

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



DEPARTMENT NO. 106

HON RAYMOND CHOATE, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

-vs-

BRUCE MCGREGOR DAVIS,

Defendant.

206

NO. A-267861

REPORTERS' DAILY TRANSCRIPT

Monday, December 6, 1971

VOLUME 6

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

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

COPY

1 LOS ANGELES, CALIFORNIA, MONDAY, DECEMBER 6, 1971 9:55 A.M.

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3
4 THE COURT: The case of People vs. Davis?

5 MR. DENNY: Your Honor, I think we had just one juror,
6 Mr. Geisler, No. 12. And the Court had questioned him on the
7 issue of hardship.

8 He worked for McDonnell-Douglas.

9 All the other jurors, I think we had questioned,
10 but I had not gotten to voir dire Mr. Geisler at all at the
11 time we took the break for the weekend.

12 And I think it might be more expeditious if we
13 just got him in and --

14 THE COURT: All right. That's good.

15 MR. DENNY: And I wonder, your Honor, if, before he
16 comes in, I could just put a couple of things on the record?

17 THE COURT: All right. Yes, you may.

18 MR. DENNY: Well, we don't have the defendant, and we
19 don't have the prosecutors.

20 THE COURT: No, we don't. When those people are here,
21 the Court will hear your motions, whatever they are.

22 THE BAILLIFF: The defendant is down, sir.

23 MR. DENNY: He is down?

24 THE BAILLIFF: Yes, sir.

25 (Recess.)

26 THE COURT: The case of People vs. Davis.

27 The record will show that the defendant is present
28 with his counsel; Mr. Kay and Mr. Manzella are present for the

1 People.

2 MR. DENNY: Your Honor, I wanted to report to the Court
3 that I had been in contact yesterday with George Spahn and
4 spoke with him for 17 minutes, according to the operator;

5 That he has indicated a willingness to come down
6 to testify at the time that Ruby Pearl does. He did state
7 that apparently there is some difficulty, since they have 30
8 head of horses up there, and he was worried about getting
9 somebody to care for them, and worrying about how much notice
10 we would give him.

11 But he stated that there would be no -- no
12 difficulty; we wouldn't have to subpoena him. But he did want
13 to know if we would pay his expenses down, along with Ruby
14 Pearl's. And I said, "Yes, I am sure that could be arranged."

15 But I'm not sure how the District Attorney and the
16 Sheriff have previously arranged it for those witnesses who
17 have been transported in from out of State,

18 I understand that Ruby Pearl is not the only one
19 who has been provided with transportation and expenses, but--

20 THE COURT: Well, as the Court indicated to you, your
21 statement made on the record on Friday is sufficient; and in
22 view of Mr. Spahn's agreeing to come, then you will not have
23 to go through the statutory procedure to have him brought
24 from out of state.

25 The Court would order that his travel expenses,
26 and the expenses of his stay here, be paid by the County.

27 MR. DENNY: Well, your Honor, perhaps this is something
28 I can work out with Mr. Manzella, as far as the technical

1 arrangements.

2 THE COURT: I think so, since he's blind. If Mrs. Pearl's
3 coming down, it would be a good opportunity, I suppose, to have
4 her act as caretaker for him during that period of time.

5 MR. DENNY: Yes.

6 THE COURT: And while traveling to and from Oregon --
7 is it Oregon?

8 MR. DENNY: Yes, your Honor.

9 MR. MANZELLA: Right.

10 MR. DENNY: Your Honor?

11 THE COURT: Yes? Do you have some other matters?

12 MR. DENNY: Yes.

13 I had made a discovery motion, in connection with
14 the procuring of the rap sheets of various parties who were
15 listed as witnesses, among them that for Ella Jo Bailey,
16 at which time I think there was some discussion about her
17 testimony in the Manson trial, and the fact that sufficient
18 information was set out by means of Mr. Kanarek's cross-
19 examination for me, and that I wouldn't need that rap sheet.

20 I have reviewed again the extent of his cross-
21 examination, at pages 5125, and a few pages thereafter, which
22 do not give me that information. All it indicates is that
23 she has a forgery charge pending against her in the State of
24 Washington.

25 It doesn't say when she was arrested, how many
26 counts, if any, any of the background information at all that--
27 that might be gotten or might lead to further discovery on
28 the matter.

1 I have not been provided with a rap sheet on
2 Ella Jo Bailey, which in addition would, I think, show perhaps
3 other arrests.

4 I'm not sure it would show other convictions or
5 not. But I would request that I be provided with that rap
6 sheet at this time, or within a reasonable time after this
7 further request.

8 THE COURT: The People?

9 MR. MANZELLA: I'll provide Mr. Denny with that, your
10 Honor.

11 THE COURT: Very well.
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1 MR. DENNY: Fine. I have nothing further, your Honor.

2 Oh, I do -- I'm sorry. I have also requested
3 of Sergeant Whiteley -- not formally to the Court -- but
4 Sergeant Whiteley indicated that he could get the -- strike
5 that.

6 I have requested, I think, formally of the Court
7 the field interrogation reports for the period between July
8 28 and September 1, 1969, pertaining to any stops, any field
9 interrogations or investigations of people at the Spahn Ranch
10 during that period of time.

11 I am informed and believe that there were numerous
12 stops -- at least, on a daily basis -- during that period of
13 time. I have seen in Sergeant Whiteley's possession a book
14 of photostated copies of such reports, which appeared to be an
15 inch thick. Whether they were all copies of those particular
16 types of reports, and during that particular time period or
17 not, I don't know. But they appeared to be copies of such
18 field interrogation reports.

19 To date, I have received, through Sergeant
20 Whiteley, only five such reports on any of the people
21 connected with Spahn Ranch or with the Manson Family, for
22 that period of time.

23 I have been informed that there were certain of
24 those reports put into evidence by Mr. Katz, pertaining to
25 investigations made on July 28, 1969, in connection with the
26 Beausoleil trial.

27 I've checked the record with the Clerk, Mrs. Holt,
28 and there do not appear to be any such records in evidence

1 in the Beausoleil trial.

2 I've checked all of the records in the Tate-La
3 Blanca case -- according, at least, to the Clerk's chart of
4 the exhibits introduced there -- and there are no such
5 records.

6 I would request at this time that the Court
7 order that those records of field interrogation reports that
8 are in possession of the Sheriff's Office be provided to me.

9 THE COURT: Do the People wish to be heard?

10 MR. MANZELLA: If Mr. Denny will settle for copies of
11 those reports, I think I have copies in my files that I could
12 show him.

13 If he wants the originals, I'll have to talk to
14 the Sheriffs. But if he's willing to look at copies, I think
15 I have copies of those reports in my files.

16 MR. DENNY: Well, I am certainly willing to settle
17 for copies, if they're legible copies. And if there are --

18 MR. MANZELLA: Well, I am not going to give Mr. Denny
19 any copies. He can look at the copies in my file; or, if
20 he wants to bring a copying machine to my office, he can
21 copy them.

22 MR. DENNY: That's fine, your Honor. As long as I'm
23 given that opportunity.

24 THE COURT: Yes, that appears to be reasonable.

25 MR. MANZELLA: Fine.

26 THE COURT: All right. Let's get to Mr. Geisler.

27 Can you refresh my recollection, Mr. Kay and Mr.
28 Manzella, my memory concerning where we were?

1 MR. KAY: I think we were about to start publicity by
2 Mr. -- with Mr. Geisler; but he was going to find out first
3 whether or not his employers would pay him, at McDonnell-
4 Douglas.

5 THE COURT: Yes.

6 (Whereupon prospective juror No. 12 entered
7 the courtroom, and the following proceedings were
8 had;)

9
10 VOIR DIRE EXAMINATION (Continued)
11 OF EUGENE H. GEISLER

12 BY THE COURT:

13 Q Mr. Geisler, have you contacted anybody with
14 McDonnell-Douglas since we last saw you?

15 A Yes. I talked to them this morning.

16 Q And what's the word?

17 A Well, they only pay for 160 hours court time,
18 which is four weeks.

19 THE COURT: Gentlemen?

20 MR. DENNY: I'd so stipulate, your Honor.

21 MR. KAY: We will so stipulate, your Honor.

22 THE COURT: The Court would agree with counsel that
23 you should be relieved. It appears to be a hardship which
24 you shouldn't be required to undergo.

25 Accordingly, you are relieved of the obligation
26 to serve in this case.

27 Do you have time left on jury duty?

28 PROSPECTIVE JUROR NO. 12: Yes. I have two more weeks.

1 THE COURT: Very well. Thank you. And you are
2 excused.

3 THE CLERK: The 15th floor.

4 THE COURT: Yes. The 15th floor of the New Hall of
5 Records.

6 MR. MANZELLA: Your Honor, I was thinking that with
7 the court time that we get in, the actual trial time we get
8 in each day, 160 hours of court time works out to be about
9 four months.

10 (Laughter.)

11 THE COURT: You sound like a member of the Board of
12 Supervisors.

Ab fls.

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1 THE CLERK: Melvin H. Daida; D-a-i-d-a.

2
3 VOIR DIRE EXAMINATION OF

4 MELVIN H. DAIDA

5 BY THE COURT:

6 Q Mr. Daida?

7 A Yes.

8 Q Mr. Daida, did you come in with the second group
9 of prospective jurors?

10 A Yes.

11 Q And you've heard the Court's presentation of
12 the -- of the reading of the indictment, and the Court's
13 explanation of the nature of this case, did you not?

14 A Yes.

15 Q And you heard the questions put to the prospective
16 jurors?

17 A Yes.

18 Q Would your answers be any different than the
19 answers of that first prospective juror, chosen from your
20 group, to the questions of a general nature?

21 A No.

22 Q Can you think of any reason why you could not or
23 should not sit on this jury?

24 A No.

25 Q Would it constitute any hardship to you to
26 serve in the case?

27 A No.

28 Q What type of -- have you been a juror before?

1 A No.

2 Q What type of work do you do?

3 A Work with the State of California, Division of
4 Highways.

5 Q Doing what?

6 A Civil engineer.

7 Q And how long have you been so employed?

8 A Roughly about three and a half years.

9 Q And is there a Mrs. Daida?

10 A No.

11 Q Are you related to or a friend of any law enforce-
12 ment officer?

13 A No.

14 Q And in what general area do you reside?

15 A I beg your pardon?

16 Q In what general area of the County do you reside?

17 A In L.A.

18 Q In Central Los Angeles?

19 A Uh-huh.

20 Q You've heard the Court's explanation concerning
21 the death penalty, have you not?

22 A Yes.

23 Q Do you have such views concerning the death
24 penalty that you would automatically refuse to impose it,
25 regardless of the evidence in the case?

26 A No.

27 Q Or on the other hand, do you have such views
28 about it that you would refuse to impose it, regardless of

1 the evidence in the case?

2 A No.

3 Q Are your views about the death penalty such that
4 you could not be impartial, because of them, in determining
5 guilt or innocence?

6 A No.

7 Q Concerning publicity that may have been released
8 concerning or about this case, have you ever heard of this
9 case before?

10 A Uh --

11 Q By "this case," I mean this indictment that I've
12 read to you?

13 A Yeah, at one time.

14 Q And when was that?

15 A A month or so.

16 Q A month or so?

17 A It came over the TV, I think, sir.

18 Q And in what connection -- or, what did you hear
19 about it? Let me put it that way.

20 A Well, I didn't pay attention too much.
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1 Q You -- what caused you to remember that news report
2 of a month ago?
3 A Uh, I've --
4 Q Something about Mr. Davis?
5 A Yeah.
6 Q Or Mr. Manson?
7 A Over the air, over the TV, I just seen his face.
8 Q You just saw Mr. Davis's face?
9 A Yeah.
10 Q That's all you can remember?
11 A Yeah, right.
12 Q You don't remember any of the details of the
13 report?
14 A No.
15 Q Have you heard the name, heard, seen or read the
16 name Charles Manson before?
17 A Right.
18 Q Did you follow the Tate-LaBianca case, the Tate-
19 LaBianca homicide prosecution of Mr. Manson?
20 A I just heard about it. I didn't really go into
21 detail.
22 Q You didn't really follow it?
23 A No.
24 Q You take the daily newspaper?
25 A Yes.
26 Q And you read it every day?
27 A Well, not really. I just, you know, -- the sports
28 first.

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1 Q I see. In connection with your viewing television
2 news reports and radio news reports, hearing those reports, do
3 you do that regularly?

4 A No.

5 Q Had you heard the name Gary Hinman before, before
6 I read it in the indictment?

7 A No.

8 Q Have you heard the name Shorty Shea before?

9 A No.

10 Q Does stuntman Shorty Shea bring anything to your
11 mind?

12 A No.

13 Q Have you ever heard the phrase "Spahn Ranch"?

14 A Yeah, that's something to do with the Manson case,
15 right.

16 Q Well, you tell me.

17 A (Laughing.)

18 Q Is that the way you remember, it had something to
19 do with the Manson case?

20 A Right.

21 Q You're talking about the Tate-LaBianca case?

22 A Yes.

23 Q What do you know about the phrase Manson Family?
24 Have you ever heard, seen or read that, Manson Family?

25 A Um-hmmm, no, not really.

26 Q Do you know whether, in that Tate-LaBianca case,
27 Mr. Manson was accused alone or was he accused -- were there co-
28 defendants? Were there others that were accused with him of

1 murders?

2 A Well, yeah, yes.

3 Q What do you mean by that?

4 A Well, I heard about it.

5 Q Heard about what?

6 A From some other people that there were some other
7 people that were involved. But I didn't really go in to
8 detail of who was who.

9 Q If a person were associated with Mr. Manson, would
10 you be prejudiced, so prejudiced in your mind against him
11 by reason of that association that you couldn't be fair to him
12 in a trial of a case simply because of what you heard, seen or
13 read?

14 A Yeah, I think I would.

15 Q You think you would be prejudiced against a member
16 of the Manson Family?

17 A Yes.

18 Q Because of what you heard, seen or read?

19 A Yes.

20 Q So that you couldn't be entirely fair in making
21 any judgment in the case because of that; is that correct?

22 A Yes.

23 MR. DENNY: I would challenge the juror under 1073,
24 Subdivision 2 and 1076.

25 THE COURT: Thank you for being so frank about your
26 feelings, then, and the Court would excuse you, Mr. Davis.

27 THE CLERK: 15th floor of the new Hall of Records across
28 the street.

1 MR. DAVIS: Was that Data?

2 JUROR NO. 12: Daida, D-a-i-d-a.

3 THE COURT: What's that, Daida?

4 MR. DENNY: Daida.

5 THE CLERK: Jimmie O. Bowers, J-i-m-m-i-e, B-o-w-e-r-s.

6 MR. MANZELLA: Was that O, Mrs. Holt?

7 THE CLERK: Yes.

8 MR. DENNY: Jimmie O.

9 THE COURT: How about juror No. 10, Frazier; is that
10 Mrs. Frazier?

11 MR. DENNY: Miss Delilah Frazier.

12 THE COURT: Let's see, the People's first peremptory
13 was directed toward --

14 MR. KAY: Mr. Lear, juror No. 3, and Mr. Denny
15 exercised one with Mrs. Dunn. So the next is with the People.
16

17 VOIR DIRE EXAMINATION OF

18 JIMMIE O. BOWERS

19 BY THE COURT:

20 Q Is your name Bowers?

21 A Yes, it is.

22 Q What's your first name?

23 A Jimmie.

24 Q Jimmie?

25 A Jimmie, J-i-m-m-i-e.

26 Q Is it Mrs. Bowers?

27 A Mrs., yes.

28 Q Mrs. Bowers, were you present when the Court

1 explained the nature of this case and read the indictment and
2 instructed the prospective jurors concerning some parts of the
3 law regarding the case?

4 A Yes, I was.

5 Q And you were present, too, when the Court
6 questioned -- when the Court questioned prospective jurors?

7 A I was here Friday.

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1 Q Yes.

2 And would your answers be any different than the
3 answers that were given by those prospective jurors to the
4 questions of a general nature?

5 A No, they wouldn't.

6 Q Have you served as a juror before, Mrs. Bowers?

7 A No, I haven't.

8 Q What type of work do you do?

9 A I work at North American Rockwell, and I'm a
10 clerk, general clerk, you know.

11 Q Would you suffer any hardship if you were to
12 serve in this case?

13 A Well, I would think so because they only want
14 us to have 25 days off there. It is in the stipulation that
15 if I go to Labor Relations it is a possibility after the 25
16 days I could get more time, but it is up to Labor Relations
17 to decide.

18 Q It's been the Court's impression that North
19 American did pay.

20 A Up to 25 days.

21 Q Well, beyond that.

22 A Oh!

23 Q But the Court will ask you, during the recess,
24 during the subsequent recesses, to find out about that, if
25 you would. Perhaps contact Labor Relations directly,
26 something of that nature. See whether or not you can get
27 cleared away.

28 Is there a Mr. Bowers?

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- 1 A There is, yes.
- 2 Q What does he do?
- 3 A He is a blueprinter at North American Rockwell.
- 4 Q You're both working at the same place, is that
- 5 right?
- 6 A Well, he work at L. A. Division and I work at
- 7 the corporate offices in El Segundo.
- 8 Q You work in El Segundo and he works in Los
- 9 Angeles?
- 10 A Yes.
- 11 Q Where do you reside?
- 12 A 1832 West 75th Street in Los Angeles.
- 13 Q You've heard me explain the law concerning the
- 14 penalty phase of this case, have you not?
- 15 A Yes.
- 16 Q Would you -- would you have such views concerning
- 17 the death penalty that you could not thereby be fair and
- 18 impartial in determining guilt or innocence?
- 19 A Yes, I do. I --
- 20 Q You mean that in the first phase of the case,
- 21 knowing that if you found somebody guilty of murder of the
- 22 first degree, that you would have to go on and decide
- 23 penalty? That you could not be fair and impartial in that
- 24 first phase?
- 25 A I would think so, because I don't think I could
- 26 vote to put anyone to death. So --
- 27 Q Well, aside from that, now, considering the
- 28 question of guilt or innocence only.

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1 A Uh-huh.

2 Q Do you think it would affect your judgment in this
3 first phase of the case, too?

4 A I don't quite get what your --

5 Q You heard me explain that the case may be divided
6 into two phases?

7 A Yes.

8 Q The first phase being the phase involving guilt
9 or innocence.

10 If a defendant is found guilty of murder of the
11 first degree, then a second phase is entered into which the
12 jury determines whether the defendant should suffer life
13 imprisonment or death; do you follow me now?

14 A Yes.

15 Q In other words, if there is a conviction of
16 murder of the first degree, then, the jury would not be
17 called upon to decide the issue of penalty; do you understand
18 that?

19 A Yes.

20 Q In other words, if the defendant is found guilty
21 of something less, less than murder of the first degree,
22 then, the second phase is never entered into; do you understand?

23 A Yes.

24 Q Well, now, talking about the first phase alone,
25 wherein the jury determines whether a person is guilty or
26 not guilty, would your viewpoint concerning capital punishment
27 be such that you would be unable to be fair and impartial
28 in determining guilt or innocence?

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1 A No.

2 Q Then, going on to the penalty phase,

3 Would you, because of your views concerning the
4 death penalty, automatically refuse to impose it in any case?

5 A I would.

6 Q In other words, regardless of the evidence that
7 might be produced?

8 A Yes, because --

9 Q During the course of the trial or the penalty
10 phase or both?

11 A Yes, morally and religiously I could not.

12 Q You would not impose it?

13 A No.

14 Q Would your reaction be automatic to vote against
15 the death penalty?

16 A I would think so.

17 Q Can you -- would you ever consider imposing the
18 death penalty?

19 A I have thought about it, and I just can't see,
20 you know -- I just don't believe in the death penalty.

21 Q I see.

22 And your reaction, then, no matter what the case
23 may be, would be to automatically refuse to impose it?

24 A The death penalty?

25 Q Is that correct?

26 A That's right.

27 MR. MANZELLA: The People would respectfully challenge
28 Mrs. Bowers under Section 1073, Subdivision 2 of the Penal Code.

1 THE COURT: All right, the Court grants the challenge.

2 Thank you, Mrs. Bowers. The Court will excuse
3 you.

4 Go to the 15th floor of the New Hall of Records,
5 would you, please. There's a jury assembly room there.

6 THE CLERK: Milledge Culbreth, first name, M-i-l-l-e-d-g-e,
lb fla. 7 last name, C-u-l-b-r-e-t-h.

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1 THE COURT: Is that spelled C-u-l- --
2 THE CLERK: It is C-u-l-b-r-e-t-h.
3 THE COURT: I see, thank you.
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5 VOIR DIRE EXAMINATION OF
6 MILLEDGE CULBRETH

7 BY THE COURT:

8 Q Mr. Culbreth --

9 A Yes, sir.

10 Q How are you this morning?

11 A Oh, fine.

12 Q The Court wants to know from you whether you heard
13 the Court's explanation of the nature of this case, heard the
14 Court's questioning of prospective jurors on Friday?

15 A Yes, sir, I did.

16 Q Would your answers be any different than the
17 majority of the jurors responded to the Court's questions of
18 a general nature put to those jurors?

19 A No, sir, they would not.

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

22 A Yes, sir, it would.

23 Q Tell us about it.

24 A I work for Hughes Aircraft and I would not be
25 compensated beyond my regular tour of duty, approximately 30
26 days.

27 Q You've checked on that?

28 A Yes, sir.

1 Q How long have you worked for Hughes?

2 A Uh, next month it will be six years.

3 Q And the most they pay for is the ordinary and
4 regular tour of duty of 30 days?

5 A Yes, sir, that's right.

6 THE COURT: Gentlemen?

7 MR. KAY: We ask that it be stipulated that this juror
8 be excused due to hardship.

9 MR. DENNY: So stipulated.

10 THE COURT: The Court finds it is a hardship and does
11 excuse you.

12 JUROR NO. 12: Thank you.

13 THE COURT: Thank you, Mr. Culbreth.

14 THE CLERK: 15th floor of the New Hall of Records across
15 the street.

16 JUROR NO. 12: 15th floor?

17 THE CLERK: Yes.

18 Alfonso Conrado. First name is A-l-f-o-n-s-o;
19 last name C-o-n-r-a-d-o.

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21 VOIR DIRE EXAMINATION OF
22 ALFONSO CONRADO

23 BY THE COURT:

24 Q Mr. Conrado, were you present on Friday when the
25 Court explained the nature of this case and read the indictment
26 and conversed with various prospective jurors?

27 A Yes, sir.

28 Q Would your answers be any different than the

1 majority of those jurors responded to the questions of a
2 general nature?

