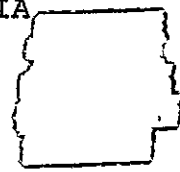


SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES



DEPARTMENT NO. 106

HON. RAYMOND CHOATE, JUDGE

205

THE PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff,

-vs-

NO. A-267861

BRUCE MCGREGOR DAVIS,  
Defendant.

REPORTERS' DAILY TRANSCRIPT

Friday, December 3, 1971

VOLUME 5

APPEARANCES:

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

COPY

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

1 LOS ANGELES, CALIFORNIA, FRIDAY, DECEMBER 3, 1971, 9:51 A. M.

2  
3 THE COURT: Call the Davis jury -- or jurors.

4 Let's see. Where were we in connection with that.

5 MR. DENNY: Oh, I was about to inquire of one of the  
6 jurors, your Honor.

7 MR. KAY: I think Mr. DeLoach.

8 THE COURT: DeLoach alone?

9 MR. KAY: No, the whole panel, and the audience, too.

10 THE COURT: All right.

11 (Short recess.)

12 THE COURT: Good morning, ladies and gentlemen.

13 (Whereupon, murmurs of "Good morning," were heard  
14 from members of the prospective jury panel.)

15 THE COURT: All right. The case of People versus Davis?  
16 The record will show Mr. Denny and Mr. Kay to be present.  
17 Mr. Davis is now present, the record may show.

18 I think at the time we recessed yesterday, we were  
19 talking with Mr. DeLoach; is that right? Or about to?

20 PROSPECTIVE JUROR NO. 10: About to.

21 THE COURT: About to talk to you.

22 I think I had some of the personal data from  
23 Mr. DeLoach, and it was a matter of general voir dire; is that  
24 correct?

25 MR. DENNY: Yes, your Honor.

26 THE COURT: So you may begin.

27 MR. DENNY: Thank you, your Honor.

28 MR. KAY: Excuse me. Before Mr. Denny begins, your Honor,

1 would your Honor want to read the indictment for the new jurors  
2 that came in, so that they would know what's taking place here?

3 THE COURT: I think not at this time. I think I'll just  
4 let them puzzle about it.

5 MR. KAY: All right.

6  
7 VOIR DIRE EXAMINATION OF

8 TOMMY DeLOACH

9 BY MR. DENNY:

10 Q Mr. DeLoach --

11 THE COURT: If any of you -- we would like you to hear  
12 Mr. Denny's questions and the answers here, ladies and  
13 gentlemen, those of you who have just come into the room, as  
14 well as those of you who have been in this courtroom all week.

15 MR. DENNY: Your Honor, I'm not sure they can hear you.

16 THE COURT: Could you hear me?

17 THE PROSPECTIVE JURORS: No. Can't hear you. Louder.

18 THE COURT: All right. If you can't hear Mr. Denny,  
19 this gentleman on my left of the counsel table, let it be  
20 known by raising your hands.

21 Go ahead, Mr. Denny.

22 Q BY MR. DENNY: Mr. DeLoach, for your benefit,  
23 perhaps, and so that I don't have to strain my voice, and for  
24 the benefit of the jurors, the prospective jurors outside the  
25 rail, I'll use the microphone here as you do.

26 Now, sir, did I ask you yesterday, before we  
27 left, about the business of experts testifying?

28 A No, you didn't.

1 Q Well, you heard the questions that I asked of some  
2 of the other jurors concerning the fact that the Court may  
3 permit a man to testify as an expert, may say that under the  
4 rules of law he qualifies -- at least, he has the credentials  
5 to testify as an expert in the case; and then he gets up on the  
6 stand, having qualified, and gives certain expert opinions, or  
7 opinions which we classify as expert opinions.

8 This may happen in this case; do you understand  
9 that?

10 A Right.

11 Q All right. Now, do you understand that there are  
12 certain criteria that you use in judging his testimony, the  
13 same as any other witness's testimony, and the judge will give  
14 you those criteria; do you understand that?

15 A Yes.

16 Q And merely because a man testifies as an expert in  
17 a case, do you understand that you are not required to accept  
18 his opinion as gospel, for instance? Do you understand that?

19 A Yes.

20 Q And just because a man sits up there with certain  
21 credentials, are you going to say, "Well, everything he says  
22 must be true, simply because the judge has permitted him to  
23 testify as an expert"?

24 Or are you going to look further than that and see  
25 whether, based on the other things that the judge tells you  
26 you must consider in determining his credibility, his --

27 A I would --

28 Q -- testimony is reasonable?

29 A I would have to look farther into it.

Aa-1

1 THE COURT: Briefly, Mr. DeLoach, would you follow the  
2 Court's instructions concerning expert testimony in judging  
3 expert testimony as I have stated it to you already?

4 PROSPECTIVE JUROR NO. 10: Yes, I would.

5 Q BY MR. DENNY: Now, sir, you've probably heard  
6 the word "accomplice," haven't you?

7 A I think so.

8 Q I dare say, though, you've never heard the  
9 correct legal definition given of that?

10 A Yes.

11 Q Would you say that --

12 A No, I haven't heard the correct definition.

13 Q All right. Well, I assume that later on --  
14 or perhaps sooner -- the Judge may give you the definition of  
15 what an accomplice is, in the eyes of the law, the actual,  
16 very precise, legal definition.

17 Now, I've asked some of your fellow jurors  
18 already, but I'll ask you specifically, if you'd judge the  
19 credibility of a police officer, for instance, by the same  
20 standards that you'd apply to the testimony of any other  
21 witness.

22 A Yes, sir.

23 Q And they have all said "Yes," and I take it you'd  
24 say the same thing; is that right?

25 A Yes, I would.

26 Q But there's another category of witness that is  
27 to be judged a little differently. And I believe that the  
28 Judge will probably tell you that you are -- under our law,

Aa-2

1 you are required to view the testimony of an accomplice with  
2 caution.

3 Do you understand that?

4 A Yes.

5 Q Now, there are numerous reasons for that, some  
6 of which are self-evident, some of which may not be. But  
7 that is the law; do you understand that?

8 A Yes.

9 Q Now, if you find in this case that a person is  
10 an accomplice, or if the Court tells you that, as a matter  
11 of law, a person is an accomplice, will you exercise that  
12 extra caution in judging his or her credibility that the law  
13 says you should use in judging that person's credibility?

14 A Well, yes. I would judge it right along with  
15 the rest of the --

16 THE COURT: Will you simply follow the Court's instruc-  
17 tion, Mr. DeLoach, as I give it to you in respect to that  
18 subject?

19 PROSPECTIVE JUROR NO. 10: Yes.

20 THE COURT: And in respect to all subjects on which I  
21 instruct you?

22 PROSPECTIVE JUROR NO. 10: Yes.

23 MR. DENNY: All right. Would you pass the microphone  
24 along, then, to Miss Fatherree -- to Mrs. Fatherree?

25  
26 YVONNE FATHERREE

27 BY MR. DENNY:

28 Q Now, Mrs. Fatherree, you've heard generally the

Aa-3

1 questions that I've asked of the other jurors thus far?

2 A Yes.

3 Q And would your answers be essentially the same  
4 as theirs, thus far?

5 A Yes.

6 Q All right. Now, you understand, having been  
7 here when the Court read the indictment in this case -- and  
8 by the way, do you have any feelings, as you sit there, that  
9 simply because the defendant has been indicted by the Grand  
10 Jury of Los Angeles County, that he's more probably guilty  
11 than innocent?

12 A No.

13 Q Do you understand the Grand Jury indictment  
14 simply results from having witnesses testify before them,  
15 with no cross examination or anything of that kind, so that  
16 it's not evidence of his guilt?

17 A Yes.

18 Q And you are not going to consider the fact that  
19 a piece of paper is up here before the Judge, that accuses  
20 the defendant -- you are not going to consider that that  
21 means that he's probably more guilty than not?

22 A No, I'm not going to, you know, just think that  
23 he's guilty.

24 Q Pardon?

25 A I'm not going to think he's guilty, just because  
26 a Grand Jury indicted him.

27 Q You understand, in fact, quite the opposite,  
28 that as you sit there in the jury box at this moment, the

1 defendant is closed -- is clothed with the presumption of  
2 innocence; do you understand that?

3 A Yes.

4 Q And that if you were to retire to deliberate  
5 in the jury room right now, the People not having put on any  
6 evidence at all, you'd have to bring in a verdict of not  
7 guilty; do you understand that?

8 A Yes.

9 Q It makes sense, but some people kind of get the  
10 feeling, "Well, he's accused; he must be guilty. And he's  
11 supposed to prove his innocence."

12 You know he is not supposed to do that, don't  
13 you?

14 A No, I know that.

Ab fls. 15  
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AB-1

1 Q All right. Now, in Count II of this indictment,  
2 he's charged with conspiracy to commit murder and robbery.

3 Do you understand that?

4 A Yes.

5 Q You've heard that read?

6 A Yes.

7 Q And it's my understanding that the People will  
8 also attempt to show some sort of conspiracy to murder Shorty  
9 Shea, though that isn't charged.

10 But under the law, if they feel they have the  
11 evidence, they can proceed on that theory, the theory of  
12 conspiracy.

13 You've heard of that word?

14 A Yes.

15 Q All right. Now, the Court, I think, when you were  
16 here, read a certain instruction about the legal definition of  
17 conspiracy; that is, to the effect that, in a conspiracy --  
18 that's when two or more people agree to do some unlawful act,  
19 and then take some affirmative action -- other than just talk;  
20 some act -- overt act, it's called -- to accomplish the un-  
21 lawful goal or object.

22 Do you recall that?

23 A Yes.

24 Q All right. Now, there are many instructions  
25 that you -- if you sit as a juror -- you may hear, the judge  
26 may give you, concerning who may or may not be a conspirator.

27 For instance, we've talked a little bit about it  
28 before, during another portion of our voir dire, but you've

AB-2 1 heard of the phrase "guilt by association"?

2 A Yes.

3 Q Well, at sometime in the course of this trial,  
4 assuming you are seated to hear the evidence, the judge will  
5 undoubtedly tell you even if a conspiracy among some -- some  
6 people is proven, mere association with those people, in and  
7 of itself, is insufficient to make someone else guilty of  
8 that conspiracy.

9 Do you understand that?

10 A Yes.

11 Q And since this is the law, would you have any  
12 hesitancy in acquitting someone charged with conspiracy, if  
13 that was -- if all that was proven against him was that he  
14 associated with others who may have been guilty of the crime of  
15 conspiracy?

16 A No, I would not.

17 Q All right. And the judge will undoubtedly also  
18 tell you that merely doing an act which turns out to have  
19 furthered the object of the conspiracy does not, in and of  
20 itself, make the person doing the act guilty of a conspiracy;

21 That there must be in addition some accompanying  
22 specific criminal intent. Do you understand that?

23 A Yes.

24 Q Somebody can help, unknowingly, unwittingly;  
25 and by that help, by that act, can further the object of the  
26 conspiracy that some other people have.

27 But unless he has the guilty intent to go along  
28 with it, the criminal intent to go along with it, he cannot be

1 guilty.

2 Do you understand that?

3 A Yes, I understand.

4 Q All right. And since that is the law, would you  
5 have any hesitancy whatsoever in acquitting somebody, if that's  
6 all the People proved; if they prove he had done an act, but  
7 there was inadequate proof of any concurring criminal intent  
8 on his part?

9 A No, I wouldn't.

10 MR. DENNY: Fine. Thank you. Would you pass the  
11 microphone along, then, to Miss Bourgeois?

12  
13 MARIE A. BOURGEOIS

14 BY MR. DENNY:

15 Q Miss Bourgeois, I notice that I have a question  
16 mark down by your business or occupation. I don't think I  
17 fully got that.

18 A I work for Hoffman Motors Corporation. We import --

19 Q BMW's?

20 A BMW's, right.

21 Q Right.

22 And what do you do there?

23 A I am an inventory clerk, in the accounting  
24 department.

25 Q You are the one to blame when the parts don't  
26 come in?

27 A No. I'm the one that knows how much the car's  
28 going to cost. I type up the price labels and other duties.

1           Q       I see. All right. Now, ma'am, I've asked this  
2 of one of the jurors concerning the death penalty phase of  
3 a case, if it ever came to that -- a hypothetical situation  
4 that we've postulated on occasion here -- but I would like to  
5 ask you, because you seem pretty precise and exacting in your  
6 answers, and you seem certain of what you say.

7                   Now, if you were in the jury room during the  
8 guilt or innocence phase of the deliberations of the jury --  
9 assuming you sat on the jury -- and you discovered that you  
10 were in a minority -- perhaps even a minority of one; all the  
11 others were of a different opinion than you as to guilt or  
12 innocence -- and you simply did not feel that their position  
13 was reasonable, was proper, was the right position -- you felt  
14 that you were correct -- would you change your position and  
15 join the majority, simply in order to bring in a unanimous  
16 verdict?

17           A       No.

AC fol

Ac-1

1 Q There would be --

2 A Not just because it would seem that they wanted  
3 to, --

4 Q Well --

5 A -- or outside pressures, so to speak, from the  
6 other members of the jury.

7 Q Well, if you felt convinced of your position,  
8 but you said, "Look, here are 11 other people who are  
9 intelligent people, and they have a different view," simply  
10 because there were 11 in number with that view, would you  
11 change your decision?

12 A Not just because their theory was different than  
13 mine. I would have to examine both sides carefully, mine  
14 and theirs, and come to my own decision, whether or not I  
15 was the correct one or they were the correct ones.

16 Q All right. And in so doing, I take it that you  
17 would listen carefully to what their position was? You  
18 wouldn't just adamantly say, "I know what I know, and I am  
19 not going to listen to you"?

20 A Oh, no.

21 Q You wouldn't do that, certainly.

22 A No.

23 Q And by the same token, you would give them the  
24 benefit of your thinking, to either attempt to persuade them,  
25 or to let them see what the basis for your position was; is  
26 that correct?

27 A Yes.

28 Q That is the system that we use -- hopefully --

Ac-2

1 in the jury room, in reaching the verdict, one way or the  
2 other; is that right?

3 A Yes.

4 Q Now, ma'am, you understand that it's one of the  
5 basic foundations of our law that the defendant in a criminal  
6 case doesn't have to prove anything; do you understand that?

7 A Um-hmm. I do.

8 Q As I mentioned to Mrs. Fatherree, he is clothed  
9 right now with the presumption of innocence and has no  
10 burden at all.

11 The State, the prosecution, has the sole burden;  
12 you understand that?

13 A Yes.

14 Q And indeed, the defendant in this case -- or, in  
15 any criminal case, from a traffic ticket right on up through  
16 murder -- is presumed to be innocent until his guilt is  
17 proven, and proven beyond a reasonable doubt and to a moral  
18 certainty.

19 And you don't have any objection or any argument  
20 with that proposition of law?

21 A No, none whatsoever.

22 Q Do you think it's good?

23 A Yes.

24 Q All right. And do you understand, too, that it's a  
25 fundamental proposition of law that a defendant is not  
26 required to produce evidence; he is not required to call  
27 witnesses; he is not required to take the stand himself.

28 Do you understand that, --

1 A Yes.

2 Q -- in a criminal trial?

3 And do you understand that if the prosecution  
4 rests its case, and the defendant's attorney feels that there  
5 simply isn't sufficient evidence to warrant a conviction, or  
6 that there are just a few points that he wants to clear up,  
7 he can rest the defense, without calling anyone, without  
8 introducing any evidence -- or, just calling a few witnesses  
9 to counter those points that he feels should be cleared up --  
10 and then rest.

11 Do you understand that?

12 A Yes, I do.

13 Q And you understand that if the defense attorney  
14 feels that the State just hasn't proven the case beyond a  
15 reasonable doubt and to a moral certainty, he doesn't have to  
16 call the defendant to take the stand to testify to anything?

17 Do you understand that?

18 A Yes.

19 Q And do you understand further that because of  
20 certain provisions of our Constitution, if the defense  
21 attorney does not call his client to testify, you, as a juror,  
22 may not draw any adverse inference against the defendant,  
23 simply because he has not been called to testify?

24 THE COURT: Now, the Court has permitted some consider-  
25 able lenience in allowing you to instruct concerning the law.  
26 I will state that the Court will allow the Jury to answer this  
27 question.

28 But the Court would again remind you -- both

1 counsel -- and you particularly, Mr. Denny -- that it's the  
2 function of the Court to instruct concerning the law.

3 MR. DENNY: Thank you, your Honor.

4 PROSPECTIVE JUROR NO. 8: I understand, --

5 Q BY MR. DENNY: Yes.

6 A -- as you put it.

7 Q Now, let me ask you, then, having gone over that  
8 which is foundational to this question, do you feel, as you  
9 sit there right now, that any defendant who doesn't testify  
10 in his own case must be guilty of the crime of which he is  
11 charged?

12 A No, I don't feel that way.

Ad fls.



AD-1

1 MR. DENNY: Are there any other jurors in the box who  
2 feel that way, that if a defendant doesn't take the stand,  
3 doesn't testify, that therefore he must be guilty?

4 (No affirmative response.)

5 MR. DENNY: Do I see all of the heads nodding in a  
6 negative manner?

7 Mr. Craven, you are still impassive, but I think I  
8 note a slight nod of the head again in a negative manner; is  
9 that correct?

10 PROSPECTIVE JUROR NO. 2: Right.

11 MR. DENNY: All right, sir.

12 Q I take it, then, Miss Bourgeois, that if it comes  
13 to pass in this case that the People rest their case, and  
14 thereafter I assess the state of the case and determine not to  
15 call Mr. Davis to the stand, that you won't draw any adverse  
16 inference against him for that reason; is that correct?

17 A That's correct.

18 Q Nor will you attempt to fill in any gaps there may  
19 be in the prosecution's case by speculating what Mr. Davis's  
20 testimony might or might not have been; is that correct?

21 A Correct. It would not be my place to do so.

22 Q That is right. If the gaps are there in the  
23 People's case, the gaps are there.

24 And no lack of testimony, no lack of going forward  
25 with any evidence, is permitted to be used to fill in those  
26 gaps; do you understand that?

27 A Yes.

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

Ad-2

1 Do you want to pass the microphone on to  
2 Mrs. Muldrow?

3  
4 MRS. EDDIE M. MULDROW

5 BY MR. DENNY:

6 Q Mrs. Muldrow, I'm sorry, but I don't think I got  
7 whether or not you had had any prior jury experience.

8 A No, I haven't.

9 Q And you did indicate, I think, that you are  
10 supervisor of the recon department of the Bank of America?

11 A Yes.

12 Q What is the recon department?

13 A Well, we adjust the computer, where it's kicking  
14 out because of -- maybe certificates or something went in  
15 wrong, and there was a mishmash on the name; anything that  
16 doesn't go in perfect kicks out.

17 So, you have to adjust it and put it back in.

18 Q And you are the one who is supposed to fix the  
19 goofs, in other words?

20 A Yes.

21 Q All right. And you indicated, I think, that your  
22 husband works at Lockheed. And I'm not sure in what capacity,  
23 whether we got to that.

24 What does he do?

25 A He's an assembler. He works on the airplane  
26 door.

27 Q On the airplane door?

28 A Yes.

Ad-3

1 Q Is this the 1011 that he's working on?

2 A I don't know.

3 Q All right. Now, Miss Muldrow, I have never voir  
4 dired a jury opposite Mr. Kay here, but if he's in the mold  
5 of other prosecutors I know, I dare say he'll ask you -- ask  
6 each of you -- concerning his possible future requests, to  
7 have the defendant sentenced to be executed by lethal gas in the  
8 gas chamber, whether each of you would have the courage of your  
9 convictions, or the strength of character to come in from your  
10 deliberations, look Mr. Davis here right in the eye, and say,  
11 in effect, "I sentence you to die."

12 Now, I assume he may ask you that. And I assume  
13 your answer will be: Yes, you would have that capacity.

14 Is that right?

15 A (No response.)

16 Q Do you understand my question?

17 A I'm not sure if I understand you correctly. Could  
18 you repeat that again, please?

19 Q Yes. If Mr. Kay here asks you if --

20 MR. KAY: Your Honor, I appreciate Mr. Denny voir diring  
21 for me, but I think that he should voir dire for himself first.  
22 I can adequately do it for myself.

AE fol

23  
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28

1 Q BY MR. DENNY: Well, let me put it to you this  
2 way. If I were to ask you if you'd have the strength of your  
3 convictions, the strength of character, the courage of your  
4 convictions to come into this court and look Mr. Davis right in  
5 the eye, after the penalty phase of the trial, and to say to  
6 him, without batting an eye, "Mr. Davis, I sentence you to  
7 die," could you do that?

8 A If I weighed everything and I felt that this is --  
9 is the conviction, yes. If all the evidence was there, and I  
10 was sure beyond a reasonable doubt.

11 Q Well, again, so we make sure that we are  
12 communicating here, you understand that you can be convinced  
13 beyond a reasonable doubt that somebody committed a crime,  
14 or was criminally liable for the commission of a crime, but  
15 that's the area of guilt that we are talking about.

16 I am now talking about the penalty phase of the  
17 trial.

18 Simply because you are convinced beyond a  
19 reasonable doubt that somebody committed murder, you have  
20 stated to me that simply by virtue of that fact, even if it's  
21 willful, deliberate, first degree murder, you are not auto-  
22 matically going to say, --

23 A No.

24 Q -- "Because you are involved in the commission  
25 of a murder, I sentence you to die." Right?

26 A No, I am not going to say it automatically, no.

27 Q No way?

28 A No.

1           Q       But say, now, that you have found the defendant  
2 guilty; and say, now, that either with or without further  
3 evidence during the penalty phase of the trial -- and again,  
4 this is all hypothetical we are talking about.

5           A       Yes.

6           Q       Even the finding of guilt is hypothetical, as far  
7 as I am concerned.

8                   (Continuing) -- but you have deliberated with the  
9 rest of your fellow jurors, and you've reached the conclusion,  
10 all of you, unanimously, that he should be executed by lethal  
11 gas.

12                   Then, would you have the strength of character,  
13 the courage of your convictions -- whatever you want to call  
14 it -- the guts, the fortitude, to sit right where you are  
15 sitting now, look Mr. Davis in the eye and say, "Mr. Davis,  
16 I sentence you to die"?

17           A       Well, would I have the courage?

18           Q       Yes.

19           A       I think I could.

20           MR. DENNY: All right. And I take it all the rest of you  
21 jurors would answer similarly, if I or Mr. Kay asks that  
22 question; is that correct?

23                   (No negative response.)

24           MR. DENNY: I see all the heads nodding in the  
25 affirmative. Mr. Lear, you are impassive at this point, and  
26 Mr. Craven is -- has nodded more than you.

27                   But you nod in the affirmative also; is that  
28 correct?

29           JUROR NO. 3: Yes.

1-1

1 MR. DENNY: Well,, this is a standard question that  
2 prosecutors frequently ask. I don't mind asking it because I  
3 assume having gone through the voir dire now that you have  
4 your answer and it would be yes, but I want to step one step  
5 further back to the guilt phase of the trial. And if you have  
6 heard all of the evidence, and I'll ask this question of all  
7 you jurors:

8 Assume that you've heard all of the evidence and  
9 you honestly and conscientiously feel that the People have  
10 failed to prove their case against this defendant beyond a  
11 reasonable doubt and to a moral certainty, your moral certainty,  
12 would all of you have the strength of character, the courage of  
13 your convictions, whatever, to walk into this courtroom, look  
14 Mr. Kay in the eye, look the Judge in the eye, look anybody  
15 else in the eye and say quite probably, "We acquit this  
16 defendant, we find him not guilty"? Would all of you be  
17 able to do that?

18 (Affirmative nods.)

19 MR. DENNY: And would all of you feel, having done that,  
20 having listened to the evidence, not having been convinced to  
21 the degree that you must be convinced before you return a  
22 verdict, that you had aided in the due administration of  
23 justice and done your duty as a juror by bringing in an  
24 acquittal under those circumstances; would all of you feel  
25 that way?

26 (Affirmative nods.)

27 MR. DENNY: Fine, I'll pass for cause, your Honor.

28 THE COURT: Mr. Kay.

probably?

1-2

1 MR. KAY: Thank you.

2 It will take me a minute to set up here.

3 Good morning, ladies and gentlemen.

4 (Whereupon, there were murmurs of "Good morning,  
5 Mr. Kay," that were heard throughout the prospective  
6 jury panel.)

7 MR. KAY: At the outset, ladies and gentlemen, let me  
8 encourage you, and those of you in the courtroom, to please  
9 be just as candid as you possible can be when you're answering  
10 my questions and Mr. Manzella's questions. And though all  
11 of you that are seated in the box have been given a very good  
12 job of that. I know for some of you it is hard to be candid  
13 because you don't know everyone else in this courtroom, and  
14 I'm sure a lot of you possibly aren't gifted in public  
15 speaking, and you might be a little nervous. And that's very  
16 understandable.

17 Sometimes -- I know Mr. Denny's questions might  
18 have confused you, and I hope mine won't, but if they do,  
19 please tell me. If you feel you didn't understand a question  
20 I ask, would you say, "Mr. Kay, would you explain it another  
21 way, I don't quite understand what you are getting at,"  
22 because I don't want you to answer anything that you are not  
23 sure of.

24 Now, also, if you ask a question, don't feel that  
25 you have to answer it yes or no. If you want to explain your  
26 answer, feel free to explain your answer.

27 And, also, if you give an answer and you think  
28 about it, especially on the death penalty, and you change your

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1 mind about it, raise your hand, even if it is tomorrow or the  
2 next day or whenever, and say, "Mr. Kay, I told you that I  
3 could vote for the death penalty, but I've been thinking it  
4 over and, gee, I really can't and I want you to know that."

