, Mr. Crowe?

17 MR. BUGLIOSI: That is irrelevant.

18 MR. KANAREK: That has to do with -- supposedly there
19 was some altercation, your Honor.

20 THE COURT: Overruled. You may answer.

21 THE WITNESS: Up and down, from 273 to 293, possibly
22 300.

23 BY MR. KANAREK:

24 Q And how tall are you?

25 A Five eleven and a half.

26 Q And how much did you weigh at the time that you

1 came to this apartment on this evening?

2 A About 290 something, close to 300. Maybe
3 306. Something like that. I was really big. I have lost
4 weight.

5 Q Now, then, when Rosina had that original
6 conversation with whom she had it with at the ranch, at
7 the apartment, at that time you wanted your money back,
8 right, or the weed?

9 A Yes.

10 Q Right?

11 A Sure.

12 Q And as far as you were concerned, you were
13 going to go out wherever this person was that you thought
14 was Charlie and do something about it in order to get your
15 money or the weed; right?

16 A Wrong.

17 Q You weren't going to do anything about it?

18 A No.

19 Q For sure?

20 A For sure.

21 Q I see.

22 Then is there some reason -- I will withdraw
23 that.

24 Was your state of mind such that you believed
25 that Mr. Watson was located at the place where this person
26 named -- this other Charlie was that you spoke to?

1 A At that particular time?

2 Q At any time.

3 Did you, in your mind, associate Mr. Watson
4 with the place that Rosina had supposedly called that
5 evening?

6 A Associated? That he was associated with the
7 people there, or at that residence that she had called?

8 Q Did you think that Mr. Watson lived at the
9 place that Rosina called, the place that she called when
10 you spoke to this person you thought was named Charlie,
11 this other Charlie?

12 A Yes. I had that impression, that he had lived
13 there, or whatever, and he was not there at that time.
14 That he wasn't there at the time, you know, that the call
15 went through.

16 Q I see.

17 And you had no purpose in going -- you didn't
18 threaten to go out there and get the money or the weed?

19 A At no time, no.

20 Q I see.

21 And you had never seen Rosina before in your
22 life except that evening; right?

23 A That is correct. As far as I know.

24 Q Well, now, was your state of mind such that you
25 approved of what Rosina was saying when she said that if
26 Tex didn't return the money or come up with the weed, that

1 you, Mr. Crowe, were going to the Spahn Ranch and destroy
2 everyone?

3 Were you in favor of that language?

4 A Under no circumstances.

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1 Q I see.

2 You got on the telephone and you told the person
3 on the other end that what Rosina had just said just
4 wasn't so, you weren't mad at anybody.

5 Is that what you said?

6 A I didn't say that.

7 Q You didn't?

8 A No.

9 Q What did you say?

10 A I said all I want is the weed or the money, and
11 I gave the receiver back to her.

12 Well, no. Before then, he said he didn't believe
13 that he would do that.

14 Q Pardon?

15 A It doesn't sound like Tex would do something like
16 that. That is my brother. I don't believe he would do
17 that. I don't believe it. I can't understand it.

18 Something to that effect, or the basis of that.

19 I said: Well, all I want is the weed or the
20 money. And I gave her the phone back. I had nothing else
21 to say.

22 I gave her the phone back, and that was it.

23 Q I see.

24 When you came into the place, into the apartment
25 after coming back, and having this conversation, after
26 you had been in there some time, you sat down, you say?

1 A Say that again?

2 Q Did you ^{sit} down after coming back after coming to that
3 apartment?

4 A Sure. When I first got there, I walked to a
5 chair and sat down.

6 Q And did you have any discussion concerning the
7 weed?

8 A Yes. I answered that. Yes.

9 Q I mean, after you came back. You had some
10 discussion concerning the weed?

11 A The first time? Or when I came back with Steve?
12 Which one?

13 Q When you say now that you came back with Steve.

14 A You are asking me the question again. You are
15 saying now. You will have to explain.

16 Ask me the question you want me to answer.

17 Q You came back with Steve; right?

18 A Right.

19 Q And you had some conversation when you came back
20 concerning weed; is that right?

21 A Uh-huh.

22 Q Would you tell us what you said?

23 A I can't. I am telling you I can't quite remember.

24 When I came back with Steve, Charlie introduced
25 himself to me, or someone introduced him to me.

26 He was sitting on the side of the bed, and he
got up and he shook my hand.

1 And I introduced Steve.

2 He complimented Steve's shirt, and Steve sat
3 down, and we got to talking.

4 And he kept explaining to me that he doesn't
5 understand Tex doing something like this. It doesn't
6 sound like him, and so on and so forth.

7 And he got up and he said: Of course, I came --
8 do you want me to go on?

9 Q Yes.

10 A Then he got up and pulled the gun.

11 He pulled it three or four times or so. About
12 four times.

13 And he said: These are not loaded, but this one
14 is.

15 Now, in the course of pulling of the trigger,
16 there was a conversation at the same time. The conversation
17 was coming from me.

18 I said: Why did you pull a gun on me? I didn't
19 pull one on you.

20 And at that time, after the fourth shot, I
21 leaned forward to get up, and at that time, as I leaned
22 forward, he shot me, and I fell back, and I looked at
23 him.

24 And then I got up -- I tried to get up -- and I
25 fell.

26 At the time, I tried to get up mentally, and I

1 decided to play possum.

2 I played possum and laid there.

3 At that time, he turned to Steve and he said,
4 "Give me your shirt."

5 And Steve said, "Sure, brother."

6 I imagine he gave it to him, because he didn't
7 have one when I got up -- when I opened my eyes, rather.

8 And he said, "Fear through awareness is where it
9 is at, or awareness through fear is where it is at."
10 Something on that order, or vice versa.

11 Then I heard him mention, "We are even."

12 Later on, I found out that he kissed Del's foot
13 and he said, "Now we are even."

14 Then a statement was made by Mr. Manson stating,
15 "If you people know what is good for you, you won't say
16 anything." Something on that order. An indication, or
17 whatever. I don't know.

4b

4b-1

1 Q You knew when you came back, you are telling us,
2 that Rosina, over the telephone, said that you were going to
3 destroy everything and all the people at the Spahn Ranch.
4 You knew that those words had been stated over that
5 telephone.

6 A Oh, yes, certainly.

7 Q Right?

8 A Yes.

9 Q So, when you came back and you saw that person
10 you say is Mr. Manson was there, you knew that those words
11 had been uttered; right?