3 A No, they wouldn't.

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

6 A No, I don't think so.

7 Q What -- have you had jury duty before?

8 A No, I haven't.

9 Q You've served neither on a criminal or a civil
10 case? Is that correct?

11 A None.

12 Q What type of work do you do?

13 A I work for Union Bank as a clearer, control
14 clearer input.

15 MR. DENNY: I'm sorry, I didn't understand that.

16 Q BY THE COURT: Input control clerk?

17 A Right.

18 Q Where?

19 A At Union Bank.

20 Q Where, in Los Angeles?

21 A In Los Angeles.

22 Q Main office?

23 A In the computer center.

24 Q Computer center; where is that?

25 A It is at 1000 South Hope Street.

26 Q And you work with computer machines, is that it?

27 A Right.

28 Q With computers and you work in the input

1 department?

2 A Right.

3 Q Is there a Mrs. Conrado?

4 A No.

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1 Q Are you going to be a juror or a juror?
2 on the jury?

3 A No, I am not.

4 Q In what area do you reside?

5 A Oh --

6 Q What area of Los Angeles County?

7 A Los Angeles County.

8 Q Yes. In what area, generally; East Los Angeles,
9 West Los Angeles, Beverly Hills?

10 A Uh-huh, I think it is called Highland Park.

11 Q Highland Park?

12 A Right.

13 Q Do you have such views concerning the death
14 penalty that you, by reason of those views, would be unable to
15 be fair and impartial in determining guilt or innocence?

16 A Well, I will say, I was born in South America.

17 Q Yes.

18 A And I came from a very Catholic family.

19 Q Catholic family?

20 A Catholic. And since I was a child, the death
21 penalty in my -- in the place where I was born was -- was a
22 distracted -- the time has been changed now. There I think there
23 is death penalty, too, but still back in my mind, my childhood,
24 what I was learned at church --

25 Q You learned in church that the death penalty was
26 wrong?

27 A Practically, yes, because I was too young. I don't
28 remember.

1 Q I see. Well, what are your feelings now?

2 Let me ask another question.

3 Would your views concerning the death penalty be
4 such or your opinions concerning it be such that you would
5 automatically refuse to impose it in any case regardless of the
6 evidence?

7 A No, might not.

8 Q It would not?

9 A No, it would not be.

10 Q And so you could impose the death penalty in some
11 cases?

12 A Yes, I could.

13 Q Are you stating to the Court that your inclination
14 would be against the death penalty but you could impose it?

15 A Right, that's what I tried to say.

16 Q Now, speaking -- you recall that I told you that the
17 case is possibly divided into two phases; do you remember that?

18 A Yes, I remember that.

19 Q In the first phase, that is where the jury
20 considers the question of guilt or innocence.

21 If the jury finds the defendant guilty of murder
22 of the first degree, then, the jury moves into the second
23 phase. And at that time the jury considers the question of life
24 imprisonment or death as a penalty.

25 A Right.

26 Q Understand?

27 A Right.

28 Q Now, considering the first phase, that of guilt or

1 innocence, would your views concerning the death penalty be
2 such that you could not be fair and impartial in determining
3 whether a man is guilty or not guilty?

4 A No, I don't think so.

5 Q You think you could be fair?

6 A I think I would be.

7 Q In spite of your views?

8 A Right.

9 Q Now, getting over to this second phase again.

10 Do you have such views about the death penalty
11 that you would never consider it in any case?

12 A No.

13 Q Are your views about -- your views about it are
14 such, I gather, from what you said that you would not auto-
15 matically vote to impose it upon a conviction of murder in the
16 first degree without regard to the evidence?

17 A No, I wouldn't.

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1 Q You would look at the evidence --

2 A Right.

3 Q -- to determine whether, in your discretion and
4 your judgment, the death penalty should be imposed?

5 A Right.

6 Q Have you ever heard of this case before?

7 A Yes, I have.

8 Q The case of People vs. Davis?

9 A Yes, I have.

10 Q Where did you hear of it? In what way?

11 A Well, out in -- I think I heard it in the news-
12 paper.

13 Q You read something in the newspaper?

14 A Right.

15 Q Can you recall when it was?

16 A Hmmm -- no. Probably about a month ago, something
17 like that.

18 Q About a month ago?

19 A Right.

20 Q Have you read anything about Charles Manson in
21 the last two months?

22 A No. I see more on television and newscasts.

23 Q Well, you have -- have you heard or seen something
24 about Manson --

25 A No.

26 Q -- in the last two months?

27 A I don't think so.

28 Q You don't think so. But you have heard the

2-2

1 name Charles Manson before, --

2 A Right.

3 Q -- heard, seen or read it?

4 A Yes.

5 Q Now, in what connection have you heard, seen or
6 read that?

7 A (No response.)

8 Q Was that in connection, perhaps, with the Tate-
9 La Bianca killings?

10 A Right, with the La Bianca killings.

11 Q Have you ever heard of the name Shorty Shea
12 before?

13 A No, not since last Friday.

14 Q Other than last Friday?

15 A No.

16 Q Other than last Friday, when I read it to you,
17 have you ever heard the name Gary Hinman before?

18 A No, I haven't.

19 Q Have you ever heard, seen or read the name Spahn
20 Ranch?

21 A No, not that either.

22 Q Do you read a newspaper regularly?

23 A Once in a while, the Los Angeles Times.

24 Q You say "once in a while"?

25 A (Indicating affirmatively.)

26 Q With what frequency do you read a newspaper?
27 Two or three times a week?

28 A Probably once or twice a week.

2-3

1 Q Once or twice a week. Do you read a Spanish
2 newspaper, or --

3 A No, I don't.

4 Q What newspaper do you generally --

5 A The Los Angeles Times.

6 Q Do you remember the phrase Manson Family?

7 A Yes, I remember it some.

8 Q What does that mean to you?

9 A Well, I believe it was a group of -- living
10 some place in San Fernando Valley, and that was involved in
11 crimes.

12 Q Generally speaking, do you think they're a pretty
13 bad group?

14 A Well --

15 (Pause.)

16 Q From what you've heard, seen or read?

17 A Yes. What I have heard, what I read in the
18 newspaper. But I don't have any other -- another knowledge.

19 Q Now, would a person who is a member of that Manson
20 group or Manson Family, by reason of what you have heard,
21 seen or read, suffer any prejudice in your mind, so that you
22 couldn't be fair and impartial as a juror in deciding the
23 case involving Hinman?

24 A No, I don't think so.

25 Q Do you think that in spite of the fact that the
26 man might be a member of the Manson Family, that -- and in
27 spite of what you've heard, seen or read in the newspaper --
28 that you could still be fair?

2-4

1 A Yes, I think I will.

2 THE COURT: Gentlemen, do you wish to --

3 MR. DENNY: Yes, your Honor.

4
5 VOIR DIRE EXAMINATION

6 BY MR. DENNY:

7 Q Sir, I think a number of times you indicated
8 to the Court that your news source apparently is not mainly
9 from the paper, but from TV? Or radio?

10 A Yes, most for TV and radio.

11 Q And do you regularly watch a TV program?

12 A Right.

13 Q That is, a TV news program?

14 A Yes.

15 Q And which is that, sir?

16 A Oh --

17 Q Or which are those?

18 A I would say the 11 News; the 11:00 o'clock News,
19 on Channel 7.

20 Q Any other news program on TV?

21 A No, I usually watch 11:00 o'clock News on
22 Channel 7.

23 Q All right.

24 And how about on your radio? Do you generally
25 hear news reports on your radio?

26 A Yes. I listen every day to KLAC, which they have
27 a news every -- I think every 45 minutes.

28
2a fls.

2a-1

1 Q Now, was it on one of these, either TV or radio,
2 that you heard, within about the last month, about this case?

3 A I really don't recall whether it was radio or
4 TV or whether I read it in the paper, because the name sounds
5 familiar, after I hear it over here.

6 Q Which name?

7 A Hmmm -- Davis.

8 Q All right. And do you recall anything other than
9 the name, about what this report said concerning the case?

10 A No, I don't remember anything. I -- no, I
11 don't.

12 I am confused what name -- with the name -- with
13 a story or something, because --

14 (Pause.) No, I don't remember.

15 Q All right. Now, when you say this Manson Family
16 was a group that lived out in the San Fernando Valley, is
17 this information that you recall from stories you read back
18 a year or more ago --

19 A Correct.

20 Q -- about the Tate and La Bianca murders?

21 A Correct.

22 Q And do you recall whether or not at that time
23 you read anything about the Spahn Ranch being the place
24 where they hung out, as it were?

25 A Right. Well -- say that again, please?

26 Q The Spahn Ranch? S-p-a-h-n Ranch? Being this
27 place in the San Fernando Valley?

28 A Right. This, I remember was like the headquarters

1 for the group.

2 Q All right. And do you remember hearing or
3 reading anything about anybody looking for Shorty Shea out
4 at the Spahn Ranch?

5 A No, I don't.

6 Q Now, when you say, in response to the Court's
7 question, "Do you think they're a pretty bad group," referring
8 to the Manson Family, I think you said from what you had
9 heard and read in the papers, they were a pretty bad group,
10 as far as you could tell; is that right?

11 A Well, collectively the group, I would say yes.

12 Q I'm sorry.

13 A To collect as a group, what I have read in the
14 paper, I would say yes. But I don't have any other knowledge.

15 Q Well, based again, then, on what you have read
16 in the paper, at least up to this point, it's your opinion
17 that anybody belonging to that group, which has been
18 described as the Manson Family, --

19 A Right.

20 Q -- would be, in the vernacular, a bad person;
21 is that right?

22 A No, I don't think so. I always said the idea
23 of having a paper was -- as a group, was a bad group; but
24 I wouldn't say that of anybody there.

25 Q Well, would you say that anybody, then, a member
26 of the Manson Family or Manson group, would, as far as you
27 are aware up to this point, probably be involved in the doing
28 of evil things or bad things?

1 A Well, I would say yes.

2 Q And is it your feeling, as you sit there, that
3 these people were -- were out to commit various types of
4 crimes, based on what you've seen, heard and read? Is this
5 your opinion of what these people in the Manson Family were
6 about?

7 A Yeah.

8 Q So that, if the evidence in this case were to
9 show that the defendant was a member of this Manson Family,
10 do you think, based on your feelings that have come about
11 through your reading and hearing, might affect your ability
12 to be fair and impartial toward him in determining his
13 guilt or innocence of any crimes charged against him?

14 A No, I don't think so.

15 Q You understand some people read things, and it
16 just riles them up inside, or they just get sort of a gut
17 reaction; and when they think about it, they say, "Well,
18 I just couldn't -- I couldn't sit in a judgment of a person
19 associated with that group or those people."

20 A Yes. Yes, I understand that. But there's just
21 the word; there's the part of the stories they put there in
22 the newspaper.

2b fls.

2b-1

1 Q I'm sorry.

2 A The story in the newspaper put there is different;
3 all the -- by the way they write it, trying to show their --
4 they suggesting information -- it's just information, I
5 believe.

6 Q It's not necessarily factual; is that what you
7 believe?

8 A Well --

9 Q Maybe a little bit sensational?

10 A Yeah, could be.

11 Q So that you would not base your determination of
12 the guilt or innocence of this defendant on anything you'd
13 seen, heard or read, or any feelings you might have gotten
14 because of that reading or listening; is that right?

15 A Right.

16 Q But you would sit, logically, reasonably, listen
17 to this evidence from this witness stand, from these witnesses,
18 and based on that evidence and what the judge tells you the
19 law is, you would determine whether this defendant, this
20 particular defendant, whether he be a member of the Manson
21 Family or the King Sisters --

22 A Right.

23 Q -- is guilty or innocent of the charges against
24 him, --

25 A Right.

26 Q -- is that right?

27 A Right.

28 Q Now, sir, insofar as your answers to the Court's

2b-2

1 questions about the death penalty, have you ever done any
2 reading on the subject of the death penalty?

3 A No, I haven't.

4 Q Have you ever had any discussions, bull sessions,
5 rap sessions with people concerning the death penalty?

6 A No, I haven't.

7 Q Did you indicate that the place where you were
8 born and brought up as a child in South America was one of
9 the contries that at that time did not have --

10 A Right.

11 Q -- any death penalty?

12 A Right.

13 Q Was it the whole country, or just a certain
14 area --

15 A The whole country.

16 Q And what country was that, sir?

17 A Colombia.

18 Q And is your feeling now, sir, that -- or, do you
19 know now that they do have the death penalty?

20 A I believe they're working on it, in the congress.

21 Q But as of the present time --

22 A No.

23 Q -- that country still does not impose the death
24 penalty --

25 A Not yet.

26 Q -- in any cases; is that right?

27 A Right.

28 Q All right. And have you ever belonged to any

2b-3

1 organization other than the Catholic Church, as you've
2 indicated, --

3 A No, I haven't.

4 Q -- that takes a position one way or another on
5 this issue of putting a person to death for crimes?

6 A No, I haven't.

7 Q Again, I think Mr. Kay or Mr. Manzella may ask
8 you -- and I'll ask you ahead of time -- whether you would
9 have, as they say, the courage of your convictions or the
10 strength of character, or whatever, if you felt it was proper
11 under the testimony, to be able to come in and look any of us
12 in the eye, and look Mr. Davis in the eye, and tell him, "I
13 sentence you to die."

14 A Yes, I will.

15 Q You would be able to do that?

16 A Yes, I will.

17 Q Now, you say, "Yes, I will." Are you contemplating
18 that this is what will occur in this case?

19 A Well, you said will I -- "Do you have the
20 conviction?"

21 Q I said: Would you, if it came to that?

22 A Well, I would.

23 Q By the same token, if you didn't believe -- and
24 again, I've said this to a number of jurors, as I've
25 questioned them -- you understand that when I am questioning
26 you about this death penalty issue, or about a number of
27 issues, we are talking strictly about a hypothetical situa-
28 tion, as far as I am concerned, because I don't concede guilt

1 in this case.

2 And if there is no guilt, you never get to a death
3 penalty issue.

4 A Right. I understand.

5 Q You never get to a death penalty hearing.

6 A Right.

7 Q All right. I have to ask you these questions,
8 because this is the only opportunity we'll have of discussing
9 it with you.

10 But assuming there were a finding of guilt of
11 murder in the first degree in this case, and you've heard all
12 the evidence, and you had heard any evidence that may be put on
13 in the penalty phase, would you have a similar strength of
14 character and the courage of your convictions, if you felt
15 that it was not a case in which the death penalty was warranted,
16 to come back and look the judge in the eye, the prosecutors in
17 the eye, your fellow jurors, and your fellow citizens in the
18 eye, and say, "No, I don't feel that this is a death penalty
19 case, and I do not vote to impose it."

20 A Yes, I would.

21 MR. DENNY: Your Honor, if we are not going to go into
22 the other areas at this point with the juror, the general
23 areas, I will pass at this time.

24 THE COURT: Does the prosecution wish to inquire at
25 this time?

26 MR. MANZELLA: I have no questions on publicity, your
27 Honor.

28 THE COURT: How about the penalty?

1 MR. MANZELLA: I do have one question I would like to ask
2 Mr. Conrado on publicity.

3
4 VOIR DIRE EXAMINATION

5 BY MR. MANZELLA:

6 Q Mr. Conrado, you said that you thought you could
7 be fair and impartial in spite of what you read.

8 Was that your way of saying "Yes" when you said,
9 "I think so"?

10 Was that your way of saying "Yes"? Or does that
11 display some hesitation on your part, as to whether or not you
12 can be fair and impartial?

13 A I mean yes.

14 MR. MANZELLA: All right.

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VOIR DIRE EXAMINATION (Continued)

1 BY THE COURT:

2 Q Mr. Conrado, if I were to instruct you -- if the
3 Court were to instruct you that you are to set aside any-
4 thing that you may have heard, seen or read about Charles
5 Manson, the Manson Family, this case, Mr. Davis, and decide
6 the case independently on such matter, basing your judgment
7 only on the evidence that you see and hear in court, and the
8 Court's instructions of law, are you capable of doing that?

9 A Yes, I will.

10 Q You believe you are capable of doing that?

11 A Yes, I would.

12 Q And you will do that?

13 A (Indicating affirmatively.)

14 Q Is that correct?

15 A Right.

16 MR. MANZELLA: Your Honor, do you want me to examine
17 on the --

18 THE COURT: On the penalty?

19 MR. MANZELLA: On the penalty?

20 THE COURT: Yes, if you would, please.

21 MR. MANZELLA: Certainly.

22 THE COURT: Since Mr. Denny did, outside of the presence
23 of the -- the hearing of the jurors.

VOIR DIRE EXAMINATION

24
25
26 BY MR. MANZELLA:

27 Q Mr. Conrado, do you -- do you feel that every
28

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1 person who is convicted of first degree murder should be
2 sentenced to life imprisonment?

3 A Is this what the law says?

4 Q The law doesn't say anything about it, Mr. Conrado.

5 As Judge Choate has told you, when a person is
6 convicted of first degree murder, there are two possible
7 punishments. One is life imprisonment; the other is death.

8 And the law doesn't tell you any more than that.
9 It's your determination as a juror to make, based upon what-
10 ever you feel is relevant -- or, whatever is material or
11 whatever bears on the question of punishment.

12 Whatever you decide is what the law accepts,
13 whether it's death or life imprisonment. The law doesn't
14 tell you how to decide that question.

15 Now, do you feel that -- that everyone convicted
16 of first degree murder should receive a death sentence?

17 A Well, I never thought about this.

18 Yes, I think so. Yes.

19 Q That every person convicted of first degree
20 murder should receive the death sentence?

21 A Yes.

22 Q Would you -- strike that.

23 If this defendant, Bruce Davis, was convicted of
24 first degree murder in this case, do you feel that he should
25 receive the death sentence?

26 THE COURT: Well, I think --

27 MR. MANZELLA: Your Honor, I don't think there's any
28 need to interrupt the question, on the grounds that it's --

2c-3

1 you know, if Mr. Denny hasn't, because I think it's -- it's
2 a good question, whether it shows bias for the defense or
3 for the prosecution.

4 THE COURT: I don't hear any objection.

5 I did hear his answer. He had already answered
6 it. It can remain in.

7 MR. MANZELLA: All right.

8 Q So you feel now, then, without hearing any
9 evidence in the case, that if Mr. Davis was convicted of
10 first degree murder, that you would lean toward the death
11 sentence, if he was convicted of first degree murder?

12 A Right.

13 MR. MANZELLA: I have no further questions.

14 THE COURT: Any further questions?

15
16 FURTHER VOIR DIRE EXAMINATION

17 BY MR. DENNY:

18 Q Mr. Conrado, you told me that because of your
19 early training as a Catholic, that your tendency would be to
20 lean the other way, toward life imprisonment, rather than
21 death.

22 Can you explain your --

23 A Yes.

24 Q -- the apparent difference?

25 A Well -- uh --

26 (Pause.) -- I don't know how to explain this.

27 Because like I say before, when I was a child,
28 this was almost imposed in my head.

FURTHER VOIR DIRE EXAMINATION

BY THE COURT:

Q You understand that -- that the Legislature of the State of California has not stated that a defendant who is convicted of murder of the first degree should be sentenced to death; that it's not mandatory; it's left to the jury --

A The jury --

Q -- to determine whether the sentence should be death or life imprisonment; and it's the jury's task in this second phase to determine that.

A Yes, I understand that.

2b fls.

2d-1

1 Q And do you have a leaning, either way, now --
2 assuming that a person is convicted of murder in the first
3 degree -- do you have a leaning either way, in your mind,
4 toward life imprisonment or death?

5 A (Indicating negatively.)

6 Q You say "No." You are nodding your head -- or
7 shaking your head "No" --

8 A No, I -- see, I never -- I've never been exposed
9 to this thinking. And I still -- I cannot make up my mind
10 right.

11 Q So, at this point, you have no leaning either way?
12 You will look at the evidence to determine whether you would
13 impose, in your judgment, life imprisonment or death, upon a
14 conviction of murder in the first degree; is that correct?

15 A Right.

16 THE COURT: Counsel?

17 MR. DENNY: Yes. Thank you, your Honor.

18
19 FURTHER VOIR DIRE EXAMINATION

20 BY MR. DENNY:

21 Q Mr. Conrado, now, I think you have us all confused.

22 A I am confused myself.

23 Q Well, I thought that might possibly be.

24 The judge asked you questions one way. I asked
25 you questions another way. Mr. Manzella asked you questions
26 another way.

27 And to each person, you seemed to answer the
28 question sort of the way you think they might want you to answer.

1 Are you doing that, sir?

2 A No.

3 Q All right. Well, now, then, let's sort of review
4 the bidding, as they say in bridge.

5 You had answered the judge, first, that because
6 of your background and training, you had a leaning toward not
7 imposing the death penalty in any murder case; do you remember
8 that?

9 A Yes, I do.

10 Q All right. I assumed that was your position, and
11 I didn't ask you many questions. Then, Mr. Manzella asked
12 you some questions, and you said it was your feeling that every
13 person convicted of murder first degree should receive the
14 death penalty; is that right?

15 A Right.

16 Q And that, if it were up to you, you would vote
17 for the death penalty, where a person had been convicted of
18 first degree murder; is that right?

19 A Right.

20 Q And that you would vote to impose the death
21 penalty on Mr. Davis, if he were convicted of first degree
22 murder; is that right?

23 A Right.

24 Q And as you sit there now, this is your feeling?
25 That upon the conviction of Mr. Davis of first degree murder --
26 assuming, again, a hypothetical situation, that that might
27 happen -- but assuming now that you have sat as a juror and
28 listened to all the evidence, and you are convinced beyond a

1 reasonable doubt in the guilt or innocence phase that he is
2 guilty, and so you bring in that verdict of guilty, and then
3 you retired at the end of the penalty phase -- and there is no
4 evidence introduced at the penalty phase -- he's guilty now of
5 first degree murder, because you've found him guilty -- is it
6 your position that you would then automatically impose the death
7 sentence on him? Having found him guilty of first degree
8 murder?

9 A No. Because there is no evidence of what you said.

10 Q Well, it was a bit of a long question. Let me go
11 back a moment.

12 Let's assume you're a juror, and you have found him
13 guilty of first degree murder, based on the evidence that's
14 come from the witness stand. Now, would you -- and based on
15 the instructions that the judge gives you, you and your eleven
16 fellow jurors have found him guilty of first degree murder,
17 murder in the first degree.

18 Do you understand that?

19 A Right, I understand.

20 Q All right. Now, in what they call the penalty
21 phase of the trial, the People and the defendant have a right
22 to put on evidence. But they don't have to put on evidence,
23 neither one of them, although they may put on evidence.

24 Now, he might say, "Okay. Now, you jurors go
25 back in --" the judge will give you a few more instructions
26 and tell you that it's entirely up to you what you do, and you
27 determine what the penalty is going to be.

28 That can happen; do you understand that?

1 A Uh-huh.

2 Q All right. Now, let's assume that did happen in
3 this case. You'd found him guilty of first degree murder, and
4 then the judge said, "All right. Now, go back in without any
5 further evidence and determine what the penalty should be."

