

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.

209

NO. A-267861

REPORTERS' DAILY TRANSCRIPT

Thursday, December 9, 1971

VOLUME 9

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, THURSDAY, DECEMBER 9, 1971 9:58 A.M.

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3  
4 THE COURT: Mr. Davis? The case of People vs. Davis?  
5 This is Mr. Foon; is that right?

6 PROSPECTIVE JUROR NO. 1: Yes.

7 THE COURT: Where's Mr. Denny?

8 MR. KAY: Mr. Denny was on the phone. I think he'll  
9 be right over.

10 You can just sit there, Mr. Foon, and we'll get  
11 you a microphone.

12 (Short recess.)

13 THE COURT: All right. The record will show the  
14 presence of Mr. Davis, together with his counsel Mr. Denny;  
15 Mr. Kay and Mr. Manzella for the People,

16 And in the box is Mr. Foon.

17  
18 VOIR DIRE EXAMINATION OF

19 JULIAN FOON

20 BY THE COURT:

21 Q Is that correct?

22 A Yes, your Honor.

23 Q Mr. Foon, were you present when the Court  
24 explained the nature of this case to your group, the group  
25 of jurors that were first present last Friday?

26 A Yes, I was.

27 Q And you've heard all the proceedings since, when  
28 you were allowed in the courtroom; is that correct?

1 A Yes, sir.

2 Q Would your answers be any different than the  
3 answers of the prospective jurors whom I've questioned in  
4 your presence, to the questions of a general nature?

5 A I think not.

6 Q Have you had jury experience before?

7 A No, sir.

8 Q Would it be a hardship to you to serve on this  
9 case?

10 A I believe it might be, your Honor.

11 Q Tell me about that.

12 A Well, I have several commitments at work,  
13 pending my return.

14 Q Explain that to me.

15 A Well, I work with the Technical Services  
16 Division, Air Pollution Control District, County of Los  
17 Angeles. And I'm in charge of the data processing section.  
18 And this particular year -- well, my particular position,  
19 certain annual reports are inherent to that position.

20 And I am obligated to -- for two of them, for  
21 the first quarter of this coming year. So --

22 Q You are obligated to --

23 A To write -- well, one of them. I am the --

24 Q These reports? Is that it?

25 A It's an annual report.

26 Q Well, would there be somebody who could do that?  
27 Or could you defer it until you come back, or --

28 A Well --

1 Q -- allow somebody else to write the two reports,  
2 and you pick up your two later on?

3 A Well, this one in particular, I'm collaborating  
4 with the senior meteorologist, and it's a monthly report,  
5 plus annual. And then, starting July of this year, we put  
6 it on a subscription basis, so -- and we have made commit-  
7 ments to -- for at least a report on a certain date, so time  
8 is sort of pressing for me.

9 Q What are those dates?

10 A Well, for a monthly report, the release date is  
11 the 20th of the following month.

12 And -- well, due to the price we set on the  
13 publication, we are in a -- well, I was in the midst of more  
14 or less fattening up the annual report, and I just turned in  
15 the first draft for approval by the director of the  
16 Technical Services.

17 So, I'm sort of anxious to see -- you know, what  
18 kind of a comment he has to make on it.

19 Q Well, could you do any of this on weekends or  
20 at nights?

21 A I probably could. But I -- I have to spend my  
22 weekends over at the District. And it's -- it takes quite  
23 a bit of data into account.

24 See, we -- these annual summaries, we make  
25 comparative analysis with the past two years. And we have  
26 to look over the current data and make conclusions and make  
27 comments to substantiate those conclusions and what not.

28 Q You have to explain why there's still smog in

1 the Los Angeles Basin?

2 A Well, more or less. Well, we try to explain it,  
3 and substantiate it by the figures that we get.

4 Q I don't think what you've stated to us constitutes  
5 a hardship, Mr. Foon. I -- perhaps you can make some  
6 adjustments -- or, your department will be able to make some  
7 adjustments, so that -- so that it won't be too much of a  
8 concern to you.

9 It appears to me as though, if you were engaged  
10 in this until mid-February, or the end of February, that  
11 perhaps in the meantime, it wouldn't be too onerous to have  
12 to utilize some of your spare time, doing what you plan to  
13 do.

14 I hope that doesn't sound too unreasonable to you,  
15 but it's not every excuse --

16 A Yes, I realize that.

17 Q -- that has that degree of urgency --

18 You've explained the nature of your work to us.  
19 What is your title?

20 A Supervising data reduction technician.  
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1 fls.

1 Q And is there a Mrs. Foon?

2 A Yes, there is.

3 Q What general area do you and she reside in?

4 A Crenshaw area.

5 Q You have children?

6 A Yes.

7 Q Are you acquainted with or related to any law  
8 enforcement officer as I have explained law enforcement  
9 officer to be?

10 A No, sir.

11 Q You have such views concerning -- strike that.  
12 Would -- you stated that your answers to the  
13 questions that I put of a general nature would not be any  
14 different than the majority of jurors have responded; is that  
15 right?

16 A Repeat that, please.

17 Q Would the answers that you would give to the  
18 questions of a general nature be the same as the majority  
19 of jurors responded?

20 A Yes, sir.

21 Q Do you have such views about the death penalty  
22 that you could not be fair and impartial in determining guilt  
23 or innocence in the first phase of the case?

24 A Oh, I'm partial. I go along with the law, whatever  
25 it is.

26 Q Well, do you understand the explanation the Court  
27 has made concerning the death penalty? That it is a matter of  
28 jury discretion as to whether or not life imprisonment or death

1 should be imposed?

2 A Surely.

3 Q Do you have such views about the death penalty  
4 that you would automatically refuse to impose it regardless  
5 of the evidence in the case?

6 A Well, truthfully, uh, I'm sort of reluctant to  
7 have to impose the death penalty since this is my first  
8 experience, exposure of this sort.

9 Q Well, your tendency would be against the  
10 imposition of the death penalty?

11 A I believe so.

12 Q But would your reaction be an automatic one so  
13 that --

14 A No, I would say depending -- it is dependant on  
15 the basis of the case and whatever, you know, that's presented.

16 Q And whatever evidence is presented?

17 A That's correct.

18 Q So that your answer to the next question, then,  
19 would be rather obvious, but I'll ask it anyhow.

20 You wouldn't, upon a conviction of murder in the  
21 first degree, automatically impose the death penalty?

22 A That's correct.

23 Q Have you heard, seen or read of Mr. Davis before?

24 A No.

25 Q Before I mentioned the -- this case?

26 A No, sir.

27 Q Or read to you the indictment, rather, on Friday?

28 A No, sir.

1 Q Had you ever heard of Shorty Shea?

2 A I've read it. From what I've read in the paper,  
3 papers.

4 Q And what have you heard, seen or read in the  
5 newspaper about Mr. Shea?

6 A Well, uh, as I recall he was missing and they  
7 conclude that he was murdered and unable to recover the body.

8 Q They've looked for the body and were unable to  
9 find it?

10 A That's correct.

11 Q Do you know where they looked?

12 A I believe it was up in the, uh --

13 Q Spahn Ranch?

14 A -- on the ranch in the Newhall area, I believe.

15 Q How about the name Gary Hinman? Does that mean  
16 anything to you?

17 A Well, he was slain.

18 Q Do you know where?

19 A As I recall, I believe it was at his home.

20 Q Do you remember where that was?

21 A It was in the Los Angeles --

22 Q Los Angeles some place?

23 A Yes.

24 Q Malibu Canyon?

25 A Well, sir, I don't retain too much of that. I  
26 just, uh, more or less read it for what it is worth, and then  
27 just let it pass.

28 Q Did you follow the case involving Charles Manson,



1 wherein it was alleged that Manson had committed several  
2 murders, he and several other people in the Manson Family; did  
3 you follow that?

4 A Yes.

5 Q That Tate-LaBianca case?

6 A Well, I followed it to the extent that -- well,  
7 the first, I would say, portion of the trial, and then I got --  
8 just got fed up with it and just discontinued.

9 Q Would somebody who was a member of the Manson Family  
10 be at a disadvantage with you as a juror? Do you think you  
11 could be fair and impartial to somebody who was a member of the  
12 Manson Family?

13 A Well, I have mixed feelings on that.

14 Well, right now, I would say no.

15 Q You don't think you could be? You think you have  
16 read too much about the Manson Family and have heard too much  
17 over the radio and television that you -- it would be difficult  
18 to be impartial?

19 A Let me retract that. I misunderstood you, I  
20 believe. I guess -- I've forgot what the question was.

21 Q Would somebody who was a member of the Manson  
22 Family be at a disadvantage, knowing what you know?

23 A I don't believe so.

24 Q From television and radio and newspapers, would  
25 be at a disadvantage with you as a juror?

26 A I believe not, because he has quite a large  
27 family, so --

28 Q In other words, you don't necessarily believe that

1 because a person is a member of the Manson Family that he's  
2 all bad?

3 A No, sir.

4 Q Or that he is bad at all?

5 A No.

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1 Q Do you think knowing what you know about or what  
2 you have read, heard or seen about Shorty Shea and Hinman  
3 that you could set it aside, set this knowledge aside and  
4 decide this case independently of such matters basing your  
5 judgment only on the evidence that's received here?

6 A I believe I could.

7 Q In other words, suppose there were somebody who  
8 had never heard about Hinman or Shea, never heard, seen or  
9 read anything about them; do you think you could be just as  
10 fair a juror as a person who had never heard anything what-  
11 ever about these alleged killings?

12 A Well, from what I gather from the papers, it is  
13 more or less all related to one -- to several incidences.  
14 And in a case like that, I would say that I am more or  
15 less inclined to go along with the prosecution. I mean,  
16 just -- it would be specifically applied to this particular  
17 case, on the Manson case with -- who have they killed now?

18 Q The Tate-La Bianca --

19 A The group of five.

20 Q The Tate-La Bianca case, you mean?

21 A That's correct, yes, sir.

22 Q I'm not sure I understand that answer.

23 Speaking of this case, you stated that you had  
24 never heard of this case before, is that correct?

25 A Well, I've read it in the paper.

26 Q About this case?

27 A That's cor -- the killing; is that what you are  
28 talking about, sir?

1a-2

1 Q I'm talking about this prosecution.

2 Had you ever heard about this prosecution of any  
3 of those persons whose names I read in the indictment?

4 A I don't quite understand the "prosecution." Do  
5 you mean the trial process?

6 Q Yes. Have you heard of another trial involving  
7 the death --

8 A Oh, no, sir.

9 Q -- well, what I really asked you, is whether or  
10 not, knowing what you know or believe you know from the news  
11 media concerning these two alleged homicides, could you be  
12 fair to the defendant, just as fair as somebody who did not  
13 have that information, do you believe?

14 A I believe I could.

15 Q Will you decide this case, basing your judgment  
16 only on the evidence in the case and on the Court's instruc-  
17 tions of law, ignoring or setting aside anything that you  
18 might have heard, seen or read about this case or the Manson  
19 Family or Charles Manson?

20 A Yes, sir.

21 Q Can you do that? Can you be objective enough to  
22 do that?

23 A I believe I could, sir.

24 Q Will you do that?

25 A I will.

2 fls.

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1 THE COURT: Mr. Denny?

2 MR. DENNY: Thank you, your Honor.

3  
4 VOIR DIRE EXAMINATION

5 BY MR. DENNY:

6 Q Mr. Foon, the Judge asked you kind of pointed --  
7 a couple of pointed questions; and I noted your hesitation  
8 in responding to them.

9 I would like to get right to those, if I may.  
10 If you recall, the Judge asked you: Well, do you feel, then,  
11 that a member of the Manson Family isn't all bad?

12 Do you recall that?

13 A Yes, sir.

14 Q And your response to that was, I believe: No,  
15 that he's not all bad.

16 And then the Judge said, "Or not bad at all?"

17 And what was your response to that?

18 A I believe -- I might have said "Yes" the first  
19 time, and then I changed it to "No," I believe.

20 Q Well, I think you paused --

21 A May I clarify that, Mr. Denny?

22 Q Yes.

23 A See, I think I made the statement that the Family  
24 is so large --

25 Q Right.

26 A Well, of course, to the news media, a person  
27 can't help but -- you know, develop some sort of feelings  
28 towards the people that were implicated --

1 Q That's right.

2 A -- in those homicides.

3 Q Right.

4 A So I might just say that if I have any bad  
5 feelings towards anyone, it would be those people that were  
6 involved directly in that particular case.

7 And then his other followers, I mean, I don't  
8 condemn them. I don't --

9 Q You are not of the mind that maybe -- excuse me  
10 just a minute.

11 (Pause in the proceedings while a discussion  
12 off the record ensued at the counsel table between  
13 Mr. Denny and the Bailiff.)

14 Q BY MR. DENNY: You are not of the mind, then, that  
15 possibly, as it's been expressed by some people, "Birds of a  
16 feather flock together"? That there were at least, according  
17 to what you read, five or so people involved in the Tate-  
18 La Bianca killings; is that right?

19 A That's correct.

20 Q And assuming there were more members of the Manson  
21 Family than that, do you have the feeling that -- well,  
22 perhaps although not indicted, or not brought to trial,  
23 nevertheless they all shared sort of a -- a general criminal  
24 disposition, or criminal bent?

25 A No, not necessarily. I mean, I have been with  
26 groups where -- where -- you don't talk about things that --  
27 you know, that -- that's really on the up and up; but while  
28 you are with that particular group, you might express your

1 views or something; and then, when you are away from them,  
2 then you just stand your own ground. You don't have to go  
3 along with it.

4 Q Well, my concern is -- as the Judge has mentioned,  
5 and we'll assume that there will be evidence introduced in  
6 this case, showing that Mr. Davis was, for some reason,  
7 associated with Mr. Manson and the people who have been  
8 referred to as the Manson Family -- and quite frankly, I am  
9 worried about this issue of guilt by association.

10 And there are some people who have stated, sitting  
11 in that very chair, that, no, they don't feel, because of all  
12 they had seen, heard or read, that they could entirely exclude  
13 that from their considerations, and not feel that, somehow,  
14 he was tainted with that aura of criminality that seems to  
15 have pervaded the Manson Family.

16 Now, are you of that feeling?

17 A Now, can I answer it this way, sir? I don't  
18 feel -- well, I don't want to judge a person by a group.

19 Does that sort of answer it?

20 Q Well, it -- it's -- it sort of does. Because it  
21 is a fair way to look at it.

22 But let me go back a little bit in connection  
23 with your knowledge of at least what the media have talked  
24 about.

25 Did you read about the Tate and the La Bianca  
26 killings at the time that the publicity first came about on  
27 them?

28 A Yes, I did.

2a fls.

2a-1

1 Q Do you generally take a newspaper?

2 A Yes, sir.

3 Q A subscription to one, or more?

4 A Yes.

5 Q What is that?

6 A L. A. Times, and the Herald-Examiner.

7 Q And do you generally read both of them, pretty  
8 regularly?

9 A Well, certain sections. And then, the news items  
10 that I might catch in them.

11 Q Well, the first few pages of the first couple of  
12 sections, anyway, to keep abreast of the world and the local  
13 news or something?

14 A I usually go through the whole paper.

15 Q Uh-huh. And do you also regularly watch any news  
16 on the television?

17 A Well, for a time there. But I discontinued that,  
18 due to lack of time.

19 Q How about radio? Do you listen to the radio while  
20 going --

21 A No, not so much.

22 Q -- to and from work?

23 A Oh, yes, yes. Mostly music, though.

24 Q You get news flashes, though?

25 A Oh, yes.

26 Q All right. And you would, I presume, from what you  
27 say, then, count yourself as reasonably current in the news of  
28 the world and the local community?



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1           A       No, I wouldn't say that, either, Mr. Denny. I --  
2 I listen for certain things, and I shut my -- you know, my  
3 hearing processes to certain other things.

4           Q       Well, insofar as this Tate and LaBianca business,  
5 I take it after the initial news of the killings themselves,  
6 you also did follow to a certain extent -- whether willingly  
7 or unwillingly, consciously or unconsciously -- the news of the  
8 arrest of Charles Manson, and certain members of his group;  
9 is that correct?

10          A       Yes, sir.

11          Q       And I take it further that perhaps you followed --  
12 the beginning of the trial, at least?

13          A       No. To tell you the truth, I didn't, because it was  
14 extended too long. So, I just lost interest.

15          Q       Well, when was it that you received the information  
16 that apparently you did have and do have, about Shorty Shea and  
17 his purported disappearance?

18                   Do you recall whether it was -- has it been  
19 recently? Or was it back about two years ago, when all this  
20 business first hit the news?

21          A       Oh, I believe it was in the past. I haven't heard  
22 anything current on it.

23          Q       As far as either Gary Hinman or Shorty Shea,  
24 you've read nothing within the last couple of months, or heard  
25 nothing, seen nothing?

26          A       Well, I might have noticed a headline or so; but  
27 other than that, I didn't go into the contents of the writing  
28 there.

12-3

1 Q Do you recall what was involved in any headline on  
2 the subject, within the last couple of months, that you might  
3 have seen?

4 A No, sir.

5 Q Well, going back, then, as you say, if you got this  
6 information about Shorty Shea -- you said he was missing, and  
7 they had concluded he was murdered, and they were unable to find  
8 the body -- that's essentially what you indicated to the judge;  
9 is that right?

10 A That's correct, yes, sir.

11 Q And do you recall reading, seeing or hearing any-  
12 thing about what attempts had been made by any people, any law  
13 enforcement agencies, to find the body?

14 A No, I can't recollect.

15 Q Do you recall anything about their digging up  
16 Spahn Ranch?

17 A Well, now that you mention it, yes. I was aware  
18 of that.

19 Q All right. And based on that information, at least  
20 up until the time that you came into this courtroom, would you  
21 say it was your opinion, or conclusion, from what you had seen,  
22 heard or read, that Shorty Shea had indeed been murdered?

23 A Not no, entirely.

24 As far as I am concerned, he might be wandering off  
25 in another country or something of that sort.

26 Q In other words, you don't take as gospel that which  
27 is reported in the newspaper; is that right?

28 A Not entirely.

2a-4

1 Q Even though it may be reported as fact; is that  
2 true?

3 A Yes, sir.

4 Q All right. So, as you sit here now, after having  
5 come into this courtroom, and being given to understand by the  
6 Court that one of the issues that you might be called upon to  
7 determine would be whether or not Shorty Shea is alive or dead  
8 -- and further, if dead, whether that was caused by a criminal  
9 agency; and further, if Mr. Davis had anything to do with it --  
10 is it your feeling right now that Shorty Shea may or may not  
11 be alive?

12 A Well, can I answer it this way?

13 I believe Shorty Shea was a member of the Family;  
14 is that -- am I not correct in saying so?  
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1 Q Well, I'm in a little awkward situation in  
2 replying, but I think your Honor -- if I may answer the  
3 question -- that the evidence would show that he was not.

4 A Oh. Well, I was under the impression that he was,  
5 so --

6 Q Well, but going ahead from that, continue as you  
7 were going to answer, if you would.

8 A Well, I was going to say, based on my belief that  
9 he was a member of the Family, then in a case that another  
10 member was implicated in his -- well, let's say at the moment --  
11 his disappearance, if he was a member in good standing, he  
12 would make himself -- you know -- you know, make an appearance.

13 Q Well, in other words, your feeling was, based on  
14 the idea that he was a member of the Family, that then  
15 probably he was dead? Since if he had been a member of the  
16 Family and other members were being charged with his death,  
17 he'd show up, so that they wouldn't have that hanging over  
18 them?

19 A Right, if he wasn't dead.

20 Q All right. Well, now, assuming that -- the facts  
21 are that he was not a member of the Family, as that phrase has  
22 been used, does this change your position as to your feeling  
23 at the present time?

24 A Actually, I don't know what my feeling is.

25 Q Well, you see, the reason that I am asking  
26 questions pointed to this, again, is that as the judge asked  
27 you, you do have a certain amount of knowledge, through your  
28 reading, which is more extensive than some of the other jurors

1 who have sat there about this subject, not only about the  
2 Manson Family, Mr. Manson in general, but information concern-  
3 ing Shorty Shea and his alleged disappearance, and all the rest  
4 of it.

5 Now, we want to know -- and I, particularly from  
6 the defense side, want to know -- if, because of that informa-  
7 tion, perhaps it would be easier for the prosecution to  
8 convince you that Shorty Shea was dead and had been murdered,  
9 than it would be to convince any other juror, sitting next  
10 to you, who did not have that information.

11 You'd all have to be convinced beyond a reasonable  
12 doubt. But it may take less for you to be convinced beyond a  
13 reasonable doubt, because of this information that you've  
14 previously received.

15 Do you see what I mean?

16 A Yes, sir.

17 Q And we want to know, and the judge wants to know,  
18 and the prosecution wants to know -- because they want fair  
19 jurors on this jury, too -- whether you feel that perhaps

20 you would not insist on quite the same degree of proof by  
21 the prosecution, to convince you beyond a reasonable doubt, as  
22 any other juror that you can think of, who did not have that  
23 information?

24 A Well, as you can see, from my previous statements,  
25 I had a misconception of the whole thing. And I think it would  
26 require a complete briefing on the subject. I mean, before I  
27 could make any determinations on it.

28 Q A complete what on the subject?

1 A Determination.

2 Q No, you said you thought it would require a  
3 complete recon or something.

4 MR. KAY: Briefing.

5 PROSPECTIVE JUROR NO. 1: Briefing.

6 Q BY MR. DENNY: Oh, briefing. I'm sorry.

7 Well, again, only you know how -- how you look at  
8 it, how you would look at it; how all of the information you  
9 have, the sum total of information you have, and the feelings  
10 you have from that would affect your determinations in this  
11 case.

12 See, there are some people -- and I think we've  
13 gotten over that, as far as you are concerned -- who would  
14 say: "Any member of the Manson Family, assuming you show that  
15 he is a member of the Manson Family, I would feel is probably  
16 more likely to be guilty of any crime charged against him than  
17 if he were not a member of the Manson Family."

18 Now, you have said that that's not your position;  
19 is that right?

20 A That's right. That's correct, sir.

21 Q On the other hand, there are some people who --  
22 and they've sat right there on either side of you, or in that  
23 very chair -- who have said, "I've gotten this information via  
24 the media, at the time they put out publicity that Shorty Shea  
25 was dead, and that Shorty Shea had been killed, and that Shorty  
26 Shea had been killed by Manson and members of the Manson  
27 Family.

28 "And try as hard as I might, I don't think I could

1 really erase that from my thought processes in determining  
2 the guilt or innocence of someone connected with the Manson  
3 Family and charged with his murder."