12 A Oh, sure. Yes.

13 Q Right.

14 Was there any discussion about doing something
15 to the Spahn Ranch?

16 A Yes, there was.

17 Q Tell us what it was?

18 A On the telephone, from the young lady Rosina,
19 to the gentleman on the other end of the line.

20 Q So, you came back to that house?

21 A Sure.

22 Q Knowing that the state of mind of the person
23 on the other end of that telephone was that you, Bernard
24 Crowe, was going to destroy that ranch and kill everybody
25 there; right?

26 MR. BUGLIOSI: Calls for a conclusion.

4b-2

1 MR. KANAREK: It is his state of mind that I am asking
2 about, your Honor.

3 THE COURT: Read the question.

4 (The question was read by the reporter.)

5 MR. BUGLIOSI: He has no way of knowing.

6 THE COURT: Sustained.

7 MR. KANAREK: Q Mr. Groves, did you have a gun?

8 A No, I didn't.

9 Q Do you, from time to time, carry a gun?

10 MR. BUGLIOSI: That is irrelevant, your Honor.

11 THE COURT: Sustained.

12 MR. KANAREK: Q Did someone, Mr. Groves, after
13 the time that you were shot -- let me withdraw that.

14 After you were shot, you were taken to a doctor;
15 is that right?

16 A A hospital, yes.

17 Q A hospital?

18 A Yes.

19 Q Who took you to the hospital?

20 A The police, rescue squad, ambulance, somebody.

21 Q How long was it after you were shot that the
22 police or the rescue squad got there?

23 A I don't know. Perhaps 45 minutes to an hour
24 or so. Something like that. I don't know.

25 Q Now --

26 A I don't know. I can't remember. I was in pain.

1 My thought was on that.

2 Q Now, did anyone -- did Steve have a gun?

3 A No.

4 Q How do you know?

5 A I know Steve. He didn't have a gun. He
6 didn't want me to go back anyway.

7 Q Pardon?

8 A He didn't want me to go back.

9 He said: Forget it. He gave me that advice,
10 you know, my friend, to forget about it, you know.

11 Q But you wanted to go back, you are telling us
12 now?

13 A Sure.

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Q Did Del have a gun?

A I don't think so.

Q He may have though; right?

A He could have, perhaps.

Q Well, in the type of work that Del does in this narcotics business he carries a gun with him, doesn't he?

A Del --

MR. BUGLIOSI: That assumes a fact not in evidence.

THE COURT: Sustained.

BY MR. KANAREK:

Q Did you have a discussion with Del that night concerning a gun?

A I beg your pardon?

Q Directing your attention to Del.

A Yes.

Q On that night, at any time that night, did you have a discussion with Del concerning a gun?

A No.

Q And at any time that night did you have a discussion with Jim concerning a gun?

A I don't think it was a discussion, no.

Q What was it?

A In fact, it wasn't a discussion.

It takes two to discuss. It wasn't a discussion.

I didn't have any discussion.

Q You had no discussion?

1 A No.

2 Q But you knew he carried a gun?

3 A He carried one? No. I didn't know he carried
4 one.

5 Q You don't know that?

6 A No, I don't know if he carried one.

7 Q You thought he carried one; right?

8 A Why should I think he would carry one? They are
9 not gangsters, they are friends of mine, friends, associates,
10 you know.

11 Q When you went out on this night, you had never
12 seen Mr. Watson before, you were going to see someone that
13 you had never seen before in connection with this purchase.
14 Did you see to it that one of the persons with you carried
15 a gun?

16 A I beg your pardon? Ask me that again.

17 Q Sure.

18 On this night when you were going to see a person
19 who turned out to be Mr. Watson, who you had never seen
20 before, did you arrange for someone, either yourself or
21 someone with you, to carry a gun?

22 A No.

23 Q During the 45 minutes that you say that you were
24 there before the police came -- 45 minutes; right?

25 A I don't really know. It could have been 10 or
26 15, it could have been 45, it could have been an hour.

1 When you are in pain, you are trying to ease the pain, and
2 that is all you know.

3 It seems like a lifetime, you know, when you are
4 hurting.

5 Q How many guns did you see Mr. Manson with?

6 A One.

7 Q One gun; right?

8 A Yes.

9 Q So, when Mr. Manson left, he left with the gun; is
10 that right?

11 A I imagine. I don't know. My eyes were closed
12 and I was playing dead. I guess he did.

13 Q After Mr. Manson left, did anyone take a gun off
14 of your person?

15 A No. No. I didn't have one.

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1 Q After Mr. Manson left, did you see any gun in
2 that apartment that night before the police came?

3 A I beg your pardon?

4 Q That is not clear?

5 A Ask it again.

6 Q Sure.

7 That night, after Mr. Manson left, did you see
8 a gun in that apartment before the police or the rescue
9 squad or the ambulance, or whichever way you want to term
10 it, before those people came?

11 A Yes, I did. Yes.

12 Q You did.

13 A Yes.

14 Q Right?

15 A Yes.

16 Q And who had that gun on their person, Mr. Crowe?

17 MR. MORGAN: Before he answers, may I confer with
18 him, your Honor?

19 MR. KANAREK: Your Honor, I have no objection. I'd
20 be the first to say that an attorney should confer with
21 his client, but --

22 THE COURT: Then don't speak if you have no objection.

23 You may, Mr. Morgan.

24 MR. KANAREK: It is interfering with the continuity
25 of our examination, your Honor, and I see no legal basis
26 for it.

4d-2
1 (Mr. Morgan and the witness confer.)

