

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



DEPARTMENT NO. 106

HON. RAYMOND CHOATE, JUDGE

204

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

-VS-

NO. A-267861

BRUCE MCGREGOR DAVIS,
Defendant.

REPORTERS' DAILY TRANSCRIPT

Thursday, December 2, 1971

VOLUME 4APPEARANCES:

For the People: JOSEPH P. BUSCH, JR., District Attorney
BY: ANTHONY MANZELLA
and
STEPHEN R. KAY,
Deputies District Attorney

For Defendant Davis:
GEORGE V. DENNY, III

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

COPY

1 LOS ANGELES, CALIFORNIA, THURSDAY, DECEMBER 2, 1971 9:51 A.M.

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4 THE COURT: The case of People vs. Davis?

5 We're ready to proceed.

6 (Proceedings had on unrelated matters.)

7 THE COURT: Mr. Kay, did you take a look at Mr. Denny's
8 motion, his request for clarification of discovery material
9 heretofore provided, of persons interviewed or to be present
10 during interviews with certain witnesses?

11 MR. KAY: Yes, I did. And I understand that Burton
12 Katz was the one who took most of those interviews. And
13 Mr. Manzella is getting ahold of him to clarify those
14 things for Mr. Denny.

15 THE COURT: Were you in the process of talking to Mrs.
16 Melendez, Mr. Denny?

17 MR. DENNY: Your Honor, I believe that I was in the
18 middle of a question, about the time that the jury panel came
19 in. I don't recall the question, however.

20 THE COURT: All right. Go ahead.

21 Good morning, Mrs. Melendez.

22 The record will show the defendant to be present
23 with counsel, and Mr. Kay for the People.

24 Go ahead.

25 MR. DENNY: Thank you.

26
27 VOIR DIRE EXAMINATION (Continued)
28 OF RACHEL MELENDEZ

1 BY MR. DENNY:

2 Q I don't know, Mrs. Melendez, whether I had asked
3 you whether you had ever heard the name of Steve Grogan or
4 Clem Grogan?

5 A No, I haven't.

6 Q And again, excuse me if I repeat some of the
7 questions. It's a little difficult to pick up.

8 But did you tell us when the last time was that
9 you had heard anything about any trial involving Charles
10 Manson?

11 A No.

12 Q You didn't tell us? Or when was the last time
13 that you heard anything about a case involving him? Heard,
14 read or saw anything?

15 A I don't recall the last time I heard about it.

16 Q Well --

17 A I guess the first one was the biggest one, and --
18 I guess that was about a year and a half or a year ago.

19 Q All right. And have you, say, within the last
20 couple of months, heard anything about Mr. Manson being
21 tried for any other offense or offenses?

22 A No.

23 Q Have you heard about any of these people again --
24 as the press has referred to them -- of the Manson Family,
25 being tried on any charges during the last couple of months?

26 A No.

27 Q Insofar as the Manson Family, as it's been
28 called, what does that mean to you, ma'am?

1 A Well, the first time I had ever heard of it is
2 when -- well, when Manson was brought to trial.

3 Q Um-hmm.

4 But what -- does it have any connotations? When
5 you think of the Manson Family, what do you think of?

6 A Well, I guess his followers.

7 Q And do you have any feeling that any people who
8 might be termed his followers, or members of this Manson
9 Family, or group, are, say, either very good people or very
10 bad people? Or do you have any feelings one way or the
11 other about them?

12 A No, not really.
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1 MR. DENNY: I'll pass, your Honor.

2 MR. KAY: No questions, your Honor.

3 THE COURT: All right, thank you, Mrs. Melendez.

4 Would you rejoin the group out in that lovely
5 hallway, then.

6 JUROR NO. 11: Okay.

7 THE COURT: And pick another name for juror No. --
8 another slip for juror No. 3.

9 THE CLERK: Eugene T. Batchelor, E-u-g-e-n-e,
10 B-a-t-c-h-e-l-o-r.

11 THE COURT: I think that's the only name we need to call.
12 We only eliminated Mr. Flores in the last go around.

13 MR. KAY: Yes, sir.

14 (Whereupon, the bailiff conferred with the Court
15 and the clerk.)

16 THE CLERK: He's not out there?

17 THE COURT: He didn't leave, did he?

18 THE BAILIFF: I don't think so, sir.

19 THE COURT: He's not out there?

20 (Whereupon, the bailiff conferred with the Court
21 up at the bench.)

22 THE COURT: We'll ask him about that right away. Thank
23 you, Bob.

24 Find him. I would like to speak to him.

25 THE BAILIFF: One of the officers went to look for him.
26 I think he's in the rest-room.

27 (Whereupon, there was a pause in the proceedings
28 while waiting for the prospective juror.)

1 (Whereupon, the bailiff conferred with the Court
2 and the clerk up at the bench.)

3 THE COURT: We can't find Mr. Batchelor at this time.
4 Shall we call another name?

5 MR. KAY: Maybe it might be a good idea to tell the
6 other jurors out there not to wander off while the Court's
7 in session.

8 THE BAILIFF: I did, sir.

9 THE COURT: May it be stipulated that we may pass the
10 name of Mr. Batchelor, then?

11 MR. KAY: So stipulated on the part of the People.

12 MR. DENNY: I suppose, your Honor.

13 (Whereupon, a gentleman walked into the courtroom.)

14 THE COURT: Are you Mr. Batchelor?

15 MR. KAY: No, no, your Honor, he's a Deputy D. A. He's
16 Mr. Pritikin.

17 He can be a juror, though, I'll take him.

18 (Laughter.)

19 THE COURT: Is it stipulated that we may select --
20 pass Mr. Batchelor's name and pick another name?

21 MR. KAY: So stipulated.

22 MR. DENNY: So stipulated.

23 THE COURT: Is that agreeable with you, Mr. Davis?

24 DEFENDANT DAVIS: Yeah, okay. It doesn't make any
25 difference to me.

26 THE COURT: Find Mr. Batchelor, though, I want to talk
27 to him. And tell the other jurors they are not to leave
28 except momentarily to the rest-room.

1 THE BAILIFF: Yes, sir.

2 THE CLERK: Miss Anne R. Simonian, A-n-n-e, S-i-m-o-n-i-a-
3 -n.

4 MR. KAY: Would you spell that last name again, for me,
5 please?

6 THE CLERK: S-i-m-o-n-i-a-n.

7
8 VOIR DIRE EXAMINATION OF
9 ANNE R. SIMONIAN

10 BY THE COURT:

11 Q Good morning. Say your name again for me.

12 A Anne Simonian.

13 Q Simonian, fine, thank you.

14 We're inquiring now, Mrs. Simonian, about whether
15 you had previously heard anything concerning this case.

16 Have you heard anything whatever about this case
17 before?

18 A Uh, you mean specifically this gentleman
19 (indicating)?

20 Q Yes, about this case of People versus Bruce
21 McGregor Davis?

22 A I don't recall the gentleman's name, but I do recall
23 reading or hearing about some of the circumstances surrounding
24 it. Uh, about --

25 Q You read this in the press?

26 A I don't know if I at one time read it somewhere or
27 heard it on the television. Uh --

28 Q Before you were in court here on Monday, when you

1 came in and the Court read the indictment to you and told you
2 about the case, had you previously heard the name Bruce
3 Davis?

4 A Oh, no, not his name.

5 Q Had you previously heard the name Shorty Shea?

6 A Yes.

7 Q In what connection had you heard, seen or read the
8 name Shorty Shea?

9 A Well, I think in -- when there was -- when the
10 crime first -- you know, happened. Uh --

11 Q What crime are you talking about? Are you talking
12 about the Tate-LaBianca murders?

13 A Yes, I think -- I think that's when I heard about
14 the name, the caretaker on the ranch or something, that had
15 been murdered. And then, a recording artist or someone. And I
16 thought these were the people that you just mentioned.

17 Q Is that Gary Hinman?

18 A Yes, I thought that's what -- that they were the
19 same people.

20 Q I see.

21 You have previously known of Gary Hinman as
22 a musician?

23 A I think so. That was familiar to me when --

24 Q Shorty Shea was a caretaker?

25 A On the ranch.

26 Q Spahn Ranch?

27 A Beg pardon?

28 Q Spahn Ranch?

1 A Yes, that's correct.

2 Q Then, did you occasionally follow that Tate-
3 LaBianca matter in the press?

4 A I don't think I personally received it, but, you
5 know, -- actually went to read or find out information, but
6 it is just from time to time people would say something or
7 I'd hear it on the news, you know.

8 Q How about the term "Manson Family," what does that
9 mean?

10 A It is a little frightening, you know. Kind of
11 frightens me.

12 Q Why is that? What are the associations you have in
13 your mind about that?

14 A Oh, I guess just about the murder and the -- their
15 life and --

16 Q You think they're generally a pretty bad group?

17 A I think maybe I think they are. I didn't --

18 Q Let me ask you this, then: Would a person who is a
19 member of the Manson Family, assuming a person who is a member
20 of the Manson Family, by reason of what you have heard, seen
21 or read, would he be in a worse position than someone who is
22 not a member of the Manson Family in having you as a juror?

23 In other words --

24 A I don't think I could really be fair.

25 Q You don't think you could be fair and impartial
26 with someone whom you knew or believed to be a member of the
27 Manson Family?

28 A I don't think I could be fair, in all honesty and

1 under oath, you know. I -- I've thought about it very -- quite
2 extensively, you know, the last few days --

3 Q The Court is happy you have.

4 A -- and searched myself, and I don't think I could
5 honestly be fair.

6 Q You are being very frank and the Court appreciates
7 that. It shortens the time involved here.

8 MR. DENNY: We'll challenge the prospective juror under
9 1073, Subdivision 2, and 1076.

10 MR. KAY: No opposition.

11 THE COURT: The Court grants the challenge.

12 Thank you, Mrs. Simonian.

13 You should return to the 15th floor. I don't know
14 whether you were ever there or not, but you are to go directly
15 to the 15th floor of the new Hall of Records which is
16 diagonally across the street. The 15th floor of the new Hall
17 of Records.

18 Pick another name, then, in place of --

19 THE CLERK: Mrs. Stella Ferguson, F-e-r-g-u-s-o-n.
20 Stella, S-t-e-l-l-a.

21 THE COURT: Did Batchelor show up yet that you know?

22 Sir, did Mr. Batchelor show up?

23 THE BAILIFF: Not yet, sir.

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1 MR. KAY: Your Honor, I recall last night, after we
2 recessed, that the bailiff approached with one juror that
3 had an employment problem. Evidently he was self-employed
4 and wanted your Honor to excuse him.

5 THE COURT: Yes. I -- I told Mr. Kuczera that we would
6 consider that request today. But I didn't excuse the
7 prospective juror.

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9 VOIR DIRE EXAMINATION OF
10 STELLA FERGUSON

11 BY THE COURT:

12 Q Mrs. Ferguson, we are interested in knowing
13 whether you had, before I told you about it on Monday, ever
14 heard of this case?

15 A Yes.

16 Q Had you heard, seen or read about it in the
17 press?

18 A Uh -- I read something about it.

19 Q And had you heard the name Davis, Bruce McGregor
20 Davis, --

21 A No.

22 Q -- before? Had you heard the name Shorty Shea
23 before?

24 A No.

25 Q Heard, seen or read it?

26 A No.

27 Q That is, before I read it in the indictment, you
28 had never heard, seen or read it?

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A No.

Q Had you heard, seen or read the name Hinman before I mentioned it in reading the indictment?

A No.

Q Had you heard the name Manson Family?

A No.

Q Now, is that what you are talking about, when you say you heard about this case?

A Yes.

Q Something to do with the Manson Family?

A Yes.

Q Have you ever read anything concerning the two alleged homicides in this case, the alleged homicides involving Mr. Shea and Mr. Hinman?

A No, I don't recall anything but just the Manson.

Q And are you referring to what you may have heard, seen or read in connection with the Tate-La Bianca cases, --

A Yes.

Q -- those killings?

A Yes.

Q So, at this moment, to your knowledge, you had never heard anything about the alleged homicides of Mr. Shea and Mr. Hinman; am I correct?

A That's right.

Q Have you ever heard the name Steven Grogan?

A I don't recall.

Q The term Manson Family, what does that mean to you?

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1 A Well, I just read something in there about --
2 mostly where he wanted to create war between black and white.

3 That's the only part that I read.

4 Q That Manson did?

5 A Yes.

6 Q Manson and his followers?

7 A Yes. No, Manson himself. Not his followers. If
8 I'm correct, that's what I read about it.

9 I really didn't keep up with it.

10 Q I see.

11 In other words, you did learn, however, that Manson
12 himself was more or less anti-Negro in his approach to the
13 race problem?

14 A Well, I couldn't very well say that.

15 Q You don't know that that was the case?

16 A No. That's the only thing that I read about it.

17 Q But he did want to -- as far as you know, he did
18 want to create trouble --

19 A That's all, yes.

20 Q -- trouble between the races?

21 A That's right.

22 Q And you don't know what his purpose was?

23 A No, I really don't.

24 Q Would a person who was a member of the Manson
25 Family, by reason of what you've heard, seen or read, be
26 at any disadvantage if you were a juror in a trial involving
27 him?

28 A No, I don't think I could blame somebody for what

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1 he did.

2 Q If a member -- if a person was a member of the
3 Manson Family, do you think that you could be fair and
4 impartial in judging any issue that you might be called upon
5 to judge, in spite of the fact that you have heard things
6 and seen and read things about the Manson Family?

7 A I am sure I would be able to.

8 Q You think you could be?

9 A Sure.

10 Q Does the name -- the name Shorty Shea does not
11 at all call to your mind anything that you've heard, seen or
12 read?

13 A No.

14 Q Or Gary Hinman?

15 A No.

16 Q You do recall reading about the Tate-La Bianca
17 murders?

18 A I really didn't read all of that.

19 Q But you do remember that Charles Manson and some
20 of his people in some way or another were involved in the
21 murders of Sharon Tate and the La Blancas?

22 A Yes.

23 Q And other persons?

24 A Well, the only person I -- that I could remember
25 their name would be Manson; that's all.

26 Q Would be Mr. Manson?

27 A That's all.

28 Q Do you remember the names of any of the victims

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1 in that case, other than Sharon Tate?

2 A That's -- Sharon Tate is about the only thing
3 that I can remember.

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1 Q Well, if I were to instruct you, Mrs. Ferguson,
2 that -- well, let me ask you a question that I neglected
3 to ask you, that I should have asked you right at first.

4 Would it be a hardship to you to serve in this
5 trial?

6 A No.

7 Q If I were to instruct you that you are not
8 permitted to consider any matter that you may have heard,
9 seen or read concerning Mr. Manson, this case or -- or
10 Mr. Davis, that you are not permitted to consider any such
11 matter in making any decision that you might be called upon
12 to make as a juror in this case, could you follow that
13 instruction?

14 A I certainly could.

15 Q Are you capable of acting independently of any
16 such matter that you might have heard, seen or read?

17 A Certainly.

18 Q And setting it aside for the purpose of making
19 any judgment that you might be called upon to make in this
20 case?

21 A That's right.

22 Q And will you do that?

23 A I certainly would.

24 Q And can you be fair and impartial in this case?

25 A I certainly could.

26 Q You sound certain and definite about it. And
27 you believe that you have the capability, and you tell me
28 that you will exercise your judgment to exclude such matters

1 from your mind?

2 A That's right.

3 MR. KAY: Is your Honor going to inquire about the
4 death penalty before we start on?

5 THE COURT: Yes. Thank you.

6 Q Do you have such views concerning the death
7 penalty, Mrs. Ferguson, that you would not -- you would
8 automatically refuse to impose it?

9 A No.

10 Q Or do you have such views concerning it that you
11 would automatically impose it upon a conviction of murder
12 of the first degree, regardless of the evidence?

13 A No.

14 Q Do you have such views about it that you could
15 not be fair and impartial in determining the question of
16 guilt or innocence in the first phase of the trial?

17 A I could be fair.

18 Q You haven't any views about it that would keep
19 you from being fair?

20 A No.

21 THE COURT: All right. Thank you.

22
23 VOIR DIRE EXAMINATION

24 BY MR. DENNY:

25 Q Ma'am, do you take a newspaper regularly, a
26 subscription to a newspaper? Or -- or your family?

27 A No, I don't take a paper at all.

28 Q Do you read any particular magazines?

1 A Yes.

2 Q What magazines, ma'am?

3 A Women's Day and Good Housekeeping.

4 Q And what would you say is the major source of
5 your information about the news of the day?

6 A Really, I -- I just couldn't say, because I work
7 eight hours; and when I get home, I am -- you know, I do my
8 cooking; and mostly, I go to bed.

9 Q Well, you --

10 A And I like to look at 6:00 o'clock Movie, and
11 Million Dollar Movie; and that's about all I see of TV.

12 Q Well, from what source do you get your news
13 of the world events or local news?

14 A Usually I hear other people talking about it.

15 Q And would you say that's the main source of
16 your news about Mr. Manson and the Manson Family, and the
17 Tate killings, that you are aware of?

18 A Well, I wouldn't have read -- I wouldn't have
19 read that, if I hadn't heard people talking about it.

20 Q Well, do I understand --

21 A If that answers your question.

22 Q Do I understand, then, from your answer that
23 you heard people talking about it, and then you did do
24 some reading about it?

25 A I read that one particular -- you know -- story
26 about that; that was all.

27 Q What particular story is that?

28 A That was -- when I was telling the Judge about --

1 he wanted to create war between the black and white. That
2 was all.

3 Q Yeah. Do you remember in what particular magazine
4 or newspaper that was that you read that?

5 A No, I really couldn't tell you that.

6 Q Was it a magazine; do you recall?

7 A No, it wasn't a magazine. A newspaper.

8 Q A newspaper?

9 A And I couldn't tell you which one it was.

10 Q Did some friends talk to you and say, "Look,
11 there's an interesting article about Manson and his feeling
12 about blacks in the paper today. Get the paper and read it."

13 Something of that kind?

14 A No. They were talking about it on the job.

15 Q Um-hmm.

16 A And they were asking each other, did they read
17 the articles?

18 Q Um-hmm.

19 A And that's why --

20 Q Well, then, you went out and bought the paper
21 and read it; is that it?

22 A Yes.

23 Q All right. And what did it say?

24 A Gee. It's been so long, I couldn't tell you.
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1 Q Well, just -- I'm not asking, certainly, for a
2 verbatim report. But what is your best recollection of what
3 it said about how he felt about blacks, or stirring up
4 trouble between blacks and whites?

5 A Well, it was something in the paper concerning
6 about him wanting to rule the world or something, and if he
7 could start a war between the black and the whites.

8 And that's about -- just about as much as I can
9 tell you, really.

10 Q All right. And what were your feelings toward
11 Charles Manson, having read that? Do you think he's a good
12 man?

13 A I wouldn't say he was a good man.

14 Q And would you say that, having read that article
15 about Charles Manson, at that time, that you would feel --
16 or would have felt that you could have been a fair juror,
17 sitting in judgment of him, on any case on which he was
18 tried?

19 MR. KAY: Well, I'll object, your Honor. That's
20 irrelevant.

21 THE COURT: Sustained.

22 MR. DENNY: Well, your Honor, if the Court please, I
23 think it's foundational to a question that I -- that I must
24 ask concerning Mr. Davis.

25 But after I establish the foundation --

26 THE COURT: The objection is sustained.

27 BY MR. DENNY:

28 Q Well, ma'am, you've stated that as far as the

1 Manson Family, you don't know whether their feelings about
2 this black and white situation or about Mr. Manson's
3 philosophies were the same as his; is that right?

4 A Well, I couldn't say that they were the same.

5 Q You don't know?

6 A No, I don't know.

7 Q All right. Now, let's just say that you are
8 called on to try a member of Mr. Manson's group, or what they
9 have called the Manson Family in the press, and in the course
10 of that trial, you find out that perhaps the person on trial,
11 being associated with Mr. Manson, shares the same ideas, the
12 same viewpoints; he believes the same things.

13 Now, what would your feelings be about that,
14 ma'am? Would you think he was a good man or a bad man?

15 MR. KAY: Well, your Honor, I'm going to object to that.
16 That's asking the juror to prejudge the evidence.

17 MR. DENNY: I'm asking her about her state of mind,
18 your Honor.

19 THE COURT: Sustained.

20 Rephrase your question.

21 PROSPECTIVE JUROR NO. 3: What?

22 THE COURT: You needn't answer that.

23 BY MR. DENNY:

24 Q Do you have the feelings that a person who has
25 this philosophy that you read about, that Mr. Manson had,
26 about stirring up black-white wars, was something that you
27 don't feel very friendly toward?

28 MR. KAY: That's irrelevant, your Honor.

1 THE COURT: Sustained.

2 MR. DENNY: Well, your Honor, it's certainly relevant
3 to know what her feelings are about a person with that
4 philosophy.

5 THE COURT: Well, you may rephrase it.

6 Q BY MR. DENNY: Do you feel any antagonism --
7 would you feel --

8 A Well, the best answer that I can give you, I
9 might -- my daughter might do something. Just because my
10 daughter's doing something, that doesn't make me do it.

11 Q I know that.

12 A I mean, that's about the best answer that I can
13 give you.

14 Q Yes. But, ma'am, I'm not talking about another
15 person. I am -- well, let's take a situation where you know
16 that a particular individual has a philosophy of stirring up
17 trouble between blacks and whites, of stirring up a race
18 war between the blacks and the whites.

19 Now, would you feel friendly toward a person
20 with that philosophy?

21 MR. KAY: Well, I'm going to object as being irrelevant.
22 And it's not even on the grounds of publicity, which is what
23 we are doing.

24 THE COURT: Sustained.

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1 BY MR. DENNY:

2 Q If, ma'am, you had seen, heard or read that any-
3 body had that philosophy, and you were called upon to judge
4 that person, do you feel you could be fair in judging that
5 person?

6 MR. KAY: Same objection, your Honor.

7 THE COURT: Overruled.

8 Q BY MR. DENNY: You may answer that question.

9 THE COURT: Yes, you may answer it.

10 PROSPECTIVE JUROR NO. 3: Well, I couldn't blame some-
11 body for something, what somebody else have done.

12 Q BY MR. DENNY: No, ma'am. I'm not saying "for
13 somebody else," "what somebody else had done."

14 I am saying: If you had seen, heard or read
15 anything that Mr. Davis had that philosophy, that he wanted
16 to stir up --

17 A I didn't read about Mr. Davis.

18 THE COURT: That's a good answer.

19 PROSPECTIVE JUROR NO. 3: I didn't read about him.

20 THE COURT: The answer may remain.

21 MR. DENNY: All right. Well, Judge, I have got to ask
22 her her feelings about Mr. Manson, having read that about him,
23 because if she has those feelings, if she has feelings
24 toward Mr. Manson, then obviously, I would ask her if she had
25 those same feelings about Mr. Davis.