4 Do you see? Now, that's what we are trying to  
5 determine, as far as you are concerned. And only you know  
6 that.

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1 A Well, I think in this case I would weigh the  
2 evidence.

3 THE COURT: Would you set those matters aside, as  
4 Mr. Denny has put it, erase them from your mind -- you could  
5 not forget them, of course -- but erase them from your mind  
6 for the purpose of making any judgment that you might be  
7 called upon to make in this case?

8 PROSPECTIVE JUROR NO. 1: Yes, your Honor.

9 Q BY MR. DENNY: Could I go back, Mr. Foon, to this  
10 point that I -- I thought we had covered, but as I see my  
11 notes, I know that you did make a statement to the judge that  
12 you've got mixed feelings about being fair to a member of the  
13 Manson Family.

14 What are those mixed feelings?

15 A Well, during that first -- that Tate-La- --  
16 LaBianca trial, I mean, the persons that were involved, and  
17 the ones that gave them the -- well, let's say the closest  
18 support, they seemed to have -- well, rather a sort of a  
19 distasteful attitude toward -- you know, society, or the  
20 establishment.

21 So, I sort of frowned on that. But I won't go as  
22 far as to say, "Well, that covers the whole group, or his whole  
23 fa- -- his entire followers."

24 Of course, this might have been prompted by the  
25 news media. Sometimes they have a way of -- you know,  
26 extracting something that -- that will tend to reveal --

27 Q All right. Now, again, you said, "From what I have  
28 read in the papers, this was all related to one or two



1 incidents, and I guess I'd have to go along with the  
2 prosecution."

3 That's sort of paraphrasing a couple of sentences  
4 that you said. Do you recall stating that, again, in answer  
5 to --

6 A Well, at the moment, from what I gathered of the  
7 two cases, it seemed like there was a time between the first  
8 and the second incident, so -- so if that were the case, then  
9 I -- I think I would go along with the prosecution.

10 Q Well, you understand that these now are two  
11 separate murders that are being charged? These are not the  
12 Tate and the LaBianca murders, obviously. These are two  
13 separate murders.

14 Would it be your feeling, sir, that perhaps if any  
15 connection could be shown in any way between the Tate-LaBianca  
16 and these two murders that have been alleged here, that, as  
17 you put it, then, "I'd have to go along -- I guess I'd have to  
18 go along with the prosecution."

19 MR. KAY: Well, I think I'll object to those as asking  
20 the juror to prejudge the evidence, and speculating on what  
21 he would do --

22 MR. DENNY: Well, your Honor, I think --

23 MR. KAY: -- based on that evidence.

24 THE COURT: In view of his answers to the Court's  
25 question, I think it's -- I will sustain the objection.

26 MR. DENNY: May we --

27 THE COURT: You may rephrase it.

28 Q BY MR. DENNY: Well, Mr. Foon, again, I realize

1 you are trying to be just as candid with us about your feelings  
2 as possible, and I -- I appreciate that. And I -- I'm looking  
3 about these feelings toward the relationship of the Tate and  
4 LaBianca crimes to these crimes.

5 Now, is it your state of mind that, if any kind of  
6 relationship were disclosed between those crimes that you've  
7 read about, the Tate and LaBianca crimes, and these crimes  
8 that you would then tend to favor the prosecution --

9 MR. KAY: Well --

10 Q BY MR. DENNY: -- in determining whether or not  
11 this defendant is guilty of the charges against him, beyond a  
12 reasonable doubt and to a moral certainty?

13 MR. KAY: Again, I'm going to object on the same grounds,  
14 that it's asking the juror to prejudge the evidence and specu-  
15 late on what he would do, based on the evidence.

16 THE COURT: I'll let Mr. Foon answer.

17 You are probably right, however -- no, I'll  
18 reverse that.

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1 MR. DENNY: Well --

2 THE COURT: It's a rather negative question, to say,  
3 "Some connection," however you phrased it. It does appear to  
4 be an ambiguous kind of a thing.

5 Q BY MR. DENNY: Well, let me rephrase it again,  
6 Mr. Foon.

7 I think you understand the point that I am  
8 trying to make.

9 A I think so.

10 Q Mr. Foon, can you ignore what -- for the purpose  
11 of this trial, can you ignore anything that you may have heard,  
12 seen or read concerning the Tate-LaBianca case?

13 A Well, I guess I would have to.

14 FURTHER VOIR DIRE EXAMINATION  
15 BY THE COURT:

16 Q Well, you have to, if you can, follow the  
17 Court's instruction. That's what I want to know. You'll have  
18 to, in order to comply with what the Court tells you to do.

19 And the question is whether you can do that. Do  
20 you think you can be sufficiently objective to set all that  
21 aside for the purpose of making any judgment that you might be  
22 called upon to make in this case, whatever it might be?

23 A I believe I could.

24 Q Are you expressing any doubt when you say "I  
25 believe I could"?

26 A Well, from all the previous statements, I just --  
27 I didn't have it clearly, what the entire thing was all about.  
28 And I more or less --

1 Q Well, at this moment --

2 A -- prejudged whoever was implicated, I guess.

3 Q Well, I don't understand that.

4 But what I'm asking you is: Whether you are  
5 certain of your ability to set aside whatever you might have  
6 learned from the press, or from the media?

7 Are you certain of your ability to do that?

8 A Well, perhaps I can answer it this way. Actually,  
9 this is a -- like I stated previously, this is my first exposure  
10 to this sort of thing, and I -- I've always -- well, I've been  
11 a law-abiding citizen, and --

12 Q I don't see what that has to do with --

13 A Well --

14 Q -- the question as to whether or not you can set  
15 aside what you may have heard, seen or read.

16 A Well, your Honor --

17 Q Put your attention to the question, if you would,  
18 please. If you can't, and if you think it's just too tough  
19 for you to set aside what you have heard, seen or read, be  
20 frank about it and say so.

21 If, on the other hand, if you can be objective and  
22 decide the case basing your judgment only on the evidence and  
23 the instructions, well, say that, that that is the case.

24 A Well --

25 Q That's all we want to know from you.

26 A I'll say "No" then.

27

28

3-1

1 Q You're not certain that you can divorce yourself  
2 from what you've heard, seen or read, then?

3 A Yes, sir.

4 MR. DENNY: Thank you very much, Mr. Foon, and I would  
5 challenge the juror under 1073, Subdivision 2, your Honor.

6 THE COURT: The Court grants the challenge. Thank  
7 you very much. Report to the 15th floor of the New Hall of  
8 Records, Mr. Foon.

9 MR. KAY: Thank you, Mr. Foon.

10 THE CLERK: Mrs. Betty Gaddy, B-e-t-t-y, last name,  
11 G-a-d-d-y. That's middle initial "J".

12 THE COURT: Off the record.

13 (Whereupon, a discussion off the record  
14 ensued.)

15 THE COURT: Back on the record.

16  
17 VOIR DIRE EXAMINATION OF

18 BETTY J. GADDY

19 BY THE COURT:

20 Q We have a seat No. 1, in place of Mr. Foon,  
21 this lady whose name is --

22 A Betty Gaddy.

23 Q Getty?

24 A Gaddy.

25 Q Spell it for me.

26 A G-a-d-d-y.

27 Q It is Mrs. Gaddy -- Mrs. Gaddy?

28 A Uh-huh.

3-2

1 Q Mrs. Gaddy, were you present when the Court  
2 explained the nature of this case on Friday, read the indict-  
3 ment to you?

4 A Yes.

5 Q And would it be any hardship to you to serve in  
6 this case?

7 A No.

8 Q You've heard all the proceedings thus far since  
9 that time, have you not?

10 A Yes.

11 Q Would your answers be any different than the  
12 majority of jurors have responded to the Court's questions  
13 of a general nature?

14 A No.

15 Q Had you ever heard of this case before or heard  
16 of Mr. Davis before?

17 A No.

18 Q You had heard the name Charles Manson, had you  
19 not?

20 A Yes.

21 Q And was it in connection with the prosecution of  
22 the Tate-La Bianca case?

23 A Yes.

24 Q Do you know whether or not you have ever heard of  
25 anyone other than Mr. Davis that was prosecuted for these  
26 particular alleged murders?

27 A I didn't really follow the case.

28 Q Do you know whether or not anyone was ever

3-3

1 prosecuted for these alleged murders before? Have you ever  
2 heard of this, any prosecution resulting from the alleged  
3 death of Hinman and Shea?

4 A I believe Manson was charged and prosecuted and  
5 someone else.

6 Q Do you know the result of that trial?

7 A He got so many years, didn't he?

8 Q Received life imprisonment?

9 A Yes. Over and above his other case.

10 Q In connection with the Manson Family, what do  
11 you know them to be?

12 A The first thing that would come to my mind,  
13 would be hippie.

14 Q And do you know the name Gary Hinman?

15 A I've only heard it.

16 Q You've only heard it or read it in the newspaper?

17 A I didn't read the newspapers at all regarding  
18 the case, only what was on the TV and what I overheard.

19 Q I see. And that's where you learned about this  
20 other prosecution of Mr. Manson?

21 A I heard that on the radio going to work.

22 Q And the name Shorty Shea, have you heard that  
23 before?

24 A Yes.

25 Q Same source?

26 A Yes, vaguely, and here in court, mainly.

27 Q What do you know about Shorty Shea? What did you  
28 hear about Shorty Shea?

3-4

1 A Nothing.

2 Q Nothing?

3 A I didn't even -- I only know he was dead.

4 Q An alleged victim?

5 A Right.

6 Q Well, now that you know that Mr. Manson has been

7 convicted of his death and one of the issues in the case

8 will be whether or not Mr. Shorty Shea is dead, and whether

9 Mr. Hinman is deceased, you've heard news reports of these

10 deaths, do you think that you could set those news reports

11 aside and make a judgment independently of those news

12 reports, basing your judgment on those issues upon the

13 evidence that's received here only?

14 A Well, yes.

15 Q Would you be in just -- would you be just as fair

16 and impartial, you believe, than somebody, perhaps, that had

17 never heard that news report?

18 A Yes.

19 Q Making that judgment, do you think that you have

20 the capability of setting aside such matters, then, in making

21 a judgment objectively, basing your judgment only on the

22 evidence?

23 A Right.

24 Q Will you do that?

25 A Yes, sir.

26 Q Did you ever hear anything of an anti-Negro

27 attitude on the part of the members of the Manson Family?

28 A Only of this theory vaguely.



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Q Some sort of a vague theory?

A Yes.

Q Something about fomenting trouble between --

A Right.

Q -- between whites and blacks, something of that?

A Uh-huh.

Q Would somebody who is a member of the Manson Family suffer any disadvantage in having you as a juror? In other words, would you be prejudiced against a person --

A No.

Q -- who was a member of the Manson Family?

A No.

Q Do you think you could be fair and impartial despite what you might have heard about that anti-Negro sentiment and anything else you might have heard about the Family?

A Yes.

Q If I were to instruct you, then, that you are to set aside anything that you may have heard, seen or read, anything that you might have talked about with your friends or relatives concerning Manson, the Manson Family, Mr. Davis, this case; do you believe that you could set aside such matters for the purpose of acting as a juror in this case?

A Yes, I do.

3a, fls.

3a-1

1 Q And will you independently make whatever judgments  
2 that you might be called upon to make on any issues in the  
3 case, solely upon the evidence and the Court's instructions  
4 in the case?

5 A Yes, sir.

6 Q Do you believe that you can do that?

7 A Yes, I do.

8 Q And will you do that?

9 A Yes.

10 Q Will you be fair and impartial?

11 A Yes.

12 Q Concerning the death penalty, do you have such  
13 views about it that you could not be fair and impartial in  
14 determining the issues of guilt or innocence?

15 A No, I don't believe in the death penalty. I  
16 would not.

17 Q Pardon?

18 A I would not give the death penalty.

19 Q I'm sorry, I didn't hear your last --

20 A I just simply think it is very unjust and I  
21 would never -- I could never give anyone the death penalty.  
22 It would always be life or less.

23 Q Your views concerning the death penalty are such  
24 that you would never vote --

25 A Never, right.

26 Q -- never vote to impose it?

27 A No. It is very unjust.

28 Q Regardless of the evidence that's presented?

3a-2

1 A Right.

2 Q Your reaction would be to automatically refuse to  
3 impose the death penalty regardless of what was produced?

4 A Right.

5 Q Would you ever consider imposing the death  
6 penalty?

7 A No.

8 MR. KAY: Your Honor, the prosecution will respectfully  
9 challenge this juror under 1073, Subdivision 2 of the Cali-  
10 fornia Penal Code?

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

12 MR. DENNY: Your Honor, may I inquire, just two  
13 questions?

14 THE COURT: I don't -- just two questions, yes.

15 MR. DENNY: Yes.

16  
17 VOIR DIRE EXAMINATION

18 BY MR. DENNY:

19 Q Your views on the death penalty and the fact that  
20 you would never impose it in the second part of the trial  
21 would not keep you from being able to determine fairly the  
22 guilt or innocence --

23 A Oh, no.

24 Q -- of the defendant in the first part of the  
25 trial, would it -- would they?

26 A No, no.

27 MR. DENNY: One question will do, your Honor.

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

3a-3

1 MR. DENNY: I object to the granting of the challenge,  
2 your Honor, for the record.

3 THE COURT: Very well.

4 The Court excuses you, Mrs. Gaddy. Thank you  
5 very much.

6 MR. KAY: Thank you, Mrs. Gaddy.

7 THE COURT: 15th floor of the New Hall of Records  
8 across the street.

9 Morris Dresser, M-o-r-r-i-s, last name  
10 D-r-e-s-s-e-r.

11  
12 VOIR DIRE EXAMINATION  
13 OF MORRIS DRESSER

14 BY THE COURT:

15 Q Morris Dresser.

16 A Good morning.

17 Q Mr. Dresser, you have been present since the  
18 Court explained the nature of this case and read the indict-  
19 ment?

20 A Yes.

21 Q To the prospective jurors, is that correct?

22 A Yes, since Friday.

23 Q Would your answers be any different than the  
24 majority of the jurors have responded to the Court's  
25 questions of a general nature?

26 A Uh, I think only one answer would be different,  
27 your Honor, and that would be that I do feel strongly about  
28 the death penalty.

3a-4

1 Q Are your views about the death penalty such that  
2 you could not be impartial in determining the question of  
3 guilt or innocence?

4 A They would not be impartial, your Honor, but I  
5 would feel strongly if it came to the point where I would have  
6 to impose the death penalty.

7 Q You mean by that, in the first phase, in deter-  
8 mining the question of guilt or innocence, if you knew that  
9 a finding of guilt might result, guilty of murder in the  
10 first degree might result in your going into a penalty phase  
11 to decide death or life imprisonment, that your judgment  
12 might be swayed in that first phase by your feelings?

13 A To an extent, your Honor, because I would feel  
14 that I would not want to impose it if it went into the  
15 second phase, but that I would prefer to give life imprison-  
16 ment rather than the death penalty.

17 Q I see.

18 Are your views about the death penalty such that  
19 you would automatically refuse to impose it regardless of the  
20 evidence?

21 A No.

22 Q In other words, you can possibly conceive of a  
23 situation wherein you might -- strike that.

24 In other words, you would look at the evidence  
25 to determine whether, in your judgment, you should impose  
26 the death penalty?

27 A I would weigh it very strongly, sir.

28 Q And if, in your judgment, you felt that the death

3a-5

1 penalty should be imposed, you could and would vote for it?

2 A Yes, it would have to be very strongly -- very  
3 strong case for the prosecution, your Honor.

4 Q Well, when you say "very strong," it indicates  
5 to me that you might possibly be confused. Perhaps not.

6 You understand that the question that I have put  
7 to you presupposes that there has been a conviction beyond a  
8 reasonable doubt of murder of the first degree?

9 A Yes. Let me elaborate on that, your Honor.

10 Q All right.

11 A What I am --

12 Q The circumstances would have to be such --

13 A They would have to be excessively horrendous or  
14 excessively to the point where there would be a showing of  
15 complete lack of compassion for another person.

16 Q I see.

17 In connection with that first phase of the case,  
18 it is your feeling that you -- your judgment might be  
19 swayed by your attitude concerning the death penalty or not?

20 A No, not in the first phase, your Honor.

21 Q Not in the first phase?

22 A Not on the first phase.

23 Q You could be fair and impartial in determining  
24 that?

25 A Yes.

26 Q And set your -- your views concerning the death  
27 penalty aside for the purpose of making a judgment as to  
28 guilt or innocence?

3a-6

A Yes.

In other words, I could differentiate between the first and second phase of the trials.

Q I see. I misunderstood you when I was questioning you.

A I see.

Q Have you been a juror before?

A No, I have not, your Honor.

3b fls.

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1 Q And would it be any hardship to you to serve in  
2 this case?

3 A I've contacted my employer and he feels very  
4 strongly about serving on jury duty.

5 Q Good or bad?

6 A Good.

7 Q Will he pay you for beyond the 30 days?

8 A I believe so.

9 Q What employer is that?

10 A RCA Distributing Corporation, sir.

11 Q What type of work do you do for them?

12 A I work in the electronics shop. Television  
13 repairman and sort of general --

14 Q Just -- go ahead.

15 Television repairman and what?

16 A Well, generally there are other phases of  
17 electronics, repairs such as serviceability of the system  
18 we have there. Generally, it pertains to electronics,  
19 though.

20 Q Is there a Mrs. Dresser?

21 A Yes, there is, your Honor.

22 Q Is she employed outside the home?

23 A No, she's strictly a housewife.

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

26 A Hmm, no.

27 Q What general area do you and Mrs. Dresser  
28 reside in?



3b-2

1 A South part of Los Angeles.

2 Q Concerning what you may have heard, seen or read  
3 about this case previously, had you ever heard of it before  
4 you came into this courtroom on Friday?

5 A Yes, I had followed it at the initial beginning  
6 strongly, but as the time wore on I began to read less and  
7 less.

8 Q When you say the initial beginning, you mean  
9 two --

10 A The initial discovery.

11 Q -- two years ago or a year ago?

12 A Yes, yes. In other words, when the original  
13 Manson case came into notoriety.

14 Q That was with the Tate-La Bianca homicides?

15 A Yes.

16 Q Specifically speaking of the alleged homicides  
17 of Gary Hinman and Shorty Shea, had you ever heard of that  
18 indictment, prosecution before --

19 A Very likely, your Honor. I listened to it.

20 Q -- in any way?

21 A Just news reports, but I had not followed it  
22 beyond that.

23 Q Do any of the news reports come to your mind at  
24 this time?

25 A No.

26 Q Do you know of anyone else who has been prose-  
27 cuted for those same alleged murders?

28 A No, I do not.

4 fls.

4-1

1 Q Had you ever heard of Bruce Davis before?

2 A No, I had never --

3 Q Or Steven Grogan?

4 A No.

5 Q Or Robert Beausoleil?

6 A No. The names do not do anything.

7 Q What do you know about Shorty Shéa? Had you heard  
8 that name before I --

9 A Just slightly, sir.

10 Q Well, could you give us just a word of what you  
11 remember, if you remember anything at all?

12 A The only thing that I had heard, that he was a  
13 Hollywood stuntman of some type or ability, and that was all  
14 that I had heard about him.

15 Q Had you heard that he was deceased?

16 A Yes.

17 Q Do you recall any of the facts concerning that  
18 report?

19 A No, I do not.

20 Q Had you heard that Gary Hinman was deceased?

21 A Yes.

22 Q All we want to know in connection with your  
23 knowledge about publicity is whether you can objectively set  
24 aside anything you might have heard, seen or read, wiping your  
25 mind clear of it, in effect, and not forgetting it, but setting  
26 it aside for the purpose of being a juror.

27 A I believe I can set everything aside, your Honor,  
28 and let the case unfold itself according to its merits or

1 whatever else may come up.

2 Well, would you --

3 A I don't think there would be anything that would  
4 influence my opinion.

5 Q If I were to instruct you that you would be  
6 obliged to set aside anything that you might have heard,  
7 seen or read in connection with the case, and that you are  
8 to decide any issue that might be submitted to you  
9 independently of such matters, do you believe that you could  
10 do that?

11 A Yes, upon the Court's instructions.

12 Q And will you do that?

13 A Yes.

14 Q And can you be fair and impartial?

15 A I will. I'll do the best that I can.

16 Q Do you think that you are as capable -- so capable  
17 of doing that -- say, for example, in connection with the  
18 matter of hearing about the deaths of Hinman and Shea -- that  
19 you would be, in effect, the same as a juror who had never  
20 heard about Hinman or Shea?

21 Can you be that -- can you wipe your mind that  
22 clean of such matters, for the purpose of determining any-  
23 thing that you may be called upon to decide in this case?

24 A I believe I sincerely could.

25 THE COURT: Mr. Denny?

26  
27 VOIR DIRE EXAMINATION

28 BY MR. DENNY:

1           Q       Mr. Dresser, just so we do get it clear, as far as  
2 the death penalty issue goes, it is your opinion that if the  
3 case were, as you put it, I think, horrendous, you would be  
4 able to impose the death penalty? Vote to impose the death  
5 penalty? Is that correct?

6           A       In the second phase, yes.

7           Q       Yes. And that any feelings that you have, as far  
8 as the propriety or the impropriety of having the death  
9 penalty on the books as a punishment available, would not in  
10 any way affect your determination of the guilt or innocence  
11 of the defendant in the first phase; is that right?

12          A       My feelings about the death penalty are, for  
13 possible accidental homicide or something that has been  
14 proven, shall we say, only in the case of -- where there was  
15 an actual battle between two people.

16                   In other words, nothing to where there had been  
17 premeditation or anything regarding a situation where there  
18 might have been aforethought, or a malice, or a building up of  
19 dislike for the individual, to the point of murder.

20          Q       Well, I'm not sure I understand what you mean,  
21 when you say, "My thoughts about the death penalty are --"

22                   Is it your feeling that, in this latter situation,  
23 where there is this sort of forethought and building up, that  
24 the death penalty is then something that you would inflict  
25 or vote for?

26          A       I would only inflict the death penalty, if it were  
27 proven to me that the individual had thought for a period of  
28 time, and with no utter regard for the individual, as another

1 human being.

2 That would be the only situation that I would  
3 impose the death penalty. By that, I also mean that if I were  
4 an individual, and I accidentally caused the death of another  
5 person, and I were charged with homicide, I couldn't impose --  
6 or, I wouldn't expect to have the death penalty imposed upon  
7 me.

8 The differentiation is very close, but I feel  
9 strongly that the death penalty is not the answer. This is my  
10 own personal feeling.