2 MR. MORGAN: Thank you, your Honor.

3 THE COURT: Do you have the question in mind, Mr.
4 Crowe?

5 THE WITNESS: Yes.

6 Ask me it again, please.

7 MR. KANAREK: May it be read, your Honor?

8 THE COURT: Reframe it, Mr. Kanarek.

9 MR. KANAREK: Q After Mr. Manson left, Mr.
10 Crowe --

11 A After he left?

12 Q That's right.

13 Did you see a gun in that apartment?

14 A No. No.

15 Q Pardon?

16 A No.

17 After Mr. Manson left the apartment?

18 Q Yes.

19 A After I was shot?

20 Q Yes.

21 A No.

22 Q Oh, you say you didn't see any gun?

23 A No, not after he left, no.

24 Q Was there a gun in that apartment, to your
25 knowledge, after Mr. Manson left?

26 A No. I don't know.

1 Q Well, who was left in the apartment after Mr.
2 Manson left?

3 A Excuse me, please. Excuse me. Excuse me.
4 No, I can't say that I know. Right. No.

5 Q You can't say that you know?

6 A After he left, no.

7 Q What do you mean? Why is it that you can't
8 say that you know?

9 A I beg your pardon?

10 Q Why is it that you can't say that you know
11 that there was a gun there after Mr. Manson left?

12 A Because I didn't see one.

13 Q You didn't see one?

14 Did you hear conversation concerning one?

15 A No.

16 Q Did anybody talk about a gun after Mr. Manson
17 left?

18 A No.

19 Q Who was in the apartment, Mr. Crowe, after Mr.
20 Manson left?

21 A Myself, Steve, Del and Rosina. The four of
22 us.

23 Q After you were shot, what is the first thing
24 that was done after Mr. Manson and Mr. Walleman, T.J., left?

25 A Well, everyone ran to me on the floor and asked
26 me if I was all right.

1 And I told them: Shush. Let him get down the
2 steps first.

3 I said: Call the ambulance, and you all go
4 ahead and get out of here.

5 And they called the ambulance and everybody
6 left.

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1 Q Who all left?

2 A Steve, Del and Rosina.

3 Q So that when the ambulance came you were there
4 alone; right?

5 A Yes.

6 Q And you arranged it so that these people wouldn't
7 be there when you were approached by the police officers, or
8 whoever was coming as a result of the call; right?

9 A Right.

10 Q Now, were any other calls made other than to a
11 rescue squad or to the ambulance?

12 A Other calls?

13 Q Yes.

14 A At what time?

15 Q At that time, after you were shot.

16 A Not that I know of, no. I don't think so, no.

17 Q Well, --

18 A I don't know.

19 Q Pardon?

20 A No, I don't think so. I doubt it.

21 Q Did you give these people, either one of these
22 people, or any of them, Rosina, Del or Steve, anything off
23 of your physical body, off of your person, before they left?

24 A No.

25 Q What was the reason? Here you were shot,
26 Mr. Crowe. What was the reason, what was your state of mind,

1 for having your friends, these people, leave your immediate
2 presence? What was your reason for that?

3 A Well, I didn't think -- I thought it was un-
4 necessary for them to get involved in a shooting which they
5 didn't commit or they had no control of, just like myself.

6 So, there was no need to involve them in something
7 that they had nothing to do with, to an extent. They had
8 nothing to do with it, really.

9 So, I didn't want to make trouble for them, going
10 to jail, getting out on bail, an accessory before the fact
11 and after the fact, whatnot. It was unnecessary.

12 Q And you thought if they were there, they might go
13 to jail; right?

14 A It was a good possibility, yes.

15 Q Why did you think there was a good possibility
16 they would go to jail?

17 A Because it is against the law to shoot a person,
18 and I was a victim. So, it was obvious they would be
19 included in the incident.

20 Q And you thought, your state of mind was such
21 that you thought Rosina, Del and Steve would be arrested
22 for having you shot; is that right?

23 A Having me shot?

24 Q Yes.

25 A You are saying that, or are you asking me?
26 What are you doing?

1 Q I am asking you.

2 A You are asking me?

3 Ask the question again. I don't understand it.

4 Q Sure.

5 Your state of mind was such that you thought that
6 Rosina, Del and Steve would be arrested if they were there
7 when the police or the rescue people, or whoever, came to
8 the apartment, found them there when they came there as a
9 result of this call?

10 A That wasn't the first question you asked me.
11 You changed it.

12 Q May I have an answer to this question?

13 A Yes.

14 Because when something like that happens,
15 to my knowledge, it will cause an investigation. So, quite
16 naturally, they would be confined, they would be under
17 investigation, and that takes time; right? Or whatever.
18 They would lock them up, take them into custody, which
19 would be obvious, wouldn't it?

20 Q And you thought they would be taken into custody?

21 A Yes.

22 Q So, your purpose was to have as little evidence
23 around there as possible concerning your being shot; right?

24

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1 MR. BUGLIOSI: Argumentative.

2 THE COURT: Sustained.

3 BY MR. KANAREK:

4 Q Well, was that your state of mind, Mr. Crowe,
5 was to remove as much evidence as possible concerning these
6 people, and your shooting, from the scene?

7 MR. BUGLIOSI: Same objection.

8 THE COURT: Overruled, you may answer.

9 THE WITNESS: Ask the question again, please.

10 MR. KANAREK: May that be read, your Honor?

11 THE COURT: Read the question.

12 (Whereupon the reporter reads the record as
13 follows:

14 "Q Well, was that your state of mind,
15 Mr. Crowe, was to remove as much evidence as
16 possible concerning these people, and your shooting,
17 from the scene?"

18 THE WITNESS: As much evidence -- I don't know what
19 you mean.

20 I just felt that there had been enough trouble,
21 so why should I cause any more? I mean, I was shot and it
22 could not be undone at that time, so why should I implicate
23 anyone else any further.

24 What sense does it make? Can you tell me
25 that?

26 I mean -- there was no evidence or nothing. I

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1 just did not want to involve them. I mean, that would be
2 obvious, wouldn't it?

3 BY MR. KANAREK:

4 Q Then when they left, you had no way of knowing
5 that the police would ever get there, or the ambulance, did
6 you?

7 A Not really.

8 Q Pardon?

9 A Yes, in a way, yes, certainly I told them to
10 call. Why wouldn't they call?

11 Q In other words, here you were shot, and you, as
12 far as your state of mind was concerned, you were willing to
13 have everyone leave that could possibly assist you, on the
14 possibility that somebody might show up there as the result
15 of a phone call, is that right?

16 A Oh, definitely, right.

17 Q And your estimate is that it was 45 minutes?

18 A I explained to you, I don't have the time
19 elements.

20 It could have been ten, or fifteen, 45 minutes,
21 an hour -- it could be anything.

22 It seemed like a lifetime, the pain, you know,
23 with ten holes in your bladder, you are trying to hold on;
24 you are trying to think, you know.

25 Q Have you ever been convicted of a felony,
26 Mr. Crowe?

1 A No, I don't know what you are saying.

2 MR. MORGAN: Excuse me, may I confer with my client
3 on this particular matter.

4 THE COURT: Very well.

5 (Whereupon Mr. Morgan approaches the witness
6 and holds an off the record conversation with him after
7 which the following proceedings were had on the record.)