5 Please just be as candid as possible.

6 Now, the reason I say this, is because even though  
7 I know it might be hard to speak out now, I would imagine it  
8 would be much harder to speak out in the jury room for the  
9 first time when your co-jurors know that you were asked a  
10 question about the death penalty or some other subject that  
11 should have prompted you to speak up.

12 And, also, I hate to bring this up, but also it  
13 would be a violation of your oath as jurors not to speak up  
14 at the present time.

15 So now is the time to speak up, not later on in  
16 the jury room, if you have a particular problem.

17 Now, just as Mr. Manzella and I -- Mr. Manzella is  
18 the co-prosecutor on this case. He'll be in later this  
19 morning.

20 Just as Mr. Manzella and I want you to be candid,  
21 we want you -- we want to be candid with you.

22 And, therefore, I'm going to tell you that if the  
23 jury that is impaneled to hear this case, to hear this case  
24 against Mr. Davis, finds Mr. Davis guilty of murdering Gary  
25 Hinman and of murdering Donald Jerome Shea, and conspiring  
26 along with Charles Manson and Susan Atkins to murder and  
27 rob Gary Hinman, if they find him guilty of any or all of  
28 those charges, Mr. Manzella and I will vigorously ask this



1 jury to vote for the death penalty against Mr. Davis.

2 Does anybody have any questions about that?

3 We want to be candid with you, just as we want  
4 you to be candid with us.

5 Also, if I ask a question which does not pinpoint  
6 your problem on the capital punishment or any other area, but  
7 it touches on it, please let me know about it because I can't  
8 think of maybe the problem, the problems that everybody has  
9 and maybe my questions aren't articulate enough. But if my  
10 questions even hinted at any problem you have, please let me  
11 know about it or at least Mr. Manzella know about it.

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1 Now, first, let me explain just to clarify it for  
2 all of you, there is a possibility that there will be two  
3 phases in this case. The first phase is the guilt phase. In  
4 that phase all you determine is the guilt or the innocence of  
5 Mr. Davis on the three charges in the indictment; the murder of  
6 Gary Hinman, the conspiracy to murder Gary Hinman and the  
7 murder of Donald Jerome Shea.

8 In the first phase you cannot even consider the  
9 question of penalty or punishment.

10 Do all of you understand that?

11 (Affirmative nods.)

12 MR. KAY: And will all of you follow the judge's  
13 instructions on that?

14 (Affirmative nods.)

15 MR. KAY: In the second phase of the trial, the penalty  
16 phase, it will be your duty to determine whether or not  
17 Mr. Davis, for the crimes he has committed, gets life  
18 imprisonment or gets the death penalty. There is no burden  
19 on either side.

20 In the first phase, the prosecution has the  
21 burden of proving the defendant guilty beyond a reasonable  
22 doubt. The defense has no burden.

23 In the second phase, neither side has any burden.  
24 It is up to you whether or not to impose the death penalty.  
25 It is a matter for your sole discretion. Even the judge is not  
26 going to help you. He's not going to give you any instruc-  
27 tions saying, "Well, if you find factors A, B and C are  
28 involved, then you should sentence the defendant to death. If

1 you don't find factors A, B and C or any one of them, then you  
2 should sentence him to life."

3 You're not going to get any instructions like that.  
4 It is just going to be up to your sole discretion whether or  
5 not to sentence Mr. Davis to death or to life to pay for his  
6 crimes.

7 MR. DENNY: I'll object to that, your Honor. The  
8 phraseology there, again, is, I think, assuming at this point  
9 he's committed any crime.

10 MR. KAY: Well, I am assuming that he has been convicted  
11 in the first phase. We don't get to the second phase, as  
12 Mr. Denny well knows, until there has been a conviction in the  
13 first state.

14 THE COURT: I think that's understood.

15 You might move right into questioning on the  
16 voir dire, though.

17 MR. KAY: Yes, your Honor, but I would like to ask just  
18 one more general question.

19 Those of you who are prospective jurors who are  
20 seated on the rail, when I ask the jurors presently seated in  
21 the box any questions, I would like to have each of you  
22 mentally ask yourself the same question so when you take your  
23 place on the box, I hopefully won't have to repeat all of the  
24 questions. I can ask you, "Did you hear the question I asked  
25 a particular juror," and if you say that you did, I'd say,  
26 "Would your answer be any different or what would your answer  
27 be to that question?"

28 And if you do that, I think you'll find that the

1 process of voir diring will move along a lot faster.

2 Now, what I intend to do is, on the death penalty,  
3 I'm going to question each of you individually, and then later  
4 on I'm going to ask some general voir dire questions, most of  
5 them of you as a panel as a whole.

6 Now, when I ask the questions of you as a panel  
7 as a whole, I want you to speak out audibly, say yes or no to  
8 the questions.

9 I know Mr. Denny tried this and some people would  
10 nod their heads and would speak out. In order to really be  
11 effective, you're going to have to all speak out so I'll know  
12 where you stand.

13  
14 VOIR DIRE EXAMINATION OF  
15 ELVERA IZAGUIRRE

16 BY MR. KAY:

17 Q Mrs. Izaguirre.

18 Have you -- yeah, maybe you want to take the  
19 microphone. I can hear you here, but --

20 Before you came into this courtroom, did you ever  
21 think about the issue of capital punishment?

22 A No, I had not.

23 Q Since you've been in this courtroom have you  
24 thought about it?

25 A Yes, I have.

26 Q Probably considerably?

27 A Yes.

28 Q All right. Have you ever determined in your own

1 mind whether or not you can impose the death penalty?

2 A Yes.

3 Q What have you determined?

4 A Well, I determined that I could, uh, impose the  
5 death penalty.

6 Q Now, if the jury brings back a verdict of death  
7 against Mr. Davis, each juror must personally participate in  
8 that verdict.

9 Mrs. Holt, who is seated behind me, who is the  
10 clerk of the court, if the jury brings back the death  
11 verdict, will poll each of the jurors, and she will ask you  
12 individually, after the verdict is read, she'll ask you:  
13 "Is this your verdict?"

14 Now, if you felt it was a proper case and that  
15 was your verdict, would you have the courage to tell her,  
16 "Yes, that is my verdict?"

17 A Yes, I would.

18 Q And do you feel that you could sit in this court-  
19 room for over the next two to two and a half months and look-  
20 ing at Mr. Davis every day, and if you felt that it was, if  
21 the evidence on the case warranted it, you could tell him at  
22 the end of the penalty phase that he must die for the crimes  
23 that he's committed?

24 A Yes.

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1 Q And I take it that you don't feel that any moral  
2 or religious belief that you presently hold would prevent  
3 you from voting for the imposition of the death penalty?

4 A That is correct.

5 Q And I take it you don't belong to or have sym-  
6 pathy with any organizations which wish to abolish the death  
7 penalty in the State of California?

8 A No, I do not.

9 Q And do you have any close friends or relatives  
10 who opposes the death penalty who you feel might try to  
11 pressure you for voting for life imprisonment if you are  
12 seated as a juror in this case?

13 A No, I do not.

14 Q Okay, could you pass the microphone on to Mr.  
15 Craven.

16 Thank you, Mrs. Izaguirre.

17  
18 JONATHAN CRAVEN

19 BY MR. KAY:

20 Q Mr. Craven, before you came into this courtroom,  
21 did you, sir, ever think about the death penalty?

22 A No.

23 Q Since you've come into this courtroom on this  
24 case, I take it you have thought about the death penalty?

25 A I have.

26 Q And can you -- have you determined in your own  
27 mind whether or not you could impose the death penalty in a  
28 case which you felt that warranted it?

1b-2

1 A Yes.

2 Q And what have you determined?

3 A I could.

4 Q Do you feel that -- the question I asked Mrs.  
5 Izaguirre.

6 Do you feel that you could personally participate  
7 in a verdict of death, if you thought it was proper, and tell  
8 Mrs. Holt and tell Mr. Denny and Mr. Davis that Mr. Davis  
9 must die for the crimes that he has committed?

10 Do you feel that you could personally participate?

11 A Yes.

12 Q And I take it that you don't feel that any moral  
13 or religious belief that you presently hold would prevent  
14 you from voting for the death penalty?

15 A No.

16 Q And you don't support or have any connection with  
17 any organization which wishes to abolish the death penalty  
18 in the State of California?

19 A No.

20 Q And do you have any close friend or relative  
21 who you feel is against the death penalty who might try and  
22 exert pressure on you to vote for life imprisonment, if you  
23 are seated as a juror in this case?

24 A No.

25 Q All right.

26 Would you pass the microphone to Mr. Lear.

27 Thank you, Mr. Craven.  
28

1b-3

RAYMOND G. LEAR

BY MR. KAY:

Q Mr. Lear, have you ever thought about the death penalty?

Well, I guess you have, because you had it in a sociology class.

Other than what -- the particular aspects that you studied about it --

A No, other than that. No, sir.

Q You haven't thought about it?

A I have thought about it since I've been in the courtroom. Other than that, no.

Q All right. Since you've been in this courtroom, have you determined in your own mind whether or not, in a case where you felt the death penalty was warranted, that you could vote for the death penalty?

A Yes, sir, I have.

Q And what have you determined?

A I have determined that I could.

Q Do you feel that you could personally participate in a verdict of death and tell Mrs. Holt when she polls the jury, and to tell Mr. Denny and Mr. Davis, that that is your verdict?

A Yes, sir, I could.

Q And do you feel that any moral or religious belief that you presently hold would prevent you from voting for the imposition of the death penalty in this case?

A No, sir.



1b-4

1 Q And do you belong to or support any organizations  
2 which are attempting to -- which are against the death  
3 penalty?

4 A No, sir.

5 Q And do you have any close friend or relative who  
6 opposes the death penalty, who you feel might try to exert  
7 pressure on you to vote for life imprisonment, if you are  
8 seated as a juror in this case?

9 A I know of none.

10 Q All right, thank you very much.

11 If you please, pass the microphone to Mrs.  
12 DuBois.

13  
14 LOLETA M. DuBOIS

15 BY MR. KAY:

16 Q Mrs. DuBois, have you thought about the death  
17 penalty before you came into this courtroom?

18 A Not before I came in, but very much so since I've  
19 been here.

20 Q Okay. And have you determined in your own mind  
21 whether or not, in a case which you felt it was proper, that  
22 you could impose the death penalty on the defendant?

23 A Yes, sir.

24 Q What have you determined?

25 A I determined if it should be, it would be.

26 Q In other words, you could do that?

27 A Yes.

28 Q And you feel that you could personally participate

1 in a verdict of death, and when you are polled you could tell  
2 Mrs. Holt and Mr. Denny and Mr. Davis that that was your  
3 verdict?

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A Yes.

1 Q Now, a question that I didn't ask the first three  
2 jurors which I would like them to respond to and you, also.

3 Knowing that if you found the defendant guilty of  
4 first degree murder that you would be faced with the responsi-  
5 bility of determining whether or not he got life imprisonment  
6 or the death penalty, would you even consider finding him  
7 guilty of second degree murder or any lesser charge to avoid  
8 the responsibility of moving into the penalty phase of the  
9 trial?

10 A No, sir, I wouldn't.

11 MR. KAY: And would all your answers be the same?

12 THE THREE PROSPECTIVE JURORS: Yes.

13 BY MR. KAY:

14 Q And do you feel that any moral or religious  
15 belief that you presently hold would prevent you from voting  
16 for the death penalty in this case?

17 A No.

18 Q Do you belong to or support any organizations which  
19 are against the death penalty?

20 A No.

21 Q And do you have any close friends or relatives who  
22 you feel oppose the death penalty, who you feel might try  
23 to exert pressure on you, if you were seated as a juror in this  
24 case, to vote for life imprisonment?

25 A No.

26 MR. KAY: All right, thank you very much.

27 Could you please pass it to Mrs. Sims.

28 AUDREY SIMS

1 BY MR. KAY:

2 Q Mrs. Sims, before you came into this courtroom,  
3 did you ever think about the death penalty?

4 A I believe sometime ago I read an article concern-  
5 ing it, but I don't remember what my reaction was at that time.  
6 I did think about it, but I don't remember.

7 Q All right. Have you determined in your own mind  
8 whether or not, if you felt that the evidence warranted it,  
9 you could vote for the death penalty?

10 A Yes, I have.

11 Q And what have you determined?

12 A That I could vote for it.

13 Q And you feel that you could personally participate  
14 in a verdict of death, and if you were polled after that  
15 verdict that you could tell Mrs. Holt that that was your  
16 verdict and, also, tell Mr. Denny and Mr. Davis that that was  
17 your verdict?

18 A Yes, I could.

19 Q You would have the courage to do that?

20 A Yes.

21 Q Now, one point Mr. Denny was bringing out that  
22 I just want to clarify.

23 When we're talking about we don't want people  
24 automatically to do one thing or the other, just so you are not  
25 confused, you understand that if you determine that it is  
26 proper, you can decide to impose the death penalty based on  
27 the evidence you hear in the guilt phase of the trial alone?

28 In other words, neither side has to produce any

1 evidence in the penalty phase of the trial; you understand that?

2 A Yes.

3 Q In other words, what Mr. Denny was getting at,  
4 we just don't want a juror to automatically do one thing or  
5 the other.

6 In other words, Mr. Denny doesn't want a juror  
7 to get in the jury room and say, automatically, I have  
8 convicted this man of first degree murder and anybody I would  
9 convict of first degree murder I would sentence to death.

10 And I don't want a juror to get in the jury room  
11 and say, "Gee, I've convicted him of first degree murder.  
12 Gee, I wouldn't give anybody the death penalty."

13 Do you understand that?

14 A Yes, I do.

15 Q In other words, we want you to consider whether or  
16 not the evidence warrants the death penalty in this particular  
17 case; do you understand that?

18 A Yes.

19 Q Okay.

20 And do you feel that any moral or religious belief  
21 that you presently hold would prevent you from voting for the  
22 death penalty in this case?

23 A No.

24 Q And do you belong to or sympathize with any  
25 organizations which may be opposed to capital punishment?

26 A No.

27 Q And do you have any close friend or relative who  
28 opposes the death penalty, who you feel might attempt to exert

1 pressure on you to vote for life imprisonment, if you are  
2 selected as a juror in this case?

3 A No.

4 MR. KAY: Thank you.

5 Could you please pass the microphone to  
6 Mr. Cano.

7 JUROR NO. 6: Thank you.

8 MR. KAY: Can you ladies and gentlemen in the audience  
9 hear me?

10 (Whereupon, there were murmurs of "Yes, sir,"  
11 heard throughout the prospective jury panel beyond the rail.)

12 MR. KAY: Okay, thank you. I just wanted to check.

13  
14 YGNACIO CANO

15 BY MR. KAY:

16 Q Mr. Cano, before you came into this courtroom,  
17 did you ever do any thinking about the death penalty?

18 A No, I did not.

19 Q All right. I take it that since you came into  
20 this courtroom on Monday that you have thought about it?

21 A Every day.

22 Q Now, have you determined in your own mind whether  
23 or not you could impose the death penalty if you thought the  
24 evidence warranted it?

25 A I have.

26 Q And what have you determined?

27 A That I can.

28 Q And I take it -- do you feel that you can personally

1 participate in a verdict of death by -- if you were polled,  
2 after you reached that verdict that you could tell Mrs. Holt  
3 and Mr. Denny and Mr. Davis that that was your verdict?

4 A Yes.

5 Q You understand that we -- at both the guilt phase  
6 and the penalty phase the verdicts must be unanimous?

7 A Yes.

8 Q In other words, all twelve jurors must agree  
9 for guilt and, also, for penalty?

10 A Yes.

11 Q Do you feel that any moral or religious belief  
12 that you presently hold would prevent you from voting for the  
13 death penalty in this case?

14 A No.

15 Q Do you belong to or sympathize with any organiza-  
16 tions which might oppose capital punishment?

17 A No.

18 Q And do you have any close friend or relative  
19 who opposes the imposition of the death penalty, who you feel  
20 might try to exert pressure on you to vote for life  
21 imprisonment for Mr. Davis if you were seated as a juror in  
22 this case?

23 A No.

24 MR. KAY: Thank you.

25 Would you please pass the microphone on to  
26 Mrs. Dunn.

27 THE COURT: Let's recess at this time for approximately  
28 fifteen minutes.

1 Ladies and gentlemen, during the recess you are  
2 obliged not to converse amongst yourselves, and this pertains  
3 to you in the box as well as to those beyond the rail.

4 You are obliged not to converse about this case  
5 amongst yourselves, nor with anyone else, nor permit anyone  
6 to converse with you on any subject connected with this case,  
7 nor are you to form nor express any opinion about it until it  
8 is finally submitted to you, should you be chosen as a juror.

9 About fifteen minutes. All right.

10 (Morning recess.)  
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1 THE COURT: All right. The record will show that the  
2 prospective jurors are all in the box and beyond the rail.

3 Mr. Denny is present for Mr. Davis, who is also  
4 present. Mr. Kay and Mr. Manzella are also present, the  
5 record may show.

6 You may proceed, Mr. Kay.

7  
8 VOIR DIRE EXAMINATION OF

9 MARY G. DUNN

10 BY MR. KAY:

11 Q Mrs. Dunn, I believe -- do you have the microphone?

12 THE COURT: Excuse me.

13 MR. KAY: I'll get it.

14 THE COURT: Excuse me. One further thing. Mr. William  
15 Courtney, is he here?

16 THE BAILIFF: Sir, he was sent over there.

17 THE COURT: Mr. William Courtney, one of the prospective  
18 jurors who was called over, but who had not yet been sworn,  
19 as I understand it, may it be stipulated, gentlemen, that he  
20 may be excused?

21 He suddenly became ill.

22 MR. KAY: So stipulated.

23 MR. DENNY: Yes. He's the gentleman with the heart  
24 condition; is that correct?

25 THE COURT: Yes.

26 MR. DENNY: Yes. So stipulated, your Honor.

27 THE COURT: Very well. Go ahead, Mr. Kay.

28 MR. KAY: Thank you, your Honor.

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1 BY MR. KAY:

2 Q Mrs. Dunn, before you came into this courtroom  
3 on Monday, had you ever thought about the death penalty?

4 A No.

5 Q And I take it that you have thought about it  
6 since you did come into this courtroom?

7 A Very much.

8 Q And have you determined in your own mind whether  
9 or not you could impose the death penalty, if you felt that  
10 the evidence in this case warranted it?

11 A Yes, I have.

12 Q And what have you determined?

13 A I could.

14 Q And do you feel that you would have the courage  
15 to personally participate in a verdict of death, by telling  
16 Mrs. Holt, if she -- which she would do, poll you after you  
17 came to that verdict -- and asked you if it was your verdict,  
18 could you tell Mrs. Holt, when she polls you, and also tell  
19 Mr. Denny and Mr. Davis, that that was your verdict?

20 A Yes.

21 Q You would have the courage to do that?

22 A Yes.

23 Q Would you consider finding Mr. Davis guilty  
24 of less than first degree murder, to avoid the responsibility  
25 of determining whether he got life imprisonment or suffered  
26 the death penalty?

27 A No, not to avoid anything.

28 Q All right. You wouldn't even consider that, would

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1 you?

2 A No.

3 MR. DENNY: Your Honor, excuse me. I think that  
4 question perhaps, in context, is all right; but the question  
5 itself is a little misleading, in that it may be quite proper  
6 for them to consider a second degree murder or something  
7 less than that, as well as not guilty, if the evidence  
8 discloses that or the law discloses that.

9 MR. KAY: I think Mr. Denny knows that that wasn't  
10 my question, your Honor.

11 THE COURT: Would you read the question, please?

12 MR. DENNY: I think in conjunction with the prior  
13 question, it would be fairer to read it, your Honor.

14 (Whereupon, the record was read by the reporter  
15 as follows:

16 "Q Would you consider finding Mr. Davis  
17 guilty of less than first degree murder, to  
18 avoid the responsibility of determining whether  
19 he got life imprisonment or suffered the death  
20 penalty?

21 "A No, not to avoid anything.

22 "Q All right. You wouldn't even consider  
23 that, would you?

24 "A No."

25 THE COURT: Well, the juror's answer is in. It may  
26 remain. The objection is overruled.

27 MR. DENNY: Well, I think there was a question that  
28 followed. That's the question that I had objected to.

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1 THE COURT: I don't think there was a question after  
2 that, was there, Mr. Williams?

3 THE REPORTER: No, there was no question that followed  
4 that.

5 MR. DENNY: I'm sorry.

6 BY MR. KAY: .

7 Q Mrs. Dunn, do you feel that any moral or  
8 religious belief that you presently hold would prevent you  
9 from voting for the death penalty in this case?

10 A No.

11 Q And do you belong to or sympathize with any  
12 organizations that might oppose the death penalty?

13 A No, I don't.

14 Q And do you feel that you have any close friend or  
15 relative who might oppose the death penalty, who you feel might  
16 try and exert pressure on you to vote for life imprisonment, if  
17 you are selected as a juror in this case?

18 A No.

19 MR. KAY: Thank you very much. Would you please pass the  
20 microphone to Mrs. Melendez?

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MRS. RACHEL MELENDEZ

BY MR. KAY:

Q Mrs. Melendez, have you thought about the death penalty since -- well, before you came into this courtroom on Monday?

A No.

Q I take it you have thought about it since?

A Yes.

Q And have you determined in your own mind whether or not, if you felt that the evidence warranted it in this case, that you could impose the death penalty?

A I could.

Q You feel that you could?

A Yes.

Q No doubt about that in your mind?

A No.

Q Do you feel that you would have the courage to personally participate in the verdict of death, by telling Mrs. Holt, when she polls you after your verdict, that this is your verdict?

A Yes, I do.

Q And would you consider finding the defendant, Mr. Davis, guilty of less than first degree murder, for the sole reason to avoid the responsibility of determining whether he should get life imprisonment or die in the gas chamber, in the penalty phase of the trial?

A No.

Q And do you feel that any moral or religious

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1 belief that you presently hold would prevent you from voting  
2 for the death penalty in this case?

3 A No.

4 Q And do you belong to or sympathize with any  
5 organizations which might oppose the death penalty?

6 A No, I don't.

7 Q And do you feel that you have any close friend or  
8 relative who opposes the death penalty, who you feel would  
9 try and exert pressure on you to vote for life imprisonment,  
10 if you were selected as a juror in this case?

11 A No, I don't.

12 MR. KAY: Thank you. Could you please pass the micro-  
13 phone on to Mr. DeLoach?

14  
15 MR. TOMMY DE LOACH

16 BY MR. KAY:

17 Q Mr. DeLoach, before you came into this courtroom  
18 on Monday, did you, sir, think about the death penalty at  
19 all? Have you ever thought about it?

20 A No, I haven't.

21 Q And I take it that since Monday, you have thought  
22 about it?

23 A A little; not too much.

24 Q Not too much. Well, have you determined in your  
25 own mind whether or not, if you felt that the evidence in  
26 this case warranted it, that you could impose the death  
27 penalty?

28 A Yes, I could.

1 Q No doubt about that in your mind?

2 A No.

3 Q And do you feel that you would have the courage  
4 to personally participate in a verdict of death by -- when  
5 you are polled after that verdict -- telling Mrs. Holt and  
6 Mr. Denny and Mr. Davis that that is your verdict?

7 A Yes, I have the courage.

8 Q And do you feel that any moral or religious  
9 belief that you presently hold would prevent you from voting  
10 for the death penalty?

11 A No.

12 Q And would you consider finding Mr. Davis guilty  
13 of less than -- of any charge less than first degree murder,  
14 for the sole reason that you'd want to avoid the responsibility  
15 of determining whether or not he got the death penalty or life  
16 imprisonment?

17 A No.

18 Q And do you belong to or sympathize with any  
19 organizations which might oppose capital punishment?

20 A No.

21 Q And do you have any close friend or relative who  
22 opposes the death penalty, who you feel might try and exert  
23 pressure on you to try and vote for life imprisonment, if you  
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1 are selected as a juror in this case?

2 A No.

3 MR. KAY: Okay. Thank you very much. Could you please  
4 pass the microphone on to Mrs. Fatherree?

5  
6 YVONNE FATHERREE

7 BY MR. KAY:

8 Q Am I pronouncing your name right? Fatherree?

9 A Yes.

10 Q Is that just okay, or is it right?

11 A It's Fatherree.

12 Q Fatherree. Okay.

13 I want to get it right now.

14 Mrs. Fatherree, have you thought about the death  
15 penalty before you came into this courtroom on Monday?

16 A No, I haven't.

17 Q I take it that since then, you have thought about  
18 it?

19 A Yes.

20 Q And have you determined in your own mind whether  
21 or not, that if you felt the evidence warranted it, that you  
22 could vote for the death penalty in this case?

23 A Yes, I could.

24 Q No doubt about that in your mind?

25 A No.

26 Q And do you feel that you would have the courage to  
27 personally participate in a verdict of death, by telling Mrs.  
28 Holt, when she polls you, that that is your verdict? And



2a-5

1 also telling the same thing to Mr. Denny and Mr. Davis?

2 A Yes, I could.

3 Q And would you consider finding Mr. Davis guilty  
4 of less than -- any charge less than first degree murder  
5 for the sole purpose of avoiding the responsibility of  
6 determining whether or not Mr. Davis got life imprisonment  
7 or suffered the death penalty, in the penalty phase of the  
8 trial?

9 A No.

10 Q You understand that if Mr. Davis is found guilty  
11 of anything less than first degree murder, that we don't have  
12 a penalty phase of the trial; you understand that, don't you?

13 A Yes.

14 Q However, if he is found guilty of conspiracy to  
15 commit murder, we would also have a penalty phase. Each of  
16 the murder counts and the conspiracy to commit murder hold  
17 a possible death sentence.