11 Q Well, I take it you have done some reading, perhaps,  
12 on the subject, have you?

13 A A small amount of reading. And I had a direct  
14 situation many years ago, with a case involving the death  
15 penalty.

16 Q And what was that, sir?

17 A The Lindbergh kidnaping. Regarding Mrs. Lindbergh,  
18 she was a teacher at our school at the time, and when Bruno  
19 Hauptmann, of course, was being executed, the situation that  
20 we saw arise from that was -- was something that -- that  
21 avoids my words; I can't really describe it to you.

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4a fol

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1 Q Well, without causing you to relive whatever it  
2 was you went through at that time, it is somewhat important  
3 to both the prosecution and the defendant to get some idea  
4 as to what effect that did have on you, as far as making  
5 you predisposed to vote for or against the imposition of the  
6 death penalty under certain circumstances.

7 Did that particular traumatic experience, as it  
8 must have been, make you feel, sir, that you would be more  
9 likely to impose the death penalty on someone who had, as  
10 you say, thought about a killing, and then carried out that  
11 killing?

12 A No, it would make me think less of imposing the  
13 death penalty.

14 I do not feel that the death penalty is the  
15 answer to the murder of another individual -- unless it is  
16 exceptionally horrendous, to where it is done with a  
17 vengeful or a malice or a bitter hatred, to where the  
18 individual was -- would just mutilate or go beyond the normal  
19 bounds of homicide.

20 Q Well, in that particular case, then, that you just  
21 put forward to us, would it be your feeling that, under those  
22 circumstances, you would vote for the death penalty?

23 A Yes, I would.

24 Q And you would automatically vote for the death  
25 penalty?

26 A On the second phase, yes.

27 MR. DENNY: Yes. May we approach the bench, your  
28 Honor, a moment?

4a-2

1 THE COURT: Yes, you may.

2 (Whereupon, the following proceedings were had  
3 at the bench among Court and counsel, outside the  
4 hearing of the prospective juror:)

5 (Whereupon a discussion off the record ensued  
6 between Mr. Denny and Mr. Kay.)

7 MR. DENNY: I think we have a stipulation, your Honor,  
8 as to excusing this witness for cause.

9 MR. KAY: Yeah. We'd stipulate. He seems to be pretty  
10 strong-willed against both sides, in different phases of the  
11 trial.

12 THE COURT: All right.

13 (Whereupon, the following proceedings were had  
14 in open court, within the presence and hearing of the  
15 jury:)

16 THE COURT: The Court thanks you, Mr. Dresser, and  
17 does excuse you.

18 PROSPECTIVE JUROR NO. 1: Yes, sir.

19 THE COURT: Thank you for coming, Mr. Dresser.

20 MR. KAY: Can we take about a five-minute recess now,  
21 or do you want to go straight on through?

22 THE COURT: Well, if you feel it's called for, yes, --

23 MR. KAY: Yes.

24 THE COURT: We will take one.

25 MR. KAY: Yes. Mr. Manzella just hit me and said,  
26 "Say 'Yes,' " so I'm saying: Yes.

27 (Mid-morning recess.)  
28

5 fls.

5-1

1 THE COURT: All counsel are present. The defendant is  
2 present. You may call a new name for Mr. Dresser.

3 THE CLERK: Ronald W. Barnard, B-a-r-n-a-r-d.

4  
5 VOIR DIRE EXAMINATION OF

6 RONALD W. BARNARD

7 BY THE COURT:

8 Q Mr. Barnard, come forward and take the seat  
9 where that microphone is, if you would, please.

10 Mr. Barnard, we're interested in knowing whether  
11 you were present when the Court explained the nature of this  
12 case and read the indictment, whether you have been present  
13 since?

14 A Yes, every day.

15 Q And would your answers be any different than the  
16 majority of the jurors have responded to the questions of a  
17 general nature that I have put to them?

18 A No, but I would like to make an explanation as  
19 my relation to the law, and that would maybe lead you  
20 better in your questioning.

21 Q All right. Let me ask you this, before we get  
22 into that.

23 A Okay.

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

26 A Well, I really couldn't afford to -- see, the  
27 company I work for pays for 20 days.

28 Q I see.



1 And after that they will not pay you?

2 A No.

3 Q What's the nature of your work?

4 A Machinist for Lockheed Aircraft.

5 Q And you have found you are not to be paid?

6 A I've never known them to do anything beyond  
7 what their labor agreement is.

8 Q Well, it's been the Court's experience you would  
9 not be paid from Lockheed, as I remember it, past --

10 A Yes, they have a definite 20 days. And I think  
11 most of these companies -- these other people talking about  
12 30 days, is really a four or five-day week that they pay for.

13 Q Well, what were you going to tell us about the law?

14 A Well, I have a little bit of a problem with the  
15 fact of throwing the full responsibility of the death  
16 penalty upon individuals. I believe that the law should be  
17 more definite so that the Judge or the jury is not totally  
18 responsible for this condemnation.

19 Q Would your views about the death penalty be  
20 such --

21 I don't think we have to go into it, gentlemen,  
22 if you would stipulate.

23 MR. KAY: Yes, we'll stipulate to hardship.

24 MR. DENNY: Yes, I'll stipulate.

25 THE COURT: We all agree it would be a financial hard-  
26 ship to you, and a hardship that you shouldn't have to  
27 endure, so you will be excused.

28 PROSPECTIVE JUROR BARNARD: Okay, thank you.

1 THE COURT: Do you have time left on jury duty?

2 PROSPECTIVE JUROR BARNARD: This is my second week.

3 THE COURT: Oh, I see. Very well. Thank you.

4 PROSPECTIVE JUROR BARNARD: Thank you.

5 Where do I go?

6 THE COURT: The 15th floor of the New Hall of Records,  
7 if you would, Mr. Barnard.

8 Pick another name.

9 THE CLERK: Juan M. Galvan, J-u-a-n, last name,  
10 G-a-l-v-a-n.

11 MR. DENNY: Middle initial is what?

12 THE CLERK: M, like Mary.

13 THE COURT: Juan?

14 THE CLERK: Juan.

15  
16 VOIR DIRE EXAMINATION OF

17 JUAN M. GALVAN

18 BY THE COURT:

19 Q How do you pronounce your name?

20 A Galvan or you can pronounce it Galvan, either way.

21 Q Mr. Galvan, were you present when the Court  
22 explained the nature of this case?

23 A Yes, sir, your Honor.

24 Q And you heard the Court read the indictment and  
25 you've heard the subsequent proceedings?

26 A Right.

27 Q Would your answers be any different than the  
28 answers -- than the majority of the jurors have responded

1 to the Court's questions of a general nature?

2 A Well, they would be about the same.

3 Q Would they vary in any respects that are  
4 significant that you can think of?

5 A Well, when they start asking me, I might be able  
6 to differ in --

7 Q Let me ask you if there would be any hardship  
8 for you to serve in this case?

9 A No, your Honor, I get paid.

10 Q What type of work do you do?

11 A I'm in the Grounds Department, ground maintenance  
12 for a School District.

13 Q I see. Have you served as a juror before,  
14 Mr. Galvan?

15 A No, your Honor.

16 Q Is there a Mrs. Galvan?

17 A There is.

18 Q What does she do?

19 A She stays home.

20 Q And are you related to or a friend of any law  
21 enforcement officer?

22 A Well, slight friendship. Not too --

23 Q Explain that to us, will you?

24 A Well, there's a couple of officers that work for  
25 Montebello and I've got to meet them, you know, -- coffee  
26 shops or these places. But I'm not -- I don't go out  
27 with them. I don't --

28 Q I see. No great friendship, just a casual

1 acquaintance?

2 A A casual acquaintance.

3 Q I see. In what general area do you reside?

4 A Montebello.

5a' fls.

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1 Q You don't think this acquaintanceship with these  
2 officers would affect your judgment, do you, in this case?

3 A Well, not entirely, no.

4 Q What do you mean by that, "not entirely"?

5 A Well, when it comes to the law, you know, I have  
6 nothing against --

7 Q Well, let me ask you this: Do you think that  
8 because of the relationship or because of some views you may  
9 have that you could not be fair and impartial in this case in  
10 deciding the issue of guilt or innocence or any other issue?

11 A Well, in deciding -- and being fair and impartial,  
12 it would be -- well, I'm not too sure about that.

13 Q You're not sure about that?

14 A I'm not sure that I could be.

15 Q Why?

16 A On account of the circumstances.

17 Q Why is that?

18 A The circumstances of the case.

19 Q Why is that, the defendant's claimed associations  
20 that you may have heard about?

21 A Yes.

22 Q So that it would be too difficult for you to  
23 forget those things that you may have heard, seen or read and,  
24 therefore, you could not be fair and impartial?

25 A That is right. I would have to be convinced.

26 Q I don't know what you mean by that.

27 You mean he would have to convince you?

28 A He would have to. He would have to.

5a-2

1 Q And that would be tough for you to comply or  
2 difficult to apply --

3 A I would have to use my judgment after that.

4 Q It would be difficult for you to apply the  
5 presumption of innocence after that?

6 A That's right.

7 THE COURT: Gentlemen?

8 MR. DENNY: I would offer a challenge under 1073,  
9 Subdivision 2, and 1076, your Honor.

10 MR. KAY: No objection.

11 THE COURT: The Court will grant the challenge.

12 Thank you, Mr. Galvan.

13 PROSPECTIVE JUROR GALVAN: Thank you.

14 THE COURT: The Court excused you, to report to the  
15 15th floor of the Hall of Records across the street,  
16 diagonally across the street.

17 PROSPECTIVE JUROR GALVAN: Thank you.

18 MR. KAY: Thank you, Mr. Galvan.

19 PROSPECTIVE JUROR GALVAN: Right.

20 THE CLERK: Fred W. Burnap, B-u-r-n-a-p.

21 MR. DENNY: I wish some other jurors would be that candid  
22 that fast.

23 THE COURT: That candid that fast.

24 There is a juror named Yoichi Hayashi who wants to  
25 be excused from jury duty. His father died yesterday. It  
26 sounds reasonable.

27 MR. DENNY: I'll stipulate.

28 MR. KAY: So stipulate.

5a-3

1 THE COURT: You may inform him that he is excused.

2  
3 VOIR DIRE EXAMINATION OF

4 FRED W. BURNAP

5 BY THE COURT:

6 Q Mr. Burnap?

7 A Burnap.

8 Q Mr. Burnap, were you present when the Court  
9 explained the nature of this case and read the indictment to  
10 your group of prospective jurors?

11 A Yes, I did.

12 Q Have you been present since, in all of the  
13 proceedings that have been held in the courtroom?

14 A Since Friday.

15 Q Except when you were ordered excused, is that right?

16 A Yes.

17 Q Would your answers be any different than the  
18 majority of the jurors have responded to the questions of a  
19 general nature?

20 A No, they wouldn't be.

21 Q Can you think of any way, in any way that your  
22 answers would differ?

23 A They would be about the same.

24 Q About the same, all right.

25 Would it be any hardship for you to serve in this  
26 case?

27 A As far as I know now, it wouldn't be.

28 Q What do you mean by that?

5a-4

1 A Well, I'm over 70, you know, and it's -- but as far  
2 as I know, it wouldn't be any hardship.

3 Q Well, when you say you're over 70, you mean you're  
4 over 70 and a little infirmed or --

5 A No, nothing wrong.

6 Q So far as you are able, do you think that you could  
7 give -- strike that.

8 Do you think that you could give your full  
9 attention to the case?

10 A Sure.

11 Q You don't have any health problems?

12 A No. No, nothing at all.

13 Q Have you served as a juror before?

14 A Yes, about 20 years ago in Chicago.

15 Q And can you set aside anything that you might have  
16 learned in the course of that service as a juror and decide this  
17 case only on its evidence and the Court's instructions?

18 A What I learned, there was several cases. But I  
19 learned -- had enough experience --

20 Q Whatever it may be, you'll forget about it for the  
21 purpose of working on this case?

22 A Sure.

23 Q All right. What type of work do you do?

24 A Retired now.

25 Q From what type --

26 A I was a working elevator operator in St. Vincent's  
27 Hospital when I retired.

28 Q How long have you been retired?



5a-5

1 A Fifteen years.

2 Q Is there a Mrs. Burnap?

3 A No, I'm a bachelor.

4 Q Are you acquainted with or related to any law  
5 enforcement officer?

6 A No.

7 Q What area do you reside?

8 A In Westlake.

9 Q Do you know of any reason why you couldn't be fair  
10 and impartial in this case?

11 A No, I don't.

12 Q Do you have views about the death penalty that are  
13 such that you couldn't be fair and impartial in the first phase  
14 of the case?

15 A No, I don't.

16 Q Or are your views about the death penalty such  
17 that you would automatically refuse to vote for it?

18 A No.

19 Q Regardless of the evidence?

20 A No.

5b fol

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5b-1

1 Q Or would you automatically, upon a conviction of  
2 murder of the first degree, vote for the death penalty?

3 A No, I wouldn't.

4 Q Would you look at the evidence, examine the  
5 evidence and determine whether, in your discretion, you  
6 should -- you would apply the death penalty or life in prison?

7 A I would.

8 Q Have you heard anything about this case before you  
9 came here Friday?

10 A Never did. Not this particular one.

11 Q Not this one?

12 A No, sir.

13 Q When you say it in that way, it means to me that  
14 you did hear about some other case involving either the  
15 defendant or Mr. Manson?

16 A Yes. Only the Manson --

17 Q Had you ever heard of Bruce Davis before?

18 A No, I didn't. I was surprised.

19 Q Then, what you are talking about --

20 A Yes.

21 Q -- is the Manson case that involved the Tate-  
22 La Bianca deaths?

23 A Yes.

24 Q Had you ever heard of a prosecution involving  
25 these two alleged homicides?

26 A You mean if I know the outcome of it?

27 Q Had you ever heard of a prosecution involving the  
28 two alleged murders that are involved in this indictment?

5b-2

1 A No, I haven't.

2 Q The alleged murders of Hinman and Shea?

3 A Oh, yes, I remember the recent ones.

4 Q Involving whom?

5 A Well, I don't remember their -- the People's

6 names, but I remember --

7 Q Does the name Steve Grogan come to mind?

8 A Yes.

9 Q Had you heard, seen or read anything about his

10 conviction?

11 A I read about the conviction, but --

12 Q His conviction of these two homicides?

13 A Yes.

14 Q And had you read anything concerning Mr. Manson's

15 conviction of these two homicides?

16 A Yes, I did.

17 Just the headline. I didn't read the detail.

18 Q Yes.

19 You had heard the name Shorty Shea before, then?

20 A Oh, yes.

21 Q And, also, that you know that Mr. Shea was what,

22 a stuntman?

23 A He was a cowboy or stuntman or something.

24 Q Yes, out at Spahn Ranch?

25 A Yes.

26 Q Do you read a newspaper every day?

27 A Yes, I do,

28 Q This man Hinman, do you know him to have been a

5b-3

1 musician?

2 A I know of the case, but I didn't know what --

3 Q You know that he is alleged to have been murdered?

4 A Yes.

5 Q Do you know where he was murdered?

6 A Hollywood some place, wasn't it?

7 Q According to the reports?

8 A Yes.

9 Q Now, knowing what you know about prior convic-  
10 tions of Mr. Manson, and Mr. Grogan, of the alleged deaths of  
11 Hinman and Shea, do you think you could set those matters  
12 aside?

13 A Yes, I could.

14 Q Do you think you could forget about them completely,  
15 as if you had never heard of them?

16 A Yes, so far as this case is concerned.

17 Q Pardon?

18 A So far as this case is concerned.

19 Q You think you could put those matters out --  
20 anything that you might have heard about Charles Manson or  
21 the Manson Family or this -- these alleged murders or Mr.  
22 Davis, put them out of your mind for the purpose of making  
23 a judgment based upon the evidence in this case?

24 A I think I could, yes.

25 Q When you say, "I think I could," are you at all  
26 uncertain about your ability to do that?

27 A No, I wouldn't say that. I believe I could put  
28 them out of my mind.

1 Q Now, are you sure about your capability of doing  
2 that?

3 A Yes.

4 Q And will you do that?

5 A I would.

6 Q And can you be fair and impartial in the case?

7 A I would.

8 THE COURT: Mr. Denny.

9  
10 VOIR DIRE EXAMINATION

11 BY MR. DENNY:

12 Q Mr. Burnap, you say you do read a newspaper every  
13 day?

14 A Yes.

15 Q What paper is that, sir?

16 A Mostly the Times.

17 Q And do you occasionally read the Herald-Examiner?

18 A Oh, once in a while. Not very often.

19 Q Do you subscribe to the Times, sir?

20 A No, sir.

21 Q Buy it on newsstands?

22 A Yes.

23  
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28  
6 fls.

6-1

1 Q And you watch TV, sir?

2 A Yes.

3 Q And on a fairly regular basis?

4 A Yes, I do.

5 Q And you watch the news broadcasts --

6 A Yes.

7 Q -- fairly regularly?

8 A Yes.

9 Q Morning and evening?

10 A No. Mostly evening.

11 Q And listen to radio and news reports also?

12 A Yes.

13 Q Off and on during the day?

14 A Not much during the day. Mostly every -- in the

15 evening.

16 Q In the evening. And what would you say is your

17 main source of news, sir? Newspaper, radio, or TV?

18 A Oh, I'd say all three of 'em.

19 Q All three. All right.

20 Now, I take it, then, you try to keep up on the

21 news --

22 A Yes.

23 Q -- the news of the world?

24 A Yes.

25 Q You don't let it go by you?

26 A No. (Laughing.)

27 Q All right. Then, you have been keeping up on these

28 trials in which Mr. Manson was recently found guilty; is that

6-2

1 correct?

2 A Yes.

3 Q And guilty of the murders of Mr. Hinman and  
4 Mr. Shea, both; is that right?

5 A Yes.

6 Q And do you remember when you last read about that?  
7 About how recently that was?

8 A Only the last case, where it finally ended. But I  
9 didn't read details of it. I just --

10 Q All right. Do you recall specifically reading  
11 about that, as distinguished from seeing it over TV or hearing  
12 it over radio? Do you recall reading the article in the Times,  
13 or the headline, and a paragraph or so in the Times?

14 A I read the headlines, but not the details of it.

15 Q All right. And how about Mr. Grogan, Steve Grogan?  
16 Do you recall reading specifically in the Times, or seeing a  
17 picture of him with an article concerning his conviction of  
18 Shorty Shea's murder?

19 A The only thing I can recall about that, or reading  
20 about it, was that he was the one that escaped from jail,  
21 wasn't he?

22 Q Well --

23 A If I remember right, I guess that's the name.

24 Q Well, do you remember Mr. Como?

25 A No, I don't.

26 Q All right. Well, it is your present state of  
27 mind, however, that Mr. Manson has been found guilty by a  
28 jury of the murder of Shorty Shea; isn't that correct?

1 A Yes.

2 Q All right. So a jury has already made a determin-  
3 ation that Shorty Shea is dead, as far as you are concerned;  
4 is that right?

5 A Yes.

6 Q And based on that, there has been a -- a convic-  
7 tion of a man already, for having killed Shorty Shea; is that  
8 right?

9 A Right.

10 Q So, it's your impression, as you sit there now,  
11 at least, that Shorty Shea is dead; is that right?

12 A Yes.

13 Q And has been murdered?

14 A Yes.

15 Q And has been murdered by Mr. Manson?

16 A Yes.

17 Q And maybe someone else, too?

18 A Yeah.

19 Q Also Mr. Grogan?

20 A Yes.

21 Q All right. Now, this is a strong thing in your  
22 head right now; is that right? Do you know that?

23 A I know that, yes.

24 Q All right, sir. And knowing that, there's already  
25 been this judicial determination that Shorty Shea is dead,  
26 and that he has been murdered, it would take a good deal for me  
27 to convince you that he wasn't dead, and that he wasn't  
28 murdered, wouldn't it?



1           A       It would.

2           Q       And that would mean, then, that the burden would  
3 kind of be on me to prove to you that he was not murdered and  
4 was not dead; is that right?

5           A       Right.

6           Q       And I'd have a pretty hard time, as far as you are  
7 concerned, meeting that burden, wouldn't I?

8           A       You would.

9           MR. DENNY: All right. Thank you, sir. I think that's  
10 true.

11                   Well, let me ask you one thing more.

12           Q       And even if the judge told you that, "Well,  
13 don't -- don't consider that in this case," it would be pretty  
14 hard for you not to consider that another jury had already  
15 found somebody guilty of that murder, wouldn't it?

16           A       It would.

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1 MR. DENNY: I appreciate that, sir.

2 I would offer a challenge under 1073, Subdivision  
3 2.

4 THE COURT: Any question?

5 MR. KAY: May I just ask a few questions?

7 VOIR DIRE EXAMINATION

8 BY MR. KAY:

9 Q Mr. Burnap, you obviously know that Mr. Manson  
10 and Mr. Grogan have been convicted of the Shea murder. But  
11 could you nevertheless give Mr. -- even though you think  
12 these prior juries have found these two men guilty, could you  
13 nevertheless give Mr. Davis a fair trial in this particular  
14 case?

15 A Yes, I could.

16 Q And is there any doubt about that at all in your  
17 mind?

18 A Oh, no.

19 Q And could you put out of your mind everything that  
20 you've seen or heard -- well, let me ask you this.

21 Had you heard that Mr. Davis had any connection  
22 with these murders, in the newspaper or radio or television?  
23 Have you heard anything about Mr. Davis?

24 A No, I haven't. The first time I heard about him  
25 was in here.

26 Q Right. You've never even heard Mr. Davis' name  
27 before, have you?

28 A No.

6a-2

1 Q And so you feel that you could give him a fair  
2 trial, on both the Shea and the Hinman murders in this case;  
3 is that right?

4 A Yes.

5 MR. KAY: I have no further questions.

6  
7 FURTHER VOIR DIRE EXAMINATION

8 BY THE COURT:

9 Q Well, you think that Hinman and Shea are dead;  
10 is that right?

11 A I think they are. At least, from my --

12 Q Now, thinking that, do you believe that it's  
13 more or less unnecessary for the People to prove, in this  
14 case, that that is the situation? That they're dead?  
15 Because there has already been a jury that's determined it?