26 THE COURT: Why don't you ask her?

27 MR. DENNY: I tried.

28 Q Having read about Mr. Manson, the feelings -- or,

1 the philosophy he's expressed, about stirring up a race war,
2 do you feel you could be fair, if you were called upon to judge
3 him?

4 A Maybe what I read wasn't true about -- it didn't
5 have to be true.

6 Q But assuming --

7 THE COURT: I don't think that's relevant.

8 The question is her attitude toward this
9 defendant.

10 MR. DENNY: Well, your Honor, her attitude -- your Honor,
11 may we approach the bench a moment? I don't want to say this
12 in front of --

13 THE COURT: No, you may not. I think it's clear enough.

14 I think you may proceed.

15 MR. DENNY: Well, your Honor, I -- I have got to ask the
16 Court then, because I don't know how the evidence is going to
17 come out in this trial. This case has been tried different
18 ways by different prosecutors.

19 THE COURT: Now, Mrs. Ferguson, you have indicated to us
20 that you know what Mr. Manson's philosophy is toward race, and
21 that he was fomenting trouble between the races, or that was
22 his --

23 A Yes. But I couldn't say that he felt any worse
24 against the white race than he felt against the Negro race. I
25 couldn't say; because from what I read and understood, he wasn't
26 particular about nobody but himself.

27 THE COURT: Assuming now that the proof will show that
28 this man, Mr. Davis, is a member of Mr. Manson's group, a member

1 of the so-called Manson Family, as you've heard that -- you've
2 heard that phrase, the Manson Family?

3 PROSPECTIVE JUROR NO. 3: I've heard of that phrase, yes.

4 THE COURT: All right. Now, let's assume that the
5 evidence will show that.

6 Do you think that, in spite of what you may have
7 heard, seen or read concerning this racial approach of
8 Mr. Manson, that you could be fair to Mr. Davis?

9 PROSPECTIVE JUROR NO. 3: I certainly could. Because
10 Mr. Davis don't have to feel the same way that he does.

11 Q BY MR. DENNY: All right.

12 And if Mr. Davis is shown to have felt that same
13 way, could you be fair to Mr. Davis?

14 A I certainly could be fair.

15 Q You could put it out of your mind, as far as --

16 A Well, certainly I could.

17 MR. DENNY: All right. I have no further questions.

18 MR. KAY: No questions, your Honor.

19 THE COURT: Mrs. Ferguson, thank you. Would you
20 rejoin --

21 MR. KAY: Your Honor, excuse me. Your Honor, I do have
22 just a couple of questions.

23 THE COURT: All right.

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STELLA FERGUSON

BY MR. KAY:

Q Mrs. Ferguson, where do you work?

A I work for the Veterans Canteen Service.

Q Veterans Canteen Service.

A Yes, from the -- I am a food service worker.

Q Is that at Veterans Hospital?

A Yes, it is.

Q Is that the one in West L. A.?

A That's the one in West L. A.

THE COURT: I didn't run through those general questions, Mr. Kay, with Mrs. Ferguson.

Are there some others than Mrs. Ferguson that I -- I think she's the only one --

MR. KAY: That's right.

THE COURT: -- whom I haven't questioned that way; is that true?

MR. KAY: That's all right.

BY THE COURT:

Q All right. What has been your jury experience, Mrs. Ferguson?

A I have none.

Q This is your first case?

A Yes, it is.

Q And you work at the Veterans --

A Veterans Hospital.

Q Veterans Hospital. Where is that?

A That's on Wilshire and Sawtelle.

1 Q Sawtelle?

2 A Yes.

3 Q And what do you do out there?

4 A I am a food service worker.

5 Q How long have you been so employed?

6 A Nine -- going on nine years.

7 Q Paid by the federal government, then?

8 A Yes. It's a branch, yes.

9 Q Yes. And is there a Mr. Ferguson?

10 A He works at the Los Angeles Country Club.

11 Q And are you related to or a friend of any law
12 enforcement officer?

13 A No.

14 Q As I've explained law enforcement officer to be?
15 You are not?

16 A No. I know a friend who works for the traffic
17 division.

18 Q Do you think that would affect your judgment in this
19 case in any way?

20 A No, it wouldn't.

21 Q In what area do you and Mr. Ferguson reside?

22 A Southeast Los Angeles.

23 Q And --

24 A Southwest. I'm sorry.

25 Q Can you think of any reason now at all why you
26 couldn't be fair and impartial in this case?

27 A No, I don't.

28 THE COURT: All right. Thank you.

1 PROSPECTIVE JUROR NO. 3: Certainly.

2 THE COURT: And you may rejoin that group -- well, let's
3 see. Why don't you just sit where you are? I think we have
4 questioned all of the jurors so far on the issue of publicity,
5 and I think I've questioned them about their personal back-
6 grounds.

7 I think we have come to the time the Court would
8 permit counsel to voir dire generally.

9 One, two, three -- you would actually be in seat
10 No. 3.

11 You may bring the panel in, then, --

12 THE BAILIFF: Yes, sir.

13 THE COURT: -- if you would.

14 PROSPECTIVE JUROR NO. 3: Is this seat No. 3?

15 THE COURT: Yes, that's 3.

16 (Whereupon, the members of the jury panel
17 commenced to file into the courtroom.)

18 MR. DENNY: Your Honor, did the Court intend to have the
19 whole venire?

20 THE COURT: Yes.

21 (Pause in the proceedings while the members of
22 the jury filed into the courtroom.)

23 THE COURT: The way it's lined up is Izaguirre,
24 Robinson, Ferguson, DuBois, Sims, Mr. Cano, Mrs. Muldrow,
25 Miss Bourgeois, Miss Andreasen, DeLoach, Melendez and Dunn.

26 Ladies and gentlemen, this phase of the proceedings
27 is known as voir dire. It is the questioning of jurors by
28 counsel.

1 And the Court asks that you not resent the questions
2 that are put to you by counsel, because counsel are simply
3 trying to find out a little bit about your background, to
4 determine -- and your thinking, to determine whether or not they
5 wish to have you sit on this case as a juror.

6 I'm sure that neither counsel intends to affront
7 you or to in anyway cause you any discomfort in asking the
8 questions. I'm sure you'll understand that.

9 Mr. Denny, you may inquire.

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MRS. ELVERA IZAGUIRRE

BY MR. DENNY:

Q Mrs. Izaguirre, you will excuse me if I don't stand up, but it's a little bit easier, and we have got a lot of questions to ask a lot of people.

THE COURT: Incidentally, if any of you cannot hear, out beyond the rail, or even within the box here, let me know, and raise your hand, and counsel will raise his voice.

Q BY MR. DENNY: I'm going to ask you some questions concerning the death penalty and other things. Mr. Kay is going to ask you some questions concerning the death penalty and other matters.

And I hope you understand, as I ask you these questions, I'm not in any way assuming for a moment that there's going to be a finding of guilt, or that that's going to be necessary.

But, in order to go through this procedure, we have to ask you these questions. And so I will do so.

And the rest of the jurors, if you'll consider the answers that you would give to these questions, I'm going to ask each of you essentially the same questions.

First of all, I think you have indicated previously that, as far as you are concerned, you have no preference, as you sit there -- or no feeling, one way or the other -- that you would or would not vote to have a defendant killed by the administration of lethal gas; is that correct, --

A That's correct.

Q -- upon a finding of guilt?

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1 Have you read anything about the death penalty?

2 A No.

3 Q Have you had any discussions with people concern-
4 ing the propriety or impropriety of the State's killing people
5 by the administration of lethal gas?

6 A No.

7 Q And I take it you have never been in the position
8 before of having to make a life or death decision, as to
9 whether you would join in a vote to have someone killed by
10 the State, by gas?

11 A That's correct. I never have.

12 Q But as you sit there, you have indicated, I think,
13 already, that if it came to it, you felt that you would be
14 able to vote to do that, to have the --

15 A That's right.

16 Q -- State kill someone?

17 A That's correct.

18 Q Now, ma'am --

19 THE COURT: Is that a question, or --

20 MR. DENNY: Well, your Honor, I --

21 THE COURT: -- do you wish an answer?

22 MR. DENNY: She did answer, your Honor.

23 Q The defendant in this case is charged, among
24 other charges -- because there is a conspiracy charge to
25 commit murder -- with two murders, and as indicated by the
26 Court, if there is a finding of guilt of first degree
27 murder -- or, if there is a finding of guilt of conspiracy
28 to commit murder -- you would be called upon to make a

1 determination as to life or death.

2 Now, there are murders and there are murders.
3 On the highway, a person is killed. He's just as dead as
4 a person who is killed with premeditation and deliberation;
5 you understand that.

6 Do you have, as you sit there now, the picture of
7 a type of murder, willful, premeditated murder, let's say,
8 a specific picture of a murder that falls within that
9 category?

10 A Yes.

11 Q Upon which you feel you would be bound to vote
12 to have the State kill that person by the administration of
13 lethal gas?

14 A Yes.

15 Q You do have such a picture?

16 A Well, do you mean if it's premeditated murder,
17 and it's proven, and I had to vote for the death penalty,
18 if I could do so?

19 Q No.

20 A Or --

21 Q I mean: Would you automatically do so, having
22 in mind that a person had been found guilty of willful,
23 premeditated, deliberate murder?

24 A Not automatically, no.

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3
1 Q In other words, even if such a person were found
2 guilty of that offense phrased in that way, you would feel that
3 you would have to exercise some discretion before you could
4 determine what the penalty was that you could vote for?

5 A Well, I think I would, yes.

6 Q Or do you feel a person having been found guilty of
7 willfully, deliberately, premeditatingly killing somebody, that
8 your feeling would be at that time you would be inclined, then,
9 without more, to vote for the imposition of the death penalty?

10 A Well, I had never thought about it much until now,
11 like you say, and I really don't know.

12 If it was proven beyond a doubt and I felt that
13 this was just, I would, I think, vote for the death penalty.

14 Q By virtue of the fact you had felt that the People
15 had proven beyond a reasonable doubt and to a moral certainty
16 that the person on trial, the defendant, was guilty of pre-
17 meditated, willful, deliberate murder?

18 A Yes.

19 Q And in that case it would be your feeling that you
20 would feel impelled to vote for the imposition of the death
21 penalty? That that would be the penalty that you would think
22 would be proper under those circumstances?

23 A Yes.

24 MR. DENNY: Would you pass the microphone down to
25 Mr. Robinson.

26
27 JOHN H. ROBINSON

28 BY MR. DENNY:

3-2

1 Q All right, sir.

2 Have you done any reading on the death penalty?

3 A No, I haven't.

4 Q And have you had any discussions, bull sessions,
5 whatever --

6 A No.

7 Q -- with any of your friends or relatives concern-
8 ing the death penalty?

9 A No.

10 Q Have you thought much about the death penalty
11 over the years?

12 A No, I haven't.

13 Q Have you thought much about the death penalty
14 since you've come into this jury room on Monday and learned
15 that you might be sitting on a case that's known as a capital
16 case?

17 A Uh, no, I haven't.

18 Q Well, in the answers to the questions posed by the
19 judge earlier, I think you, too, indicated you could impose the
20 death penalty?

21 A Yes, I could.

22 Q And, again, if the defendant in this case were
23 found guilty of willful, deliberate, premeditated murder, and
24 you joined in that verdict and you were convinced beyond a
25 reasonable doubt of his guilt, the People had sustained that
26 burden, that you had no qualms, whatsoever, about returning a
27 verdict of guilty?

28 A That's right.

3-3

1 Q If that occurred, would you feel, without more, that
2 the penalty that you would inflict under those circumstances
3 would be the death penalty rather than life imprisonment?

4 A No, I wouldn't.

5 Q Would you feel something in addition might be
6 necessary or that you would perhaps have some exercise, some
7 sort of discretion at that point before you would vote to impose
8 one penalty or the other?

9 A Oh, uh, I would have to think over it. I couldn't
10 just come right out and declare a man guilty. It would have to
11 be proven.

12 Q Well, sir, perhaps we're not communicating quite
13 together.

14 I'm assuming for the sake of our discussion now
15 that the point has been reached that you have found him guilty.
16 You have considered the evidence that the People had produced
17 at the time of the guilt phase of the trial and you and the
18 twelve -- you and the eleven other jurors had deliberated and
19 had voted and that in good conscience you had been convinced
20 beyond a reasonable doubt, to a moral certainty, that the
21 People had proven their case that the defendant was guilty.

22 I'm setting up -- this is a hypothetical situation.
23 Not that I think this would happen, but this is a hypothetical
24 situation.

25 So, let's say now you have joined the eleven other
26 jurors and have found him guilty of premeditated and deliberate
27 and willful murder which is what he is charged with.

28 Having found that, would you feel at that point that

3-4

1 the penalty that you would vote for, with nothing more being
2 produced, would be the death penalty?

3 A Yes.

4 MR. DENNY: Thank you, sir.

5 Would you pass the microphone on down.

6
7 STELLA FERGUSON

8 BY MR. DENNY:

9 Q Mrs. Ferguson.

10 A Yes.

11 Q Have you done any reading at all on the death
12 penalty?

13 A No, I haven't.

14 Q Have you discussed the death penalty with anyone?

15 A No.

16 Q Since coming to this court as a juror, have you
17 thought anything about the imposition of the death penalty?

18 A No, only until just a few minutes ago. And I'm
19 sorry, I couldn't vote to kill anyone.

20 Q You could not?

21 A No.

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3a fols.

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1 THE COURT: Mrs. Ferguson, your reaction would be, then,
2 upon a conviction of murder of the first degree, to automatically
3 vote against the death penalty regardless of the evidence?

4 JUROR NO. 3: Yes, I couldn't vote to kill anyone.

5 THE COURT: Well, is that your answer, you would
6 automatically vote against the death penalty?

7 JUROR NO. 3: Yes.

8 THE COURT: All right.

9 MR. DENNY: May I inquire, your Honor?

10 THE COURT: Yes, you may.

11 MR. DENNY: Thank you.

12
13 STELLA FERGUSON

14 BY MR. DENNY:

15 Q Mrs. Ferguson, assuming that your feelings are
16 such that you could in the penalty phase of a trial, under-
17 standing that a trial is divided into two phases in a murder
18 case, you don't get to the penalty phase unless there is a
19 finding of guilt in the first phase, would your feelings
20 concerning your inability to vote to kill somebody by the
21 administration of gas by the State, would your feelings in
22 that respect keep you in any way from voting a finding of
23 guilty in the guilt or innocence phase of the trial if you
24 were convinced beyond a reasonable doubt and to a moral
25 certainty the defendant was guilty of the charge of murder?

26 A Yes, I could vote they were guilty.

27 MR. DENNY: All right, I'll object to any challenge,
28 your Honor.

3a-2

1 MR. KAY: Well, may I ask her just one question?

2 THE COURT: Yes.

3
4 STELLA FERGUSON

5 BY MR. KAY:

6 Q Mrs. Ferguson, there is no question in your mind
7 once we got to the penalty phase, no matter what evidence
8 was produced, you would automatically vote against the death
9 penalty? There is no question about that in your mind, is
10 there?

11 A No.

12 Q Then, you would automatically vote against the
13 death penalty?

14 A Yes.

15 THE COURT: Would you, in any case, Mrs. Ferguson,
16 vote for the death penalty?

17 JUROR NO. 3: I don't think I would.

18 THE COURT: When you say "I don't think," are you
19 uncertain?

20 JUROR NO. 3: I just don't feel like I could vote to
21 kill anyone.

22 THE COURT: So your answer is that you would never vote
23 for the death penalty?

24 JUROR NO. 3: No.

25 THE COURT: Is that your answer?

26 JUROR NO. 3: Yes.

27 MR. KAY: All right, we'd exercise, respectfully exer-
28 cise the challenge under Section 173.2 of the California

3a-3

1 Penal Code --

2 MR. DENNY: 1073.

3 MR. KAY: Excuse me, yes, 1073, Subdivision 2, for
4 cause.

5 THE COURT: The Court grants the challenge. Thank you,
6 Mrs. Ferguson.

7 The Court will say, repeat to you again, the
8 question of whether a defendant, who is convicted of murder
9 of the first degree, should suffer life imprisonment or
10 death, is left entirely to the discretion of the jury. There
11 is a second phase of this case which will be entered into should
12 there be a conviction of murder of the first degree.

13 Again, I'm not intimating to you or inferring to
14 you that that is the case, that the defendant is guilty. The
15 Court is not inferring that, by reason of talking about the
16 second phase.

17 But assuming that there should be a conviction of
18 murder of the first degree, then you enter into that penalty
19 phase at which either side may or may not introduce evidence.
20 And then, the matter is left entirely to you and to your
21 discretion.

22 And the Court's interested in determining whether
23 there's anybody on this panel who would automatically impose
24 the death penalty upon a conviction of murder of the first
25 degree, because if their reaction would be automatic to
26 impose the death penalty upon a conviction of murder of the
27 first degree without looking at the evidence, then you should
28 make that known and the Court would wish that you would make

3a-4

1 that known so that you could be eliminated from the jury.

2 And, conversely, if you would automatically,
3 without looking at the evidence; refuse to impose the death
4 penalty, then the Court wishes to know that because you should
5 not be on this jury, should not be sitting on this jury.

6 Go ahead.

7 MR. DENNY: The Court is not going to have another juror
8 take the box, then?

9 THE COURT: Well, let's go ahead and proceed with
10 Mrs. DuBois and we'll get through the panel, and then come
11 back.

12 JUROR NO. 4: Okay.

13
14 LOLETA M. DuBOIS

15 BY MR. DENNY:

16 Q Miss DuBois, have you done any reading at all --

17 A No, I haven't.

18 Q -- about the death penalty?

19 A No.

20 Q Have you ever had any discussions concerning the
21 death penalty?

22 A No.

23 Q Have you ever attended any lectures, talks?

24 A No.

25 Q Anything of that kind?

26 A No.

27 Q Of which that was a topic?

28 A Nothing to do with that, no.

3a-5

1 Q So, again, if you were to sit on this jury,
2 I take it this would be the first time that you had ever
3 strongly, desperately, had to consider your feelings about
4 the State's killing a person by the administration of lethal
5 gas and your participation in that by voting for the State
6 to carry that out on anybody; is that correct?

7 A Well, I don't know if I understand you exactly,
8 but the word "desperately" doesn't seem to fit.

9 I think it should be by the evidence and whatever
10 procedure there is in the court, and then I should try to be
11 honest about it. I would try to do the right thing one way
12 or the other.

3b fls.

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1 Q Well, do you have a feeling, as you sit there
2 now, that if a person were found guilty and if you had joined
3 in the finding of guilt, so that you were convinced beyond a
4 reasonable doubt and to a moral certainty and you could
5 sleep about it at night, that the defendant was guilty of the
6 crime of murder and that it was willful, premeditated,
7 deliberate murder, that the right thing to do would be to
8 impose the penalty of death upon that person?

9 A It seems logical, yes, sir.

10 Q And would you so vote?

11 A Yes, sir.

12 Q And would you so vote without the need and
13 necessity of -- well, strike that.

14 Assuming that that's all there was before you,
15 the evidence that you had heard in the case, and you had made
16 the finding of guilt and you were satisfied that he was
17 guilty, had been involved in or had willfully and deliberately
18 and premeditatedly murdered someone --

19 A I'd have to be very positive when I saw the
20 evidence and everything, and then I would. Yes, I would.

21 Q You would vote to impose the death penalty?

22 A Yes, sir, I would.

23 MR. DENNY: Thank you, ma'am.

24 Would you pass the microphone on.

25
26 AUDREY SIMS

27 BY MR. DENNY:

28 Q And, Mrs. Sims, have you done any reading or

3b-2

1 discussion concerning the death penalty?

2 A No, I have not.

3 Q Have you ever attended any lectures or anything of
4 that kind where that was the subject?

5 A No.

6 Q And since coming to the jury room on Monday, when
7 all of you came, have you thought about the death penalty at
8 all?

9 A Yes.

10 Q And have you thought about your responsibility if
11 you were called upon to join in having the state kill some-
12 body through the administration of lethal gas?

13 A Yes, I have.

14 Q And I take it having thought about that, and you
15 answered the judge's question, that you felt you could join in
16 that and vote for that under certain circumstances; is that
17 right?

18 A Yes.

19 Q And assuming, again, that you were part of the
20 jury that had heard all of the evidence in the guilt phase,
21 and you have been satisfied that that evidence showed beyond
22 a reasonable doubt and to a moral certainty that the defendant
23 was guilty of willful, deliberate, premeditated murder, the
24 killing of another human being, and that's all you had to
25 consider, would it be your feeling at that time -- well, would
26 you feel, then, that you would impose the penalty of death?

27

28

4 fols.

4-1

1 MR. KAY: Well, I'm going to object. That asks the
2 juror to prejudge the evidence.

3 THE COURT: Sustained.

4 Q BY MR. DENNY: If you had brought in a finding
5 of guilt, based on the concept of willful, deliberate,
6 premeditated murder, would you then impose or vote to
7 impose the death penalty?

8 MR. KAY: Same objection, your Honor.

9 THE COURT: Sustained.

10 MR. DENNY: Well, your Honor --

11 THE COURT: Would you vote to impose the death penalty
12 under those circumstances, without regard to the evidence
13 that was produced in the -- either the first phase of the
14 trial or the second phase, or both?

15 PROSPECTIVE JUROR NO. 5: Your Honor, I would not
16 automatically vote for it or against it.

17 THE COURT: Even though it was a conviction of murder
18 of the first degree, a willful, deliberate, premeditated
19 murder, would you still not automatically react?

20 PROSPECTIVE JUROR NO. 5: That's correct.

21 THE COURT: You would examine the evidence and -- in
22 the whole trial, including that in the penalty phase, if
23 any, and that in the first phase?

24 PROSPECTIVE JUROR NO. 5: Yes.

25 BY MR. DENNY:

26 Q All right. Mrs. Sims, I am not asking you in
27 a vacuum, assuming that you forget all of the evidence that
28 you've heard in the penalty phase of the trial. Obviously,

4-2

1 assuming that you had heard all of the evidence in the --
2 no; I'm sorry. The "penalty," I'm saying.

3 In the guilt phase of the trial, assuming you
4 had heard all of the evidence in the guilt phase of the
5 trial, and it was that evidence that had caused you to bring
6 in a verdict of first degree murder, willful, deliberate,
7 premeditated murder, but assuming that it is all the evidence
8 you had heard, that you heard no evidence on any penalty
9 phase of the trial, and that the evidence -- and it's evidence
10 of guilt of willful, deliberate, premeditated first degree
11 murder, at that point would you have any feelings that
12 someone, having been found guilty of willful, deliberate,
13 premeditated murder, the penalty that you would then impose
14 would automatically be first -- would be the death penalty?