6 You've stated that, in a general situation, where
7 a person is guilty of first degree murder, you feel that he
8 should get the death penalty; is that correct?

9 A Right.

10 Q All right. Would it be your feeling, then, that
11 Mr. Davis should get the death penalty? Having found him
12 guilty of first degree murder?

13 A Yes. This, I feel.

14 Q And actually, this is something --

15 (Pause in the proceedings while a discussion off
16 the record ensued at the counsel table between Mr. Ray and
17 Mr. Denny.)

18 THE COURT: In other words, would you automatically vote
19 for the death penalty upon a conviction of murder in the first
20 degree?

21 PROSPECTIVE JUROR NO. 12: Yes, I think so.

22 MR. DENNY: All right. I'll challenge the juror,
23 under --

24 MR. RAY: No objection, your Honor.

25 MR. DENNY: -- 1073, Subdivision 2.

26 THE COURT: Thank you, sir. Thank you, Mr. Conrado.

27 The Court will excuse you. You are to report to
28 the 15th floor, if you would, of the Hall of Records.

1 Off the record.

2 (Proceedings had on an unrelated matter.)

3 THE COURT: We are in recess in this matter now for ten
4 minutes.

5 MR. KAY: Thank you, your Honor.

6 (Mid-morning recess.)
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1 THE COURT: Case of People vs. Davis.

2 Gentlemen, have you gentlemen read the letter of
3 Dr. Frankl? Are you willing to advance the cause? I under-
4 stand Miss Barbara Barnes is a special endoscopy technician
5 for the County of Los Angeles.

6 MR. KAY: People are, if the defense is.

7 MR. DENNY: Well, your Honor, I'll go along with that.

8 THE COURT: I don't know that the Court would be willing
9 to.

10 MR. DENNY: I'm not sure it constitutes a legal excuse,
11 but if I needed my endoscopy taken care of, I sure would want
12 her around.

13 MR. MANZELLA: People will stipulate she may be
14 excused.

15 THE COURT: In view of the stipulation, the Court will
16 excuse Miss Barnes.

17 MR. KAY: Mr. Kuczera brought in some juror this
18 morning, your Honor, maybe he could find him who had a
19 hardship problem and wanted to be excused.

20 Mr. Kuczera, I believe, is going to find out
21 his name.

22 THE COURT: Well, let's take another name from the
23 box.

24 THE CLERK: Mrs. Katharina Obradovich, first name,
25 K-a-t-h-a-r-i-n-a, last name, O-b-r-a-d-o-v-i-c-h.

26
27 VOIR DIRE EXAMINATION OF
28 KATHARINA OBRADOVICH

3-2

BY THE COURT:

Q Would you state your name for us, please?

A Obradovich.

Q Mrs. Obradovich, were you present Friday when the Court explained the nature of this case and read the indictment?

A Yes.

Q And did you hear the Court questioning prospective jurors, too?

A Yes.

Q Would your answers be any different than the majority of those prospective jurors responded to the Court's questions of a general nature?

A No.

Q Can you think of any reason why you couldn't be fair and impartial in this case or why you shouldn't sit on the case?

A I have to do some statement before court.

Q You have to do some things --

A I --

Q You mean it would cause you a hardship if you were caused to serve in the case or not?

A I like to answer now to court only one answer of this -- of the questions that were given to jurors on Friday.

Q All right.

What question would you like to give the answer to?

A Yeah.

Six year ago my daughter, at that time teenager,

3-3

1 was given probation for one year in the case of shoplifting.

2 Q Shoplifting?

3 A Uh-huh.

4 Q Petty theft?

5 A Please?

6 Q Was it petty theft?

7 A Yeah.

8 Q And is she still on probation?

9 A No, it was only for one year.

10 Q She wouldn't be now?

11 A No, she wasn't in prisonment. Probation one year.

12 Q Do you think there was anything unfair about that

13 proceeding?

14 A Oh, no, no.

15 Q Would it at all affect your judgment that that

16 occurred?

17 A Never.

18 Q Would it be any hardship to you to serve in this

19 case?

20 A No. I am 63. Only I -- I have privilege to be

21 here like citizen.

22 Q Are you in good health?

23 A In general, yes.

24 Q What type of -- have you served as a juror before?

25 A No.

26 Q What type of work do you do?

27 A I am working for Division of Highways. I am

28 assistant highway engineer.

3-4

- 1 Q Assistant highway engineer?
- 2 A Yes.
- 3 Q You have an engineering degree?
- 4 A Yes, err -- yes, in Europe.
- 5 Q Where did you acquire that degree?
- 6 A In Kiev.
- 7 Q In Kiev?
- 8 A Yes.
- 9 Q How long have you been employed by the Department
- 10 of Highways?
- 11 A Seven years.
- 12 Q And is there a Mr. Obradovich?
- 13 A No, dead.
- 14 Q What did he do before he died?
- 15 A Surveying. Surveyor.
- 16 Q Are you related to or a friend of any law
- 17 enforcement officer?
- 18 A No.
- 19 Q In what general area of the County do you
- 20 reside?
- 21 A Silver Lake District.
- 22 Q Are your views -- strike that.
- 23 A I can't hear you, your Honor.
- 24 Q I didn't really say anything. Whatever I said, I
- 25 struck. So you disregard it, in any event.
- 26 A Yeah.
- 27 Q I wanted to question you about whether or not you
- 28 have previously heard of the indictment that I read about, that

3-5

1 I read you?

2 A Only Friday.

3 Q Friday was the first time?

4 A Yes.

5 Q All right. Before that time had you heard the
6 name Charles Manson?

7 A Naturally.

8 Q And did you follow that case involving Charles
9 Manson wherein he was accused of the murders of the Tate,
10 Sharon Tate and the La Blancas?

11 A Yes, I read the newspaper.

12 Q Now, had you heard of any other charge against
13 Mr. Manson?

14 A No.

3a fls.

1 Q That was the only case?

2 A Yeah.

3 Q That you can recall.

4 Do you read newspapers?

5 Did you also hear the reports, news reports over
6 television and radio?

7 A Hmm, yes, news on television, yeah.

8 Q Do you read a newspaper regularly?

9 A Yes.

10 Q Every day?

11 A Yes.

12 Q And have you read the name Charles Manson in the
13 last two months?

14 A In what, please?

15 Q Within the last two months?

16 A Uh --

17 Q Have you heard the name Charles Manson?

18 A I heard it, yes, that he was accused of some --
19 another count. I don't remember what.

20 Q You don't remember what?

21 A No.

22 Q Do you remember what the -- whether there was a
23 return of a verdict or do you recall any news article regard-
24 ing a return of --

25 A I think that this was regarding another, hmm --
26 hmm, something, another count. It was ending.

27 Q And you don't know what the result was as far as
28 the accusation was concerned?

1 A I think it was a first degree murder or life
2 of imprisonment.

3 Q Before you heard the Court read the indictment
4 on Friday, had you ever heard the name Shorty Shea?

5 A Uh --

6 Q Donald Jerome "Shorty" Shea or had you heard the
7 name stuntman Shorty Shea?

8 A Shea or Share?

9 Q Shea, S-h-e-a?

10 A No, no.

11 Q Do you recall having heard the name Gary Hinman?

12 A Yes.

13 Q And where -- in what connection?

14 A In connection of their murder.

15 Q Of the murder of --

16 A Of Hinman.

17 Q Yes.

18 A Yes.

19 Q Before Friday, that is?

20 A From newspaper.

21 Q From newspaper?

22 A Yes.

23 Q What do you recall about that, that murder, that
24 comes back to your mind --

25 Mrs. McKissack, can I help you?

26 MRS. MCKISSACK: No, your Honor, I was just reading
27 the file.

28 A I don't recall nothing, only fact that he was

1 murdered and I remember his name more than Share or Shear.

2 Q Shea. You recall Shea's name, too, now?

3 A From Friday.

4 Q On Friday?

5 A Yeah.

6 Oh, Hirman, I recall.

7 Q What do you recall?

8 A Only that he was murdered.

9 Q I see.

10 A Yeah.

11 Q You don't recall reading any of the details
12 where the crime is alleged to have occurred?

13 A No, I don't remember now.

14 Q All right.

15 Have you heard the name Manson Family before?

16 A Yes.

17 Q Do you think that because of what you have read
18 about the Manson Family that you could not be fair and
19 impartial to somebody who might be a member of the Manson
20 Family?

21 A I don't think so.

22 Q Do you think you could be fair?

23 A Fair, yes, sir.

24 Q You think you could be fair?

25 A Yes.

26 Q In spite of the fact that somebody might be a
27 member of the Manson Family and in spite of what you may have
28 heard, seen or read about the Manson Family, you think you

1 still could be fair?

2 A Yes, sir.

3 Q Have you heard, seen or read the name Spahn Ranch?

4 A It is place where they live. I believe's all.

5 Q Where who lives?

6 A The Family.

7 Q The Manson Family?

8 A Yes.

9 Q Is that all you can recall about it generally?

10 A From newspaper.

11 Q Now, if I were to instruct you, if the Court
12 were to instruct you that you were to set aside anything that
13 you may have heard, seen or read about the Manson Family,
14 Charles Manson, Gary Hirman, anything that you may remember,
15 also, at a later time that you can't now recall, are you
16 capable of setting that aside and making a judgment in this
17 case on anything that you may be called upon to make a
18 judgment, basing your ruling or your judgment only upon the
19 evidence that's received here in court and the Court's
20 instructions?

21 A I think so.

22 Q You think so?

23 A Yeah.

24 Q Are you expression any doubt when you say it that
25 way?

26 A No.

27 Q And will you do that? Will you do that?

28 A I will.

1 Q Will you set aside anything that you might have
2 heard, seen or read or anything that you may remember what
3 you have heard, seen or read or talked about?

4 A Yes, I do.

5 Q Will you be fair and impartial?

6 A I like to be fair, yes.

7 Q Will you be?

8 A Yes, I will be.

9 THE COURT: Mr. Denny.

10 MR. DENNY: Is the Court going to inquire about death
11 penalty?

12 THE COURT: Let's leave that to a general inquiry,
13 and then we can bring the panel back in before 12:00.

14 I will call another matter, Joseph Frank Stay.

15 (Whereupon, an unrelated matter was called
16 and heard before the Court.)

17 MR. KAY: Your Honor, before we commence questioning
18 of this juror, I believe what Mr. Denny was inquiring of is
19 whether or not the Court is going to ask the two or three
20 general questions on the Witherspoon question which the Court
21 asked the other jurors.

22 THE COURT: I know I haven't. I just passed it
23 purposely, believing that you gentlemen may want to ask that
24 in the presence of the panel. I sort of usurped your
25 function there before.

26 Go ahead.

27 MR. KAY: No problem.
28

VOIR DIRE EXAMINATION

1
2 BY MR. DENNY:

3 Q Mrs. Obradovich, when you state that you have
4 heard Mr. Manson, you said, well, "Naturally." There was
5 quite a good bit of publicity about Mr. Manson over the
6 past couple of years, is that correct?

7 A Yes.

8 Q And I take it you became aware of the Tate-La
9 Bianca killings about the time the newspaper and radio and TV
10 publicized that event?

11 A Oh, from newspaper, yeah, and TV.

12 Q Do you regularly take a newspaper, ma'am?

13 A Yes, sir. I read every day. And I watch news
14 on TV.

15 Q All right. What paper do you regularly take?

16 A In working days, Examiner and on Sunday, Times.

4 fls. 16

4-1

1 Q And do you have a TV news program or programs that
2 you generally watch?

3 A Channel 2, after work.

4 Q Is that the 6:00 o'clock news --

5 A Yes.

6 Q -- or the late news?

7 A 6:00 o'clock news.

8 Q And this is sort of a regular thing with you?

9 A Yes. After work, usually, I -- after dinner, I
10 watch.

11 Q And do you normally get news reports over the
12 radio daily?

13 A No, I don't hear from radio. I don't have time.

14 Q You don't listen to the radio --

15 A No.

16 Q -- in your car?

17 A No, mostly not. Sometime at 10:00 o'clock, but
18 mostly not.

19 Q Now, there were people here in the Los Angeles area
20 who followed rather carefully all of -- or, much of the news
21 over the last year and a half or two, concerning what
22 happened to the people apprehended in connection with the Tate-
23 LaBianca case, the trial of those people, Charles Manson and
24 the girls, and who have a reasonably good knowledge about what
25 happened from the times of the murders until the time of the
26 end of the case, of the trial.

27 Would you class yourself as one who had fairly good
28 knowledge about --

4-2

1 A No.

2 Q -- of what went on?

3 A No, sir. I don't follow very much. I -- knowing

4 the fact; and later, I don't have interest very much to watch.

5 Q You know the facts, you say?

6 A Yeah, only facts. But I read facts later; I don't

7 -- I don't stop very much on crimes, and -- you know, this

8 old -- trials of criminals, and other trials.

9 Q Well, when you say you know the facts --

10 A Yeah, from newspaper, about --

11 Q And you consider what you read in the newspaper

12 as the facts?

13 A No, not -- I like to make -- express that I don't

14 do special readings about cases, you know.

15 Q Um-hmm.

16 A Only that it's something new, and I see a news-

17 paper. I read. Or, if it is coming on TV news; that's all.

18 No details. I don't like any details.

19 Q Well, let me ask you this, ma'am. Is it your state

20 of mind that something that you've read in the newspaper

21 concerning a crime is necessarily a factual report of that

22 crime?

23 A Uh -- it's a report only. How it is, true, I don't

24 know.

25 Q That's --

26 A Sometime people can do errors, and very much.

27 Q That's what I am getting at. You realize that, and

28 you understand that?

1 A Oh, yes.

2 Q So when you say that you read facts in the news-
3 paper, --

4 A Well --

5 Q -- it may or it may not be factual; is that what I
6 understand you to say?

7 A Yes.

8 Q Or if it comes over television, still it may or may
9 not --

10 A Yeah.

11 Q -- be factual?

12 A Yeah.

13 Q All right. Insofar as your reading or hearing
14 about the Manson Family, would you describe what you understand
15 the Manson Family to be?

16 A Yes. I understand it's some group of hippies, a
17 family who live in this ranch, and who used a lot of drugs.
18 They have some specific kind of livings.

19 Q Specific kind of what?

20 MR. KAY: Livings.

21 PROSPECTIVE JUROR NO. 12: Of livings. A group like some
22 religious sect can be -- no, this -- you can't tell about
23 some sects -- that they have this Manson, like father or some-
24 thing more.

25 Q Manson was like the father?

26 A To somebody, like fathers; to somebody, maybe like
27 a husband. I don't know exactly.

28 Q I see. Now, as far as you've read, then, you feel

1 that they used an awful lot of drugs there, though, huh?

2 A So I feel, yes.

3 Q And do you feel, based on what you have read,
4 that the Manson Family, as that phrase is used, and the members
5 of the Family, were all engaged in illegal activities of some
6 kind, criminal activities of some kind?

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4a-1

1 A I don't know, before this trial, if they were to
2 do some other crime.

3 Q Before what trial?

4 A Manson's. The killing of -- the Tate case.

5 Q You don't know if, before that case, they were
6 involved?

7 A Some, yeah. I don't know nothing.

8 Q Well, since the Tate case, or the Tate and
9 LaBianca cases, based on what you've heard, seen and read about
10 the Manson Family, is it your feeling now, since that time,
11 that all of the members of the Family, as we use that phrase,
12 were involved in some sort of criminal activities?

13 A As I said, I don't know. All members of the Family?
14 I only hear about him, and this group on -- and this group on
15 trials.

16 Q Do you know who else was on trial?

17 A No. I can remember the name of Atkins, and I know
18 another girl's, only I don't know their name, and I remember
19 the Watson name.

20 Q Well, would it be a fair statement of your frame
21 of mind at this point to say that whether or not anybody might
22 have belonged to the Manson Family, or was connected with
23 Charles Manson, it would take evidence to convince you whether
24 that person was or was not guilty of any crime charged against
25 him? Or her?

26 A No, not before trial; not before I hear the facts
27 about him, here in court.

28 Q Well, perhaps you didn't understand my question.

1 A Would you please --

2 Q But your answer would seem to indicate that it --
3 the mere fact that someone belonged to the Manson Family, or
4 had associated with Charles Manson -- would that fact, in and
5 of itself, make you feel that that person was probably guilty
6 of any crime charged against him?

7 A No, sir.

8 Q It would take proof from the witness stand, and
9 proof beyond a reasonable doubt, --

10 A Yes, sir.

11 Q -- before you would find --

12 A Yes.

13 Q -- a Manson Family member guilty of any crime
14 charged against him?

15 A Yes, sir.

16 Q Whether it was running through a red light in an
17 automobile, or murder; is that right?

18 A Yes, sir.

19 Q Now, you did say, however, that you had read --
20 or heard something recently, within the last couple of months,
21 I think, about Mr. Manson being charged with other Counts
22 or charges; is that right?

23 A Yeah. I don't remember exactly what. I don't
24 remember. I think that it was in news.

25 Q You recall specifically reading this? or seeing
26 it on TV?

27 A I can't remember that. Maybe both. I don't know,
28 sir.

1 Q And do you know how recently you last heard any-
2 thing about Mr. Manson?

3 A I don't know. Two, one and a half-month, maybe.

4 Q All right. Now, was it in connection with a trial
5 that was going on with Mr. Manson? Do you recall that?

6 A Yes.

7 Q And was he being tried for some other murder or
8 murders; do you recall?

9 A No. It's same case, only another Count, I believe
10 -- no; it's another -- it was another case, not first one;
11 not --

12 Q Not the Tate and LaBianca bases?

13 A No, no.

14 Q But another case?

15 A Yeah.

16 Q All right. And do you recall whether it was a
17 murder case?

18 A I think so.

19 Q All right. And did you indicate, in response to
20 the Court's question, that "I think it was first degree
21 murder, and life imprisonment"?

22 A I think so. Only I'm not sure.

23 Q Now, when you answered that, was that your
24 recollection of the result of the trial in the Tate and
25 LaBianca case? Or in this later case, the other --

26 A Later case, sir.
27
28

4b-1

1 Q All right. And it's your recollection, at any
2 rate, that you did hear something about Mr. Manson having
3 been found guilty of first degree murder during the last
4 month or so, and getting life imprisonment; is that right?

5 A Yeah. I believe life imprisonment; I don't
6 recall exactly.

7 Q Now, I believe the Judge asked you concerning Mr.
8 Hinman, and you said you had heard about Hinman, Gary Hinman,
9 or musician Gary Hinman.

10 A Yeah, I had,

11 Yeah.

12 Q And do you recall when you first heard about him?
13 Or when you have most recently heard about him?

14 A No. No, not most recently. I think that it was
15 sometime after Tate case.

16 Q Do you recall whether you heard about Gary Hinman
17 at about the same time that you remember hearing about this
18 most recent case of Mr. Manson's?

19 A No, sir, I don't remember.

20 Q You have answered the Judge that you remembered
21 only that Mr. Hinman was murdered. Do you know how he was
22 murdered --

23 A No.

24 Q -- or who was charged with murdering him?

25 A No, I don't recall. I don't know.

26 Q Now, as far as Shorty Shea is concerned, have you
27 ever heard anything -- reach back in your mind, if you can --
28 about Stuntman Shorty Shea, and the Spahn Ranch?

4b-2

1 A No. I don't know.

2 Q Other than when you came to court on Friday and
3 heard the charge read here, do you ever recall having heard,
4 seen or read anything about anybody being charged with the
5 murder of Shorty Shea, or --

6 A No. No, sir, I don't recall.

7 Q At about the time that you were reading, as many
8 people were, concerning the Tate and La Bianca killings, back
9 at the end of 1969, do you recall hearing, reading, seeing
10 anything about the police looking around the Spahn Ranch for
11 a body or bodies?

12 A Yes. Yes, at that time, I remember.

13 Q And do you recall, by any chance, who they were --
14 or why they were looking for these bodies?

15 A No, sir, I don't remember now. I know that they
16 were looking for bodies. But whose bodies, I don't remember.

17 Q Now, if it should happen that, as -- assuming you
18 are seated as a juror in this case, and as you hear testimony
19 coming from the witness stand, all of a sudden, it refreshes
20 your recollection as to something you'd heard, similar to
21 what was coming from the witness stand, something you'd heard
22 on TV or something you had read, and the witness says some-
23 thing, and it triggers your memory, and you say, "Oh, yeah;
24 I remember having read about that," do you think you could
25 put out of your mind your memory of what you had read or
26 heard about it, and determine the guilt or innocence of Mr.
27 Davis, just from what you hear from the witness stand?

28 A I am going to hear only what is presented here

4b-3

1 in court.

2 Q Well, obviously, you are going to hear only that.
3 But having heard that, it may cause you to
4 remember something that you had heard, seen or read outside
5 the court, at an earlier time. You understand that that can
6 happen?

7 A Yeah, it can happen, yes.

8 Q All right. Now, if this were to happen, would
9 you be able to put that memory that's been triggered aside,
10 put that information aside, and determine the guilt or
11 innocence of Mr. Davis only based on what you hear here in
12 the courtroom, --

13 A Yes, sir.

14 Q -- and not what you remember having heard, read
15 or seen outside the courtroom?

16 A Yes, sir.

17 Q Now, in view of the fact that you seem to have
18 heard, read or seen a fair amount about Mr. Manson and the
19 Manson Family and all that, do you think you'd have any
20 trouble in putting any of that information out of your mind
21 and not considering it?

22 A No, is no trouble.

23 Q Let me go back to one thing that you said about
24 the Manson Family, and -- in your answer, you said that they
25 use a lot of drugs.

26 Do you have any particular feelings against
27 people who use drugs a lot?

28 A I have sorry for these people first. I feel

1 mostly for these people who bring these drugs --

2 Q I didn't quite get that last part about the people
3 that bring the drugs.

4 A I have sorry for these people who take the drugs;
5 only I don't have sorry for these people who bring the drugs--
6 (Pause) -- in the country.

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1 MR. DENNY: All right, I have no further questions on
2 this point, your Honor.

3 MR. MANZELLA: No questions on publicity.

4 MR. KAY: No questions on publicity, your Honor.

5 THE COURT: We'll recess now, and resume at 2:00 o'clock.

6 Would you be in that seat, then, Mrs. Obradovich,
7 then, at 2:00 o'clock, and --

8 MR. KAY: Well, if your Honor wants us to do the
9 panel as a whole --

10 THE COURT: The whole panel.

11 Mrs. Obradovich, you are juror No. 12, and you will
12 be in the sixth seat from the end.

13 JUROR NO. 12: Here (indicating), all right.

14 THE COURT: Very well. Be in that seat, then, at
15 2:00 o'clock. And the panel is excused until 2:00 o'clock.
16 Don't discuss this case amongst your fellow jurors or with
17 fellow jurors or with anyone. See you at 2:00 o'clock.