18 A Yes.

19 Q You understand that?

20 A Yes.

21 Q Do you feel that any moral or religious belief  
22 that you presently hold would prevent you from voting for the  
23 imposition of the death penalty?

24 A No, I do not.

3 fls.

25

26

27

28

3-1

1 Q And do you belong to or sympathize with any  
2 organizations which might oppose capital punishment?

3 A No, I do not.

4 Q Do you have any close friend or relative who  
5 you feel opposes capital punishment that might try to exert  
6 pressure on you to vote for life imprisonment if you are  
7 selected as a juror in this case?

8 A No, I do not.

9 MR. KAY: Thank you very much.

10 Would you pass the microphone on to Miss DuBois.

11  
12 LOLETA M. DuBOIS

13 BY MR. KAY:

14 Q Miss DuBois, have you ever thought about the death  
15 penalty before you came into this courtroom on Monday?

16 A No, sir.

17 Q I take it since then you have thought about it?

18 A Quite a bit.

19 Q And have you determined in your own mind whether or  
20 not you could impose the death penalty if you felt the evidence  
21 in this case warranted it?

22 A I believe I could.

23 Q Are you sure about that?

24 A Yes.

25 Q Okay. Do you feel you would have the courage  
26 to personally participate in a verdict of death by telling  
27 Mrs. Holt when she polled you and telling Mr. Denny and Mr.  
28 Davis that that was your verdict?

3-2

1 A Yes.

2 Q And would you consider finding Mr. Davis guilty  
3 of second degree murder or any charge less than first degree  
4 murder or conspiracy to commit murder for the sole reason  
5 that you would want to avoid the responsibility of determin-  
6 ing whether or not Mr. Davis lived or died in the gas chamber?

7 A No.

8 Q Do you have any close friend or relative who  
9 opposes the death penalty who you feel might try and exert  
10 pressure on you to vote for life imprisonment if you are  
11 selected as a juror in this case?

12 A No.

13 MR. KAY: Thank you very much.

14 Would you pass the microphone to Mrs. Muldrow?

15  
16 MRS. EDDIE M. MULDROW

17 BY MR. KAY:

18 Q Mrs. Muldrow, have you thought about the death  
19 penalty before you came into this courtroom on Monday?

20 A No.

21 Q And I take it you have thought about it  
22 considerably afterwards?

23 A Yes.

24 Q And have you determined in your own mind whether  
25 or not that you could impose the death penalty if you felt  
26 that the evidence in this case warranted it?

27 A Yes.

28 Q And you have determined that you could?

3-3

1 A Yes.

2 Q And do you feel that you would have the courage  
3 to personally participate in a verdict of death by telling  
4 Mrs. Holt when she polls you that is your verdict and telling  
5 the same thing to Mr. Denny and Mr. Davis?

6 A Yes.

7 Q Would you consider finding Mr. Davis guilty of  
8 anything less than first degree murder for the sole purpose  
9 of avoiding the responsibility of determining whether or not  
10 Mr. Davis lived or died in the gas chamber?

11 A No.

12 Q Do you feel that any moral or religious belief that  
13 you presently hold would prevent you from voting for the death  
14 penalty?

15 A No.

16 Q And do you belong to or sympathize with any  
17 organizations that might oppose the imposition of capital  
18 punishment?

19 A No.

20 Q And do you have any close friend or relative who  
21 you feel opposes the death penalty that might try and exert  
22 some pressure on you, moral, psychological or otherwise to  
23 vote for life imprisonment, if you are selected as a juror  
24 in this case?

25 A No.

26 MR. KAY: Okay, thank you very much.

27 If you could pass the microphone down to Mrs.  
28 Izaguirre.

3-4

MRS. ELVERA IZAGUIRRE

BY MR. KAY:

Q Mrs. Izaguirre, can you think of any reason why you could not or should not sit on this jury?

A No.

Q And is it your firm position that the People of the State of California, who Mr. Manzella and I represent, are entitled to an equally fair trial with the defense in this case?

A Yes.

MR. KAY: Pass the microphone to Mr. Craven.

JONATHAN CRAVEN

BY MR. KAY:

Q Mr. Craven, can you think of any reason why you could not or should not sit on this case as a juror?

A No.

Q And is it your firm position that the People of the State of California are entitled to an equal fair trial with the defense in this case?

A Yes.

Q Okay.

Could you please pass the microphone to Mr. Lear?

RAYMOND G. LEAR

BY THE COURT:

Q Mr. Lear, could you think of any reason why you could not or should not sit as a juror in this case?

3-5

1 A No, I cannot.

2 Q And is it your firm position that the People of  
3 the State of California are entitled to an equal fair trial  
4 with the defense in this case?

5 A Yes, it is.

6 MR. KAY: Could you please pass the microphone to  
7 Mrs. DuBois.

8  
9 MRS. LOLETA M. DuBOIS

10 BY MR. KAY:

11 Q Mrs. DuBois, can you think of any reason why you  
12 could not or should not sit as a juror in this case?

13 A No.

14 Q And is it your firm position that the People of  
15 the State of California are entitled to an equal fair trial  
16 with the defense in this case?

17 A Yes.

18 MR. KAY: Could you please pass the microphone to Mrs.  
19 Sims?

20  
21 MRS. AUDREY SIMS

22 BY MR. KAY:

23 Q Mrs. Sims, can you think of any reason why you  
24 could not or should not sit as a juror in this case?

25 A No.

26 Q And is it your firm position that the People of  
27 the State of California are entitled to an equal fair trial  
28 with the defense in this case?

1 A Yes.

2 MR. KAY: Thank you.

3 Would you please pass the microphone to Mr. Cano?

4  
5 YGNACIO CANO

6 BY MR. KAY:

7 Q Mr. Cano, can you think of any reason why you  
8 could not or should not sit as a juror in this case?

9 A No, I do not.

3a fls.

3a-1

1 Q And is it your position that the People of the  
2 State of California which, again, Mr. Manzella and I represent  
3 in this case, are entitled to an equal fair trial with the  
4 defense in this case?

5 A Yes.

6 MR. KAY: Thank you.

7 Could you pass the microphone to Mrs. Dunn.

8  
9 MRS. MARY G. DUNN

10 BY MR. KAY:

11 Q Mrs. Dunn, can you think of any reason why you  
12 could not or should not sit as a juror in this case?

13 A No.

14 Q And is it your firm position that the People of  
15 the State of California are entitled to an equal fair trial with  
16 the defense in this case?

17 A Yes.

18 MR. KAY: Thank you.

19 Could you please pass it to Mrs. Melendez.

20  
21 MRS. RACHEL MELENDEZ

22 BY MR. KAY:

23 Q Mrs. Melendez, can you think of any reason why  
24 you could not or should not sit as a juror in this case?

25 A No.

26 Q And is it your firm position that the People of  
27 the State of California are entitled to an equal fair trial  
28 with the defense in this case?



1 A Yes.

2 MR. KAY: Could you pass the microphone to Mr. DeLoach.

3

4 MR. TOMMY DeLOACH

5 BY MR. KAY:

6 Q Mr. DeLoach, can you think of any reason at all  
7 why you could not or should not sit as a juror in this case?

8 A Yes.

9 Q What?

10 A Well, it is kind of tiresome to me to sit right  
11 here.

12 Q It is uncomfortable?

13 A No, it is not.

14 Q Well, why -- well, what do you mean?

15 A I mean this long-period of time.

16 Q You understand it is just starting now. It has  
17 been estimated the trial will last probably to the middle of  
18 February.

19 Do you think you can sit that long and pay  
20 attention to the witnesses and the Judge's instructions?

21 A I don't want to.

22 Q You don't want to.

23 You'd rather not be a juror in this case?

24 A Yeah.

25 MR. KAY: Okay, could you pass the microphone on to  
26 Mrs. Fatherree.

27

28 YVONNE FATHERREE

1 BY MR. KAY:

2 Q Mrs. Fatherree, can you think of any reason why  
3 you could not or should not be a juror in this case?

4 A No.

5 Q And is it your firm position that the People of  
6 the State of California are entitled to an equal fair trial  
7 with the defense?

8 A Yes.

9 MR. KAY: Thank you.

10 Would you please pass the microphone to Miss  
11 Bourgeois.

12  
13 MISS MARIE A. BOURGEOIS

14 BY MR. KAY:

15 Q Miss Bourgeois, can you think of any reason why  
16 you could not or should not sit as a juror in this case?

17 A No, sir.

18 Q And is it your firm position that the People of  
19 the State of California are entitled to an equal fair trial  
20 with the defense in this case?

21 A It is.

22 MR. KAY: Thank you.

23 Please pass the microphone to Mrs. Muldrow.

24  
25 MRS. EDDIE M. MULDROW

26 BY MR. KAY:

27 Q Mrs. Muldrow, can you think of any reason why  
28 you could not or should not sit as a juror in this case?

1 A No.

2 Q And is it your firm position that the People of  
3 the State of California are entitled to an equal fair trial  
4 with the defense in this case?

5 A Yes.

6 MR. KAY: Okay.

7 Now, ladies and gentlemen, we're at the point  
8 where I am going to ask questions of the panel as a whole.  
9 And remember that I would like to have all of you speak out  
10 so I can be sure that you're all answering the questions,  
11 because sometimes I can't catch the nods of the heads and,  
12 of course, Mrs. Briandi can't put down nods of heads on her  
13 record.

14 Do any of you have any sympathy for Mr. Davis  
15 because of the fact that he's a defendant in this case?

16 THE PROSPECTIVE JURORS: No.

17 MR. KAY: Okay.

18 Now, you understand in the guilt phase of the  
19 trial, remember I told you in the penalty phase that neither  
20 side has any burden. But in the guilt phase of the trial the  
21 prosecution, Mr. Manzella and myself, have the legal burden  
22 of proving a defendant guilty beyond a reasonable doubt.

23 Now, this, and only this is our burden. We don't  
24 have the burden of proving the defendant guilty beyond a  
25 shadow of a doubt, to an absolute certainty or beyond all  
26 reasonable doubt.

27 Now, realizing that we only have the burden of  
28 proving the defendant guilty beyond a reasonable doubt, would

1 any of you hold the prosecution to a higher standard?

2 In other words, require of us to prove Mr. Davis  
3 guilty beyond all doubt or to an absolute certainty? Would  
4 any of you hold us to that higher standard?

5 THE PROSPECTIVE JURORS: No.

6 MR. KAY: And you understand that the burden of proof  
7 which we have in this case, to prove the defendant guilty  
8 beyond a reasonable doubt, is the same burden of proof that  
9 there is in every criminal case, even if somebody runs a red  
10 light and he goes into court and he's prosecuted for running  
11 a red light. The prosecutor in that case still has to prove  
12 that he is guilty beyond a reasonable doubt.

13 And the same in a burglary case, and in a robbery  
14 case, in a rape case, in a child molestation case, the  
15 burden on the prosecution is the same in all criminal cases.

3b fls.

3-b-1

1 Now, due to the fact that this is a murder case,  
2 would any of you hold the prosecution to a higher standard?

3 THE PROSPECTIVE JURORS: No.

4 MR. KAY: Now, Mr. Denny has informed you that at this  
5 point Mr. Davis is presumed innocent.

6 Do any of you feel that that presumption of  
7 innocence is an impossible burden for the prosecution to  
8 overcome?

9 THE PROSPECTIVE JURORS: No.

10 MR. KAY: You realize that the presumption of innocence  
11 lasts only until Mr. Davis has been proven guilty beyond a  
12 reasonable doubt, once we've done that, he's no longer  
13 presumed innocent.

14 Now, this, again, is a personal question, and  
15 due to my position in this case I have to ask it, and I'm  
16 not trying to embarrass anybody, but again remember I do want  
17 you to be candid.

18 I'm going to ask a question and then I'm going to  
19 explain something about the question, and then I would like your  
20 candid answer.

21 Have any of you or have any of your close friends  
22 or relatives ever been charged with or accused of a crime?

23 Now, you notice I didn't say a felony. It can be a  
24 misdemeanor. The only thing I would exclude would be traffic  
25 offenses.

26 Okay, now, have any of you or have any of your  
27 close friends or relatives ever been accused or charged with a  
28 crime other than a traffic offense?

3b-2

1 THE PROSPECTIVE JURORS: No.

2 MR. KAY: Okay.

3 Have any of you other than Mrs. Sims ever served  
4 on a jury before, in the current panel?

5 I believe Mrs. Dunn had some Municipal Court  
6 experience in the early sixties?

7 JUROR NO. 12: Yes.

8 MR. KAY: What about anybody else?

9 JUROR NO. 11: One. It was in a civil case.

10 MR. KAY: That's right, you were on a civil case. Okay.

11 Have any of you ever studied law?

12 THE PROSPECTIVE JURORS: No.

13 MR. KAY: Would any of you give any less weight to the  
14 testimony of the witness due to the fact that that witness is a  
15 police officer?

16 THE PROSPECTIVE JURORS: No.

17 MR. KAY: In other words, to any degree, whatsoever,  
18 do any of you have any bias or prejudice against police  
19 officers to any degree, whatsoever?

20 THE PROSPECTIVE JURORS: No.

21 MR. KAY: Do any of you know any criminal defense  
22 attorneys?

23 THE PROSPECTIVE JURORS: No.

24 JUROR NO. 5: Yes.

25 MR. KAY: Yes, Mrs. Sims?

26 JUROR NO. 5: I do know Mr. Worrell. We're not close  
27 friends, but I see him occasionally.

28 JUROR NO. 4: Sir, I just remembered, I have a friend

3b-3

1 in the Attorney General's Office.

2 MR. KAY: Would that adversely --

3 JUROR NO. 4: No.

4 MR. KAY: -- influence you in this case?

5 JUROR NO. 4: No, it wouldn't.

6 MR. KAY: Was he a Deputy Attorney General or an  
7 investigator or what?

8 JUROR NO. 4: Well, he -- uh, he is a Deputy Attorney  
9 General. He never discusses cases with me and I never talk to  
10 him about anything.

11 MR. KAY: Is he just a friend or a relative?

12 JUROR NO. 4: Just a friend.

13 MR. KAY: Now, I'm going to mention the names of some  
14 attorneys and maybe this would jog somebody's memory.

15 And I'll ask you if you know any of these  
16 attorneys, if you've ever spoken to them, ever been associated  
17 with them, know them or have ever been represented by them?

18 And I'd ask all of you in the audience to listen  
19 to the names I'm going to read so I won't have to read them  
20 again.

21 MR. DENNY: Excuse me, your Honor. May we approach the  
22 bench before this?

23 THE COURT: Yes, you may.

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

27 MR. DENNY: Your Honor, I don't know who the names are  
28 but I just have sort of an intuition that they may be names of

1 attorneys connected with the Tate-LaBianca cases and, if so,  
2 I think that is somewhat prejudicial in asking that of these  
3 jurors at this time before this panel. All of the jurors have  
4 stated that they don't know any criminal defense attorneys  
5 and --

6 THE COURT: Is that your purpose, to ask about --

7 MR. KAY: Let me say this: --

8 THE COURT: -- the lawyers that were associated with the  
9 Tate-LaBianca case?

10 MR. KAY: No, I'm not going to mention who they are  
11 associated with. As a matter of fact, they're associated with  
12 other cases, also, been associated with the Manson Family cases.  
13 I'm not -- I'm just going to mention their names, not their  
14 associations. The reason I do this, I did the same thing when  
15 I voir dired the jury on the Tex Watson case and I had the  
16 jurors say that they didn't know any defense attorneys, and  
17 then when I read the names I had two jurors say, "Oh, yes, we  
18 do know one of these attorneys." They both didn't know the  
19 same attorney, but they knew attorneys on this list. And they  
20 had talked to them, but they didn't realize they were defense  
21 attorneys.

3c fol



3c-1

1 MR. DENNY: Your Honor, the list Mr. Kay has, which  
2 appears to be a rather complete list --

3 MR. KAY: That's it.

4 MR. DENNY: -- of all the lawyers that have had anything  
5 to do --

6 THE COURT: That looks like a list of the criminal  
7 court's Bar.

8 MR. DENNY: Well, it is rather extensive, but these are  
9 the lawyers that have had anything to do with the Tate-  
10 La Bianca case and the Manson defense, and I think it is  
11 highly prejudicial at this time. If he wants to go into  
12 that, he should do that on the publicity voir dire of the  
13 jurors individually. It is possible it might be brought up  
14 at that time. But certainly not at this point, in view of  
15 their answers.

16 THE COURT: I think you might ask generally whether any-  
17 one to his knowledge has had any contact with or knows any  
18 counsel who represented Mr. Manson or --

19 MR. KAY: Anybody in the Manson Family.

20 THE COURT: -- anybody in the Tate-La Bianca case.

21 We're going to have to talk to them about -- we  
22 have talked to them about the Tate-La Bianca case. We might  
23 as well bring them out --

24 MR. DENNY: We've talked to them individually during the  
25 publicity phase, where we've voir dired individually, but  
26 we've got a panel of -- I don't know how many sitting out  
27 there. I think at this time --

28 THE COURT: Do you think there is one of them on the

3c-2

1 panel who won't know about the Tate-La Bianca case?

2 MR. KAY: Your Honor, I would rather ask the question,  
3 then, if your Honor doesn't want me to read the list, of  
4 whether or not any of them know any attorneys who have been  
5 associated at all with the Manson Family, of representing  
6 any member of the Manson Family.

7 MR. DENNY: I don't object to that.

8 THE COURT: Okay.

9 MR. KAY: Fine.

4 fls.

4-1

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

4 MR. KAY: Well, it looks like you are going to be  
5 spared reading my list.

6 So, I'll ask all of you the general question, then:  
7 Have you ever known, spoken to, or ever been represented by  
8 any of the criminal attorneys who have been involved with  
9 representing members of the Manson Family in criminal cases?

10 THE PROSPECTIVE JURORS: No.

11 MR. DENNY: I hope he's referring to criminal defense  
12 attorneys, rather than criminal attorneys, your Honor.

13 THE COURT: I think he meant that.

14 MR. KAY: Yes.

15 MR. DENNY: I hope so.

16 MR. KAY: So, do any of you know any private detectives?

17 THE PROSPECTIVE JURORS: No.

18 MR. KAY: Now, as Mr. Denny has stated, in questioning  
19 some of you, in criminal cases we have both circumstantial and  
20 direct evidence that may be introduced to prove a defendant's  
21 guilt or innocence.

22 Before I ask you questions about this, I'll give you  
23 a little brief example, so that, hopefully, you can understand  
24 the difference between direct and circumstantial evidence.  
25 And then I'll ask you the questions.

26 Now, say, for example, that you wanted to prove  
27 that at some time in my life, I held a pen in my hand  
28 (indicating). Okay. Now, direct evidence would be used that

4-2

1 I am holding a pen in my hand at this time. That's something  
2 you see with your own eyes -- kind of eye-witness -- so you can  
3 prove it that way.

4 Now, say, for example, I am standing like this,  
5 and you don't see that I have a pen in my hand. Now, how are  
6 you going to prove it? Well, you can prove this by  
7 circumstantial evidence.

8 Say that you got a piece of paper on which I  
9 had -- you had seen me write some things, but I had written  
10 them with a pencil, but you saw that I had written these --  
11 or admitted that I wrote on this piece of paper with a pencil.

12 Okay. But that's not the pen, so you haven't  
13 proven your case, that I held a pen in my hand at sometime  
14 in my life.

15 Then, say that you came across a piece of paper  
16 that had writing on it in ink, and you said, "Well, gee, that  
17 looks kind of like that paper with the writing on it in pencil."  
18 So then, you take it to a handwriting expert, and he compares  
19 it, and he says that, "In my opinion, the person that wrote  
20 on this paper with pencil was the same person that wrote on  
21 this paper with the pen."

22 That's circumstantial evidence.

23 Or, say, for example that you didn't have the  
24 piece of paper with the writing with the pencil on it, but  
25 say that I just told you, "At some time in my life, I have had  
26 a pen in my hand."

27 That's -- I confess to it. Confession is  
28 circumstantial evidence.

4-3

1           So, do all of you feel that you kind of have the  
2 idea of the difference between direct and circumstantial  
3 evidence?

4           THE PROSPECTIVE JURORS: Yes.

5           MR. KAY: Now, his Honor, Judge Choate, will instruct  
6 you at the end of this case that in the eyes of the law,  
7 direct and circumstantial evidence are to be treated equally.

8           In other words, circumstantial evidence is not  
9 favored over direct evidence, and vice versa.

10           Would you all follow that instruction of Judge  
11 Choate?

12           THE PROSPECTIVE JURORS: Yes.

13           MR. KAY: Now, understanding that a person can be  
14 convicted of first degree murder, based on circumstantial  
15 evidence alone, do any of you feel that this is unfair, and  
16 that the law in this regard should be changed?

17           THE PROSPECTIVE JURORS: No.

18           MR. KAY: You all feel that that's fair?

19           THE PROSPECTIVE JURORS: Yes.

20           MR. KAY: Now, in this trial, ladies and gentlemen,  
21 the prosecution will not offer eyewitness testimony to either  
22 one of the murders, either the murder of Gary Hinman or the  
23 murder of Donald Jerome Shea.

24           Do any of you feel that, because the prosecution  
25 will not offer this direct evidence, do any of you feel that  
26 you would not convict a defendant without eyewitness testimony?

27           THE PROSPECTIVE JURORS: No.  
28

4a-1

1 MR. KAY: Is that clear in all of your minds?

2 I notice that Mrs. Sims didn't answer.

3 JUROR NO. 5: Yes, I did answer.

4 MR. KAY: Oh, you did? I missed that. It's hard to  
5 follow 12 people all at the same time.

6 Would any of you require any particular type  
7 of evidence, require the prosecution to put on any particular  
8 type of evidence, before you'd convict a defendant?

9 MR. DENNY: Well, your Honor, I think that's asking  
10 them to prejudge the evidence. I would object to that.

11 THE COURT: The objection is sustained.

12 MR. KAY: Now, under our law, a murder committed in  
13 the course of a robbery is automatically murder of the first  
14 degree. It's known as the felony murder rule.

15 In other words, the discretion is kind of taken  
16 away from the jurors. They say: "If you find that the  
17 defendant had the specific intent to commit a robbery, and  
18 he did commit a robbery, and there was a murder committed  
19 in the course of that robbery, it's automatically murder of  
20 the first degree."

21 Do any of you feel that this is unfair?

22 THE PROSPECTIVE JURORS: No.

23 MR. KAY: And would you follow the Judge's instructions  
24 in this regard?

25 THE PROSPECTIVE JURORS: Yes.

26 MR. KAY: Now, I believe that the evidence will show  
27 in this case that in the Hinman murder, that the body of  
28 Gary Hinman was recovered; but again, the prosecution alleges

4a-2

1 that Donald Jerome Shea was murdered by the defendant and  
2 others, and the evidence will show that Mr. Shea's body was  
3 not recovered.

4 Now, in this regard, the prosecution is required  
5 by -- is not required by law to produce the body of the  
6 victim in a murder case. In this regard, we are required  
7 only to prove that there was a death -- in other words, that  
8 the victim died -- and that the death was caused by a criminal  
9 agency.

10 For example, that the victim was murdered. Do  
11 any of you quarrel with that law?

12 THE PROSPECTIVE JURORS: No.

13 MR. KAY: And would you all promise to follow the  
14 Court's instructions in this regard?

15 THE PROSPECTIVE JURORS: Yes.

16 MR. KAY: Now, when the body is found, there is direct  
17 evidence of the death. In other words, the body has been  
18 found. If the body has not been found, the prosecution must  
19 put on circumstantial evidence of the death of the victim.

20 Do you quarrel with the law that permits the death  
21 of a victim of a murder case to be proven by circumstantial  
22 evidence? Do any of you quarrel with that law?

23 THE PROSPECTIVE JURORS: No.

24 MR. KAY: And I take it again, you would -- would you  
25 all promise to follow the Judge's instructions in this regard?

26 PROSPECTIVE JURORS: Yes.

27 MR. KAY: Does it offend anyone's sense of justice or  
28 fair play that a person can be convicted of first degree

1 murder, where the death of the victim is proved by circumstan-  
2 tial evidence?

3 THE PROSPECTIVE JURORS: No.

4 MR. KAY: Do any of you think that that's wrong, that  
5 a person can be convicted of first degree murder, where, for  
6 example, the prosecution has proven the death of the victim  
7 by circumstantial evidence, although his body has been found?  
8 Do any of you quarrel with that law?

9 THE PROSPECTIVE JURORS: No.

10 MR. KAY: And would you all promise again to follow  
11 the Judge's instructions in this regard?

12 THE PROSPECTIVE JURORS: Yes.

13 MR. KAY: You understand that our law is not such that  
14 it would reward a person for being clever enough to hide the  
15 body of the victim, the murder victim; you understand that?

16 MR. DENNY: Well, I'll object to that. That's not a  
17 question. That's a statement.

18 THE COURT: Sustained. It is a statement, and it's  
19 argumentative.

20 MR. KAY: Would you all --

21 MR. DENNY: Your Honor, excuse me. But I will move that  
22 the jury be instructed specifically to disregard that.

23 THE COURT: All right. The Court strikes the question,  
24 the last question put by Mr. Kay -- or, Mr. Kay's last  
25 statement.

26 If the Court orders anything stricken, ladies and  
27 gentlemen -- and I'm speaking to those of you in the box and  
28 beyond the rail -- you are to treat it as though you'd never



1 heard it.

2 Go ahead, Mr. Kay.

3 MR. KAY: Okay.

4 Mrs. Izaguirre, we'll start with you again.

5  
6 MRS. ELVERA IZAGUIRRE.