15 MR. KAY: Your Honor, I'll object to that. Again,
16 it's asking the juror to prejudge the evidence.

17 THE COURT: Overruled. I think she's already answered
18 that, however. She has indicated that she would not
19 automatically, on a conviction of murder of the first
20 degree.

21 You may answer it again. Do you understand
22 the question?

23 PROSPECTIVE JUROR NO. 5: Yes, I do.

24 And again, I would not automatically vote for it,
25 not automatically.

26 What I am saying to you is that I could, but I
27 would not automatically.

28 BY MR. DENNY:

1 Q Is there, ma'am, some type of murder as to
2 which you would automatically vote to impose the death
3 penalty?

4 A No.

5 MR. DENNY: Would you pass the microphone on to Mr.
6 Cano, please?

7
8 YGNACIO CANO

9 BY MR. DENNY:

10 Q Mr. Cano --

11 A Yes.

12 Q -- you have white hair, more than most of the
13 jurors here. You've lived longer.

14 Have you, sir, during the course of your life
15 read anything about the death penalty?

16 A Yes, I have.

17 Q And have you discussed the death penalty with
18 other people?

19 A No.

20 Q Have you reached, as a result of your reading,
21 some feelings one way or the other, about the propriety or
22 the impropriety of having a State kill one of its people
23 by the administration of lethal gas?

24 A Well, all I have read about the imposition of
25 that penalty is after the verdict has been given in certain
26 cases. That's all I've read about it.

27 The case has been tried, and he has been proven
28 and found, and they demanded the penalty; that's all I've

1 heard about the death penalty.

2 Q In other words, you haven't done any --

3 A Research on it or anything? No.

4 Q -- reading of people's philosophies, about
5 whether it's good or bad?

6 A Oh, yes. I read about it, both ways.

4a fls.

4a-1
5a-1

1 Q You have done so?

2 A There is a philosophy against it; there is a
3 philosophy for it. But as a juror, I am here, and I have no
4 choice at all but to interpret the -- the evidence as
5 presented.

6 There, I make up my own decision with all the --
7 with the other jurors.

8 Q All right, sir. So that as you sit there, at
9 least, you are not someone who might be termed an abolitionist?
10 You are not one who feels strongly that the death penalty should
11 be abolished, --

12 A Um-hmmm.

13 Q -- is that correct?

14 A That's correct.

15 Q On the other hand, I take it that you are not
16 someone who feels that there are too few capital crimes; that
17 we ought to have more death penalties for more crimes?

18 A Not necessarily, no.

19 Q All right. Now, sir, as to your feelings about the
20 type of case in which perhaps the death penalty would be
21 warranted, I'll ask you the same questions I've asked most of
22 the other jurors.

23 A Yes.

24 Q Assuming you sat on this jury, and you heard all
25 the evidence, through the guilt or innocence phase of the
26 trial; and based on all of that evidence, you were convinced
27 beyond a reasonable doubt and to a moral certainty that the
28 defendant had been guilty of willful, premeditated, deliberate

1 murder of a human being -- and that evidence convinced you
2 firmly enough so that you, with clear conscience, could bring
3 in a finding of guilt of first degree murder -- and then you
4 heard no more evidence, would the finding of guilt of first
5 degree murder, in and of itself, do you feel, be sufficient
6 in your mind to warrant you in returning a penalty of death?

7 MR. KAY: To which I'll object, your Honor.

8 THE COURT: Sustained. It may or may not, depending
9 on whether or not the juror will follow the Court's instruc-
10 tions.

11 You will remember that the Court has told you it
12 would be wholly a matter of your discretion.

13 PROSPECTIVE JUROR NO. 6: That's right.

14 THE COURT: The question is whether you would auto-
15 matically, upon such a conviction, as Mr. Denny has posed to
16 you, whether you would automatically, without regard to the
17 evidence, impose death?

18 PROSPECTIVE JUROR NO. 6: No, I won't.

19 BY MR. DENNY:

20 Q Is there a type of case, sir, in which you would
21 automatically --

22 A No.

23 Q -- vote to impose the penalty?

24 A Not at the present time, I don't think of any, sir.

25 Q In other words, you can't conceive of the most
26 horrendous type of circumstances --

27 A No.

28 Q -- that would require you, in your own mind, --

4a-3

1 A No, I don't.

2 Q -- to bring in a verdict of death?

3 A No, I don't.

4 MR. DENNY: All right. Would you pass the microphone
5 up to Mrs. Dunn, please?

6 PROSPECTIVE JUROR NO. 6: Certainly.

7
8 MARY G. DUNN

9 BY MR. DENNY:

10 Q I'm sorry, Mrs. Dunn. I'll get around
11 Mr. Kay's head here so we can see each other.

12 Ma'am, have you done any reading at all --

13 A No.

14 Q -- on the death penalty?

15 A No.

16 Q Have you, in the course of your life, had any
17 discussions with anybody on --

18 A No.

19 Q -- the death penalty?

20 So, again, if you are chosen to sit on this jury,
21 this would be the first opportunity that you've really had to
22 determine the propriety or the impropriety of the death
23 penalty?

24 A Yes, it is.

25 Q And have you ever seen an execution by the state?

26 A No.

27 Q Well, again, going to the question I've asked the
28 other jurors, is there some type of case, some type of murder

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1 that you feel would cause you to vote for the imposition of the
2 death penalty, having found a person guilty of that particular
3 kind of murder?

4 A Not knowing what it is, I couldn't say.

5 Q Well, let me give you an example. There are some
6 people who -- who feel, for instance, that if a man kidnaps
7 a child and molests a child and then murders the child, that
8 they would automatically vote to kill that man; they'd like to
9 do it themselves, you see?

10 And if they were on a jury, they would have no
11 hesitancy or reluctance whatsoever. They'd need nothing more
12 than the finding of guilt to gas that man.

13 There are other people who feel that if somebody
14 breaks into a home at night and -- to burglarize the home,
15 and kills somebody -- because maybe their home has been
16 broken into, and the result and feelings they have about it --
17 that if they sat on a jury and found a man guilty of doing so,
18 and that man had killed somebody in the course of that, that
19 they would automatically then -- they would have to, because
20 of their feelings -- vote to gas that man, to kill him, to
21 have the state do it for them.

22 Do you see?

23 A (Indicating affirmatively.)

24 Q There are some people with strong feelings like
25 that. But only they know those feelings, and that's the type
26 of situation that I am asking you about.

27 Is there a type of murder that you can think
28 about, where -- for whatever reason -- you have feelings, that

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1 you would have to vote to have that man killed?

2 A At this point, not having seen what would have
3 happened in the courtroom, all that time, I couldn't say
4 automatically.

5 But I could do it, if I felt at the time it were
6 necessary.

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1 Q When you say that you felt at the time it were
2 necessary --

3 A No, if I were --

4 Q -- necessary is an interesting --

5 A No, if I were on a panel where the evidence was
6 so strong that it came to the point where I felt that I must,
7 I could.

8 Q Well, when you say the evidence was so strong,
9 what do you mean by that, ma'am?

10 A So strong against the defendant, I could impose
11 the death penalty.

12 Q Well, when you say "so strong against the defendant,"
13 do you have something in mind there?

14 A No.

15 Q I assume?

16 A No.

17 Q Well, do you mean that if you were convinced that
18 the defendant had committed the murder, that would be it?

19 A If I were, and if I felt that there was no other
20 way, I could. I could.

21 Q Well, obviously there's another way, because
22 there's always the imposition of the penalty of life.

23 Now, what is it that would make you feel there
24 is no other way? What are those circumstances, is what
25 we're trying to get at.

26 THE COURT: Are you simply indicating it would be a
27 matter of your discretion as to what your view of the
28 evidence was as to a particular case?

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1 JUROR NO. 12: That's right, yes.

2 Q BY MR. DENNY: Well, Mrs. Dunn, you're obviously
3 struggling with a situation, as I see it, in which you feel
4 that there is a type of case in which you would feel that
5 you had to impose the death penalty.

6 A Yes.

7 Q All right, now what is that type of case?

8 A It would --

9 Q I've given you a couple of examples.

10 A Yes.

11 Q What is the type of case that you are thinking
12 about now?

13 A Well, you were talking about someone who perhaps
14 had kidnapped a child and murdered it.

15 Q Yes.

16 A I could impose the death penalty in that case.

17 Q All right. Is there another type of case that
18 you are thinking about, as you are sitting there?

19 A Not at the moment, no.

20 Q And if, during the course of voir dire, one
21 comes to your mind, would you volunteer that to me and raise
22 your hand so that I could question you on that?

23 A Yes.

24 Q All right, fine.

25 Would you pass the microphone along to Mrs.
26 Melendez.
27

28 RACHEL MELENDEZ

1 BY MR. DENNY:

2 Q Now, Mrs. Melendez --

3 Your Honor, I'm not sure whether the Court
4 wants to take a break any time during the morning session
5 or not.

6 THE COURT: We will in another five minutes. Go ahead.

7 MR. DENNY: All right.

8 Q BY MR. DENNY: Mrs. Melendez, you are a good deal
9 younger than Mr. Cano sitting here, but perhaps you have read
10 things about the death penalty, have you?

11 A No, I haven't.

12 Q Or had any discussions with anyone on the death
13 penalty?

14 A No, never.

15 Q I take it you are aware that the State of
16 California is empowered to execute a person by the
17 administration of lethal gas within the confines of San
18 Quentin Prison; do you know that?

19 A Yes.

20 Q Have you read anything about that?

21 A No.

22 Q Have you read anything about anybody being killed
23 up there, executed?

24 A No.

25 Q Gassed?

26 A No.

27 Q And since coming to court this past month, have
28 you given any thought to having a hand in the possible

1 execution by voting for the imposition of death by the
2 administration of lethal gas; have you given that any thought?

3 A No.

4 Q I take it, though, from your answers to the
5 Court's question, that you have thought about it sufficiently
6 so that you feel that there are circumstances in which you
7 could vote to do that; is that correct?

8 A You mean if the evidence was -- if it was proven,
9 or what do you mean?

10 Q Well, assuming, again, that the evidence showed
11 first degree murder.

12 A Well, I would have to hear the evidence itself.
13 I couldn't just tell you right off right now.

14 Q Well, again, we assume, having heard the evidence,
15 that the evidence was sufficient so that you could vote for
16 a first degree murder.

17 A I can't answer that. I'd have to hear it.

18 Q Well, let me try to rephrase my question, then,
19 because it is more of a statement than a question.

20 Assume you were sitting right there, where you are
21 sitting now, and you hear two months of testimony, and at the
22 end of that two months of testimony you're heard all of the
23 evidence, and based on that evidence you found the defendant
24 guilty of willful, premeditated, deliberated murder, you
25 found that the evidence disclosed that, showed that, that he
26 was guilty. Then, you'd start a second phase of the trial,
27 a penalty phase of the trial.

28 Now, there might or might not be any evidence

1 presented there, see. And if there's no evidence there and
2 you retire to the jury room again, you would be required to
3 determine whether that person should be given life in prison
4 or whether you should send him to San Quentin where, in due
5 course, the State would put him in the gas chamber and execute
6 him by lethal gas.

7 Do you understand that?

8 MR. KAY: Is that a question? I don't --

9 THE COURT: The question is, do you understand the
10 fact situation Mr. Denny has posed thus far?

5a f;s?

1 Q BY MR. DENNY: You understand that, ma'am?

2 A No.

3 Q Is there something about what I have said that you
4 do not understand?

5 A Well --

6 THE COURT: He hasn't asked the question yet. He's just
7 putting the basis for another question.

8 JUROR NO. 11: Oh.

9 THE COURT: Do you understand his statement thus far, just
10 his statement?

11 JUROR NO. 11: Well, when you say "there's no evidence,"
12 what do you mean by that? I mean, there has to be evidence.

13 Q BY MR. DENNY: Not in the penalty phase of the
14 trial, ma'am, there does not have to be.

15 A I see.

16 Q Interestingly enough.

17 A You mean after you find him guilty --

18 Q After you find him guilty there may be evidence.
19 The state has a right to show he was a bad, bad man, "badder"
20 even than he was in the guilt phase of the trial. And the
21 defendant has a chance to show, put on evidence of the good
22 aspects of his character. But neither side has to put on
23 evidence. It may be that all you have before you would be the
24 facts of the case.

25 Based on that, and the finding of guilt, which you
26 would have made by that time, you would have to determine
27 whether the man should live or be killed; do you understand that?

28 A Yes.

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1 Q All right.

2 Now, I would like to ask you the same question that
3 I have asked Mrs. Dunn before you. Is there a type of case, a
4 type of murder -- and I've given a couple of examples and she
5 indicated there was a situation, and there may be more that
6 you can think of -- and as you sit and think about it, is there
7 a type of murder which would cause you to feel that you would
8 have to impose the death penalty on a person found guilty of
9 that type of murder?

10 A No.

11 Q There is no such that you could even conjure up
12 in even your wildest imagination? Say --

13 THE COURT: Well, that's --

14 Q BY MR. DENNY: -- say a man --

15 THE COURT: Well, that's immaterial. You need not
16 answer that.

17 MR. DENNY: All right, your Honor, I'll pass.

18 I assume we're taking --

19 THE COURT: We'll take a recess now, short recess.
20 About ten minutes.

21 And during the recess, remember the admonition that
22 you are not to converse amongst yourselves, nor with anyone
23 else on any subject connected with this matter, nor form or
24 express any opinion on it, should it be submitted to you, should
25 you be selected as a juror.

26 THE COURT: Let's select one more name. We'll put one
27 more in the No. 3 position in the box.

28 THE CLERK: Hiroshi Tanaka, H-i-r-o-s-h-i, T-a-n-a-k-a.

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1 THE COURT: All right, we're in recess.

2 Mr. Tanaka, you take that seat when we come back.

3 (Whereupon, the prospective jury panel retired
4 from the courtroom, and the following proceedings were had:)

5 THE COURT: There is a Willie Dorsey who is self-
6 employed and he states he has some hardship in connection with
7 his employment. It appears we probably should ask him about it
8 and perhaps release him.

9 MR. KAY: I understand he is self-employed. That's what
10 he told the bailiff.

11 THE COURT: That's what he told the bailiff. Let's find
12 out what the situation is.

13 (Whereupon, there was a pause in the proceedings
14 while the prospective juror Willie Dorsey was brought into the
15 courtroom.)

16 THE COURT: Are you Mr. Dorsey?

17 MR. DORSEY: Yes, sir.

18 THE COURT: Mr. Dorsey, I understand you are a member
19 of this panel of prospective jurors in this case, is that
20 right?

21 MR. DORSEY: Yes, sir.

22 THE COURT: And how many days have you served as a juror
23 thus far?

24 MR. DORSEY: This is my fourth.

25 THE COURT: Fourth day?

26 MR. DORSEY: Yes, sir.

27 THE COURT: The bailiff tells me that you are asking to be
28 excused from this case.

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1 MR. DORSEY: From all cases, sir.

2 THE COURT: Why?

3 MR. DORSEY: Because I am self-employed and I'm not
4 getting paid.

5 THE COURT: Well, how did you get on jury duty in the
6 first place?

7 MR. DORSEY: Well, when --

8 THE COURT: Didn't you tell somebody that was the case?

9 MR. DORSEY: When they first sent me the letter, I
10 explained to them at the time I had a job, but I had a business
11 also. And since then I got laid off my job, so the only thing
12 I have to depend on is my business. And without that, I can't
13 live.

14 THE COURT: I don't understand. How has your situation
15 changed?

16 MR. DORSEY: Well, I don't work on the job any more. I
17 just work for myself.

18 THE COURT: You lost the job?

19 MR. DORSEY: No, sir, I was laid off from it.

20 THE COURT: I see. What type of work do you do?

21 MR. DORSEY: I'm a painter, sir.

22 THE COURT: What -- do you work out of a union hall or
23 just free-lance?

24 MR. DORSEY: Union.

25 But now I'm working only for myself. I have a
26 furniture store.

27 THE COURT: You have a furniture store and you are a
28 painter?

1 MR. DORSEY: Yes, sir.

2 THE COURT: Well, where is your furniture store?

3 MR. DORSEY: On Santa Barbara and Dalton. It is small.

4 THE COURT: You need to be present in order to manage
5 that, do you?

6 MR. DORSEY: Well, there's nobody, only my wife and
7 myself. And now it is Christmas time and I'm getting
8 furniture in and I have to work until 1:00 or 2:00 o'clock
9 to put it away and I have to make deliveries after I leave
10 here in the afternoon and it is pretty hard.

11 THE COURT: Gentlemen, any comment?

12 MR. DENNY: I would stipulate to his being excused.

13 MR. KAY: I would, too.

14 THE COURT: Both of these gentlemen stipulate that you
15 may be excused from this trial and the Court will excuse you
16 from the balance of your duty and you are relieved, then.

17 MR. DORSEY: Thank you, sir.

18 Do I have to take anything over there?

19 THE COURT: No, Mrs. Holt will see that it gets over
20 there.

21 MR. DORSEY: Thank you.

22 (Mid-morning recess.)

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1 THE COURT: You may proceed, gentlemen.

2 The record will show the defendant to be present,
3 with both counsel present; all of the prospective jurors
4 in the box.

5 MR. DENNY: Thank you, your Honor.

6
7 MR. TOMMY DE LOACH

8 BY MR. DENNY:

9 Q Mr. DeLoach, I think we are at your point now.

10 Sir, again going over these same questions --
11 as I must -- have you done any reading at all in the field
12 of the death penalty?

13 A No, I haven't.

14 Q Or had any discussions on the subject with
15 people?

16 A No.

17 Q Attended any kind of meetings where the death
18 penalty was discussed?

19 A No.

20 Q And were you in the Service, sir?

21 A No, I never was in the Service.

22 Q I take it you've never seen the State execute
23 anybody or --

24 THE COURT: That's immaterial. You needn't --

25 PROSPECTIVE JUROR NO. 10: No.

26 THE COURT: -- answer that, Mr. DeLoach.

27 MR. DENNY: I'm sorry, your Honor. Is the Court
28 ruling that it's irrelevant if somebody has witnessed an

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1 execution?

2 THE COURT: It's the Court's ruling that it would be
3 irrelevant and immaterial.

4 MR. DENNY: As to their ability to sit and judge a
5 person who is subject to it?

6 THE COURT: That's correct. And the Court does not wish
7 to hear argument from you, Mr. Denny, unless you wish to
8 approach the bench.

9 MR. DENNY: I do, your Honor.

10 THE COURT: Then you may be heard.

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

14 MR. DENNY: Your Honor, Section 3605 of the Penal Code
15 requires that at least 12 reputable citizens be witnesses to
16 an execution.

17 And I assume that that mandate is normally carried
18 out. I know of people who have been witnesses to an execu-
19 tion.

20 And where a person may be subject to the imposi-
21 tion of the death penalty, and where a juror is called upon to
22 determine whether he will inflict that, it certainly seems to
23 me to be relevant, as to their qualifications to sit on a
24 jury, as to whether he or she has been a witness to an execu-
25 tion, whether in this state or some other state.

26 It certainly has a bearing on whether they're
27 more inclined, perhaps, to inflict the death penalty or not.

28 MR. KAY: Well --

1 MR. DENNY: And it certainly has a bearing on their
2 qualifications to sit as a juror.

3 THE COURT: I think the question, in all frankness,
4 I think the question is designed by you with the intention of
5 arguing the propriety of the death sentence, --

6 MR. KAY: I agree with that.

7 THE COURT: -- as are many of your questions.

8 Now -- and that's an improper -- that's an
9 improper argument.

10 The question is whether or not -- not whether
11 the person has witnessed a death by execution, or what the
12 person's state of mind is at the present time.

13 MR. DENNY: Well, their state of mind certainly may have
14 been influenced by whether or not they have seen an execution,
15 your Honor.

16 MR. KAY: Your Honor, I would like to say for the
17 record that I don't believe that Mr. Denny is exercising
18 good faith in making this argument that he's making.

19 I don't think he really believes it; and I think
20 it's a sham.

21 MR. DENNY: Well, I am certainly exercising good faith.
22 I have read quite heavily on the subject of the death penalty,
23 and it appears that a number of people have witnessed
24 executions.

25 It appears further that a number of people in
26 the Service have witnessed executions, imposed by the Military,
27 and -- I think it's certainly a proper question to ask of
28 these jurors -- particularly a male juror who may have, if

1 the Court feels that it's obvious that a female juror has
2 never done so.

3 THE COURT: I don't know that that is the case. I
4 don't know how these people are chosen, who are --

5 MR. DENNY: A lot of them volunteer. A lot of them
6 write to the warden, requesting, and -- and certainly, if
7 someone has witnessed a death penalty being imposed, having
8 written specifically asking to be a witness, this has to have
9 a bearing on their impartiality, in sitting to determine
6a fls 40 whether a death penalty is going to be imposed.

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1 MR. DENNY: Well, I certainly don't feel that's true.

2 THE COURT: The whole question with respect to this death
3 penalty is -- or, the questions are those which have hereto-
4 fore been set out in the cases that control the questioning
5 along these lines.

6 MR. DENNY: Well, does the Court --

7 THE COURT: Or should control the questioning along these
8 lines.

9 MR. DENNY: Is the Court saying, then --

10 THE COURT: And the Court will sustain its own objection
11 to the question.

12 MR. DENNY: May I request, respectfully, your Honor --
13 and I'm not in bad faith, as Mr. Kay indicates -- that the
14 Court ask the panel, as a whole, if any of them have ever
15 witnessed the imposition of a death penalty of any kind?

16 I think that's a proper question. It's a
17 question that should be asked.

18 And I don't mind if the Court asks it of the
19 panel as a whole, or if the Court permits me to.

20 MR. KAY: I don't think that would go to a challenge for
21 cause on the death penalty, whether they had seen it or not.

22 THE COURT: The Court --

23 MR. DENNY: Well, I'm not saying -- I'm not saying, in
24 and of itself, it goes to --

25 THE COURT: The Court --

26 MR. DENNY: -- to the challenge for cause. I'm saying
27 that this is certainly relevant foundational information to
28 get to determine whether a challenge for cause, based on

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1 follow-up questions to that, would be proper.

2 THE COURT: Well, the Court would sustain the objection,
3 and would not ask such a question of the panel as a whole.

4 MR. DENNY: Well, your Honor, I'll just respectfully
5 put on the record that I think the Court is making at this
6 point reversible error, where it does not need to make
7 reversible error. And if there is no law on the subject, there
8 will certainly be law on the subject, if a conviction grows
9 from this.

10 I don't think that the Court has to make this
11 ruling on a relatively small point, but it is a relatively
12 major point, if in fact one of these prospective jurors has
13 done it.

14 I think that -- has been a witness to an
15 execution. I think the probabilities are that the answer will
16 be "no." But I am -- I'm stating to the Court that I feel
17 it's relevant and material, and that the Court is committing
18 reversible error in its ruling.