18 We are in recess until then.

19 MR. KAY: Thank you, your Honor.

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

21 (Whereupon, at 12:02 the noon recess was taken.)
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5a-1

1 LOS ANGELES, CALIFORNIA, MONDAY, DECEMBER 6, 1971 2:00 P.M.

2 - - - -

3
4 MR. MANZELLA: Your Honor, I --

5 THE COURT: Off the record.

6 MR. MANZELLA: No, I would like to have it on the record,
7 if I may.

8 Your Honor, I talked to --

9 THE COURT: Do you want the defendant?

10 MR. MANZELLA: -- Sergeant Whiteley. Mr. Denny has
11 requested Ella Jo Bailey's CII record, and Sergeant Whiteley
12 told me sometime ago, with a group of other CII records, he
13 showed Ella Jo Bailey's records to Mr. Denny and that she
14 has a misdemeanor arrest prior to August 16, 1969, for
15 shoplifting, for which she served 30 days in jail.

16 Then, after August 16th, she had a prostitution
17 arrest, which was a misdemeanor conviction. And I don't know
18 what the result was. It was out of state.

19 And then, she had the forgery charge in Washington,
20 which was covered under cross-examination by Mr. Kanarek.

21 MR. DENNY: Well, it wasn't covered --

22 THE COURT: What was the result of the forgery charge?
23 Straight probation?

24 MR. MANZELLA: Forgery charge --

25 MR. DENNY: That's pending, your Honor.

26 MR. MANZELLA: It is pending in the State of Washington.
27 It is not really pending in the State of Washington, but it
28 was pending in the State of Washington.

1 THE COURT: She was just now prosecuted?

2 MR. DENNY: Well, it is --

3 THE COURT: Excuse me just a moment, gentlemen.

4 (Short recess.)

5 THE COURT: All right, in the case of People vs. Davis.

6 All right, in the case of People vs. Davis, all
7 counsel are present.

8 Well, Mr. Denny, do you recall having gotten that
9 information from the sergeant?

10 MR. DENNY: No, I do not, your Honor. As I indicated
11 to Mr. Manzella, I have been going over those rap sheets or
12 what my dictation was from the rap sheets that I saw last
13 night, and that was the reason that I brought it to the
14 Court's attention today, that I did not have that.

15 I would request, since it seems so easily gotten
16 at, whether I did have the opportunity before or not, that
17 I be given that opportunity again to review that particular
18 rap sheet, since it does seem to be on hand.

19 THE COURT: Well, if the sergeant would make it avail-
20 able sometime before she testifies.

21 MR. MANZELLA: Certainly. If Mr. Denny would contact
22 Sergeant Whiteley, I'm sure he would be glad to show him the
23 rap sheet again.

24 THE COURT: That would suffice.

25 There was some discussion about this previously,
26 I think, in the -- just previous trial involving Mr. Manson,
27 and Mr. Kanarek's request was the same as yours. He was
28 provided with that information, and as I recall her record,

1 it was as Mr. Manzella has stated.

2 Anything further, now?

3 MR. MANZELLA: No, your Honor.

4 THE COURT: Where do we stand now? We have all of the
5 jurors in and you gentlemen may conduct the general examina-
6 tion voir dire of Mrs. Obradovich.

7 MR. MANZELLA: Did the Court want to inquire with
8 regard to the death penalty, first?

9 THE COURT: I think not. I'll let you do that
10 generally, then, if you would, while you're conducting the
11 general --

12 MR. DENNY: Well, your Honor, it does seem to me we're
13 going to have them just sitting in here. There are only two,
14 Miss Gipson, juror No. 3, and Mrs. Obradovich that we have
15 not questioned generally.

16 Does the Court so want to have --

17 MR. KAY: Miss Gipson, we have questioned her generally.

18 THE COURT: Miss Gipson we have. Mrs. Obradovich --
19 I prefer having all of the jurors in. I would prefer having
20 them hear some of the voir dire and knowing about this case,
21 and knowing something about it. And another thing, I would
22 like to move them out of that hallway, is another thing.

6 fls.

6-1

1 (Pause in the proceedings while the members of
2 the jury panel entered the courtroom.)

3 THE COURT: I am agreeably surprised. You haven't
4 forgotten where your seats are.

5 All right. The record will show the defendant and
6 his counsel, Mr. Denny, to be present. All of the prospective
7 jurors are present. And for the People, Mr. Kay and
8 Mr. Manzella.

9 All right, gentlemen. You may voir dire.
10 Mr. Denny? You may begin your examination of Mrs. Obradovich.

11
12 VOIR DIRE EXAMINATION (Continued) OF
13 KATHARINA OBRADOVICH

14 BY MR. DENNY:

15 Q Mrs. Obradovich, the Court has not asked you yet
16 any questions concerning --

17 THE COURT: They're having trouble hearing you back
18 there.

19 Q BY MR. DENNY: I hope it's all right with you if
20 I question you from here, and not standing at the podium there.
21 It doesn't indicate any disrespect. I trust you understand
22 that?

23 A Yes.

24 Q And also, if I may, if we see you in the hallway
25 or walk by you, and don't spend the time of day conversing,
26 you understand that it's -- it would not be proper for us to do
27 so -- perhaps to nod a greeting -- but you won't feel that
28 there's anything wrong, or hold it against either -- against

1 either side, or my client or me, if we don't act as friendly as
2 we might if we met on the street?

3 A No.

4 Q All right, ma'am. Now, we have asked you a few
5 questions, but I don't believe the Court asked you anything
6 concerning your views on the death penalty; is that correct?

7 A Yeah.

8 Q Now, you heard some questions asked by both me
9 and Mr. Kay on Friday, when you were here, of the other
10 prospective --

11 A Yes.

12 Q Q -- jurors; is that correct?

13 A Yes.

14 Q And have you, ma'am, given any thought at any
15 time -- or any sort of study -- let's take it first, any
16 study, any reading on the issue of capital punishment or the
17 death penalty? Or the state killing one convicted of a crime?

18 A Did I -- I don't -- I think if Court asks -- Court
19 find a defendant guilty, and -- of first degree murder, and
20 whole jury are agreed, that have to be given capital
21 punishment, I agree with them.

22 Q All right. Now, let me take your statement piece
23 by piece, if I may.

24 A Yes.

25 Q You said, I think, if the Court finds the
26 defendant guilty, and the jury agrees, then the defendant --
27 and this is guilty of murder of the first degree -- then the
28 defendant should be given capital punishment, and you agree.

6-3

1 Is that what you said?

2 A Yes.

3 Q Now, do you understand that the Court, in a jury
4 trial, does not find a defendant either innocent or guilty;
5 do you understand that?

6 A Yeah. I understand now what you mean.

7 Q The Court rules on issues of law. The Court
8 instructs the jury on issues of law. But it is the jurors,
9 the twelve jurors in the box, who make the finding of fact and
10 who based their judgment on those facts, and their judgment of
11 guilt or innocence.

12 Do you understand that?

13 A Yes.

14 Q And indeed, the Court will tell you, assuming you
15 sit as a juror at the end of the case, that if the Court has
16 said anything, or done anything which makes you feel that the
17 Court thinks one way or the other as to guilt or innocence, the
18 Court didn't mean to make you get that impression, because the
19 Court cannot express such an opinion of guilt or innocence.

20 That is for you jurors; do you understand that?

21 A Yes, I understand.

22 Q All right.

23 THE COURT: Perhaps, Mr. Denny, I can -- I didn't talk
24 to Mrs. Obradovich about it, but I'll explain again to her
25 what I've already said.

26 For your benefit, and for the benefit of others,
27 Mrs. Obradovich, you understand that this case is split,
28 possibly, into two phases. The first phase deals with the

6-2

1 question of guilt or innocence; and in the event that the jury
2 should find that the defendant is guilty of murder of the first
3 degree, then and only then does the case go into a second
4 phase, which is the penalty phase.

5 And in that penalty phase, it is to the absolute
6 discretion of -- it is left to the clear and absolute
7 discretion of the jury as to whether or not the sentence will
8 be life imprisonment or death.

9 Do you follow me?

10 PROSPECTIVE JUROR NO. 12: Yes.

5a fols.

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1 THE COURT: I'm not inferring -- the Court is not inferring
2 that it will be necessary to go to the second phase, because
3 I don't know at this point -- nor do you -- what your finding
4 will be in the first phase of the case.

5 Do you understand that?

6 PROSPECTIVE JUROR NO. 12: Yes.

7 THE COURT: Now, what we are interested in, however,
8 is finding out the answers to these questions. And the
9 first question that I want to put to you is:

10 Would your views concerning the death penalty be
11 such that you could not be impartial in determining the issue
12 of guilt or innocence in the first phase?

13 PROSPECTIVE JUROR NO. 12: (No response.)

14 THE COURT: On the issue of guilt or innocence, would
15 there be any views of yours concerning the death penalty
16 that would keep you from being impartial in that first phase?

17 PROSPECTIVE JUROR NO. 12: First have to be finded if
18 defendant is guilty.

19 THE COURT: Yes. Now, that's the phase that I am
20 speaking of, --

21 PROSPECTIVE JUROR NO. 12: Yes.

22 THE COURT: -- as to whether or not this defendant is
23 innocent or guilty, as you say, of murder of the first
24 degree.

25 PROSPECTIVE JUROR NO. 12: Yes.

26 THE COURT: Well, would it be that you could not be
27 impartial, because of your views concerning the death penalty,
28 in treating with that first phase?

1 PROSPECTIVE JUROR NO. 12: No.

2 THE COURT: All right. Now, getting to the second phase,
3 which is the penalty phase, assuming that there is a finding
4 of murder of the first degree -- of guilt of murder of the
5 first degree, would your views concerning capital punishment
6 be such that you would automatically vote to impose it upon a
7 conviction of murder of the first degree, without regard to
8 the evidence?

7 fls.

9 PROSPECTIVE JUROR NO. 12: With regard to evidence.
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1 THE COURT: Would your views be such that you would
2 automatically refuse to impose it regardless of the evidence?

3 JUROR NO. 12: No.

4 THE COURT: Are your views concerning the death penalty
5 such that you would never vote to impose it in any case?

6 JUROR NO. 12: No, sir.

7 THE COURT: Or are your views --

8 JUROR NO. 12: I would.

9 THE COURT: You could?

10 JUROR NO. 12: Yeah.

11 THE COURT: Or are your views such that upon a conviction
12 of murder in the first degree you would always vote to impose
13 it?

14 JUROR NO. 12: No, not always.

15 THE COURT: All right.

16 I think that clarifies it to some extent. I'll
17 let you take over from there.

18 MR. DENNY: All right.

19 THE COURT: However, it is a little stuffy in here. I
20 think we'll all be nodding unless we get some air conditioning
21 going here.

22 If you can't hear, raise your hands.

23 We'll have to speak more loudly, but we'll get the
24 air-conditioners going anyhow.

25 BY MR. DENNY:

26 Q Mrs. Obradovich, it may have cleared things up for
27 the Court, but it has confused me a little bit because what
28 appears to be inconsistent answers, answers you have given me,

7-2

1 and then answers you have just given the Court, and perhaps
2 it is the way the question is put or perhaps there is some
3 confusion.

4 Now, just a very short time ago I believe you
5 indicated in response to a question that -- and I repeated
6 your answer, as you recall, and your answer essentially was
7 if the Court finds the defendant guilty and the jury agrees,
8 and he's guilty of first degree murder, then, he should get
9 the death penalty.

10 Now, is that what you said?

11 A No, no, sir. I had to correct my answer.

12 If other court facts was given so that jury
13 find the defendant guilty of first degree murder, later they
14 can give him life imprisonment or capital punishment, and I
15 think that I could give both or one of these one or -- life
16 imprisonment or capital punishment, too.

17 Q Well, when you say you think that you could give
18 either one --

19 A Yes.

20 Q -- you are now, then, correcting your earlier
21 statement, which was when, in effect, you said you would give
22 the death penalty or vote for the death penalty upon a
23 determination by Court and jury that the defendant was guilty
24 of first degree murder; is that correct?

25 A Yes, sir.

26 Q Well, now, as you sit there, is it your feeling
27 that when a party charged with murder has been found guilty of
28 willful, premeditated, deliberate murder, that then that party

1 should be given the death penalty?

2 A I think so.

3 Q Why do you think that?

4 MR. KAY: Well, objection, your Honor. I think that's
5 going a bit too far, asking her for her opinion about why a
6 person should get the death penalty.

7 MR. DENNY: Well, I'm asking her why she thinks at
8 this particular time, under those circumstances, a person must
9 get the death penalty. Whether it is opinion, or whether it is
10 something she's read, heard, whether it is based on what she's
11 heard in the court.

12 MR. KAY: Well, I think --

13 THE COURT: I'll sustain the objection.

14 MR. KAY: Thank you, your Honor.

15 BY MR. DENNY:

16 Q Well, then, Mrs. Obradovich, with the feeling that
17 you presently have, that if a person is found guilty of will-
18 ful, premeditated, deliberate, first degree murder, that
19 person should be given the death penalty; is it your position
20 that you, as a juror, then, would vote to give that person the
21 death penalty, having found him guilty of willful, pre-
22 meditated, deliberate, first degree murder?

23 A Sir --

24 MR. KAY: Well, I'm going to object to that question
25 because I think the question is whether she would automatically
26 do it. And I think the question is ambiguous. Would you --
27 maybe she doesn't know now whether she would give him the death
28 penalty or not.

1 MR. DENNY: Well, your Honor --

2 MR. KAY: Well, I think it is an ambiguous question and I
3 would object on that ground.

4 MR. DENNY: There is nothing ambiguous in the question at
5 all. It can be followed up with another question, which I
6 intend to do. But I think I certainly have the right, your
7 Honor, to ask my questions, which are not ambiguous questions,
8 in any way, in a step by step procedure, which is certainly a
9 logical procedure.

10 THE COURT: Well, it -- I'll sustain the objection.

11 MR. DENNY: On the grounds that it is ambiguous?

12 THE COURT: Well, it is immaterial. The question is
13 whether the juror would automatically impose the death penalty in
14 that circumstance without regard to the evidence.

15 MR. DENNY: Well, your Honor --

16 THE COURT: Or would you always, automatically, impose the
17 death penalty upon a conviction of murder in the first degree.

18 JUROR NO. 12: Not automatically.

19 THE COURT: Asking the juror that question in a vacuum
20 is really rather immaterial --

21 MR. DENNY: I'm not asking that question, and it is not in
22 a vacuum, your Honor. And I submit to the Court, it is like
23 asking a witness are you prejudiced and being limited to asking
24 are you prejudiced.

7a-1

1 Well, there are very few witnesses or jurors who
2 are going to come out and say, "Yes, I am prejudiced." You
3 have to ask some background questions until, finally, based
4 on what they say, they say, "Well, now, that you mention it,
5 yes."

6 Now, in this question, this Court knows, I have
7 said it and these jurors all know, anybody now, if you ask
8 them, "Are you automatically going to do this or are you
9 automatically going to do that," which is the way Mr. Kay
10 wants me to ask the questions, they're going to say, "No, I
11 am not going to automatically do anything," because auto-
12 matically is a "No-no."

13 THE COURT: Well, then, you see words "without regard
14 to the evidence," or --

15 MR. DENNY: That's just as bad. These jurors know it.
16 These people are not --

17 THE COURT: All right, the Court will let you ask your
18 question in the way you present it, then.

19 Q BY MR. DENNY: All right, Mrs. Obradovich, let's
20 get back, then, to this situation where you were on the jury
21 and because of what you've stated already, that you feel that
22 a person who is guilty of willful, premeditated murder,
23 should get the death penalty.

24 Now, that is what you said, is that correct?

25 A Not "should." After the jury find if the defendant
26 is guilty of first degree murder, it is -- I am not going to
27 face you give him life imprisonment, or capital punishment.
28 And it is all depending of facts, what the jury is going to

7a-2

1 do. It is not up to my degree. It is after second delibera-
2 tion, if the jury all together find that it is -- have to be
3 given, capital punishment.

4 Q Well, you understand the second phase of the case
5 that we're talking about, again, in this hypothetical situa-
6 tion, as the Judge says, if you find the defendant not guilty,
7 obviously you never get to the second phase.

8 If you find someone guilty of second degree
9 murder --

10 A Yes.

11 Q -- or something like that, you never get to the
12 second phase, which is the penalty phase.

13 A Yes.

14 Q But, even assuming you do get to the second phase
15 of a capital case, of a murder case, there may be no evidence
16 introduced at that time; do you understand?

17 A I don't know, sir. If you like to ask me in
18 general my point of view -- only in this case, only, you know,
19 I'm going to do -- what facts are going to be presented and
20 the ways of this facts, I'm going to decide imprisonment or
21 capital punishment.

22 Q Well, let me, since you have brought this up in
23 this way, ask you, in general, your viewpoint.

24 Let's not look at this particular case right now.

25 A Yes.

26 Q Because I'm not asking you to prejudge this case.

27 A Yes.

28 Q But you use the term "in general."

7a-3

1 Now, is it your feeling in general that if some
2 jury somewhere has found a defendant guilty of willful,
3 premeditated, deliberate first degree murder, then, that
4 defendant should be given the death penalty?

5 A Not "should be given." After deliberation of
6 jury and on the base of the given facts in the court, it is
7 all depending, and if it is necessary, I agree that can be
8 given capital punishment.

9 Q All right. Do you then have in mind a type of case
10 in which you feel that it would be, as you say, necessary?

11 A I don't have any type of case in my mind.

12 Q All right, ma'am, do you feel that there's anything
13 improper about a juror listening to evidence in a case, a
14 case that may go on a long time? This case is scheduled for
15 a couple of months to last. Obviously there's some expense
16 to the taxpayers and all, going through this. There are going
17 to be a number of witnesses called. And then you, if you are
18 seated as a juror, will be called upon to determine guilt or
19 innocence. And all of these witnesses that are called, it
20 may just be that they don't convince you beyond a reasonable
21 doubt and to a moral certainty that a crime has been
22 committed by this defendant.

23 Now, would you feel that you are not doing your
24 duty as a juror if you brought in a not guilty verdict
25 under those circumstances?

26 A I -- I don't get always all what you ask me.

27 Q Again, this is not by any means meant to
28 embarrass you in any way, but do you have any problem with

1 the language at all in understanding the words?

2 A No, No, sir. No.

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1 Q You didn't have any trouble in determining what the
2 judge was talking about when he asked if you could be impartial
3 in determining guilt or innocence?

4 A No.

5 Q What does that mean?

6 A (No response.)

7 Q When he asked you if you can be impartial in
8 determining guilt or innocence, what was he asking?

9 A If is so many pro and against, equal.

10 Q Well, let me go back. You said something
11 in response to the judge's earlier questions, that it would
12 be no hardship on you; that you are 63, and you count it a
13 privilege to be here as a citizen, serving as a juror.

14 Do you remember saying that?

15 A Yes. What you want?

16 Q All right. Now, do you feel that, assuming this
17 privileged position as a juror, that you have a greater feel-
18 ing toward the prosecution than you do toward the defendant
19 sitting here? That you are somewhat in favor of the prosecu-
20 tion --

21 A No, sir.

22 Q -- rather than the defendant?

23 A No.

24 Q Do you feel just as impartial toward one side as
25 you do toward the other?

26 A Yes, sir. Same, to one and to other side.

27 Q And do you feel that it would be doing your duty
28 as a juror to acquit this defendant, if the evidence presented

1 by the People -- even if it was an awful lot of evidence, by an
2 awful lot of witnesses -- didn't convince you of the
3 defendant's guilt beyond a reasonable doubt and to a moral
4 certainty?

5 A If I don't convince, I can't answer how I feel.
6 If I don't convince, I have to stay by my feeling.

7 Q I didn't hear that last.

8 A If I don't convince, you know, then I am going to
9 tell that I can't be convinced. If this number of witnesses
10 who came here and did statement, and I don't convinced -- that
11 they don't convince me that defendant is guilty, I am going to
12 tell that I can't answer -- that I can't tell that he is guilty.

13 Q You would acquit him, then?

14 A (No response.)

15 Q Do you know what I mean by "acquit him"?

16 A No.

17 Q You would vote not guilty?

18 A Okay.

19 Q Is that right?

20 A Yeah.

21 Q All right. And would you feel, in so doing,
22 that you were upholding your oath as a juror?

23 A Yes, sir.

24 Q Now, the Court has told you that there -- the Court
25 has read you an instruction on circumstantial evidence, and
26 that you've heard a discussion by Mr. Kay on Friday that the
27 People's case is going to rest largely or almost entirely on
28 circumstantial evidence.

1 Do you understand that?

2 A Yes, I understand what you say.

3 Q And did you hear the questions that I asked some of
4 the other jurors concerning the law that the Court read to you,
5 that where circumstantial evidence is presented to prove the
6 People's case, and there are two interpretations of that
7 evidence, one which points towards the defendant's innocence
8 and the other points towards his guilt, and they're both
9 reasonable interpretations of the evidence, --

10 A Yes.

11 Q -- that you have a requirement under the law
12 to adopt that view of the evidence which points toward the
13 defendant's innocence?

14 A Yes, sir.

15 Q Do you understand that?

16 A Yes.

17 Q And do you have any -- any quarrel with that
18 proposition of law at all?

19 A No.

20 Q Now, that instruction goes along further and says:
21 When circumstantial evidence is used to prove the
22 People's case, you cannot find the defendant guilty on that
23 circumstantial evidence, unless the proved circumstances are
24 not only consistent with the theory that the defendant is guilty
25 of the crime, but cannot be reconciled with any other rational
26 conclusion.

27 That is, if it can be rationalized -- if it can be
28 rationalized with the conclusion that -- "Well, he could be

1 innocent, too," then you have got to find him innocent.

2 Do you understand that?

3 A Yeah.

4 Q Now, this, in effect, places an extra burden on
5 the People. Do you fear -- do you feel that there's anything
6 unfair in requiring the People, if they're going to rely on
7 circumstantial evidence, to shoulder this additional burden?

8a fol

8a-1

1 MR. MANZELLA: Your Honor, excuse me. I think that's
2 a misstatement of the law. There is no additional burden on
3 the People. The burden is the same, proof beyond a reasonable
4 doubt.

5 THE COURT: Well, it may be confusing. You may rephrase
6 that.

7 MR. DENNY: Yes. Let me rephrase it, then.

8 Q Do you feel that there's anything unfair in
9 requiring the People to assume this burden that I've just read
10 to you, when they're attempting to prove a man guilty of
11 murder, by use of circumstantial evidence?

12 Do you think there's anything unfair in that?

13 A No.

14 Q Now, has any friend or loved one of yours ever
15 been the victim of a crime of any kind?

16 A No. I was -- I had a theft from my house, from
17 my purse, by one -- and a check was took -- three years ago.
18 It's Property -- no, not Property; income tax return check
19 was stolen from my purse, in my house.