7 BY MR. KAY:

8 Q Mrs. Izaguirre, if you believed that Mr. Davis  
9 was guilty of first degree murder, beyond a reasonable  
10 doubt, would you vote to convict him of that crime, even  
11 though no -- the body of the murder victim had not been found?

12 A Yes.

13 Q And would you automatically vote against the  
14 imposition of the death penalty in a murder case where the  
15 prosecution was unable to find the body of the murder victim?

16 A No.

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1 MR. KAY: Would you pass the microphone on to Mr. Craven?

2

3

JONATHAN CRAVEN

4

BY MR. KAY:

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7

8

Q Mr. Craven, if you believe that Mr. Davis was guilty of first degree murder, beyond a reasonable doubt, would you vote to convict him of that crime, even if the body of the murder victim was not found?

9

A Yes.

10

11

12

Q And would you automatically vote against the imposition of the death penalty in a murder case where the body of the murder victim had not been located?

13

A No.

14

15

MR. KAY: Thank you. Will you please pass the microphone on to Mr. Lear?

16

17

RAYMOND LEAR

18

BY MR. KAY:

19

20

21

22

Q Mr. Lear, if you believed that Mr. Davis was guilty of the crime of murder, first degree murder, beyond a reasonable doubt, would you vote to convict him in a case, even if the body of the murder victim had not been found?

23

A Yes, I would.

24

25

26

Q And would you automatically vote against the imposition of the death penalty in a murder case where the body of the murder victim had not been found?

27

A No, I would not.

28

MR. KAY: Thank you. Would you please pass the

4b-2

1 microphone to Mrs. Dubois?

2

3

LOLETA M. DuBOIS

4

BY MR. KAY:

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8

Q Mrs. Dubois, if you believed that Mr. Davis was guilty of first degree murder -- and of course, you understand, with all the jurors, that I'm talking about Count III, the murder of Donald Jerome Shea?

9

A Yes.

10

11

12

13

14

Q If you believe that he was guilty of that murder beyond a reasonable doubt -- and this is, of course, the only burden that the prosecution has -- would you vote to convict him of that crime, even though the body of the murder victim had not been found?

15

A Yes.

16

17

18

Q And would you automatically vote against the imposition of the death penalty, in a murder case where the body of a victim had not been found?

19

A No.

20

21

MR. KAY: Thank you. Would you please pass the microphone to Mrs. Sims.

22

23

AUDREY SIMS

24

BY MR. KAY:

25

26

27

28

Q Mrs. Sims, if you believed that Mr. Davis was guilty of first degree murder, beyond a reasonable doubt, in Count III -- the Shea murder -- would you vote to convict him of that crime, even though Mr. Shea's body had not been

1 found?

2 A Yes.

3 Q And would you automatically vote against the  
4 imposition of the death penalty on that Count, because of the  
5 fact that Mr. Shea's body had not been found?

6 A No.

7 MR. KAY: Thank you. Would you please pass the  
8 microphone to Mr. Cano?

9 PROSPECTIVE JUROR NO. 6: Thank you.

10

11 YGNACIO CANO

12 BY MR. KAY:

13 Q Mr. Cano, if you believed that the prosecution had  
14 proven that Mr. Davis was guilty of the murder of Mr. Shea,  
15 beyond a reasonable doubt, would you vote to convict him of  
16 that murder, even though Mr. Shea's body has not been found?

17 A Yes.

18 Q And would you automatically vote against the  
19 imposition of the death penalty on that Count, on the Shea  
20 murder, because of the fact that Mr. Shea's body had not been  
21 found?

22 A No.

23 MR. KAY: Thank you.

24 Would you please pass the microphone to Mrs. Dunn?

25

26 MARY G. DUNN

27 BY MR. KAY:

28 Q Mrs. Dunn, on the Shea murder, again, which we

4b-4

1 are talking about, if you believed that Mr. Davis was guilty of  
2 the Shea murder beyond a reasonable doubt -- which, again, is  
3 the prosecution's only burden in this case, the only legal  
4 burden -- would you vote to convict him of that crime, even  
5 though Mr. Shea's body had not been found?

6 A Yes.

7 Q And would you automatically vote against the  
8 imposition of the death penalty on that Count, because of the  
9 fact that Mr. Shea's body had not been found?

10 A No.

11 MR. KAY: Thank you. Would you please pass the  
12 microphone to Mrs. Melendez?

13

14 RACHEL MELENDEZ

15 BY MR. KAY:

16 Q Mrs. Melendez, if you believed, on the Count III,  
17 on the Shea murder, that Mr. Davis was guilty of that murder  
18 beyond a reasonable doubt, would you vote to convict him of  
19 that murder, even though Mr. Shea's body had not been found?

20 A Yes.

21 Q And would you automatically vote against the  
22 imposition of the death penalty on that Count -- again, we  
23 are talking only now about Count III -- because of the fact  
24 that Mr. Shea's body had not been found?

25 A No.

26 MR. KAY: Thank you. Would you please pass the  
27 microphone to Mr. DeLoach?

28

TOMMY DeLOACH

-1b-5

1 BY MR. KAY:

2 Q Mr. DeLoach, if you believe that the prosecution  
3 proved Mr. Davis guilty beyond a reasonable doubt of the murder  
4 of Donald Jerome Shea, would you vote to convict him of that  
5 murder, even though Mr. Shea's body had not been found?

6 A Yes.

7 Q And would you automatically vote against the  
8 imposition of the death penalty in a murder -- well, in  
9 Count III, the Shea murder -- just because of the fact that  
10 Mr. Shea's body has not been found?

11 A No.

12 MR. KAY: Thank you. Would you please pass the  
13 microphone to Mrs. Fatherree?

14

15 YVONNE FATHERREE

16 BY MR. KAY:

17 Q Mrs. Fatherree, if you believed that the  
18 prosecution, on Count III, on the murder of Donald Jerome  
19 Shea, proved Mr. Davis was guilty of that murder beyond a  
20 reasonable doubt, would you vote to convict him of that murder,  
21 even though Mr. Shea's body has not been found?

22 A Yes.

23 Q And would you automatically vote against the  
24 imposition of death penalty on Count III, because of the fact  
25 that Mr. Shea's body had not been found?

26 A No.

27 MR. KAY: Thank you. Would you please pass the micro-  
28 phone to Miss Bourgeois?

MARIE A. BOURGEOIS

BY MR. KAY:

Q Miss Bourgeois, if you believed that the prosecution demonstrated in the evidence produced here in the courtroom that Mr. Davis was guilty of the murder of Mr. Shea, beyond a reasonable doubt, would you vote to convict him of that murder, even though Mr. Shea's body had not been found?

A Yes.

5-1

1 Q And would you automatically vote against the  
2 imposition of the death penalty on that particular murder  
3 because of the fact that Mr. Shea's body had not been found?

4 A No.

5 MR. KAY: Thank you.

6 Would you please pass the microphone on to  
7 Mrs. Muldrow.

8  
9 MRS. EDDIE M. MULDROW

10 BY MR. KAY:

11 Q Mrs. Muldrow, if you believe that by the evidence  
12 in this courtroom it was demonstrated to you that Mr. Davis  
13 was guilty of the murder of Mr. Shea beyond a reasonable  
14 doubt, would you vote to convict him of that crime even  
15 though Mr. Shea's body has not been found?

16 A Yes.

17 Q Would you automatically vote against the imposi-  
18 tion of the death penalty on that count because of the fact  
19 that Mr. Shea's body had not been found?

20 A No.

21 MR. KAY: Thank you. That's -- take this back.

22 Now, Mr. Denny has asked some of you questions  
23 about if you got into the jury room and it was 11 to 1,  
24 11 jurors against your position, would you not change your  
25 position if you believed in it. I certainly concur in that.  
26 If you believed in your position, nobody wants you to change  
27 it.

28 But will you all promise that you'll discuss the



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1 evidence and the case with your fellow jurors and that you'll  
2 all be reasonable in doing so?

3 Will you promise me that?

4 THE PROSPECTIVE JURORS: Yes.

5 MR. KAY: Okay.

6 Sometimes a juror might go into the jury room,  
7 and as soon as they start deliberations make a comment about  
8 the case, "Well, I think thus and so," and then they'll feel  
9 since they've made their position known, they wouldn't want  
10 to change their position. That it might be losing face and  
11 they'll be stubborn about it.

12 Will all of you promise that you won't do this?

13 THE PROSPECTIVE JURORS: Yes.

14 MR. KAY: Now, can any of you, other than Mr. DeLoach,  
15 who I've already talked to you on this matter, -- can any  
16 of you think of any reason why you could not give the People  
17 of the State of California or the defense a fair trial in this  
18 case?

19 THE PROSPECTIVE JURORS: No.

20 MR. KAY: Thank you very much, ladies and gentlemen.

21 I pass for cause, your Honor.

22 THE COURT: The first peremptory challenge is with the  
23 People.

24 MR. KAY: Yes.

25 MR. DENNY: Your Honor, I wonder if the Court might take  
26 the opportunity to question Mr. DeLoach, in view of his  
27 statements to Mr. Kay?

28 THE COURT: The Court sees no reason to question Mr.

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1 DeLoach. The simple fact that he doesn't wish to serve on  
2 the jury doesn't, in the Court's opinion, disqualify him.  
3 If he --

4 MR. DENNY: May I inquire, then, your Honor?

5 THE COURT: If either of you wish to inquire, you may.  
6

7 MR. TOMMY DeLOACH

8 BY MR. DENNY:

9 Q Mr. DeLoach, it is important, obviously, for us to  
10 have your feelings in this respect and, certainly, they will  
11 be respected as far as counsel will be concerned. But this  
12 is going to be a long trial. It is going to be an arduous  
13 trial. Any murder case is.

14 Any murder case of this complexity and length, it  
15 is going to be doubly so. And is it your feeling solely from  
16 a physical standpoint that you don't think physically you  
17 will be able to put up with this or is there some other thing  
18 that makes you state to Mr. Kay that you just don't feel you  
19 can sit through it?

20 A Yes, it is physical. Physically, you know.

21 Q In what respect, sir?

22 A I just don't like this position I'm going to be in  
23 for the next three or four months, you know, maybe.

24 Q Well, let's hope it is not three or four months.  
25 None of us posited that long a period. But it could be two  
26 or three months certainly, two and a half months, three at  
27 the most, I would expect, and is it just that because of the  
28 nature of your work, whatever, you're just not used to assuming

5-4

1 a position --

2 A That's what it is.

3 Q -- a position for this long?

4 And do you feel, sir, under the circumstances  
5 you would be so uncomfortable in that position that you could  
6 not give your full attention to the evidence as it comes from  
7 the witness stand there by the Judge?

8 A Yes.

9 MR. DENNY: Well, your Honor, I would, then, challenge  
10 the juror at this point. I'm not sure under which section.

11 THE COURT: Both counsel stipulate?

12 MR. KAY: Yes, we'll stipulate with defense counsel.

13 MR. DENNY: So stipulated.

14 THE COURT: Mr. DeLoach, thank you. The Court excuses  
15 you.

16 MR. DENNY: Thank you, sir.

17 MR. KAY: Thank you, Mr. DeLoach. Thank you for being  
18 candid.

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1 THE COURT: All right, ladies and gentlemen, let's  
2 take one name from the -- about six remain; is there about  
3 six of the other panel?

4 THE CLERK: Yes.

5 Miss Delilah Frazier, D-e-l-i-l-a-h, last name  
6 F-r-a-z-i-e-r.

8 VOIR DIRE EXAMINATION OF

9 DELILAH FRAZIER

10 BY THE COURT:

11 Q Miss Frazier, have you been present since Monday  
12 during all of the proceedings except when you were excluded by  
13 the Court?

14 A Yes.

15 Q And you heard the Court's explanation of the nature  
16 of this case, heard the Court's reading of the indictment, did  
17 you not?

18 A Yes.

19 Q And to those questions of a general nature that I  
20 put to the prospective jurors, would your answers be any  
21 different than the majority have responded to those questions?

22 A No.

23 Q Can you think of any reason why you couldn't be  
24 fair and impartial in this case?

25 A No.

26 Q Or why you should not sit as a juror in this case?

27 A No, I can't.

28 Q What has been your jury experience?

1 A None.

2 Q Is this your first case of any type?

3 A Yes.

4 Q And are you employed?

5 A Yes. I work for the County as a cashier.

6 Q How long have you been employed by the County?

7 A For two years.

8 Q And you work as a cashier in what department?

9 A Department of Public Social Services.

10 Q It is Miss Frazier?

11 A Yes.

12 Q In what general area do you reside?

13 A West L. A.

14 Q Are you related to or a friend of any law  
15 enforcement officer?

16 A No.

17 Q You've heard the Court's explanation of the law  
18 concerning the penalty phase, have you not?

19 A Yes.

20 Q Do you believe you fully understand it?

21 A Yes.

22 Q Do you realize, then, that the question of whether  
23 life imprisonment or death will be imposed upon somebody who is  
24 convicted of murder of the first degree lies with the jury and  
25 it is a matter for the jury's discretion?

26 A Yes.

27 Q Then, realizing that, do you have such feelings  
28 concerning the death penalty that you would automatically refuse

1 to impose it in any case?

2 A No, I don't.

3 Q Would you automatically, upon a conviction of  
4 murder in the first degree impose it without looking at or  
5 regarding the evidence?

6 A No.

7 Q Or are your feelings such concerning it that you  
8 would be unable to be fair and impartial in determining the  
9 question of guilt or innocence in the first phase?

10 A No.

11 THE COURT: All right, we'll excuse everyone until  
12 2:00 o'clock. Remember the admonition that I have heretofore  
13 given you, that you are not to converse amongst yourselves,  
14 nor with anyone else, nor permit anyone to converse with you  
15 on any subject connected with this matter until it is finally  
16 submitted to you, should you be chosen as a juror.

17 When you return, if you return a little early so  
18 the bailiff can call your names to determine if you are  
19 present, no one is to absent himself without permission of the  
20 Court.

21 Return -- let's see, do we have a courtroom  
22 available?

23 THE BAILIFF: No, sir, the hallway.

24 THE COURT: You'll have to return to the hallway, that  
25 lovely hallway. I'm sorry, we don't have another place for  
26 you, but with the exception of Miss Frazier, whom I would  
27 like to be in her seat -- I would like to have you in your  
28 seat at 2:00 o'clock in the jury box where you are. The

1 others of you should be outside, then, at 2:00 o'clock.

2 All right, you are excused, until then.

3 (Whereupon, 12:04 P. M. the noon recess was taken.)

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1 LOS ANGELES, CALIFORNIA, FRIDAY, DECEMBER 3, 1971 2:05 P.M.

2 - - - -

3  
4 THE COURT: Let the record show the defendant is present  
5 with his counsel, and Miss Frazier is in the box.

6 Is that right?

7 PROSPECTIVE JUROR NO. 10: Yes.

8  
9 VOIR DIRE EXAMINATION OF  
10 DELILAH FRAZIER

11 BY THE COURT:

12 Q Miss Frazier, we want to find out from you what  
13 you may have heard, seen or read concerning this case before  
14 Monday, when I first told you about it, when I told you --  
15 read the indictment to you and told you something of the case.

16 Have you ever heard the name -- have you ever  
17 heard about the case before?

18 A Yes, I have.

19 Q In what connection?

20 A I just read about Charles Manson.

21 Q Charles Manson?

22 MR. DENNY: Excuse me, your Honor. Could we get the  
23 microphone for the juror?

24 Q BY THE COURT: Had you heard about these charges  
25 in this indictment before?

26 A No.

27 Q When was the last time you heard, saw or read  
28 anything about Charles Manson? How long ago?



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1 A I think about two weeks ago.

2 Q About two weeks ago? Do you remember what you  
3 read?

4 A No, I don't.

5 Q Do you recall whether it was a court appearance  
6 involving Mr. Manson, or something of that nature, that you  
7 read about two weeks ago?

8 A It had something to do with court, but --

9 Q Do you know whether Mr. Manson was charged with  
10 an offense -- charged with some crime --

11 A Yes.

12 Q -- at that time, or --

13 A I don't remember exactly what it was.

14 Q You cannot recall what it was?

15 A No.

16 Q Have you ever heard the name Shorty Shea before  
17 I told you about it, then?

18 A Yes.

19 Q In what connection?

20 A I read it in the paper.

21 Q And what do you know about Shorty Shea from what  
22 you read in the paper?

23 A I don't recall exactly. I just remember seeing  
24 his name.

25 Q You recall now that what I read in the indictment  
26 was that it is alleged that he is a victim of a murder, in the  
27 third count, --

28 A Yes.

6-3

1 Q -- the third count in the indictment.

2 Now, had you ever read anything about a man  
3 named Shorty Shea, "Stuntman Shorty Shea"?

4 A Well, I remember reading about him, but I don't  
5 recall just exactly what --

6 Q And heard it over the radio or television?

7 A Yeah.

8 Q And you cannot recall what it was about Mr. Shea  
9 at this time?

10 A No.

11 Q Before you came to this courtroom -- or even at  
12 this moment -- do you have any idea that Mr. Shea's deceased?

13 A No..

14 Q How about the name Gary Hinman?

15 A No, I don't remember reading anything about him.

16 Q Now, you stated that you did read about Charles  
17 Manson. Do you know the name Manson Family, or the phrase  
18 Manson Family?

19 A Yes.

20 Q What does that mean to you?

21 A Well, a group of people that killed Sharon Tate  
22 or something -- or was accused of killing Sharon Tate, or --

23 Q Well, were most of the things you heard or saw  
24 or read about the time of the Tate-La Bianca case, when Mr.  
25 Manson was being tried with other people in that case? For  
26 certain murders?

27 A Yeah.

28 Q Would somebody who was a member of the Manson Family,

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as a result of what you've heard, seen or read, suffer any prejudice in your mind?

In other words, would you be prejudiced against that person, so that you would be unable to give that person a fair trial?

A No, sir.

Q If I were to tell you that you were to set aside -- if I were to instruct you that you were to set aside anything that you may have heard, seen or read about Mr. Manson, about Mr. Davis -- if you should remember anything concerning Mr. Davis or this case -- if I were to tell you that you were to set anything that you may have heard, seen or read, would you be able to do that, and decide this case only on the evidence produced in the case, and the Court's instructions of law?

A Yes, sir.

7 fls.

7-1

1 Q Are you sure about your capability of doing that?

2 A Yes.

3 Q Will you do that?

4 A Yes, I will.

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

6 A Yes.

7 THE COURT: Mr. Denny.

8 MR. DENNY: Yes, thank you.

9

10 DELILAH FRAZIER

11 BY MR. DENNY:

12 Q Miss Frazier, do you subscribe to any newspaper  
13 yourself?

14 A No, I don't.

15 Q Or do you live with a family that does?

16 A No.

17 Q Do you -- what is the main source of your news,  
18 news of the day?

19 A Mostly TV, the news on TV.

20 Q And do you have a regular news program that you  
21 watch daily?

22 A No, I don't.

23 Q Well, do you regularly listen to the radio at  
24 all at any time during the day?

25 A Maybe in the morning. No news station, you know.

26 Q Listen to music station, generally?

27 A Yes, uh-huh.

28 Q Get your news in little dabs and dabs?

1 A Right.

2 Q That come over the music station?

3 A Right.

4 Q And I take it you don't follow crime cases as  
5 they're reported, particularly, do you?

6 A No, I don't.

7 Q I take it, however, that at the time of this  
8 murder of Sharon Tate and the others, this was some topic  
9 of conversation among you and your friends?

10 A Yes.

11 Q And you work at the Department of Public Social  
12 Services?

13 A Yes.

14 Q Here for the County.

15 Located where?

16 A On Adams and Grand.

17 Q And in the course of discussions after Mr. Manson  
18 had been arrested, and there was a good deal of publicity  
19 at that time through the papers and TV and radio, did you  
20 happen to hear, see or read anything about Mr. Manson's  
21 arrest and those of some other members of the so-called  
22 Manson Family?

23 A I read something about it. I don't recall what  
24 it was.

25 Q Did you ever read, hear or see anything about any  
26 philosophy that Mr. Manson may have had concerning black  
27 people or black and white people?

28 A No.

1 Q Ever talk to anybody about it?

2 A No.

3 Q And when a trial that's been called the Tate-  
4 La Bianca trial went to trial, do you remember that at all?

5 A No, I don't.

6 Q Do you remember whether Mr. Manson was found  
7 guilty or not?

8 A I remember, I think he was sentenced to death on  
9 one charge, found guilty.

10 Q And do you recall whether he was tried with  
11 anyone at that time?

12 A No, I don't.

13 Q Do you remember reading anything about some  
14 girls who were supposed to have been involved in this Tate  
15 and La Bianca murders?

16 A Yes.

17 Q And do you remember reading anything about the  
18 fact that they were tried along with him?

19 A No, I don't.

20 Q All right.

21 And do you have some recollection of hearing  
22 about Mr. Manson in connection with some court proceedings  
23 within about the last couple of weeks; is that right?

24 A Yes.

25 Q Do you recall whether it was something you read  
26 or something you saw on TV or something you heard on the  
27 radio?

28 A I think I saw it on TV.

1 Q And do you know was it in connection with his  
2 being tried for some other charge?

3 A I don't remember what it was, really.

4 Q You didn't pay any particular attention to it?

5 A No.

6 Q All right.

7 And I think you said as far as what the term  
8 Manson Family means to you, it is a group or people that  
9 killed Sharon Tate?

10 A Were accused of killing them.

11 Q I was just about to say they were accused of  
12 killing her.

13 All right, you've been sitting in the courtroom  
14 too long.

15 Well, if I told you that it is a fact that Mr.  
16 Manson and some members of the so-called Manson Family were  
17 found guilty, then, your statement would be correct that some  
18 members of the Family, at least, were found guilty of killing  
19 Sharon Tate and others; do you understand that?

20 A Yes.

21 Q All right.

22 Now, do you understand that this so-called Manson  
23 Family -- there were a lot of people involved in it, a lot  
24 of people who were connected with it or had something to do  
25 with it at one time or another; do you understand that?

26 A Yes, I do.

27 Q Do you have any feeling now, again, because of  
28 your answer on this, that the Manson Family in your mind is

1 the group that killed or even was accused of killing Sharon  
2 Tate?

3 Do you have in your mind now that everybody who  
4 had anything to do with Charlie Manson or who might be said to  
5 have been a member of the Manson Family, as it's been called,  
6 because of the connection of the Manson Family with the  
7 death of Sharon Tate and others, must, therefore, be guilty of  
8 any crimes charged against them?

9 A No, sir.

10 Q Or was probably guilty?

11 A No, sir.

12 Q Or is likely to be guilty?

13 A No.

14 Q So, at this point in your mind, the mere fact  
15 that there may be some connection between, say, this  
16 defendant and Charles Manson, doesn't make you feel auto-  
17 matically, to use that funny little word, this defendant is  
18 probably guilty of the crimes charged against him?

19 A No, sir.

20 Q All right.

21 And does the Spahn Ranch mean anything to you?

22 A No.

23 Q Did you ever read anything about Shorty Shea  
24 and the Spahn Ranch, people looking for Shorty Shea at the  
25 Spahn Ranch?

26 A No. I heard the name Shorty Shea, but I didn't  
27 remember -- know anything about him.

28 Q I take it, then, from the answers to all of these



1 questions that no matter what small things you may have heard  
2 or you may remember about anything connected with Charlie  
3 Manson or the Manson Family or anything, that that's not  
4 going to have any bearing, whatsoever, if you are seated as  
5 a juror in this case on your determination of the guilt or  
6 innocence of Mr. Davis for the crimes that he's charged --  
7 and at this point only charged with, having committed?

8 A That's right.

9 MR. DENNY: Your Honor, at this point are we simply to  
10 question on the publicity issue, as the Court --

11 THE COURT: Have we talked about the penalty phase  
12 with her?

13 You may, if you wish.

14 MR. DENNY: I don't believe we had.

15 THE COURT: Go ahead.

16 Or I'll ask these standard questions. I haven't  
17 asked her --

18 MR. DENNY: I think you did, your Honor.

19 THE COURT: Did I ask you about the death penalty?  
20 I think I did.

21 MR. DENNY: Whether she would automatically impose  
22 or refuse to impose --

23 JUROR NO. 10: Yes, you did ask me.

24 THE COURT: All right, you may question her on that, if  
25 you wish.

26 Q BY MR. DENNY: Now, you were present in court  
27 during the time I questioned some of the jurors concerning  
28 the death penalty, weren't you?

A Yes.

8-1

1 Q And you were present in court when Mr. Kay  
2 questioned all of the jurors this morning --

3 A Yes.

4 Q -- on it? And -- so the questions I ask are going  
5 to be essentially the same; that is, whether you had done any  
6 kind of reading on the subject of the death penalty --

7 A No, I hadn't.

8 Q -- before? Or discussed it in bull sessions or  
9 rap sessions with people at all?

10 A No.

11 Q And since becoming a potential member of this jury,  
12 as of Monday, have you thought a good deal about it?

13 A I have thought about it.

14 Q And having thought about it, do you have any  
15 feelings -- particularly insofar as the type of case, the type  
16 of murder case, particularly -- in which you would feel that if  
17 a person committed that kind of murder, you would feel  
18 compelled to give that person the death penalty?

19 A No, sir.

20 Q Is there any type of case, any type of murder,  
21 that you could think of as you sit there, which, in your mind,  
22 is such an offensive act, such an offensive type of murder,  
23 that once having found a person guilty of that type of murder,  
24 you would say, "That person should get the death penalty"?

25 A No, sir.

26 Q In other words, as far as you are concerned, no  
27 matter how heinous the offense might be, you would want to  
28 weigh all of the evidence, all of the facts, before you would

8-2

1 say, "Well, this defendant, even though he may be accused of  
2 this crime, should either get life or death"?