19 MR. KAY: We are willing to stand on the Court's
20 ruling. We don't feel it's reversible.

21 THE COURT: Let's proceed.

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

24 Q BY MR. DENNY: Now, Mr. DeLoach, asking you the
25 same questions I've asked some of the other jurors, again,
26 considering such situations as a child molester murderer, or
27 a mass murderer of hundreds of people, or one who, perhaps,
28 through incendiary means kills a number of people in an

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1 apartment house he sets on fire, something like that -- letting
2 your own mind conjure up the circumstances -- is there a type
3 of case -- or, are there certain types of cases in which you
4 feel, if you had sat as a juror and found that a person had
5 committed that type of murder, you would feel compelled in your
6 own mind, in your own feelings, to vote that that person should
7 be killed by gas?

8 MR. KAY: I'm going to object on the grounds that that's
9 irrelevant, your Honor.

10 THE COURT: Sustained.

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1 MR. DENNY: Your Honor, may I approach the bench on
2 that?

3 THE COURT: Yes, you may.

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

7 MR. DENNY: Your Honor, I believe this is exactly the
8 type of question that we asked again and again, and we argued
9 about, and that the Court permitted the last time I was
10 before this Court trying to choose a jury with Mr. Manson
11 and Mr. Grogan and Mr. Davis.

12 And the argument now is the same as it was then.
13 I certainly think the Court's ruling should be the same as
14 it was then; namely, that if a prospective juror sets forth
15 in his answer to that question a set of facts which, in
16 essence, summarizes the type of case that we've got here,
17 that that juror, then, must be excused because he has a state
18 of mind which would require him automatically to impose the
19 death penalty.

20 And I'm not asking him to prejudge the evidence,
21 as Mr. Kay has objected, I'm not asking him to guess about
22 the evidence in this case, but if he or she presently has a
23 state of mind in which they say, well, yes, I can picture a
24 case where somebody takes a guy out and ties him up and
25 stabs him to death or just coldly, premeditatingly,
26 deliberately waylays a guy and kills him, or I can picture
27 a case where, you know, if a fellow is deprived of his
28 liberty in his own home for a time, and, supposedly, tortured

1 and then killed him, yeah, that type of case I will
2 automatically inflict the death penalty -- and this is all
3 I'm asking, for them to tell me if they have any such --

4 Now, some of them, some of the prospective jurors
5 have said, "No, I can't think of any."

6 Mrs. Dunn said it. Mrs. Melendez said it. Or
7 she said yes, there was a type of case -- Mrs. Dunn said there
8 was a type of case, that of a child molester that kills a
9 child that I could do it, all right, but that's not this
10 case. But if she had said those circumstances I have
11 described, then I think she would be subject to challenge.

12 MR. KAY: Well, part of the trouble with Mr. Denny
13 posing certain hypothetical fact situations to the jurors
14 of horrible cases, is that he then can come back later and
15 say, "Well, you might give a death penalty in this case,
16 but certainly you wouldn't give it to Mr. Davis for what he
17 did because he's not the child molester that took the child
18 out and kidnapped him," by giving these hypothetical
19 situations.

20 And besides that, I still think it is irrelevant
21 for the juror to pose hypothetical situations on the spur of
22 the moment, where they may or may not.

23 I think the question is, "In any case would you
24 automatically do it without considering the evidence?"

25 And Mr. Denny never asks that question. He
26 always tries to leave it out and confuse the jurors, I think.

27 MR. DENNY: That's because when I asked it, there was
28 an objection that they're prejudging, they're being asked to

1 prejudge the evidence. I asked that question time and again.

2 MR. KAY: No, you never asked the question, "Would you
3 automatically vote against the death penalty without regard
4 to the evidence?"

5 MR. DENNY: Vote for the death penalty.

6 MR. KAY: Yes, would you automatically vote for the
7 death penalty without regard to the evidence. You posed a
8 situation, "Willful, deliberate and first degree murder,"
9 and say, "Would you vote for it?"

10 MR. DENNY: All right, and you objected to that on the
11 grounds it was asking them to prejudge the evidence.

12 MR. KAY: You never used "automatically."

13 MR. DENNY: All right, I think that --

14 THE COURT: What was the question that Mr. Denny put
15 to the juror, the last question he put, to which an objection
16 was raised?

17 MR. DENNY: Did you report the question?

18 THE REPORTER: I don't know. I'll look.

19 No.

20 MR. DENNY: The question essentially -- since this
21 reporter did not report it and the other reporter is out,
22 I'll repeat the question.

23 The question, essentially, was: Is there some type
24 of situation, a type of murder that you can think of that you
25 have in your mind wherein, if you found a person guilty of
26 that type of murder, you would feel compelled to vote for
27 the death penalty?

28 THE COURT: You would automatically vote for the death

1 penalty.

2 MR. DENNY: I didn't say "automatically." That's my
3 next question.

4 Well, that's my next question. I used the term,
5 "You would feel compelled," and if the answer is one, "I
6 would feel compelled there," then my next question is, "Well,
7 are you saying, in effect, automatically if you found a
8 person guilty --" --

9 THE COURT: I think that's a proper question. If you
10 phrase it in that way, I think it is proper.

11 MR. DENNY: Thank you, your Honor.

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

4 BY MR. DENNY:

5 Q Now, Mr. DeLoach, you've had some time to think
6 about the answer to that question.

7 Is there a type of case, sir, a type of murder
8 which you would feel, having found a person guilty of that
9 type of murder, compelled to give that person the death
10 penalty or vote --

11 THE COURT: In other words, would you automatically,
12 upon --

13 JUROR NO. 10: No, not automatically.

14 THE COURT: -- thinking about a certain type of case,
15 vote for the death penalty, without regard to the evidence?

16 JUROR NO. 10: No, not automatically. I would have to
17 feel that he was guilty, you know, of these cases.

18 Q BY MR. DENNY: Well, sir, we're assuming that.

19 A Yes, I see.

20 Q For the purpose of my question, we're assuming
21 that there is a person who has been or you've had a hand in
22 finding guilt of a particular kind of murder.

23 Well, let's take it out of the jury box. Let's
24 take you out of being a juror at all. You're just John Q.
25 Citizen and you're in your own home and you're thinking about
26 it maybe for the first time, but you're thinking about it.
27 And you think about a type of murder and you're thinking
28 about that particular kind of murder.

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1 And I'm not going to give you examples, you
2 provide the examples, if there are any. But you think about it
3 and all of a sudden your blood boils up and you say to myself,
4 "Wow, that type of guy, if I was sitting on a jury where I
5 found him guilty of committing that kind of offense, I would
6 impose the death penalty on him," you see.

7 A No, I wouldn't.

8 Q There's no type of murder case that you can think
9 of where just because of your feelings about a person who
10 committed that type of offense you would feel compelled to vote
11 for the death penalty?

12 A No, I wouldn't.

13 MR. DENNY: All right, sir, thank you.

14 Would you pass it along, now, to Mrs. Andreasen.

15

16 KATHERYN ANDREASEN

17 BY MR. DENNY:

18 Q Mrs. Andreasen, have you done any reading in the
19 field of the death penalty?

20 A No, I have not.

21 Q Or ever discussed it with anyone over the years?

22 A No.

23 Q Or done any thinking about it since you've been in
24 this court?

25 A I have some.

26 Q And I take it from the thinking that you've done
27 and the answers you've already given to the Court's questions
28 that you feel that you could, in certain circumstances, vote to

1 impose the death penalty?

2 A Yes.

3 Q I take it you feel in certain circumstances it
4 would be perfectly proper for you to return a life verdict?

5 A Yes.

6 Q Now, I take it, then, that there are certain
7 circumstances where perhaps you can envision that you would
8 vote for the imposition of the death penalty; is that correct?

9 A After I had heard all the evidence.

10 Q Well, assuming you had heard all the evidence
11 and assuming that you had found the person guilty, is there a
12 type of case, is there a certain kind of evidence, is there a
13 certain kind of murder, which, having found a person guilty
14 of that murder, you would feel that you should bring in and
15 would bring in the penalty of death?

16 A Yes.

17 Q What type of murder is that?

18 A Wherein I found -- we had found a person completely
19 guilty of the crime that he had committed, I would then use my
20 own judgment and vote for the death penalty.

21 Q Well, are you saying, then, that if you were only
22 convinced that the person had committed murder, then you would
23 vote for the death penalty?

24 A Yes, I would.

25 Q And, of course, you would only do that if you were
26 thoroughly convinced that the person had committed first degree
27 murder?

28 A That's right.

1 MR. DENNY: All right, would you pass the microphone on
2 to Miss Bourgeois, please.

3
4 MARIE A. BOURGEOIS

5 BY MR. DENNY:

6 Q Have you done any reading in the field of the
7 death penalty?

8 A No.

9 Q Ever discussed it with any friends or relatives?

10 A No.

11 Q Ever thought about it much yourself?

12 A Since Monday, yes.

13 Q And in thinking about it, have you thought of the
14 type of case, the type of murder in which you would feel
15 compelled to vote for a death penalty?

16 A I can say that there is no circumstance that
17 I would feel compelled to automatically impose the death
18 penalty.

19 Q You would not automatically impose the death
20 penalty?

21 A No, I would never impose it automatically.

22 Q Well, again, as I think I mentioned to Miss
23 Melendez --

24 A Yes.

25 Q -- you understand there are two phases to the case?

26 A Oh, yes.

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1 Q The guilt phase --

2 A Yes.

3 Q -- and then, the penalty phase, if there is a
4 finding of guilt. Obviously, if there is an acquittal,
5 a finding of not guilty or a finding of some degree less of
6 first degree murder or a conspiracy to commit first degree
7 murder, then you never get to the penalty phase.

8 But this penalty phase that's been provided,
9 is a type of hearing where there may or may not be any
10 evidence produced for or against the defendant. And you may
11 wind up with just the finding of guilt of murder; you
12 understand that?

13 A Yes.

14 Q All right. And even knowing that, that you may
15 have nothing further than a finding of guilty, is it your
16 feeling that there is still no type of murder, having found
17 him guilty of that type of murder, in which you would
18 automatically vote to impose the death penalty?

19 A That is the way I feel, yes.

20 Q Fine.

21 And, Mrs. Muldrow -- I'm sorry, Muldrow.

22
23 MRS. EDDIE M. MULDROW

24 BY MR. DENNY:

25 Q Ma'am, have you done any reading about the death
26 penalty at all?

27 A No.

28 Q Have you discussed it at all with anyone?

7b-2

1 A No.

2 Q Prior to coming to the courtroom on Monday, would
3 you say you had done any thinking about the imposition of
4 the penalty of death by the State?

5 A No.

6 Q Since coming to the jury room, have you done some
7 thinking about it?

8 A Oh, yes, I thought about it.

9 Q All right.

10 Do you want to hold that up a little bit closer?

11 A Okay.

12 Q And is there a type of case that you can think
13 about which, because of its effects on you, you would feel
14 compelled to bring in a judgment of death on a person guilty
15 of that type of murder?

16 A No.

17 Q You would feel in any murder, no matter how
18 hideous, no matter how horrendous, that you still had the
19 option to vote life rather than that he be killed, is that
20 correct?

21 A No, I wouldn't do it automatically, no.

22 Q The option would always be open to you?

23 A Yes.

24 MR. DENNY: Thank you.

25 May I have just a moment, your Honor?

26 THE COURT: Yes.

27 Mrs. Andreasen, the Court wishes to --

28 On this, have you covered everything you wish to

1 cover?

2 MR. DENNY: I haven't covered general voir dire of all
3 the prospective jurors by any means.

4 I am, however, going to seek to challenge
5 certain jurors under 1073, Subdivision 2.

6 THE COURT: Yes,

7 MR. KAY: Well -- okay.

8 THE COURT: I'll allow the People, then, if you are
9 through on that point, the Court will allow the People to
10 examine them.

11 MR. DENNY: Well, your Honor, I want to challenge
12 juror --

13 THE COURT: Well, you needn't state the challenges at
14 this moment. I'll allow the People to question, if you wish.

15 MR. KAY: Well, I basically would just like to question
16 the jurors that Mr. Denny is going to challenge at this
17 point, because I know Mr. Denny has more voir dire, and,
18 of course, I have a complete voir dire also. But I believe
19 I know why Mr. Denny is going to challenge the jurors and I
20 would like to clarify some points with the jurors before your
21 Honor does rule on Mr. Denny's challenge.

22 THE COURT: All right, on the issue of death penalty,
23 the Court would allow the People to voir dire at this
24 moment.

25 MR. KAY: Thank you, your Honor.

26 MR. DENNY: Well, does the Court understand that I am
27 not through voir diring on the death penalty either?

28 THE COURT: Oh, I thought you were.

1 You may go ahead.

2 MR. DENNY: Well, I would like to challenge juror No. 1,
3 your Honor, Mrs. Izaguirre.

4
5 VOIR DIRE EXAMINATION

6 BY THE COURT:

7 Q Mrs. Izaguirre, did you understand the Court's
8 explanation of the procedure that will be followed in this
9 case, should there be a conviction of murder of the first
10 degree?

11 A Two phases, you mean?

12 Q Yes.

13 A Yes.

14 Q And you understand in that second phase it is
15 a matter of your absolute discretion as to whether or not
16 you impose life imprisonment or death?

17 A Yes.

18 Q You understand that?

19 A Yes.

20 Q Upon a conviction of murder of the first degree,
21 let's say that you have -- are a member of this jury and you
22 have found the defendant guilty of murder of the first
23 degree. Suppose that.

24 Your reaction would be to impose the death
25 penalty or not impose it or -- strike that.

26 Would your reaction be to impose the death penalty
27 automatically?

28 A Not automatically.

1 Q Without reference to --

2 A No, not automatically. No, never.

3 Q Would you examine the evidence?

4 A Yes.

5 Q In both phases or either phase?

6 A Oh, yes.

7 Q If there's only -- if there was only evidence
8 presented in one phase, would you, nevertheless, examine the
9 evidence that was placed before you to determine whether or
10 not, in your discretion, you should impose the death penalty?

11 A Yes.

12

13 VOIR DIRE EXAMINATION

14 BY THE COURT:

15 Q Mr. Robinson, let's say that you were thoroughly
16 convinced beyond a reasonable doubt that the defendant was
17 guilty of murder of the first degree and the jury so found.

18 Would your reaction be to automatically impose
19 the death penalty?

20 A Uh, impose it, I -- I wouldn't impose it, but I
21 would declare him guilty.

22 Q You would declare him guilty?

23 A Yes.

24 Q Let's assume that you are beyond that point.

25 That you have declared him guilty. That you have found the
26 defendant guilty of murder of the first degree of willful,
27 deliberate, premeditated murder, let us say, for the purpose
28 of this question.

1 Let us say that you have so found and that you
2 have found this beyond a reasonable doubt.

3 Would your reaction be to automatically impose
4 the death sentence?

5 A Yes.

6 THE COURT: Mr. Denny.

7 MR. DENNY: Yes, I would like to challenge the juror
8 under 1073, Subdivision 2, your Honor.

9 MR. KAY: This is juror No. 2, Mr. Robinson.

10 THE COURT: Mr. Robinson, the Court would grant the
11 challenge and excuse you. Thank you very much.

12 JUROR NO. 2: Thank you.

13 THE COURT: As to Mrs. Izaguirre, does either counsel
14 wish to ask further questions?

15 MR. KAY: Well, I think I would object to the challenge,
16 your Honor. I think Mrs. Izaguirre was confused by Mr.
17 Denny's question, and I think by the Court's question she has
18 answered that she wouldn't automatically do anything. I
19 think that's what we're interested in, in the jurors, in that
20 they wouldn't automatically vote for life, or automatically
21 vote for death, or automatically vote for guilt, or automatically
22 vote for innocence, and I don't think she quite understood
23 Mr. Denny's question. But I believe that the challenge for
24 cause should not be allowed.

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1 MR. DENNY: Well, I would like to question further,
2 your Honor.

3 THE COURT: Go ahead.

4 MR. DENNY: Is the Court going to go past the noon
5 hour at this point?

6 THE COURT: It's noon now, so we'll come back to it.

7 Ladies and gentlemen, the Court will excuse you
8 until 1:45. Be back at 1:45.

9 During the recess, you are admonished that you
10 are not to converse amongst yourselves nor with anyone else,
11 nor permit anyone to converse with you on any subject
12 connected with the matter.

13 I'll see you at 1:45.

14 (Whereupon, at 12:02 o'clock p.m., an adjournment
15 was taken in this matter until 1:45 o'clock p.m.
16 of the same day, Thursday, December 2, 1971.)
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1 LOS ANGELES, CALIFORNIA, THURSDAY, DECEMBER 2, 1971, 2:11 P. M.

2

3 THE COURT: Mr. DeLoach is missing.

4 We have excused Mr. Robinson, but had not selected
5 another juror.

6 MR. KAY: That's correct, your Honor.

7 (Pause in the proceedings until prospective juror
8 DeLoach entered the courtroom, resuming his seat in the jury
9 box.)

10 THE COURT: The record will show defendant and counsel to
11 be present in the case of People versus Davis; all the
12 prospective jurors are present, but -- yes; all the prospective
13 jurors are in the box there.

14 Where were we? I think --

15 MR. KAY: I think your Honor had just excused Mr. Robinson.

16 THE COURT: We had excused Mr. Robinson.

17 Are there any further questions of anyone --

18 MR. DENNY: Yes, your Honor.

19 THE COURT: -- with regard to the death penalty?

20 MR. DENNY: Yes, your Honor.

21

22 VOIR DIRE EXAMINATION OF

23 ELVERA IZAGUIRRE

24 BY MR. DENNY:

25 Q Mrs. Izaguirre, words are a delicate thing, and
26 you can get catch phrases that one responds to, kind of like
27 Pavlov's dogs, that salivate when they hear the bell after so
28 many rings.

1 And in connection with this trial, as you have
2 determined from questions that have been asked by the Court, and
3 some by Mr. Kay, there appear to be some catch words, such as
4 "automatically," you see.

5 So that if you automatically do this or you auto-
6 matically do that, you are automatically off the jury; you
7 understand that?

8 A (Indicating affirmatively.)

9 Q All right. Like "prejudiced." If you answered,
10 "I'm prejudiced," one way or another, normally you're off the
11 jury, automatically.

12 And most people don't like to admit that they're
13 prejudiced about anything. Sometimes they will.

14 So, too, I think it's difficult sometimes when
15 you've got a catch word like "automatically," to say, "yes,"
16 that you would automatically do something.

17 But in your case, and in a couple of the other
18 jurors' -- and I want you to know that it's neither my purpose
19 nor Mr. Kay's purpose to ask you trick questions or to trap
20 you or anything; we are trying as diligently as we can to find
21 out, in the only way we can, through the use of words, what
22 your feelings, what your emotions may be, what your thoughts
23 may be.

24 Because we don't know them; only you know them.

25 But in response to my earlier questions, I think you
26 did say, did you not, that your feelings were at that time, when
27 I asked you, that if you brought in a verdict of first degree,
28 premeditated, deliberate murder, then you would impose the death

1 penalty on a person on whom you had found that verdict; is that
2 correct?

3 A I meant I could. I didn't mean -- you know, I
4 could, if the evidence warranted it, coming from my feeling.

5 If I really felt that everything -- that I felt
6 was presented in the case warranted it, then I could give the
7 death penalty.

8 But I didn't mean to say I would automatically
9 or I would regardless of what was presented, no.

10 Q In other words, if the simple, bare facts that --
11 that there was a dead body and the defendant had killed the
12 dead body, and that's all, but it was done with premeditation
13 and deliberation, those facts and those facts alone, you are
14 saying, maybe you would and maybe you wouldn't, under those
15 circumstances; is that right?

16 A That's right. I would have to weigh it. I couldn't,
17 you know, just say, "Well, I'll automatically give him the gas
18 chamber."

19 You know, I couldn't. I would have to -- I
20 couldn't answer that, you know, that I would just say it.

21 Q All right. Now, let's go back, then, to a
22 question that I did ask some of the jurors after I had spoken
23 with you, and I did not ask you.

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1 As you recall, I asked them to think about a
2 situation, if they could, a type of case -- a type of
3 murder, actually -- where those facts were such that, in
4 your own opinion, as far as your own feeling goes, you
5 would feel compelled because of those feelings, to vote for
6 the death penalty for someone who had committed that offense.
7 Is there --

8 A No.

9 Q -- such a case --

10 A No.

11 Q -- that you can think of?

12 A No, there is not.

13 Q In other words, you would weigh all of the
14 facts, the type of the crime, the person's relationship to
15 the crime, his degree of culpability or lack of culpability,
16 his closeness or distance from the crime itself; all of these
17 things, you would weigh --

18 A Yes. I would have to weigh them.

19 Q -- in determining what the penalty should be,
20 as far as you were concerned; is that right?

21 A That's correct, yes.

22 Q And do you feel that there's anything unjust
23 or improper -- if the evidence were, in your opinion, the
24 right type of evidence -- in returning a life sentence as
25 against a death sentence, to a person convicted of first
26 degree murder?

27 A Unjust?

28 Q Yes.

8b-2

1 A No.

2 Q Do you feel that you would be doing a proper job
3 as a juror, in returning a life sentence, if you felt that
4 was proper, as distinguished from a death sentence, where
5 you brought in a verdict of first degree murder?

6 A I'm sorry. I just can't --

7 Q Well, let's assume, now, you have brought in a
8 verdict of first degree murder. And your friends, your
9 relatives, will all know this; they'll know in due course
10 that you have sat on a jury and deliberated and returned
11 a verdict of first degree murder; --

12 A Um-hmm.

13 Q -- do you see? Not that you've discussed it
14 with them during this time, because obviously you would not,
15 if you were seated as a juror; you would follow the Court's
16 instructions there.

17 But you know, as you sit there, that in due
18 course, this will be a topic of conversation amongst your
19 family and friends, that you had returned a verdict of first
20 degree murder in a case -- assuming all of this is hypotheti-
21 cal, as I say, as I ask these questions.

22 All right. Now, as you sit there, do you feel
23 that you could go out and talk to those friends and say,
24 "I did my duty by sentencing someone to life, voting to
25 sentence him to life, rather than death, even though I
26 returned a first degree murder verdict."

27 A I don't think I could talk about it. Do you
28 mean, to converse and just come out and say what -- what
I did in a case, or any case?

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1 Q Yes. You can talk about it afterwards; do you
2 understand that?

3 A Yes, but I don't think I'd want to., I mean, I
4 think I'd -- I wouldn't, you know -- my feeling is my feeling,
5 and I don't think I would.

6 Q In other words, you wouldn't be swayed by what
7 you thought public opinion might be in returning a verdict
8 that you returned on a penalty phase of a trial; is that
9 correct?