20 And I received later copy of this check, and have
21 here.

22 Q I didn't catch that last.

23 A My check of income tax return was stolen from
24 my --

25 Q Yes, that part I got. But the last part, you
26 say you got the check back?

27 A Yeah. A copy of the check. And have here
28 Government sended me.

8a-2

1 Q Well, did you ever appear as a witness against
2 any person who took your check?

3 A I called immediately to police, and -- the case
4 was reported to police.

5 Q Well, did they find the person who took it?

6 A I knew -- the two persons come to see a room for
7 rent in my house, and I forgot to close the front door, and
8 I spoke to one, and the other come and took.

9 Q Well, all I am trying to find out is: Did the
10 police catch the people who did it?

11 A I believe no. I don't know.

12 Q All right. Now, this is a personal situation --

13 A Yeah. Is only --

14 Q -- to you. And that's the only time that you've
15 ever been involved in anything --

16 A Yeah.

17 Q -- of that sort?

18 A Yeah.

19 Q Do you have any friends or relatives --

20 A No, sir.

21 Q -- who have had similar problems, to your know-
22 ledge?

23 A No, sir.

24 Q You indicated that your now deceased husband
25 was a surveyor; is that right?

26 A Surveyor.

27 Q Was that in this country?

28 A No.

8a-3

1 Q In Russia?

2 A No. In Venezuela.

3 Q In Venezuela?

4 A Yes, sir.

5 Q Now, have you ever sat as a juror in any case
6 before?

7 A No, sir.

8 Q Have you ever studied law --

9 A No, sir.

10 Q -- of any kind?

11 A No.

12 Q Now, ma'am, again going back to a situation where
13 we are in the guilt phase of the trial, assuming that you've
14 heard all the evidence in the case, and you and your fellow
15 jurors have now retired to deliberate in the jury room, and
16 you find that you are in a minority -- maybe two or three are
17 of the same viewpoint as you; maybe you are the only one
18 with that viewpoint -- and you think you are right and the
19 other 11 jurors are wrong.

20 But nevertheless, there are 11 of them,
21 conscientious citizens, who have a different point of view
22 than yours.

23 Now, would you change your verdict, change your
24 position, change your point of view, simply to bring in a
25 unanimous verdict? Just because there were 11 other people
26 of the opposite opinion of yours?

27 A No, sir. I can change only if -- if they convince
28 me that I was wrong.

1 Q All right. And would you give them the
2 opportunity to do so? Listen to them --

3 A Oh, yes.

4 Q -- and would you also give them the opportunity
5 to hear your reasons for your viewpoint, so that you could
6 try to convince them of the correctness of your position?

7 A Yes, sir.

8 Q All right. Fine. Again, there has been some
9 discussion as to the fact that there are separate counts,
10 three separate counts.

11 And I think either Mr. Manzella or Mr. Kay may
12 have said, on Friday, the following:

13 Although you may consider evidence that has
14 been produced throughout the case as to all of the
15 counts, if they are pertinent to those counts, when
16 you return a verdict, you must determine the defendant's
17 guilt or innocence based on whether or not the
18 evidence relevant to that count sustains that count.

19 Do you understand that?

20 A Yes, sir.

8b fls.

8b-1

1 Q And would you have any trouble, do you think, in
2 so compartmentalizing your thinking that you could do that?
3 That you could say, "Look, he may be guilty on this, but he is
4 not guilty on this; he is not guilty on this."

5 Or, "He may be guilty, guilty, and not guilty."

6 Or, "He may be not guilty, not guilty, not guilty."

7 But, looking at each one of the charged offenses
8 separately and returning a verdict only separately, and
9 considering the evidence to sustain this verdict separately?

10 A Yes, sir.

11 Q You could do that.

12 Now, again, you understand that one of the corner-
13 stones of our particular type of jury system, and trial system,
14 is the fact that a defendant does not have to prove anything;
15 do you understand that?

16 A Yes, sir, I know.

17 Q And that the burden is totally, wholly and
18 completely on the People. Do you find anything wrong with
19 that?

20 A Yes.

21 Q You do find something wrong with that, or --

22 A No, no. (Laughing.)

23 The defendant is innocent, and only if jury find-
24 ing him guilty on the facts here, and in the court. They
25 can't tell that he is innocent or is guilty.

26 Q All right. And just to go one step further --
27 because generally, laymen talk about finding him guilty on the
28 facts. The facts may seem to say one thing, but the facts

1 must be interpreted in the light of the law that the Court will
2 give you.

3 Will you follow all of the law and apply it to the
4 facts as you find them in this case, no matter whether you agree
5 with that law or not?

6 A Yes, sir.

7 Q In other words, there's a statement of law that
8 accomplice testimony -- and the Court read you what an
9 accomplice is. It's an aider and an abettor, one who aids
10 and abets the commission of a crime.

11 An accomplice's testimony must be viewed with
12 caution, and there must be certain corroboration of it. Now,
13 you may or may not agree with that. You may say, "Well, an
14 accomplice should be treated just like everyone else."

15 But the law says: "No, you've got to look at it
16 with caution, at least to determine whether that accomplice
17 is credible or not."

18 Do you understand that?

19 A Yes, sir.

20 Q Now, whether you agree with that or not, will you
21 follow that law?

22 A Yes, sir, I follow law.

23 Q All right. And again, as I indicated to some of
24 the other jurors, a defense attorney, when he looks at the
25 posture of the People's case, at the close of their case,
26 can make a determination whether he's going to put on any
27 evidence or not, or whether he's going to call the defendant or
28 not.

1 Now, do you have any feeling that, if a defendant
2 does not take the stand in a criminal case, where he's charged
3 with serious crimes, that therefore, he must be guilty of
4 those crimes?

5 A No, sir.

6 Q Do you understand that he doesn't have to
7 testify?

8 A Yes, sir.

9 Q And that his attorney can say, "Look, the People
10 haven't proven their case," and just rest there, and send the
11 jury out, and say to the jury, "Go find him innocent, because
12 the People haven't established their case beyond a reasonable
13 doubt and to a moral certainty."

14 Now, do you find anything wrong with that?

15 A No, sir.

16 Q And if that were to happen in this case, and the
17 defendant did not take the stand, would you -- well, you under-
18 stand you cannot, by our constitution, draw any bad inference
19 from that failure; do you understand that?

20 A Yes, sir.

21 Q And you would not do so --

22 A No, sir.

23 Q -- if that were the case?

24 A No.

25 Q All right. Finally, going back to this issue of
26 the death penalty -- and I don't dwell on it out of morbid
27 curiosity, and I don't dwell on it other than as, as I say,
28 we have got to, in this hypothetical situation, cover your

1 feelings about it in some respect, even though I don't feel
2 it might be warranted or we'll ever get to it.

3 But I think you'll probably be asked by Mr. Kay
4 or Mr. Manzella whether you'd have the courage of your
5 convictions, if you felt that the death penalty was warranted
6 in this particular case, to come in and look at Mrs. Holt,
7 or look at the judge, or look at the defendant and me, and
8 stare one or the other of us right in the eye and say, in
9 effect, "I sentence you to death."

10 And I take it your answer is that you would have
11 whatever moral fortitude or whatever it might be termed,
12 the necessary quality to do that; is that right?

13 A If I have, I do.
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1 Q I take it by the same token if you felt that
2 assuming a finding of guilt in this hypothetical situation,
3 and you felt that this was not a capital case by any means,
4 you could come in and look at the judge, look at Mr. Manzella,
5 look at Mr. Kay and look at anybody else, and say, "No, I
6 would not impose capital punishment," or "I would not vote
7 to execute this man by the administration of lethal gas in
8 this case"; would you have any reluctance in doing that?
9 If you felt it was not a case for capital punishment?

10 A If I wasn't -- if the jury didn't find it, and
11 I, between them, felt that, we give him life imprisonment.

12 Q And would you feel that you were doing your duty
13 as a juror and could hold your head up in good clear conscience
14 in returning such a verdict, if you felt that was a proper
15 verdict?

16 A Yes, sir.

17 MR. DENNY: Now, I'll pass for cause, your Honor.

18
19 VOIR DIRE EXAMINATION

20 BY MR. MANZELLA:

21 Q Mrs. Obradovich, I have about ten questions I
22 would like to ask you, but before I do, with the Court's
23 permission and Mr. Denny's permission, I would like to direct
24 a question to the other jurors, bearing in mind about many of
25 the things that Mr. Kay and Mr. Denny have asked you, this
26 may be the first time you've thought of them.

27 Since yesterday or since you have been questioned,
28 have any of you changed your minds about any of the things

9-2

1 that you were asked about? Do any of you feel that on
2 second thought you would like to change an answer to a
3 particular question or that you would like to explain or
4 expand upon an answer you have already given? Anybody feel
5 that way?

6 THE PROSPECTIVE JURORS: No.

7 MR. MANZELLA: All right, fine, thank you.

8 BY MR. MANZELLA:

9 Q Mrs. Obradovich, two questions I would like to
10 ask you with regard to the death sentence.

11 A Yes.

12 Q I would have asked you more, but I think Mr.
13 Denny covered -- covered all the questions I would have
14 asked you.

15 If you sit on this jury and you convict Bruce
16 Davis, the defendant, of first degree murder, would you be
17 able and willing to decide whether or not he should suffer
18 the death sentence?

19 A Yes, sir.

20 Q And if you decide that for these crimes that
21 this defendant should receive the death sentence, would you
22 be able and willing to vote for the death sentence?

23 A Yes, sir.

24 Q Mrs. Obradovich, as has already been pointed out
25 in Count III, the defendant is charged with the murder of
26 Donald "Shorty" Shea.

27 Now, the People, in order to prove Count III,
28 must rely upon circumstantial evidence, because we will not

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1 be able to produce the body of Donald Shea, and we will not be
2 able to produce an eyewitness to the killing of Donald Shea.

3 Now, do you feel it is unfair that in a murder
4 trial the death of the victim may be proved by circumstantial
5 evidence? Do you think that's unfair?

6 A If it is -- this things are in -- agree with the
7 law, I follow the law.

8 Q Do you feel that the law should require that the
9 body be found, that the body of a victim be found before a
10 person can be prosecuted for murder?

11 A I don't know, sir. Only I follow the law.

12 Q And if the law tells you that the -- it is not
13 part of the People's proof that they produce the body of
14 the deceased, will you be able to follow that law?

15 A Yes, sir.

16 Q Now, one other question on that point.

17 When I tell you that the People will not be able
18 to produce the body of the deceased, that is the body of
19 Shorty Shea, does that make you close your mind to the case,
20 or are you willing to be convinced by the evidence that Shea
21 is dead; are you willing to be convinced beyond a reasonable
22 doubt?

23 A Yes.

24 Q That Shea is dead?

25 A Yes, sir.

26 Q All right, Mrs. Obradovich, the Court has read
27 you some of the instructions, that is Judge Choate has read
28 to you some of the law that he may give to you at the end of

1 the case, and you've heard all the evidence and the arguments
2 of both sides, and he's given you some of the law of aiding
3 and abetting.

4 Now, I don't expect you to recall it at this
5 point, but if that law tells you that a person may be
6 convicted of first degree murder, even though he, himself,
7 did not strike the fatal blow, would you be able to follow
8 that law?

9 A Yes, sir.

10 Q All right, Mrs. Obradovich, do you feel any
11 sympathy for Bruce Davis as he sits here now because he's
12 been charged with these two murders?

13 A I don't know him, sir.

14 Q All right.

15 A And I --

16 Q And I take it you don't feel any sympathy for him
17 because he's been charged with these two murders, is that
18 correct?

19 A Yes, sir.

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1 Q If he testifies for the defense in his own
2 defense, will you judge his testimony by the same -- or rather
3 would you judge his credibility by the same standards you
4 would apply to the credibility of any witness who testifies?

5 A Yes, sir.

6 Q And if you believe that Mr. Davis, if he testifies,
7 is lying, will you reject that part of his testimony where you
8 think he's lying?

9 A Yes, sir.

10 Q All right.

11 Finally, Mrs. Obradovich, is there any reason why
12 you cannot be fair to the People; that is, the side that
13 Mr. Kay and I represent? Is there any reason why you cannot
14 be fair to the People in this case?

15 A No.

16 MR. MANZELLA: All right, thank you, Mrs. Obradovich.

17 The People pass for cause.

18 THE COURT: Both sides have being passed for cause, it
19 is the peremptory challenge of the People.

20 MR. MANZELLA: Your Honor, the People would like to
21 thank and excuse juror No. 5, Mrs. Audrey Sims.

22 THE COURT: Thank you, Mrs. Sims.

23 The Court thanks you and asks you to report to
24 the 15th floor of the new Hall of Records.

25 JUROR NO. 5: Thank you.

26 THE COURT: Okay.

27 THE CLERK: Frank A. Hestler, H-e-s-t-l-e-r.

28 VOIR DIRE EXAMINATION OF

29 FRANK A. HESTLER

1 BY THE COURT:

2 Q Mr. Hestler, were you present thus far since
3 Friday?

4 A Yes, Friday.

5 Q All of Friday?

6 A Yes.

7 Q And today?

8 A Yes.

9 Q And would it constitute any hardship to you to
10 serve as a juror in this case?

11 A Uh, none, except my age.

12 Q How old are you?

13 A Seventy-one.

14 Q Have you been in good health?

15 A Yes.

16 Q And are you able to pay attention and follow the
17 evidence, do you believe?

18 A Yes.

19 Q Well, then, I can't see why that old adage does
20 not apply, that you are just as young as you think you are.

21 A Well --

22 (Laughter.)

23 Q Or do you think that you are too old?

24 A Well, sometimes, you know, if it gets boring, I
25 might fall asleep.

26 Q Well, you may rely on the bailiff coming over and
27 tapping you or something like that.

28 (Laughter.)

1 Q Assuming we'll provide that service for you, do you
2 think it would be any hardship?

3 A No, not especially.

4 Q But that's not meant in an insulting way,
5 what I have said about falling asleep, to either side, to
6 Mr. Denny, Mr. Kay or Mr. Manzella. I hope -- I know they'll
7 do their best to keep you awake.

8 A I hope so.

9 Q Having that in mind, do you think you can serve?

10 A I suppose, yes.

11 Q Have you been a juror before?

12 A No.

13 Q Have you -- what type of work do you do?

14 A Retired.

15 Q From what?

16 A Lockheed last.

17 Q What type of work did you do for Lockheed?

18 A In plastics.

19 Q Is there a Mrs. Hestler?

20 A Yes.

21 Q And what -- was she ever employed outside of the
22 home?

23 A Yes, that's --

24 Q What type of work does she do?

25 A Chief operator, telephone.

26 Q Have you ever studied law?

27 A No.

28 Q Are you related to any law enforcement officer,

1 as I have defined law enforcement officer to be?

2 A Yes, I am.

3 Q Would you tell us about that?

4 A Well, he's a police sergeant, Glendale.

5 Q Is he a relative or a friend?

6 A Relative, nephew.

7 Q For what department?

8 A Well, I don't know. It is --

9 Q Los Angeles?

10 A Police sergeant, Glendale.

11 Q He's a police sergeant in Glendale?

12 A Yes.

13 Q Is he behind a desk or in a --

14 A Yes, behind a desk.

15 Q Do you see him often?

16 A No.

17 Q When was the last time that you saw him?

18 A Oh, about two years ago, I guess.

19 Q Would that relationship cause you to -- to in
20 any way lean toward the prosecution or against it?

21 A No, not especially, no.

22 Q Would it affect your judgment at all?

23 A No, not in this case, no.

24 Q Now, are there any other friends or relatives
25 that are law enforcement officers?

26 A No.

27 Q You're shaking your head no?

28 A That's right.

1 Q In what general area do you reside?

2 A Westlake.

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

5 A No, I can't.

6 Q Do you have such views concerning the death
7 penalty that by reason of those views you could not be fair and
8 impartial in determining the first phase of the case involving
9 the question of guilt or innocence?

10 A No.

11 Q Or in the second phase of the case?

12 A No.

13 Q Assuming that you should ever get there, would your
14 reaction be, because of your views concerning the death
15 penalty, to automatically vote against the death penalty?

16 A No, No, sir.

17 Q Or would you automatically vote for it upon a
18 conviction of murder in the first degree without regard to the
19 evidence?

20 A No, not automatically, no.

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1 Q When you say "not automatically," does it mean that
2 you have, perhaps, some tendency, or would have a tendency to
3 impose the death sentence upon a conviction of murder in the
4 first degree without giving you anything more?

5 A No, I wouldn't do that, no.

6 Q You would look at the evidence in either case?

7 A Yeah, sure.

8 THE COURT: You may examine. You may examine generally.

9 Well, let's conduct an examination of Mr. Hestler
10 on the issue of publicity and, therefore, since we are going to
11 do this outside of your hearing, we'll ask that you all very
12 quickly and quietly leave the courtroom and go out in the
13 corridor.

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

16 THE COURT: All right, the record will show that all the
17 prospective jurors have left the courtroom. Mr. Hestler is --
18 with the exception of Mr. Hestler.

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21 VOIR DIRE EXAMINATION OF

22 FRANK A. HESTLER

23 BY THE COURT:

24 Q Mr. Hestler, we're interested in whether or not
25 you had ever heard, seen or read of this case before through
26 any of the publicity media or through conversations with
27 friends or relatives?

28 A Well, not this case.

 Q Before Friday, that is,

1 A No, not --

2 Q Not Mr. Davis?

3 A No, I didn't.

4 Q Have you ever heard of Mr. Davis before?

5 A No, I am sorry, I never had.

6 Q Had you ever, before I mentioned it on Friday,

7 ever heard the name Gary Hinman or Shorty Shea?

8 A Oh, yes.

9 Q Would you tell us what you heard about each of
10 those names?

11 A Well, just generally what -- just a smattering of
12 the case, the whole picture.

13 Q Give us a smattering.

14 A Well, I don't know much. About their murder and
15 that's all.

16 Q Well, what have you heard, for example, about
17 Shorty Shea?

18 A Well, nothing to put my foot -- definitely to put
19 my finger on.

20 Q Well, anything?

21 A Nothing. Just that they had been murdered and I
22 don't know any of the circumstances at all.

23 Q When did you last read that?

24 A Oh, I don't know, it's -- when the Manson case was
25 up, I guess. I don't know.

26 Q Are you talking about the Tate-LaBianca case?

27 A Yes.

28 Q Do you know of any other charges other than those

1 Tate-LaBianca murders that have ever been brought against
2 Mr. Manson?

3 A No, I don't.

4 Q What do you know about the person Shorty Shea?

5 A Nothing at all.

6 Q If I were to use the term "stuntman Shorty Shea" --

7 A Well, I think I did hear -- remember something
8 like that and --

9 Q Does that in any way refresh your memory about what
10 you know about Shorty Shea?

11 A No, just that that -- uh, farm or --

12 Q Spahn Ranch?

13 A Yeah, that's it, Spahn Ranch. I just read a
14 smattering of that, that's all.

15 Q When did you hear that, during the Tate-LaBianca
16 case?

17 A Yeah, that's right.

18 Q And the name Hinman, when did you hear, see or
19 read that?

20 A Well, about the same time.

21 Q About the same time?

22 A Uh-huh.

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

24 A Well, that clique that they're all together, I
25 suppose. I don't know. That's the assumption.

26 Q What -- that is persons who are associated with
27 Mr. Manson?

28 A Yeah, that's right.

1 Q Is that what you mean?

2 A Yes.

3 Q Let me ask you this, would somebody who is a
4 member or associate member of the Manson Family, or an associ-
5 ate of Mr. Manson, by reason of what you have heard, seen or
6 read concerning Mr. Manson, would he be at a disadvantage in
7 your sitting as a juror in his trial; would you be prejudiced
8 against such a person so that you could not be fair and impartial?

9 A Well, I try to be impartial, but knowing how the
10 other case come out, it might have -- might be some influence
11 there. I can't deny that. I think any person would.

12 Q What other case?

13 A Well, the Manson case.

14 Q You mean the case involving Sharon Tate's death
15 and the La Blancas'?

16 A Yes.

17 Q Well, would the mere association of a person with
18 the Manson Family and Mr. Manson so prejudice you that you
19 think that you could not actually be fair and impartial, then?

20 A No, that, I don't, no.

21 Q You could, nevertheless --

22 A I don't know what the evidence in this case would
23 be at all. I haven't the slightest idea.

24 Q Well, that's what I am driving at.

25 Would you be able to set aside what you may have
26 heard, seen or read about Manson, about the Manson Family,
27 anything that you may remember now that you don't recall at
28

1 this moment that I am asking you about these things?

2 A Oh, certainly.

3 Q Can you set those things aside?

4 A Yes. As I say, I know so little about the other
5 case except how the final outcome was.

6 Q Well, can you decide the case independently of
7 such matters, basing your judgment only on the evidence that's
8 produced here?

9 A Oh, yes.

10 Q In court and the Court's instructions of law?

11 A I could that, yes.

12 Q You're sure of your ability to do that?

13 A I'm positive of that.

14 Q Would you do that?

15 A Yes, I would do that.

16 Q And can you be fair and impartial?

17 A Oh, yes.

18 THE COURT: Mr. Denny.

19
20 VOIR DIRE EXAMINATION

21 BY MR. DENNY:

22 Q Sir, when you talk about the Manson Family as
23 "that clique, they were all together at one time, I suppose,"
24 I believe that's the way you answered it?

25 A That's all I know of.

26 Q Could you hold that directly in front of your
27 mouth, sir?

28 A Yeah.

1 Q All right.

2 You did do some fair amount of reading or listen-
3 ing at the time the Manson Family and Charlie Manson and the
4 girls all hit the news?

5 A No. I have to be honest about that. Like most
6 people do, the headlines or just a little bit of it and what
7 you hear on the television.

8 Q Where do you get most of your news from?

9 A Well, newspaper and television.

10 Q Do you regularly subscribe to a newspaper?

11 A No. I buy it every day.

12 Q Oh, you do buy one every day?

13 A Yeah.

14 Q What paper?

15 A Well, usually the Herald-Examiner, on account of
16 the sports.

17 Q And were you aware of the rather full coverage
18 that they gave or have given over the last couple of years to
19 Mr. Manson and --

20 A Oh, yes.

21 Q -- various related events?

22 A Yes, I concede that, yes.

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1 Q And you did at least read the headlines when you
2 saw them?

3 A Yes, yes.

4 Q And maybe the lead into the story, --

5 A Oh, yes.

6 Q -- did you go that far?

7 All right. And you were aware that a trial began,
8 charging Mr. Manson and some of the girls, members of the
9 Manson Family, as they call it --

10 A Oh, yes, yes, sir. Yes, I was.

11 Q And you were aware when the verdicts, the guilt
12 findings came in?

13 A No, I don't exactly remember when that did come
14 in. But I saw it just lately in something. I don't know
15 what it was.