3 A Right.

4 Q Now, conversely, do you feel that there's anything  
5 wrong at all -- do you think that you would be in any way  
6 violative of your duty as a juror in returning a sentence of  
7 life imprisonment --

8 A No, I don't.

9 Q This is assuming, of course, you even get to that  
10 point.

11 But if you felt, in your good conscience, that  
12 this certainly was not a death penalty case, would you have  
13 any reluctance, any hesitancy at all, in saying, "I certainly  
14 think this is no more than life imprisonment, and that's all  
15 I'd vote for, and this is all I will vote for"?

16 A Yes, sir.

17 Q And you feel you would be doing your duty as a  
18 juror under those circumstances?

19 A Yes.

20 Q Now, again, do you have any feeling, as you sit  
21 there, that it takes any more courage, any more strength of  
22 character to bring in a verdict of life imprisonment than it  
23 does to bring in a verdict of death?

24 A No, sir.

25 Q Is there anything at all, as you sit there,  
26 considering specifically these two aspects that I have been  
27 questioning you on -- namely, what you've seen, heard or read  
28 about the case, or your feelings about what they call capital

8-3

1 punishment -- execution, killing a person by lethal gas here  
2 in California -- is there anything at all about those areas  
3 that makes you feel that you would not want to sit in judg-  
4 ment on this case?

5 A No, sir.

6 MR. DENNY: All right. Fine. I'll pass, your Honor, at  
7 this time on those subjects.

8 MR. KAY: Well, are we going to do the general voir  
9 dire of this juror, too, before the panel comes in?  
10 Because --

11 THE COURT: Well, perhaps -- if you have any questions  
12 on the death penalty, why don't you do that? In view of the  
13 way I've started?

14 And then we'll take the -- put the balance of  
15 the panel in the box, and then each of you can question  
16 generally.

17 MR. KAY: Okay.

18 THE COURT: But since I've started this way, let's  
19 proceed in that way.

20 MR. KAY: Okay.

21  
22 VOIR DIRE EXAMINATION

23 BY MR. KAY:

24 Q Now, Miss Frazier, you were in the audience  
25 this morning when I asked the other jurors questions concern-  
26 ing the death penalty, were you not?

27 A Yes.

28 Q Now, I'm going to ask you some of those same

1 questions.

2 Before you came into this courtroom on Monday,  
3 did you think about the death penalty before?

4 A No.

5 Q You never thought about it before at all?

6 A No.

7 Q And I take it that since you came into the  
8 courtroom on Monday, that you have thought about it?

9 A Yes, I have.

10 Q And have you determined in your own mind whether  
11 or not you can impose the death penalty, if you feel the  
12 evidence warrants it in this case?

13 A Yes, I could.

14 Q You feel that you could?

15 A Yes.

16 Q There's no doubt about that at all in your mind?

17 A No, sir.

18 Q Now, do you feel that you could personally  
19 participate in a verdict of death? That is, when Mrs. Holt --  
20 when you came in with your verdict, and Mrs. Holt asked you,  
21 along with the other members of the jury, "Is this your  
22 verdict?" -- and she would do that juror by juror -- you under-  
23 stand, as I explained to the other jurors, that all twelve  
24 jurors, in order to have the death penalty, must participate in  
25 that verdict, and they must all vote for death.

26 But do you feel that you have the courage to tell  
27 Mr. Denny and Mr. Davis, when Mrs. Holt asks you about your  
28 verdict, that that is your verdict?

29 A Yes.

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1 Q Would you consider at all finding Mr. Davis guilty  
2 of less than first degree murder, to avoid the responsibility  
3 of determining whether he should get life imprisonment or die  
4 in the gas chamber?

5 A No.

6 Q And you understand that the issue of capital  
7 punishment is up to the sole discretion of the jurors? The  
8 attorneys aren't going to help you -- Mr. Manzella, myself and  
9 Mr. Denny -- and his Honor, Judge Choate, is not going to help  
10 you.

11 It's up to your sole discretion for you to determine  
12 whether or not Mr. Davis gets the death penalty or life  
13 imprisonment; do you understand that?

14 A Yes.

15 Q And are you willing to assume this responsibility?

16 A Yes, I am.

17 Q Do you feel that any moral or religious belief  
18 that you presently hold would prevent you from voting for the  
19 death penalty in this case?

20 A No.

21 Q And have you ever expressed the personal opinion  
22 that you felt that capital punishment should be abolished in  
23 the State of California?

24 A No.

25 Q Do you have any close friends or relatives whom  
26 you feel oppose the death penalty, whom you feel might try  
27 and exert pressure on you to vote for life imprisonment, if  
28 you were selected as a juror in this case?

1 A No.

2 Q And do you belong to or sympathize with any  
3 organizations which might oppose capital punishment?

4 A No.

5 MR. KAY: I pass for cause on the death penalty, your  
6 Honor.

7 THE COURT: Very well.

8 MR. KAY: Thank you, Miss Frazier.

9 THE COURT: Bring the balance of the panel in, then,  
10 would you?

11 THE BAILIFF: Yes, sir.

12 (Pause in the proceedings while the members of the  
13 prospective jury panel filed into the courtroom.)

14 MR. DENNY: Your Honor, may we approach the bench  
15 briefly. I don't think we need the reporter.

16 THE COURT: Yes.

17 (Whereupon, proceedings were had at the bench  
18 among Court and Counsel, which were not reported by the  
19 reporter.)

20 THE COURT: The record will show that all prospective  
21 jurors are in the box, and the defendant is present with his  
22 counsel.

23 Mr. Denny, you may proceed.

24 You were talking to Mrs. -- or, Miss Frazier.

25 PROSPECTIVE JUROR NO. 6: Your Honor?

26 THE COURT: Mr. Cano?

27 PROSPECTIVE JUROR NO. 6: May I ask a question of  
28 Mr. McKay?

1 THE COURT: Mr. Kay?

2 PROSPECTIVE JUROR NO. 6: Mr. Kay, when you --

3 MR. KAY: Yes?

4 PROSPECTIVE JUROR NO. 6: -- questioned us on -- if we  
5 had a criminal charge against us, did you say "No traffic"?

6 MR. KAY: No traffic.

7 PROSPECTIVE JUROR NO. 6: How about something else on  
8 traffic?

9 MR. KAY: Anything other than traffic.

10 PROSPECTIVE JUROR NO. 6: Like -- in 1937 or '38, I  
11 think I was in a China lottery.

12 Is that a crime?

13 (Laughter.)

14 MR. KAY: I certainly appreciate your thinking about it.

15 PROSPECTIVE JUROR NO. 6: Well, I have been thinking  
16 about it.

17 I have been thinking about another one, too.

18 (Laughter.)

19 PROSPECTIVE JUROR NO. 6: Is it a crime or not -- I  
20 don't know, but it was also a traffic --

21 MR. KAY: If you don't know, it probably wasn't a  
22 crime.

23 PROSPECTIVE JUROR NO. 6: It was a traffic -- well, I  
24 hope it wasn't. It was a 502 citation.

25 MR. KAY: That's a drunk driving. Yeah. Well, that's  
26 traffic, in a way.

27 Basically, the reason I asked that question,  
28 Mr. Cano, was because I wanted to know if there was anything --



1 if a person did answer that question affirmatively -- say that  
2 he had a brother or something that had been arrested, or maybe  
3 even tried for some type of a crime, whether or not anything  
4 happened in any of those cases which would prejudice him against  
5 the prosecution or --

6 PROSPECTIVE JUROR NO. 6: Oh, I see.

7 MR. KAY: -- or law enforcement in general.

8 I take it you --

9 PROSPECTIVE JUROR NO. 6: No. Well, we did appear,  
10 and the penalty was a fine, and we paid -- or, complied with  
11 the law, I guess.

12 MR. KAY: I'm sure we did.

13 PROSPECTIVE JUROR NO. 6: Yeah, we did. And then I kept  
14 on wondering about it, you know, since you asked the question.

15 MR. KAY: That's right.

16 PROSPECTIVE JUROR NO. 6: Since you brought it out. I  
17 don't want to think that I am misleading you in any way what-  
18 soever. I had no intention at all.

19 MR. KAY: I certainly appreciate that, sir.

20 PROSPECTIVE JUROR NO. 6: Thank you. Now, I feel more  
21 freer than I was before.

22 (Laughter.)  
23  
24  
25  
26  
27  
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1 THE COURT: Does anyone else want to confess?

2 (Laughter.)

3 THE COURT: Thank you, Mr. Cano.

4 Go ahead, Mr. Denny.

5 MR. DENNY: I'm wondering -- must I confess, too?

6 MR. KAY: We know about you.

7  
8 VOIR DIRE EXAMINATION OF

9 DELILAH FRAZIER

10 BY MR. DENNY:

11 Q Mrs. -- Miss Frazier, have you or any friend or  
12 loved one ever been the victim of --

13 THE COURT: They can't hear you.

14 MR. DENNY: I'm sorry.

15 Q Have you or any friend or loved one ever been the  
16 victim of a crime of any kind?

17 A No, sir.

18 Q Now, you heard Mr. Kay talk about circumstantial  
19 evidence a little bit, and I think you were here when the  
20 Court read some instructions concerning circumstantial  
21 evidence, were you?

22 A Yes.

23 Q All right.

24 And about this business of circumstantial evidence,  
25 did you hear me ask some of the jurors about this portion of  
26 the instruction that the Judge read, that where there are --  
27 where the People's case rests chiefly or wholly on circum-  
28 stantial evidence, and you look at that evidence, and there

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1 are two reasonable interpretations of that evidence, and one  
2 points to guilt and one points to innocence, that the law  
3 requires you to adopt that which points to innocence? Do you  
4 recall that?

5 A Yes.

6 Q Now, do you feel that there's anything unfair in  
7 a circumstantial evidence case, a criminal charge, in that  
8 law, that type of law, which says, where there is this kind  
9 of dual interpretation that can be given to evidence, that you  
10 must adopt that which is in favor of the defendant, in favor  
11 of innocence? And you can't adopt that which would favor the  
12 prosecution, where both interpretations are reasonable  
13 interpretations?

14 Do you think there's anything unfair about that?

15 A No.

16 Q And assuming you are seated to sit as a juror  
17 in this case, would you have any reluctance, any hesitancy  
18 whatsoever, in applying that law to the evidence in this case,  
19 that you hear?

20 A No, sir.

21 Q All right. Now, again, it's been sometime since  
22 I've asked any of the jurors -- Mr. Kay has mentioned, and  
23 the Judge has mentioned, and I have -- but there are three  
24 separate counts in this indictment. And each one is a  
25 separate count.

26 Now, the Judge will tell you at the end of the  
27 case -- or sometime during the case -- that you are not  
28 permitted to kind of carry over your feelings about guilt or

8b-3

1 innocence in one, in order to establish the guilt or innocence  
2 of another. Each one must be separately considered.

3 Do you understand that?

4 A Yes.

5 Q And do you have any feeling now, as you sit there,  
6 that -- "Well, heaven's sakes. If the guy's got three counts  
7 against him, chances are he must have done something."?

8 A No.

9 fls.

9  
1 Q You understand he could have 15 or 20 Counts against  
2 him, but the number of Counts he has against him is not evidence  
3 against him at all; do you understand that?

4 A Yes, I do.

5 Q And you're not going to have any feeling at all  
6 that, well, where there's smoke there must be fire? If they've  
7 got three Counts, maybe he's at least guilty of one?

8 A No.

9 Q Unless the People prove that one, that two, that  
10 three, to your satisfaction beyond a reasonable doubt and to a  
11 moral certainty; is that correct?

12 A Yes, it would have to be proven.

13 Q As to each Count?

14 A Yes.

15 Q Now, again, Mr. Kay mentioned something about  
16 circumstantial evidence and a confession being circumstantial  
17 evidence or a part of circumstantial evidence.

18 And we've talked about some -- earlier, to some  
19 of the other jurors, about accomplice testimony being testimony  
20 that must be viewed with caution, that is the concept of the  
21 law; do you understand that?

22 A Yes.

23 Q Now, there's another concept of law, and that is  
24 that when someone purports to relate an oral admission or a  
25 confession, as Mr. Kay talked about, that ought to be viewed  
26 with caution.

27 Now, do you have any quarrel with that?

28 A No, sir.

1 Q There are plenty good reasons that the law takes  
2 that into account, and you would follow that instruction,  
3 assuming you got that instruction from the Court?

4 A Yes, I would.

5 Q And look a little cautiously at the testimony  
6 of someone who is purported to relate an oral admission or  
7 confession; is that right?

8 A Yes.

9 MR. DENNY: All right, I'll pass for cause, your Honor.

10 THE COURT: Mr. Kay.

11 MR. KAY: Thank you, your Honor.

12 Back to my stand again.

13  
14 VOIR DIRE EXAMINATION

15 BY MR. KAY:

16 Q Mrs. Frazier, can you think of any reason why you  
17 could not or should not sit as a juror in this case?

18 A No.

19 Q You know, I asked a question like I asked of the  
20 man, Mr. DeLoach, who preceded you in that seat, like if you  
21 have some reason in your mind -- like you didn't want to talk  
22 about it, he or she, he'd rather not be a juror, and this  
23 question gives you a chance to say you don't want to sit.  
24 But that's generally why I ask that question.

25 Do you feel it is your firm position that the  
26 prosecution in this case, the People of the State of  
27 California, are entitled to an equal fair trial with the  
28 defense?

1 A Yes.

2 Q Do you feel you have any sympathy for Mr. Davis  
3 because he is a defendant in this case?

4 A No.

5 Q Now, did you understand when questioning the other  
6 jurors about reasonable doubt and the fact that that's the  
7 prosecution's only legal burden in this trial and what it  
8 means?

9 A Yes.

10 Q I think you understood that pretty well?

11 A Yes.

12 Q You wouldn't hold us to any higher burden of proof,  
13 such as proving a defendant guilty beyond a shadow of a doubt  
14 or beyond an absolute certainty? The burden of the People is  
15 just to prove the defendant guilty beyond a reasonable doubt.

16 A Yes.

17 Q You understand that?

18 A Yes.

19 Q And you wouldn't hold us to any higher standard?

20 A No.

21 Q You wouldn't hold us to any higher standard because  
22 it is a murder case rather than being a burglary or robbery?  
23 You understand the standard is the same in all criminal cases,  
24 even 502's?

25 A Yes.

26 (Laughter.)

27 Q BY MR. KAY: And did you understand what I said  
28 about presumption of innocence? That the presumption of

1 innocence lasts only until the defendant has been proven guilty  
2 beyond a reasonable doubt and --

3 A Yes.

4 Q Would you follow that?

5 A Yes.

6 Q Have you or have any of your close friends or  
7 relatives ever been charged with or accused of a crime other  
8 than a traffic offense?

9 A No.

10 Q I figure that everybody's had a traffic offense,  
11 so that doesn't -- I've had a traffic offense.

12 I take it you haven't sat on a jury before?

13 A No, I haven't.

14 Q Do you feel to any degree, whatsoever, any bias  
15 or prejudice against police officers to any degree, whatso-  
16 ever?

17 A No.

18 Q Do you feel you could treat the testimony fairly  
19 just as you would any other witness?

20 A Yes.

21 Q Have you ever studied law?

22 A No, I haven't.

23 Q Do you know any criminal defense attorneys?

24 A No.

25 Q Do you know any attorneys at all that were involved  
26 with any of the Manson Family members in any of their criminal  
27 trials?

28 A No.



1 Q Do you know any private detectives?

2 A No, I don't.

3 Q Now, do you think you understand the difference  
4 between direct and circumstantial evidence?

5 A Yes.

6 Q You heard that example I gave? I don't know if it  
7 is the clearest example, but I hope it was. And I think it was  
8 a simple one to help everybody to understand.

9 Now, understanding that a person can be convicted  
10 of first degree murder based solely on circumstantial evidence,  
11 do you feel that that's unfair?

12 A No, I don't.

13 Q Would you follow the judge's instructions in that  
14 regard?

15 A Yes.

16 Q Now, again, as I stated to the other jurors in this  
17 trial, the prosecution, Mr. Manzella and myself, we will not  
18 offer eyewitness testimony to either the murder of Gary Hinman  
19 or the murder of Donald Jerome Shea.

20 Understanding this, are you of the frame of mind  
21 that you would request the prosecution to offer eyewitness  
22 testimony before you would convict anybody in a murder case?

23 A No, sir.

24 Q And, again, as I explained to the other jurors,  
25 in the felony murder rule, a murder committed in the course of  
26 a robbery is automatically murder in the first degree.

27 Do you feel that that's unfair?

28 A No.

1           Q       The fact that the law kind of takes the discretion  
2 away from the jurors to say that if you find that a victim was  
3 murdered in the course of a robbery, then it is automatically  
4 murder of the first degree?

5           A       No.

6           Q       And will you follow the Court's instructions in that  
7 regard?

8           A       Yes.

9           Q       Now, again, you heard me state that the evidence in  
10 this trial will show that the body of Gary Hinman -- that's  
11 in -- we're talking about Gary Hinman in Counts No. 1 and  
12 Counts 2.

13                   And Count No. 1 is the murder Count, and Count  
14 No. 2 is the Count where Mr. Davis is charged with conspiring  
15 with Charles Manson and Susan Atkins to murder Gary Hinman.  
16 But his body was recovered.

17                   But in Count No. 3, the murder of Donald Jerome  
18 Shea, that his body was not recovered.

19                   Now, do you understand that the prosecution was  
20 not required by law to produce the body of the murder victim;  
21 do you understand that?

22           A       Yes.

23           Q       In this regard we're required only to prove that  
24 there was a death.

25                   In other words, that the victim died, and that he  
26 died by a criminal agency. For example, that he was murdered.

27                   Now, do you quarrel with that law?

28           A       No.

1 Q Will you follow the Court's instructions on that  
2 law?

3 A Yes.

4 Q Now, again, where the body is found, there's  
5 direct evidence of the death.

6 I mean, you have the body. And where the body  
7 is not found, you have circumstantial evidence of the death and  
8 the law permits the prosecution to introduce circumstantial  
9 evidence proving that a person was murdered.

10 Do you have any quarrel with that law?

11 A No.

12 Q And will you follow the Court's instructions on  
13 that?

14 A Yes.

15 Q And do you think it is unfair at all to allow the  
16 prosecution to do this?

17 A No.

18 Q Does it offend your sense of justice or fair play  
19 at all, due to the fact that a person can be convicted of  
20 first degree murder, where the body of the murder victim has  
21 not been recovered?

22 A No.

23 Q And if you believe that Mr. Davis was guilty of  
24 first degree murder beyond a reasonable doubt, would you vote  
25 to convict him even though Mr. Shea's body has not been  
26 recovered?

27 A Yes.

28 Q And would you automatically vote against the

1 imposition of the death penalty in Count No. 3, which is the  
2 murder of Donald Jerome Shea, due to the fact that the  
3 prosecution was unable to find Mr. Shea's body?

4 A No.

5 Q Will you promise that you'll discuss the case,  
6 once you're in the jury room, freely with the other jurors and  
7 that you'll listen to what they have to say and you'll say  
8 what you have to say, and if you have one opinion and some-  
9 body convinces you that it is not possibly a reasonable  
10 opinion, that you'll listen to them and won't be too stubborn  
11 or anything; you promise me that?

12 A Yes.

13 Q All right.

14 And can you think of any reason at all why you  
15 can't give the People of the State of California or the  
16 defendant a fair trial in this case?

17 A No.

18 MR. KAY: Thank you very much.

19 I pass Miss Frazier for cause, your Honor.

20 THE COURT: Both sides pass the panel for cause?

21 MR. KAY: That is correct, we did.

22 MR. DENNY: Yes.

23 THE COURT: Accordingly, the first peremptory challenge  
24 is with the People.

25 MR. KAY: The People would respectfully thank and  
26 excuse juror No. 3, Mr. Lear. Thank you, Mr. Lear.

27 THE COURT: Thank you, Mr. Lear.

28 The 15th floor, Mr. Lear, new Hall of Records.

1                   Call another name.

2           THE CLERK: Mrs. Adoracion, A-d-o-r-i-c-i-o-n, Diaz,  
3 D-i-a-z.

4           MR. MANZELLA: Would you spell that first name again,  
5 please?

6           THE CLERK: A-d-o-r-a-c-i-o-n.

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## VOIR DIRE EXAMINATION OF

MRS. ADORACION DIAZ

BY THE COURT:

Q Mrs. Diaz, you have been present during all of the proceedings thus far since Monday?

A Yes, your Honor.

Q And except, of course, when the Court ordered you out into the hallway?

A Yes.

Q And you heard the Court's explanation of the nature of this case and some of the Court's instructions, is that correct?

A Yes, your Honor.

Q Would it be any hardship to you to serve in this case?

A Yes.

Q Would you lift the microphone up?

A Yes, your Honor. I am in the family way and it is kind of hard for me to sit for two to three months.

Q I see.

What month are you?

A Well, it is going to six.

MR. DENNY: I'd stipulate to excusing her.

(Laughter.)

THE COURT: I think you'd better hurry home, judging from the amount of discomfort you express.

But, yes, the Court thanks you and excuses you.

You needn't --

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1 How much jury duty do you have left?

2 JUROR NO. 3: Oh, I just started last Monday.

3 THE COURT: Do you feel as though you are capable of  
4 completing the balance of your jury duty?

5 JUROR NO. 3: Well, I guess so.

6 THE COURT: All right, thank you for serving.

7 JUROR NO. 3: Thank you.

8 THE COURT: Go to the 15th floor of the Hall of  
9 Records. Go very slowly and take care of yourself.

10 Let's call another name.

11 Both lawyers have stipulated?

12 MR. KAY: Yes, so stipulated.

13 THE COURT: Thank you.

14 THE CLERK: James M. Burroughs, B-u-r-r-o-u-g-h-s.

15 THE COURT: When you get down to one slip, let me know.

16 THE CLERK: I have four.

17 THE COURT: You have four left?

18 THE CLERK: I have three.

19 THE COURT: Three.

20  
21 VOIR DIRE EXAMINATION OF

22 JAMES M. BURROUGHS

23 BY THE COURT:

24 Q Mr. Burroughs, have you been present during all  
25 of the proceedings thus far in this case except for when  
26 the Court ordered you out in the hall; is that correct?

27 A Yes, your Honor.

28 Q And you heard the Court's explanation of the

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1 nature of this case and you heard the Court's questions to  
2 the prospective jurors?

3 A Yes, sir.

4 Q Would your answers be any different than the  
5 majority of the jurors have responded to the Court's  
6 questions of a general nature that I first put to the group  
7 as a whole?

8 A No, sir.

9 Q What has been your jury experience?

10 A None.

11 Q What type of work do you do?

12 A I am retired. I was in the contracting business.

13 Q In Southern California?

14 A Yes.

15 Q And --

16 A Los Angeles.

17 Q And the type of business generally, the type of  
18 contracting?

19 A General contracting.

20 Q And is there a Mrs. Burroughs?

21 A Yes.

22 Q In what area do you and she reside?

23 A Southwest Los Angeles.

24 Q Are you related to or a friend of any law  
25 enforcement officer?

26 A No.

27 Q Can you think of any reason why you couldn't be  
28 fair and impartial in this case?



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1           A       There's only one thing. I lost my father last  
2 month and I'm -- got a letter from the Attorney that I've  
3 got -- there's quite a lot of property involved and -- tried  
4 to settle the estate back there. I may have to leave.

5           Q       Back where?

6           A       Back in Oklahoma City.

7           Q       Would there be any other hardship to you?

8           A       None.

9           Q       As a result of service in this case?

10          A       Nothing other than that. I may have to be  
11 excused to go back there, if possible.

12          Q       Well, once you've undertaken the burden of  
13 sitting as a juror, the Court would not be likely to excuse  
14 you so you could attend a probate matter back there, you  
15 understand. This would take priority as far as this Court  
16 is concerned.

17          A       That's what I understand and would be a lengthy--

18          Q       Did the attorney indicate to you what date the  
19 hearing would be?

20          A       It would probably be between now and the 10th  
21 of the month, this month.

22          Q       And it would necessitate your personal appearance  
23 in Oklahoma?

24          A       Yes, that's correct.

25          Q       Do you contemplate getting in touch with this  
26 attorney, talking to him, writing to him?

27          A       Well, he's supposed to call me or write me between  
28 now and the 10th. I'd hate to get started and have this come

1 up. I thought I'd better bring it out before we started.

2 THE COURT: Gentlemen.

3 You don't know at this point whether you will  
4 be required to go back there or not?

5 JUROR NO. 3: I will. I don't know when. But he  
6 indicated it would be between now and the 10th of the month.

7 Q Now, on the 10th of December, is that correct?

8 JUROR NO. 3: Right.

9 THE COURT: Well, there are very few days left.

10 How long would you be gone?

11 JUROR NO. 3: Well, it is hard to tell just how long  
12 it will take. There's property to be disposed of and there's  
13 quite a bit of property involved in it.

10 fls.

10-1

1 THE COURT: Gentlemen?

2 MR. DENNY: Your Honor, may I inquire briefly?

3 THE COURT: Yes, you may.

4 Any questions from either of you?

5 MR. DENNY: Yes.

6  
7 VOIR DIRE EXAMINATION

8 BY MR. DENNY:

9 Q Mr. Burroughs, what is it that you personally are  
10 needed for, since presumably there's a good attorney working  
11 for you back there?