8 THE WITNESS: Yes.

9 BY MR. KANAREK:

10 Q All right, how many felonies have you been
11 convicted off?

12 A One, about ten years ago.

13 Q What felony was that?

14 A I really don't remember it because I just
15 remember it when the probation report or something was
16 made out, I vaguely remember an incident or something.

17 I don't know, really.

18 Q You don't know -- well, was it treason, or was
19 it spitting on the sidewalk? What was it?

20 A I couldn't remember. I was real young. I
21 just turned 20, you know, something like that, I guess.

22 Q Well, what was the felony?

23 A I can't remember, I cannot remember it.

24 Q I see.

25 Do you know -- do you know what court it was
26 in, Mr. Crowe?

1 A Yes, it was back East.

2 Q What city?

3 A Philadelphia.

4 Q Pennsylvania?

5 A Yes.

6 Q And what was the nature of it, did it involve
7 narcotics or a gun?

8 A No, no.

9 Q What did it involve, Mr. Crowe?

10 A I cannot actually remember word for word.

11 Q Well, would you tell us in what field of
12 activity it was, Mr. Crowe?

13 A Let me think -- I cannot remember.

14 Q Was a gun involved in that?

15 A Yes.

16 Q And did you shoot the gun?

17 A No.

18 Q Well, how was the gun involved in the felony
19 then, what was it?

20 A I don't know, I guess I had it or something,
21 I don't know. I cannot quite remember.

22 Q You cannot remember it?

23 A No.

24 Q Well, you recently had occasion to talk to the
25 probation department in Los Angeles County, is that
26 correct?

1 A Yes.

2 Q And you discussed that offense with the
3 probation officer in Los Angeles County, right?

4 A I beg your pardon. Ask that question again.

5 MR. KANAREK: Sure.

6 Q When you went to the probation officer in the
7 not too distant past in Los Angeles County, you discussed
8 that matter back in Philadelphia with the probation officer
9 here, is that correct?

10 A Yes -- excuse me, please.

11 Q Surely.

12 A Will you ask me that question once more, the
13 question you just asked me?

14 MR. KANAREK: May it be read, your Honor, so there is
15 nothing lost in the repetition?

16 THE COURT: Read the question.

17 (Whereupon the reporter reads the pending
18 question as follows:

19 "Q When you went to the probation officer
20 in the not too distant past in Los Angeles County,
21 you discussed that matter back in Philadelphia with
22 the probation officer here, is that correct?"

23 THE WITNESS: No, no, no.

24 BY MR. KANAREK:

25 Q Now, you say that it involved a gun. Were you
26 charged with robbery?

1 A No.

2 Q Well, what were you charged with?

3 A I said I could not remember, you know, that
4 is what I keep saying, I don't remember.

5 THE COURT: We will take our recess at this time,
6 ladies and gentlemen, do not converse with anyone nor form
7 or express an opinion regarding penalty until that issue
8 is finally submitted to you.

9 The court will recess for 15 minutes.

6 fls. 10 (Recess.)
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1 THE COURT: All defendants except Mr. Manson are
2 present; all counsel and jurors are present.

3 You may proceed, Mr. Kanarek.

4 MR. KANAREK: Thank you, your Honor.

5 Q Mr. Crowe, by whom are you employed?

6 MR. BUGLIOSI: It's irrelevant, your Honor.

7 THE COURT: Sustained.

8 Q BY MR. KANAREK: Mr. Crowe, on March or, say, in
9 May of 1970 you had already spoken to the police concerning
10 this case, right?

11 A I beg your pardon?

12 Q In May of 1970 you had already spoken to the
13 police concerning this case, is that correct?

14 A I don't know the time element, but I spoke to
15 them before about the case, yes, on several occasions.

16 Q Yes, that was before May of 1970, is that correct?

17 A Oh, yes, yes.

18 Q Now, in May of 1970 or the early part of this year
19 you were charged with forging the seal of the State of
20 California.

21 Do you remember that?

22 MR. BUGLIOSI: Your Honor, I object. This is improper
23 impeachment, and he knows it.

24 THE COURT: Sustained. Approach the bench, Counsel.

25 (The following proceedings were had at the bench
26 out of the hearing of the jury:)

1 THE COURT: Mr. Kanarek, you know that is improper.

2 MR. KANAREK: No, it is proper.

3 THE COURT: Just a moment. Are you contending that this
4 was a felony conviction?

5 MR. KANAREK: No, he got a benefit from the People. He
6 got a benefit, he was charged with forgery, including the
7 forgery of the Great Seal of the State of California, and he
8 was allowed to resolve that in a way advantageous to him
9 in connection with this very case, because --

10 THE COURT: Make your offer of proof.

11 MR. KANAREK: My offer of proof is if he would tell the
12 truth, if he would testify that he was charged with forgery,
13 472 of the Penal Code, and counterfeiting of the Great Seal
14 of the State of California, your Honor, and receiving
15 stolen property --

16 THE COURT: Get to the point. What is your offer of
17 proof?

18 MR. KANAREK: My offer of proof is, if he told the
19 truth that he would say that because of this case and his
20 posture in this case, he was allowed to have a resolution
21 of that that was advantageous to him.

22 MR. BUGLIOSI: He has no evidence of that, your
23 Honor, he has no evidence of that.

24 THE COURT: That appears to be just an indirect way of
25 trying to get in something that you know to be inadmissible.

26 Do you have any evidence of this?

MR. KANAREK: Yes.

1 THE COURT: What?

2 MR. KANAREK: Your Honor, the evidence is that this
3 is what happened, the circumstances clearly show.

4 THE COURT: I want to hear. Make your offer of proof.

5 MR. FITZGERALD: I think the law allows counsel to ask
6 if there is pending against the witness a case prosecuted
7 by the same office of the District Attorney of the same
8 County.

9 That is permissible impeachment.

10 THE COURT: He did not ask that.

11 MR. FITZGERALD: If the case Mr. Kanarek is referring to
12 is still pending, the theory being that a witness
13 testifying with the pending case against him is going to be
14 beholden to the prosecution.

15 THE COURT: But he did not ask that.

16 MR. FITZGERALD: No, he didn't.

17 THE COURT: Now, Mr. Kanarek, I have seen you in
18 action long enough to know, sir, that you have no morals
19 or scruples when it comes to doing something that is
20 improper, and you know it to be improper.