10 A That's correct, yes. That's right.

11 Q It would be simply what you, yourself, thought
12 because you, yourself, and the public hadn't heard the evidence
13 in the case?

14 A That's right.

15 Q Only you and --

16 A That's right.

17 Q -- and eleven other people had heard the evidence?

18 A That's right.

19 Q Were determinative of what had happened?

20 A That's correct.

21 Q And it would be on that basis that you would vote
22 for guilt or innocence and also vote for whatever penalty, if
23 you determined there was guilt --

24 A That's correct.

25 Q -- which I say is hypothetical in this case at
26 this time?

27 Would you pass the microphone, please, down to
28 Mrs. DuBois, juror No. 4 here. Thank you.

1 LOLETA M. DuBOIS

2 BY MR. DENNY:

3 Q Now, Mrs. DuBois, again --

4 MR. KAY: Well, before he questions her, I wonder is he
5 challenging her for cause, and is this why he's questioning
6 her now?

7 MR. DENNY: No, I want to clarify a point.

8 MR. KAY: Before you exercise your challenge?

9 MR. DENNY: Yes, if I do.

10 MR. KAY: Fine.

11 Q BY MR. DENNY: Mrs. DuBois, again, I want to be
12 perfectly fair in my questioning of you, if there was any
13 misinterpretation of my questions or your answers weren't
14 what you think your answers might be after some reflection,
15 perhaps.

16 But as I recall your answers to my questions on
17 your feelings about the imposition of the death penalty under
18 certain circumstances, as I recall it, you did say that if you
19 returned a verdict of guilt, and based that verdict on your
20 determination that the party was guilty of premeditated and
21 willful and deliberate murder, that that finding a verdict in
22 and of itself would be sufficient for you to then vote, with-
23 out more, without evidence, any further evidence in aggravation
24 or mitigation of the penalty, as they say, without further
25 evidence for the death penalty.

26 Now, did I misinterpret what you said or was that
27 your feeling and is that your feeling?

28 A Well, uh, I think I stated it rather clearly that

1 I would have to think the matter over very carefully and after
2 getting all the facts and evidence, if there's any, that I --
3 yes, if I thought, you know, it would be certain, then I
4 would, uh, vote for the death penalty. But I'd have to be
5 sure.

6 Q Sure that he committed the crime of murder in the
7 first degree?

8 A That's right.

9 Q Yes.

10 Being sure of that, then, you would vote for the
11 death penalty?

12 A Yes.

13 MR. DENNY: Yes, thank you.

14 I would challenge this juror, then, your Honor,
15 under 1073, Subdivision 2.

16 MR. KAY: May I ask a few questions, your Honor?

17 THE COURT: You may.

18 MR. KAY: Thank you.

19
20 LOLETA M. DuBOIS

21 BY MR. KAY:

22 Q Mrs. DuBois, I'm not sure that you are really clear
23 on this now.

24 You wouldn't automatically vote for the death
25 penalty, would you, just because the person was convicted of
26 first degree murder; willful, deliberate murder? You
27 wouldn't automatically do anything, would you?

28 A No, I'd have to be certain.

1 Q Well, what do you mean by "certain," just certain
2 that he was guilty?

3 Now, we're assuming that you have convicted a
4 defendant of first degree, willful, deliberate, premeditated
5 murder.

6 What we want to know is will you take everything
7 into consideration? Will you think about it or will you just
8 automatically close your mind to everything and say I'm going
9 to vote for the death penalty?

10 A Oh, no, I meant that I would have to think about it.
11 I thought I said that. I'm sorry.

12 Q You wouldn't automatically do that?

13 A No.

14 Q And just because a person was convicted of willful,
15 deliberate, premeditated murder, that doesn't mean that he
16 gets the death penalty in your book?

17 A No. I'd have to think about it and feel certain
18 that it was -- it was what it should be.

19 Q It was the proper penalty?

20 A Yes, sir.

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1 Q In other words, you could consider life imprison-
2 ment for such a defendant?

3 A Well, I suppose so, yes.

4 Q There's no doubt in your mind about that, is
5 there?

6 A No, no.

7 MR. KAY: I would object to the challenge for cause,
8 your Honor. We again had a misunderstanding.

9 MR. DENNY: I don't think there is any misunderstand-
10 ing.

11
12 VOIR DIRE EXAMINATION

13 BY THE COURT:

14 Q Miss DuBois.

15 A Yes, sir.

16 Q Tell me what you understand to be the procedure
17 here.

18 Now, will you -- let's see if I understand --
19 let's see if you have understood me.

20 A Well --

21 Q The first phase of the case is what?

22 A Is the cause, I believe -- the guilt.

23 Q The question of guilt or innocence?

24 A That's right.

25 Q All right. Now, let's assume that the defendant
26 is found guilty of something less than murder of the first
27 degree.
28

1 Would there be a second phase?

2 A (No response.)

3 Q You understand that you would never enter into a
4 second phase if the defendant is found guilty of something
5 less than murder of the first degree?

6 A Hmmm --

7 Q Now, let's assume that there is a finding of
8 guilt of murder of the first degree, and the finding, of
9 course, must be beyond a reasonable doubt and to a moral
10 certainty.

11 A Yes.

12 Q Of the truth of the charge before a jury may
13 return a finding of guilt; do you understand that?

14 A I think I do.

15 Q Well, if you don't understand it, ask me some
16 questions and perhaps I can clarify it for you.

17 A Well, I -- I -- it seems that they have to be
18 found guilty of a charge before you can decide on what should
19 be done about it.

20 Q Guilty of what charge?

21 A Guilty of murder.

22 Q Murder of the first degree?

23 A Murder of the first degree, yes, sir.

24 Q Now, let's assume you were at that stage when
25 a person has been found guilty of murder of the first
26 degree, and it is a willful, deliberate and premeditated
27 murder, such as Mr. Denny has posed to you in his questions
28 to you.

1 Would your reaction then be to automatically vote
2 for the death penalty without regard to whatever evidence had
3 been presented in either the first or the second phase?

4 A No, sir. I'd have to think about the evidence
5 and so on before I could say, uh, either one or the other.

6 Q We're talking about your thinking not in the
7 first phase, but we're talking about your thinking in
8 participating in the second phase.

9 A Uh-huh.

10 Q Of -- as you put it, "What to do about it."

11 A Uh-huh.

12 Q With such a defendant, would you simply, auto-
13 matically, react to vote for death?

14 A I still think that I'd -- I'd be very careful.
15 I'd have to think about it, should he be given the death
16 penalty or life or whatever you do.

17 Q Would you look at whatever had been produced by
18 either or both sides?

19 A Oh, yes, sir, absolutely. I'd want to feel
20 certain.

21 Q Certain about what?

22 A About the answer that I'd get, about what I
23 would decide. Because after all, it is a man's life.

24 THE COURT: I think Mrs. DuBois did misunderstand.

25 MR. DENNY: Beg pardon?

26 THE COURT: I think Mrs. DuBois did misunderstand.

27 MR. DENNY: Well, may I inquire further?

28 THE COURT: Yes. The Court would deny the challenge

1 at this time,

2 MR. KAY: Thank you, your Honor.

3
4 LOLETA M. DuBOIS

5 BY MR. DENNY:

6 Q Mrs. DuBois, words are frail things, and we may
7 misunderstand each other.

8 A Yeah.

9 Q So let me try to get my questions across.

10 And if I may, I'm not going to use such -- sort
11 of catch phrases as "automatically," because you've said
12 you wouldn't automatically do anything, would you?

13 A I wouldn't want to, no, sir. It is not fair.

14 Q So assuming that you are not automatically going
15 to do anything, let's get away from that phrase for a minute
16 and get back to your thinking as far as the imposition of
17 sentence on one who has been found guilty of first degree,
18 willful, premeditated murder.

19 Now, assuming you sit as a juror in the guilt
20 phase of the trial, we assume that you have to go through a
21 period of weighing and deliberating on what the evidence
22 shows, whether there is sufficient evidence, if it is
23 circumstantial evidence, whether the circumstances are
24 irreconcilable with any other inference other than guilt,
25 because if they're not, then, you must find innocence.

26 A That's true.

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1 Q But if you have gone through all of this, and
2 you've weighed it and you finally said, yes, I am convinced
3 that the defendant is guilty, I am convinced that the defendant
4 murdered another human being, I am convinced that he did it
5 willfully, deliberately, coldly, with malice aforethought,
6 I am convinced to that degree so that I can vote guilty in this
7 case, all of the evidence points to it, and you've arrived at
8 that decision, and you return a verdict of guilty!--

9 A Yes.

10 Q You are convinced of it, as you say, "I feel
11 certain that I am right, that he did it," you see?

12 A I understand.

13 Q All right. We've arrived at that point.

14 A I think (laughing).

15 Q All right, all right.

16 A Yes.

17 Q Then, you are called upon to determine what the
18 sentence should be.

19 And assume, ma'am, you don't hear any more
20 evidence. All you know is there's a finding of guilt of
21 willful, deliberate, premeditated murder of the first degree.

22 Now, I'm not asking you to prejudge the evidence
23 on any specific case. I'm just asking you now as you sit
24 there, in any case where you are convinced, you are certain
25 that a person had committed willful, premeditated, deliberate
26 murder, and assume, then, no further evidence introduced;
27 would you then feel that you would be compelled to bring in
28 a judgment voting for the death penalty?

1 A Uh, may I say something?

2 Q Certainly.

3 A I seem to go along with you very well, and with
4 Mr. Kay, and the judge has been very helpful to me, but you
5 seem to just go on a bit and I sort of lose you. But I
6 really meant what I said to the judge and Mr. Kay. And that's
7 about all I can say. You just seem to sort of, uh, -- well,
8 you sort of go on a little bit in the field and for a person
9 that is unaccustomed to it -- if you will forgive me?

10 Q I certainly do forgive you, ma'am.

11 A Thank you.

12 Q And I hope you forgive me for going on a bit.

13 A But that -- you know what I mean, to me it would
14 seem that way, I'm sorry.

15 Q It is perfectly all right.

16 But, you see, I am in a position where I think you
17 may have a certain predisposition, frankly. I think from the
18 answers that you originally gave me when I didn't use this
19 catch phrase that both the judge and Mr. Kay have used,
20 "automatically," which everybody throws up their hands and
21 says, "No, I wouldn't do anything automatically," but when I
22 asked you earlier what your disposition was or what your
23 predisposition was --

24 A Uh-huh.

25 Q You see, there are some people who do feel anybody
26 that is guilty of premeditated, deliberate, willful first
27 degree murder should get the gas chamber.

28 A Yes.

1 Q Should get the death penalty.

2 And I thought from your answers that this was the
3 way you felt.

4 A No.

5 Q Now, was I wrong?

6 A I think maybe you were, sir.

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1 Q All right. So that in this particular case --
2 or, in any case -- is it your feeling that you don't have
3 any predisposition --

4 A No.

5 Q -- toward what --

6 A I don't.

7 Q -- penalty is proper, where a first degree
8 murder verdict has been returned?

9 A No. No, I couldn't have.

10 Q Well, you could have; I'll have to take issue.

11 A Well, I mean, being me.

12 Q Well, the question is, could you?

13 A No, sir.

14 Q When I use "you" in the generic, there are people
15 who --

16 A No. No, sir.

17 Q Okay. Fine. If that's your frame of mind.

18 A That is it. I'm very happy that I had a chance
19 to explain it.

20 Q Well, I am, too; because this is what all this
21 is for.

22 A Yes, sir.

23 Q And is it your feeling, then, that you would not
24 be swayed by what you thought public opinion might want you
25 to do in imposing a sentence?

26 A No, sir, I would not.

27 Q Understanding that the public isn't sitting here;
28 they haven't --

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1 A That's right.

2 Q -- heard all the evidence?

3 A No, sir. I would not be swayed by public
4 opinion, huh-uh.

5 Q I'm not talking about now on the finding of guilt
6 or innocence, because the Judge will tell you: You can't do
7 that in any case.

8 A No, sir. I believe that I should make up my own
9 mind on these matters. It's too serious.

10 Q All right. Then let's get to another point. I
11 haven't yet questioned the other jurors about this. But let's
12 say that you were in the jury room at the time of deliberation,
13 and -- the reason I'm asking you these hypothetical questions
14 is simply because I must at this point. We don't have a chance
15 to do so later.

16 There may never be an occasion for you even to
17 consider it.

18 But assume, now, you have made a finding of guilt;
19 and now, you are in the jury room with 11 of your fellow
20 jurors.

21 And there are 11 of them who are voting one
22 particular way -- whether it's for life or death, at this
23 time, I'm not interested --

24 A Yes.

25 Q -- in for this particular question.

26 Do you feel that you would -- and obviously,
27 you are going to vote the other way.

28 A I see.

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1 Q You are the only person voting the other way.

2 Do you feel that you would change your vote,
3 simply in order to concur with 11 other people, even though
4 you felt that you were -- that your position was right,
5 and theirs was wrong?

6 But, in order to bring in a unanimous verdict,
7 would you change?

8 A No, I couldn't do that, if I didn't think it was
9 right, no, sir.

10 Q So that if you were convinced, even being the
11 lone person, that they had not convinced you of the correct-
12 ness of their position, you would not change, simply in
13 order to --

14 A No.

15 Q -- bring in a unanimous verdict?

16 A No, I wouldn't do that.

17 Q And to be very specific about it -- because
18 obviously, I'm in a position where I feel the death penalty
19 is a little bit worse than life imprisonment; some people
20 say it isn't, but I feel it is -- so, say that 11 of your
21 fellow jurors are voting for the imposition of the death
22 penalty -- again, in this hypothetical situation that we
23 are talking about -- and you say, "No, this is not the type
24 of case, this is not the type of defendant, which, in my
25 opinion, warrants that verdict."

26 Would you have any hesitancy in holding onto
27 that position, until such time as perhaps you were convinced
28 otherwise?

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A Well, as I said before, no, I couldn't do that.
I would have to do what I thought was right.

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1 MR. DENNY: All right. Fine.

2 All right. Would you pass the microphone up to
3 Mrs. Andreasen, No. 9 juror?

4
5 KATHERYN ANDREASEN

6 BY MR. DENNY:

7 Q Ma'am, again, I don't know whether it's a
8 communications barrier or what between us. But I had the
9 same impression, as far as your answers went, that I got from
10 Mrs. DuBois's answers, as far as your feelings of the
11 imposition of the death penalty, or voting for the death
12 penalty.

13 Specifically, as I recall your answers, you said
14 that if a person were found guilty of first degree murder,
15 if you had found a person guilty of first degree murder, then
16 and at that point, you would vote for the imposition of the
17 death penalty; is that correct?

18 A Yes, I did.

19 Q And it's your feeling, as you sit there now, that
20 that's the way you would have to vote, because that's the way
21 you feel about it; is that correct?

22 A Yes, I do.

23 Q So that anybody guilty of willful, premeditated,
24 deliberate murder, in your opinion, you would vote for the
25 imposition of the death penalty; is that correct?

26 A Not unless they were proved guilty first by the
27 evidence.

28 Q Oh, yes. But if they were proved guilty by the

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1 evidence --

2 A In my own opinion, and I thought so, yes, I would
3 vote that way.

4 Q All right. And just so we get the little catch
5 word in, I take it that you would automatically vote that
6 way, --

7 A No.

8 Q -- having found them guilty of murder of the first
9 degree?

10 A I would not automatically do it, no.

11 Q Well, you see, that's an interesting catch word,
12 then.

13 You have said that having found them guilty of
14 murder in the first degree, you would vote to impose the death
15 penalty; is that correct?

16 A That is correct.

17 Q All right.

18 A However, in the second phase, if there were more
19 evidence to be determined and brought up, then I would change
20 my opinion.

21 Q In other words, it would take --

22 A If I did not think it was necessary to have the
23 death penalty, I wouldn't vote for it.

24 Q Well, when you say, if you thought it was not
25 necessary, I take it then you have some idea of when it is
26 necessary to vote for the death penalty or invoke the death
27 penalty?

28 A What I meant was, if any more evidence were turned

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1 up in the second phase of the trial, I would stop and think
2 about it before I would say yes.

3 Q All right. Let's assume, however, that no further
4 evidence was brought up in this second phase. In that case,
5 you would vote to impose the death penalty, having found the
6 person guilty of murder in the first degree?

7 A Yes, I would.

8 Q And you would do so because there was no other
9 evidence in the penalty phase? Having found him guilty, you
10 would do so automatically; is that right?

11 A Well, if this is the way you are putting it, yes.

12 MR. DENNY: Thank you, ma'am. That is. And I
13 appreciate your candor in answering it. Because there are some
14 people who would do that, and there's nothing wrong with
15 feeling that way, if that's the way you feel.

16 The only thing wrong with it is that I think it
17 makes you subject to challenge.

18 And I challenge her under 1073, Subdivision 2,
19 your Honor.

20 THE COURT: The Court grants the challenge. Thank you,
21 Mrs. Andreasen. The Court does excuse you.

22 MR. DENNY: Thank you very much, Mrs. Andreasen.

23 THE COURT: Report to the 15th floor of the new Hall of
24 Records, if you would, please.

25 Does that conclude your examination on the death
26 penalty?

27 (Pause in the proceedings while a discussion off
28 the record ensued at the counsel table between Mr. Kay and

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1 Mr. Denny.)

2 THE COURT: Mr. Denny?

3 MR. KAY: May we approach the bench a moment, your
4 Honor?

5 THE COURT: Yes.

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

9 MR. KAY: We were just trying to resolve what would be
10 the best way to do it. We thought maybe that to fill the empty
11 spaces, and then to question the two new jurors, plus
12 Mr. Tanaka, who is also a new juror, before Mr. Denny goes on
13 with this general voir dire, so we could actually have twelve
14 individuals in the --

15 THE COURT: That's what I had in mind.

16 MR. KAY: Oh, fine.

17 THE COURT: Okay. Let's do that.

18 MR. KAY: Okay.

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

21 THE COURT: Will you pick two more names now? One for
22 seat No. 2, and one for No. 9?

23 THE CLERK: Jonathan Craven; J-o-n-a-t-h-a-n; last
24 name, C-r-a-v-e-n.

25 Miss Sylvia Puentes; S-y-l-v-i-a; last name,
26 P-u-e-n-t-e-s.

27 VOIR DIRE EXAMINATION

28 BY THE COURT:

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1 Q All right. Mr. Craven, Mr. Tanaka, Mrs. Puentes,
2 is there any one of you who would suffer any hardship, as I've
3 explained hardship, if you were to serve as a juror in this
4 case?

5 PROSPECTIVE JUROR NO. 9: Yes, your Honor.

6
7 SYLVIA PUENTES

8 BY THE COURT:

9 Q All right. Tell us about it.

10 A I'm not being paid for serving by my company.

11 Q What company employs you?

12 MR. DENNY: Excuse me, your Honor. Could she have the
13 microphone?

14 Q BY THE COURT: What company employs you?

15 A SCW, Incorporated, a newspaper advertising service.

16 Q And they pay you for only 30 days?

17 A No, they don't pay me. I'm making up the time.
18 And also, have vacation time coming to me.

19 Q Oh, I see. And apparently -- how many days have
20 you done?

21 A Well, I'm on my third week now, your Honor.

22 Q So, then, you are absorbing that loss through
23 vacation time and --

24 A And through going in, too, on some of my spare
25 time.

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1 Q What do you mean going in in your spare time?

2 A I go in in the evenings and Saturdays.

3 Q Do you ordinarily work during the day?

4 A Yes, I am self-supporting.

5 Q What I mean is, do you work during the day and
6 not during the evening hours, generally?

7 A Yes. Yes, I work a regular 8:30 to 5:00.

8 Q What do you do?

9 A I am an advertising copywriter.

10 Q And you've ascertained, then, that you will not
11 be paid should you be --

12 A Well, I am not being paid now, so I doubt very
13 much that I would be paid for two months hence.

14 Q How long have you worked for the company?

15 A Gosh, about close to eight or nine years.

16 THE COURT: Gentlemen.

17 MR. DENNY: I stipulate, your Honor.

18 MR. KAY: Yes, so stipulated.

19 THE COURT: Both of these gentlemen have stipulated,
20 Mrs. Puentes, that you may be excused, and the Court does
21 excuse you and thanks you.

22 All right, another name for Mrs. Puentes.

23 THE CLERK: Mrs. Yvonne M. Fatherree, Y-v-o-n-n-e,
24 last name, F-a-t-h-e-r-r-e-e.

25
26 VOIR DIRE EXAMINATION OF

27 MRS. YVONNE FATHERREE

28 BY THE COURT:

1 Q How do you pronounce your name?

2 A Fatherree.

3 Q Fatherree.

4 Would there be any hardship to you should you be
5 chosen as a juror, Miss Fatherree?

6 A No.

7 THE COURT: Have all of you -- is there any of you,
8 any of the three of you who have not been present during the
9 proceedings when the Court explained the nature of this case,
10 read the indictment and instructed you on some of the law
11 involved in the case?

12 Mr. -- is there -- strike that.

13 Is there anyone of you whose answers would be any
14 different to the questions of a general nature that I put to
15 the jurors as a whole, as a group?

16 (Whereupon, there were murmurs of "No," that
17 were heard from the three prospective jurors.)

18 THE COURT: I see no response.

19 Is there anyone of you who -- that is, of the
20 three of you: Mr. Craven, Mr. Tanaka, Mrs. Fatherree, who
21 has such opinions concerning the death penalty that you could
22 not be fair and impartial in determining the issue of guilt
23 or innocence?

24 I see no response.

25 Or is there anyone of you who, upon a conviction
26 of murder of the first degree, would automatically vote to
27 impose the death penalty without regard to the evidence
28 that's been produced?

1 Or would you, on the other hand, automatically
2 refuse? Is there anyone of you who would automatically refuse
3 to impose the death penalty regardless of what evidence might
4 be produced?

5 (No response.)

6 THE COURT: Is there anyone of you, who knowing what
7 you know about the case now feels that he or she could not be
8 fair and impartial sitting as a juror in the case?

9 (No response.)