12 A Well --

13 Q What is your presence necessary for?

14 A Well, other than being one of the -- I am the  
15 oldest child of the --

16 BY THE COURT:

17 Q Are you the executor of the estate?

18 A Well, I guess I would be, yes.

19 Q When did your father die?

20 A It was the last part of last month -- I mean,  
21 of October.

22 Q And the petition for probate of the will has been  
23 filed?

24 A Yes.

25 Q And you were named executor in the will?

26 A I -- I suppose that's what he means by that.

27 Q And you must be in the State of Oklahoma in order  
28 to qualify; is that --

10-2

1 A I imagine so, yes.

2 MR. DENNY: I'll stipulate, your Honor.

3 MR. KAY: So stipulated, your Honor.

4 THE COURT: Fine. These gentlemen have agreed that you  
5 may be released. Room -- or rather, floor 15; floor 15 of the  
6 New Hall of Records, if you would, Mr. Burroughs.

7 PROSPECTIVE JUROR NO. 3: Thank you.

8 THE CLERK: Mrs. Janet F. Quarles, J-a-n-e-t; last  
9 name, Q-u-a-r-l-e-s.

10  
11 VOIR DIRE EXAMINATION OF

12 MRS. JANET F. QUARLES

13 BY THE COURT:

14 Q Mrs. Quarles, were you present during the course  
15 of the Court's explanation of the nature of this case, and  
16 the Court's questioning of the first group of jurors in the  
17 box?

18 A Yes, I was.

19 Q Would your answers be any different than the  
20 majority of jurors responded to the questions the Court put  
21 to the group as a whole?

22 A No.

23 Q Would it be any hardship to you to serve as a  
24 juror in this case?

25 A No, no hardship. Only one thing, your Honor. I  
26 am planning to go on to Pennsylvania the last two weeks of  
27 the month, to see -- for Christmas, and to see my mother.  
28 And I don't want the snow to catch me back there, and I

10-3

1 wouldn't want to not be able to get back, and be held in  
2 contempt of court.

3 THE COURT: There's not much I could do to stop the  
4 snow.

5 (Laughter.)

6 PROSPECTIVE JUROR NO. 3: I know.

7 Q BY THE COURT: When would you be leaving?

8 A I'm scheduled to leave the 18th, this month. And  
9 I am due to -- my flight back was on the 2nd, which is a  
10 Sunday. It's the only one that was open.

11 Q Have you made --

12 A Reservations?

13 Q -- made reservations?

14 A Yes.

15 Q Paid for your ticket yet?

16 A No, sir.

17 Q Reservations are somewhat hard to get this time  
18 of year?

19 A Yes, they are, sir. That was a month and a half  
20 ago.

21 THE COURT: Any questions?

22 MR. KAY: I think we'll stipulate that she could be  
23 excused, your Honor.

24 THE COURT: All right. We may carry through the 20th  
25 and the 21st, in which case we would need to have you here,  
26 and that would interfere with your plans.

27 PROSPECTIVE JUROR NO. 3: Thank you, your Honor.

28 THE COURT: And both counsel have agreed, and the Court

10-4

1 will agree to excuse you.

2 MR. KAY: Did you agree on the record, George?

3 MR. DENNY: Yes, your Honor. I nodded my head, your  
4 Honor, when Mr. Kay said "Stipulated," but I do so stipulate.

5 THE COURT: Very well.

6 MR. KAY: Thank you, Mr. Denny.

7 THE CLERK: Miss Barbara J. Gipson; G-i-p-s-o-n.

8 MR. KAY: Your Honor, is this a member of the new  
9 panel?

10 THE COURT: No, not yet. We have one person -- one  
11 slip left. And before we choose another, we'll have to  
12 orient the new panel.

13  
14 VOIR DIRE EXAMINATION OF  
15 MISS BARBARA J. GIPSON

16 BY THE COURT:

17 Q Miss Gipson, were you present when the Court  
18 explained the nature of this case on Monday and questioned  
19 the prospective jurors?

20 A Yes, I was.

21 Q Now, would your answers be any different -- and  
22 you have been present from time to time since, have you not?

23 A Yes.

24 Q Would your answers be any different than the  
25 majority of jurors have responded to the Court's questions  
26 of a general nature, put to the group as a whole?

27 A No.

10a fls.<sup>27</sup>

28

10a-1

1 Q Can you think of any reason why you could not or  
2 should not serve as a juror in this case, including the  
3 question of hardship?

4 A No.

5 Q What has been your jury experience?

6 A I have none.

7 Q And what type of work do you do?

8 A I am a clerk-stenographer for the City of Los  
9 Angeles, Department of Building & Safety.

10 Q And was -- was it Miss?

11 A Yes.

12 Q Miss Gipson? Are you related to or a friend of  
13 any law enforcement officer?

14 A No.

15 Q In what area, general area, do you reside?

16 A Central Los Angeles.

17 Q Are your views concerning the death penalty such  
18 that you would, by reason of those views, be unable to be  
19 fair and impartial in determining the question of guilt or  
20 innocence?

21 A No.

22 Q Or are your views about the penalty such that  
23 you would automatically refuse to impose it, regardless of  
24 the evidence?

25 A No.

26 Q Or would you, on the other hand, upon a conviction  
27 of murder in the first degree, in the first phase of the case,  
28 automatically, in the second phase of the case, vote to

10a-2

1 impose the death penalty?

2 A No.

3 THE COURT: All right. We wish to ask you some ques-  
4 tions outside of the hearing of the balance of the panel at  
5 this time.

6 Is that satisfactory?

7 MR. KAY: Yes, that's satisfactory.

8 THE COURT: Or do you gentlemen wish to talk with her  
9 generally before we proceed?

10 MR. KAY: It would probably be better just to start  
11 with publicity.

12 MR. DENNY: I suspect so, your Honor.

13 THE COURT: All right. We will excuse you all, then,  
14 and ask that you wait out in the corridor. We will be  
15 talking to Miss Gipson to determine whether or not she  
16 has ever heard, seen or read anything of this case, or Mr.  
17 Davis, via the news media, publicity, or in any other way;  
18 and whether, if she has, she can nevertheless be independent  
19 in making any judgment that she might be called upon to make  
20 in this case.

21 While you are outside, you might be thinking about  
22 that, as well as any thought that you might have concerning  
23 penalty, which you've heard both counsel discuss with  
24 prospective jurors, because you will be called upon to  
25 answer such questions.

26 (Pause in the proceedings while a discussion  
27 off the record ensued at the bench between the Court  
28 and the bailiff.)



10a-3

1 THE COURT: Before you leave the courtroom, however, we  
2 will swear the new panel.

3 Would you all please rise?

4 THE CLERK: Please raise your right hands?

5 THE COURT: Raise your right hands, please.

6 THE CLERK: You and each of you do solemnly swear that  
7 you will well and truly answer such questions as may be  
8 asked of you touching upon your qualifications to act as a  
9 trial juror in the cause now pending before this court, so  
10 help you God?

11 THE PROSPECTIVE JURORS: I do.

12 THE COURT: Fine. Now, would you all please retire to  
13 the corridor?

14 (Pause in the proceedings while the members  
15 of the prospective jury panel exited the court-  
16 room.)

17 BY THE COURT:

18 Q Miss Gipson, have you ever heard, seen or read  
19 anything about this case before you came into the courtroom  
20 on Monday?

21 A No.

22 Q And have you ever heard, seen or read anything  
23 about Bruce Davis?

24 A No.

25 Q Had you heard the name Charles Manson?

26 A Yes.

27 Q Was that in connection with the Tate-La Bianca  
28 trial --

10a-4

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A Yes.

Q -- the Sharon Tate killing?

A Yes.

Q And did you follow that in the newspaper?

A No.

11 fls.

11-1

1 Q Do you read a newspaper daily?

2 A No.

3 Q Or look at television news?

4 A No.

5 Q Or hear radio daily?

6 A No.

7 Q What are your -- are your news intake habits, if  
8 any?

9 A Uh, well, maybe occasionally if I am going to  
10 stay up late, I may catch it. Other than that, I don't --

11 Q May catch it; you mean a television --

12 A Yes.

13 Q -- news report, is that correct?

14 A Yes, uh-huh.

15 Q Now, had you heard about the phrase Manson Family?

16 A Yes.

17 Q What do you know, or know the Manson Family to be?

18 A I can't give you a definition. Just a term that's  
19 been used around work. I really didn't listen.

20 Q Well, what do you think they are?

21 A I'm at a loss.

22 Q You say around work?

23 A Uh-huh.

24 Q Well, what have you heard discussed around work  
25 concerning that group?

26 A Well, mostly their guilt or innocence toward  
27 the Sharon Tate case.

28 Excuse me, I think I am losing my voice.

1 Q A little laryngitis?

2 A I hope not.

3 There may -- there may be pros and cons as to  
4 their innocence, guilt, what they felt these people were  
5 doing and mostly, I think at one time, there were girls  
6 sitting around the courthouse. They talked a lot of times  
7 about them being in the Manson Family, but I didn't see  
8 them or know anything about it.

9 Q Are you of such a mind that you couldn't be  
10 fair and impartial in acting as a juror for a -- in a trial  
11 wherein a Manson Family member was a defendant?

12 A No.

13 Q You could still be fair and impartial in spite  
14 of what you'd heard, seen or read concerning the Manson Family  
15 to somebody who is a member of the Manson Family?

16 A Yes.

17 Q Have you ever heard the name Shorty Shea before  
18 I mentioned it in reading the indictment?

19 A Uh, no, not really.

20 Q Or before I read --

21 A Well --

22 Q -- the first count of the indictment? Had you  
23 ever heard the name?

24 A I had heard it mentioned, but I didn't connect  
25 it with anything.

26 Q I see.

27 In what connection had you heard it mentioned?

28 A Overheard it walking down the hallway --

1 Q Oh, I see.

2 But prior to Monday, had you ever heard it?

3 A No, huh-uh.

4 Q Seen it or read it any place?

5 A No.

6 Q Stuntman Shorty Shea is the reference that's been  
7 made in the press.

8 Would that recall it to your mind?

9 A No, I had not --

10 Q Or musician Gary Hinman; had you ever heard it  
11 before I read it in the count of the indictment?

12 A No, I hadn't. That was the first knowledge I  
13 ever had of his name.

14 Q If you do recall something that you may have  
15 heard, seen or read about Shorty Shea, Gary Hinman, Mr. Davis,  
16 the Manson Family, and knowing what you know now, from what  
17 you have heard from your friends and picked up from the news  
18 media, could you set all such matters aside for the purpose  
19 of making an independent judgment in this case, basing your  
20 judgment only upon the evidence that's produced here?

21 A Uh-huh. Yes, I could.

22 Q Are you certain about your ability to do that,  
23 to set aside such things as you may have heard, seen or read  
24 about the Manson Family?

25 A Yes, I am.

26 Q In this case?

27 A Yes.

28 Q Are you sure?

1 A Yes.

2 Q And would you do that?

3 A Yes.

4 Q Can you be fair and impartial?

5 A Yes.

6 Q And will you be?

7 A Yes.

8 THE COURT: Mr. Denny,

9 MR. DENNY: Yes, thank you, your Honor.

10

11

VOIR DIRE EXAMINATION

12

BY MR. DENNY:

13

Q Ma'am, you said about Shorty Shea that you heard  
14 it mentioned, you overheard it mentioned as you were walking  
15 down the hallway here; is that right?

16

A No, I'm sorry. He misunderstood me. I meant  
17 at work. I guess after he had been killed a couple of girls  
18 talked about it. They just kind of mentioned, "Did you hear  
19 about Shorty Shea?" That was it. I didn't hear anything  
20 else. And then, later on, after getting in the office, I  
21 asked, "What's this about Shorty Shea?"

22

And they said he had been killed, but they didn't  
23 say who.

24

25

26

27

28

11a fls.

11a-1

1 Q You say you went some place or followed after  
2 these girls?

3 A No, while I was walking, before I was even called  
4 as -- on jury duty, when I was at work.

5 Q I understand.

6 A Oh, then, I misunderstood you, then.

7 Q How long ago did this incident occur?

8 A I can't remember when it was.

9 Uh, I guess the week after he was announced dead  
10 or something. I guess the Monday or whenever it was that he  
11 was announced dead. I don't know when it was exactly.

12 Q Well, as you sit there, are you of the opinion that  
13 Shorty Shea is dead?

14 A No, I couldn't say -- I don't know. I just have  
15 what was presented before me, that he is --

16 Q Well, someone told you.

17 A Yeah, that he was dead. So I'm just going on hear-  
18 say.

19 Q You understand that it is just that, hearsay?

20 A Uh-huh.

21 Q That's not proof at all?

22 A Yes, I do understand.

23 Q That's what a jury is here to determine, whether  
24 he is dead or not?

25 A Right.

26 Q And whether he's been killed by criminal means?

27 A Uh-huh.

28 Q And whether this defendant had anything to do

1 with it, whether if those two things are true in the first  
2 place?

3 A That's true.

4 Q All right. So this information that you  
5 received, and you recalled specifically receiving and recall  
6 even discussing somewhat, about some announcement that  
7 Shorty Shea was dead?

8 A Uh-huh.

9 Q Do you feel that having that hanging up in the  
10 back of your mind here, it is in the forward part of your  
11 mind now, because we've been talking about it, but if it  
12 is in your mind at all do you feel that it is more likely,  
13 you being called upon to determine that issue here, it is  
14 more likely that you would find that he was dead than not?

15 A Yes.

16 THE COURT: Do you understand the question?

17 JUROR NO. 3: I'm not sure.

18 Q BY MR. DENNY: I think it is not quite a fair  
19 question. Let me go a little bit further, if I can.

20 A Okay.

21 Q If the evidence presented by the People were  
22 somewhat questionable to you, as to whether he was really  
23 dead or not, but you had this information that we've talked  
24 about now, that there had been an announcement that he  
25 was dead --

26 A Okay.

27 Q -- and that you girls had talked about it; --

28 A Oh.



1 Q -- do you feel with that information in the back  
2 of your mind that that might be enough to make you feel,  
3 well, yes, even though the evidence here is a little  
4 questionable with this other information that I got, I would  
5 tend to feel that the --

6 A You mean after I've gone through the case and  
7 listened to whatever happened to present, would I throw out  
8 what they said and go by what I overheard?

9 Q No, no. Taking into account --

10 A Oh, what a --

11 Q -- what the witnesses said --

12 A Uh-huh.

13 Q -- and considering the witnesses had given some  
14 information one way or the other on whether he was dead or  
15 not, but at that point your mind was not certain, you just  
16 weren't certain --

17 A Oh.

18 Q -- and then, do you feel that this other  
19 information that you got --

20 A Uh-huh.

21 Q -- sometime back from these girls would be enough  
22 to make you certain?

23 A No, huh-uh.

24 Q In other words, you'd just put that out of your  
25 mind no matter what these girls had told you, no matter  
26 what a newspaper might have reported; you understand that's  
27 not necessarily fact?

28 A Right.

1 Q In this conversation that you had with these  
2 girls, was there anything said about anybody looking for  
3 him; how they were looking for him?

4 A No. You misunderstood me. I wasn't talking to  
5 them. I just overheard them. So I didn't even get all of  
6 what they said. Just parts of it.

7 Q Well, the parts that you overheard --

8 A (Laughing).

9 Q -- did you overhear the girls talking about  
10 somebody looking for him?

11 A No, I didn't. I didn't know that the body had  
12 not been found.

13 Q Does the term "Spahn Ranch" ring a bell with you  
14 at all?

15 A Yes. Only in terms of the fire, though, the  
16 Malibu Fire.

17 Q And what do you remember about that?

18 A Well, I think the ranch burned. And on the  
19 news they mentioned that this was the ranch of the Manson  
20 Family. But that's only in terms of the fire.

21 Q Do you have any recollection of ever hearing or  
22 seeing about anybody ever digging around the Spahn Ranch  
23 for a body?

24 A No.

25 Q Ever hear anything about that?

26 A No.

27 11b fls.  
28

11b-1

1 Q In this particular case, if the evidence shows  
2 that Mr. Davis was in some way connected with Manson, with  
3 the Manson Family, as it has been called, based on what  
4 you've read at all, do you feel you might have a tendency to  
5 feel, "Well, they were responsible for some deaths, he must  
6 be responsible for those that he is charged with"?

7 A No.

8 Q In other words, you'd require the People to  
9 prove the --

10 A Yes.

11 Q -- complicity and guilt of any offense charged  
12 against him, no matter whether it was the Manson Family or  
13 the King Sisters he was connected with, right?

14 A Right.

15 Q I'm sorry, ma'am, just to go -- back up.  
16 You said you were a clerk-steno in the City of  
17 L.A.

18 Which department?

19 A Building & Safety.

20 Q The Building & Safety Department.

21 And in that connection do you have any kind of  
22 association or relationship with any kind of law enforce-  
23 ment officers at all?

24 A No, I don't.

25 MR. DENNY: I will pass for cause, your Honor, on this  
26 issue.

27 MR. KAY: No questions on publicity, your Honor.

28 THE COURT: All right.

1 MR. KAY: Did you want us to do the death penalty now  
2 or wait until we get other jurors in?

3 THE COURT: Let's take a short recess.

4 MR. KAY: Break, okay.

5 THE COURT: And then, we'll bring the panel back in  
6 and you can voir dire in the presence of the panel on the  
7 other subjects.

8 MR. KAY: Okay, thank you, your Honor.

9 MR. DENNY: Before the Court leaves the bench, may we  
10 ask to have this juror excused? I want to bring up some  
11 other matters.

12 THE COURT: Yes, Miss Gipson, would you leave the  
13 courtroom? You may be excused.

14 JUROR NO. 3: Does that mean I am excused, period?

15 THE COURT: No, for ten minutes.

16 JUROR NO. 3: Okay.

17 THE COURT: For about ten minutes you can be free.

18 JUROR NO. 3: Thank you. Okay.

19 (Whereupon, prospective juror No. 3 exited the  
20 courtroom, and the following proceedings were had:)

21 THE COURT: Yes, you have something, Mr. Denny?

22 MR. DENNY: Yes, I did, your Honor.

23 I had spoken to the prosecutors concerning whe-  
24 ther or not they planned to call George Spahn. And their  
25 indications were that they did not call him in the Manson  
26 case. Apparently he has neither been called in the Grogan  
27 case, and they don't plan to call him in this case. And I  
28 do want to call him. And there had been sort of a working

1 arrangement worked out with other counsel that the presence  
2 of out-of-State witnesses would be -- that is to say, their  
3 presence would be made available through the offices of the  
4 District Attorney and the Sheriff.

5 Now, I just want to determine at this point if I  
6 am going to have to go through the full process of out-of-  
7 State subpoena, a hearing and all the rest of it, or whether  
8 that can be worked out so that we can get Mr. Spahn here for  
9 his testimony during the course of this trial.

10 I know that they're bringing Ruby Pearl down  
11 from the same location, which is where?

12 MR. KAY: Oregon.

13 MR. MANZELLA: Oregon.

14 MR. DENNY: Oregon. Medford, Oregon, if I understand.

15 So I understand there is no problem in their  
16 doing so.

12-1

1 MR. KAY: I would think, in the first place, he would  
2 have to call George Spahn and ask George Spahn. I mean, if  
3 George Spahn is going to resist, then maybe he would have to  
4 go through the out-of-State subpoena process.

5 But Mr. Spahn would probably cooperate. I  
6 wouldn't see why not. But I would think that would be the  
7 starting point for Mr. Denny, is to contact Mr. Spahn, and  
8 ask him if he'd --

9 THE COURT: Well, it may not be the starting point,  
10 because I doubt that unless Mr. Spahn just happens to be in  
11 this area, then he would wish to spend the money coming down  
12 here.

13 MR. KAY: Well, he wouldn't spend the money. It would  
14 have to be provided. But I mean, he might be willing to come  
15 down without fighting the subpoena.

16 THE COURT: Well, the reason I say that is because the  
17 Court would be unwilling to provide -- or order that the  
18 Court provide it, unless there's some relevancy.

19 In other words, I think you should make a  
20 showing, submit an affidavit indicating to me why, generally,  
21 you believe this man should --

22 MR. DENNY: Well, your Honor, I think I only have to  
23 point to the Grand Jury transcript, to show the relevancy of  
24 his testimony. That's -- that's the affidavit I would submit  
25 as to the relevancy of his testimony.

26 And beyond that, I don't think I need to go.  
27 His testimony is very definitely relevant, insofar as the  
28 defense of Mr. Davis is concerned.

1           The evidence that he gave -- and I will say this,  
2 without any trepidation, that evidence that he gave is quite  
3 inconsistent with testimony given by some of the other key  
4 witnesses in some of the other trials had thus far. And I  
5 can understand why the People are not anxious to bring him  
6 down. But that's precisely the reason that I am anxious to  
7 bring him down.

8           THE COURT: It's concerning his relationship, generally,  
9 with Mr. Shea, then?

10          MR. DENNY: It certainly is in reference to the Shea  
11 case, yes.

12           (Whereupon a soto voce remark was made by one  
13 of the court attaches.)

14          MR. DENNY: I am not equivocating at all, as someone  
15 has just said to me. I don't feel that I am bound at this  
16 time to point out the chapter and verse on every jot and  
17 tittle of what I expect Mr. Spahn to testify to.

18           I do not expect him to testify inconsistently  
19 with his testimony at the Grand Jury hearing. And assuming  
20 he testifies consistently with that, it is very definitely  
21 inconsistent with some of the testimony of the other key  
22 witnesses in the Shea count.

23           And from that standpoint, it is vital to have his  
24 testimony.

25          THE COURT: Well, Mr. Davis is indigent, and the County  
26 is going to have to foot the bill, if Mr. Spahn is brought  
27 here. I suppose that's enough showing, of itself, to warrant  
28 the Court making the order.

1                   However, I will ask you to prepare the usual  
2 affidavit, and the Court would sign the order, bringing him  
3 here.

4           MR. DENNY: Well, your Honor, as I understand the --

5           THE COURT: But then you'd have to give an estimate,  
6 have to make a fairly fine estimate of the date that you'll  
7 need him, because the Court would not like to have the burden  
8 of caring for him here for any period of time.

9                   I understand that he is infirm in some way.

10          MR. DENNY: There's no question about that, your Honor.  
11 But I don't see how I can possibly make that estimate at  
12 this time.

13                   I can certainly make a more reasonable estimate  
14 as the case progresses. But as far as assigning a specific  
15 date, I don't think that either Mr. Kay or Mr. Manzella can  
16 assign a specific date on which they can expect to bring  
17 Ruby Pearl down from the same location.

18          THE COURT: Well, if I were you, I'd keep in touch  
19 with Mr. Spahn in some way.

20          MR. DENNY: Well, I can't, your Honor. I don't have the  
21 address or phone number.

22          MR. MANZELLA: I'll give Mr. Denny, if he doesn't  
23 already have it in the documents I've supplied him, I'll give  
24 him the same information we use when we get in touch with  
25 Mrs. Pearl.

26          THE COURT: All right.

27          MR. DENNY: Well, your Honor, all I am saying is,  
28 there is a -- a long, roundabout way through the uniform act,



1 for out-of-State witnesses, which requires a number of  
2 documents being filed in this court, documents being processed  
3 up through the court and the other jurisdiction.

4 I don't think that procedure has been gone through  
5 in any way to get Ruby Pearl down from the same location.  
6 Now, it does seem to me that it's something of an imposition,  
7 both on this Court, on me, on the law enforcement agencies  
8 up in Oregon to do that, when the People did use Mr. Spahn's  
9 testimony to secure the indictment of this defendant, and  
10 when they can bring him down, just as easily as they bring  
11 Ruby Pearl down.

12a fls.

12a

1 MR. MANZELLA: There's no showing that Mr. Spahn  
2 wouldn't come down if Mr. Denny calls him and asks him to come  
3 down and tells him that the County will pay his way.

4 THE COURT: Yes, that's -- I think that's what I am  
5 suggesting. And even have the County pay his way down here, I  
6 think that -- that you've got to demonstrate that it's in some  
7 way or another -- that his testimony is in some way or another  
8 necessary or needed.

9 MR. DENNY: Well, I think I have demonstrated that, your  
10 Honor.

11 MR. KAY: Your Honor, a conditional factor is that  
12 Mr. Spahn --

13 THE COURT: And the Court believes that -- yes, I think  
14 that would be sufficient, as I have said, so -- well, we'll  
15 leave it as it stands, and let you get in contact with  
16 Mr. Spahn.

17 MR. KAY: And your Honor, additionally, Mr. Spahn cannot  
18 travel alone. He will -- so the County will have to pay for  
19 someone to come down with him.

20 THE COURT: That's right. I remember, now. Miss Pearl  
21 might be able to come down with him.

22 MR. KAY: Yes.

23 THE COURT: So, make your contact with Mr. Spahn -- or  
24 otherwise, I suppose you would have to, if he did not consent,  
25 go through the steps of the Uniform Acts.

26 MR. DENNY: Well, your Honor, may I offer this suggestion,  
27 again? It does seem perhaps a little wasteful of the tax-  
28 payer's money, and we do seem to be taken up with that, to

1 have Ruby Pearl come down, for her to testify during the  
2 People's case, and then to go back up there, and then at the  
3 time the defense is going to put on any defense, at which time  
4 they would be calling Mr. Spahn, to have to pay for her to  
5 accompany him down, to come down here again, thereby causing  
6 initial expense, when -- and if that's so; if he is really  
7 blind -- and presumably he is blind -- I'm offering the  
8 suggestion that the People would be able to bring them both  
9 down at the same time, and perhaps agree, if they don't want  
10 to call Mr. Spahn, that I could call him out of turn and put  
11 on his evidence, --

12 THE COURT: I am sure something like that could be --

13 MR. DENNY: -- and give them an opportunity to cross  
14 examine him at that time.

15 MR. MANZELLA: I am sure we could work out something.

16 However, if Mr. Spahn doesn't want to come down,  
17 I should remind Mr. Denny that we have to go through the same  
18 procedures that he has to go through to bring a witness  
19 voluntarily from out of state.