21 Now, if you want to get at this in a proper, legal
22 way, I will let you do it, but I am getting a little bit
23 tired of the business of your unethical conduct.

24 In my opinion you know exactly what you are doing,
25 and when you did that you knew it was improper.

26 In your offer of proof you have given me nothing

1 to indicate that you know what you contend to be true is
2 true. It was simply an indirect way of getting into the
3 record something you never could have gotten in in any other
4 way.

5 It is improper impeachment.

6 MR. KANAREK: Your Honor, I can ask him the question --

7 THE COURT: That is not the point at all, and you
8 know it.

9 All right, let's proceed.

10 (The following proceedings were had in open court
11 in the presence and hearing of the jury:)

12 MR. KANAREK: Your Honor, may the record reflect that
13 Mr. Morgan once again has conferred --

14 THE COURT: Ask your next question, Mr. Kanarek.

15 MR. KANAREK: Is that a fair statement? I just want
16 the record to reflect it.

17 THE COURT: Ask your next question.

18 Q BY MR. KANAREK: Mr. Crowe, are you presently
19 awaiting a disposition of a criminal case in the courts?

20 A I refuse to answer on the grounds I may incriminate
21 myself, on the advice of my attorney.

22 MR. KANAREK: That is not permissible, your Honor--

23 THE COURT: Answer the question, Mr. Crowe.

24 THE WITNESS: Ask the question again, please.

25 MR. KANAREK: May it be read, your Honor?

26 THE COURT: Do you presently have a criminal case

1 pending in the courts?

2 THE WITNESS: Yes.

3 Q BY MR. KANAREK: What case?

4 MR. BUGLIOSI: I object, your Honor, it's irrelevant.

5 MR. KANAREK: It is offered on the basis of the benefits
6 accrued.

7 MR. BUGLIOSI: Your Honor, he is making a statement
8 that benefits are accruing. I object to that.

9 THE COURT: Sustained.

10 MR. BUGLIOSI: I would ask the Court to admonish the
11 jury to disregard that gratuitous statement by Mr. Kanarek,
12 your Honor.

13 THE COURT: The jury will disregard Mr. Kanarek's
14 statement.

15 Ask your next question.

16 Q BY MR. KANAREK: On December 2, 1970, Mr. Crowe,
17 were you in court in Santa Monica?

18 MR. BUGLIOSI: It's irrelevant.

19 THE COURT: Sustained.

20 Q BY MR. KANAREK: At the present time, Mr. Crowe,
21 as you sit there on the witness stand, is your state of
22 mind such that you know that you have not yet been
23 sentenced on a case in Santa Monica?

24 MR. BUGLIOSI: This is irrelevant, your Honor.

25 MR. KANAREK: This, your Honor --

26 THE COURT: Sustained.

1 MR. KANAREK: May we approach the bench, your Honor?

2 THE COURT: Ask your next question.

3 MR. KANAREK: May I make an offer of proof at the
4 bench, then, your Honor?

5 THE COURT: You were given that opportunity, Mr.
6 Kanarek. Proceed.

7 Q BY MR. KANAREK: In December of 1970, Mr. Crowe,
8 you knew that you were going to be a witness in this case,
9 is that correct?

10 A December what?

11 Q December of 1970.

12 A I think so. I am not sure on the date when I got
13 the subpoena.

14 Q Well, your state of mind was such in December
15 of 1970 that you knew that you would be a witness in this case,
16 is that correct?

17 A I don't remember the date on the subpoena.
18 Perhaps -- I don't know.

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1 Q In December --

2 A Yes, I think so, the 28th of December or some-
3 thing like that. I'm not sure.

4 Q In December of 1970, Mr. Crowe, and before
5 December of 1970, your state of mind was such that you knew
6 you were going to be a witness in this case, is that correct?

7 A December, 1970? No, the only time I knew, when
8 I got subpoenaed, I mean nothing definite until I got the
9 subpoena.

10 Q Let's say in the summer of 1970, your state of
11 mind was such that you knew that you would be a witness in
12 this case, is that correct?

13 A That could have been a possibility, yes.

14 Q You knew that.

15 Your thinking was, as you put it, that it could
16 have been a possibility that you would testify here, right?

17 A Yes.

18 Q That is not a possibility. That is a reality;
19 that is for sure.

20 MR. BUGLIOSI: Argumentative.

21 THE COURT: Sustained.

22 THE WITNESS: Now it is a reality, it manifestates
23 itself.

24 THE COURT: Wait for the ruling, Mr. Crowe.

25 BY MR. KANAREK:

26 Q At the time during the summer of 1970, in your

1 mind you were thinking that you would be a witness in
2 this case, is that correct?

3 A I am not sure. Whenever I got the subpoena,
4 that is when I knew I was going to be a witness.

5 Q You had talked to police officers on how many
6 occasions during 1970 concerning this case, Mr. Crowe?

7 A I cannot remember.

8 Q Pardon?

9 A I cannot remember -- several times.

10 Q How many times?

11 A I can give you a round-about figure.

12 First the homicide -- a couple -- I don't know,
13 three, four, five times -- three times, something like
14 that.

15 By the police or the authorities, what do you
16 mean?

17 Four or five times, something like that I guess,
18 I don't know, somewhere in that area.

19 Q And who did you speak with, Mr. Crowe?

20 A Investigating officers. When I first got shot
21 and I was going to die I talked to homicide. Those people
22 I did not see again -- I was on my death bed.

23 After that I talked with the investigating
24 officers.

25 Q Would you name one of their names?

26 A If I hear it mentioned I could, you know, I

1 would gather that is it.

2 Not right offhand, I don't.

3 Q Do you know Mr. Sartucha?

4 A Mr. Sartucha?

5 Q Yes.

6 A Yes.

7 Q You spoke with him concerning this case, right?

8 A I think so, I think that is his name.

9 Q You think?

10 A I'm not sure of the name.

11 Q Mr. Gutierrez, did you see Mr. Gutierrez?

12 A Yes.

13 Q You have spoken with him?

14 A Yes.

15 Q Right?

16 A Yes.

17 Q Did he tell you this was the crime of the
18 century?

19 MR. BUGLIOSI: This is argumentative and ridiculous.

20 THE COURT: Sustained.

21 BY MR. KANAREK:

22 Q Well, in your discussions with Mr. Gutierrez,
23 it was concerning this case, no question, right?

24 A Yes, that's right.

25 Q And Mr. Sartucha -- it was also concerning this
26 case, right?

1 A Yes. -- who is Mr. Sartuche?

2 Q A person other than Mr. Gutierrez who is a
3 Los Angeles police officer you have spoken with concerning
4 this case?

5 A Yes, certainly, right.

6 Q Would you tell us on what dates these were,
7 these conversations were, Mr. Crowe?

8 A I couldn't very well remember the dates. I
9 cannot very well remember the dates.

10 Q Where did these conversations take place, Mr.
11 Crowe?

12 A In the Hall of Justice here on the fifth floor,
13 one in the new County -- I saw the gentleman here, the
14 officer.