10
11 JONATHAN CRAVEN

12 BY THE COURT:

13 Q Mr. Craven, what's been your jury experience?

14 A None. None.

15 Q None?

16 A That's right.

17
18 HIROSHI TANAKA

19 BY THE COURT:

20 Q Mr. Tanaka.

21 A Uh, I served as an alternate juror on a criminal
22 case.

23 Q As an alternate juror?

24 A Yes.

25 Q What type of case?

26 A Burglary case.

27 Q Burglary.

28 What type of work do you do, Mr. Tanaka?

1 A Well, I work for the State of California as an
2 auditor.

3 Q In the State Auditor's Office?

4 A Well, the State Controller's Office.

5 Q In the State Controller's Office as an auditor.
6 How long have you been so employed?

7 A About 11 years.

8 Q Is there a Mrs. Tanaka?

9 A No, I am not married.

10 Q Have you ever been?

11 A No.

12 Q And are you related to or a friend of any law
13 enforcement officer?

14 A No.

15 Q Do you, in the course of your duties, appear
16 for the State?

17 A I never have.

18 Q Never have.

19 All right, in what general area do you reside?

20 A Gardena.

21 THE COURT: Give it back to Mr. Craven.

22
23 JONATHAN CRAVEN

24 BY THE COURT:

25 Q What type of work do you do, Mr. Craven?

26 A Conduit man for the Department of Water & Power.

27 Q Conduit man for the Department of Water & Power?

28 A Yes.

1 Q How long have you been so employed?

2 A 20 years.

3 Q And is there a Mrs. Craven?

4 A Yes.

5 Q Is she employed outside the home?

6 A No.

7 Q And are you related to or a friend of any law
8 enforcement officer?

9 A I have a first cousin who is a deputy sheriff.

10 Q Who is a deputy sheriff?

11 A Right.

12 Q Los Angeles County?

13 A Right.

14 Q What is he doing? What's his duty as a deputy
15 sheriff?

16 A (Shrugs shoulders.)

17 Q Is he in a patrol car or does he work from
18 headquarters or jail or what?

19 A Really, I don't know.

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1 Q You don't know?

2 A No.

3 Q How often do you see him?

4 A I saw him twice in the last four years.

5 Q Do you think this would affect your judgment at

6 all in the case?

7 A No.

8 Q What area do you reside?

9 A South Los Angeles.

10 THE COURT: Pass that back to Mrs. Fatherree, would you?

11

12 YVONNE FATHERREE

13 BY THE COURT:

14 Q Mrs. Fatherree, your jury experience.

15 A I've never had any.

16 Q First case for you?

17 A First case.

18 Q What type of work do you do?

19 A I work for Xerox. I'm an inspector.

20 MR. DENNY: I'm sorry, I didn't hear that, ma'am.

21 JUROR NO. 9: I work for Xerox as an inspector.

22 MR. DENNY: Who?

23 JUROR NO. 9: Xerox.

24 MR. DENNY: Know them well.

25 (Laughter.)

26 Q BY THE COURT: Is there a Mr. Fatherree?

27 A Yes, there is.

28 Q Is he employed at the present time?

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1 A Yes, he's self-employed.

2 Q Doing what type of work?

3 A Decorator.

4 Q Are you related to or a friend of any law
5 enforcement officer?

6 A No.

7 Q And the area, general area in which you and
8 Mr. Fatherree reside?

9 A West L. A.

10 THE COURT: All right, gentlemen, you may inquire.

11 Mr. Denny, you may inquire.

12 MR. DENNY: Well, was the Court going to have us
13 inquire of these three new ones concerning publicity, your
14 Honor?

15 THE COURT: Yes.

16 Do you wish to do that first?

17 MR. DENNY: I think it might expedite it.

18 MR. KAY: It might be better.

19 THE COURT: Suppose so.

20 All right, I'll ask you to go outside, then,
21 except for Mr. Craven.

22 (Whereupon, the prospective jurors retired from
23 the courtroom, and the following proceedings were had:)

24

25 JONATHAN CRAVEN

26 BY THE COURT:

27 Q Now, Mr. Craven, what we're interested in at this
28 time, is whether -- is what publicity you may have heard, seen

1a-3

1 or read, and in particular, the Court wishes to know what
2 you've heard about this case.

3 Have you heard, seen or read anything about this
4 case before I told you about it on Monday?

5 A No.

6 Q Have you ever heard the name Bruce Davis before?

7 A I don't recall it.

8 Q Have you ever heard the name Steven Grogan before?

9 A No.

10 Q Spahn Ranch? Ever heard that? Heard, seen or read
11 it?

12 A What?

13 Q Spahn Ranch?

14 A Spahn Ranch? Seemed like I heard it a long time
15 ago.

16 Q Charles Manson, heard that name?

17 A Yes, yes, yes.

18 Q And Manson Family, have you heard that name?

19 A Yes.

20 Q What do you know about the Manson Family? What
21 have you heard, seen or read about that? What do you remember
22 about that?

23 A I don't remember anything too much about it,
24 because I didn't really read it.

25 Q Do you know what the Manson Family is?

26 A No, I don't think so.

27 Q Well --

28 A (Laughing).

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1 Q Well, do you have any general idea?

2 A Hmmm, no.

3 Q Do you know who Charles Manson is?

4 A Just -- no, I don't know who he is. I've just

5 heard the name.

6 Q Well, what did you hear about him?

7 A Well, on the news I just heard that he was

8 connected in this murder.

9 Q That he was what?

10 A Connected in the murder.

11 Q What murder?

12 A Of the Tate-LaBianca -- or whatever.

13 Q On the Tate-LaBianca case?

14 A Yes.

15 Q Now, is that where you heard his name and the name

16 Manson Family before?

17 A That's right.

18 Q When was the last time you read, heard or saw

19 Mr. Manson's name in the press?

20 A Hmmm?

21 Q How many weeks, months, days ago?

22 A Hmmm, it's been so long I don't hardly remember.

23 Q More than a month?

24 A Yes.

25 Q More than two months?

26 A Hmmm, let's see, I don't think so.

27 Q Pardon?

28 A I think I've heard it on the newscast within the

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1 last two months.

2 Q Within the last two months?

3 A Yes.

4 Q Do you remember what you heard within the last
5 two months?

6 A No, because I didn't pay any attention too much,
7 then.

8 Q Well, from what you heard, saw or read, do you have
9 any opinion as to whether the Manson people, the Manson Family
10 is good or bad?

11 A Well, I didn't read the story and, more or less,
12 when I heard it, it just more or less went in one ear and out
13 the other.

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11b

1 Q I see.

2 Do you know what happened to the members of the
3 Family who were accused of murder?

4 A No.

5 Q You don't know whether they were found guilty or
6 not guilty?

7 A (Shakes head.)

8 Q Is that correct? You are shaking your head.

9 A No.

10 Q Well, do you know whether -- strike that.

11 Do you know the name Gary Hinman? Have you ever
12 heard it before?

13 A I don't recall it.

14 Q Shorty Shea? Did you ever hear that name?

15 A I don't recall that one, either.

16 Q Now, if you should happen to remember anything
17 about what I've asked you, about Mr. Davis, you should happen
18 to remember something that you have heard, seen or read that
19 doesn't occur to you now about Mr. Manson or the Manson Family,
20 do you think that you can set it aside for the purpose of
21 making an independent judgment on this case, basing your
22 judgment only on the evidence that's brought before you?

23 A Yes.

24 Q Can you do that?

25 A I think I can.

26 Q Well, when you say you think you can, are you
27 expressing any doubt about your ability to set aside what you
28 may have heard, seen or read in the press or radio or television?

1 A No, I'm not expressing any.

2 Q You're not expressing any doubt?

3 A No.

4 Q You're sure about your capability of setting that
5 matter aside and deciding the case objectively only on the
6 evidence?

7 A Right.

8 Q You can do that?

9 A Yes.

10 Q Will you do that?

11 A Yes.

12 Q Can you be fair and impartial in this case?

13 A Yes.

14 THE COURT: Mr. Denny.

15

16 JONATHAN CRAVEN

17 BY MR. DENNY:

18 Q Yes, Mr. Craven.

19 Sir, do you subscribe to any newspaper?

20 A No.

21 Q Do you regularly watch any TV news broadcasts;
22 morning, evening, afternoon, or night?

23 A No.

24 Q Do you listen to the radio at all during the day?

25 A Traveling to and from work it is on always in the
26 car.

27 Q You listen to a music station there?

28 A More or less.

1 Q Generally hear news broadcasts during the course
2 of these music programs?

3 A Well, sometimes they flash it on, but as a rule I
4 pay little attention to it.

5 Q Do you read a magazine on a regular basis?

6 A No.

7 Q Do you make any effort to keep up with what's
8 going on in the world or community in any way by reading or
9 listening or watching?

10 A Sports section (laughing).

11 Q You know what's going on in football, baseball and
12 basketball?

13 A Right.

14 Q How do you do that?

15 A Buy the paper and take the sports section out and
16 throw the rest of it out.

17 Q Got you.

18 (Laughter.)

19 Q All right, sir. Going on to Mr. Manson.

20 You say you have heard of Charles Manson, have
21 heard something about it?

22 A Yes.

23 Q And have you heard anything about Mr. Manson in
24 connection with anything he said about his feelings about the
25 blacks and the whites, Negroes and white people?

26 A I heard that mentioned on the news a long time
27 ago, once, but I don't even know what he said. That's how
28 much attention I paid to it.

1 Q I'm sorry, I didn't get that last.

2 A I said I don't even remember what he said because
3 I didn't pay that much attention to it.

4 Q Have you heard it discussed among your friends
5 at all?

6 A No.

7 Q Things that he said about black versus white
8 people or black and white people?

9 A No.

10 Q You weren't interested and didn't pay any atten-
11 tion that your friends discussed it, is that right?

12 A Right.

13 Q Now, in the last couple of months, you've heard
14 something about Mr. Manson.

15 Do you recall anything about Mr. Manson being
16 charged with some murders other than these Tate-LaBianca
17 murders?

18 A I don't recall that. They could have mentioned
19 it. I just didn't pay it any attention. I don't remember.

20 Q You don't pay any attention to crime news, whether
21 it is about Mr. Manson or anyone else, is that right?

22 A That's right.

23 Q It doesn't interest you?

24 A No.

25 MR. DENNY: Thank you, sir, no further questions.

26 MR. KAY: No questions, your Honor.

27 THE COURT: Do you want to ask him about the death
28 penalty at this time so that we could just --

1 MR. DENNY: We can just as well.

2 THE COURT: -- so we can go into the general voir dire
3 and move along?

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BY MR. DENNY:

Q Mr. Craven, you were here sitting back in the back when there were some questions asked about your feelings about the death penalty?

A Yes.

Q Sir, insofar as that goes, have you done any reading about the death penalty at all?

A No.

Q Ever?

A No.

Q Have you discussed it in bull sessions?

A No.

Q Feelings about the death penalty?

A No.

Q Have you thought at all about the death penalty at any time during your life?

A No, not until Monday when I came here.

Q Then you began thinking about it?

A Right, a little.

Q Have you ever read in the papers a headline case where someone was given the death penalty, gassed up in the gas chamber?

A Oh, I --

MR. KAY: That's irrelevant whether he's ever read any headlines on it.

THE COURT: Well, he's answered "no." The answer may --

JUROR NO. 2: I probably have. I'm sure I have, but I don't recall the people or the person.

1 Q BY MR. DENNY: All right. Now, sir, as far as
2 your feelings about the imposition of the death penalty, are
3 there cases where you feel, sitting there now, that if -- if
4 it were a certain situation, a certain type of a murder case,
5 you would feel compelled, if you heard about the facts of that
6 case -- or let me strike that.

7 You're not even sitting as a juror. You're just
8 sitting at home and you hear about a case of murder. And you
9 hear certain facts and you say, "By golly, that's a case where
10 if I had anything to do with it, I'd vote for the death
11 penalty;" is there such a case that you can think of now?

12 A No.

12 fols.

12-1

1 Q In other words, each case rises or falls on its
2 own merits, as far as you are concerned, as to whether the
3 death penalty should or should not be imposed?

4 A Right.

5 Q Whether life imprisonment is the proper sentence,
6 versus the death penalty; is that right?

7 A That's right.

8 Q And would you, sir, feel that public opinion in
9 any way would influence you in what you felt was your proper
10 duty in returning either life or death, if you were ever
11 called upon to do so?

12 A No.

13 Q You'd be the one to hear the evidence, and not
14 the public; is that the way you'd figure it?

15 A Right.

16 MR. DENNY: All right. Thank you, sir.

17 THE COURT: Any questions, Mr. Kay?

18 MR. KAY: We'll -- I'd rather ask mine after Mr. Denny
19 finishes. I don't --

20 THE COURT: All right.

21 Mr. Craven, then, would you remove yourself
22 to wherever the other jurors are? And Mr. Tanaka should come
23 in.

24 If you will wait with the other jurors until we call
25 you back?

26
27 VOIR DIRE EXAMINATION OF
28 HIROSHI TANAKA

12-2

1 BY THE COURT:

2 Q Mr. Tanaka, we wish to know whether you had ever
3 heard of this case, before you came in the courtroom on
4 Monday?

5 A No, sir.

6 Q Never heard of Mr. Davis?

7 A No, sir.

8 Q Ever hear of Steve Grogan?

9 A No, sir.

10 Q Ever hear of Shorty Shea?

11 A I believe I did.

12 Q What have you heard about Shorty Shea?

13 A Well, I don't know anything; just the name.

14 Q Just the name?

15 A Yes.

16 Q Do you remember now from what I read in the
17 indictment that he is alleged to be the victim of a homicide,
18 the victim of a murder, in the third count? Does that bring
19 to your mind anything -- does that bring to your mind anything
20 that you may have heard, seen or read about him?

21 A No.

22 Q What about the name Gary Hinman? Had you heard
23 that before I read it to you on Monday?

24 A Yes.

25 Q What had you heard about that?

26 A Well, the same -- see, I -- I avoid reading
27 anything -- to do with these crimes or anything, so -- all
28 I recall is the names and I don't recall --

12-3

1 Q You just recall the names?

2 A Yes.

3 Q Do you recall that -- in what connection you heard
4 Mr. Hinman's name?

5 A No.

6 Q You don't know anything about that?

7 A No.

8 Q All right. Do you recall the -- you remember the
9 name Charles Manson, however?

10 A Yes.

11 Q And had you heard that in the course of the
12 Tate-La Bianca homicide --

13 A Yes.

14 Q -- case?

15 "Yes"?

16 A Yes.

17 Q Had you heard that Mr. Manson was connected with
18 any other case?

19 A Uh --

20 Q Other than the Tate-La Bianca case?

21 A I believe -- I don't know if it's Mr. Manson or
22 not, but it -- an attorney that was missing?

23 Q The attorney that was missing?

24 A Yes.

25 Q Attorney Hughes?

26 A Yes.

27 Q Hughes. You think he might have been involved
28 somehow or other with that?

12-4

1 A Right.

2 Q But other than that, so far as you know, Mr.
3 Manson has not been accused of any other homicide?

4 A No, sir.

5 Q Do you know the name Spahn Ranch?

6 A No.

7 Q Do you know the name Robert Beausoleil?

8 A Beausoleil?

9 No, I don't think so.

10 Q Now, if -- if I were to instruct you that whatever
11 you may remember, from what you may have heard, seen or read
12 or talked about with somebody concerning Charles Manson,
13 Bruce Davis, this case, any other case involving Mr. Manson,
14 was to be put out of your mind and set aside -- not forgotten,
15 but set aside -- for the purpose of your rendering an
16 independent judgment in this case, based only upon the
17 evidence that's produced here, are you capable of doing that?

18 A I believe I am.

19 Q When you say, "I believe," are you expressing any
20 reservation, or are you certain?

21 A Well, I'm certain that I could.

22 Q You are certain of your capabilities of being
23 independent in making a judgment, basing your judgment only
24 upon the evidence in the case?

25 A Yes, sir.

26 Q And will you do that?

27 A Yes.

28 Q And will you be fair and impartial?

A Yes.

12a fls.

12a-1

1 THE COURT: Mr. Denny?

2 MR. DENNY: Yes. Thank you.

3

4

VOIR DIRE EXAMINATION

5

BY MR. DENNY:

6

Q Sir, what is your main source of news information?

7

Radio, newspaper, TV?

8

A TV news.

9

Q The TV news. You regularly watch a TV news show?

10

A Yes.

11

Q What is that, sir?

12

A CBS.

13

Q When?

14

A Oh, the -- in the evening.

15

Q The Big News, they call it?

16

A Yes.

17

Q And is this kind of a ritual with you? You watch

18

that every day, just about?

19

A No. Because I travel a lot in my work. I don't

20

get the chance -- I don't watch it regularly.

21

It depends on what time -- see, I stay in motels.

22

It depends on what time I get back to the motel and everything.

23

Q All right. Do you listen to the car radio,

24

generally, when you are traveling?

25

A No, I seldom turn on my radio.

26

Q Okay. How about a newspaper? Do you subscribe to

27

a newspaper at all?

28

A No, I do not.

29

Q Any magazines?

1 A Yes. U. S. News and World Report. That's about
2 all I -- and these sports magazines.

3 Q All right, sir. And do you recall when is the
4 most recent time you've heard, seen or read anything about
5 Charles Manson?

6 A I can't tell the exact date, but I believe it
7 was this --

8 Q Well, within the last week, within the last month,
9 within the last six months?

10 A Oh, I would say four or five months.

11 Q Within the last four or five months?

12 A Yes.

13 Q And do you have any recollection at all as to what
14 it was that you heard about him, --

15 A No, sir.

16 Q -- the last you heard about him?

17 A No, sir.

18 Q All right. Again, in response to the Court's
19 questions, I think you -- you say you've heard of Shorty
20 Shea?

21 A Just the name. I don't know any --

22 Q Have you heard it used in connection with
23 "Stuntman Shorty Shea"?

24 A I believe I have.

25 Q And does that ring a bell with you, as to any-
26 thing further you may have heard about it?

27 A No.

28 Q And as far as the Spahn Ranch, does "Stuntman

12a-3

1 Shorty Shea" and the "Spahn Ranch" conjure up any memories?

2 A Now that you mention it together, I believe I
3 heard it at the same time.

4 Q All right. And do you recall what you heard?

5 A No, not -- not that -- that I can recall.

6 Q All right. And if you happen to sit as a juror in
7 this case, and all of a sudden you do recall -- through just
8 such simple things as my putting the two of them together --
9 you do recall something else that you remember, through the
10 testimony of a witness or something like that, will you be
11 able, do you think, to put that out of your mind and not
12 consider that which you've remembered, but consider only what
13 you are hearing from the witness stand, in evidence?

14 A Yes, sir.

15 Q Now, as the judge says, you can't really forget
16 anything you've known. But you can push it so far back in your
17 mind that you don't consider it in determining the guilt or
18 innocence of someone that you are charged with trying.

19 Do you understand that?

20 A Yes, I believe I can do that.

21 MR. DENNY: All right, sir. I think you can. Thank you.
22 No further questions.

23 MR. KAY: No questions.

24 THE COURT: Thank you, Mr. Tanaka.

25 We will excuse you. And would you send
26 Mrs. Fatherree in here, when you go through?

27 MR. DENNY: your Honor, did the Court want to inquire on
28 the death penalty issue, as long as he's here, too?

12a-4

1 THE COURT: All right. As long as he's here, you may.

2 Just be seated again.

3 Go ahead, Mr. Denny.

4 BY MR. DENNY:

5 Q All right. Mr. Tanaka, again, you were present
6 during most of the questioning, I think, on the death penalty
7 issue?

8 A Yes.

9 Q And you heard those questions?

10 A The penalty phase, yes.

11 Q And again, you understand we may never even get
12 there on that phase?

13 A Yes.

14 Q And my asking you questions on that subject
15 doesn't mean that I think we'll ever get there; do you under-
16 stand that?

12b fol

17 A Yes.

18

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12b-1

1 Q Have you read anything in the field of
2 literature, pro and con, on the death penalty?

3 A No, sir.

4 Q Have you ever discussed it with anyone?

5 A No, sir.

6 Q And since coming here Monday, I take it you've
7 reflected somewhat on it, I take it?

8 A Yes, sir.

9 Q All right. And based on those reflections, and
10 perhaps the reflections that you've had sitting in the room,
11 during the last hour or so, is there a type of case, a type
12 of murder, where you feel that that type of murder is such
13 that -- for you to have anything to do with it, you would vote
14 to impose the death penalty?

15 A Well, I believe I would be more inclined to
16 impose the death penalty than the life imprisonment, in a
17 first degree murder case.

18 Q Is there some reason for that, sir?

19 A Well, I feel fairly strong for capital punishment.

20 Q And -- so that if you sat on a case where you
21 had decided that the person was guilty of first degree murder,
22 you would then feel almost obliged to impose the death penalty
23 in that case; is that right?

24 A Well, not automatically; but like I say, I would
25 be more inclined to --

26 Q Would be more inclined to?

27 A Inclined to, you know, go more for the death
28 penalty than a life sentence.

12b-2

1 Q All right.

2 And do you have the feeling now, as you sit here,
3 that it would take some evidence on behalf of -- or, on the
4 part of the defendant to change your mind, so that you'd vote
5 for life imprisonment rather than the death sentence?

6 A That could happen.

7 Q So that if the People had proved to your satisfac-
8 tion, beyond a reasonable doubt -- as their burden is -- that
9 he had committed first degree, willful, premeditated,
10 deliberate murder, then in essence, you would feel that unless
11 he came up with something in mitigation, that you would vote
12 for the death penalty, --

13 A Yes, sir.

14 Q -- is that correct?

15 And being honest about it, would you say that this
16 would be automatically the way you would vote, --

17 A Well --

18 Q -- assuming you've heard all the evidence in the
19 case?

20 A Well, I don't like the word "automatically."

21 Q I don't either, sir, but unfortunately we're stuck
22 with it.

23 And apparently that's -- that's the key phrase.

24 Now, we understand that you would have given a
25 great deal of consideration to the evidence before you would
26 find him guilty, obviously. But then, having found him guilty
27 of a willful, deliberate, premeditated, first degree murder,
28 would it be your response at that time to vote for the

12b-3

1 imposition of the death penalty?

2 A Yes, sir.

3 Q And in fact, this would be the automatic response
4 that you would make, having found him guilty of first degree
5 murder?

6 A Yes, it would be, then.

7 MR. DENNY: Yes. Thank you, sir. That's what we --
8 that's very honest, and I appreciate it.

9 I would challenge the juror under 1073, Subdivision
10 2.

11 THE COURT: All right. The Court grants the challenge.

12 Thanks, Mr. Tanaka. The Court will excuse you.

13 MR. DENNY: Thank you, sir.

14 MR. KAY: Shall we select another juror, or --

15 THE COURT: Yes, select another juror.

16 THE CLERK: Raymond G. Lear; L-e-a-r.

17 THE COURT: L-e- what?

18 THE CLERK: L-e-a-r.

19 THE COURT: L-e-a-r, Lear.

20
21 VOIR DIRE EXAMINATION OF

22 YVONNE FATHERREE

23 BY THE COURT:

24 Q Miss Fatherree, we wish to find out from you
25 whether, before you came into this courtroom on Monday, you
26 had heard, seen or read anything concerning this case?