16 A Yes, I figured that it had already been proven  
17 that they are dead.

18 THE COURT: All right. The Court grants the challenge.

19 MR. DENNY: Thank you, your Honor.

20 Thank you, Mr. Burnap, very much.

21 MR. KAY: Thank you, Mr. Burnap.

22 JUROR NO. 1: You're welcome.

23 THE COURT: Mr. Burnap, the 15th floor of the New Hall  
24 of Records.

25 PROSPECTIVE JUROR NO. 1: Okay.

26 THE COURT: All right. I think we'll recess until  
27 2:00 o'clock.

28 MR. DENNY: Till what time, your Honor?

6a-3

1 THE COURT: 2:00 o'clock.

2 MR. KAY: In other words, your Honor is not going to  
3 pull another name before lunch?

4 THE COURT: Oh, we can pull another name.

5 MR. KAY: We could have that juror be in here at 2:00.

6 THE CLERK: Miss Mattie G. Young, II; M-a-t-t-i-e;  
7 middle initial "G"; last name, Y-o-u-n-g.

8 THE COURT: Mannie Young, II?

9 MR. DENNY: Mattie.

10 THE CLERK: Mattie.

11 THE COURT: Is this Mrs. Young?

12 THE BAILIFF: Yes, sir.

13 THE COURT: Well, let's go ahead for a few minutes,  
14 so long as she's so prompt in showing up.

15  
16 VOIR DIRE EXAMINATION OF  
17 MATTIE G. YOUNG, II

18 BY THE COURT:

19 Q Mrs. Young --

20 MR. DENNY: It's Miss, I believe, your Honor.

21 Q BY THE COURT: Miss Young, you were present when  
22 the Court explained the nature of this case, and read the  
23 indictment to the jurors, were you not?

24 A Yes, I was.

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

28 A There are a few different.

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Q Tell me.

A I was accused of a crime.

Q What kind of a crime?

A A misdemeanor.

Q Of what nature?

A At the time, it was prostitution.

Q How long ago was that?

A Oh, it's been about ten years ago.

MR. DENNY: I'm sorry. How long?

PROSPECTIVE JUROR NO. 1: Ten years.

Q BY THE COURT: And do you harbor any resentment about that, to such an extent that you couldn't be fair and impartial?

A No. In fact, I believe that they were right when they arrested me, because I was doing it.

Q What other answers would be different, that you can think of?

A Uh -- also, I had a cousin that killed a cousin of mine, too.

Q Who was involved in some sort of a fight with another cousin --

A No, he -- he -- the cousin that was the victim of the crime was -- was in the bed, and he blew his brains out at the time. He was under the influence of narcotics.

Q How long ago was that?

A It's been about two years.

Q Was there a prosecution as a result of that?

A Yes. Just recently, because he was 19; and they committed him to the mental institution.

6b fls.

6b-1

1 Q Did you testify in that case?

2 A No. I wasn't a witness to it.

3 Q Did anything happen -- or, strike that. As a  
4 result of that, do you think that you have any bias or  
5 prejudice in either direction?

6 A No.

7 Q Would you be biased or prejudiced against the  
8 defendant, as a result of that, --

9 A No.

10 Q -- a defendant who is accused of murder?

11 A No.

12 Q Are there any other -- any other respects in which  
13 your answers would differ --

14 A No.

15 Q -- from those of the other jurors from your  
16 group --

17 A No.

18 Q -- to my questions of a general nature?

19 Concerning the death penalty, are your views about  
20 it such that you would be unable to be fair and impartial in  
21 determining guilt or innocence?

22 A No, your Honor.

23 Q Or would your views about the death penalty be such  
24 that you would automatically, in any case, refuse to impose it,  
25 vote against it?

26 A No.

27 Q Would you have such views about it that, upon a  
28 conviction of murder of the first degree, you would automatically

1 impose the death penalty?

2 A No.

3 Q Have you served as a juror before?

4 A No, your Honor.

5 Q This is your first case?

6 A Yes.

7 Q What type of work do you do?

8 A I am a bookkeeper.

9 Q For whom?

10 A My -- my mother and I. I work for my mother.

11 Q Does she have some sort of a business that --

12 A Yes, she does.

13 Q What is the nature of that business?

14 A It's income tax and real estate and insurance.

15 Q I see. And you've never been married?

16 A Yes, I have. I am divorced.

17 Q I see. So, it's Mrs. Young, actually?

18 A No, it's -- they gave me my maiden name back.

19 Q Oh, I see. And what type of work did you spouse  
20 do?

21 A My husband worked for J. M. Taylor Motors,  
22 South Gate. He worked as a body and fender man.

23 Q Have you any relative or friend that's a law  
24 enforcement officer?

25 A No.

26 Q In what general area do you reside?

27 A Central Los Angeles.

28 Q Do you have such -- strike that.

1 Have you heard of the case before?

2 A Until I came here?

3 Q Yes.

4 A No.

5 Q Had you heard of Mr. Davis before?

6 A No.

7 Q Have you ever heard of these alleged homicides  
8 before, the homicide -- the alleged homicide of Mr. Shea --

9 A Yes, I have heard of that.

10 Q What have you heard about Mr. Shea's alleged death?

11 A Well, not -- I -- nothing that -- I heard it over  
12 the radio; but that's as far as I -- nothing that --

13 Q How long ago did you hear about it?

14 A Oh, it's been about a year ago, if I'm not  
15 mistaken.

16 Q Is there anything that comes to your mind concern-  
17 ing the details of that?

18 A No, because -- in fact, I was leaving town at the  
19 time, so I was -- I was -- it was during the trial of  
20 Mr. Manson, I was in Louisiana anyway, so I wouldn't know too  
21 much about.

22 Q You were in Louisiana?

23 A Yes, I was.

24 THE COURT: All right. We'll come back to this  
25 question of publicity, then, when --

26 PROSPECTIVE JUROR NO. 1: After lunch time?

27 THE COURT: At 2:00 o'clock, yes.

28 PROSPECTIVE JUROR NO. 1: Okay.



1 THE COURT: So, don't talk to anyone nor permit anyone  
2 to talk to you about the case. I'll see you at 2:00 o'clock.

3 PROSPECTIVE JUROR NO. 1: Okay.

4 THE COURT: We are in recess.

5 (Whereupon, at 12:02 P. M., an adjournment was  
6 taken until 2:00 P. M. of the same day, Thursday, December  
7 9, 1971.)  
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1 LOS ANGELES, CALIFORNIA, THURSDAY, DECEMBER 9, 1971, 2:03 P. M.

2

3 THE COURT: The record will show the defendant to be  
4 present with his counsel. All counsel are present.

5 Mr. Young is in the box.

6

7 VOIR DIRE EXAMINATION OF

8 MATTIE G. YOUNG, II

9 BY THE COURT:

10 Q Let's see, Miss Young, I asked you about your views  
11 concerning the death penalty?

12 A Yes, you did.

13 Q I've forgotten where we were in connection with it.

14 I think we were about to talk you about publicity.

15 Anything you had read, heard or seen about this case.

16 A Yes, you asked me that, also.

17 Q Had you heard, read or seen anything about this  
18 case previously?

19 A No.

20 Q And I think you replied to me that you had not  
21 heard, seen or read Bruce Davis's name?

22 A No, I hadn't.

23 Q But you knew of Charles Manson and the Manson  
24 Family?

25 A Yes.

26 Q What does the Manson Family mean to you? What does  
27 that term mean?

28 A Uh, that Charles Manson is the leader of a group

1 of people.

2 Q Of a group of people.

3 Did you follow -- you stated that you were out of  
4 the state during the time that the Tate-LaBianca trial went  
5 on?

6 A Yes, I was.

7 Q Have you ever heard the name Robert Beausoleil?

8 A Yes, I have.

9 Q And in what connection had you heard that, do you  
10 remember?

11 A In connection with Charles Manson.

12 Q Do you remember any specific prosecution that  
13 Mr. Beausoleil was involved in?

14 A No, I don't.

15 Q Do you know of any other prosecution that  
16 Mr. Manson was involved in other than the Tate-LaBianca trial?

17 A No, sir.

18 Q Do you know of any other homicides that he has  
19 been accused of?

20 A No, sir.

21 Q When was the last time that you read Mr. Manson's  
22 read, heard or saw Mr. Manson's name?

23 A Uh --

24 Q In the press, radio or television?  
25 Months or years or weeks?

26 A It has been some months.

27 Q Pardon?

28 A It has been some months.

1 Q Some months?

2 A (Nods head.)

3 Q During the time that you were hearing whatever you  
4 may have heard about the Tate-LaBianca case, did you hear any-  
5 thing of an anti-Negro nature concerning the Manson Family?

6 A No.

7 Q In your state of mind, your present state of mind,  
8 judging from what you have heard, seen or read about the Manson  
9 Family, do you think that you could be fair and impartial to  
10 a person who is a member of the Manson Family?

11 A Uh, as far as I am concerned, Judge, uh, I have no  
12 -- any prejudices or biases at this time behind them, because  
13 I didn't follow it enough to really be concerned about it.

14 Q Does the name Shorty Shea or Gary Hinman --, I have  
15 forgotten -- had you heard those names before?

16 A Yes, I had.

17 Q Had you heard of them as being persons who were  
18 victims of homicides, of killings?

19 A Yes, I had.

20 Q Now, having that in mind, and realizing that one  
21 of the questions that will be put to you as a juror in this  
22 case if you sit, will be the issue as to whether or not those  
23 people are dead; whether Mr. Shea, Mr. Hinman are dead.

24 Do you think that you could set aside that what  
25 you have learned by their alleged deaths and decide the case  
26 only from the evidence that's produced here?

27 A Yes, your Honor.

28 Q In other words, you could be of the same state of

1 mind as if you had walked into this jury box never hearing of  
2 Charles Manson or the Manson Family or Gary Hinman or Mr. Shea?

3 A Right, your Honor.

4 Q And are you capable of doing that, do you believe?

5 A Yes, I am.

6 Q Will you do that?

7 A Yes, I will.

8 Q And will you be fair and impartial?

9 A Yes, I will.

10 THE COURT: All right, Mr. Denny.

11  
12 VOIR DIRE EXAMINATION

13 BY MR. DENNY:

14 Q Miss Young, before getting to the death penalty  
15 issue and the publicity that we've talked about, I would like  
16 to go to this matter outside the presence of the other jurors,  
17 if I might, concerning the cousin whose life was lost,  
18 apparently, through another cousin killing him.

19 A Well, the -- uh, the cousin that's in -- he's  
20 in, uh, uh, I think it is Patton, was under the influence of  
21 I think heroin at the time that he, uh, was -- you know, when  
22 he committed the act.

23 And, uh, he has always been a problem as far as  
24 juvenile problems was concerned. And he had once before been  
25 committed to a state -- you know -- facility.

26 Q Well, it is an unusual thing in this day and age  
27 to have a situation like that so close to you.

28 A Yes.

1 Q Sometimes the fact that one is that close to a  
2 violent death --

3 A Uh-huh.

4 Q -- would make it so that you'd just as soon not  
5 sit through a lot of testimony concerning, perhaps, the violent  
6 death of some other person.

7 A Uh-huh.

8 Q Whether it be by shotgun or stabbing or drowning  
9 or anything else.

10 And I just wondered from the standpoint of your  
11 feelings, having gone through, I imagine, something with the  
12 rest of the family --

13 A Yes.

14 Q -- at that time, whether you have any feelings as  
15 you sit there now that perhaps you would rather not sit on a  
16 case involving charges of at least two other violent deaths?

17 A Huh-uh.

18 Q Do you feel that way?

19 A No, I don't, at this time.

20 Q You don't have any feelings at all that -- where  
21 Mr. Davis is being charged with killing two people and the  
22 state is going to present evidence that they can, to show that  
23 two people died, that you might have some tendency to feel some  
24 sort of feelings against him?

25 A No.

26 Q Being charged with those crimes?

27 A No, huh-uh, because Teddy was -- had -- has been  
28 having a mental problem all his life.

1           Thomas, the victim of the murder, had expressed a  
2 lot of things to me before he passed. And we were looking for  
3 something almost as horrendous as this. Not -- you know, not  
4 looking for him to do it in that way, but we were looking for  
5 him to do something violent, because he had always been a  
6 violent young man.

7           So, I'm only stating the fact that, uh, I don't  
8 feel that it would affect my judgment at all, at this time,  
9 because Teddy was a disturbed boy, really.

10          Q       I see. And either as to the prosecution or to the  
11 defense, you don't think it would have any influence on your  
12 findings in this particular case if you were --

13          A       No.

14          Q       -- seated as a juror?

15          A       No.

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1 Q All right. Now, have you done any reading on  
2 the death penalty, ma'am?

3 A No, I haven't.

4 Q Have you ever discussed with anyone else your  
5 feelings about the death penalty?

6 A Yes, I have.

7 Q And has this been recently, --

8 A Well --

9 Q -- in the last year or so?

10 A No, it's been not too long before I came to --  
11 you know, on jury service.

12 Q And was it in connection with discussions you  
13 had with people about the fact that you were going on jury  
14 service, and you might --

15 A No, no. Because it was --

16 Q -- might be called upon to --

17 A No, it's been about six weeks ago. So I couldn't  
18 have known it at the time.

19 Q No, not that you would sit on a particular case;  
20 but that you might sit on some case --

21 A Yeah.

22 Q -- where the death penalty was going to be  
23 involved.

24 A Yes.

25 Q And you did have some discussions with people  
26 about that possibility, --

27 A Yes.

28 Q -- as a juror?



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A Um-hmm.

Q All right. That's not unusual.

A (Laughing.)

Q And in that connection, did you express -- or form -- any opinions as to your views on what they call capital punishment?

A Yes, I did.

Q And is it your position that you are either for or against the State executing someone found guilty of murder?

A It's according to the evidence.

Q So that you feel, under certain circumstances, you would impose the death sentence?

A Yes, I do.

Q And under certain circumstances, you would not; is that correct?

A That is correct.

Q And you have done some thinking about those circumstances under which you would impose the death penalty; is that correct?

A Uh -- going back to the same thing again, it would have to be according to the evidence.

Q Well, but when you say "It would have to be according to the evidence," I assume that you have some idea in your mind, do you not, of some case that is so horrendous that, in making this decision that you have made, that there are some cases in which you would impose the death penalty, you can picture that type of case --

A Yes.

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1 Q -- where you would impose the death penalty?

2 A Yes.

3 Q And having found a person guilty of that, on the  
4 facts that underlay that finding of guilt, then you would,  
5 in effect, automatically, as far as you are concerned, vote  
6 the death penalty in that case?

7 A Not automatically, no.

8 Q Well, let's say, having found the person guilty of  
9 that offense, that offense in your mind would be so horrendous  
10 that you would vote to impose the death penalty?

11 A Yes.

12 Q And when I use the phrase "automatically," I  
13 mean just that by virtue of a person's having been found  
14 guilty of that horrendous offense, then you would auto-  
15 matically vote for death in that particular case, --

16 A Yes.

17 Q -- is that right?

18 A Yes.

19 Q All right. Now, with that in mind, what is the  
20 type of case -- or what are the type of cases -- in which you  
21 would automatically vote for death? Those cases that you  
22 have thought about?

23 A Uh -- I believe, if one comes to mind, that I  
24 would have done it in, that would be a case where, during  
25 World War II, when they assassinated all of the -- all of  
26 the Jews.

27 I don't know the particular man's name or  
28 something, but I -- I believe I probably would have.

8-4

1 Q All right. That's -- a lot of people would agree  
2 with that.

3 Is there another type of case that you have  
4 thought about?

5 A No, hum-mm. Not a -- I can't think of any at  
6 this time.

7 Q All right. So, other than this horrible case  
8 that you posit, of genocide, as they call it, extermination  
9 of a race --

10 A Um-hmm.

11 Q -- or a number of people of a race, that is the  
12 only type of case in which, having found a person guilty of  
13 that offense, you would automatically say, "That guy should  
14 go to the gas chamber."

15 A Right.

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1 Q Any other case, you would be open in determining  
2 whether he should live or die, --

3 A Right.

4 Q -- is that correct? All right.

5 Now, when you answered the Court that you had  
6 read that Hinman and Shea were dead -- is that a fair  
7 summation of what you told the Court?

8 A Yes, um-hmm.

9 Q And do you remember how recently you read that?

10 A Oh -- (Pause) huh! Let's see.

11 I believe it's been about nine or ten months  
12 ago.

13 Q All right.

14 You haven't read or heard or seen anything,  
15 say, within the last couple of months, --

16 A No.

17 Q -- to your knowledge, --

18 A No.

19 Q -- concerning this Shorty Shea, as he's called?

20 A No.

21 Q Or musician Gary Hinman, as he's sometimes called?

22 A No.

23 Q Do you recall -- do you regularly read a paper,  
24 a daily paper?

25 A No, I don't.

26 Q Do you read the daily paper occasionally, or  
27 a Sunday paper?

28 A No, In the business that I'm in, sir, it's kind

1 of hard to stop and read, because we are constantly going,  
2 you know.

3 And TV is -- you know, we look at TV, but it's  
4 not a daily thing; because sometimes we are gone from the  
5 abode, as we call it, or the business.

6 Q All right.

7 And --

8 A In the type of business we're in, we never know  
9 if we are going to be around.

10 Q How about radio? Do you listen to radio? Do  
11 you get news reports going to and from work? Or during the  
12 day?

13 A I play tapes. I'm a tape nut.

14 Q All right. Well, what would you say is your main  
15 source of news?

16 A You know, whenever I stop going, you know, some  
17 days -- not every day, some days -- Sundays, weekends, most  
18 of the time are days -- are days of res; and these -- you  
19 know, because we are in a rather --

20 Q Well, on those times, where is it that you get  
21 your news?

22 A Well, radio or TV, whatever -- if we ever stop,  
23 you know.

24 Q Okay. Now, as far as the Manson Family, as the  
25 Court asked you about, --

26 A Um-hmm.

27 Q -- you have heard of the Manson Family?

28 A Yes.

Q And you have heard, have you not, that certain

1 members of the Manson Family --

2 A Yes.

3 Q -- were responsible for or connected with the  
4 death of Sharon Tate and others?

5 A Yes. And La Bianca, too.

6 Q All right. And did you follow that news at all,  
7 at the time it broke? Which is now a couple of years ago?

8 A Yeah. Well, it was more or less the indictment  
9 part, at the time, and -- not the trial. The trial, I  
10 didn't go into too much detail behind it, because I -- I  
11 didn't like it, really. So I just didn't listen to it.

12 Q Well, I think there were a lot of people who  
13 certainly didn't like the facts of it.

14 Do you feel, because of the sort of -- I take it  
15 -- revulsion you had about the crime; is that right?

16 A Yes. Well, I don't like to sit and listen to  
17 what the press has to say about it, for the simple reason  
18 that I think that they tend to distort a lot of things.

19 Q Um-hmm. Um-hmm.

20 A And I -- if I really wanted to get into the full  
21 crux of something, I like to get the -- maybe the news  
22 writings or something like that, or editorials or whatever.  
23 But I don't particularly care to listen to the press -- the  
24 publicity media; TV is per se, because it -- to me, it tends  
25 to distort a lot of facts that are going on.

26 Q So that getting, then, back to the stories that  
27 you heard about Shorty Shea being killed, do you recall  
28 what stories you heard, read or saw about that?

1 A Uh -- no, not really.

2 All I know is that they were supposed to be on  
3 some type of ranch or something, --

4 Q Um-hmm.

5 A -- and somebody was supposed to be missing, and  
6 then after that, the (unintelligible) something --

7 THE REPORTER: "And then after that, the --" what --  
8 "something"?

9 PROSPECTIVE JUROR NO. 1: Well, I --

10 Q BY MR. DENNY: Did you say, "And then after  
11 that, the person -- something"?

12 A I said they were supposed to have been on some  
13 kind of ranch.

14 Q Yes.

15 A And -- or -- let's see. They were supposed to be  
16 on a ranch of some sort, and -- other than that, I don't  
17 believe I remember any of the details, as far as -- you know,  
18 into the depth details of it.

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1 Q Well, did you receive reports via the radio, TV  
2 news, that people from the Sheriff's department, for instance,  
3 were digging up the Spahn Ranch looking for Shorty Shea? Do you  
4 remember anything about that?

5 A Yes, I heard that.

6 Q All right. So, at least from what you heard or saw  
7 in the papers, it was possibly your opinion at that time that  
8 Shorty Shea was probably dead?

9 A No, I presumed that he was missing, you know.

10 Q Uh-huh.

11 Have you read anything since then that led you to  
12 change that presumption?

13 A No.

14 Q All right. So far as you now know, you don't know  
15 whether, based on what you have seen, heard or read, at least  
16 Shorty Shea is dead or alive, is that right?

17 A That's right.

18 Q And you understand that is going to be an issue in  
19 this case?

20 A Yes, I understand.

21 Q As to whether or not he is dead or alive?

22 A Or alive.

23 Q And when he is dead, whether he was killed by  
24 criminal means or accidentally or what.

25 And if he was killed by criminal means, whether  
26 this defendant had anything to do with it, Mr. Davis; do you  
27 understand that?

28 A I understand.



9-2

1 Q And so from anything you have heard, seen or read  
2 you don't start with any presumptions --

3 A Of any --

4 Q -- of anything, is that right?

5 A That's right.

6 Q All right.

7 Now, once more, the Court did ask you something  
8 about this, and I wasn't sure whether I had gotten it down  
9 right.

10 During the, again, early publicity involving the  
11 Tate-LaBianca killings, and in the arrest of Mr. Manson and  
12 some of the information that was involved there during the  
13 first three months of those murders and arrests there was some  
14 publicity concerning Mr. Manson's views or philosophies about  
15 the black and the white people.

16 Some people saw it, some people didn't. Some  
17 people talked to others about it, some people didn't.

18 I just wondered if you had heard, seen or read or  
19 talked to anybody about that?

20 A No.

21 Q Now, do you have any feeling again, based on  
22 anything you have seen, heard or read concerning anybody  
23 connected with the Manson Family is probably somewhat  
24 criminally oriented?

25 A No, not necessarily.

26 Q Not any more so than anybody else?

27 A No, huh-uh. Huh-uh.

28 MR. DENNY: Your Honor, I don't know whether the Court

1 wants us to go into the general questions or not or just stick  
2 with the death penalty and the publicity.

3 THE COURT: Uh, I think --

4 MR. DENNY: I did go into the business about her cousin  
5 because I thought that was relevant. But otherwise, I think  
6 we'll pass on that.

7 THE COURT: I think we might take the general voir dire  
8 in the presence of the other jurors.

9 MR. DENNY: Well, I'll pass on the subjects, then,  
10 your Honor.

11 MR. KAY: May we approach the bench a moment, your  
12 Honor?

13 THE COURT: Yes, you may.

14 (Whereupon, the following proceedings were had at  
15 the bench among Court and counsel, outside the hearing of the  
16 prospective juror:)

17 THE COURT: A rather surprisingly intelligent young  
18 lady.

19 MR. KAY: I think in the interest of time, since  
20 Mr. Denny has been fair with us and fair with the Court, we  
21 also wish to be fair and we will represent that we will  
22 peremptorily challenge this juror, so we don't have to waste  
23 any more time.