16 Q Well, how lately have you seen anything pertain-
17 ing to findings of guilt on Mr. Manson?

18 A Oh, I couldn't say. It may have been a month --
19 a couple of months ago, it might have been.

20 Q And do you recall whether this was as to Mr. Manson,
21 that there was a finding of guilt?

22 A Well, there must have been. Wasn't he convicted?

23 Q Well, do you know of what he was convicted?

24 A Well, I suppose complicity in the charges.

25 Q Do you know what charges?

26 A Well, of the murder of those -- the Tate-La
27 Bianca personages.

28 Q All right. Do you know if he was charged with

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1 any other crimes of any kind, in --

2 A No, I don't know whether he was or not. I'm
3 not sure about that at all.

4 Q Have you heard of Steve Grogan?

5 A I'm not sure. Steve -- seems like I might have,
6 but I wouldn't say for sure.

7 Q Or Clem Grogan?

8 A No.

9 Q How about Tex Watson?

10 A Well, that sounded -- that rings a bell with
11 me.

12 Q Well, sir, were you aware of the penalties that
13 were voted at the conclusion of the Tate-La Bianca trial?
14 In other words, life or death?

15 A It was life, as I understand it.

16 Q Is that what you most recently read, --

17 A Yes, that's right.

18 Q -- that Mr. Manson received life?

19 A Yes.

20 Q And do you recall when it was that you -- oh,
21 say, within about the last month that you read that?

22 A Well, might have been the last month or two.
23 I don't know. Seems like I read it some place. Possibly
24 it was before that, but --

25 Q Do you recall specifically reading this, as
26 distinguished from hearing it?

27 A No, I couldn't say whether I read it or heard
28 something on it on the television or radio, or which it was.

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1 I couldn't say for sure.

2 Q Now, you are under the impression, however, that
3 Mr. Manson was found guilty of these rather terrible Tate and
4 La Bianca murders; is that correct?

5 A Yes, that's what I read, right.

6 Q And is it your feeling that the Manson Family was
7 involved in those murders --

8 A Yes.

9 Q -- based on what you've seen, heard and read?

10 A That's what I assume, yes.

11 Q All right. And I think you answered the Court's
12 question that it would be a little -- a little difficult for
13 you to be impartial, in trying a member of that Family,
14 when you were of the opinion that the Family was responsible
15 with Mr. Manson for these deaths; is that right?

16 A Well, I would -- I said that, no, if I would have
17 any slight leanings, --

18 Q Well --

19 A -- slight leanings, that -- knowing that, how
20 the other case come out, I think the Manson case -- I think
21 everyone might have a slight leaning that way, of guilt.

22 Now, I don't say whether it -- whether you can
23 find anything that would change your mind or not.

24 But I think anyone knows that there's a Family;
25 and I think anyone would be inclined to be the same way,
26 before they knew anything to the contrary.

27 Q Well, in other words, you'd start out with a
28 feeling that, probably, there was some truth to the charge,

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1 where a member of the Manson Family was charged with murder?

2 A I would suspect so. Now, I don't know whether
3 it's based on anything or not, but --

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1 Q Well, this is the feeling that you've got,
2 though, as you sit there; that anybody would be --

3 A That's right, sir.

4 Q -- inclined to feel that way; right?

5 A Right, sir.

6 Q And under those circumstances, do you feel that
7 the defendant would perhaps have to convince you that he
8 was not guilty of a crime, in order for you to return a not
9 guilty verdict?

10 A Well, I would have to lean that way, yes.

11 Q And --

12 A I know nothing -- no evidence at all, nothing on
13 his side at all.

14 Q That's right. You know of no evidence either
15 way, --

16 A That's right.

17 Q -- but knowing no evidence, having heard no
18 evidence in the courtroom, you still have sort of a feeling
19 down inside of you --

20 A I think an honest person would be -- would be
21 inclined that way, to start off with.

22 Q Well, I am glad you feel that way, and that you
23 can express it, because we are looking for honest people
24 who can express it.

25 Well, feeling this way, sir, feeling that --
26 your own feelings are such, forgetting any other persons,
27 but your own feelings are such that the -- let me put it to
28 you this way:

10a-2

1 Let's assume, now, that you have information,
2 and it's -- it comes from the witness stand there, so you
3 can consider it, that -- that Mr. Davis was a member of this
4 Manson group, the Manson Family, associated with Mr. Manson.

5 Your feelings about him would be just as you
6 have described, in general; is that right?

7 A Well, just being associated with it doesn't
8 necessarily mean that -- that you are part of it. I would
9 have to have more evidence than that, because just --

10 Q Well, would you still sort of have the feeling
11 that you described earlier, that -- "Well, being associated
12 with the Manson Family, some members of which have already
13 been found guilty of a number of very horrible deaths,
14 that this man is more likely than not guilty of the charge
15 that the People have brought against him"?

16 A Well, let me put it this way. I would be
17 watching out close for additional clues, in the same direc-
18 tion.

19 Q To sort of bolster the feeling --

20 A Yes.

21 Q -- that you already have?

22 A That's right; to see if I was right about that,
23 yes; to corroborate that, yes.

24 Q And it would then be a situation where -- where
25 Mr. Davis, in your mind, would have to, in effect, prove
26 that he wasn't guilty of these charges; is that right?

27 A Oh, I would be just as eager, if he could show
28 me something that would make -- that would lead me to believe

10a-3

1 that I might have been wrong, I would be just as eager to
2 find that as the other side.

3 Q Well, but if he put on no evidence at all --

4 A And if it was all on the other side against
5 him?

6 Q Well, you see, we get into a difficult problem.
7 Let me just sort of reframe it, if I can, here.

8 The problem with the feelings that you are
9 telling us about now is that, under the law, he doesn't have
10 to put on any evidence. See, he doesn't have to show you
11 anything -- even if you'd be pleased to see it.

12 A I appreciate that, yes.

13 Q He doesn't have to show you anything -- or I,
14 as his lawyer, don't have to call him; I don't have to call
15 any witnesses on his behalf.

16 But the problem is, you see, I am faced with the
17 proposition of doing just exactly that, and nevertheless
18 being faced with your frame of mind starting out now, that
19 -- "Well, he has got to show me, because if he does not show
20 me, then I do feel that he is probably more guilty than not."

21 A Well, if either side could bring any real --
22 any real evidence, I would consider that. And I would have
23 to say there would be some doubt of his guilt, if there
24 could be any conclusive proof -- what you call conclusive
25 proof --
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10b fls.

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1 Q Well, that would be your duty; do you under-
2 stand that?

3 A Yes, I understand that, yes, sir.

4 Q All right. But say, now, the People do put on
5 evidence, and they bring in 40 or 50 witnesses here.

6 Is it your feeling, as you sit there now, that
7 you would be looking toward that evidence, to bolster your
8 present opinion, that being a member of this Manson group
9 or Manson Family, Mr. Davis is probably more likely than
10 not guilty of the charges that have been brought against him?

11 A And you have brought no witnesses for his side
12 at all?

13 Q That's right.

14 A Oh, it stands to reason that it would bolster it,
15 wouldn't it?

16 Q Well, are you looking for the evidence, though,
17 that the People present, just to bolster this opinion that
18 you already have as to his guilt?

19 A Oh, no. I think I am looking for it with the
20 intention of seeing if -- if I'm right.

21 Q But your feeling at the present time is that
22 you are probably right, and you are looking for something
23 to support that feeling?

24 A No, I didn't say that, probably -- I didn't say
25 that at all. I said: Just without a cold -- that anyone's
26 mind would have to be a little bit tinted in that direction.

27 Now, I think anyone would have to be.

28 Q All right, sir. Let me swivel around now.

10b-2

1 Now, assuming you are right -- assuming that
2 this is -- the Judge has told you and a number of other
3 jurors that this defendant starts off with a presumption
4 of innocence. Do you understand that?

5 A Yes, sir. That's right, yes, sir.

6 Q And that no matter who he's associated with,
7 no matter what his name is, no matter what his color is,
8 no matter what he's charged with having done, that he is
9 presumed to be innocent; do you understand that?

10 A Yes, I understand that side of it.

11 Q Which means that the proper frame of mind for
12 any juror, sitting in that spot, is one in which he has no
13 feelings towards this man whatsoever, because of the man's
14 background and associations, or anything that that juror
15 might have learned about him.

16 Do you understand that?

17 A I know that. But I still say that anyone that
18 says that, honestly, is not telling the complete truth.

19 THE DEFENDANT: I agree.

20 Q BY MR. DENNY: I think we all have to agree.

21 Now, the problem is: Do you think that it's
22 possible for you to start out to hear this case, not with
23 the viewpoint that -- "Well, I think he may very well be
24 guilty, and let's see if the People's evidence can support
25 that," but to start out with, "I don't have any views one
26 way or another about this particular man, and so I am going
27 to look at the People's evidence the same way as I would for
28 any other man, whether he's a member of the Manson Family or

10b-3

1 the King Sisters."

2 Do you think you can do that?

3 A Oh, yes, I think I can. I am fair enough minded
4 for that.

5 Q You can put this feeling that you have got about
6 the members of the Manson Family --

7 A Yes. I don't know anything about this man,
8 except just that association, and -- and with that Family;
9 that's the only thing I know about it at all.

10 Now, I don't know whether it's based on anything
11 like that.

12 Q Well, let's assume it's based on something;
13 let's assume that it's based on fact.

14 A Well, then, I'll have to admit that I might
15 be leaning a little bit that way.

16 Q Well, that's what I want to find out. Do you
17 feel that that feeling that you have got would sort of
18 prevent you from being totally impartial, in listening to
19 the evidence in this case?

20 A Yes, I'm afraid so. I would have to be -- I
21 have to be honest, just as -- oh, I can be swayed. As
22 I said, I have heard nothing at all. But any -- I repeat,
23 anyone that knows all that, and can say honestly -- and I've
24 heard them all say that -- nod their head and say, "Yes,"
25 and I can't swallow that.

10c fls.

10c-1

1 Q Well, I appreciate your honesty, sir, and this is
2 what we are looking for, as I said. And under those
3 circumstances, I think -- would you agree that perhaps, with
4 the frame of mind that you've got, you would not be the
5 totally impartial juror that the defendant in this case --

6 A No.

7 Q -- would be looking for?

8 A But I'll be more honestly partial for both sides
9 than a lot of them that I've heard nodding their heads on
10 everything. I've seen them; you've seen it yourself.

11 Q You are an honest man, sir, and I can't gainsay
12 you that.

13 But in total candor, thinking about yourself at
14 this time, with the opinion that you've expressed, that you
15 would be a little bit biased or prejudiced against this man,
16 being a member of the Manson group, do you feel that it would
17 be fair to the defendant for you to sit and hear his case,
18 with that predisposition that you have in your mind?

19 A Why, really. And I repeat that I am telling the
20 truth, and I don't think the others are.

21 Q Well --

22 A Because I don't think anyone could know that and
23 could possibly be not a little bit influenced -- subconsciously,
24 at least.

25 Q Well, now, let's just assume this, for the sake of
26 this discussion: That some of these good people who have sat
27 right there in the seats next to you -- and mind you, don't
28 know all of the things about the Manson Family and the cases

10c-2

1 that you appear to know --

2 A No, I don't know anything at all except that --
3 but that I told you of the Family.

4 Q Well, yes. But suppose there are people who know a
5 good deal less about it than you, say they have been out of
6 town and never even really heard of Charlie Manson.

7 Now, those people wouldn't have any background
8 information on Mr. Manson, or any of the people with whom he
9 was associated. Do you understand that?

10 A I don't know how anyone would ever miss knowing
11 something like that.

12 Q Well, I find that difficult to believe, too.
13 But --

14 MR. MANZELLA: Your Honor, could we move this along a
15 little bit?

16 THE COURT: Yes. You've spent 20 minutes on this one
17 question now.

18 MR. DENNY: Well, I think it's an important question,
19 your Honor. This gentleman is struggling with it, and so am
20 I. And I think he's struggling very honestly.

21 THE COURT: I think he has repeated to you about three
22 or four times his feelings in connection with it:

23 That he would be prejudiced against the defendant,
24 as a result of the defendant's association with Mr. Manson,
25 but that he would try very much to be fair.

26 Does that describe your attitude?

27 PROSPECTIVE JUROR NO. 5: Exactly.
28

11 fol

11-1

1 THE COURT: I don't know what else you need to know,
2 but go ahead.

3 BY MR. DENNY:

4 Q Mr. Hestler, again, trying to get back to this
5 point, you have a good deal of information or a fair amount
6 of information, put it that way, about Manson, the Manson
7 Family, the things that they have done, et cetera, and based
8 on that, you have acknowledged to us that you have some
9 feeling of prejudice toward the defendant, assuming he is a
10 member of this Manson Family.

11 THE COURT: Against the defendant, really.

12 A Yes, generally speaking, yes.

13 Q All right.

14 Now, assuming that we are trying to get this
15 impossible juror, as you point out, who doesn't know all the
16 things you know, who hasn't heard about Manson, who would
17 not have that feeling that you would have, to sit, so that
18 he would not have this prejudice against Mr. Davis for his
19 association with the Manson group, putting yourself up
20 against that juror; do you understand that?

21 A (Nods head.)

22 Q All right. And that's the juror we're saying
23 we feel would be fair, because he would be totally impartial;
24 he would have no leanings, no previous position.

25 Do you think that you could be as fair in judging
26 the case against Mr. Davis as this hypothetical juror?

27 A If you design a hypothetical juror, I promise
28 you that I would be as fair as that person.

1 Q You could put everything out of your mind?

2 A Yes.

3 Q That you had heard?

4 A That's one thing, I try to be as fair as I can,
5 I don't know whether I am or not all the time, and open-
6 minded.

7 Q All right.

8 I'll pass for cause, your Honor. I'll pass on
9 that subject, if that's the only one we're covering at this
10 point.

11 THE COURT: People?

12 MR. MANZELLA: No questions, your Honor.

13 THE COURT: All right.

14 MR. KAY: Would this be a good time for a recess?

15 THE COURT: Short break for everybody for about ten
16 minutes, and then we'll resume, I guess, with all the jurors
17 present, with everybody present.

18 Let's see, you would be in that seat, Mr. Hestler,
19 when we resume.

20 JUROR NO. 5: All right.

21 THE COURT: You're excused for ten minutes. Don't
22 talk to anybody about this case or let them talk to you
23 about it.

24 JUROR NO. 5: All right.

25 (Afternoon recess.)

26 MR. DENNY: May we have a moment, your Honor, before
27 the Court begins, possibly?

28 I would like to talk to Mr. Davis.

1 THE COURT: Yes.

2 (Whereupon, there was a pause in the proceedings
3 while Mr. Denny conferred with the defendant at the
4 counsel table, out of the hearing of the prospective
5 jurors:)

6 MR. DENNY: Your Honor, may we approach the bench a
7 moment?

8 THE COURT: Yes, you may.

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

12 MR. DENNY: Your Honor, I have been reflecting on my
13 passing of this last juror and --

14 THE COURT: You want to withdraw your passing for
15 cause?

16 MR. DENNY: Yes, I do, your Honor.

17 THE COURT: I think it is justifiable.

18 MR. DENNY: Well, I was not sure, frankly, when you
19 had indicated from the bench that he stated that he would
20 be fair that this wasn't your feeling, but I do feel with
21 the predisposition he brings to the evidence, a challenge
22 under Subdivision 1073, Subdivision 2 and 1076, it is
23 proper.

24 THE COURT: I feel it is a proper challenge. Any
25 argument from the People?

26 MR. KAY: No.

27 MR. DENNY: Thank you.

28 (Whereupon, the following proceedings were had

1 in open court within the presence and hearing of
2 the prospective jury:)

3 THE COURT: There is a challenge, then, of Mr. Hestler
4 for cause?

5 MR. DENNY: Yes, your Honor, under 1073, Subdivision 2,
6 and 1076, your Honor.

7 THE COURT: The Court does grant the challenge and
8 the Court thanks you for your serving as a juror and for
9 your answers here, your very frank answers.

10 You need not report tonight to any assembly
11 room, but report to Room 253 tomorrow, at 9:00 o'clock, the
12 jury assembly room.

13 JUROR NO. 5: In this building?

14 THE COURT: No, sir, in the courthouse.

15 JUROR NO. 5: The new courthouse? 253?

16 THE COURT: At 111 North Hill.

17 JUROR NO. 5: At what time?

18 THE COURT: At 9:00 o'clock, 253. Thank you.

19 THE CLERK: Theodore Amos, T-h-e-o-d-o-r-e, last
20 name, A-m-o-s.

21
22 VOIR DIRE EXAMINATION OF
23 THEODORE AMOS

24 BY THE COURT:

25 Q Come forward, Mr. Amos, take the seat there,
26 where Mr. Hestler left.

27 Mr. Amos, were you present during the proceedings
28 Friday and thus far today?

1 A I was.

2 Q Would it be a hardship to you to serve on this
3 jury?

4 A No.

5 Q You could serve without there being any hardship,
6 whatever?

7 A Yes.

8 Q Is that right?

9 Have you served as a juror before?

10 A I have not.

11 Q What type of work do you do?

12 A I work in the Post Office Inspection Service.

13 Q In Los Angeles here?

14 A Correct.

15 Q How long have you been so employed?

16 A Six years.

17 Q Is there a Mrs. Amos?

18 A Yes, there is.

19 Q What does she do? What type of work?

20 A She's a stock exchange clerk for Dempsey-Tigeler
21 Stock Exchange.

22 Q She works downtown, too, then?

23 A Yes, she does.

24 Q Spring Street?

25 A Right.

26 Q Are you acquainted with or related to any law
27 enforcement officers?

28 A Yes.

1 Q Tell us about that.

2 A I'm familiar with some who work in the same
3 department that I work.

4 Q In the Post Office?

5 A Right.

6 Q I mean the Inglewood -- there are some Inglewood
7 Police Officers who moonlight in the Post Office, then?

12 fls. 8 A No, the Postal Inspection Service.

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1 Q I see. You mean, they do their work in the
2 course of their duties --

3 A Right.

4 Q -- as police officers?

5 A Right.

6 Q Or --

7 A It's a law enforcement agency, the Inspection
8 Service of the post office department.

9 Q I see. And in the course of that work, you've
10 met some Inglewood officers?

11 A What I was referring to is officers who are
12 employed in the same department that I am.

13 Q Oh, I see what you mean. In other words, you are
14 a law enforcement officer yourself, in a way?

15 A Yes.

16 Q Have you testified in court?

17 A Yes.

18 Q And on the part of the prosecution?

19 A Yes.

20 Q Do you think that that -- that that position of
21 yours would affect your judgment in a case, so that you would
22 be more inclined to favor the prosecution, to begin with?

23 A No.

24 Q Do you think that nevertheless you could be fair
25 and impartial?

26 A Yes.

27 Q Have you been employed in this same type of work for
28 six years?

12-2

1 A Yes.

2 Q And generally, it's the detection of contraband
3 in the mails and the detection of theft from the mails -- is
4 that correct? -- that you are working on?

5 A That's part of it. Recently, we had added
6 additional responsibility, providing court protection for
7 post offices where the -- where the post office and the
8 courthouse are in the same building, any place in the United
9 States.

10 Q I see. So, you are acting as a security officer
11 for the court and for the post office, too?

12 A Right.

13 Q Are you armed in the course of those duties?

14 A Yes.

15 Q In what area do you reside?

16 A Central Los Angeles.

17 Q In the course of your work, do you have occasion
18 to talk -- have you had occasion to talk and discuss matters
19 with the federal prosecuting attorney, the U. S. Attorney,
20 or a Deputy U. S. Attorney?

21 A Most of it has been with the U. S. Commissioner.

22 Q With the Commissioner?

23 A Right.

24 Q I see. How often have you done that?

25 A Oh, on an average of maybe two or three times a
26 month.

27 Q In regard to the death penalty, do you have such
28 views concerning it that you would automatically refuse to

12-3

1 impose it, regardless of the evidence that might be
2 produced?

3 A No.

4 Q Or do you have such views about the death penalty
5 that you would automatically vote for it, on a conviction of
6 murder in the first degree, without regard to the evidence?

7 A No.

8 Q You would examine the evidence, then, to determine
9 whether in your discretion you should impose life imprisonment
10 or death?

11 A Right.

12 Q Can you think of any reason why you could not or
13 should not sit on this jury?

14 A No.

15 THE COURT: All right. Ladies and gentlemen, we are
16 going to give you a little exercise again, so you may all
17 retire to the hallway.

18 (Pause in the proceedings while the members of
19 the prospective jury panel filed out of the courtroom.)

20 THE COURT: Gentlemen, do you think it might be helpful,
21 in an effort to speed up proceedings, to simply take the
22 jurors individually now? Unless you gentlemen would prefer
23 to do otherwise. Let me know if you prefer to do otherwise.

24 MR. MANZELLA: Yes.

25 BY THE COURT:

26 Q All right. Mr. Amos, now, we are talking to you
27 outside of the presence of your fellow prospective jurors,
28 and what we want to know from you is:

12-4

1 What you may have learned about this case, other
2 than what you heard when I talked to you on Friday. Had you
3 ever heard of this case before?

4 A Except for what I've seen on TV and the news-
5 papers.

6 Q Have you seen -- have you ever heard of the name of
7 Bruce Davis before?

8 A I don't think I have.

9 Q Then in connection with this case, what have you
10 learned on television or newspapers? On the television or
11 newspapers? Anything specifically that you can think of?

12 A No.

.2a fol

12a-1

1 Q Had you ever heard, seen or read the name Shorty
2 Shea before I talked to you on Friday?

3 A I think I've seen that newspaper, yes.

4 Q And the name Gary Hinman, have you heard, seen
5 or read that before I talked to you on Friday?

6 A Right prior to Friday?

7 Q Prior to Friday?

8 A I had.

9 Q And do you know in what connection you saw either
10 of those names? Heard, saw or read either of those names?

11 A I'm not sure, but I think there has been some
12 information on TV and in the newspapers in the last six
13 or seven months.

14 Q All right. Take the name Shorty Shea. What do
15 you remember about that name?

16 A Nothing specific. I just remember hearing the
17 name.

18 Q You recall he's alleged to be the victim in
19 Count III of this indictment, which alleges a count of
20 murder? He's alleged to be the victim of a murder.