27 A Not this case, no.

28 Q Had you ever heard, seen or read anything about

12b-4

1 Mr. Davis?

2 A No.

3 Q Steven Grogan?

4 A No.

5 Q Or Shorty Shea?

6 A No.

7 Q Or musician Gary Hinman?

8 A I heard something about a musician, but I don't
9 know his name or --

10 Q And what did you hear about this person you're
11 talking about?

12c fls. 12

12 A That he got killed.

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12c-1 1

Q Did it bring back to your mind that it might have been the name Gary Hinman that you had heard, seen or read?

A No.

Q Had you ever heard the name "Stuntman" -- or, in connection with "Shea," heard the -- heard him described as "Stuntman"? Heard or read that he was a stuntman?

A No.

Q All right. You have, of course, heard of Charles Manson?

A Yes.

Q And was that in connection with the Tate-La Bianca killings?

A Yes.

Q Do you know of any other killings of which Mr. Manson was accused?

A No.

Q Did you follow the Tate-La Bianca case fairly closely in the press, or over the news media when it was going on?

A I'd listen to it on the news sometimes, but I don't read the paper.

Q You don't ordinarily read a daily paper?

A No.

Q The news that you hear is generally from the radio or television?

A TV.

Q TV. What do you believe to be the Manson Family?

12c-2

1 A (Pause.) Oh, I don't know. I just heard that --
2 you know, Manson had a family.

3 Q You've heard the phrase, haven't you?

4 A Yes.

5 Q Does it -- is it a group of some kind?

6 A Yeah, probably -- you know, I really didn't know
7 too much about it.

8 Q Well, think about it now. From what you have
9 gathered from these news reports, what do you think it is,
10 from what you heard?

11 A Uh -- it was just a group of -- you know, a group
12 of people, and they just called themselves the Manson Family.

13 Q I see.

14 And they're led by Mr. Manson, or associated with
15 Mr. Manson, --

16 A Yes.

17 Q -- or what?

18 A Either they was his friends or his family.

19 Q Would a person who is accused of a crime, who is
20 a member of the Manson Family, by reason of what you have
21 heard, seen or read, suffer any prejudice because of that?
22 Would there be any prejudice in your mind as a result of
23 what you'd heard, seen or read?

24 A No.

25 Q Could you be fair and impartial to such a person?

26 A Yes.

27 Q In spite of what you've heard, seen or read about
28 the Manson Family?

12c-3

1 A Yes.

2 Q Now, if you should remember other facts, do you
3 think that you could set them aside for the purpose of making
4 an independent judgment in this case, basing your -- and base
5 your judgment only on the evidence in the case?

6 A Yes, I'm sure I could.

7 Q And those facts which you do know or things which
8 you believe you do know from the news media, which you've
9 heard, seen or read, or things that you have discussed with
10 your friends, could you set those aside, for the purpose of
11 making an objective, independent judgment as a juror in the
12 case, basing your judgment only upon the evidence in the
13 case?

14 A Yes.

15 Q And will you do that?

16 A Yes.

17 Q And will you be fair and impartial?

18 A Yes.

19
20 VOIR DIRE EXAMINATION

21 BY MR. DENNY:

22 Q Miss Fatherree, I take it when the Tate and La
23 Bianca murders were first publicized so much over the TV
24 news, you followed the news events, the broadcasts about them,
25 didn't you?

26 A No, I don't follow them. See, I usually get home
27 about a quarter to 5:00, so I turn the TV on and go in the
28 kitchen to start dinner.

12c-4

1 So, I catch them in between, you know, whatever
2 they're saying; I hear part of it.

13 fls.

3 You know, I don't have really any time to sit
4 down and watch TV.
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13-1

1 Q Right.

2 Was this, though, uh --

3 A Anything, it was a long time ago, you know. Like,
4 you know, I almost forgot about it. You know, I don't see
5 anything more about it.

6 Q All right. Did you and your family or friends
7 say things about it at the time it happened? That is, did you
8 discuss it as a lot of people did at that time?

9 A No, the family never discussed it, you know.

10 At work, "Did you hear about it?" And somebody
11 would say, "Yeah." And we'd talk about something else, "Did
12 you hear about that machine," or something, "that broke down."
13 You know, we didn't --

14 Q Got you.

15 And that's the Xerox machine?

16 A Yes.

17 Q All right.

18 And did you discuss with your husband -- there is
19 a Mr. Fatherree, isn't there?

20 A Yes.

21 Q When the verdicts came in on that case -- were you
22 aware when the verdicts came in on that case?

23 A The only time I was really aware of it was
24 Monday when we came up here, they said Manson was in one of the
25 courtrooms and the photographers were up here and he had
26 gotten life. And that's all. That's the only one I really
27 know about. And I don't even know which courtroom he was in.

28 Q And from whom did you hear that he had gotten

1 life?

2 A From one of the jurors that was out in the hall.

3 Q And do you know what he was charged with, for
4 which he got life?

5 A No, they didn't say.

6 Q Do you know whether it was the Tate-LaBianca
7 murders that he was supposed to have been involved in or some
8 other murders or some other offenses; do you know anything
9 about it?

10 A No, I don't even know what it was.

11 Q By the way, was this kind of a topic of conversa-
12 tion among the jurors this past Monday out in the hall, while
13 everybody was sitting out there?

14 A It wasn't -- I don't think it was someone from our
15 panel. I think it was someone in these other courts. You
16 know, if you go get some water, or to the ladies room, you
17 know, "The newspaper was up here." And somebody say, "Why?"
18 And they'd say, "Because Manson's up here." And that's all.

19 Q I see.

20 So, as far as you know, some of the other jurors
21 with you certainly heard -- heard that, but it wasn't discussed
22 among you, is that right?

23 A We didn't -- you know, we played cards.

24 (Laughter.)

25 Q All right, got to while away the time somehow.
26 It's a long time.

27 Now, ma'am, you do recall hearing something about
28 a musician.

1 Did you hear anything about this musician being
2 killed?

3 A No, I just heard that, uh, this musician got
4 killed in, uh, -- where was that? In some house. What was
5 that he said -- you know, along with Manson. I don't really
6 know. I didn't follow it close. I'm not really one to watch
7 news.

8 Q All right. There -- it was a topic of conversation
9 among some people in the black community as to some feelings
10 that Mr. Manson expressed one time apparently about whites
11 and blacks.

12 Did you hear anything about that?

13 A No.

14 Q You don't know anything about that?

15 A No.

16 Q That's news to you?

17 A Yeah, that's news.

18 No, I didn't hear about that.

19 Q All right, fine.

20 And as the Court said, anything that you may have
21 heard or anything that comes to mind, if you are seated as a
22 juror and somebody gets up on the stand and they're testifying
23 to something and you say, "Oh, my goodness, I do remember hear-
24 ing something about that," if that happens to you, will you put
25 what you remember having read about out of your mind and
26 consider only the evidence that comes from this witness stand
27 up here and the law as the judge gives it to you in determining
28 the guilt or innocence of Mr. Davis?

1 A Yes.

2 MR. DENNY: Thank you.

3 Judge, do you want me to go ahead and question
4 her --

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13a

1 MR. KAY: I have no questions on publicity.

2 MR. DENNY: -- on the death penalty?

3 THE COURT: Go ahead.

4 Q BY MR. DENNY: Now, Mrs. Fatherree, you heard
5 the questions I asked of most of the other jurors concerning
6 their consideration of the death penalty issue?

7 A Yes.

8 Q Have you ever read anything about the death
9 penalty at all?

10 A No.

11 Q Or discussed it at all among your friends?

12 A No.

13 Q Or your family?

14 A No.

15 Q You've done some thinking about it since you
16 got here Monday?

17 A Yeah.

18 Q Done some thinking about it today?

19 A Yeah.

20 Q I betcha.

21 And, Mrs. Fatherree, in connection with that,
22 is there a type of murder where you would feel that if you
23 had any way, that you would impose the death penalty on a
24 person that committed that type of murder?

25 A No. I really don't think so.

26 Q So that you'd have to hear all the facts of the
27 particular case and you'd have to determine what relationship
28 the charged party, the defendant had with the murder, all of

1 those facts, before you would say that life or death was a
2 proper penalty; is that right?

3 A Yes, you'd have to hear everything, you know. You
4 just can't say, "He killed somebody, so he must die," you know.
5 You have to hear the whole thing.

6 Q Good.

7 And is there any feeling as you sit there that
8 you might be subjected to pressures of public opinion in
9 returning a verdict of death against somebody who belonged to
10 the Manson Family if it were shown that Mr. Davis belonged
11 to that group?

12 A No, I wouldn't let public opinion, you know, make
13 me do one thing or another, because, you know, they're really
14 not here anyway. They don't know.

15 Q That's right.

16 All right, thank you, Mrs. Fatherree.

17 THE COURT: Any questions?

18 MR. KAY: No, I'll wait to ask them of the panel as a
19 whole. Thank you.

20 THE COURT: Thank you, Mrs. Fatherree.

21 Will you join the group, then?

22 MR. DENNY: Your Honor, are we going to take any --

23 THE COURT: We'll take a short recess, about ten
24 minutes.

25 MR. DENNY: Thank you.

26 MR. KAY: I guess we question Mr. Lear next.

27 THE COURT: Mr. Lear next. See if we can get a full box
28 for you.

29 (Afternoon recess.)

14-1

VOIR DIRE EXAMINATION OF
MR. RAYMOND G. LEAR

BY THE COURT:

Q Is this Mr. Lear?

A Yes, it is, sir.

Q Mr. Lear, you were present during all the proceedings thus far; is that correct?

A Yes, I was, sir.

Q And the Court wishes to inquire of you whether it would be a hardship to you to serve in this case?

A No, it would not, sir.

Q Have you had any jury experience?

A No, I have not.

Q What type of work do you do?

A I work for the Post Office. I am a letter carrier.

Q And is there a Mrs. Lear?

A Yes, there is, sir. She is a student.

Q Where?

A The University of Southern California.

Q And are you related to or a friend of any law enforcement officer?

A No, I am not.

Q In what general area do you and Mrs. Lear reside?

A South Pasadena.

Q Do you have such views concerning the death penalty that you would automatically refuse to impose it, regardless of the evidence that might be produced?

14-2

1 A No, I do not.

2 Q Or conversely, would you, upon a conviction of
3 murder of the first degree, automatically, without regard
4 to the evidence, impose the death penalty?

5 A No, I would not.

6 Q Are your views such concerning the death penalty
7 that you would be unable to be fair and impartial in deter-
8 mining the issue of guilt or innocence in the first phase?

9 A No, they are not.

10 Q We want to inquire now about your knowledge of
11 this case, if any.

12 Before the Court read you the indictment on
13 Monday, had you ever heard of this case?

14 A No, I had not.

15 Q Had you ever heard of Bruce Davis?

16 A No.

17 Q Had you ever heard of Steve Grogan?

18 A No, I have not.

19 Q Steven Grogan?

20 A No, sir.

21 Q Robert Beausoleil?

22 A No, sir.

23 Q The Spahn Ranch?

24 A Yes, sir.

25 Q In what connection had you heard that?

26 A I know that it was one used for movies.

27 Q Had you heard about Charles Manson previously?

28 A Yes, sir.

14-3

1 Q And was that in connection with the Tate-La
2 Bianca trial?

3 A I believe so, sir -- not prior to that; I had
4 heard nothing, I mean.

5 Q Pardon?

6 A Prior to what was on the news, I had heard
7 nothing of Mr. Manson.

8 Q Did you follow the case involving the Tate-La
9 Bianca killings?

10 A No, sir.

11 Q You did hear about that case, however?

12 A Yes, sir.

13 Q And do you know the name Shorty Shea?

14 A No, sir.

15 Q Or had you ever heard the name Gary Hinman?

16 A Pardon me, sir. I didn't --

17 Q Gary Hinman?

18 A No, sir.

19 Q Before I read it in the indictment on Monday,
20 had you ever heard it?

21 A No, sir.

22 Q What does the name or phrase Manson Family mean
23 to you?

24 A It means nothing to me, other than from -- from
25 what I've gathered, when people use the term "Manson Family,"
26 they are referring to people that associated with Mr. Manson.

27 Q Do you believe that a person who is a member of
28 the Manson Family could have a fair trial before you, knowing

14-4

1 what you have heard, seen or read about that Manson Family?

2 A Yes, sir.

3 Q You still could be fair and impartial in such a
4 case?

5 A Yes, sir.

6 Q If I were to instruct you that you were to set
7 aside whatever you may have heard, seen or read about Charles
8 Manson, about Shorty Shea, Gary Hinman, anything that you
9 may recall that you do not remember at this time, anything
10 you may have heard, seen or read about these matters, could
11 you do that, and decide this case independent of such matters?

12 A Yes, I could, sir.

13 Q Could you decide this case only on the evidence
14 that's presented from this witness stand and in court here,
15 and the Court's instructions, and disregard anything that you
16 may have heard, seen or read --

17 A Yes, sir.

18 Q -- concerning Mr. Manson or Mr. Davis?

19 A Yes, sir.

20 Q And will you do that?

21 A Yes, sir.

22 Q And will you be fair and impartial --

23 A Yes, sir.

24 Q -- in any decision you may be called upon to
25 make?

26 A Yes, sir.

27 THE COURT: Mr. Denny?

28 MR. DENNY: Thank you, your Honor.

14-5

RAYMOND G. LEAR

BY MR. DENNY:

Q What is your chief source of news, Mr. Lear, would you say?

A Uh -- generally, I watch the 5:00 o'clock news. What channel it comes on, I don't know, or who the broadcasters are.

I just like to know a little bit about what's happening. I am -- I am pretty preoccupied with myself and my wife, and I really don't have too much concern with what is actually going on around me, because I am also a student, and I also have my own business.

So that keeps me pretty well occupied. So when I do get a chance to watch the news, it's generally around 5:00 o'clock. The rest of the time, I'm a student.

15. fls.

15-1

1 Q If I may just branch out a little bit in response
2 to that answer, I think you told the Court you were a letter
3 carrier.

4 You're also a student where?

5 A L. A. City College.

6 Q In what field, sir?

7 A The arts.

8 THE COURT: I may not have asked you. I'm sorry,
9 Mr. Denny.

10 Would it cause you any hardship to serve in this
11 case?

12 JUROR NO. 3: No, sir. I am a silversmith and this
13 is done in my spare time.

14 I don't subscribe to any newspapers, so --

15 Q BY MR. DENNY: Are those items of adornment on
16 your hand your own handy work, sir?

17 A Yes, sir.

18 Q I thought it was very possible.

19 Other than the TV news -- well, was it by means of
20 TV news that you heard about the Tate and LaBianca killings?

21 A Yes, sir.

22 Q And although you did not follow them, did you from
23 time to time hear about them or see about them over the course
24 of the trial concerning those murders?

25 A Uh, what I heard was so scattered that I never
26 ever attempted to try to put it together and make any decision
27 or decipher it for myself.

28 Q When is the last time, sir, that you heard anything

1 about Charles Manson?

2 A When I came into this courtroom on Monday.

3 Q Well, was it before you got in the courtroom?

4 A No, sir, it was when we came in and the judge
5 referred to Mr. Manson.

6 Q Well, apart from --

7 A I couldn't --

8 Q -- the --

9 A I couldn't tell you. It was that long ago. I
10 really don't know.

11 Q All right, fine.

12 Now, sir, going on to this issue of the death
13 penalty.

14 You indicated that you could be fair in determining
15 what penalty would be imposed.

16 Have you done any reading, sir, in the field
17 concerning the death penalty?

18 A Concerning the death penalty?

19 Q Yes,

20 A Uh, no, sir, I haven't.

21 Q Or have you --

22 A The subject did come up in a sociology class and
23 we covered both pros and cons. And other than that, there
24 has been no other studying on my behalf.

25 Q Now, when you say you covered -- "We covered the
26 pros and cons" --

27 A Sir, that -- the class was about two years ago,
28 also.

1 Uh, -- and that's the only -- only thing that I've
2 ever really gotten into as far as the death penalty goes.

3 Q All right. Well, that's what I would like to find
4 out, how far you got into it, how far you, personally, how far
5 the class got into it.

6 Was there --

7 A We --

8 Q Was there assignments?

9 A No, there was not. It was a -- it was just a --
10 let's see.

11 It was a very small portion of a lecture given
12 by the instructor that covered different methods that were
13 used for -- in the death penalty, and I think we covered which
14 was more humane and which was less humane and it was more on
15 that level than it was to should the death penalty exist or
16 should it not exist.

17 Q And based on that, did you get some feelings your-
18 self about which was more humane or which was less humane?

19 A I may have at the time, but I don't -- I don't
20 recall any feeling to this time period that -- all I really
21 remember is that it was discussed and, therefore, I offered
22 that to you. What -- what the meat of the material that was
23 covered, I really couldn't reiterate that. And the feelings
24 that I may have possessed at that time.

25 Q Well, knowing that in the State of California
26 execution is imposed by the administration of lethal gas,
27 this was brought up, I take it?

28 A Yes, sir.

1 Q Knowing that that would be the method of dis-
2 patching one or executing one in a case where such a vote for
3 the imposition of that penalty was done in this state, would you
4 have any compunctions at all, based on this background that you
5 have, in voting to cause a person to be executed by the
6 administration of lethal gas if you felt that it was proper to
7 do so in a particular case?

8 A If I felt in a particular case that it was
9 proper to do so, no, sir, I would not have any feelings against
10 it, against the use of lethal gas, if that's the question.

11 Q That's the question.

12 And, sir, would you have any feelings at all that --
13 in a case where you sat to determine guilt or innocence and you
14 had determined that someone was guilty of first degree murder,
15 that you would have the feeling because of public opinion that
16 you should impose a death sentence rather than a life sentence?

17 A No, sir.

18 Q Because you convicted or helped to convict a first
19 degree mur- --

20 A A conviction of first degree murder does not
21 necessarily mean death to me.

22 Q I take it, it doesn't necessarily mean life to you
23 either?

24 A No, sir. The proceedings would have to be set
25 before me and only through -- through what I have witnessed and
26 experienced in the courtroom could I make any decision as to
27 whether I felt that it called for me to say execution or to say
28 let him live.

1 Q And is there some kind of murder, however, that you
2 feel is so heinous in your --

3 A I know of no --

4 Q -- mind --

5 A -- hypothetical murder that I can conjure in my
6 mind that I would automatically, to use that word, uh, choose
7 to have the man gassed.

8 MR. DENNY: Thank you, sir.

9 I have no further questions, your Honor.

10 MR. KAY: I just have one question of a general nature.

11 THE COURT: Very well.

12
13 VOIR DIRE EXAMINATION

14 BY MR. KAY:

15 Q What is your wife study at USC?

16 A My wife is studying special education for the
17 mentally disturbed.

18 MR. KAY: Thank you. I have no further questions at
19 this time.

20 THE COURT: Let's see, I think that fills the box again,
21 doesn't it? Let's get everybody in.

22 THE BAILIFF: Yes, sir.

23 (Whereupon, the balance of the panel was brought
24 into the courtroom.)

25 JUROR NO. 3: Where shall I be sitting?

26 MR. KAY: In seat No. 3, the third seat.

27 JUROR NO. 3: Thank you.

28 THE COURT: All right, Mr. Denny, you may inquire.

1 The record will show that all prospective jurors
2 are present.

3
4 ELVERA IZAGUIRRE

5 BY MR. DENNY:

6 Q We're back again, Mrs. Izaguirre.

7 Would you grab the microphone there?

8 I would like, if I may, just to ask you some more
9 general questions rather than the particular ones that we
10 have asked about your background.

11 I am not sure whether you were in the box when the
12 judge first asked some of the original jurors whether they
13 or their friends or loved ones, relatives, had ever been the
14 victim of a crime of any kind?

15 A I wasn't in the box, but I was out there.

16 Q All right. Could you again hold that up, please?

17 A All right, sorry.

18 Q Like an ice cream cone.

19 And what would your answer be to that question?

20 A No.

21 Q All right.

22 Now, were you present when the Court read certain
23 instructions pertaining to direct and circumstantial evidence?

24 A Yes.

25 Q And you understand, of course, that from that
26 reading that the Court accepts both in a court of law. That
27 both direct and circumstantial evidence may be used to prove a
28 case, either of both or either alone?

1 A That it can be used?

2 Q Yes.

3 Did you understand that from the Court's reading?

4 A No, I wasn't too sure on that, no.

5 Q Well, that's -- we want to get into that.

6 I don't believe I am misstating what the Court
7 read. I say to you that that is a fact. You can consider
8 either direct evidence alone or circumstantial evidence alone
9 or direct and circumstantial evidence together.

10 A That it can be considered?

11 Q That's correct.

12 A Yes.

13 Q Correct.

14 Do you recall further the Court reading an
15 instruction about circumstantial evidence? Where the
16 People's case rests chiefly or wholly on circumstantial
17 evidence that -- and the circumstances are equally consistent
18 with innocence as with guilt, that you must choose the
19 interpretation of the evidence pointing to the defendant's
20 innocence; do you recall that?

21 A Yes.

22 Q Now, do you think that there's anything inherently
23 unfair in that -- in the circumstantial evidence case, in
24 applying that rule that the Court read to you?

25 A No.

26 Q In other words, this puts an additional burden on
27 the People in a case where they are relying on circumstantial
28 evidence alone or chiefly relying on circumstantial evidence,

1 because if there are two interpretations of that evidence and
2 one -- one does point to guilt and the other to innocence, you
3 have to choose the one. You have no alternative under the law
4 but to choose the one that points to innocence and not the one
5 that points to guilt.

6 Do you understand that?

7 A Yes.

8 Q And do you find anything wrong in that?

9 A No.

10 Q And assuming you sit as a juror in this case and
11 the judge, at the conclusion of the case advises you that that
12 is the law and if you go back in the jury room and you look at
13 the evidence and you say, well, it is a circumstantial evidence
14 case and, yeah, this points to guilt, but it also is just as
15 consistent and just as reasonable with innocence, and I'm
16 going to do what the judge says, I'm going to, because the law
17 tells me to, accept that version which points to his innocence
18 and reject that which points to his guilt --

19 A That's right.

20 Q -- and I'll vote for innocent under those
21 circumstances.

22 A I'd have to.

23 Q Would you have any reluctance in doing that?

24 A No.

25 Q And would you feel that you are properly fulfill-
26 ing your duty as a juror in doing that?

27 A Yes.

28 Q Now, do you have any reluctance at all, ma'am, to

1 sit in judgment in a case which involves -- I will tell you,
2 the evidence, I expect, will show murder, which is never
3 pretty, but murder in this case which was not pretty, and the
4 results of murder which is not pretty. And there are some
5 people who -- call them squeamish, whatever you want, but
6 simply do not enjoy being subjected to that and would prefer
7 not to be subjected to that and would prefer not to sit as a
8 juror in such a case. And it would make them uncomfortable
9 having them sit through a case.

10 Do you understand?

11 A Uh-huh.

16 fols.