24 THE COURT: Mr. Denny had indicated to me by a wink and  
25 a nod he was going to challenge her peremptorily himself.

26 (Laughter.)

27 THE COURT: Well, all right, since you spoke first.

28 MR. KAY: Uh, although, your Honor, I -- the next

1 peremptory challenge is with the People. And I will say,  
2 however, that she will not be the next juror that we will  
3 peremptorily challenge.

4 THE COURT: All right.

5 In whatever sequence it may be, you anticipate --

6 MR. KAY: So I'm just going to stand up and say no  
7 questions, pass for cause.

8 THE COURT: All right, that's a savings of time.

9 MR. KAY: Yes.

10 (Whereupon, the following proceedings were had in  
11 open court within the presence and hearing of the prospective  
12 juror:)

13 THE COURT: Any questions on the subject from the People?

14 MR. KAY: No, your Honor. We pass Miss Young for cause.  
15 Thank you.

16 THE COURT: Let's bring the balance of the panel in,  
17 then.

18 THE BAILIFF: Yes, sir.

19 MR. KAY: Well, I was just thinking, your Honor, since  
20 the next peremptory challenge is with the People, maybe it will  
21 just be easier to exercise the challenge now and bring the next  
22 juror in to question instead of bringing the whole panel in.

23 THE COURT: That's a good suggestion. Then, perhaps,  
24 you would join the other jurors, the prospective jurors, and  
25 the Court will allow the People to exercise the next peremptory  
26 challenge, which is in order.

27 MR. KAY: Thank you, your Honor.

28 The People will thank and excuse juror No. 8,

1 Miss Bourgeois.

2 THE COURT: Will you tell Miss Bourgeois that she is  
3 excused? She is to report to the 15th floor in the New Hall of  
4 Records.

5 And pick another name for Miss Bourgeois.

9a fol

6 THE CLERK: William S. Burtiss, B-u-r-t-i-s-s.

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1 THE COURT: Burtiss?

2 THE CLERK: Burtiss, B-u-r-t-i-s-s.

3  
4 VOIR DIRE EXAMINATION OF

5 WILLIAM S. BURTISS

6 BY THE COURT:

7 Q Mr. Burtiss.

8 A Yes.

9 Q Were you present when the Court explained the  
10 nature of this case, read the indictment and began to question  
11 prospective jurors from your group and have you been present  
12 during all of the proceedings thus far held in open court?

13 A Yes, I have.

14 Q Now, would your answers be any different than the  
15 majority of the jurors have responded to the Court's questions  
16 of a general nature?

17 A No.

18 Q No different?

19 A No.

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

22 A No.

23 Q What type of work do you do?

24 A I'm an electrical repairman for the DWP.

25 Q Have you been a juror before in any case?

26 A Yes, I was on the Municipal Court jury, oh, a long  
27 time ago. Probably 1952 or somewhere along in there.

28 Q Would you set aside whatever you may have learned

1 during that tour of duty and decide this case only on what  
2 you hear in this courtroom?

3 A Yes.

4 Q What you hear and see in this courtroom?

5 A Yeah.

6 Q Is there a Mrs. Burtiss?

7 A No, I'm a bachelor.

8 Q Are you related to or a friend of any law  
9 enforcement officer?

10 A No.

11 Q And in what area do you reside?

12 A El Sereno.

13 Q Do you have such views about the death penalty  
14 that you could not be fair and impartial in determining guilt  
15 or innocence?

16 A No, my opinion I would be fair.

17 Q In connection with your views about the death  
18 penalty, would they be such that you would automatically refuse  
19 to impose it regardless of the evidence?

20 A No.

21 Q Or would you, upon a conviction of murder in the  
22 first degree, automatically impose the death penalty, vote for  
23 the death penalty, regardless of the evidence?

24 A No.

25 Q Would your views be such that you would never vote  
26 to impose the death penalty?

27 A No.

28 Q In any case?

1 Had you ever heard of this case before I read the  
2 indictment to you?

3 A This particular case, no, I hadn't.

4 Q Had you ever heard the name Davis?

5 A No.

6 Q Had you ever heard the name Hinman, Gary Hinman?

7 A Yes, uh-huh.

8 Q In what connection?

9 A Well, I just read about it in the newspapers and  
10 heard it on the TV and news.

11 Q Have you read that this person is deceased?

12 A Yes, uh-huh.

13 Q And that -- that somebody is accused of his killing?

14 A Yeah. I knew he had been supposedly killed, but  
15 I'm not too much aware of under what the circumstances were.

16 Q You just know generally that he's -- he's been  
17 killed?

18 A Yes, uh-huh.

19 Q Now, as to Shorty Shea, had you ever heard that  
20 name before?

21 A Yes, uh-huh.

22 Q And what circumstances do you remember from those  
23 news reports about Shea?

24 A Well, I knew he had been killed or supposedly killed  
25 by some -- under the -- his name was connected with, uh, the  
26 same situation. Just from my reading the newspaper and  
27 hearing the radio news and all I know about it.

28 Q Did you ever hear that anybody was looking for

1 Mr. Shea?

2 A No.

3 Q That they dug up a ranch some place to find  
4 Mr. Shea; does that call it to your attention?

5 A Well, I believe I did hear at one time that they  
6 were searching for a body in some area some place. I don't  
7 remember where it was.

8 Q Does it come to your mind that it was Mr. Shea?

9 A Yeah, I think it was, uh-huh.

10 Q The Manson Family, does that phrase mean anything  
11 in your mind?

12 A Yes.

13 Q What does it mean to you?

14 A Well, I've read and heard all of this news about  
15 their -- their activities in the Tate murder trial.

16 Q In the Tate-LaBianca trials?

17 A Yes.

18 Q Now, have you heard that anyone was prosecuted  
19 before for the Hinman -- so-called Hinman-Shea killings?

20 A Well, as I remember, I think -- no, I don't think  
21 that that -- that was not in with the Tate-LaBianca case. I  
22 remember it wasn't. But I remember it was brought up in the  
23 same -- the newspaper items at the same time.

24 Q When was the last time that you heard anything  
25 about Charles Manson in the newspaper or in the news media?

26 A Well, let's see, uh, I think it was something in  
27 the paper about that he made some kind of an outburst in court  
28 or something like that.



1 Q Months ago or weeks ago?

2 A Yeah, it was quite a long time ago. It was  
3 probably several months ago.

4 Q Now, would somebody who is a member of the Manson  
5 Family or associated with Mr. Manson, by reason of what you  
6 have heard, seen or read, would you suffer any prejudice in your  
7 mind?

8 A No.

9 Q You wouldn't be prejudiced against such a person  
10 who was -- who is or might be a member of the Manson Family?

11 A No, not through the association with the Manson  
12 Family, I wouldn't. I would --

13 Q And could you set aside what you may have heard,  
14 seen or read in the newspapers, television, radio or any  
15 discussions with friends or relatives and decide the case based  
16 solely on what you hear, hear and see of the evidence in this  
17 case and the Court's instructions?

18 A Yes, I could follow the Court's instructions on it.

19 Q If I were to instruct you that that was your  
20 obligation --

21 A Yes, uh-huh.

22 Q -- to set aside anything that you might have heard,  
23 seen or read via the news media; could you do that?

24 A Yes, uh-huh.

25 Q Are you sure about your ability?

26 A I could follow your instruction as to what the law  
27 was and abide by that.

28 Q Well, aside from that, we're talking about whether

1 or not you really think you are capable of setting aside -- not  
2 forgetting, but putting aside what you have learned. For  
3 example, you have apparently learned that Mr. Hinman and  
4 Mr. Shea are deceased?

5 A Uh-huh.

6 Q You've learned that from the news media?

7 A Yes, uh-huh.

8 Q Now, that will be an element of proof in the  
9 People's case, that there is a death by criminal means.

10 A Uh-huh.

11 Q Now, would you rely on what you have learned in the  
12 newspapers, television or radio in order to supply that proof?

13 A Well, no, I should rely on what I heard here in the  
14 courtroom, if I was on the jury.

15 Q Would you do that?

16 A Yes.

17 Q And can you do that?

18 A Yes, I can.

19 Q In other words, can you treat that subject and  
20 any other issue that might arise as if you had never heard of  
21 any news report concerning it?

22 A Yes, I could.

23 Q Will you be fair and impartial in the case?

24 A Yes.

25 THE COURT: Mr. Denny.

26  
27 VOIR DIRE EXAMINATION

28 BY MR. DENNY:

1 Q Sir, what is your main source of news? Radio,  
2 TV, newspapers?

3 A Well, the newspaper and the radio. At the present  
4 time I don't have a TV set.

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1 Q And do you presently subscribe to a paper?

2 A No. I just buy it on the -- in the newsstand.

3 Q On a regular daily basis, would you say?

4 A Yes, uh-huh.

5 Q What paper?

6 A The Herald-Examiner.

7 Q And would you say that it's your habit to read  
8 it fairly fully?

9 A Yes, uh-huh. Every evening, I usually read it  
10 for about -- oh, an hour or so, depending on how much time  
11 I have.

12 Q And as far as the radio, is there something you  
13 listen to in the morning, or in the evenings, on a regular  
14 basis, for the news?

15 A Well, yeah. I usually listen to the news  
16 stations on my way to and from work in the morning and on  
17 the evening.

18 Q Now, I take it, then, you have over the past  
19 few years, at any rate, made sort of a conscious effort to  
20 keep up with the news of the world, the daily events?

21 A Yes, uh-huh.

22 Q All right. And in that connection, you have at  
23 least become aware, at the time it occurred, of the Tate and  
24 the La Bianca murders; is that right?

25 A Yes, uh-huh. Yeah. When they were holding  
26 the original trial, I used to read the -- you know, for a  
27 while, they were publishing -- oh, the testimony, I think.  
28 And I used to read that.

10-2

1 But since then, I've sort of lost track of it.

2 Q All right. Well, there were fairly full -- there  
3 was, I should say -- fairly full coverage on an almost daily  
4 basis, with pictures, interviews, things like that, in the  
5 Herald-Examiner, particularly during that trial; --

6 A Yes.

7 Q -- is that right?

8 A Yes, uh-huh.

9 Q And I take it at least during the early part or  
10 into the middle part of that trial, perhaps, you, like many  
11 people, read that, because it was interesting reading?

12 A Yes, uh-huh.

13 Q And you were aware, I am sure, were you not,  
14 of the outcome of that trial?

15 A Yes, uh-huh.

16 Q What was the outcome?

17 A I think Mr. Manson was sentenced to the death  
18 penalty. I remember reading, I think, seven times or some-  
19 thing like that. And I thought it was kind of -- rather  
20 strange; you know?

21 Q You mean how many times?

22 A That's the last --

23 Q You mean, "how many times can you kill a man?"

24 A Yes, that's right.

25 Q All right. How about the girls that were tried  
26 with him? Do you know the penalty that was imposed on them?

27 A I don't really remember what they were sentenced  
28 to -- or whether they were sentenced or not. I don't even

10-3

1 know if their trials are finished or not.

2 Q Have you been aware, during the last several  
3 months, of anyone else being tried for the Tate and La Bianca  
4 murders?

5 A No, huh-uh.

6 Q Do you know Tex Watson? Does that name --

7 A Oh, yes, I did. I've forgotten about him. I  
8 remember, they brought him back from -- I think from -- from  
9 Texas? And -- and I think he's on trial now, isn't he?  
10 Or still on trial or something like that.

11 I haven't heard too much about it lately.

12 Q You have at least read something to the effect,  
13 over the last couple of months, that he was being tried?

14 A I knew he was on trial, and -- but I hadn't  
15 followed the exact trial.

16 I guess they don't cover it too much in the  
17 newspapers, or -- or just spot news items or something.  
18 Because I don't remember about it.

19 Q All right. And how about Steve Grogan? Have  
20 you heard the name or seen pictures in the paper in the last  
21 few months of Steve Grogan? As a Manson Family member?

22 A I've heard the name, and I know he's connected  
23 with them, but I don't remember -- I don't remember seeing  
24 him -- his name too much in the news items.

25 I don't know what his connection is or whether  
26 he's -- he's on trial for anything or not.

27 I remember the name, in connection with Manson;  
28 that's about as far as it goes.

10a fls.<sup>28</sup>

10a-1

1 Q And do you recall how recently you've heard,  
2 seen or read anything about Mr. Grogan?

3 A No, it's been quite sometime that I -- I don't  
4 reading of it for quite sometime.

5 Q Well, would you say within the last three or  
6 four months?

7 A Yes, uh-huh; at least that period of time.

8 Q Well, the Court read the indictment here last  
9 Friday, when your particular batch of jurors came in, --

10 A Um-hmm.

11 Q -- and among the names in the indictment, in  
12 Count III, charged with the killing of Donald Jerome "Shorty"  
13 Shea are Charles Manson, Bruce Davis, and Steve Grogan.

14 A Um-hmm.

15 Q Now, would that kind of refresh your recollection  
16 at all? Putting that together?

17 A Do you mean that I should remember something  
18 about him from that? Other than --

19 Q Well, I'm just wondering if you do remember  
20 anything in connection with that -- his being charged with  
21 this offense, and that which you have read previously,  
22 within the last few months, that you've talked about?

23 A Hmmm -- no. After the original flurry of news  
24 on the -- on the first -- when the trial first started,  
25 and they were publishing Linda Kasabian's testimony, I guess  
26 I sort of lost interest in it, because I don't remember too  
27 much about it recently.

28 Q Well, do you have a feeling at all now, having

10a-2

1 followed perhaps more closely than a number of people,  
2 judging from the answers that have been given by a number  
3 of jurors here, that based on your rather close following  
4 of the news concerning the Tate and La Bianca killings and  
5 Mr. Manson and the Manson Family, and the Manson girls, --

6 A Um-hmm.

7 Q -- that perhaps anyone associated in a rather  
8 close way with Mr. Manson, anyone who has been a member of  
9 the Manson Family for -- oh, say an extended period of  
10 time, --

11 A Um-hmm.

12 Q -- somehow shares some sort of criminality, some  
13 general criminality that attached to Mr. Manson?

14 A Well, not necessarily. I don't -- I think that  
15 someone could be associated with someone without being a  
16 criminal, even if that person they were associated with was  
17 a criminal,

18 Q In other words, this old expression that's been  
19 used on occasion, "Birds of a feather flock together," that doesn't  
20 necessarily hold with you; is that right?

21 A Yes, uh-huh.

22 Q Yes, it does not necessarily hold with you?

23 A Yes, it does not necessarily hold with me.

24 Q All right. So that, again, this gets a little  
25 beyond the questioning here, but the fact is that you would  
26 not jump to a conclusion of guilt by association in this  
27 case; is that right?

28 A No, I wouldn't jump to a -- no, not in a case like



10a-3

1 that, I wouldn't.

2 Q All right, sir.

3 Now, if the Judge asked you questions specifically  
4 -- and perhaps overstating what you had answered earlier to  
5 him -- you had read something about Gary Hinman being killed  
6 you said; is that right?

7 A Yes. I knew that he had been killed or murdered  
8 or something in connection with this case.

9 Q Now, when you say "in connection with this case,"--

10 A I mean the Manson case. I was referring back to  
11 Charlie Manson and the original case we are still talking  
12 about, aren't we?

13 Q Well, in other words, you relate somehow Gary  
14 Hinman's killing with the Tate and La Bianca killings?

15 A Yes, uh-huh.

16 Q And what is the relationship in your mind that you  
17 have?

18 A Well, as far as I remember about it, I think it  
19 was supposedly -- at least, they stated that they were --  
20 he was killed by the same people, the members of the Manson  
21 Family.

22 I don't remember if any particular one of them  
23 was accused of it or not, but --

24 Q Well, when you say Hinman was killed by the  
25 same people, members of the Manson Family --

26 A That killed -- yeah, that killed --

27 Q That killed Sharon Tate and those others?

28 A Yes, uh-huh. That's the impression I have at the

10a-4

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moment, as I remember back.

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Q Well, you understand that Mr. Davis now is being charged with the killing of Gary Hinman?

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A Yes, I understand that.

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10b, fls.

10b-1

1 Q And from your reading at least, you know, I  
2 assume, that he was not so charged in the Tate murders and the  
3 La Bianca murders?

4 A No, until I entered this courtroom, I had never  
5 heard of Mr. Davis before.

6 Q All right. Well, I assume, from the amount of  
7 reading that you did -- and listening -- that -- well, maybe  
8 I jumped to an assumption. Let me ask you:

9 Do you feel, based on what you heard, saw and  
10 read about the Tate and La Bianca cases, that those people  
11 did in fact kill Sharon Tate and the others, and the La  
12 Biancas?

13 A Well, I assume they did, since they were -- from  
14 that trial, the news that was published about their proceed-  
15 ings at the trial, at least they were pronounced guilty, I  
16 think.

17 Q Well, do you feel, then, that someone intimately  
18 connected with those people -- and since you seem to feel  
19 that the Hinman murder is somehow connected with the Tate and  
20 La Bianca murders -- that then someone intimately connected  
21 with those people guilty of the Tate and La Bianca murders  
22 is somehow more apt to be guilty of the Hinman murder?

23 A Well, I don't have any particular feeling about  
24 it. I just read the news, and this is what the news so  
25 stated. So, I assumed that -- that it was so.

26 Q Well --

27 A I never gave it much deep thought, whether they  
28 were or whether they weren't guilty of it.

10b-2

1 Q All right.

2 THE COURT: Can you set aside that assumption, along  
3 with everything else you are going to set aside, and judge  
4 the case, basing your judgment upon the evidence in the  
5 case?

6 PROSPECTIVE JUROR NO. 8: For a different individual,  
7 yes, I could.

8 THE COURT: Even if it should have been shown, for  
9 example, that the defendant is an associate of Mr. Manson,  
10 would you still rely upon the evidence?

11 PROSPECTIVE JUROR NO. 8: Yes, uh-huh.

12 BY MR. DENNY:

13 Q Well, Mr. Burtiss, going now to the second part  
14 of the Judge's question, you had read something about Mr. Shea,  
15 Shorty Shea?

16 A Yes, uh-huh.

17 Q And what had you read about that?

18 A I read that -- as I remember reading, that he had  
19 been killed, and -- and I think it was on the -- in connec-  
20 tion with the Manson Family. And I don't remember whether --  
21 whether they had convicted anybody of it or not.

22 I guess -- I'm trying to think back to what I  
23 did read about it.

24 I think he was, as I remember -- he was supposed  
25 to have been killed by Charlie Manson, and his body was  
26 missing, but -- that's as far as I can remember.

27 Q And do you remember when -- when is the most  
28 recently that you have read about or heard about this?

10b-3

1 A Oh, I'd say it's been at least three or four  
2 months since I've had -- I've heard anything about it or  
3 read anything about it.

4 Q And was this in connection with anybody being  
5 charged with having committed that offense; do you know?

6 A No, huh-uh.

7 Q Well, you have said you heard something about --  
8 in connection with Charles Manson supposedly having killed  
9 him.

10 Do you recall whether Charles Manson was charged--

11 A No, I don't.

12 Q -- with killing him?

13 A I don't know whether this was some supposition  
14 by a newswriter or what the particular details of it were.

15 Q Well, as you phrase it, the Judge certainly did  
16 not overstate your position. You said that you remembered  
17 reading that Shea had been killed.

18 A Uh-huh.

19 Q Now, based on that, is it your opinion, as you  
20 sit there now, that Shea probably is dead?

21 A Well, I never thought much about it, whether he  
22 was or wasn't, before. But I -- I -- I really don't know,  
23 actually.

24 They say he is, but I don't have any definite  
25 opinion on the thing, whether he is or he is not.

26 Q Well, the fact that "they say," --

27 A Oh, that's just --

28 Q And I take it by "they" --

1 A Well, "they" is the Herald-Examiner.

2 Q There you go. All right.

3 A (Laughing.)

4 Q And do you believe that -- that this is a fact?

5 That they have some information that makes that a fact?

6 Or is it simply a supposition on their part,

10c fls. 7 because of the missing body?

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10c-1

1           A       Well, I think -- I think it's their -- whoever  
2 has written these pieces I've been reading, I think it's their  
3 opinion that since he was in the area, with the same people,  
4 and is missing, that he probably was killed by them.

5                   That's -- I don't think they have any proof of it;  
6 at least, they don't seem to.

7           Q       All right. Now, taking that as the jumping off  
8 point, then, you don't start off with any feeling that, because  
9 of what you have read there, as far as a writer's opinion, that  
10 that constitutes any evidence whatsoever that you can consider  
11 in this case, do you?

12          A       No.

13          Q       And you wouldn't consider that writer's opinions,  
14 as you say, apparently without proof, that Shorty Shea is  
15 dead -- is that right?

16          A       No.

17          Q       (Continuing) -- in determining that issue herein?  
18 Because this is going to be one of the issues here, --

19          A       Um-hmmm.

20          Q       -- is he dead? Is he dead by criminal means?  
21 And did this defendant have anything to do with it.

22                   Do you understand that?

23          A       Yes, uh-huh.

24          Q       And is it your feeling right now, sir, that you  
25 would be completely fair, both to the people and to the  
26 defendant, in determining those three issues here, in spite of  
27 whatever you've read?

28          A       I feel that I could be fair.

10c-2

1 Q As fair as anyone who had not read all of the  
2 material that you've read on Manson and the Manson Family,  
3 et cetera?

4 A Yes. I think there are very few people around who  
5 haven't come into contact with some news item on it.

6 Q Well, I think that's true, too.

7 A And I think I could be as fair as anyone that has  
8 had the same material I have had presented to me.

9 Q Well, but what I'm trying to do is go one step  
10 beyond that. Because there are people who are not as well  
11 read as you.

12 A Um-hmmm.

13 Q Now, you say, "I could be fair, considering what  
14 I've read."

15 Now, take the person who hasn't read anything.

16 A Um-hmmm.

17 Q They have been out of the country for a while;  
18 they have not read any of this information at all.

19 Now, could you be as fair, do you feel, as that  
20 person?

21 MR. KAY: Well, I'm going to object to that, as calling  
22 for speculation, your Honor. I think that --

23 Q BY MR. DENNY: Well, do you --

24 Let me rephrase it, so that I am perfectly fair  
25 to you, sir, in asking you the question.

26 But in your own mind, do you feel, as the judge  
27 says, that you can put all of this that you've read out of  
28 your mind, as best as humanly possible, so that you are the



10c-3

1 equivalent in determining the guilt or innocence of the  
2 defendant in this case of that juror who has been out of the  
3 country and hasn't read all this?