21 Now, does that refresh your memory at all? Did
22 you read that, or do you know what you read, offhand?

23 A Offhand, I can't be specific. But I remember
24 some of the names.

25 Q I see. How about the name Grogan? Do you
26 remember that? Steve Grogan?

27 A Will you repeat the name?

28 Q Steven Grogan?

1 A No.

2 Q And Bobby Beausoleil? Have you ever heard that
3 name?

4 A Yes.

5 Q In what connection; do you know?

6 A I think it was on the -- it was listed on the
7 same case.

8 Q How about the name Hinman? What associations do
9 you put with that name?

10 A I think it all pertains to the same case.

11 Q Are you talking about the Tate-La Bianca case?

12 A Yes.

13 Q Did you follow that case?

14 A Not very closely; just --

15 Q The case that Mr. Manson -- in which Mr. Manson
16 was accused of killing certain persons in the Tate-La Bianca
17 case?

18 A At that particular time I was looking at TV. I
19 usually look at Channel 2 News from 6:00 until 7:30. And I
20 think I recall again those names mentioned on that news.

21 Q Now, did you follow -- do you know whether Mr.
22 Manson was ever accused of any other charge?

23 A No, I don't.

24 Q You do know the name Charles Manson?

25 A I've heard it, yes.

26 Q And do you know the name Manson Family?

27 A Yes, I've heard that.

28 Q What does that association -- what association

1 does that bring to mind?

2 A Oh, something pertaining to Sharon Tate, I think.

3 Q The Manson Family?

4 A Yes.

5 Q Well, do you know them to be a -- a group of some
6 type?

7 A I think that's true.

8 Q And associated with Mr. Manson?

9 A Right.

10 Q All right. Now, from what you've heard, seen or
11 read, would a person who is a member of the Manson Family
12 receive -- be at any disadvantage as a result of any of that
13 publicity that you have heard, seen or read, in your mind?

14 In other words, would you be prejudiced against
15 a person who was a member of that Family, as a result of
16 what you've heard, seen or read?

17 A No.

18 Q Now, there are some things that you may remember
19 as you go along here, that you have not been able to recall
20 up, while I have been talking to you.

21 Would you be able to set those things aside and
22 set aside anything that you may have heard, seen or read,
23 from the publicity media? Television, radio, the press,
24 talks with your friends or relatives? Would you be able to
25 set such matters aside and make a decision -- or make any
26 decisions that you may be called upon to make in this case,
27 basing your judgment only on the evidence that's received here
28 in the court and the instructions of law that the Court gives

1 you?

2 A Yes.

3 Q And will you do that?

4 A Yes.

5 Q And can you be fair and impartial? And will you
6 be?

7 A Yes.

8 MR. DENNY: Your Honor, I wonder if, instead of going
9 into the publicity, if I could, insofar as this particular
10 prospective juror is concerned, go into his work just a little
11 bit?

12 THE COURT: Yes, you may.

13 MR. DENNY: Thank you.

14
15 VOIR DIRE EXAMINATION

16 BY MR. DENNY:

17 Q Sir, are you a uniformed officer?

18 A Yes, sir.

19 Q And you have been for the six years that you've
20 worked in Special Service?

21 A Right.

22 Q And did you go to some sort of academy or school
23 or through some specific training routine, or --

24 A Yes, I did.

25 Q What was that?

26 A I attended the University of Oklahoma for six
27 weeks; and I also had interdepartmental training from the Los
28 Angeles County Sheriff's Department.

12b fls.

12b-1

1 Q For how long was this training, interdepartmental
2 training, with the Sheriff's Department?

3 A Two weeks.

4 Q And where?

5 A At 900 North Alameda Street, Los Angeles.

6 Q Is that some building that is regularly occupied
7 by the Sheriff's personnel?

8 A No. It's a Post Office Department training
9 center, and the Sheriff -- the men who work the Sheriff's
10 Academy came in to instruct.

11 Q Well, do you know, other than these men who
12 trained you back six years or so ago -- was it six years ago
13 that they trained you?

14 A Yes, sir. Originally.

15 Q Have you had some training since then by members
16 of the L. A. County Sheriff's Department?

17 A No.

18 Q Have you had any regular dealings of any kind
19 with members of the Los Angeles County Sheriff's Department?

20 A Yes.

21 Q And what sort of regular dealings do you have
22 with them?

23 A On any case where we are required -- or, where
24 the situation is -- necessitates apprehension of an
25 individual and detaining them, I think the Post Office
26 Department has agreed with the Los Angeles County Sheriff's
27 Department to -- for instance, if we arrest somebody, and we
28 are going to -- if it's on a weekend, we take him to the

1 County Jail and hold him.

2 And they're held there over the weekend, and then
3 on Monday morning, we'll take them before the U. S. Commissioner.

4 Q Well, do the Sheriff's officers assist in any
5 arrests that you make?

6 A No.

7 Q Just --

8 A They can. If it's a situation where we don't
9 have enough men on duty to handle the situation, we can
10 ask for assistance from the Sheriff's Department.

11 Q And do you deal with any personnel in the
12 Sheriff's Detectives?

13 A As far as detectives are concerned, we use the
14 Federal Bureau of Interrogation.

15 Q I'm sorry. You used the word --

16 A The FBI.

17 Q The FBI?

18 A The Federal Bureau of Investigation, right.

19 Q Well, you would say that -- you would say that
20 you have a fairly good working relationship with members of
21 the Sheriff's Department, though; isn't that correct?

22 A Yes. The Sheriff's Department, and also the
23 Los Angeles Police Department,

24 Q Insofar as your own feelings about your job are
25 concerned, you feel that it's your function to uphold the
26 laws; is that right?

27 A Right.

28 Q And to arrest violators of the law?

1 A Right.

2 Q And to see that they are brought to the Bar,
3 or prosecuted, at least, for any crimes that you may feel
4 that you have caught them committing; is that correct?

5 A Right.

6 Q And I take it you feel that perhaps in that
7 respect, you -- well, let me back off from that, if I may.

8 Do you feel, under those circumstances, that
9 you might be, since you are part of the prosecution team
10 in these cases that you are called upon to assist in
11 prosecuting, a little pro-prosecution or prosecution-
12 oriented in general?

13 A No. I think my job would be to furnish all the
14 information I have pertaining to any particular case.

15 Q You don't feel, then, that you have got some sort
16 of feelings that might tend to make you feel a little bit as
17 if you wanted to see the prosecution win, rather than the
18 defense, or the defendant win in a criminal action, where
19 they're pitted against each other; is that right?

20 A No, I don't think I would. That wouldn't be a
21 deciding factor there. I think my job would be to furnish
22 all the information, precise and accurate, and -- and I am
23 not the one who will make the final decision on that.

24 Q Well, you go out of your way, don't you, sometimes,
25 to get that information, so that the prosecution can wind up
26 with a conviction, in your own work?

27 A No. If I -- I do all that I can. If I feel
28 like there's other information that should be gathered, then

1 I will turn it over to my supervisor or suggest that he use
2 the inspection service, somebody who might want to do some
3 investigative work.

4 Q Well, sir, do you feel, having dealt with law
5 enforcement officers for at least the last six years of your
6 life -- and by the way, did you do any kind of law enforcement
7 work in the Service? Or have you been in the Service?

8 A Yes. I was in the Military Police for four years,
9 in the Army.

12c fls.

12c-1

1 Q Is this -- was it here? Stateside, or overseas?

2 A Both stateside and overseas.

3 Q Where overseas?

4 A Korea and Germany.

5 Q So that at least for ten years, you have been a
6 member, essentially, of a police agency of one kind or another;
7 is that right?

8 A Yes.

9 Q A law enforcement agency?

10 A Right.

11 Q Do you feel that under those circumstances, you
12 might perhaps tend to give a little bit more weight to the
13 testimony of a fellow law enforcement officer? If his
14 testimony contradicts that of a non-law enforcement officer?

15 A No, I don't think so.

16 MR. DENNY: Well, your Honor, I am prepared at this
17 time to go into the questions on publicity, if --

18 THE COURT: All right. I think you've covered that one
19 subject fairly well.

20 Q BY MR. DENNY: Other than the Channel 2 News,
21 sir, where do you get most of your news about the current
22 events of the day?

23 A Other than TV?

24 Q Yes.

25 A TV and the newspaper. The Los Angeles Times.

26 Q Do you subscribe to the L. A. Times?

27 A No.

28 Q Just buy it every so often at a newsstand, or

1 what? Or buy it regularly?

2 A Buy it maybe twice a week; maybe twice a week,
3 I buy the newspaper.

4 Q And so far as your information concerning the
5 Tate and La Bianca murders, do you recall hearing about them
6 when they occurred?

7 A Yes.

8 Q And do you recall hearing about the trial of that
9 case, when it started?

10 A Some of the information -- all the information
11 that I -- that I have pertaining to that case came from either
12 the newspaper or the television.

13 Q I assume you didn't go there, did you?

14 A No, I wasn't.

15 Q Did you talk with any of your fellow police
16 officers concerning the murders at the time they were first
17 publicized?

18 A No.

13 fls.

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1 Q Or the trial of the case at the time the trial
2 first commenced?

3 A No.

4 Q Or the verdicts that were rendered in that case
5 at the time they were rendered?

6 A No.

7 Q Did you talk with anybody about any of those facts
8 that I have just mentioned?

9 A No.

10 Q You never discussed Tate, the La Bianca murders
11 with anyone from the time they occurred until the end of the
12 trial?

13 A No.

14 Q When is the most recently that you have heard
15 about Charles Manson?

16 A I don't know. Maybe five or six months ago.

17 Q Five or six months ago?

18 A Yes.

19 Q What did you hear at that time?

20 A I hear specific -- pertaining just to some informa-
21 tion was in the newspaper and some on television, and I
22 don't place any special emphasis on it. I look at TV most
23 days at 6:00 o'clock on Channel 2, and whatever happens
24 to come on, I hear some of it.

25 Q Well, do you remember about the time the Tate-
26 La Bianca matters broke or within several months of that,
27 hearing about the Spahn Ranch, people looking for a body at
28 Spahn Ranch?

1 A That may be and a few things pertaining to it, I
2 think.

3 Q What else do you remember about it? Who were
4 they looking for, do you remember?

5 A That, I don't remember.

6 Q Do you recall were they looking for Shorty Shea?

7 A I've heard the name, but I can't say that I am
8 sure that they were looking for this particular man. I
9 don't have any idea.

10 MR. DENNY: Does the Court want us to go on with the
11 death penalty questions, your Honor? I think I had --

12 THE COURT: Yes, I had.

13 MR. DENNY: I know you did. I just wanted to know if
14 we should proceed.

15 THE COURT: Why don't you.

16 Q BY MR. DENNY: All right, have you done any
17 thinking about the death penalty since you've been sitting
18 there since Friday?

19 A No.

20 Q Have you ever read anything about the death
21 penalty?

22 A Recently or at what time?

23 Q Any time. Any time.

24 A Oh, yes.

25 Q Like what sort of material have you read? Have
26 you read any books or articles or magazines?

27 A At the present time I am enrolled in a Police
28 Science major, Los Angeles City College, and one of the

1 subjects is California criminal law, I think.

2 Q Well, you think or do you know, sir?

3 A It is true.

4 Q That's a subject that you are taking?

5 A This is one of the subjects.

6 Q And in your study of California criminal law,
7 among portions of that, you are studying about the death
8 penalty or you have studied about the death penalty?

9 A Yes. And also pertaining to my work, there was
10 a homicide case at the installation, where I am employed,
11 there last year.

12 Q Were you involved in the investigation of this
13 homicide case?

14 A No.

15 Q Well, how is it that you bring up this homicide
16 case in relationship, then, in this issue of the death
17 penalty? What makes you bring that out at this point?

18 A I think you asked me if I had any information or
19 I had thought about it or had studied it pertaining to it.

20 Q Well, you thought about it, then, thought about
21 the death penalty in conjunction with this homicide that
22 occurred at one of your installations?

23 A Right, and plus July of this year, during the
24 time I attended the University of Oklahoma, this is one of
25 the subjects that was mentioned in the school.

26 Q Was it in July of this year that you attended
27 the University of Oklahoma?

28 A Yes.

1 Q So you attended the Sheriff's Academy or the
2 Sheriffs came and lectured?

3 A A few years ago, right.

4 Q About six years ago or something?

5 A Right.

6 Q And did you have some classroom discussion on
7 the death penalty at this University of Oklahoma course?

8 A Yes.

9 Q Did you take a position in the course of these
10 discussions yourself?

11 A Well, we use the Penal Code and the instructor
12 and students discuss what the difference between a homicide
13 and the different categories of it, and manslaughter and so
14 forth.

15 Q Well, you indicated that in the course, though,
16 this particular training program, you did discuss in the
17 class the death penalty, is that correct?

18 A Yes.

19 Q Did you discuss it on the basis of pro and con,
20 for the death penalty, against some of the arguments for it,
21 the arguments for retaining it or the arguments for doing
22 away with it?

23 A No, we discussed what's in the Penal Code, the
24 California Penal Code pertaining to it, and that homicide,
25 felonious homicide, justifiable and so forth.

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13a-1

1 Q Do you feel as a result of your study that you
2 are well equipped to make these distinctions between the
3 various types of homicide that you studied?

4 A Very well.

5 Q In other words, you feel you have more than the
6 layman's knowledge of the degrees of homicide, the different
7 types of homicide, is that correct, based on your schooling?

8 A It is a possibility.

9 Q Well, were you graded in this course in any way?

10 A Yes. The grades you receive, satisfactory or
11 unsatisfactory. The course completed or the course
12 attended.

13 Q And did you receive satisfactory grades in this
14 criminal law?

15 A I received a certificate of completion.

16 Q And I take it among other courses or among other
17 things you studied in the course was robbery, the various
18 felonies, robbery, burglary?

19 A Right.

20 Q What constitutes these various offenses, is that
21 right?

22 A All of that was explained, yes.

23 Q So, I take it you feel, based on the training
24 that you have had there, that you have more than the layman's
25 knowledge of this, is that right?

26 A Yes.

27 MR. DENNY: May I have just a moment, your Honor?

28 THE COURT: Yes.

1 Mr. Amos, will you follow the Court's instruc-
2 tions as the Court gives them to you regarding the law,
3 regardless of what you feel the law might be?

4 JUROR NO. 5: Yes.

5 THE COURT: Regardless of what you think the law is?

6 JUROR NO. 5: Right.

7 Q BY MR. DENNY: Well, sir, following up on the
8 Court's question, assume you are chosen a juror in this case,
9 and you are in the jury room deliberating, and you are
10 deliberating on, for instance, whether this case comes within
11 the bounds of the felony murder rule or no; do you know what
12 the felony murder rule is?

13 A I think so.

14 Q What is that?

15 A I'm not sure what it is.

16 Q Well, have you, in the course of your training,
17 heard of the felony murder rule?

18 A Yes, I've heard, I think, but as far as the
19 definition is concerned, I'm not sure of that.

20 Q Well, let's go to the area of robbery. You
21 said you did study what constitutes robbery; is that right?

22 A Yes, I have been exposed to that word.

23 Q Well, not only the word, but the concept and the
24 examples of what constitutes robbery in the laws of the law;
25 is that correct?

26 A Now, it has been explained briefly to me, but
27 none of it in detail.

28 THE COURT: I think we could move this along, Mr.

1 Denny, a little faster.

2 Q BY MR. DENNY: Well, do you feel, sir, that if it
3 gets to a point of arguing over the instructions that the
4 Court has given, as to what constitutes these various
5 offenses, that you, because of your training, will be in a
6 better position to advise the other jurors than those other
7 jurors themselves?

8 MR. KAY: Well, I'll object to that. It calls for
9 speculation, your Honor.

10 THE COURT: Sustained.

11 MR. DENNY: Well, I have no further questions on these
12 -- I assume we still have a general area of voir dire?

13 MR. KAY: I think your Honor wanted us to do that out
14 of the presence of the other jurors.

15 THE COURT: If you wish, yes. Let's move it right
16 along here.

17 MR. DENNY: Well, I'll try, your Honor. I have been
18 surprised at some of the answers I've been getting, is all.

19 Q BY MR. DENNY: Mr. Amos, do you have any feelings
20 about hippies?

21 A Could you be more specific?

22 Q Well, you have some antagonistic feeling toward
23 hippies?

24 A No.

25 Q How about people who use drugs?

26 A No special significance to it to me.

27 MR. DENNY: I'm going to pass for cause, your Honor.

28 THE COURT: People.

1 MR. MANZELLA: Thank you.

3 VOIR DIRE EXAMINATION

4 BY MR. MANZELLA:

5 Q Mr. Amos, I think I know the answers to these
6 questions from the questions that Mr. Denny has asked you,
7 but I want to ask you just a few questions with regard to
8 the death sentence.

9 If you sit on this jury and convict this defendant
10 of firstdegree murder, are you able and willing to decide
11 whether or not he should receive the death sentence?

12 A Yes, sir.

13 Q And if, after hearing all the evidence in the
14 case, you decide that for this -- for these crimes this
15 defendant deserves the death sentence, would you be able
16 and willing to vote for the death sentence?

17 A Yes.

18 Q All right.

19 Now, in Count III, as I have already said, this
20 defendant is charged with the murder of Donald Shorty Shea.

21 Now, the People will not be able to produce the
22 body of Donald Shea and we will not be able to produce an
23 eyewitness to the killing of Donald Shea.

24 Does that make you close your mind to the
25 People's case or are you willing to be convinced by other
26 evidence beyond a reasonable doubt that Shea is dead and
27 that this defendant murdered him?

28 A Yes.

13b

1 Q You are going to be convinced?

2 A Yes, sir.

3 Q Okay. Judge Choate read to the jury panel before
4 some of the law that he might instruct you on at the end of
5 the case, if he feels it may apply to the case. Part of that
6 law was a law of aiding and abetting.

7 Now, if you are instructed that under that law a
8 person can be guilty of first degree murder, even if he did not
9 himself strike the fatal blow, would you be able to follow that
10 law?

11 A Yes.

12 MR. DENNY: Your Honor, excuse me --

13 MR. MANZELLA: Thank you, Mr. Amos, I have nothing
14 further.

15 The People pass for cause.

16 MR. DENNY: May we approach the bench for a moment?

17 THE COURT: Yes, you may.

18 Do you want the reporter?

19 MR. DENNY: Yes.

20 (Whereupon, the following proceedings were had
21 at the bench among Court and Counsel, outside the hearing of
22 the prospective juror:)

23 MR. DENNY: Your Honor, perhaps it is the lateness of
24 the day or the heat of the courtroom, but I -- or my
25 frustration with the witness, this juror, but I should have
26 challenged him under 1073, Subdivision 2, and I do.

27 THE COURT: For what reason?

28 MR. DENNY: I find the fact that, one, he has been a law

1 enforcement officer connected with the Sheriff's department
2 and officers of the Sheriff's department will testify in this
3 case, that he's been an officer in law enforcement ten years,
4 in general six years specifically here, where he has been
5 dealing with the Sheriff's department --

6 MR. KAY: Keep your voice down.

7 MR. DENNY: I'm not saying anything that he hasn't said
8 already.

9 -- puts him in the category of one who, I think,
10 cannot act with impartiality and, further, because of his
11 police training and the legal training that he has received,
12 I don't believe that he can act with impartiality in determin-
13 ing the issues of this case. And I think his answers that he
14 can be perfectly fair and impartial, notwithstanding all of
15 this, are belied by the facts themselves which speak stronger
16 than his self-serving protestations.

17 MR. KAY: Well, we'd oppose Mr. Denny's challenge for
18 cause. We believe that this juror has demonstrated that he can
19 give Mr. Davis a fair trial and that he won't let his law
20 enforcement training or connections influence him in any way.

21 MR. DENNY: Your Honor, I frankly have never, in my
22 life, heard of a police officer sitting on a criminal case. I
23 am -- I am appalled to think that the full-time police
24 officer, who wears a uniform and a badge and a gun, would be
25 sitting on a jury.

26 MR. KAY: One of the jurors on the Tate-LaBianca trial
27 was a retired Deputy Sheriff. There's nothing wrong with a
28 law enforcement officer sitting on a jury. They aren't

1 excluded. You can't find anywhere in that Code where it says
2 law enforcement are excluded. They have rights just like any
3 other citizen.

4 MR. DENNY: And may I say, your Honor, with all due
5 deference and not that much deference to the attorneys who
6 handled that case, that a number of attorneys in this town have
7 indicated that they should have been cited for malfeasance
8 and every other thing that an attorney can be cited for, for
9 permitting that.

10 THE COURT: Well, under 1073.2, it must be a situation
11 wherein the juror has an existence of a state of mind in
12 reference to the case which will prevent him from acting in
13 entire impartiality. And I don't find from what he has
14 recited, the mere fact that he is connected with the post
15 office as a postal inspection officer and is connected in the
16 way that he has stated, with the Sheriff's department,
17 would disqualify him under 1073.2. I can't read into his mind
18 any partiality toward law enforcement.

19 As a matter of fact, I don't know but what if you
20 left him on, the People might want to exclude him.

21 MR. KAY: He might bend back the other way.

22 MR. DENNY: Well, your Honor, that's like saying the
23 last witness that we did exclude, who protested that he would
24 be as fair as this hypothetical juror who heard nothing about
25 it, and the Court accepting those words as a fact being
26 spoken, nevertheless, did not believe because of the other
27 things that he said about his feelings toward the Manson
28 Family, et cetera --

1 THE COURT: Well, that other --

2 MR. DENNY: -- that he could not be fair.

3 THE COURT: If you are speaking of Mr. --

4 MR. DENNY: Mr. Hestler.

5 THE COURT: Well, Hestler's statements to you
6 contradicted what he had said to me. And it appeared to me as
7 though he was uncertain and indefinite about whether he could
8 be fair and impartial. Now, this man has indicated that he can
9 be and will be fair and impartial. He has a somewhat trained
10 mind and he may, for all I know, be the best juror that a
11 defendant could have.

12 MR. DENNY: Well, your Honor, I think it beggars the
13 imagination to assume that anyone in his right mind would keep
14 a law enforcement officer on a jury who is going to be sitting
15 there with eleven other jurors and giving them the point of
16 view that he's had dinned into him for the last ten years of
17 his life.

18 MR. KAY: That begs the issue, because you're challenging
19 him for cause. That begs the issue.

20 MR. DENNY: Certainly it is for cause.

21 MR. KAY: If you don't want to leave him on the jury --

22 MR. DENNY: Well, but when the Court tells me he might
23 be the best juror he can be, that flies in the face of
24 any experience of any criminal defense attorney or any
25 prosecution attorney.

26 THE COURT: So far as from what I know that has
27 developed in this record, I can't see that that would be the
28 case. He has not indicated, so far as I know, that he could

1 not be fair and impartial. And if you had feelings toward him,
2 you can very well get him off with a peremptory challenge. But
3 I see no basis for challenging him for cause on the basis of
4 what I've heard. The challenge is denied.

5 MR. KAY: Thank you, your Honor.
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1 THE COURT: Gentlemen?

2 We suggest that you -- this is off the record.

3 (Whereupon a discussion off the record ensued.)

4 (Whereupon the following proceedings were had
5 in open court, within the presence and hearing of the
6 prospective juror!)