20 If he'll come down for us, I think he'll come down  
21 just as readily for Mr. Denny.

22 THE COURT: I think the next step is up to Mr. Denny.

23 MR. DENNY: As soon as I get a method of contacting  
24 him, I'll take that step, your Honor.

25 (Mid-afternoon recess.)

26 MR. DENNY: Your Honor, may we approach the bench  
27 briefly, without the reporter?

28 THE COURT: Yes.

12a-3

1 (Whereupon, proceedings were had at the bench  
2 among Court and Counsel, which were not reported by the  
3 reporter.)

4 THE COURT: All right. Do you gentlemen wish to question  
5 Miss Gipson on voir dire now? You may.

6 Had we asked her about penalty?

7 MR. KAY: No, your Honor.

8 THE COURT: Miss Gipson, the Court also wishes to know  
9 from you whether -- I did ask you about the death penalty,  
10 didn't I?

11 MR. DENNY: I think you did, your Honor.

12 MR. KAY: I think you did, but we haven't.

13 THE COURT: I think that's correct.

14 I did ask you some questions, but counsel have not  
15 asked you any questions concerning the death penalty; is that  
16 correct?

17 PROSPECTIVE JUROR NO. 3: Yes, I believe so.

18 THE COURT: All right. Go ahead. You go ahead,  
19 Mr. Denny.

20  
21 VOIR DIRE EXAMINATION OF

22 BARBARA J. GIPSON

23 BY MR. DENNY:

24 Q Miss Gipson, seeing as how you are about, I think,  
25 the second from the last person of the original panel, you have  
26 been here through almost all of the questioning and heard all  
27 of my questions, have you?

28 A Yes.

1 MR. DENNY: Can the rest of the panel hear me without  
2 that microphone?

3 THE COURT: I don't see any hands yet, so I assume  
4 they're hearing you.

5 If you don't hear Mr. Denny, raise your hands,  
6 please.

7 (Whereupon, there was a show of hands from the  
8 prospective jurors in the last row in the courtroom.)

9 THE COURT: They don't hear you, apparently, Mr. Denny.

10 MR. DENNY: They don't hear? All right.

11 Modern science is wonderful. Now, they can hear.

12 Q All right. Miss Gipson, as far as your feelings  
13 about the death penalty, do you have any feelings at all that  
14 there is a type of murder which, if you had thought that a  
15 person had committed that murder, your feeling would be, "That  
16 person must get the death penalty"?

17 A No.

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12b fol  
21b

12b-1

1 Q There's no type of murder, no matter how horrendous,  
2 no matter how heinous the offense might be, that you would say,  
3 thinking of a person who committed that type of murder, "I  
4 would -- I would have to give that person a death penalty," --

5 A No.

6 Q -- is that correct?

7 A Well, yeah, that's correct.

8 Q All right. Fine. Now, do you have any feeling  
9 that you might be swayed by a feeling of public opinion,  
10 that -- that the public would feel that this particular  
11 defendant, in this particular case -- particularly seeing as  
12 how it's related somehow to Charles Manson, who has been  
13 publicized quite a bit, --

14 A Um-hmmm.

15 Q -- should be given the death penalty, if you  
16 were to find that he had committed any of the crimes that are  
17 charged against him?

18 A No.

19 Q Do you feel that it would take any particular act  
20 of courage, or act of strength of character, to bring in a  
21 verdict of life, rather than death, if you should find that he  
22 was guilty of any capital offense?

23 A I don't -- I don't think I quite understand.  
24 Would you repeat that?

25 Q Well, Mr. Kay has asked you if you would have the  
26 strength of your convictions -- he hasn't asked you, but he  
27 has asked other jurors -- if you would have the strength of  
28 your convictions; if you'd have the courage to come in and,

1 when Mrs. Holt asks you, "This is your verdict, that this man is  
2 to live -- to die?" And you can say, "Yes," and you can face  
3 Mr. Davis, and say, "Yes, I do."

4 You've heard these questions asked of the other  
5 jurors?

6 A Yes.

7 Q And I take it your answer would be the same, --

8 A Yes.

9 Q -- is that right?

10 A Um-hmmm.

11 Q All right. Now, by the same token, if you came back  
12 with a verdict -- assuming -- and again, all this is hypotheti-  
13 cal, that you'd even get to it; you understand that? That  
14 you'd even get to a penalty phase?

15 A Yes.

16 Q But again, I have to get into this, because it's  
17 part of the game we play here at the beginning. We have to ask  
18 you these questions.

19 But assuming you found the defendant guilty of  
20 one of these capital offenses, and then you came back in and  
21 you said, "This is not a death penalty case by any means. I  
22 vote for life."

23 Would you have the courage, the strength of  
24 character, whatever, to look at Mr. Manzella, Mr. Kay, the  
25 judge, anybody else on the street, in the whole world, and  
26 say, "I did the right thing"?

27 A Yes.

28 Q You don't feel that would take any more or any less

1 courage than returning the other verdict?

2 A No.

3 Q All right. By the way, have you ever seen anybody  
4 killed?

5 A No, I haven't.

6 Q And have you ever been -- or has any loved one or  
7 friend ever been the victim of any sort of crime?

8 A No.

9 Q Now, again, going to this issue of circumstantial  
10 evidence, Mr. Kay has discussed circumstantial evidence some  
11 with you, and indicated that, insofar as the Shea Count is  
12 concerned, they're going to rely wholly, totally on circum-  
13 stantial evidence.

14 And having heard the Court read the instruction --  
15 and we've talked about it a little bit -- that where the  
16 People's case rests chiefly or wholly on circumstantial  
17 evidence, and there are two reasonable inferences to be  
18 drawn from that evidence, one pointing to guilt and the other  
19 equally reasonable pointing to innocence, it is then your duty  
20 to adopt that interpretation pointing to innocence.

21 Do you have any quarrel with that proposition of  
22 law at all?

23 A No.

24 Q And do you think you'd have any trouble whatso-  
25 ever, if you felt that the evidence was equally consistent  
26 with innocence as guilt, in -- that is, say on a particular  
27 point, you looked at a piece of evidence, and you said, "Well,  
28 you know, you can draw an inference that he's guilty here, but



1 it's equally reasonable to draw an inference that he is  
2 innocent, that is consistent with innocent conduct, that there  
3 is an explanation that would show that it was done innocently,  
4 without any criminal intent whatsoever."

5 And you look at that piece of evidence, and it's  
6 got reasonable interpretations pointing to both guilt and  
7 innocence.

8 Would you have any reluctance, any hesitancy at  
9 all, in saying, "I am required by law to adopt that one point-  
10 ing to his innocence, and that's the one I'm going to use in  
11 this case"?  
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12c fol

12c-1

1 MR. KAY: Your Honor, I must object to the question. I  
2 think it's taking the instruction out of context, since the  
3 jurors have to look at the total picture of the evidence.

4 They don't take evidence piece by piece and plug  
5 it into Mr. Denny's system.

6 I think that's kind of misinterpreting the law,  
7 and I would object --

8 THE COURT: Well, the --

9 MR. KAY: -- to it as misleading.

10 THE COURT: The Court can see that objection to the  
11 question.

12 Perhaps you could rephrase it, Mr. Denny.

13 The Court would tell you, as it has told you  
14 before, that if you take any ideas of what the law is from either  
15 Mr. Denny or Mr. Kay, you should take them with the idea in  
16 mind that, ultimately, when the Court instructs you as to the  
17 law in this case, that you are to follow the Court's instruc-  
18 tions as to the law.

19 Will you do that?

20 PROSPECTIVE JUROR NO. 3: Yes.

21 BY MR. DENNY:

22 Q Yes. Well, in case there's any problem with the  
23 question I put to you, let me put it in a more general sense;  
24 and that is:

25 When you have evidence in the case, and you can  
26 say, "Yes, on this side," you can say, "It points to guilt;  
27 but on that side, it points to innocence," you'd have no  
28 trouble whatsoever in saying, "I'm going to follow the law and

12c-2

1 adopt that interpretation which points to innocence," would  
2 you?

3 A I'm sorry. Would you mind repeating that? I  
4 didn't quite --

5 Q I'll try it once more. See, because this is  
6 vital. The People and the defendant both are relying on  
7 this doctrine of circumstantial evidence, so it's important  
8 that we know whether you can understand it, whether you will  
9 apply it.

10 You look at the evidence, and you say, "Well, one  
11 interpretation of this evidence is consistent with guilt, but  
12 an equally reasonable interpretation of the evidence is  
13 consistent with innocence. They're both reasonable inter-  
14 pretations. But the law tells me, under those circumstances,  
15 that I must adopt that pointing to innocence, and use that  
16 in returning a verdict."

17 Do you understand that?

18 A Well, when you say "the law," are you referring  
19 -- can you -- when you say "the law," are you referring to the  
20 laws of the court?

21 Q That's right.

22 A Oh, yes. I understand that now.

23 Q So, assuming that the Court tells you that that  
24 is the law, and that you are required to adopt that interpreta-  
25 tion of circumstantial evidence pointing to innocence, when  
26 both interpretations of the evidence are reasonable, would  
27 you have any trouble at all in following that instruction?

28 A No.

12c-3

1 Q And in doing that?

2 A No.

3 Q And making sure that your fellow jurors understand  
4 and do that?

5 A Yes, I can.

13 fls.

13-1

1 Q All right, fine.

2 Now, again, I've asked certain jurors if they  
3 understand the fact that there are separate counts involved  
4 here. It is something that they must consider separately in  
5 their verdicts; you understand that?

6 A Yes.

7 Q And you understand the questions that I asked  
8 of the other jurors?

9 A Yes.

10 Q On the subject?

11 A Yes.

12 Q And you couldn't say, "Well, I think he's  
13 innocent here, so I'm going to say he's innocent of all the  
14 rest of them"?

15 A No.

16 Q Or conversely, you wouldn't say, "I think he's  
17 guilty here, so he must be guilty of all the rest of them"?

18 A No, I wouldn't.

19 Q Each one must stand or fall on the evidence  
20 pertaining to that count alone; you understand that?

21 A Yes.

22 Q And you wouldn't let any of your fellow jurors  
23 forget that, would you?

24 A No.

25 Q Now, again, did you hear the Court talk some about  
26 this idea of conspiracy and what a conspiracy is?

27 A Yes, I did.

28 Q And when I asked some of the jurors about this

13-2

1 concept of law that someone may do something that helps a  
2 going conspiracy, that it is done without any criminal intent,  
3 that that does not make them guilty of the conspiracy.

4 And I asked the jury if they found the defendant  
5 in this case may have done something that helped the -- any  
6 conspiracy that you might find to have existed among other  
7 people, but that's all, no showing of criminal intent, would  
8 you have any reluctance to follow the Judge's instruction  
9 that you couldn't find the person guilty of conspiracy with  
10 that evidence and that evidence alone?

11 A No, I'd have no reluctance.

12 Q And, again, this idea of guilt by association.

13 The Judge will probably tell you if you sit as  
14 a juror here that mere association in and of itself doesn't  
15 make a person guilty of conspiracy. He may be seen with the  
16 people. He may be known to the friends, with people, who the  
17 evidence might show, did conspire to do some unlawful act,  
18 but that in and of itself is not sufficient to convict a  
19 person of conspiracy.

20 Do you find anything objectionable in that.

21 A No.

22 Q Would you have any trouble applying that law in  
23 this case?

24 A No.

25 MR. DENNY: I'll pass for cause, your Honor.

26 THE COURT: People.

27 MR. KAY: Thank you, your Honor.  
28

BARBARA J. GIPSON

BY MR. KAY:

Q Miss Gipson, I can't speak for Mr. Denny, but I know that while he was questioning you he said that one of his questions was part of the game.

Well, let me make it abundantly clear that Mr. Manzella and I are not here to play any games. We don't think this is funny at all. We think that those of you who are going to sit on this jury are probably going to have to make the most serious decisions you will ever have to make in your life or probably will have to make. I want to make that clear.

Do you understand that, ma'am?

A Yes.

Q Now, did you hear the questions asked the other jurors on the death penalty?

A Yes, I heard them, but I don't know if I remember them or not.

Q Well, I'm going to ask them again, but I hope you thought about what your answers would be to those questions.

Did you think about it?

A Yes.

Q Okay.

Now, before you came into this courtroom on Monday, and you're about the last one I can say this to, because the other jurors just came in today, except we have one other juror besides yourself that's still out there; did

1 you think at all about the death penalty?

2 A Well, no, I hadn't thought about it. But I did  
3 study it a little bit in a high school class in 1966.

4 Q You did? You remember that from back in 1966,  
5 what you studied?

6 A No, not well, it was just a debate.

7 Q You studied pro and con?

8 A Yes, we studied pro and con. That's about it.

9 Q Did you make up a decision in your own mind  
10 whether you were pro or con?

11 A I was simply forced into a decision. We made a  
12 debate team.

13 Q Well, that doesn't count.

14 A And you got double points if you took the pro  
15 side. That was about it. After it was over, I didn't think  
16 about it any more.

17 Q You didn't think about it any more after your high  
18 school class?

19 A Huh-uh.

20 Q Now, have you determined in your own mind whether  
21 or not, if the evidence warranted it in this case, you could  
22 impose the death penalty?

23 A Yes, I could.

24 Q No doubt about that in your mind?

25 A No doubt.

26 Q And, again, I'd ask you, as I've asked the other  
27 jurors to keep thinking about this until the jury is selected,  
28 and we're going to have a weekend now and if any of you change



1 your mind over the weekend, just be sure to raise your hand  
2 on Monday. And there's nothing at all wrong with it. I'm  
3 not going to bite you or anything. I just want to know,  
4 because some people do change their mind. Like you saw,  
5 I think in your exact seat No. 3, yesterday, there was a  
6 lady that answered the Judge's questions that she could vote  
7 for the death penalty, and then I guess she started thinking  
8 about it and determined she couldn't, and got very emotional  
9 about it. And she was excused.

10 Do you remember that?

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13a fls.

13a-1

1 Q Okay. So, I would like all of you to keep thinking  
2 about it. There is nothing wrong with changing your mind  
3 between now and the time the jury is selected. Once the jury  
4 is selected, though, that's the ball game.

5 And Miss Gipson, do you feel that you can person-  
6 ally participate in a verdict of death, and you heard my  
7 questions about that, about what is required in a death penalty  
8 case.

9 In other words, it is the verdict of all twelve  
10 jurors. Each individual juror must participate in that verdict  
11 in order to have a death verdict and they must state that  
12 that's their verdict when they are polled; do you understand  
13 that?

14 A Yes.

15 Q And do you think that you would have the courage  
16 to do that?

17 A Yes.

18 Q Do you feel that any moral or religious belief  
19 that you presently hold would prevent you from voting for the  
20 death penalty?

21 A No.

22 Q Would you even consider finding Mr. Davis guilty of  
23 anything less than first degree murder just to avoid the  
24 responsibility of determining whether or not he should die in  
25 the gas chamber?

26 A No.

27 Q And do you belong to or sympathize with any organi-  
28 zations which might be opposed to capital punishment?

13a-2

1 A No.

2 Q Do you have any close friend or relative who  
3 opposes capital punishment, who you feel might try and  
4 antagonize you or do something to you to get you to vote for  
5 life imprisonment in this case?

6 A No.

7 Q And understanding that it is the jury alone with-  
8 out help from the judge or the attorneys in the case that makes  
9 the determination about whether or not the defendant in this  
10 case, Mr. Davis, lives or dies in the gas chamber; are you  
11 willing to assume that responsibility?

12 A Yes.

13 Q All right. Can you think of any reason at all why  
14 you could not or should not sit on this jury?

15 A No.

16 Q Now, Mr. Denny has asked some of the jurors  
17 questions about circumstantial evidence.

18 When there are two reasonable interpretations,  
19 one pointing to the guilt and one pointing to the innocence,  
20 that you must take the interpretation that points to  
21 innocence and acquit the defendant.

22 What I would like to point out to you: Do you  
23 understand that the key to that concept is "reasonable"?

24 If there are two reasonable interpretations of the  
25 evidence.

26 In other words, if there is only one reasonable  
27 interpretation of the evidence and that points to the person's  
28 guilt, you have no choice, you have to convict him; do you

13a-3

1 understand that?

2 A Yes.

3 Q And would you follow the law in that respect?

4 A Yes, I will.

5 Q And, also, Mr. Denny has brought up about the  
6 three Counts. That you must decide each one separately. Which  
7 is true. But do you understand that you can consider the same  
8 evidence? Like, in other words, in Counts I and II, the  
9 murder of Gary Hinman, you might consider the same evidence as  
10 to both Counts, but you have to make an independent decision.

11 Do you understand that?

12 A Yes.

13 Q Do you understand that you can consider the same  
14 evidence as to different Counts?

15 A Yes.

16 Q Now, is it your firm position that the prosecution,  
17 the People of the State of California are entitled to just  
18 as fair a trial as the defense is in this case?

19 A Yes.

20 Q And do you feel any sympathy at all for Mr. Davis  
21 because he is a defendant in this case?

22 A No.

23 Q And you realize that the presumption of innocence  
24 which cloaks Mr. Davis now lasts only until the guilt has been  
25 proven beyond a reasonable doubt; do you understand that?

26 A Yes.

27 Q You understand when we get to the penalty phase of  
28 the trial, the prosecution has no burden?

1           A       Yes.

2           Q       And have you or has any of your close friends or  
3 relatives ever been charged with or accused of a crime other  
4 than a traffic offense?  
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1 A I think so.

2 Q Who would that be?

3 A My cousin.

4 Q Was he ever tried on the case?

5 A I don't know.

6 Q Okay. Would anything that happened in your  
7 cousin's case by the fact alone that he was charged or accused  
8 of a crime in any way prejudice you against the prosecution or  
9 law enforcement, police officers, in general?

10 A No.

11 Q You're sure about that?

12 A I'm positive.

13 Q Are you very close friends with this cousin?

14 A No, I see him occasionally.

15 Q And you don't know what the disposition of his  
16 case was?

17 A No, I don't.

18 Q Was this a long time ago when he was arrested?

19 A Yeah, he was still in high school.

20 Q Have you ever studied law?

21 A No.

22 Q Do you know any criminal defense attorneys?

23 A No.

24 Q And I take it that you don't know any defense  
25 attorneys who have been involved in representing various  
26 members of the Manson Family in their criminal cases?

27 A No.

28

13b-1

1 Q Do you know any private detectives?

2 A No.

3 Q Do you think you understood my example about  
4 circumstantial evidence versus direct evidence?

5 A Yes.

6 Q Do you have any question about that?

7 A No.

8 Q And do you feel that you disagree with the law  
9 that says that circumstantial evidence should be treated  
10 equally with direct evidence?

11 A No.

12 Q And would you follow the Judge's instructions in  
13 this regard?

14 A Yes.

15 Q In other words, that both circumstantial and  
16 direct in the eyes of the law are treated equally?

17 A Yes.

18 Q Now, understanding that a person can be convicted  
19 of first degree murder on circumstantial evidence alone, do  
20 you think that that's unfair?

21 A No.

22 Q And you heard my statement earlier about the fact  
23 that the prosecution in this case will not offer eyewitness  
24 testimony, in other words, somebody that actually was there  
25 that saw the murder; as to either of the murder of Gary  
26 Hinman or Donald Shea.

27 Do you understand that?

28 A Yes, I do.

13b-2

1 Q Would you require the prosecution in a murder  
2 case, in this case, to present eyewitness testimony before  
3 you would convict the defendant?

4 A No.

5 Q And getting to the felony murder rule, which is  
6 that if a murder is committed in the course of a robbery it  
7 is automatically murder of the first degree.

8 If you find that it was committed in the course  
9 of the robbery, would you follow the Judge's instructions in  
10 this regard?

11 A Yes.

12 Q And do you think that that law is unfair?

13 A No.

14 Q And, again, I'm sure you heard me state that  
15 as to the murder of Gary Hinman, Mr. Hinman's body was  
16 found. But as to the murder of Donald Shea, his body was  
17 not found.

18 Now, under the law, again, the prosecution is  
19 not required to produce the body of the victim of a murder  
20 case. We're required only to prove that the person died.  
21 That there was a death and he died by a criminal agency.

22 In this case we're going to attempt to prove that  
23 he was murdered.

24 Do you understand that?

25 A Yes.

26 Q And will you follow the law in that regard?

27 A Yes.

28 Q And does it -- does it offend your sense of



13b-3

1 justice that a person can be convicted of first degree murder  
2 in the State of California even though the body of the victim  
3 of the murder has not been found?

4 A No.

5 Q And if you believe that Mr. Davis was guilty of  
6 first degree murder beyond a reasonable doubt, would you vote  
7 to convict him of that murder even though his body had not  
8 been found?

9 A Yes.

10 Q And would you automatically vote against the  
11 death penalty as to that count, Count III, the murder of  
12 Donald Jerome Shea, due to the fact the body hadn't been  
13 recovered?

14 A Repeat that.

15 Q Would you automatically vote against the death  
16 penalty as to County III?

17 In other words, you understand that we have three  
18 counts here?

19 A Uh-huh.

20 Q And each one of the counts carries the death  
21 penalty.

22 So you'll have to make a decision does Mr. Davis  
23 get death or life on Count I?

24 Does he get death or life on Count II?

25 Does he get death or life on Count III?

26 Now, I'm just asking you now about Count III.  
27 I'm not asking you about the murder of Gary Hinman or the  
28 conspiracy to murder Gary Hinman count, which is Count II.

1 I'm just asking you about Count III now.

2 Would you automatically vote against the death  
3 penalty, the imposition of the death penalty on Mr. Davis in  
4 Count III due solely to the fact that Mr. Shea's body has not  
5 been recovered?

6 A No.

7 Q And will you promise me that when you get into  
8 the jury room that you will be reasonable and talk reasonably  
9 with the other jurors?

10 A Yes.

11 Q I have been told by some jurors that oftentimes  
12 when they get in the jury room they have kind of a roundtable  
13 discussion where each juror can express his or her own view  
14 before they even vote or anybody makes any statement other  
15 than the juror that's speaking. Sometimes I guess they find  
16 that that's beneficial.

17 Can you think of any reason at all why you  
18 could not give the People, the prosecution, or the defense,  
19 a fair trial in this case?

20 A No.

21 MR. KAY: Thank you very much.

22 We'll pass for cause.

23 Thank you, Miss Gipson.

24 JUROR NO. 3: Yes.

25 MR. DENNY: Your Honor, I wonder, in view of her  
26 answers to Mr. Kay's questions on the death penalty, I wonder  
27 if I could inquire a bit further?

28 THE COURT: You may.

## VOIR DIRE EXAMINATION

BY MR. DENNY:

Q Miss Gipson, it is a lucky thing we have two attorneys working the same street, I guess. He asked some questions I would normally have asked and would have followed up, if I had gotten the same answers he did get from you; namely, this business of having studied the death penalty or having done some work in connection with preparing a kind of debate at which, I understand, you were kind of semi for or semi pro the death penalty.

Is that right?

A Uh-huh, right.

13c fls.

13C-1

1 Q And this, I take it, you say you got double points  
2 for taking the pro side?

3 A Yes.

4 Q That was the incentive for taking pro instead of  
5 con?

6 A Yes. I needed the extra points.

7 Q All right. It wasn't because of your feeling at  
8 the time?

9 A Well, I didn't have any feeling.

10 Q That these were where your convictions lay?

11 A I didn't have any feeling on the death penalty at  
12 all. I never discussed it or it ever entered my mind until  
13 the time it was mentioned in the class.

14 Q Was this kind of a long-term thing during the  
15 course of this particular school?

16 A No, it was about -- it was just a week, next to the  
17 last week of school.

18 Q And did the whole class take part?

19 A Yes.

20 Q Or --

21 A We had three people on each side in the class ask  
22 questions from the audience.

23 Q All right. And in that connection were you  
24 required to do some outside reading?

25 A I was required, but I didn't.

26 Q Whoops, another confession.

27 (Laughter.)

28 Q BY MR. DENNY: All right, and I take it, then, that

13c-2

1 you have not done any real studying of the writers who have  
2 written either pro or con, is that right?

3 A No, I haven't.

4 Q So this presentation that you made was based on  
5 what? On just kind of the arguments you could conjure up out  
6 of the feelings you had at the time?

7 A Uh, no, I kind of just skimmed through. I let my  
8 partners do all the talking and I just, uh, kind of sit there.  
9 We discussed it before we went into class, but that was about  
10 it. I didn't do too much.

11 Q All right. So that would you say that you wound  
12 up with any feelings pro or con, for or against the execution  
13 of people for crimes by the state as a result of this class?

14 A No, I can't say I did. I really felt, you know,  
15 like I was misunderstood. More or less nobody knew what I was  
16 trying to say. They were taking the wrong side. But I didn't  
17 judge it pro or con. I just -- it was over.

18 Q Well, when you say you felt that you were  
19 misunderstood because --

20 A Uh-huh.

21 Q -- because people didn't understand your side,  
22 in other words, the majority of the class seemed to favor  
23 the side of those who were for the abolition of execution by  
24 the state?

25 A Yes.

26 Q And they didn't seem to understand?

27 A No matter what we said, it was wrong. We didn't  
28 even get a fair hearing.

1 Q Well, did that particular feeling of frustration  
2 there have any affect on you as to whether you felt they were  
3 wrong and you were right?

4 A No, they had their side. But I didn't think they  
5 had the right to tell me what I was trying to say, when I  
6 wasn't.

7 Q I adhere to that.

8 Fine, thank you very much.

9 MR. KAY: May I ask just a couple of further questions,  
10 your Honor?

11 THE COURT: You may.

12

13 VOIR DIRE EXAMINATION

14 BY MR. KAY:

15 Q Miss Gipson, I neglected to ask you, on the  
16 arrest of your cousin, exactly what crime was he charged  
17 with?