4 Do you think you could do that?

5 A Yes, I think I could.

6 Q All right, sir. Now, on this issue of the death  
7 penalty, have you done any reading on the subject at all?  
8 Ever in your life?

9 A Hmmm -- no. Just -- not intentionally. But --  
10 but just -- no, not as such; not as a social issue, I haven't.

11 fol

11-1

1 Q But just sort of in passing --

2 A Yes, uh-huh.

3 Q Have you had any discussions, bull sessions or  
4 whatever, not formal discussions or formal discussions as  
5 far as that, if you have had them concerning the death  
6 penalty, pro and con?

7 A Yes, uh-huh, with individuals I work with, when  
8 they, you know -- the issue has been in the new civil times,  
9 I think, of various people trying to abolish the death penalty.

10 Q Right.

11 A And we've had discussions about it.

12 Q And have you generally taken one side or the other  
13 in those discussions?

14 A Hmm, generally I've taken the side that it  
15 should be kept in force.

16 Q And in connection with this particular subject  
17 of the death penalty, those convicted of murder, do you feel,  
18 sir, that there are some types of murders or a particular  
19 type of murder in which, if you had anything to do with it  
20 at all, as a juror, you would say, "If I found a guy guilty,  
21 if I was convinced that a guy was guilty of that type of  
22 murder, I would certainly vote for the death penalty for that  
23 man."

24 Is there a type of case that you have in your  
25 mind where that would be your feeling?

26 A Well, only if the law prescribed, in that case,  
27 I would, then.

28 Q Well, let's just forget about the law --

11-2

1 A Uh --

2 Q No, no, you can't forget about the law, but as  
3 the Judge said, there is always the option open to the  
4 jurors in this State to make a choice.

5 A Yes, uh-huh.

6 Q To give life or death in a first degree case.  
7 That option is always open to them.

8 A Uh-huh.

9 Q But some jurors, because of a gut feeling that  
10 they have, and I have mentioned a child molester -- there  
11 are some women or men, too, for that matter, who see their  
12 own child under the circumstances, say, if I were a juror  
13 sitting on that case and I found that man guilty and I  
14 was convinced that he was guilty, I would automatically vote  
15 for the death penalty for any man of that kind, you see.

16 A Uh-huh.

17 Q Now, are there other examples that you have in  
18 your own mind of types of murders wherein you feel, since  
19 you do feel that the death penalty should be kept, where you  
20 feel that if you sat on a jury and you found a man guilty of  
21 that particular kind of murder, that you would say that man  
22 I would give the death penalty to for having committed that  
23 type of crime?

24 A Well, there are certain cases I would feel that  
25 was so.

26 Q All right. Would you tell us what those cases  
27 are?

28 A Well, for instance, in the cases of armed robbery,

1 where someone kills an innocent person that's in business or  
2 something like that, where they go in there with the inten-  
3 tion of committing a, uh, -- you might call it murder or  
4 where someone murders somebody and denies somebody to live  
5 out his life the best he can because of their personal gain.

6 Q Well, when you say "somebody denies someone the  
7 right to live out his life the best he can for their personal  
8 gain" --

9 A Yes.

10 Q -- I'm not quite sure I understand what you --  
11 what that encompasses.

12 A Well, something like armed robbery or someone  
13 says -- walks in the store and says give me your money and  
14 then shoots a man down in cold blood or something like that.

15 Q All right.

16 Are there any other cases that you can think of  
17 where you would say a person, having committed that type of  
18 murder, that's the man I would vote the death penalty for?

19 THE COURT: This would be an automatic reaction on your  
20 part, you understand that, that Mr. Denny is asking you?

21 PROSPECTIVE JUROR BURTISS: Yes, uh-huh.

22 Q BY MR. DENNY: I'm saying because of your gut  
23 feeling here, let's say.

24 A Yes, uh-huh.

25 Well, right offhand, I can't think of any other  
26 instance, but there probably would be some. But, uh --

27 Q Well, if it takes you just a little time, if you  
28 can think of those where -- when you say there probably would

1 be some, it becomes important to both of us on both sides  
2 of the counsel table that you --

3 A Mostly I feel like that when people take the  
4 lives of people as sort of, uh, an expedient to an end to --  
5 like in robbery or someone is trying to escape from the law  
6 and goes into someone's home and uses the home for -- uses  
7 a person for a hostage and they become killed in the event  
8 of the ensuing gun battle or something like that.

11a fls.

11a-1

1 Q Well, you've given us one example that constitutes  
2 what might be called robbery-murder.

3 A Uh-huh.

4 Q And robbery-murder is one of the classes of crimes  
5 that comes within the felony murder rule.

6 A Uh-huh.

7 Q That if a person commits a murder in the course of  
8 a robbery, then that is automatically first degree murder and you  
9 get to the issue of the death penalty there.

10 Now, I'm not sure from what you have said that  
11 every robbery-murder would necessarily come within your  
12 feelings that the person committing that robbery-murder should  
13 be given the death penalty.

14 You've given us one example where somebody goes  
15 into a store --

16 A Uh-huh.

17 Q -- and in order to take things for his own well-  
18 being, does take them and kills the store owner.

19 A Yes, uh-huh.

20 Q And you'd have the feeling that that person you  
21 would definitely give the death penalty to?

22 A Yes.

23 Q All right.

24 Now, assuming you've got a situation where the  
25 person goes into someone's home and wants to take something  
26 from his home and kills him in the process of taking something  
27 from his home.

28 A Yes.

11a-2

1 Q Would that person also receive the death penalty  
2 from you automatically?

3 A Yes. If he was pronounced guilty by the  
4 proceedings.

5 Q Yes.

6 Well, we're assuming that you were the one that  
7 heard the evidence.

8 A Yeah.

9 Q And heard that he had done this and were convinced  
10 beyond a reasonable doubt of his guilt, then, having found him  
11 guilty, you would feel "that man, I would automatically give  
12 the death penalty to"?

13 A Yes, uh-huh.

14 MR. DENNY: Your Honor, I wonder if we might approach the  
15 bench a minute.

16 THE COURT: Well, you may.

17 MR. MANZELLA: Your Honor, may I inquire before we  
18 approach the bench briefly of Mr. Burtiss?

19 THE COURT: Yes, you may.

20

21 VOIR DIRE EXAMINATION

22 BY MR. MANZELLA:

23 Q Mr. Burtiss, you indicated that you would auto-  
24 matically impose the death penalty in the types of cases which  
25 you talked about.

26 A Well, when you say "automatically," uh, kind of  
27 puts the yes or no proposition. There's a -- usually a lot of  
28 things enter into these things, don't they?

11a-3

1 Q Let me ask you this: You indicated that you would  
2 impose the death penalty. Whether you would do so automatically  
3 or not, let's put that aside for a moment.

4 You said you would impose the death penalty in a  
5 situation where, for personal gain, a man goes into the store,  
6 robs the owner and kills him.

7 A Yes, uh-huh, that's right.

8 Q Now, let me give you this example:

9 Would you impose the death penalty in a situation  
10 where a fellow goes into a store, it is his first offense,  
11 it is the first time he's ever done anything like this. He's  
12 not carrying a weapon. He robs the owner and the owner tries  
13 to stop him. The fellow, the robber, tries to run for the  
14 door and the owner tries to stop him and he steps in front of  
15 him and accidentally -- the young fellow who is robbing the  
16 owner, knocks him down. The owner hits his head on the floor  
17 and the owner dies from a brain hemorrhage. But the death is  
18 accidental.

19 Would you impose the death penalty in that case?

20 A No, because in that case I don't think the person  
21 went in there with the intention of -- if he wasn't armed,  
22 he would not have the intention of killing anyone to further  
23 his end.

24 Q Right. Now, what do you base your two different  
25 decisions on? The evidence, the facts as Mr. Denny and myself  
26 gave them to you, the difference in the facts and the evidence  
27 between the two cases?

28 A Yes. I would base my opinion on the intent of the



11a-4

1 person, the person in the first place.

2 Q All right. Did you mean, then, when you answered  
3 Mr. Denny's question that on those limited facts that you  
4 would automatically impose the death penalty or did you mean  
5 that you would only impose it by reference to the evidence in  
6 the case?

7 A Well, I meant I would impose it by reference to the  
8 evidence in the case, as you said. If the person was armed  
9 or not armed --

10 Q That might have something to do with your decision?

11 A Yes, it would.

12 Q If his intention -- if his intention was killing  
13 or accidental, it might have something to do with your decision;  
14 is that correct?

15 A Because I would assume if someone went in to commit  
16 a robbery and he had a weapon with him, that he was prepared  
17 to kill or injure somebody to -- in the course of the robbery.

18 Q In other words, then, you would look at the  
19 evidence, no matter what type of killing it was? You would look  
20 at the evidence before you would impose the death penalty, is  
21 that correct?

22 A Yes, uh-huh.

23 THE COURT: Is there any type of homicide killing that you  
24 can think of where you would not examine the evidence, but merely  
25 vote for the death penalty by reason of the type of killing?

26 MR. DENNY: Well, your Honor, I think that is an unfair  
27 question to him, because you --  
28

11b fol

11b-1

1 THE COURT: Well, I think there's something wrong with  
2 this type of approach to examining the juror's state of mind.

3 MR. DENNY: Well, when you say "without examining the  
4 evidence," he's got to have examined --

5 THE COURT: That's what I am asking him.

6 The objection is overruled.

7 PROSPECTIVE JUROR BURTISS: If I was sure that a person  
8 had killed someone else and under certain conditions I would  
9 automatically say death; is that what your question --

10 THE COURT: No.

11 Is there any type of killing in which you --  
12 for which you would automatically vote the death penalty  
13 without regard to the evidence surrounding the killing?

14 PROSPECTIVE JUROR BURTISS: Are there certain -- no.

15 THE COURT: I think the possibilities are endless once  
16 you start on this path. It is a difficult problem to know  
17 when to stop.

18 MR. DENNY: Well, may we approach the bench for a  
19 moment, your Honor?

20 THE COURT: Yes.

21 (Whereupon, the following proceedings were had  
22 at the bench, outside the hearing of the prospective  
23 juror:)

24 MR. DENNY: Judge, I do challenge him under 1073,  
25 Subdivision 2, and 1076. But 1073, Subdivision 2, specifically,  
26 the death penalty issue.

27 I think he has said quite unequivocally that  
28 assuming he had heard the evidence that a person that

1 committed a robbery-murder, had gone to someone's home for  
2 personal gain and gone around and had killed the person,  
3 he would then automatically vote for the death penalty in  
4 that case.

5 THE COURT: Well, what you have stated, then, you assume  
6 will be the facts that will be established in this case?

7 MR. DENNY: I say -- and the Court is aware the  
8 facts are so close to the facts in this case I don't think  
9 you can get much closer without outlining to him in every  
10 detail what those facts are. And we are certainly trying  
11 to stay away from that. But by this particular -- the juror's  
12 own bringing out of those circumstances in which he would  
13 automatically impose the death penalty, I think he has come  
14 as close as anyone could without knowing the case.

15 THE COURT: Well, his subsequent -- his answers subse-  
16 quent to that, however, would indicate that he would look  
17 at the entire circumstances without regard to the type of  
18 killing.

19 MR. DENNY: Well, your Honor --

20 THE COURT: Do you have any comments?

21 MR. MANZELLA: I've already -- I've already made the  
22 comments I think that are relevant. I mean, he said in  
23 answer to the question, he said he would not impose the  
24 death penalty automatically without regard to the evidence.  
25 He would not do that.

26 MR. DENNY: Well, this is -- this is sophistry in a way.  
27 It is bandying words about because when you asked the witness,  
28 the prospective juror, "Would you impose it without regard

1 to the evidence" -- well, obviously he has considered at  
2 least those facts of evidence which bring it within the  
3 ambit of the example he's given.

4 MR. MANZELLA: Of course --

5 MR. DENNY: Namely, is that someone has gone into a  
6 house -- you don't get to a finding of first degree murder  
7 until you have considered at first, at least, the facts that  
8 he has gone into the house with the intent to rob and that he  
9 was robbed and that he has killed somebody and he has killed  
10 them for personal gain.

11 Now, those are the areas of evidence he has had  
12 to consider before he finds the finding of guilt, so he has  
13 considered those.

14 When you ask him, "Well, now, would you auto-  
15 matically vote to impose it without regard to the evidence  
16 because you never get to the finding --"

17 MR. MANZELLA: That's the same thing wrong with your  
18 question when you don't add the phrase "would you  
19 automatically impose the death penalty," and don't add  
20 "without regard to the evidence."

21 MR. DENNY: No.

22 MR. MANZELLA: Because by asking him is there any type  
23 of case, as soon as he comes up with facts in the case, he's  
24 doing it automatically, because he's referring to evidence  
25 in a hypothetical case.

26 MR. DENNY: That's right, and those are the facts that  
27 are going to be very similar to the facts in this case.

28 MR. MANZELLA: Well, Bruce Davis didn't shoot Gary Hinman.

1 MR. DENNY: I understand that.

2 MR. MANZELLA: And that, in my mind, if I were a juror,  
3 would play a large part in determining whether a man should  
4 live or die, would be a big factor in my decision whether  
5 he pulled the trigger. It is certainly different from your  
6 hypothetical.

11c: fls.

11c-1

1 THE COURT: The Court believes it is, and the Court  
2 believes that this juror would not automatically, even assuming  
3 what he says is true, Mr. Denny, that there are facts that he  
4 will regard, there are other facts that will undoubtedly enter  
5 into his judgment because he has replied that he will look at  
6 the evidence and that from what I know of the case, having  
7 heard it before with the previous co-defendant, there are  
8 circumstances which he might very well examine. I don't think  
9 he would automatically react, and the Court denies the  
10 challenge for cause.

11 MR. DENNY: Well, if I may, your Honor, I would --

12 THE COURT: We've spent about 15 minutes on him, now, and  
13 if you have any --

14 MR. DENNY: I think it is kind of important to spend that  
15 time if he is going to automatically vote for the death  
16 penalty for my client.

17 THE COURT: Well, the Court believes the same thing.  
18 Of course it is important. But nevertheless, if you have any  
19 further questions of him, you may proceed.

20 MR. DENNY: All right.

21 THE COURT: But I don't think I need to hear any further  
22 argument on the point.

23 MR. DENNY: I wasn't going to argue the point. I was  
24 going to inquire whether I may pursue this a little more  
25 specifically as to that type of murder that he would auto-  
26 matically bring the death penalty in and give him a few more  
27 specific examples to determine.

28 THE COURT: I think not, because the People would counter

11c-2

1 with a few more specific examples.

2 MR. MANZELLA: That's correct.

3 THE COURT: Of their own.

4 MR. DENNY: I don't mean --

5 THE COURT: I don't think it is possible.

6 MR. DENNY: I don't mean different types of questions,  
7 I mean taking, now, the case that he has said where someone  
8 goes into someone's home --

9 THE COURT: You're going to set out for him the facts  
10 as you think they might be developed here, and then ask him to  
11 make a prejudgment on those; is that right? Whether he would  
12 automatically vote for death in those circumstances?

13 MR. DENNY: I want to get as close to it as he will come,  
14 because he's very close to it now.

15 THE COURT: Well, don't you see anything wrong with that  
16 type of question?

17 MR. DENNY: I don't see anything wrong in determining  
18 whether you've got a juror whose state of mind from the beginning  
19 is that he will automatically bring in the death penalty.

20 MR. MANZELLA: If -- if --

21 MR. DENNY: On the very facts of the case you've got.  
22 For instance --

23 THE COURT: You're going to spell out that here, suppose  
24 you have a defendant who is 26 years old, whose hair is black  
25 and wears a goatee and is a member of the Manson Family and  
26 goes into the Malibu home --

27 MR. DENNY: I don't think we need to.

28 THE COURT: How much detail are you going into?

1 MR. DENNY: Just the detail that Mr. Manzella has  
2 stated as far as the fact of a person not being the one who  
3 causes the death, but just being involved there.

4 Now, if you will automatically vote to impose the  
5 death penalty on a -- an accomplice who may not have pulled the  
6 trigger or pushed the knife, but who shared the criminal intent,  
7 then, I think that person should not be allowed to sit on this  
8 jury. And I think we should be able to determine that.

9 MR. KAY: But the more --

10 MR. DENNY: If he will automatically do that.



12-1

1 MR. MANZELLA: If you give a prospective juror -- say  
2 it was possible to give a prospective juror all the facts in  
3 the case. What clearer kind of prejudgment is there, --

4 MR. KAY: Right.

5 MR. MANZELLA: -- than where you give a juror all the  
6 facts?

7 Let's assume that you could incorporate into  
8 your question all the possible facts you could bring out.  
9 That, to me, is a serious kind of situation wherein you are  
10 asking a jury to prejudge a case.

11 MR. DENNY: Well, you are asking a juror --

12 MR. MANZELLA: Now, don't forget, I asked my question  
13 because you were allowed to ask your questions.

14 MR. DENNY: I understand that.

15 MR. MANZELLA: And part of the reason I asked my  
16 question was to show the problem with asking your kind of  
17 question.

18 THE COURT: I think that we have come to the point  
19 where the Court is going to rule that -- I'm not going to  
20 permit such a question again. It's not going to permit such  
21 a question.

22 And I am going to curtail any further examination  
23 in connection with it.

24 We had previously discussed this, in the course  
25 of this case, this type of question.

26 MR. KAY: And the prosecution had objected to it.

27 THE COURT: And the prosecution had objected to it, yes.

28 Well, not in the course of this voir dire --

12-2

1 MR. KAY: Yes.

2 THE COURT: That's right, yes, in the course of this  
3 voir dire.

4 MR. KAY: Yes. I objected the first day to Mr. Denny's  
5 voir dire.

6 THE COURT: And there was voir dire before, when we  
7 attempted to select a jury, and then the cases were separated,  
8 and the question arose at that time.

9 And at that time, I permitted it to a limited  
10 extent; but I can see its ills now; and I recall that the --  
11 the case law was such that it probably was an improper  
12 question.

13 MR. DENNY: Your Honor, I don't think there's any case  
14 law on it, that has been cited by the People, to establish that  
15 it probably is an improper question.

16 There was no case law that was cited at all on  
17 the subject; and I am -- I am certainly of the opinion that  
18 it would constitute prejudicial error here for the Court  
19 not to determine in what cases a juror is automatically going  
20 to vote for death.

21 THE COURT: And there's no limitation upon the extent --

22 MR. DENNY: Oh, certainly there is.

23 THE COURT: -- to which you can present facts?

24 MR. DENNY: Certainly, your Honor.

25 THE COURT: Then what is the limitation?

26 MR. DENNY: Well, I wanted to ask one more question of  
27 this juror, and that is whether, Mr. Manzella having taken  
28 his example, whether an accomplice, who had not, as I say,

12-3

1 pulled the trigger or pushed the knife, would nevertheless  
2 be in such a category, that this juror would automatically  
3 do it.

4 Now, that's all I want to ask. I don't want to  
5 get into whether a person with black hair and a goatee and  
6 all the rest of it; that's absurd.

7 And I would expect the Court to cut me off -- and  
8 I would not even ask that. But I do think, when he's come  
9 as close as he has here to the fact situation that we've  
10 got, that it's proper to ask that one additional question.

11 If he says, "Well, in that case, I wouldn't  
12 automatically; I might or I might not," then that's fine.  
13 That's fine.

14 You have got a juror who is -- who has said that  
15 he wouldn't automatically.

16 But if he says, "Yeah, I would automatically do  
17 so, to anybody involved," then certainly he is challengeable  
18 for cause, and we should find that out.

19 That's -- that's the only question I wanted to  
20 ask.

21 THE COURT: Gentlemen?

22 MR. MANZELLA: Well, to me, the main place we disagree  
23 is that -- I don't disagree, if an attorney attempts to ask  
24 his questions, to decide whether he'll exercise a peremptory  
25 challenge.

26 But this is where I disagree: That an answer to  
27 your question would be a proper challenge for cause. Because  
28 he is not saying that he would automatically -- by the very

12-4

1 question, when he answered the question, he is saying he  
2 would consider the evidence.

3 I -- I don't quarrel so much with the question,  
4 as I do with the fact that it -- with the assertion that it's  
5 a proper challenge for cause. And it's not.

6 That's where my quarrel comes in.

7 THE COURT: I think probably that's the evil in it.

8 Well, the Court denies the challenge, and the  
9 Court would ask that that type of question not be presented  
10 again to a prospective juror.

11 (Whereupon, the following proceedings were had  
12 in open court, within the presence and hearing of  
13 the jury:)

12a fls.

12a-1

1 Q Anything further, gentlemen, on this subject?

2 MR. KAY: Has Mr. Denny -- have you finished your  
3 questions on the penalty?

4 MR. DENNY: May I have just a moment, your Honor?

5 THE COURT: Yes.

6 (Pause in the proceedings.)

7 MR. DENNY: No, I have no further questions on this  
8 subject.

9 MR. KAY: Is it your Honor's desire that we question on  
10 the death penalty out of the presence of the jury, and then ask  
11 our general questions in the presence, or --

12 THE COURT: Yes, you may ask such questions as you wish  
13 concerning publicity and penalty.

14 MR. KAY: Okay.

15

16 VOIR DIRE EXAMINATION

17 BY MR. KAY:

18 Q Mr. Burtiss, I have no questions of you on  
19 publicity. But on the death penalty, you brought up one  
20 thing that -- that concerned me about Charles Manson and the  
21 Tate-LaBianca trial, where you read that Mr. Manson had been  
22 sentenced to death on seven Counts, all seven murders.

23 Now, you understand -- hopefully, as when I was  
24 explaining to the other jurors -- that you must make an  
25 independent determination on each Count.

26 Now, in this case, we have three Counts. And all  
27 of these offenses are capital offenses. That means that they  
28 carry the penalty of life imprisonment or death.

12a-2

1 If Mr. Davis is convicted of two Counts of first  
2 degree murder, on both the Hinman and Shea murders, and one  
3 Count of conspiracy to commit murder, do you understand that  
4 you have to make an independent determination on each Count,  
5 as to whether or not he gets life or death on each Count?

6 Do you understand that?

7 A Yes, uh-huh.

8 Q Okay. So you understand that in this case, we  
9 have the possibility of Mr. Davis getting three Counts of  
10 death; do you understand that?

11 A Yes, uh-huh.

12 Q And, of course, you understand that -- you know,  
13 don't you, that doesn't mean that Mr. Davis is going to be  
14 killed three times? It just means that, as to the three  
15 Counts with which he is charged in this case, that you might  
16 have to make the determination on each individual Count; do  
17 you understand that?