15 Q By the new County, you mean the new County Jail?

16 A Yes, the new County Jail.

17 Q You were in custody?

18 A Yes, I was.

19 Q Right?

20 A Yes.

21 Q And you were in custody on a case involving
22 matters in Santa Monica, right?

23 A I refuse to answer the question.

24 MR. KANAREK: Your Honor --

25 MR. BUGLIOSI: It's irrelevant.

26 THE COURT: Answer the question.

1 BY MR. KANAREK:

2 Q And would you tell us what period of time you
3 were in custody during 1970, Mr. Crowe?

4 MR. BUGLIOSI: It is irrelevant.

5 MR. KANAREK: Your Honor, it goes to the benefits,
6 if your Honor wishes I will make argument at the bench.

7 It is clearly relevant.

8 THE COURT: The objection is sustained.

9 BY MR. KANAREK:

10 Q When you were on the fifth floor discussing
11 these matters, the matters pertaining to this case, with
12 the Los Angeles police officers, were you in the presence
13 of any deputy district attorneys?

14 A Yes.

15 Q Mr. Bugliosi?

16 A Yes.

17 Q Mr. Kay?

18 A When I was in the presence of the officers, the
19 investigating officers?

20 Q Yes.

21 A No, I don't think so.

22 Q You spoke to Mr. Bugliosi when you were not
23 talking to the police officers, is that right?

24 A I am not sure, I think one time, that is two
25 days ago, I think, it could have been a policeman --

26 I did not know the occupations of the people

1 in the office.

2 Q In 1970 did you talk to Mr. Stovitz of the
3 District Attorney's Office, Deputy District Attorney Stovitz?

4 A Stovitz? I cannot remember. I don't know. I
5 talked to so many people.

6 Q You talked to a lot of people in law enforcement
7 concerning this case, right?

8 A No, about -- do you want me to count them or
9 something --

10 I don't know, two, four, six -- two, four --
11 six people -- eight people with the two homicides, since it
12 happened, about eight people all together.

5c fls.

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1 Now, were you in custody -- how long were you in
2 custody during the period of 1970, during the year 1970?

3 MR. BUGLIOSI: I object, your Honor. It's irrelevant.

4 THE COURT: Sustained.

5 Q BY MR. KANAREK: Did you have a conversation
6 with a police officer, Mr. Crowe, in connection with your
7 getting out of custody, in connection with this case?

8 A Which case is that?

9 Q Did you have a conversation with a police
10 officer while you were in custody concerning your getting
11 out of custody for whatever you were in custody about
12 because of your testimony in this case?

13 A No, I was not sure I was going to be a witness
14 until I was subpoenaed just like I was subpoenaed by you to
15 be a defense witness for Manson.

16 THE COURT: Just answer.

17 THE WITNESS: I don't know.

18 THE COURT: Read the question to the witness.
19 the

20 (Whereupon, /reporter reads the pending question
21 to the witness as follows:

22 "Q Did you have a conversation with a
23 police officer while you were in custody concerning
24 your getting out of custody for whatever you were
25 in custody about because of your testimony in this
26 case?"

THE WITNESS: Oh, no.

1 Q BY MR. KANAREK: Now, the subpoena that you are
2 speaking about, Mr. Crowe, is the subpoena I gave you this
3 morning, right?

4 A Yes, yes.

5 Q Now, my question is, at the time that you were in
6 custody was there any discussion between you and the police
7 officer about getting out of custody?

8 A What police officer -- I don't understand the
9 question. Rephrase it for me.

10 Q There you are in the County Jail, talking to a
11 police officer concerning this case, right?

12 A Yes.

13 Q And in that conversation did the police officer
14 talk to you about your getting out of the County Jail?

15 A No.

16 Q Never mentioned that?

17 A No.

18 Q I see, and what police officer was it that you
19 spoke to in the County Jail while you were in custody?

20 A I don't know his name, but I can show him to you,
21 I guess.

22 Q Do you see him in the courtroom?

23 A Yes.

24 Q Which gentleman is it?

25 A The gentleman in the fourth row with the gold suit
26 on.

1 Q Mr. Sartuche?

2 A Yes, Sartuche, I guess.

3 Q The gentleman who raised his left hand?

4 A Yes.

5 MR. KANAREK: May the record reflect that it reflects
6 Mr. Sartuche, your Honor?

7 THE COURT: I don't know whether it does or not,
8 Mr. Kanarek. Ask the person what his name is.

9 MR. BUGLIOSI: So stipulated.

10 THE COURT: All right.

11 Q BY MR. KANAREK: And at the time that you were in
12 custody and spoke to Mr. Sartuche concerning this case,
13 you spoke to him concerning the case you were in custody
14 about, right?

15 A Yes.

16 Q You discussed -- and would you tell us what
17 did you say and what did he say at this conversation?

18 A What was I in here for, and I told him, and that
19 is all that was to it.

20 And he smiled and said, "Okay, stay out of
21 trouble," you know, the father bit, you know.

22 Like father, like son, you know, patting you on
23 the head and saying, "Stay out of trouble," and "See you
24 later." That is all.

25 It was about this case, the case you are talking
26 about.

1 Q What did you tell him you were in trouble about?

2 MR. BUGLIOSI: That is irrelevant.

3 THE COURT: Sustained.

4 MR. KANAREK: Your Honor -- then may I approach the
5 bench?

6 THE COURT: No. Proceed.

7 Q BY MR. KANAREK: But you did discuss with him,
8 then, your matter, the reason that you were in custody,
9 right? That was discussed with him?