16-1

1 Q Are you of that frame of mind?

2 A No. No, I am not.

3 MR. DENNY: Fine. Would you like to pass the microphone
4 down to Mr. Craven?

5

6 JONATHAN CRAVEN

7 BY MR. DENNY:

8 Q Mr. Craven, have you ever been in the Service,
9 sir?

10 A Yes.

11 Q And what branch of the Service were you in, sir?

12 A Engineers.

13 Q And was this during wartime?

14 A Right.

15 Q Could I guess the Second World War?

16 A Yes.

17 Q And were you ever in combat, sir?

18 A No.

19 Q You never had to shoot at anybody?

20 A No.

21 Q You never saw anybody killed?

22 A No.

23 Q Now, any of your friends or loved ones been the
24 victim of a crime of any kind?

25 A Not that I know of.

26 Q You have never been a witness in a case?

27 A No.

28 Q And the questions that I asked Mrs. Izaguirre

16-2

1 concerning circumstantial evidence, where the case of the
2 People rests on circumstantial evidence -- or chiefly on
3 circumstantial evidence -- and it could point to guilt, one
4 interpretation of that evidence, and the other could point to
5 innocence, be equally consistent with innocence, would you
6 have any reluctance whatsoever in following that Judge's
7 instruction, --

8 A No.

9 Q -- that you must accept that interpretation
10 pointing to the innocence of the defendant?

11 A No.

12 Q And vote to acquit, if you found that the evidence
13 was balanced in that way?

14 A (No response.)

15 Q Would you have any reluctance in voting to
16 acquit under those circumstances?

17 A No.

18 Q And you'd feel you would be doing your duty
19 under those circumstances, in fact, to acquit; isn't that
20 correct?

21 A Yes.

22 Q All right. I think you had indicated that you
23 had a first cousin who was a deputy sheriff, but you haven't
24 seen him too much in the last, I think -- oh, two times in
25 the last four years; is that right?

26 A Right.

27 Q Now, there may be some evidence here given by
28 officers of the Sheriff's Department, and it may be that that

16-3

1 evidence is inconsistent with evidence given by other
2 witnesses, lay witnesses -- not officers.

3 Would you feel that simply because a man wore
4 the sheriff's badge, and the insignia of office pertaining
5 thereto, that his testimony should be given greater weight,
6 or that he should be believed, if his testimony conflicted
7 with that of a lay witness who was not a sheriff?

8 A No.

9 Q Now, I didn't ask Mrs. Izaguirre, but there may
10 also be evidence here given by experts, or people who profess
11 to call themselves experts, who -- or, who may be qualified
12 by the Court as experts in a particular given field.

13 And -- I don't think it's out of line to say the
14 Court will instruct you some on how you should view expert
15 testimony.

16 Now, if experts -- alleged experts are called to
17 appear here, do you feel that --

18 Well, your Honor, I wonder, before asking questions
19 along this line, if the Court would feel it would be proper
20 to read the instruction on expert testimony?

21 Because I think it is relevant and material to --
22 to the voir dire, and to that particular aspect of the case,
23 since I think there will be a good deal of expert testimony.

24 THE COURT: Yes, the Court will.

25 MR. DENNY: I have the Court's book.

26 THE COURT: The Court will read it.

27 (Pause in the proceedings while Mr. Denny
28 approached the bench, handed the book to the Court,

16-4

1 following which a discussion off the record ensued
2 at the bench between the Court and Mr. Denny.)

3 THE COURT: (Reading.)

4 "Duly qualified experts may give their
5 opinions on questions in controversy at a trial.
6 To assist you in deciding such questions, you may
7 consider the opinion with the reasons given for
8 it, if any, by the expert who gives the opinion.
9 You may also consider the qualifications and
10 credibility of the expert.

11 "You are not bound to accept an expert
12 opinion as conclusive, but should give to it the
13 weight to which you find it to be entitled. You
14 may disregard any such opinion if you find it to
15 be unreasonable."

16 That is the instruction the Court generally
17 gives, and will probably reiterate to you later on.

18 Will you follow that instruction, Mr. Lear, and
19 any instructions that I give in this case, regardless of
20 what you believe the law to be?

21 PROSPECTIVE JUROR NO. 3: Yes, sir.

16a fls.

16a-1

1 THE COURT: I'm looking at Mr. Craven and asking Mr.
2 Lear.

3 (Laughter.)

4 THE COURT: You both look confused.

5 But I'll ask all of you: The Court will give you
6 certain instructions at the conclusion of this case,
7 instructions concerning the law. It's not the function of
8 the attorneys, either attorney, to instruct you in the law
9 in this case.

10 During the course of voir dire or at the con-
11 clusion of the case, in arguing, they're not supposed to
12 instruct you concerning the law. You take your law from the
13 Court, as the Court gives it to you.

14 Now, will all of you promise me that you will
15 follow the law as I shall state it to you?

16 (Whereupon, murmurs of "Yes," were heard from
17 members of the prospective jury panel:)

18 MR. DENNY: Fine. Thank you, your Honor.

19 All right. Would you pass the microphone along
20 to Mr. Lear, please?

21
22 RAYMOND G. LEAR

23 BY MR. DENNY:

24 Q Mr. Lear, I believe you stated to us that you are
25 a kind of a triple threat man, letter carrier, student,
26 and a silversmith?

27 A Yes, sir.

28 Q And I'm not sure whether we have any people

16a-2

1 remaining on the -- on this particular panel who are connected
2 with the Post Office Department. As you look around --

3 JUROR NO. 10: Yeah.

4 Q BY MR. DENNY: I thought that Mr. DeLoach was.

5 A I'm not associated with him, sir.

6 Q You are not. You are not in the same --

7 A No.

8 Q -- building or office?

9 A No, sir.

10 Q All right. When you say you are a student at
11 LACC in the arts, what specifically do you mean?

12 A Well, I hope to major in either sculpture or
13 silversmithing, and possibly be a teacher.

14 Q And this course that you took in sociology was
15 just -- just a general --

16 A Just to fulfill the necessary requirements.

17 Q All right. Fine.

18 Now, sir, do you have any feelings that a police
19 officer's testimony should be given greater weight than
20 any other person's, merely because he is a police officer?

21 A No, sir. He's human.

22 Q He can err just as the rest of us can err?

23 A Yes, sir.

24 Q And do you have any feelings that a person who
25 gets on the stand and who holds himself out to be an expert
26 must be believed, as to everything he says, simply by virtue
27 of the fact that the Court permits him to qualify himself as
28 an expert?

1 A No, sir.

2 Q You'll follow the Court's instructions --

3 A Yes, sir.

4 Q -- on that, as to how you weigh his testimony,
5 too?

6 A Yes, sir.

7 Q Along with everybody else's; is that right?

8 A Yes, sir.

9 Q All right. Have you been in the Service, sir?

10 A Yes, I have.

11 Q And in what branch?

12 A Army administration.

13 Q Were you in combat at all?

14 A No, sir, I wasn't.

15 Q And so I take it then you've never shot at
16 anyone, or been shot at?

17 A No, sir, fortunately not.

18 Q Fortunately, I would say.

19 And therefore, you've never seen anyone killed
20 in battle or otherwise, --

21 A No, sir.

22 Q -- is that right?

23 I am curious about one thing. Are you presently
24 enrolled in IACC?

25 A Yes, sir, I am.

26 Q And when do you go to school?

27 A My classes are from 7:00 to 10:00 in the evening,
28 Tuesdays, Wednesdays and Thursdays.

1 Q And do you feel that, if you are seated as a
2 juror, and through the -- through the end of the case, where
3 you deliberate, and you may be locked up -- I think you
4 undoubtedly would be sequestered during the course of your
5 deliberations in a case of this kind -- that that would have
6 any effect upon your schooling at this point?

7 A No, sir. It's allotted the same amount, if
8 not more than I would have had, time to study, the jury duty
9 has.

10 And even though I was sequestered, I have made
11 arrangements with my teachers to -- to make up any tests
12 that I miss, or whatever I miss.

13 MR. DENNY: All right. Fine. Would you pass the
14 microphone along to Mrs. DuBois?

15
16 LOLETA M. DuBOIS

17 BY MR. DENNY:

18 Q Mrs. DuBois, as I recall, your husband works at
19 ITT Gilfillan, in Van Nuys?

20 A That's right, um-hmm.

21 Q And in what branch?

22 A He's a mills operator, a milling machine
23 operator.

24 Q You were a practical nurse, --

25 A That's right.

26 Q -- do I understand that correctly?

27 A Yes.

28 Q And as such, have you treated dying patients at

1 all?

2 A Oh, yes.

3 Q And have you ever had to do any PM care on --

4 A No.

5 Q -- a patient?

6 Have you ever had a patient die while you were in
7 charge of that patient's care?

8 A Yes.

9 Q Have you ever seen anyone killed?

10 A No, I have not.

11 Q Has anyone in your family, or you yourself, or
12 any friend of yours, to your knowledge, been the victim of
13 any crime?

14 A No, sir.

17 fls.

17-1

1 Q And, again, as I asked Mrs. Izaguirre, is there
2 anything about a case in which the evidence may show a
3 violent or a messy death or effects on a body after death
4 that you would find so repugnant that you would not want to
5 sit, where that evidence would --

6 A No, I don't believe so. No, sir.

7 Q -- would come out?

8 And, again, going back to the question I asked
9 Mrs. Izaguirre concerning the type of case that, based on
10 wholly circumstantial evidence or largely on circumstantial
11 evidence, would you have any reluctance at all in finding a
12 defendant not guilty where you felt that that evidence was
13 such that reasonable interpretations of the evidence although
14 pointing to guilt, also pointed to innocence; under those
15 circumstances would you have any reluctance in voting to find
16 the defendant not guilty?

17 A I would have no reluctance, because it is the
18 law --

19 Q And you'd be --

20 A -- to do so.

21 Q -- doing your duty as a juror to do so?

22 A Try my best, yes, sir.

23 Q Thank you, and pass the microphone on to Mrs.
24 Sims.

25
26 MRS. AUDREY SIMS

27 BY MR. DENNY:

28 Q Mrs. Sims, I don't know what happened to my notes

1 with the original information on it for you, but as I recall,
2 you're an airline stewardess with United. Your husband is a
3 doctor or radiologist at Martin Luther King Hospital; is
4 that correct?

5 A Yes.

6 Q And in what -- well, were you married to the
7 doctor during the time that he was going through training,
8 other than radiology?

9 A No, we just recently married.

10 Q All right.

11 In the field of radiology, that's X-rays and
12 things of that kind?

13 A Yes.

14 Q That doesn't deal directly with caring for
15 patients?

16 A No, it is diagnostic.

17 Q Diagnostic, all right.

18 Have you ever seen anyone killed?

19 A No.

20 Q Has anyone in your family or have you ever been
21 the victim of a violent crime or a crime of any kind?

22 A No.

23 Q You haven't been hijacked anywhere?

24 A (Laughing.) No, not yet.

25 Q Let's hope not.

26 All right, and I don't suppose you were in the
27 Service, were you?

28 A No.

1 Q Might have been a WAAF.

2 And as I asked, I think Mr. Craven particularly,
3 assuming there may be experts in the field, in various fields,
4 not necessarily medical experts but perhaps fingerprint
5 experts, ballistics experts, various and sundry types of
6 experts who come with qualifications before you, do you feel
7 you'll tend to accept their testimony as true merely because
8 the Judge permits them to testify as an expert?

9 A No.

10 Q Or that you will look with as great care on the
11 body of their testimony as you do on the body of the testimony
12 of any other witness?

13 A Yeah.

14 Q As to whether it is right or wrong, true or false?

15 A Yes.

16 Q Reasonable or unreasonable?

17 A Yes.

18 Q And inasfar as the testimony of any police
19 officer who may testify, will you have any trouble at all
20 in judging their testimony by the exact same criteria that
21 you used to judge the testimony of any other witness?

22 A No.

23 Q And insofar as the questions that I have asked,
24 again, of three or four of the prior jurors concerning a case
25 which depends almost entirely or entirely on circumstantial
26 evidence; will you have any reluctance -- would you have any
27 reluctance, whatsoever, in voting for acquittal, if the
28 evidence in a case which you were considering, the

1 circumstantial evidence was so balanced that you would say,
2 yes, there's a reasonable inference here of guilt but there's
3 also a reasonable inference of innocence? Do you think it
4 could have happened this way which would be consistent with
5 innocence? This could be consistent with guilt, but it is
6 equally just as consistent with innocence?

7 Would you have any reluctance, whatsoever, with
8 saying with the evidence in that state I vote not guilty?

9 A None, whatsoever.

10 Q And you would feel it is your duty to do so, is
11 that correct?

12 A Yes.

13 MR. DENNY: Thank you.

14
15 YGNACIO CANO

16 BY MR. DENNY:

17 Q Mr. Cano.

18 A Yes.

19 Q And, Mr. Cano, have you been in the Service at all,
20 sir?

21 A No, I have not. Service of the trains some years
17a fls²² ago from camp to camp is as far as I went.

17a-1
12

1 Q You missed the draft?

2 A Yes, sir.

3 Q All right, sir.

4 And have you and your family or relatives been the
5 victim of a crime of any kind?

6 A No, sir.

7 Q Have you ever seen anyone killed?

8 A No, I have not, sir.

9 Q And having heard the questions that I asked of the
10 other jurors concerning this situation where in a circum-
11 stantial evidence case the evidence is such that there may be
12 a reasonable inference of guilt, but a reasonable inference of
13 innocence; would you feel that you were doing your duty as a
14 juror to vote an acquittal in that type of case?

15 A I feel that it was my duty to do so, yes.

16 Q And you'd have no reluctance or hesitancy in
17 doing so?

18 A None, whatsoever.

19 Q Now, sir, the defendant is charged in this case
20 not with just one murder, but with two murders. Do you under-
21 stand that?

22 A (Nods head.)

23 Q You're nodding yes, but unfortunately she can't
24 take down a nod of the head.

25 A Well, I'm not saying anything.

26 (Laughter.)

27 Q You can say yes to that and not be too committal.

28 All right, do you understand, sir, that he is

1 charged with two murders in this case?

2 A So I have been told, yes.

3 Q Well, you were told so by the judge.

4 A That's correct.

5 Q I'm not telling you anything new.

6 A That's correct.

7 Q I'm not talking out of school, as it were.

8 A That's correct, yes.

9 Q Now, the judge hasn't told you this, but I think it
10 is proper for me to say that the judge will, at a given time,
11 tell you that you must consider each of those charges
12 separately.

13 That it is improper for you to consider the two of
14 them just sort of bunched together, in that --

15 A Uh, yes.

16 Q -- if you find him guilty of one, he must be
17 guilty of the other, or if you would find him innocent of
18 one, you would find him innocent of the other?

19 A Yes.

20 Q It is your duty as a juror, and the judge will tell
21 you this, to consider the charges, and there are actually three
22 charges. One of them is murder and conspiracy to commit
23 murder and robbery as to the Hinman charge.

24 A Uh-huh.

25 Q And the other is just murder in the Shea charge.

26 A Yes.

27

28

18 fol

18-1

1 Q But it's your duty as a juror to consider each
2 of them separately; do you understand that?

3 A Yes, sir.

4 Q And I take it that you are not going to allow
5 yourself to be prejudiced, or sort of swept up in any kind
6 of feeling, because of the number of counts that are charged
7 against the defendant in this case?

8 A I would not.

9 Q All right, sir. And as far as the other five
10 jurors that I have already questioned individually, if I
11 asked you that same question concerning the fact that Mr. Davis
12 is charged here with not just one but two murders, would all
13 of you say that you would individually and separately consider
14 the evidence as to each of those murders and not vote for one
15 the same way as you do the others, simply because they are
16 connected as charged in the indictment?

17 (No affirmative response.)

18 Q I seem to see all of the heads nodding --

19 (Whereupon, murmurs of "Yes" were heard from
20 members of the jury.)

21 Q -- in an affirmative way, except for Mr. Craven,--

22 JUROR NO. 2: Yes.

23 Q -- and your answer to the question is "Yes, sir"?

24 JUROR NO. 2: Yes.

25 MR. DENNY: Thank you, sir. All right.

26 Would you like to pass the microphone up, and
27 we'll --

28 JUROR NO. 6: Yes, sir.

18-2

1 MR. DENNY: -- and we'll go kind of backwards here,
2 taking No. 12 juror, instead of No. 7.

3
4 VOIR DIRE EXAMINATION OF

5 MRS. MARY G. DUNN

6 BY MR. DENNY:

7 Q Mrs. Dunn, you say that you were a juror in
8 Municipal Court in 1960?

9 A Yes.

10 Q And, ma'am, was that Municipal Court in East
11 Los Angeles?

12 A No, it was right here.

13 Q Downtown here?

14 A Yes.

15 Q All right. I think also you indicated that your
16 husband is deceased; is that correct?

17 A Yes.

18 Q And what did your husband do during his lifetime?

19 A He worked for a company that built truck bodies.

20 Q I see.

21 And you are presently -- I have in my notes --
22 an underwriter's assistant?

23 A Yes. That's for insurance.

24 Q An insurance underwriter's assistant. Life
25 insurance?

26 A No. I work in Property.

27 Q And, ma'am, have you ever seen anyone killed?

28 A No.

1 Q Have you or your friends or loved ones ever been
2 the victim of a crime, as far as you are aware?

3 A No.

4 Q And do you have any feelings about sitting as a
5 juror in a case in which the testimony might turn the stomach
6 of some squeamish people?

7 A No.

8 Q All right.

9 A I'm not squeamish.

10 Q You are not. Okay, ma'am.

11 Is there anything that you've heard thus far, at
12 all, concerning this case -- and you've heard precious little
13 up to date -- but is there anything that makes you feel, for
14 any reason at all, that you would prefer not to sit in
15 judgment in this case?

16 A No.

17 Q And you feel that if there were 12 people sitting
18 in the jury box, of the frame of mind that you are in right
19 now, that any person on trial would get a fair trial; is
20 that correct?

21 A Yes, I do.

22 Q And the People would also get a fair trial?

23 A Yes.

24 MR. DENNY: Okay. Fine. Would you pass the microphone
25 on to Mrs. Melendez?

26
27 MRS. RACHEL MELENDEZ

28 BY MR. DENNY:

1 Q Mrs. Melendez, although you are one of the
2 younger jurors, it seems that you have had prior jury
3 experience, when most of them have not.

4 You have served on a civil case; is that correct?

5 A Yes.

6 Q And was this what we refer to in the trade as a
7 "fender-bender," a traffic type of automobile accident, --

8 A Well --

9 Q -- or what?

10 A -- a lady was suing the Fiat importer.

11 Q You have to hold it up a little bit more.

12 A A woman was suing the Fiat importers, and the
13 dealer.

14 Q All right.

15 Now, did you deliberate in that case? Did you
16 return a judgment?

17 A Well, we --

18 Q Don't tell me what it was. Just yes or no to that
19 one, if you would.

20 A Well, we did deliberate, but later on, the
21 bailiff called us in, and the Judge told us that the attorneys
22 had settled --

23 Q Had settled the case, as frequently happens.

24 All right.

25 Now, you did receive some instructions --

26 A Yes.

27 Q -- before you went in to deliberate from the
28 courtroom?

1 A Um-hum.

2 Q And one of those instructions undoubtedly was
3 the burden of proof that the plaintiff had, that the
4 plaintiff had to prove his case by a preponderance of
5 evidence.

6 Do you recall receiving an instruction of that
7 kind?

18a fls.

8 A Yes.

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18a-1

1 Q All right. Now, I think the judge read to the
2 jurors who were initially in the box -- and I think you were out
3 in the audience section at the time -- the instruction that
4 applies to the burden of proof in a criminal case.

5 Do you remember his doing that?

6 A Yes.

7 Q And this was the burden of the People to prove a
8 case not by a preponderance of the evidence, but beyond a
9 reasonable doubt and to a moral certainty of the truth of the
10 charge.

11 Do you remember those words?

12 A Yes.

13 Q Now, do you understand that there's a marked
14 difference in the degree of proof, then, that is required in a
15 criminal case --

16 A Oh, yes.

17 Q -- and that the required in a civil case?

18 A Yes, I do.

19 Q And do you recall -- do you feel that there's
20 anything unfair at all in requiring the state, in a criminal
21 case, to prove its case beyond a reasonable doubt, to a moral
22 certainty, before a jury is asked to return a verdict of guilt --

23 A No.

24 Q -- in a criminal charge?

25 You feel that's fair and proper?

26 A Yes.

27 Q And I -- I see a look on your face that -- that
28 looks like a frown, which looks like a question.

18a-2

1 Do you want to ask a question on that?

2 A No. No.

3 Q You had some question. Don't let me inhibit you
4 from asking it.

5 A No. Were you asking me if -- if I -- the
6 difference between a criminal and a civil case? The
7 instructions?

8 Q I wasn't asking you. I was telling you.

9 A Oh, yes. I understand that.

10 Q And you -- I did ask if you understood, and you do
11 understand, --

12 A Yes, I do.

13 Q -- is that right?

14 A Yes.

15 Q And you don't have any quarrel with the fact that
16 there's that difference?

17 A No.

18 Q You think it's fair?

19 A Yes, I do.

20 Q And you wouldn't look at the facts of this case and
21 apply the standard of the preponderance of the evidence that
22 they use in a civil case, --

23 A No.

24 Q -- would you? You'd use --

25 A The instructions.

26 Q -- the standard of guilt of beyond a reasonable
27 doubt and to a moral certainty, before you would bring any
28 guilty verdict in, in any criminal case?

18a-3

1 A Yes.

2 Q And certainly, in a murder case; is that right?

3 A Yes.

4 Q Fine. I don't believe I asked you, ma'am. Have
5 you or any members of your family or friends or loved ones,
6 ever been the victim of any sort of crime?

7 A No.

8 MR. DENNY: All right. Would you like to pass the
9 microphone along to Mr. DeLoach?

10 THE COURT: It's 4:30 now, and I suppose we should break
11 until tomorrow morning.

12 I'll call -- I'll call this case at 9:30 tomorrow
13 morning, ladies and gentlemen. If you will get here about five
14 minutes early, the bailiff will check you in, and we'll call the
15 roll.

16 And we will begin again. We'll start with
17 Mr. Denny's voir dire of Mr. DeLoach tomorrow.

18 Remember the admonition that I've given you before
19 -- and this includes those of you who are in the box as well
20 as those of you who are beyond the rail -- that you are not to
21 converse with anyone amongst -- that you are not to converse
22 amongst yourselves nor with anyone about anything connected
23 with this case, nor are you to form nor express any opinion on
24 it until it is finally submitted to you, should you be chosen
25 as jurors.

26 Good night. And I'll see you tomorrow morning at
27 9:30.

28 (Whereupon, at 4:31 P. M., an adjournment was taken
29 in this matter until 9:30 A. M., Friday, December 3, 1971.)