18 A Yes, uh-huh. Now, I do.

19 Q But you understand, when you make a -- you make  
20 the determination, say, on Count I, on the Hinman murder --  
21 let's just take that for an example.

22 You understand that on that Count, as on any  
23 other Count, you can take other factors into consideration,  
24 like Mr. Davis's background, his respect for human life, what-  
25 ever you want to take into consideration, that you hear from  
26 the witness stand, so that you can make your determination  
27 not specifically on the facts of the Hinman case, but you can  
28 take everything else that you've heard from the witness stand

12a-3

1 into consideration.

2 Do you understand?

3 A Um-hmmm, yes.

4 Q You still have to make an independent decision on  
5 each Count.

6 A Yes, uh-huh.

7 Q All right. Now, do you feel that this is unfair?  
8 To place that responsibility on the juror, to make an  
9 independent determination as to each Count?

10 A No.

11 Q All right.

12 A Now that I understand it, I wouldn't. Before, I  
13 just -- I don't read these things real thoroughly, and I read  
14 about it, and I was kind of amused by that, that seven --

15 Q Yes, I know. I understand your problem: That at  
16 first glance, it looks like -- well, you know, what are they  
17 going to do, kill the guy seven times?

18 A Yes.

19 Q You understand that this is not the problem. It's  
20 just that, in the Tate-LaBianca case -- actually, Mr. Manson  
21 got eight Counts of death, because he was charged with a  
22 conspiracy Count, too. So, there were seven murders and one  
23 conspiracy charge.

24 A Oh.

25 Q And that jury had to make an independent determin-  
26 ation as to each individual Count, just as you might, if you  
27 sit as a juror in this case, have to make an independent  
28 determination as to each Count with which Mr. Davis is charged.

12a-4

1 Do you understand that?

2 A Yes, I understand that.

3 Q All right. And I take it that from your answers  
4 to Mr. Denny's questions, that you have resolved in your own  
5 mind, that if you feel that the evidence in this case warrants  
6 it, that you could vote for the death penalty against  
7 Mr. Davis?

8 A Yes, I could.

9 MR. KAY: Thank you very much. I have no further  
10 questions on the death penalty, your Honor.

11 THE COURT: All right. You have passed for cause  
12 thus far, at least to this point?

13 MR. KAY: The People do.

14 THE COURT: Except for what you've stated?

15 MR. DENNY: Yes, your Honor.

16 THE COURT: All right. Next peremptory challenge would  
17 be with the defendant.

12 b fol

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12b-1

1 MR. KAY: Well, your Honor, I believe we haven't voir  
2 dired Mr. Burtiss. Do you want us to do that now?

3 THE COURT: Do you wish to do that?

4 MR. DENNY: I think I might just as well exercise the  
5 peremptory that I indicated that I would, which is juror No. 9,  
6 Mrs. Fifield.

7 THE COURT: All right.

8 Let's take another juror, then.

9 You thought I was going to say "Recess," didn't  
10 you?

11 MR. MANZELLA: Right.

12 THE COURT: Yeah. I saw you looking --

13 All right. We will take a recess.

14 Don't converse with anyone concerning this  
15 matter.

16 Pick another juror for Mrs. Fifield, if you would.

17 And would you, Mr. Burtiss, return to the group?  
18 And we'll have -- we'll have you back in here sometime this  
19 afternoon.

20 PROSPECTIVE JUROR NO. 8: I am excused until further  
21 notice?

22 THE COURT: You are excused until we call you back in.

23 PROSPECTIVE JUROR NO. 8: Okay.

24 THE CLERK: Delmar J. Quinn, D-e-l-m-a-r; last name,  
25 Q-u-i-n-n.

26 THE COURT: You can seat -- Thelmar?

27 MR. DENNY: Delmar.

28 THE COURT: You can seat Mr. Quirm, and we'll examine

12b-2

1 Mr. Quinn up to the point of general voir dire, and then  
2 take both Mr. Quinn and Mr. Burtiss.

3 MR. KAY: Oh. Okay.

4 MR. DENNY: And we have also got Mattie Young.

5 MR. KAY: Well, I indicated what I was going to do with  
6 her, so I think we'd be wasting time if we --

7 MR. DENNY: Okay.

8 MR. KAY: -- did that with Miss Young.

9 THE COURT: All right. We are in recess.

10 MR. KAY: Thank you, your Honor.

13 fls.

11 (Mid-afternoon recess.)  
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13-1

1 THE COURT: In the box now we have Mr. Quinn as a pro-  
2 spective juror.

3 The defendant is present. All counsel are  
4 present.

5  
6 VOIR DIRE EXAMINATION OF  
7 DELMAR QUINN

8 BY THE COURT:

9 Q Mr. Quinn, were you present when the Court  
10 explained the nature of this case and read the indictment to  
11 the prospective jurors?

12 A Yes, sir.

13 Q Would your answers be any different to the  
14 questions that I put at that time to the prospective jurors?

15 A Oh, they'd be pretty much the same.

16 Q You've been present at each one of the sessions.  
17 since that time, have you not?

18 A Yes, sir.

19 Q Pretty much the same.

20 Can you think of any respect where your answers  
21 would be different?

22 A No, I can't think of any right offhand, sir.

23 Q Would it be a hardship for you to serve in this  
24 case?

25 A Yes, it would, sir.

26 Q Explain that to us, please.

27 A Well, I'm on my second week of jury duty right now,  
28 and tomorrow makes two weeks. And in another two weeks I'm

1 supposed to be back to work, because my company allows me 20  
2 days.

3 Q Let's see, you came in here, then, on the first  
4 day?

5 A No.

6 Q Because we've been at this --

7 A No.

8 Q You were a part of the panel that came in?

9 A No, I came in later. This will make me two weeks  
10 tomorrow.

11 Q And your company pays you for how many days?

12 A They'll allow me to be off for one month or 20 days.

13 Q You've inquired about that since I've talked to  
14 you?

15 A Yes, sir.

16 Q Who is your company?

17 A Morrell & Company.

18 Q Morrell?

19 A Morrell.

20 Q What do they do?

21 A Meat processing.

22 MR. DENNY: We'd stipulate, your Honor.

23 MR. KAY: So stipulated it is a hardship.

24 THE COURT: Thank you, Mr. Quinn. We'll excuse you,  
25 and you can report to Room --

26 THE CLERK: 253 tomorrow.

27 THE COURT: -- Room 253 tomorrow.

28 PROSPECTIVE JUROR QUINN: Thank you.

1 THE CLERK: Mrs. Norma L. Dunkins, D-u-n-k-i-n-s.

2 THE COURT: How many do we have left? Are we going to  
3 have to order a new panel?

4 About seven.

5 THE CLERK: About seven or nine.

6 MR. KAY: Have a seat where you can get the microphone.

7

8 VOIR DIRE EXAMINATION OF

9 NORMA L. DUNKINS

10 BY THE COURT:

11 Q Mrs. Dunkins, is that right?

12 A That's right.

13 Q Mrs. Dunkins, you heard the Court's explanation of  
14 the nature of this case, and heard the Court questioning the  
15 prospective jurors, did you not?

16 A Yes.

17 Q Would your answers be any different than the  
18 majority have responded to the questions that you heard?

19 A Uh, except the fact that I know quite a few of your  
20 deputies.

21 Q You know quite a few?

22 A Uh-huh.

23 Q Few Deputies Sheriff, is that right?

24 A Yes, uh-huh.

25 Q In what way?

26 A Well, I know Lawrence White in the D.A.'s Office,  
27 and that's my ex-son-in-law.

28 And Eddie Brown. He's a very good friend of my

1 daughter's.

2 Q You know these people -- have you known them for a  
3 long time?

4 A Since they were children.

5 Q Do you think that might affect your judgment?

6 A No, but I know that you had asked that question and  
7 I thought I would just --

8 Q You think that, nevertheless, you, even though you  
9 do know these people that are connected with law enforcement,  
10 do you think you could be fair and impartial?

11 A Yes.

12 Q Would it be a hardship for you to serve in the  
13 case?

14 A No.

15 Q Have you had jury duty before?

16 A Yes.

17 Q What type of work do you do?

18 A I'm a lab assistant at Department of Water and Power.

19 Q And is there a Mr. Dunkins?

20 A He's deceased.

21 Q And what type of work did he do before he --

22 A He was a claims adjuster for the Golden State  
23 Insurance Company.

24 MR. DENNY: I'm sorry, I didn't hear that, ma'am.

25 PROSPECTIVE JUROR DUNKINS: He's an insurance man for the  
26 Golden State Insurance Company.

27 Q BY THE COURT: A claims adjuster?

28 A Uh-huh.

1 Q Did he -- he frequently spoke to attorneys who --  
2 lawyers who were in private practice, then, and -- in the  
3 course of adjusting claims?

4 A Well, now, he's been gone for eleven years and I  
5 don't remember him discussing it too much.

6 Q You don't remember, I see.

7 He didn't discuss that aspect of his work, if it  
8 was an aspect of his work?

9 A Yes.

10 Q All right. Do you have any relatives in law  
11 enforcement?

12 A No, except my ex-son-in-law that I just talked  
13 about.

14 Q Yes.

15 And are there any other friends whom you know in  
16 law enforcement other than those you mentioned?

17 A I had -- well, I have a couple of cousins, uh-huh,  
18 that are --

19 Q In what area do you reside, generally?

20 A Southwest Los Angeles.

21 Q Do you have such views about the death penalty that  
22 you couldn't be fair and impartial in determining the first  
23 phase of the case?

24 A No.

25 Q The phase involving guilt or innocence?

26 A No.

27

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13 a fol

12a-1

1 Q Or have you such views about it that you  
2 automatically would refuse to impose it regardless of the  
3 evidence in the case?

4 A No.

5 Q Or regardless of the evidence, would you auto-  
6 matically impose it upon a conviction of murder of the first  
7 degree?

8 A No.

9 Q Are your views about the death penalty such that  
10 you would never vote to impose it?

11 A No.

12 Q Concerning publicity that you may have heard,  
13 seen or read about this case, had you heard of the case?

14 A Yes, read over it.

15 Q In what way?

16 A Oh, I saw it on television and I read it in the  
17 paper.

18 Q Had you heard the name Davis before?

19 A No, I don't really remember hearing his name in  
20 connection with it.

21 Q What name had you particularly heard, Manson?

22 A Manson and all the girls and et cetera.

23 Q Now, had you heard these two alleged homicides  
24 that I told you about in the indictment?

25 A Yes. Yes.

26 Q Had you heard that Mr. Manson was accused of  
27 those homicides?

28 A You know, I read so much about it I don't quite



1 remember how I heard or -- about it.

2 Q How long ago was it that you read --

3 A You know, when it was kind of new I read every-  
4 thing about it, and then after a while I didn't pay too much  
5 attention to it any more.

6 Q How long ago in days, weeks or months was it that  
7 you may have read about it?

8 A I don't know. I don't remember.

9 Q Well, was it within the last month?

10 A Oh, no. Maybe three or four, five months, maybe.

11 Q Had you ever heard of anyone being prosecuted  
12 for these alleged murders? The murder of -- the alleged  
13 murder of Gary Hinman and the alleged murder of Shorty Shea?

14 A You know, I don't remember details about them.  
15 The names I remember, but I don't remember all of that --

16 Q Had you ever heard the name Shorty Shea?

17 A Yes, uh-huh.

18 Q In what?

19 A Well, I was looking on television one day and I  
20 saw his supposed wife and I remember that much, that --

21 Q She was Negro?

22 A Yes.

23 Q And do you know anything about the homicide or  
24 alleged homicide of Mr. Shea?

25 A No.

26 Q Do you recall anything about a body having been  
27 looked for on the Spahn Ranch?

28 A I know they didn't find any.

1 Q You know that they looked for one?

2 A Yes.

3 Q Now, does that recall to your mind anything in  
4 connection with Mr. Shea?

5 A No.

6 Q Other than -- well, that doesn't even recall  
7 to your mind that it was Mr. Shea they looked for?

8 A Yes, I knew that part, because I saw his wife  
9 interviewed on the television.

10 Q Oh, I see. How about Mr. Hinman? Do you recall  
11 any of the circumstances surrounding the alleged death of  
12 Hinman?

13 A No.

14 Q Would somebody who is a member of the Manson  
15 Family be at a disadvantage in having you sit on a jury  
16 judging him?

17 A No.

18 Q Do you think you can be fair and impartial with  
19 somebody who is a member of that group?

20 A Yes.

21 Q Had you ever heard anything of an anti-Negro  
22 nature?

23 A Yes.

24 Q From those Manson prosecutions?

25 A Yes.

26 Q And even so, you believe that you could be fair?

27 A Yes.

28 Q Fair to somebody who might be a member of the

1 Manson Family?

2 A Yes.

3 Q Could you set aside whatever you might have heard  
4 about --

5 A I can't remember in detail what I heard or read.

6 Q You remember --

7 A Yeah, I just remember the case.

8 Q You just remembered, also, this -- some of these  
9 alleged facts concerning Mr. Shea?

10 A Yes.

11 Q Something that you have read or heard or seen.  
12 But could you set that aside and wipe your mind  
13 clear?

14 A I can't quite remember any details of what I  
15 read, really.

16 Q Well, whatever it is that you might remember right  
17 now or something that you might recall during the course of  
18 this case --

19 A No, it wouldn't.

20 Q -- could you set it aside?

21 A Yes.

22 Q I don't mean forget it, but could you put it  
23 aside for the purpose of making a judgment independently of  
24 it?

25 A Yes, I think so.

26 Q I'm sorry.

27 A I said I think so.

28 Q When you say you think so, are you expressing

1 any doubt?

2 A No.

3 Q In your ability to do that?

4 A Because I just don't remember enough about it,  
5 I don't think, to sway me one way or the other.

6 Q Do you think that if things do come to your mind  
7 that you don't remember at this time, that you will be able  
8 to set them aside, to put them out of your mind for the  
9 purpose of determining any issue that you might be called  
10 upon to determine in this case?

11 A Yes.

12 Q Will you decide this case only on the evidence  
13 that's produced here and the Court's instructions of law,  
14 disregarding any such news stories or conversations that you  
15 may have had with anybody concerning Mr. Manson or this case?

16 A Yes.

14 fls.

1 Q And can you be fair and impartial?

2 A Yes.

3 Q And will you be?

4 A Yes.

5 THE COURT: Go ahead, Mr. Denny.

6 MR. DENNY: Thank you, your Honor.

7

8 VOIR DIRE EXAMINATION

9 BY MR. DENNY:

10 Q Mrs. Dunkins, let me get to this TV interview  
11 that you saw of Mrs. Shea. First of all, do you recall, was  
12 this in the morning or evening that you saw this?

13 A Evening. I work every day, so it was the 6:00  
14 o'clock news.

15 Q All right. And do you regularly watch the 6:00  
16 o'clock news?

17 A Every day at 6:00 o'clock.

18 Q All right.

19 A Channel --

20 Q And which --

21 A -- 2.

22 Q Channel 2? The Big News?

23 A Yeah. Only I haven't watched it for three days  
24 now. I don't have a television any more.

25 Q Out of order?

26 A Yes.

27 Q I know how that is.

28 Now, ma'am, in this interview, do you recall what

1 Mrs. Shea was talking about?

2 A Hmmm, no.

3 Q Well, was --

4 A I just remember, I was fixing dinner, and I came  
5 through -- I heard them call her name, and I peeked in there  
6 and saw her on television. And I didn't know that she was --  
7 to me, it was an inter-racial marriage. And I just looked.

8 And then I heard -- I don't remember -- I really  
9 don't remember what she said.

10 I just remember seeing her on television.

11 Q Do you recall, was she being interviewed outside  
12 a courtroom somewhere? Was this in connection with the court  
13 proceeding, where she had appeared as a witness?

14 A I really don't remember. I just remember seeing --  
15 I just saw her. I don't know where she was or --

16 Q Do you recall if she was talking about her husband,  
17 and whether he was dead or not?

18 A I remember her saying she thought he was dead --  
19 or I thought that's what she said.

20 Oh, I remember someone asking her, did she think he  
21 was murdered or killed, because he was married to her?

22 I remember that much.

23 Q And what did she say to that?

24 A I don't remember her -- it's been a long time, and  
25 I really don't remember.

26 Q Well, the thing that apparently then interested you  
27 was the fact that this was an inter-racial marriage, is that  
28 correct?

14-3

1 A Yes. And I happened to -- well, I walked through  
2 the den, and I saw her picture, as they were talking to her.  
3 And then I looked and saw her.

4 And then I heard her say -- well, to me, that  
5 was a surprise. I just didn't know -- if I hadn't glanced  
6 at the screen, I wouldn't have known, you know.

7 Q Well, did you --

8 A Because I hadn't seen it in the paper any place.  
9 I hadn't read it in the black press, so I didn't know it.

10 Q Did you know that Shorty Shea was a white man?

11 A Yes.

12 Q Where did you learn that?

13 A I think I must have -- maybe in the paper. But I  
14 didn't see anything about his wife until I saw her on  
15 television.

16 Q And when you say you hadn't read it in the black  
17 press, do you read --

18 A Every week, um-hmm.

19 Q What is that?

20 A The Los Angeles Sentinel.

21 Q Okay.

22 A Or the Jet. I read those -- or Ebony, or any other  
23 black press media.

24 Q Now, did these particular publications, the  
25 Centinel, Jet or Ebony, carry this information that apparently  
26 you received concerning Mr. Manson's feelings about blacks?

27 A No, I -- I believe I heard that on television.

28 Q And again, do you recall what you heard about that.

14-4

1 on television? Just in general?

2 Not verbatim, certainly. But just in general, what  
3 you heard?

4 A Um-hmmm.

5 Q What was that?

6 A Uh -- I think it had something to do with whites  
7 killing off the blacks or -- or them killing each other or --  
8 or something like that.

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14a fol



14a-1

1 Q Was this at all a topic of conversation among  
2 you, or any of your friends or relatives?

3 A No.

4 Q Did you ever hear anybody talk about this aspect  
5 of the Manson case?

6 A No.

7 Q All right. And as far as this information that  
8 you have received about Manson's philosophy, did you -- would  
9 you say that you reacted sort of negatively to this, against  
10 Mr. Manson?

11 A Hmmm -- no. I didn't have any -- I have been  
12 black a long time, so I felt there were a lot of Mansons  
13 around, I just -- so that didn't -- didn't do anything  
14 special to or for me, really.

15 Q All right. Now, did you say that you had  
16 received some information via the media about Shorty Shea  
17 having been killed?

18 A I -- I think maybe the television. I think I  
19 saw more about it on television than -- than reading about  
20 it in the press.

21 Q And do you remember what you saw about his having  
22 been killed?

23 A No, I can't remember.

24 Q Now, do you remember anything about people looking  
25 for his body, or digging up a ranch to find his body?

26 A It -- hmmm --

27 Q Trying to find his body? Digging up Spahn Ranch,  
28 anything like that at all?

14a-2

1 A Well, I can just remember reading or hearing that  
2 they were unable to find a body. But I don't even know who  
3 "they" were, or where they were looking.

4 Q Well, do you have any feeling as you sit there  
5 now, based on what you've seen or heard or read, that Shorty  
6 Shea is probably more dead than alive?

7 Or is more probably dead than alive?

8 Put it that way.

9 A Well, really, I kind of thought maybe one day he  
10 would turn up alive.

11 Q Well, this is -- this is important, because --  
12 you know, some people see things on TV or read it in the  
13 paper, and they think it's gospel, you know; they think if  
14 it's there, it must be; and if somebody said it in the paper,  
15 maybe it's got to be.

16 I take it you don't feel that?

17 A No.

18 Q So that at least as you sit there, you have an  
19 open mind as to whether he's alive or dead; is that right?

20 A That's right.

21 Q In other words, the defendant in this case isn't  
22 going to have to prove to you, because of what you've seen,  
23 heard or read, that Shorty Shea is alive, --

24 A No.

25 Q -- is that right?

26 A No.

27 Q And you understand it's part of the People's  
28 case to prove that he's dead; do you understand that?

14a-3

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A Yes.

Q And to prove that he's dead by criminal means,  
and prove that this defendant had something to do with it.

A Yes.

Q And so that, based on, again, what you've seen,  
heard or read, you are not -- you wouldn't say that they're  
one step ahead in any element of proof that they have to  
prove in this case?

A No.

Q As of this point, at least, is that right?

A That's right.

Q All right. Insofar as Mr. Hinman goes, did you say  
you had heard anything about him?

A No. I remember his name, and that is all. I  
don't know if he's supposed to be dead or alive or --

Q All right.

A I really don't remember.

Q All right.

How about Steve Grogan? Have you heard his name  
mentioned?

A No, his name doesn't even ring a bell.

Q And as far as Charles Manson, have you --

A Oh, yes.

Q -- seen anything recently -- oh, on the Big News--

A No.

Q -- about any case in which he's connected?

A No. The last time I remember hearing his name  
was when they had a -- a break in the jail or a fire or

14a-4

1 something, and they mentioned that he wasn't on that floor.

2 That's the last I heard --

3 Q All right.

4 A -- concerning him, I think.

5 Q All right, ma'am. Have you done any thinking  
6 about the death penalty?

7 A No.

8 Q Since you've come to the jury last Friday, have  
9 you done some thinking about the death penalty?

10 A No.

14b fls.

14b-1

1 Q And is it your feeling right now that there --

2 Well, in any murder case, would you, simply by  
3 virtue of having found the defendant guilty of first degree  
4 murder, based on that finding of guilt, on first degree murder,  
5 would you then automatically return a death penalty vote on  
6 that?

7 MR. KAY: Well, I am going to make the same --

8 PROSPECTIVE JUROR NO. 9: Well, it --

9 MR. KAY: Excuse me, I'm going to make the same objec-  
10 tion we made up at the bench. Mr. Denny didn't add "without  
11 regard to the evidence," which I think was one of the things  
12 that we had discussed should be in the question, to be proper  
13 -- if your Honor is going to allow the question at all.

14 THE COURT: Read it to me, would you, please, Mr.  
15 Williams?

16 (Whereupon, the record was read by the  
17 reporter as follows:

18 "Q And is it your feeling right now that  
19 there --

20 "Well, in any murder case, would you,  
21 simply by virtue of having found the defendant  
22 guilty of first degree murder, based on that  
23 finding of guilt, on first degree murder,  
24 would you then automatically return a death  
25 penalty vote on that?")

26 THE COURT: I'll overrule the objection. You may  
27 answer that.

28 PROSPECTIVE JUROR NO. 9: It's my understanding that you

14b-2

1 go by evidence, instead of automatically doing anything in  
2 court.