7 THE COURT: Any further examination of Mr. Amos?

8 MR. KAY: Nothing by the People, your Honor.

9 MR. DENNY: No, nothing further, your Honor.

10 THE COURT: All right. The next peremptory challenge
11 is with the defendant.

12 MR. DENNY: We'll thank and excuse Mr. Theodore Amos.

13 THE COURT: Mr. Amos, thank you. Report tomorrow,
14 will you, to Room -- what is it?

15 THE CLERK: 253.

16 THE COURT: (Continuing) -- Room 253, the County
17 Courthouse, 111 North Hill, at 9:00 o'clock.

18 Thank you, Mr. Amos.

19 PROSPECTIVE JUROR NO. 5: You're welcome. Thank you.

20 May I have the room number again?

21 THE COURT: You know where the jury assembly room is
22 over there? That Room 253, that big assembly room on the
23 second floor.

24 PROSPECTIVE JUROR NO. 5: 253?

25 THE COURT: Pick another juror, would you?

26 You might as well bring them all in, because I'll
27 admonish them before they leave, anyhow.

28 THE CLERK: Mrs. Aida Figueroa; A-i-d-a; last name,

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1 F-i-g-u-e-r-o-a.

2 (Whereupon the members of the prospective jury
3 panel commenced to file in the courtroom.)

4 THE COURT: You needn't come into the box, ladies
5 and gentlemen. You may remain standing.

6 The Court is going to excuse you, except for --
7 whom? Mrs. Figueroa?

8 PROSPECTIVE JUROR FIGUEROA: Here I am.

9 THE CLERK: Figueroa, yes.

10 THE COURT: Mrs. Figueroa, where is she?

11 PROSPECTIVE JUROR FIGUEROA: Here I am.

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

15
16 VOIR DIRE EXAMINATION OF
17 MRS. AIDA FIGUEROA

18 BY THE COURT:

19 Q Mrs. Figueroa, were you present during all the
20 proceedings since -- well, since the Court first called this
21 case, you have been present?

22 A I have.

23 Q And would it be any hardship to you to serve in
24 this case?

25 A No, sir.

26 Q Have you had jury experience before?

27 A No, just Municipal Court.

28 Q And are you employed outside of the home?

14-3

- 1 A I am.
- 2 Q Is there a Mr. Figueroa?
- 3 A There is.
- 4 Q What type of work do you do and what does he do?
- 5 A Well, I work for United States Consumer Products.
- 6 Q U. S. Consumer Products?
- 7 A Yes.
- 8 Q And in that connection, what do you do?
- 9 A I am an order filler.
- 10 Q I see. And what does your husband do?
- 11 A Wholesale produce salesman.
- 12 Q And do you have any friends or relatives who are
- 13 law enforcement officers?
- 14 A No, I do not.
- 15 Q Are you -- in what area do you and Mr. Figueroa
- 16 reside?
- 17 A East L. A., Montebello.
- 18 Q Do you know of any reason why you couldn't be
- 19 fair and impartial in this case?
- 20 A No, I don't.
- 21 Q Do you have such views concerning the death
- 22 penalty that you could not, by reason of those views, be
- 23 able to be impartial in the first phase of the case, in
- 24 deciding guilt or innocence?
- 25 A No, I haven't.
- 26 Q Or would your views concerning the death penalty
- 27 be such that you would automatically refuse to impose it?
- 28 A No.

14-4

1 Q Or would you on the other hand automatically
2 impose it upon a conviction of murder of the first degree?

3 A Yes, I could.

4 Q Upon conviction of a murder of the first degree,
5 would you automatically impose it --

6 A No, no.

7 Q -- regardless of the evidence?

8 A No.

9 Q Would you look at the evidence --

10 A Right.

11 Q -- in either case?

12 A I would.

13 Q And make a decision based upon --

14 A Yes.

15 Q -- the evidence that was produced?

16 A I would.

17 Q As to whether or not you, in your own discretion,
18 should impose the death penalty or life imprisonment?

19 A That's right, I would.

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1 Q Now, you heard the answers of prospective jurors
2 to the questions that I've put to the group as a whole, have you
3 not?

4 A Yes, I have.

5 Q Would your answers be the same, or would they
6 differ from the way the majority have answered?

7 A They would be about the same.

8 Q Can you think of any respect in which your answers
9 might differ?

10 A Well, there was only one, where I'd have a -- a
11 half-brother of mine was killed.

12 Q You had a brother that was killed? Who was killed
13 as a result of a homicide of some type?

14 A Yes, burglary.

15 Q A burglary?

16 A Yes.

17 Q In other words, somebody killed him in the course
18 of a burglary?

19 A Yes.

20 Q How long ago was that?

21 A It's going to be three years in January.

22 Q And were you involved in the case as a witness
23 or --

24 A No, I wasn't.

25 Q And was somebody prosecuted for that murder?

26 A No. It seems that the one that did the killing was
27 killed in -- according to one that was picked up -- was killed
28 in an accident;

14a-2

1 And then the other one wasn't given his rights, so
2 he was never prosecuted.

3 Q There was somebody who was involved, who was never
4 prosecuted?

5 A There was.

6 Q Well, would that fact, or anything in connection
7 with that unfortunate death of your half-brother, cause you to
8 be prejudiced against somebody who was accused of murder?

9 A No, no.

10 Q Do you think you could nevertheless be fair and
11 impartial?

12 A Oh, I could be fair.

13 THE COURT: I'm going to question you about publicity
14 that you may have heard, seen or read, and that means I am
15 going to excuse the balance of the panel.

16 Well, ladies and gentlemen, I'll excuse you until
17 9:30 tomorrow morning. 9:30 tomorrow morning.

18 And the Court admonishes you that you are not to
19 converse amongst yourselves nor with anyone else, nor permit
20 anyone to converse with you on any subject connected with
21 this matter, nor are you to form nor express any opinion about
22 it until it's finally submitted to you, should you be chosen
23 as a juror in this case.

24 The Court admonishes you that you are not to hear,
25 see or read anything in connection with Mr. Manson, any of
26 Mr. Manson's cases, or this case.

27 Good night, ladies and gentlemen.

28 (Whereupon, murmurs of "Good night" were heard

14a-3

1 from members of the prospective jury panel.)

2 (Whereupon, the members of the prospective jury
3 panel commenced filing out of the courtroom.)

4 Q BY THE COURT: Mrs. Figueroa, the Court is inter-
5 ested in knowing --

6 (Pause in the proceedings while the members of
7 the jury completed filing out of the courtroom.)

8 THE COURT: Are you James --

9 PROSPECTIVE JUROR BREHAUT: Brehaut.

10 THE COURT: Brehaut. You are unemployed?

11 PROSPECTIVE JUROR BREHAUT: I am on unemployment
12 insurance right now, and I have my name in the different
13 unions for employment in the locals.

14 THE COURT: And during the time that you are on jury
15 duty, you cannot actively seek employment; is that correct?

16 PROSPECTIVE JUROR BREHAUT: That's right.

17 THE COURT: And you are asking to be excused?

18 PROSPECTIVE JUROR BREHAUT: And I'm asking to be
19 excused.

20 THE COURT: And you -- you support yourself and a
21 family?

22 PROSPECTIVE JUROR BREHAUT: Well, I have a pretty hard
23 time supporting. I get thirty-eight a week and I have a
24 pretty hard time paying rent.

25 THE COURT: What I mean is, you do support yourself, at
26 least?

27 PROSPECTIVE JUROR BREHAUT: Yes, I do support myself.

28 THE COURT: Gentlemen?

14a-4

1 MR. MANZELLA: So stipulate.

2 MR. DENNY: So stipulate.

3 MR. MANZELLA: Stipulate he may be excused.

4 THE COURT: All right. The attorneys have stipulated and
5 agreed, and the Court agrees that you should be excused, and
6 therefore you are excused --

7 PROSPECTIVE JUROR BREHAUT: All right. Thank you.

8 THE COURT: -- from jury duty. You need not report
9 further.

10 PROSPECTIVE JUROR BREHAUT: All right. Thank you, your
11 Honor.

12 THE COURT: The Court thanks you, Mr. Brehaut, for
13 acting as a juror.

14 PROSPECTIVE JUROR BREHAUT: All right. Thank you, your
15 Honor. Good-by.

16 BY THE COURT:

17 Q We want to know whether or not you know anything
18 about this case, from the publicity media, television, radio,
19 the newspaper, from any source?

20 A Well, when it comes to television, I -- I don't
21 watch any, hardly anything like that.

14 b fol

1 Q Have you ever heard of this case before?

2 A Yes, I have.

3 Q And where and how?

4 A Hmmm --

5 Q That is, before I read the indictment to you, had
6 you ever heard about this particular prosecution?

7 A Hmmm -- well, it was in the papers. I mean,
8 what you see in the papers. But I didn't do much.

9 Q Had you ever heard, seen or read the name Davis
10 before?

11 A No. It surprised me when I came in here.

12 Q The case that you are talking about, that you had
13 heard, seen or read concerning, was what case? What homicide?

14 A The Manson case.

15 Q Yes. Now, you are talking about the Tate-LaBianca
16 killings? The Sharon Tate and --

17 A Yes, I presumed that was the only one.

18 Q And the LaBianca trial?

19 A Well --

20 Q LaBianca homicides?

21 A Yes.

22 Q Had you ever heard of these particular homicides
23 that I read about in the indictment?

24 A No.

25 Q You never had?

26 A No. Because I never bothered to read too much
27 about it.

28 Q Had you ever heard the name -- heard, seen or read

1 the name Gary Hinman?

2 A No.

3 Q Or Shorty Shea?

4 A No.

5 Q All right. Would a person who is a member of the
6 Manson Family, by reason of what you have heard, seen or read,
7 be at a disadvantage with you as a juror, sitting on the jury
8 trying him?

9 A No, I don't think -- well, no. I am positive no.

10 Q You are positive that you could be fair and
11 impartial in spite of what you've heard, seen or read about
12 the Mans- --

13 A That's right.

14 Q -- about the Manson Family?

15 A That's right.

16 Q Do you read a newspaper regularly?

17 A Well, most of the time, it's just the editorial
18 and Smith. Jack Smith. And that's about the only time I
19 have.

20 Q I see.

21 A In the morning.

22 Q Do you see television regularly?

23 A No.

24 Q Television news reports regularly?

25 A I don't have much time.

26 Q Do you listen to reports on the radio regularly?

27 A Well, it's mostly music.

28 Q I see.

1 A I mean, you hear, you know, like so and so was
2 convicted; but the details, no.

3 Q All right. Now, if I were to instruct you that you
4 were to set aside anything that you may have heard, seen or
5 read or talked about concerning Mr. Manson, or the Manson
6 Family, or this case of Mr. Davis, or anything that you may
7 remember that you don't remember at this time, could you set
8 such matters aside for the purpose of acting independently,
9 to decide any issue that you might be called upon to decide in
10 this case, basing it only on the -- basing your judgment only
11 on the evidence that's produced here?

12 A Oh, I could. I could.

13 Q Could you set such matters aside?

14 A (Indicating affirmatively.)

15 Q Yes?

16 A Yes.

17 Q And would you do so?

18 A Yes.

19 Q Very well. And can you be fair and impartial?

20 A Yes, I believe I am.

21 THE COURT: All right. Mr. Denny?

22 MR. DENNY: Yes. Thank you, your Honor.

23 Your Honor, may we go up beyond the publicity and
24 death penalty issue to this issue?

25 THE COURT: Yes, you may.

26
27 VOIR DIRE EXAMINATION

28 BY MR. DENNY:

1 Q Ma'am, when you say that this is a half-brother who
2 was killed in a burglary --

3 A Yes.

4 Q Was that --

5 A On the mother's side.

6 Q On your mother's side.

7 And was that here locally?

8 A Yes. It was in Sherman Oaks.

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1 Q In Sherman Oaks.

2 Did this know this half-brother reasonably well?

3 A Oh, yes, uh-huh.

4 Q You had been brought up with him?

5 A Well, I left home to live with my aunt when I
6 was 12 years old, and I believe he was born about two years
7 -- no, around that time. He was born about the time that I
8 left home. But I did see them off and on.

9 Q Now, you say that one boy was killed in an
10 accident; one boy who supposedly was responsible for the
11 death?

12 A Well, it is --

13 Q Is this an accident that occurred sometime after
14 this or in conjunction with --

15 A No, afterwards, the way my half-sister told me,
16 because I didn't -- didn't think about it until the Judge
17 was asking this question. So then I called her up and
18 asked her to kind of, you know, fill me in as to what had
19 happened.

20 Q When did you call her?

21 A At this time, after -- when they were asking the
22 questions whether we had anybody that, you know, that had
23 been involved or had been something -- well, any way --

24 Q This is sometime last week that you called
25 your sister and had her fill you in?

26 A Thursday. Wednesday night or Thursday.

27 Q All right.

28 A I wanted to know the details, you know, because

15-2

1 I figured that you -- if I was called you were going to ask
2 me. And I thought, well, it was kind of silly to sit up
3 there and say I don't know anything about it. Just to say
4 he was shot.

5 Q Was that essentially all you knew before you
6 called your sister and asked her about it?

7 A Yes. Yes, I didn't even know whether they had
8 prosecuted. I knew that the two -- both of them had gone
9 to court and they didn't have enough evidence or something had
10 happened, which there was no prosecution. And the one that
11 had actually done the killing, according to the one that gave
12 the testimony, he said that this fellow that had been killed
13 was the one that had done the killing.

14 Q Was that a killing by gun, knife?

15 A It was by a sawed-off shotgun.

16 Q Now, obviously even as you say it, there seems
17 to be something of a --

18 A Well, I mean --

19 Q -- a reaction which is normal. It is a nasty
20 weapon, obviously.

21 A Yeah, but still like -- like I've been kind of
22 thinking about it. I mean, if I was in that boy's jury,
23 you know, -- I mean, I was just wondering whether I would
24 actually come out and say he was guilty. You know what I
25 mean? If I was sitting and trying to decide whether I could
26 actually come out and say he was guilty, even though I know
27 that he did it, I would have to know more of the circumstances
28 in which it was done.

1 Q In other words, you --

2 A That's the way I feel. Maybe I'm not supposed to
3 feel that way, I don't know.

4 Q Well, what you are saying, in effect, you would
5 have to have the facts come from the witness stand?

6 A That's right. That's right.

7 Q And if you were sitting as a juror of the person
8 who had killed your half-brother --

9 A Yeah.

10 Q -- you would have to be convinced of his guilt
11 beyond a reasonable doubt?

12 A That's right.

13 Q Based on that evidence?

14 A That's right.

15 Q And that you wouldn't let your feelings --

16 A No.

17 Q -- get in the way --

18 A No.

19 Q -- of the facts?

20 A No. Because since then I have put myself in
21 that position, as to what I would do. And, like I say,
22 well, was it his first offense, which I didn't know.

23 Was it his second offense? I don't know.

24 Was it done because my brother surprised him in
25 the act or what, you know.

26 Q Well, to try to get away a little bit from that,
27 although it is helpful --

28 A Well, I am just telling you this because I

1 presumed you were going to ask me.

2 Q Well, it is helpful in determining what your state
3 of mind would be here.

4 A Uh-huh.

5 Q Because we assume you have a closer relationship
6 with your half-brother than with Mr. Davis with whom you have
7 had no relationship.

8 A That's right.

9 Q And I assume you could have that state of mind,
10 assuming you had been a juror on the trial that killed your
11 half-brother, you could be equally fair and objective in
12 trying Mr. Davis; is that right?

13 A That's right. That's right.

14 Q Now, you've heard some questions, perhaps not,
15 about whether one could be fair in view of the fact that
16 there might be some evidence connecting Mr. Davis with the
17 Manson Family.

18 Now, do you have some feelings about the Manson
19 Family as a group, whether they're out for good or evil?

20 A Well, you hear so much nowadays one way or the
21 other. I know that what was done, it probably wasn't right,
22 you know. I can't explain it.

15a fls.

15a-1

1 Q Well, that's certainly the mildest way you could
2 put it, assuming that any member of the Manson Family were
3 responsible for the Tate-LaBianca killings. That's what
4 you are having reference to?

5 A That's right.

6 Q It was a terrible, terrible thing, right?

7 A Well, yeah, with the little bit that I know, it was
8 a terrible thing. I mean, you know --

9 Q All right. Now, there are some people who,
10 because they view it that way, as a terrible, terrible thing,
11 and in their minds they've read information that the Manson
12 Family was responsible for this, in their own minds they feel,
13 "Well, under those circumstances I, because of the way I feel
14 about this, I couldn't be fair to any member of the Manson
15 Family. I couldn't look at him dispassionately. I couldn't
16 look at him without thinking of those other killings and kind
17 of tarring him with the same brush."

18 Now, are you of that frame of mind?

19 A No, -- well, to tell you the truth, I have seen
20 the girls sitting out there, that they told me that they were
21 the Manson girls, I don't feel any remorse towards them. No,
22 I kind of feel sorry for them.

23 Q Well, would you let this --

24 A Not sorry that they were involved in all of this,
25 but sorry that maybe they didn't know any better or they
26 didn't have anybody to guide them to do any better.

27 Q Well, now, is it your opinion that the girls that
28 you see sitting out there --

15a-2

1 A Are guilty, no.

2 Q Or -- no, were some of the girls that were charged
3 with Mr. Manson for the commission of those offenses, were
4 acquitted?

5 A No, they just pointed them out as the Manson girls.

6 Q Some of the Manson girls that were not tried with
7 him in the Tate-LaBianca trial?

8 A Well, they didn't say one way or the other, but
9 being that I don't have no idea what they look like, you know,
10 -- I mean, I don't have no remorse.

11 Q Well, when you talk about feeling sorry for them,
12 I think perhaps you may have been here when Mr. Kay asked some
13 of the jurors if they'd feel any sympathy or pity for the
14 defendant in this case because he was charged with a crime.

15 Now, just as you're not supposed to feel passion
16 or prejudice against him, the prosecution doesn't want the
17 jurors who feel such pity or sympathy that they might --

18 A That's right.

19 Q -- render a not guilty verdict because of that.

20 A That's right.

21 Q Do you feel that way?

22 A Well, right now I can't very well tell you that I
23 feel hatred.

24 In other words, I mean, I don't know enough about
25 it to feel one way or the other.

26 Q That's exactly the type of juror we want.

27 A But the thing is, to me, -- I mean, he would, like
28 I say, would have to be proven guilty. And then, I would have

15a-3

1 to know more facts.

2 Q All right.

3 A I am not the type of person that comes to a
4 conclusion like that. I mean, I kind of ponder about it.

5 Q Well, we hope so, in a case of this magnitude,
6 ma'am.

7 Before you were seated out there last Monday,
8 now, had you done any reading on the death penalty issue?

9 A No.

10 Q Or abolition of the death penalty?

11 A No.

12 Q Or anything of that kind?

13 A No. And I haven't done any reading since.

14 Q Have you discussed it with anyone before coming
15 to this courtroom last Monday?

16 A No, I have at times listened a little bit here or
17 there, but I had not discussed it.

18 Q Have you formed any opinion as to where you stand
19 on the issue of retention or abolition of the death penalty?

20 A Well, that I have heard -- and, you know, have
21 heard discussions on.

22 And again, I have not formed an opinion against
23 it, nor for it because, like I say, how can you form an
24 opinion if you don't --

25 Q If you haven't heard enough facts to do so?

26 A Yes.

27 Q All right.

28 Well, your Honor, those are the subjects we are to

15a-4

1 cover at this point, without covering the general voir dire,
2 I have no further questions.

3 THE COURT: People.

4 MR. MANZELLA: What are we covering, publicity, the
5 death penalty as well?

6 THE COURT: Yes.

7 MR. KAY: I thought we were covering everything.

8 THE COURT: Everything.

9 MR. KAY: Well, Mr. Denny said --

10 MR. DENNY: I didn't realize we were going to cover the
11 rest of the area,

12 THE COURT: For cause.

13 MR. DENNY: I have a few more questions.

14 Q Your husband does what kind of work, ma'am?
15 I did not get that.

16 A He's in wholesale produce. Has been for the last
17 30 years, 30, 35. No, 30 years.

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1 Q And this prior jury experience that you had in
2 Municipal Court, was that in the East Los Angeles area?

3 A It was.

4 Q And about what time was that, that --

5 A About three years.

6 Q Now, you have been here during the course of all
7 of the questioning thus far, and have heard the questions that
8 I asked the other jurors concerning whether they were aware of
9 certain points of law, some of which -- most of which the
10 Court had read, and whether they had any quarrel with those
11 points of law.

12 Would your answers be the same as most of the
13 jurors on that?

14 A Yes.

15 Q And, again, assuming that the defendant were not
16 to take the stand in his own defense.

17 Would you have any feelings that, well, he's
18 probably guilty, then, because only a guilty man would refuse
19 to testify?

20 A No, no.

21 Q You understand that by virtue of the constitution
22 of the United States he does not have to and you can't, from
23 that, draw any adverse inference?

24 Do you understand that?

25 A Uh-huh.

26 Q Or make up any deficiency in the People's
27 evidence? Do you find anything wrong in that?

28 A (Shakes head.)

1 Q You're shaking your head no, and she can't get
2 that.

3 A So -- oh, (laughing).

4 Q But she can't get your -- I assume your answer is
5 no?

6 A Oh, no, that's right.

7 Q Do you feel sitting there now and having heard
8 all the questions I've asked and considering those questions
9 that Mr. Kay and Mr. Manzella have asked, and knowing the
10 bare facts, such minuscule facts as you are aware of concerning
11 this case and the charges, that there is anything that would
12 keep you from being a totally, completely, absolutely impartial,
13 unbiased, unprejudiced juror?

14 A No, there is nothing that I can think of right now
15 that would keep me from doing the right thing, by abiding
16 by the rules and --

17 Q All right.

18 And just one more thing as far as this death
19 penalty is concerned.

20 Is there some type of case that you can think of,
21 some type of murder, wherein you would feel compelled to give
22 the death penalty for a person having committed that type of
23 murder?

24 A No, I can't think of any case at all.

25 Like I say, I would have to know the facts. I
26 wouldn't just come out and say, "Well, either this or that."

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

28 I'll pass for cause, your Honor.

1 THE COURT: Let's stop at this time.

2 We're stopped, then, the record will show, so
3 we'll remember it tomorrow morning, the People's examination
4 on voir dire, to begin on all subjects of Mrs. Figueroa.

5 JUROR NO. 5: Mrs. Figueroa, yes.

6 THE COURT: Mrs. Figueroa, you are excused until 9:30
7 tomorrow morning. Be in that seat tomorrow morning.

8 JUROR NO. 5: Thank you.

9 THE COURT: Remember the admonition.

10 (Whereupon, court adjourned at 4:50 P. M.)
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