18 A I think it was narcotics, but I can't say. I  
19 didn't get it all. I wasn't listening again.

20 Q So you really didn't get involved in the case much?

21 A No.

22 Q Did you ever get involved in the case?

23 A No. With my cousin you don't talk to him, he  
24 talks to you.

25 Q Oh, one of those?

26 (Laughter.)

27 MR. DENNY: Thank you very much, Miss Gipson, no further  
28 questions.

1 THE COURT: Both sides pass for cause?

2 MR. KAY: Yes, your Honor.

3 MR. DENNY: Yes, your Honor.

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1 THE COURT: The peremptory lies with the defense.

2 MR. DENNY: We'd like to thank and excuse juror No. 12,  
3 Mrs. Dunn.

4 THE COURT: Thank you, Mrs. Dunn.

5 Let's see, it is late. You need not report to that  
6 15th floor today.

7 As a matter of fact, Mrs. Holt tells me you needn't  
8 report until Tuesday, Room 253, at 9:00 o'clock.

9 JUROR NO. 12: 253?

10 THE COURT: Yes.

11 Now, let's warn the other jurors, other  
12 prospective jurors.

13 For those of you who are in the box, you've already  
14 heard this, but unfortunately because we have a new panel I have  
15 to go through it again. Perhaps it will sound different to you  
16 the second time, in any event.

14 fols.

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14-1

1           Would you mix all of those new slips of the new  
2 jurors, the name tags in --

3           THE LAST REMAINING PROSPECTIVE JUROR: Oh, I'm still  
4 here.

5           THE COURT: -- with the names --

6           (Laughter.)

7           THE COURT: I didn't hear that. What was that.

8           MR. KAY: The one juror that's still here is a little  
9 upset that she's still here.

10          THE COURT: Oh, I see.

11          MR. KAY: When we get down to one juror, we have to --

12          THE COURT: Yes. When we get down to one juror, in  
13 order to make sure that we are going to comply with the  
14 Code, and drawing by lot, we just can't pull your name out  
15 of the box, when your name is the only one in the box. Do  
16 you understand?

17          THE LAST REMAINING PROSPECTIVE JUROR: Yes.

18          THE COURT: It's really nothing personal.

19          (Laughter.)

20          THE COURT: All right. Have you stirred them up there,--

21          THE CLERK: Yes.

22          THE COURT: -- stirred up the slips?

23                   Then pick one.

24          THE CLERK: Yes.

25                   Miss Bennetta B. Smith; first name, B-e-n-n-e-t-t-a;  
26 last name, S-m-i-t-h.

27          THE COURT: I shall be asking Miss Smith some questions,  
28 and will those of you who are beyond the rail listen to the

14-2

1 questions I put to her, and determine, in your mind, whether  
2 your answers would be any different? Because I'll be asking  
3 you these questions.

4 This is a criminal case, ladies and gentlemen.  
5 The defendant in the case is Bruce McGregor Davis. This is  
6 Mr. Davis (indicating) at the end of the table here, the end  
7 of the counsel table.

8 Mr. Davis is represented by Mr. George Denny.

9 Thank you, Mr. Denny.

10 And the People in the case are represented by  
11 Deputies District Attorney Stephen Kay and Anthony Manzella.

12 Thank you, gentlemen.

13 This is a question I have not asked anyone in the  
14 courtroom yet. Is there anyone who knows the defendant?  
15 Or his counsel?

16 Is there anyone of you who knows Mr. Kay or Mr.  
17 Manzella? Is there anyone of you who has ever been represented  
18 by any of the counsel whom I have introduced?

19 The indictment in this case, ladies and gentlemen,  
20 is an indictment in three counts.

21 The first count charges that the defendant, in  
22 violation of Section 187 of the Penal Code, a felony, on the  
23 27th day of July, 1969, in the County of Los Angeles, in the  
24 company of -- or, with co-defendants Charles Manson, Susan  
25 Denise Atkins and -- strike that.

26 (Continuing) -- with Charles Manson and Susan  
27 Denise Atkins did willfully, unlawfully and feloniously and  
28 with malice aforethought murder Gary Alan Hinman, a human

14-3

1 being.

2 Count II charges that Charles Manson, Susan Denise  
3 Atkins and Bruce McGregor Davis committed a violation of  
4 Section 182.1 of the Penal Code, a felony, in that on or about  
5 the 25th through the 28th day of July, 1969, in the County of  
6 Los Angeles, those persons did knowingly conspire, combine,  
7 confederate and agree together with other persons whose true  
8 identity is unknown to commit the crime of murder, in viola-  
9 tion of Section 187 of the Penal Code, a felony; and of  
10 robbery, a violation of Section 211 of the Penal Code;

11 And that pursuant to and for the purpose of  
12 carrying out the objects and purposes of the aforesaid  
13 conspiracy, those defendants committed the following overt  
14 acts in the County of Los Angeles:

15 The overt act -- the first alleged is that on or  
16 about July 25th, the said defendants, Bruce McGregor Davis  
17 and Susan Denise Atkins, and a Robert Beausoleil did travel  
18 to the vicinity of 964 Old Topanga Road, Malibu, in the County  
19 of Los Angeles;

20 Overt act two alleges that on July 26th, the  
21 Defendant Charles Manson, Susan Denise Atkins and Bruce  
22 McGregor Davis did enter the residence at 964 Old Topanga  
23 Road, Malibu, in the County of Los Angeles;

24 Over act No. 3 is that on July -- alleges that  
25 on July 26th, the defendants Charles Manson and Bruce  
26 McGregor Davis drove away from 964 Old Topanga Road in a  
27 Fiat automobile owned by Gary Hinman.

28 Count III of the indictment also alleges a count

1 of -- of murder, in violation of Section 187 of the Penal  
2 Code, in that it charges Charles Manson, Bruce McGregor  
3 Davis and Steve Grogan with having, between the 16th day  
4 of August, 1969, and the first day of September, 1969, in  
5 the County of Los Angeles, State of California, willfully,  
6 unlawfully and feloniously and with malice aforethought  
7 murdered Donald Jerome "Shorty" Shea, a human being.

14a fls.

I4a-1

1           That, ladies and gentlemen, is the indictment  
2 in three Counts. To that indictment, Mr. Davis has entered  
3 pleas of not guilty, and this is the time set for trial.

4           The Court will tell you that it will take  
5 approximately two months -- perhaps two and a half months --  
6 to try this case, according to the estimate of counsel.

7           And the Court anticipates that, during that time,  
8 you will not be sequestered. The Court does not intend to put  
9 you up in a hotel, to put the jury up in a hotel.

10          You will be -- the jury will be allowed to  
11 return to their respective homes each evening, except during  
12 the period of time when they are in deliberation, at which time  
13 the Court may very well sequester the jury.

14          The Court intends to take a vacation from about  
15 the 20th of December through the 3rd of January. Except  
16 for that time, we will be involved in trial.

17          The Court wishes to tell you that the indictment  
18 that I read is not evidence. It's not to be treated by  
19 you as evidence.

20          It's simply a means of bringing this matter before  
21 the Court and jury.

22          I'll be asking you, ladies and gentlemen, whether  
23 that period of two, two and a half months will be a hardship  
24 to you. In that connection, the kind of hardship I'm talking  
25 about is not the usual inconvenience that everyone must suffer  
26 when he or she is a juror, the inconvenience of coming to the  
27 city and the inconvenience of laying aside personal affairs  
28 and attending to duty as a juror.

1 But I mean, a substantial hardship. If you have a  
2 substantial and severe hardship, such as the loss of earnings  
3 over a period of time -- if your employer will not pay you for  
4 two, two and a half months, and you can't withstand that  
5 financial loss -- then the Court would like to know about that.

6 In that connection, I will ask you over the  
7 weekend -- and, when you leave this courtroom, during the  
8 recess -- to inquire of your employer, if that is a problem,  
9 or you suspect it might be a problem with you, whether you will  
10 be paid if you serve on the jury for that period of time,  
11 for the period of two to two and a half months.

12 If there are any other hardships, for medical  
13 reasons, or if you have some other good reason why you believe  
14 that you should not be caused or ordered to serve on this jury,  
15 then let me know. Let us all know, when I ask you about it.

16 I'll state to you that a defendant in a criminal  
17 action is presumed to be innocent until the contrary is proved,  
18 and in case of a reasonable doubt whether his guilt is  
19 satisfactorily shown, he is entitled to an acquittal.

20 MR. DENNY: Your Honor, excuse me. I see one of the  
21 jurors in the back cocking her ear somewhat, and I'm not sure  
22 that --

23 THE COURT: Are you having trouble?

24 A PROSPECTIVE JUROR: Yes.

25 THE COURT: All right. I'll start over again.

26 A defendant in a criminal action is presumed to  
27 be innocent until the contrary is proved, and in case of a  
28 reasonable doubt whether his guilt is satisfactorily shown, he

1 is entitled to an acquittal.

2 But the effect of this presumption is to place  
3 upon the state the burden of proving him guilty beyond a  
4 reasonable doubt.

5 Reasonable doubt is defined as follows: It is not  
6 a mere possible doubt, because everything relating to human  
7 affairs and depending upon moral evidence is open to some  
8 possible or imaginary doubt. It is that state of the case  
9 which, after the entire comparison and consideration of all of  
10 the evidence, leaves the minds of the jurors in that  
11 condition that they cannot say that they feel an abiding  
12 conviction, to a moral certainty, of the truth of the charge.

13 That, ladies and gentlemen, defines reasonable  
14 doubt for you. The Court will instruct you later on concern-  
15 ing reasonable doubt, at the conclusion of the evidence in  
16 this case.

17 And likewise, the Court will give you further  
18 instructions concerning the law.

19 It's your obligation to follow the Court's  
20 instructions as they are given to you. Whether you believe  
21 the law is correct, as the Court has stated to you, or whether  
22 you believe the law is as it should be, as the Court has  
23 stated it to you, it's your obligation to follow it as it's  
24 given to you by this Court.

25  
26 VOIR DIRE EXAMINATION OF

27 BENNETTA SMITH

28 BY THE COURT:

1 Q Mrs. Smith, do you understand that?

2 A Yes.

3 Q And will you follow all the instructions of law, as  
4 I shall give them to you, at the conclusion of this case, --

5 A Yes.

6 Q -- regardless of what you feel the law should be?

7 A Yes.

8 Q Would it be any hardship to you to serve on this  
9 case, Mrs. Smith?

10 A No.

11 Q Have you ever had any legal experience? Had legal  
12 training of any type, Mrs. Smith?

13 A No.

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14b-1

1 Q Have you ever been the victim or has any close  
2 friend or relative of yours been the victim of any crime of  
3 violence?

4 A Yes.

5 Q Would you tell us about that?

6 A I had an uncle that was murdered. I think it's  
7 been about seven years ago.

8 Q About seven years ago. Was he close to you?  
9 A close family member?

10 A Yes, he was.

11 Q And do you know of any reason why you couldn't  
12 be fair and impartial in this case, regardless of that  
13 occurrence?

14 A No.

15 Q Has that affected you in any way, so that you  
16 could not be fair and impartial to somebody who was accused  
17 of murder?

18 A No.

19 Q Was anyone ever prosecuted for that killing?

20 A Yes.

21 Q Were you a witness in the case?

22 A No. I attended the trial.

23 Q You attended the trial?

24 A Yes.

25 Q And as a result of that unfortunate incident,  
26 do you feel any prejudice whatever toward a defendant who is  
27 accused of murder?

28 A I'm not sure. I'm really not sure.

14b-2

1 Q Was the man convicted, or acquitted?

2 A Convicted.

3 Q You are not sure at this point whether there  
4 lingers in your mind some prejudice towards somebody who is  
5 accused of murder as a result of that whole thing; is that  
6 correct?

7 A Yes.

8 Q Do you understand that what we are seeking here  
9 is a juror who can say, definitely and certainly, that he or  
10 she can be fair and impartial?

11 You've heard me indicate that a defendant is  
12 presumed to be innocent. That means that he should not, at  
13 the beginning of a case, be burdened with having somebody on  
14 the jury who may harbor some prejudice in his or her mind  
15 as a result of something in the juror's background.

16 As a result of what you have said, is it fair to  
17 say that what you -- as a result of what you have told me,  
18 is it fair to say now that you could not be certain, that  
19 you could be fair and impartial to him?

20 A Yes.

21 THE COURT: All right.

22 MR. DENNY: I would challenge the juror under 1073,  
23 Subdivision 2.

24 THE COURT: All right. Thank you for being very frank  
25 in assessing your ability, Miss Smith. And you are excused--

26 Till next Tuesday, is it, Mrs. Holt?

27 THE CLERK: Yes.

28 THE COURT: (Continuing) -- until next Tuesday at

14b-3

1 9:00 o'clock. Report to Room 253, then.

2 And in place of Miss Smith, let's select another  
3 name.

4 THE CLERK: Eugene H. Geisler, G-e-i-s-l-e-r.

5 THE COURT: I'm going to instruct you further on points  
6 of law that may or may not arise in the course of this case --  
7 that may or may not arise in the course of this case.

8 You may be instructed in the same way later on.  
9 But the fact that the Court is instructing you does not  
10 mean that I am placing any particular emphasis on any of  
11 these instructions that I am about to give.

12 I've already read to you the instruction concern-  
13 ing the presumption of innocence and reasonable doubt.

14 Let me say to you that all persons concerned in  
15 the commission of a crime who either directly and actively  
16 commit the act constituting the offense, or who knowingly and  
17 with criminal intent aid and abet in its commission, or,  
18 whether present or not, who advise and encourage its  
19 commission are regarded by the law as principals in the crime  
20 thus committed, and are equally guilty thereof.

21 A person aids and abets the commission of a crime  
22 if he knowingly and with criminal intent aids, promotes,  
23 encourages or instigates, by act or advice, or by act and  
24 advice, the commission of such crime.

25 The testimony of a witness, a writing, a material  
26 object, or anything presented to the senses offered to prove  
27 the existence or non-existence of a fact is either direct or  
28 circumstantial evidence.

15 fls.

15-1

1 Direct evidence means evidence that directly  
2 proves a fact without an inference and which in itself,  
3 if true, conclusively establishes that fact.

4 Circumstantial evidence means evidence that proves  
5 a fact from which the inference -- from which an inference  
6 of the existence of another fact may be drawn.

7 An inference is a deduction of fact that may  
8 logically and reasonably be drawn from another fact or group  
9 of facts established by the evidence. It is not necessary  
10 that facts be proved by direct evidence. They may be proved  
11 also by circumstantial evidence or by a combination of direct  
12 evidence and circumstantial evidence. Both direct evidence  
13 and circumstantial evidence are acceptable as a means of  
14 proof. Neither is entitled to any greater weight than the  
15 other. But you are not permitted to find the defendant guilty  
16 of any crime charged against him based on circumstantial  
17 evidence unless the proved circumstances are not only  
18 consistent with the theory that the defendant is guilty of  
19 the crime, but cannot be reconciled with any other rational  
20 conclusion and each fact which is essential to complete a  
21 set of circumstances necessary to establish the defendant's  
22 guilt has been proved beyond a reasonable doubt.

23 Also, if the evidence as to any particular count  
24 is susceptible to two reasonable interpretations, one of  
25 which points to the defendant's guilt and the other to his  
26 innocence, it is your duty to adopt that interpretation  
27 which points to the defendant's innocence and reject the  
28 other which points to his guilt.

15-2

1 Conspiracy is an agreement between two or more  
2 persons to commit a public offense, with the specific intent  
3 to commit such offense, followed by an overt act committed in  
4 this state by one or more of the parties for the purpose of  
5 accomplishing the object of the agreement.

6 Conspiracy is a crime.

7 In order to find a defendant guilty of conspiracy,  
8 in addition to proof of the unlawful agreement there must be  
9 proof of the commission of at least one of the overt acts  
10 alleged in the indictment.

11 Murder is the unlawful killing of a human being.  
12 All murder which is perpetrated by willful, deliberate,  
13 premeditated killing, with malice aforethought -- all murder  
14 which is perpetrated by willful, deliberate and premeditated  
15 killing, with malice aforethought, or murder committed by  
16 torture or a killing committed in the course of a burglary  
17 or a robbery is murder of the first degree.

18 The Court will instruct you further concerning  
19 homicide at the conclusion of the case.  
20

21 VOIR DIRE EXAMINATION OF  
22 EUGENE H. GEISLER

23 BY THE COURT:

24 Q Now, I'll ask you, Mr. -- is it Geisler?

25 A Yes, sir.

26 Q -- Mr. Geisler, whether you understand the  
27 instructions or believe you understand the instructions that  
28 I have just given?

15-3

1 A Yes, sir, I --

2 Q Would you follow those instructions and any and  
3 all instructions that I give you in the course of this trial?

4 A Yes, sir.

5 Q Regardless of what you believe the law to be or  
6 what you think the law should be, will you follow the  
7 instructions?

8 A Uh, yes, sir.

9 (Whereupon, the Court's name plate fell from  
10 the bench.)

11 THE COURT: Did I get you?

12 THE CLERK: No.

13 (Laughter.)

14 Q BY THE COURT: Would it be any hardship to you  
15 to serve, Mr. Geisler?

16 A Uh, yes, sir, it would.

17 Q Would you explain that to us?

18 A It would be a financial hardship at the present  
19 time.

20 Q Why?

21 A Well, my wife and I are separated and she's  
22 out of state and I need the money.

23 Q For whom do you work?

24 A Uh, McDonnell-Douglas.

25 Q And will they pay you beyond your 30 days jury  
26 duty?

27 A Uh, as far as I know, no.

28 Q It is the Court's remembrance that McDonnell-

1 Douglas would only pay for 30 days. We've had other jurors  
2 in this courtroom and they have indicated that that was the  
3 case. However, would you ascertain that over the weekend?

4 A Uh, yes, sir, if I can.

5 Q And let me know, let us know on Monday morning;  
6 would you do that?

7 A Uh, yes, sir, I'll try.

8 Q Have you ever had any legal training of any type?

9 A No, sir.

10 Q You understand that the indictment that I have  
11 read is not evidence that can be taken against the defendant  
12 but is simply a means of bringing this matter to the -- to  
13 the Court and jury?

14 A Yes, sir.

15 Q Have you ever been the victim or had a close  
16 friend or relative that's been the victim of a crime of  
17 violence?

18 A No, sir.

19 Q Have you ever been a witness in a criminal case?

20 A No, sir.

21 Q Have you ever been charged with a criminal  
22 offense or had a close relative or friend that has been  
23 charged with a criminal offense other than a traffic citation?

24 A No, sir, not that I know of.  
25  
26  
27  
28

15a fls.

15a-1

1 Q Have you had any jury experience?

2 A No, sir.

3 Q What type of work do you do?

4 A Well, I am an inspector technician at McDonnell-  
5 Douglas.

6 Q How long have you been engaged in that type of work?

7 A Thirteen years.

8 Q Now, you've stated that there was or is a  
9 Mrs. Geisler.

10 What type of work does she do?

11 A Well, she -- I think she's a store clerk.

12 Q You've been separated for --

13 A Three months.

14 Q Three months.

15 Are you related to or a friend of any law  
16 enforcement officer?

17 A I have a cousin on the L. A. police force.

18 Q Do you see him often?

19 A No, sir.

20 Q What is his duty so far as you know now?

21 A Well, as far as I know, he's assigned to the  
22 Wilshire Division.

23 Q And what is his assignment? Is he at a desk or  
24 any patrol car?

25 A Uh, I think he's in a patrol car.

26 Q Have you talked with him about his cases?

27 A No, sir.

28 Q Do you think that this relationship would in any



15a-2

1 way affect your judgment in this case?

2 A No, I don't.

3 Q Would you be more inclined or less inclined as a  
4 result of this relationship to believe a police officer's  
5 testimony or disbelieve a police officer's testimony simply  
6 because of his status?

7 A No, sir.

8 Q In what area do you reside?

9 A Well, Gardena.

10 THE COURT: Now, the Court will tell you, ladies and  
11 gentlemen, that this is a case in which the offense charged  
12 is punishable by death or life imprisonment.

13 And the Court is required to ascertain if any  
14 prospective juror entertains such conscientious opinions as  
15 would preclude his finding the defendant guilty if the evidence  
16 should justify such a finding or if he would, under no  
17 circumstances, vote for the death penalty, or if, upon a  
18 conviction of murder of the first degree, he would automatically  
19 vote for the death penalty without regard to the evidence.

20 At the outset of this trial, the Court has no way  
21 of knowing whether or not you will ever have to, as a juror,  
22 be called upon to determine the issue of penalty.

23 In other words, to determine this question of  
24 life imprisonment or death, as that will depend upon what your  
25 findings are on the issue of guilt in the first phase of the  
26 trial.

27 The trial is thus split into two phases, possibly  
28 two phases, depending upon whether you find that the defendant

15a-3

1 is guilty of a crime with -- which is punishable by death or  
2 life imprisonment.

3 The defendant, as you have previously been  
4 informed, is charged with the crime of murder in Count I, and  
5 in Count II he is charged with conspiracy to commit murder --  
6 strike that.

7 In Count I and III, he's charged with murders,  
8 and in Count II, he's charged with conspiracy to commit  
9 murder. Each of which Counts is punishable by death or life  
10 imprisonment.

15b fol

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1 In arriving at a verdict in this case, as to the  
2 guilt or innocence of the defendant, the subject of penalty  
3 or punishment is not to be discussed or considered by you.  
4 That is, in the first phase of the case concerning guilt or  
5 innocence, as that is a matter which, under the law, must be  
6 considered and determined in a separate proceeding, if your  
7 findings require such a proceeding.

8 If the defendant is acquitted of the charges  
9 against him or found guilty of a lesser crime than murder  
10 of the first degree, then, of course, there's nothing further  
11 to submit to the jury as to the issue of penalty.

12 If the defendant is found guilty of murder of the  
13 first degree or found guilty of that second count, conspiracy  
14 to commit murder, an offense which is punishable -- either  
15 offense is punishable by life imprisonment or death, then the  
16 jury shall fix the penalty of death or life imprisonment.

17 Now, you should know that the law imposes neither  
18 death or life imprisonment as a punishment, but presents the  
19 two alternatives to the absolute discretion of the jury.

20 The Legislature has formulated no rules to control  
21 the exercise of the jury's discretion.

22 So I'll be asking you these questions.

23 We're about to take a recess. And I want to know  
24 from you, if you should be chosen -- so I want you to be  
25 thinking about it over the weekend -- are your opinions  
26 concerning the death penalty such that you would automatically  
27 refuse to impose it without regard to any evidence that might  
28 be developed?

1           If so, then, you should not sit as a juror which  
2 may have the -- which may have the task of determining whether  
3 a defendant should suffer death or life imprisonment.

4           Or, are your opinions concerning the death penalty  
5 such that if the defendant were convicted of murder of the  
6 first degree, you would vote to impose the death penalty  
7 without regard to any evidence that might be developed during  
8 the trial of the case?

9           That, too, ladies and gentlemen, is something that  
10 the Court wishes to know, but -- because if that is your  
11 opinion, then you shouldn't be required to sit on this jury.

12           Are your views of the death penalty such as  
13 would prevent you from making an impartial decision in the  
14 first phase of the case as to guilt or innocence?

15           Because if you cannot be impartial because of  
16 those views, then, you should not be a juror in the case.

17           Are your views such that you would never vote to  
18 impose the death penalty?

19           Are your views such that you would never consider  
20 imposing the death penalty in this case or in any case?

21           I want to know from you the answers to those  
22 questions, too, Mr. Geisler, when you come back here on  
23 Monday morning.

24           JUROR NO. 12: Yes.

25           THE COURT: Uh, 9:45, gentlemen?

26           MR. KAY: That's fine, your Honor.

27           THE COURT: What does the calendar look like on Monday  
28 morning?

1 A number of cases.

2 Probably better set it for 9:45.

3 Ladies and gentlemen, the Court will attempt to  
4 be ready to call you back in at 9:45 on Monday morning.

5 There are a number of cases on the Court's  
6 calendar, and I may not be able to complete them by that  
7 time. But I'll try so that we can try to start promptly at  
8 9:45.

9 Remember that during the course of this recess  
10 between now and Monday at 9:45.

15c fls.

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1 Remember that during the course of this recess  
2 between now and Monday at 9:45 that if you may have a hard-  
3 ship problem, I want -- concerning salary or any other matter  
4 of hardship, that you must call someone about, see if you can  
5 get that information for me before Monday morning.

6 Mr. Geisler, you, particularly, since you mentioned  
7 it. You might check on that.

8 JUROR NO. 12: Yes, sir.

9 THE COURT: You are admonished that you are not to  
10 converse amongst yourselves, nor with anyone else, nor permit  
11 anyone to converse with you on any subject connected with this  
12 matter, nor form nor express any opinion on the matter until  
13 it is finally submitted to you, should you be chosen as a  
14 juror.

15 Uh, strike that.

16 The admonishment is this: You are admonished  
17 that you are not to converse amongst yourselves, nor with  
18 anyone else, nor permit anyone to converse with you, nor are you  
19 to form nor express any opinion on the matter until it is  
20 finally submitted to you, should you be chosen as a juror.

21 You'll be hearing that admonishment, should you be  
22 chosen as a juror, at every recess.

23 The Court also wishes to admonish you that you are  
24 not to hear, read or view anything by any of the media  
25 concerning this case and Mr. Manson during -- Mr. Charles  
26 Manson during the course of this recess.

27 You have an affirmative obligation as jurors to  
28 avoid such matters.

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I'll see you all on Monday at 9:45. Have a  
pleasant weekend.

(Whereupon, 4:40 P. M. Court adjourned.)