10 A He asked me a question about it and I gave him
11 an answer, you know, that is all it was.

12 It was not a discussion, it was just a
13 question and an answer. Q -- A.

14 Q Now, when you have been in court in Santa Monica
15 in connection with the matter you were in custody for
16 in 1970 --

17 A I beg your pardon?

18 Q You were in court in Santa Monica in connection
19 with the matter you were in custody in, in 1970?

20 MR. BUGLIOSI: Irrelevant.

21 THE COURT: Sustained.

22 Q BY MR. KANAREK: While you were in the courthouse
23 in Santa Monica, Mr. Crowe, did you discuss this case
24 with anyone in that courthouse?

25 A No, not to my knowledge. Do I remember it?

26 No.

1 Q You mean you may have discussed it?

2 A No, there is no doubt about it, I had no reason to.
3 I didn't even know I was going to be a part of it.

4 I knew there was a possibility because of
5 conversation based on, you know, "What happened to you
6 pertaining to that individual Charlie Manson?"

7 Q Right, and you had conversation at a time --
8 you had a conversation concerning Charlie Manson at the
9 time when you were in court in Santa Monica concerning your
10 case, right?

11 A No.

12 Q You never had that kind of a conversation?

13 A Not in court, no.

14 Q Did you have it in the corridors or in the
15 courtroom when the court was not in session?

16 A No, no.

17 Q Do you know what a deputy District Attorney is,
18 Mr. Crowe?

19 A Yes, the prosecutor.

20 Q Right. And you know what a police officer is?

21 A Yes.

22 Q And while you were in Santa Monica, on occasion
23 you had to go to Santa Monica in connection with your case
24 there, right?

25 A I beg your pardon?

26 Q On occasion you had to go to Santa Monica in

1 connection with your case, which was in the Santa Monica
2 Superior Court, right?

3 A Yes.

4 Q And while you were there at Santa Monica did you
5 discuss Mr. Manson with the Deputy District Attorney in
6 Santa Monica?

7 A No.
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1 Q Never did?

2 A No.

3 Q Are you, at this time, awaiting sentencing in
4 connection with that case in Santa Monica?

5 A I refuse to answer on the grounds that it may
6 incriminate myself, and on the advice of my attorney.

7 THE COURT: Answer the question.

8 MR. MORGAN: Your Honor, may I approach the witness?

9 THE COURT: I don't think it is necessary.

10 Answer the question, Mr. Crowe.

11 Did you hear the question? Are you presently
12 awaiting sentencing?

13 THE WITNESS: All I know is it is unresolved, I guess.
14 I don't know. It is not over with.

15 MR. KANAREK: You are awaiting sentencing on that
16 case; is that correct, Mr. Crowe?

17 THE WITNESS: Yes, I guess.

18 Is that right?

19 MR. KANAREK: Thank you, Mr. Crowe.

20 THE WITNESS: No, it is not right.

21 My attorney says it is not right.

22 He is my attorney. I don't know.

23 THE COURT: There is nothing pending.

24 Any questions, Mr. Keith?

25 MR. KEITH: No, your Honor.

26 THE COURT: Mr. Bugliosi, any redirect?

6-2

MR. BUGLIOSI: Just very, very few, your Honor.

REDIRECT EXAMINATION

BY MR. BUGLIOSI:

Q Was Del a Negro?

A I beg your pardon?

Q Was Del a Negro?

A No.

Q Is Steve a Negro?

A No.

Q Is Jim a Negro?

A No.

Q At the time that Mr. Manson shot you, did you have a knife on your person?

A No.

Q And you testified that you did not have a gun on your person; is that correct?

A That is correct.

Q Were you armed with any type of a deadly or offensive weapon whatsoever?

A No.

Q Did you, at any time, tell Mr. Manson that you were armed in any fashion?

A No.

MR. BUGLIOSI: No further questions.

THE COURT: Any recross?

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1 MR. KANAREK: Yes.

2
3 RE CROSS EXAMINATION

4 BY MR. KANAREK:

5 Q Mr. Crowe, you are writing a book; right?

6 MR. BUGLIOSI: That is irrelevant.

7 THE WITNESS: No, I am not.

8 THE COURT: Sustained.

9 You may step down, sir.

10 THE WITNESS: I wish I was.

11 MR. BUGLIOSI: The People call Michael Erwin

12 MR. MORGAN: Your Honor, may I address the Court,
13 please?

14 THE COURT: Yes.

15 MR. MORGAN: May this witness and myself be excused?

16 MR. KANAREK: Your Honor, he is under subpoena to
17 return on February the 8th at 9:00 a.m.

18 MR. MORGAN: Until February the 8th?

19 THE COURT: Yes, Mr. Morgan.

20 MR. KANAREK: Before Mr. Crowe leaves, your Honor,
21 I wonder if your Honor can inform him about the publicity
22 order?

23 THE COURT: Are you familiar with that order, Mr.
24 Morgan?

25 MR. MORGAN: No, I am not, your Honor.

26 THE COURT: The Clerk will give you a copy of the

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1 order, Mr. Morgan.

2 Will you advise your client that he is subject
3 to that order?

6a fls.

4 MR. MORGAN: Yes,
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6a-1

(Mr. Michael Erwin enters the courtroom.)

THE CLERK: Would you raise your right hand, please.

Would you please repeat after me.

I do solemnly swear --

THE WITNESS: I do solemnly swear --

THE CLERK: -- that the testimony I may give --

THE WITNESS: -- that the testimony I may give --

THE CLERK: -- in the cause now pending --

THE WITNESS: -- in the cause now pending --

THE CLERK: -- before this court --

THE WITNESS: -- before this court --

THE CLERK: -- shall be the truth --

THE WITNESS: -- shall be the truth --

THE CLERK: -- the whole truth --

THE WITNESS: -- the whole truth --

THE CLERK: -- and nothing but the truth --

THE WITNESS: -- and nothing but the truth --

THE CLERK: -- so help me God.

THE WITNESS: So help me God.

THE CLERK: Would you be seated, please.

Would you please state and spell your name.

THE WITNESS: Michael Erwin, E-r-w-i-n.

MICHAEL ERWIN,

called as a witness by and on behalf of the People, having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BUGLIOSI:

Q What is your occupation, sir?

A I am a box boy and a student.

Q Did you know an individual named Gary Hinman?

A Yes, I did.

MR. BUGLIOSI: Your Honor, I have here a photograph.
May it be marked People's P-2 by incorporation, by reference
to Superior Court case No. 057452?

THE COURT: It will be so marked.

BY MR. BUGLIOSI:

Q I show you People's P-2.

Do you know who is shown in that photograph,
sir?

A Yes, I do.

Q Who is that?

A Gary Hinman.

Q How old was Hinman?

A I believe he was 34.

Q Could you briefly explain your acquaintanceship
with Mr. Hinman?

MR. FITZGERALD: It is immaterial and irrelevant,

1 your Honor.

2 THE COURT: Overruled.

3 You may answer.

4 THE WITNESS: Answer it?

5 MR. KANAREK: Your Honor, I understand this is
6 coming in only against -- not against Mr. Manson. I
7 wonder if your Honor would so inform the jury.

8 MR. BUGLIOSI: That is true, your Honor. The People
9 are offering this evidence only against Defendant Susan
10 Atkins.

11 THE COURT: The jury is admonished that the testimony
12 of this witness is to be considered only against Miss Atkins
13 and not with respect to any of the other defendants.

14 MR. KANAREK: Your Honor, I wonder if we might approach
15 the bench briefly so that I can make a certain point to the
16 Court?

17 THE COURT: Having to do with the testimony of this
18 witness?

19 MR. KANAREK: Yes, your Honor.

20 THE COURT: Very well.

21 (Whereupon all counsel approach the bench and
22 the following proceedings occur at the bench outside of the
23 hearing of the jury:)

24 MR. KANAREK: Your Honor, my motion, your Honor, is
25 that the District Attorney make an election.

26 If he elects to put this matter concerning Gary

1 Himman on, I ask for a mistrial because of the fact that
2 mere admonishment to the jury is insufficient.

3 It will not be possible, the jury cannot, in
4 the posture of this case and the relationship that the
5 District Attorney alleges between these parties, even though
6 your Honor makes the admonishment, it would be ineffective,
7 and it is a denial of a fair trial, a fair penalty trial,
8 under the due process clause of the Fourteenth Amendment,
9 and denial of equal protection under the Fourteenth Amend-
10 ment, and also denial of due process under the California
11 law, for your Honor to allow into evidence anything concern-
12 ing this alleged homicide against Mr. Himman.

13 I refer you to cases like Stein vs. New York
14 where the Appellate Courts indicate that it is certainly
15 gymnastics that the jury cannot look through. And I think
16 it is so prejudicial hearing about Himman, that that being
17 the case, mere admonishment not sufficing, I ask for a
18 mistrial, or that the District Attorney not use it in this
19 joint trial.

6b fls.

6b-1

1 MR. FITZGERALD: I will join in that motion.

2 MR. KEITH: I will, too.

3 MR. FITZGERALD: I think there is something to be
4 said for Mr. Kanarek's motion.

5 THE COURT: How does it differ from the typical
6 Bruton-Aranda problem? The courts have upheld it when a
7 statement does not implicate a co-defendant.

8 I don't know what this witness is going to say.

9 Apparently he is not the one that is going to testify --

10 MR. FITZGERALD: I think he is going to testify -- he is
11 going to establish a corpus; that he knew Gary Hinman in
12 life; and then they are going to put on evidence that he is
13 dead.

14 But I sort of agree with Mr. Kanarek that even
15 though the jury is admonished and it is going to be limited
16 to Susan Atkins, inasmuch as they have already been
17 convicted of conspiracy to commit murder, that is to say,
18 that they combined and confederated one with another,
19 the defendants, it is going to be difficult to limit the
20 evidence as to one of the defendants, because it is so
21 grossly prejudicial.

22 I mean, it is supposed to be prejudicial as
23 to Susan Atkins, but the gross prejudice of it can't help
24 but spill over onto the other defendants.

25 MR. KANAREK: Furthermore, there is not just statements,
26 there is a crime. They are not putting on just an Aranda-

1 Bruton statement which goes to confessions or admissions.
2 Here they are alleging that they are going to purportedly
3 prove up beyond a reasonable doubt an actual homicide.

4 It is prejudicial, your Honor.

5 THE COURT: That is not what Mr. Bugliosi said.
6 I understood him to say that he was going to put on
7 Roni Howard to testify to Susan Atkins' statements.

8 MR. BUGLIOSI: That is correct.

9 MR. FITZGERALD: They are going to put on a corpus
10 for murder, a dead body, and then they are going to put on
11 her confession, and this is the first witness to establish
12 the corpus. This is the first witness to establish somebody
13 once alive is now dead, and then they are going to put in
14 her confession.

15 THE COURT: What about the argument that because the
16 defendants have been convicted of a conspiracy --
17 what was the date of the Hinman killing?

18 MR. BUGLIOSI: We don't know, but probably July 25th,
19 July 26th; somewhere around there.

20 THE COURT: 1969?

21 MR. BUGLIOSI: Yes.

22 MR. KAY: Right.

23 THE COURT: Well, you see, that raises an entirely
24 different question than the Bruton-Aranda problems we had
25 in the guilt phase before anything had been proved against
26 the defendant. Here you have something different. The

1 jury has convicted these defendants of conspiracy, a
2 conspiracy which they could have found commenced before
3 July 25th and continued right through that period until
4 after the La Bianca murders.

5 So, you have an entirely different situation.

6 MR. KEITH: Particularly when the evidence is so
7 voluminous to show the very tight-knit association of
8 these defendants.

9 THE COURT: Not only that, but the proximity of the
10 location. Topanga Canyon is just a matter of a relatively
11 few miles from the Spahn Ranch and from the Tate residence.

12 MR. BUGLIOSI: Your Honor, our position, of course, is
13 that it is entirely admissible only against her, but I
14 think this is a serious enough issue that we should perhaps
15 discuss it back in chambers.

16 THE COURT: I agree. I think it is a very serious
17 situation.

18 MR. BUGLIOSI: I don't think we can resolve it here
19 at the bench.

20 THE COURT: It is five minutes to 12:00. We will recess
21 at this time, and I will see counsel in chambers at 1:45
22 and we will continue the discussion.

23 MR. BUGLIOSI: All right.

24 (Whereupon, all counsel returned to their
25 respective places at counsel table and the following
26 proceedings occur in open court within the presence and

hearing of the jury:)

1 THE COURT: We are going to recess at this time,
2 ladies and gentlemen.

3 Do not forget the admonition.

4 Do not converse with anyone or form or express
5 any opinion regarding the penalty until that issue is
6 finally submitted to you.

7 The Court will recess until 1:45.

8 (Whereupon, at 11:55 a.m. the court was
9 adjourned.)
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