3 BY MR. DENNY:

4 Q Your understanding is quite correct, ma'am.

5 But there are some people who, because of a  
6 feeling they have about anyone found guilty of first degree  
7 murder -- assuming a finding of first degree murder, no  
8 matter what the evidence was that brought them up to that  
9 finding, having found them guilty of first degree murder,  
10 they feel anybody found guilty of first degree murder should  
11 be given the death sentence.

12 Now, is that your state of mind?

13 A No, sir.

14 Q There are a lot of factors that would enter into  
15 it before you would vote to take a man's life, by having the  
16 State execute him; is that right?

17 A Yes, that's right.

18 MR. DENNY: Well, your Honor, in view of the Court's  
19 prior ruling, I have no further questions on this issue.

20  
21 VOIR DIRE EXAMINATION

22 BY MR. KAY:

23 Q Mrs. Dunkins, I would like to ask you a couple  
24 of questions on publicity.

25 First, you stated that you thought, in regard  
26 to Mr. Shea -- which is Count III of the indictment in  
27 this case -- that you thought that maybe one day he would  
28 turn up alive.

14b-3

1 On what do you base that speculation?

2 A Well, because there was no body found, and I --  
3 and nobody seemed, as far as I can remember -- I don't  
4 remember anyone knowing when he was seen last.

5 And I -- so I suppose I would be optimistic,  
6 instead of pessimistic. I just figured he could be alive --  
7 maybe?

8 Q Well, you understand --

9 A But, now, remember, I haven't heard any evidence;  
10 and I don't know -- you know, what will be presented in court.

11 But from what I have seen or heard now, this is  
12 the way I feel. I just figure that he possibly could be  
13 alive. But then --

14 Q And this is just speculation on your part?

15 A That's right.

16 Q Right. But, of course, you realize that what  
17 you've heard, the little bit that you probably heard on this,  
18 is not evidence --

19 A That's right.

20 Q -- in this court. And would you keep an open  
21 mind and listen to the evidence in this trial?

22 A Sure.

23 Q And do you feel that you -- you could be convinced  
24 beyond a reasonable doubt that a defendant was guilty in a  
25 murder case, where the body of the victim had not been found?

26 A I don't think not finding the body alone would  
27 keep me from believing it.

28 Q Right.

14b-4

1 A But if -- if the evidence were such, I think I  
2 would change my mind.

3 But now, I just feel that maybe he could turn up.

4 Q All right. But you understand that it's not  
5 in every murder case that they find the body of the murder  
6 victim; do you understand that?

7 A Yes.

8 Q So do you feel that it's unfair to have the law  
9 such as it is in the State of California, that a defendant  
10 could be convicted of first degree murder, where the body of  
11 the victim was not found?

12 A No, I don't feel that way. I don't feel that  
13 you have to have a body.

14 But I just say I have always thought that maybe  
15 he wasn't dead.

14c fls.

16 This is the way I felt when I read it.  
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14c-1

1 Q You are just an eternal optimist?

2 A You asked me how I felt, and I'm telling you.  
3 That's how I felt.

4 Q So basically, would you characterize yourself as  
5 an optimist?

6 A Yes.

7 Q But if the evidence could convince you to be a  
8 pessimist, you would be a pessimist, wouldn't you?

9 A Yes.

10 Q Okay. Now, let me ask you some questions here  
11 about the death penalty.

12 Have you ever thought at all about the death  
13 penalty before Mr. Denny and the Judge just asked you the  
14 questions about the death penalty? Had you ever even  
15 thought about it at all?

16 A No, not especially.

17 Q You hadn't even thought about it when you might  
18 have read an article in the paper about a defendant getting  
19 the death penalty, in a murder case? Or whatever?

20 A No.

21 Q Can you -- have you determined in your own mind  
22 whether or not, if the evidence warranted it -- in, say,  
23 this particular case -- that you could impose the death  
24 penalty? You could vote for it?

25 A Yes.

26 Q And what have you determined?

27 A Uh -- we just got through talking about evidence.  
28 And so I'd go according to what was presented in court.

14c-2

1 Q So in other words, then, if you felt that in  
2 this case -- if the evidence demonstrated to you that you  
3 felt that Mr. Davis had earned the death penalty for what he  
4 had done in this case, that you could vote for it?

5 A Yes.

6 Q And is there any doubt at all about that in your  
7 mind?

8 A No.

9 Q Are you in favor of retaining the death penalty  
10 in the State of California?

11 MR. DENNY: I object to that as --

12 PROSPECTIVE JUROR NO. 9: I take the Fifth Amendment  
13 on that.

14 THE COURT: You needn't answer that, whatever the  
15 answer was.

16 MR. DENNY: I don't think the Court needs to strike it.  
17 She said: "I take the Fifth Amendment on that," quite  
18 properly.

19 BY MR. KAY:

20 Q Do you feel that you could personally participate  
21 in a verdict of death? You understand that, in order to have  
22 a verdict of death, that all 12 jurors must agree?

23 A Yes.

24 Q And do you feel you could do that?

25 A Yes.

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

14c-3

1 A I'm not that religious, no.

2 Q And knowing that if you convicted Mr. Davis of  
3 first degree murder, on either or both the Hinman and Shea  
4 murders, and the conspiracy to commit murder count -- which  
5 is Count II -- that you would have to face the issue of  
6 determining whether or not Mr. Davis got life imprisonment or  
7 death, would you even consider finding him guilty of anything  
8 less than first degree murder, to avoid the responsibility of  
9 determining whether he got the death penalty or life imprisonment?  
10

11 A No.

12 Q And do you have any close friends or relatives  
13 who oppose the death penalty, who you feel might attempt  
14 to exert pressure on you?

15 A I never discussed it with anybody, nor have I  
16 had anyone discuss it with me.  
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15 fls.

15-1

1 Q And if you sit as a juror in this case, will you  
2 not discuss it with anybody until after you reach a decision  
3 in this case?

4 A I wouldn't.

5 MR. KAY: I'll pass for cause on the death penalty  
6 and publicity. Thank you, Mrs. Dunkins.

7 THE COURT: Let's have the balance of the panel in.

8 MR. KAY: Well, your Honor --

9 MR. DENNY: Your Honor --

10 MR. KAY: The next peremptory is with the People. We  
11 have the problem with juror No. 1. We've already expressed--

12 THE COURT: All right, since you have both passed for  
13 cause to this point, I'll ask you whether there are any  
14 peremptories.

15 MR. KAY: Yes, the People will thank and excuse Juror  
16 No. 1, Miss Mattie G. Young.

17 THE COURT: Would you inform -- thank Miss Young --

18 THE BAILIFF: Yes, sir.

19 THE COURT: -- and inform her that she is excused.

20 And let's see, pick another juror.

21 THE CLERK: Mrs. Dolores O. Acosta, D-o-l-o-r-e-s,  
22 middle initial "O", last name A-c-o-s-t-a.

23 THE COURT: Mrs. Dunkins, you can wait with the balance  
24 of the panel now, if you would, please.

25 PROSPECTIVE JUROR DUNKINS: Okay.

26  
27 VOIR DIRE EXAMINATION OF

28 DOLORES O. ACOSTA

1 BY THE COURT:

2 Q Mrs. Acosta, would you just be seated there at  
3 the chair where the microphone is.

4 And were you present when the Court explained the  
5 nature of this case and read the indictment and conversed  
6 with prospective jurors?

7 A Uh, I didn't hear the indictment, your Honor.  
8 I've been here since Friday. I have heard a lot of question-  
9 ing since last Friday.

10 Q Have you been present at all of the proceedings?

11 A Since last Friday.

12 Q Well, did you hear me read the charges?

13 A Uh -- let's see.

14 Q Do you know what this case is all about?

15 A Uh, yes, it has to do with --

16 Q What is it?

17 A It has to do with the defendant is charged with  
18 the murders of, I believe, Shorty Shea and, I believe, Mr.  
19 Hinsman.

20 Q And there is a second count of conspiracy to  
21 commit murder?

22 A Yes.

23 Q You understand that?

24 A Yes, sir.

25 Q Well, you heard me explain that, didn't you?

26 A Yes, I did.

27 Q Well, before I explained that, and told you  
28 about the case, had you ever heard Mr. Davis' name?

1 A I don't believe I ever had in connection with it.  
2 Q Have you?  
3 A With this, uh --  
4 Q Have you heard it at all?  
5 A Yes, the Manson -- yes, time and again, when it  
6 was --  
7 Q Well, have you heard Mr. Davis' name?  
8 A Not Mr. Davis', no, sir.  
9 Q You have heard Mr. Manson's name but --  
10 A Yes -- no.  
11 Q Now, have you heard anything whatever about  
12 these alleged killings?  
13 A Yes.  
14 Q What do you know, for example, about Shorty Shea?  
15 A I don't remember anything about -- it is just  
16 that he was killed, that's all.  
17 Q You don't remember any of the details?  
18 A No, sir, not a bit of it.  
19 Q Would it be a hardship to you to serve in this  
20 case?  
21 A No, it wouldn't.  
22 Q Have you been a juror before?  
23 A No, sir, I haven't.  
24 Q Are you employed outside the home?  
25 A Yes.  
26 Q What type of work do you do?  
27 A I work for the Woolworth Company.  
28 Q The Willard Company?

1 A The Woolworth Company.

2 Q I see.

3 And is there a Mr. Acosta?

4 A No, sir, I am a widow.

5 Q Are you related to or a friend of any law  
6 enforcement officer?

7 A No, sir, I am not.

8 Q And in what area do you reside?

9 A Echo Park, Northwest.

10 Q Do you have views about the death penalty that  
11 are such that you would automatically refuse to impose the  
12 penalty?

13 A I think I have.

14 Q In other words, without regard to the evidence  
15 you would simply vote against the death penalty, even --  
16 even should there be a conviction of murder of the first  
17 degree?

18 A I believe I would vote against it.

19 Q And are your feelings about the death penalty  
20 so strong that you would refuse to even consider imposing  
21 the death penalty?

22 A Well, I believe there are some crimes that --  
23 where it would be -- where I would say that that should be  
24 the penalty, pay for it. But I wouldn't like to impose it.

25 Q Well, the question is not whether you would  
26 like to impose it, but whether, sitting as a juror, if in  
27 your discretion you determined that a defendant should  
28 receive the death penalty, solely in your discretion --

1 A Yes.

2 Q -- would you impose it?

3 A Yes.

4 Q So that I make certain that I understand you,  
5 you're saying that you could impose it in certain types of  
6 cases?

7 A Yes, I could.

8 Q Now, let me ask you this: Would you, upon a  
9 conviction of murder of the first degree, automatically impose  
10 it regardless of the evidence in the case?

11 A Oh, no, sir. No.

12 Q You would look at whatever evidence there might  
13 exist in the case in both phases or in either phase?

14 15a fls. A Oh, yes, uh-huh,  
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15a-1

1 Q And make a determination from all of the evidence?

2 A Yes.

3 Q Or all of the evidence as you see it, as to whether  
4 or not you could impose the penalty or not?

5 A Uh-huh, yes.

6 Q Is that right?

7 A Yes.

8 Q You did read about the Manson Family during the  
9 course of the Tate-LaBianca trial?

10 A I read, and I heard, and seen in the news. But I've  
11 quite forgotten, really.

12 Q What do you know about the name Manson Family?

13 A About the Manson Family?

14 Q Who are they?

15 A Well, they were supposed to have been hippies who  
16 murdered Sharon Tate. And I believe a Miss Folger or the Folger  
17 heiress.

18 Q And some other people?

19 A And some -- yes.

20 Q Do you remember any of the details about any of the  
21 -- either of the killings that you read about?

22 A Yes, gruesome details.

23 Q Gruesome details?

24 A Yes, they were.

25 Q Now, in connection with the Hinman homicide or  
26 alleged homicide, do you remember any of the details of that?

27 A No, no, not any.

28 Q Or the Shea situation; do you remember any of the  
details?

15a-2

1 A No, your Honor, I don't remember that at all.

2 Q When's the last time that you read, heard or seen  
3 anything concerning Mr. Manson?

4 A Oh, it's been quite some time.

5 Q What does that mean?

6 A I would say for at least maybe a year.

7 Q At least a year you haven't heard anything about  
8 Mr. Manson?

9 A No, sir.

10 Q All right. Now, would somebody who is a member of  
11 the Manson Family be at any disadvantage in having you as a  
12 juror?

13 A I didn't hear that, the beginning of it.

14 Q Would anybody, or any person who is a member of the  
15 Manson Family, be of some disadvantage having you as a juror?

16 A I don't see why.

17 Q And could you be fair and impartial to somebody  
18 whom you knew was a member of this Family, some of the members  
19 of which committed some of these gruesome things that you heard  
20 about?

21 A Yes, I could be fair.

22 Q Even though you may know that a person might be a  
23 member of that or associated with Mr. Manson? You could set  
24 aside what you might have heard about the Manson Family from the  
25 publicity that you have heard, seen or read?

26 A Yes.

27 Q And be fair to that person?

28 A Yes.

15a-3

1 Q Let me ask you whether you would be able to set  
2 aside anything and everything -- not forget it, but set it  
3 aside, anything and everything that you may have heard for the  
4 purpose of determining any issue that you'd be called upon to  
5 decide in this case solely from the evidence in the case?

6 A Yes, I would.

7 Q Can you do that?

8 A Yes, sir, I could.

9 Q And will you do that?

10 A Yes.

11 Q Can you be fair and impartial?

12 A I believe so.

13 THE COURT: Mr. Denny.

14

15 VOIR DIRE EXAMINATION

16 BY MR. DENNY:

17 Q Mrs. Acosta, I noticed when you mentioned to the  
18 judge about the Tate murders --

19 A Yes.

20 Q -- and you said "Yes, there were some gruesome  
21 details," and you even had a look on your face as if you  
22 pictured them and sort of even looked away from the judge.

23 Did that business strike you rather strong at the  
24 time you read about it?

25 A Yes, uh -- may I make a statement?

26 Uh, at the time of the murders we had an employee  
27 whose mother happened to work where they brought the body of  
28 Sharon Tate. And the details they gave of the body weren't

15a-4

1 very pleasant.

2 Q In other words, you kind of got the information that  
3 very few other people have in the whole county?

4 A This was in the matter of discussing what we have  
5 been hearing, you know, on the news.

6 Q Yes.

7 A And reading.

8 And this girl mentioned that her mother happened  
9 to work where they brought in the body of Sharon Tate.

10 Q Her mother worked where, in the Coroner's Office?

11 A Uh-huh.

12 Q And this employee, then, described the condition of  
13 Sharon Tate's body?

14 A Yes, yes.

15 Q To all of you, her fellow workers?

16 A Well, a few of us during our lunch hour over there,  
17 and she just mentioned it.

18 Q And this made quite a vivid impression on you, I  
19 take it?

20 A Yes, it did.

21 Q Did she describe the condition of any of the other  
22 bodies?

23 A No.

24 Q In that case?

25 A No, just the one that Sharon Tate --

26 Q And with the impression that was made on you, I  
27 take it you had some feeling of revulsion, horror, shock?

28 A Oh, yes, all of those.

15a-5

1 Q All right.

2 Now, I would assume, then, that possibly you  
3 followed to some extent the proceedings after that murder,  
4 did you?

5 A No, not really, no.

6 Q When Mr. Manson was arrested and some of his  
7 followers charged with him, with the killings, were you aware  
8 of that?

9 A Yes, just periodically. Not constantly. I  
10 wasn't that much interested in that type of, uh, news.

15b fol

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15b-1

1 Q Well, did you purposely try to stay away from  
2 reading about it?

3 A Yes, you know -- in fact, some of these things  
4 get monotonous. You hear them over and over again.

5 Q Well, was it because of the monotony of it or  
6 because of the horror?

7 A Of the gruesomeness of it --

8 Q The gruesomeness of it?

9 A Yes.

10 Q Well, it is understandable, of course, and I just  
11 wonder if your reactions from that, what has been described  
12 and what you know about the Tate business --

13 A Yes.

14 Q -- and the fact that Mr. Manson and members of  
15 the Manson Family were involved in that, do you think that  
16 would have some effect on you as far as judging another  
17 member of the Manson Family charged with a crime, charged  
18 with murder?

19 A No. In fact, I've never heard of this young  
20 man at all.

21 Q I understand you have never heard of him, but  
22 assuming that he is connected to the Manson Family, he is  
23 one of the members of the Manson Family?

24 A Yes.

25 Q And as you sit there now, without knowing him,  
26 without knowing any more than -- any more than that he is  
27 charged now with two other murders --

28 A Yes.

15b-2

1 Q Do you have some feeling because of what you have  
2 seen, heard and read, and particularly this business that you  
3 have described to us --

4 A Oh, no.

5 Q -- that perhaps he may share some of Mr. Manson's  
6 criminality?

7 A No, not at all.

8 Q In this case there is going to be a -- I assume,  
9 some evidence, again, of some rather gruesome business having  
10 to do with at least the dead body of Gary Hinman. Murder is  
11 never nice.

12 In this case, again, it is not nice and it is  
13 rather gruesome.

14 Now, do you feel that somehow that knowledge  
15 would make you prefer not to sit and go through, again,  
16 evidence concerning a very gruesome murder?

17 A Well, I don't relish the thought of listening  
18 to that testimony of those things.

19 Q Well, I don't know of anybody who really does  
20 relish it, other than a ghoul, perhaps, and I'm sure you're  
21 not that by any means.

22 But there are people that because of their own  
23 sensitivities would just feel under the circumstances that  
24 type of testimony would -- would so either -- so turn their  
25 stomach or so perhaps inflame them against the person charged  
26 with such a killing that somehow they couldn't be fair. Or  
27 it would just make their judgment such that they wouldn't  
28 feel they could be a fair judge to either side.

X5HX3  
15b-3

1 Do you feel that, as you sit there, ma'am?

2 A It just might. It just might. You know, just as  
3 you say, when you listen to the details, that it might make you  
4 wish some harm would come to him, just like he made other  
5 people -- just like he hurt other people.

6 Q You feel, then, under the circumstances that maybe  
7 hearing that evidence again or hearing evidence afresh of a  
8 gruesome killing that it might make you feel sort of  
9 prejudiced against Mr. Davis since he's charged with causing  
10 that death? You feel that?

11 A I don't think it would make me prejudiced against  
12 him.

13 Q Well, without using that word, then, perhaps.  
14 You said --

15 A I might want to.

16 Q Bring some harm to him?

17 A It might make me nervous. It might make me  
18 probably sick.

19 Q Well, I think the phrase you used was "want to  
20 bring some harm to him because of that."

21 Is that what you said?

22 A Yes, I said that, yes. After listening to the  
23 details of the murders, it might.

24 Q Then --

25 A Because, of course, I'm only human.

26 Q Well, granting that humanity to you, ma'am, do  
27 you feel that simply by virtue of hearing the details of a  
28 rather gruesome death, then, that it would make it rather



1 difficult for you to be fair, totally fair and impartial  
2 toward the person charged with committing that gruesome  
3 murder?

4 A I don't believe it would make me totally unfair  
5 because that would be the only way you could judge him by  
6 listening to the testimony, listening to the details. And  
7 that's the only way you can judge him, whether he's innocent  
8 or guilty.

9 Q Well, obviously so.

10 But some people are so inflamed, you see, by the  
11 very facts of the murder that it tends somewhat to distort  
12 their ability to judge whether the person on trial is guilty  
13 of that murder, you see.

14 In other words, there are two different aspects  
15 of a case. One, whether a person was murdered.

16 A Yes.

17 Q And, two, whether the defendant is guilty of that  
18 murder, whether he did it, whether he's implicated in  
19 committing that murder.

20 Now, there's some people, who, upon learning of  
21 the murder itself, and the facts of that murder, are so  
22 inflamed by the very facts themselves, that it would make  
23 it difficult, if not impossible, for them not to feel some  
24 antipathy, some anger toward the person charged with that  
25 crime, so that they couldn't really listen to the other  
26 facts as to whether or not he actually did commit the offense,  
27 you see.

28 And I'm just wondering if you, and only you, know,

1 fall into that category?

2 A I don't think it would, uh -- it would come to  
3 that. I think I could be impartial, because that's -- like  
4 I say, that's the only way you can judge him. You have to  
5 listen to what happened in order to judge him.

15c fls.

15c-1

1 Q Well, so is it your feeling right now, ma'am, no  
2 matter how gruesome, how gory the facts might be as to the  
3 death of one of the alleged victims in this case, that you  
4 could be completely fair, completely unprejudiced in  
5 determining whether this defendant had anything to do with that  
6 death, no matter how gory or gruesome it might be?

7 A Yes, I hope so. I really hope so, that --

8 Q Well, I hope so, too.

9 A Yes.

10 Q But I don't know. Only you know. And -- and you  
11 have to be certain of that.

12 Are you certain of that?

13 A Well, you can't be certain of something that hasn't  
14 come to pass, but I believe I could be impartial, quite  
15 impartial and not judge him before, you know, he should be  
16 judged, in other words.

17 Q All right.

18 Well, let me get, then, to this issue of the death  
19 penalty with you.

20 Having in mind the fact that there are different  
21 kinds of murder. There are these gruesome murders that you've  
22 talked about. There's -- when a prosecutor, in one of those  
23 murders, refers to a plain everyday garden-type of murder --  
24 I'm not sure what that is, but it is something less than the  
25 gruesome kinds that we have been talking about here --

26 A Yes.

27 Q -- is it your feeling here that the penalty that  
28 you would inflict automatically upon finding the defendant

15c-2

1 guilty of such a gruesome murder in the first degree, a first  
2 degree murder, would be the death penalty?

3 A No. No, it wouldn't. It wouldn't have to be the  
4 death penalty. No, not necessarily.

5 Q My understanding is that you would not like to  
6 vote to impose the death penalty, and I don't know too many  
7 people that would.

8 You have stated, however --

9 A Yes.

10 Q -- that given particular circumstances, which we  
11 can't go into, that you would feel that you could, under  
12 certain circumstances, vote for the death penalty?

13 A Yes.

14 Q Is that right?

15 A Yes.

16 Q However reluctantly?

17 A Reluctantly, yes, sir.

18 Q And do you feel, Mrs. Acosta, that if, in your  
19 opinion the death penalty were not warranted, that you would  
20 be doing your duty as a juror to vote for life imprisonment  
21 rather than the death penalty; do you understand my question?

22 A Well, that's sort of a yes and no question.

23 Q Well, let me put it to you this way, do you think  
24 there's anything inconsistent with doing your duty as a juror  
25 in bringing in a vote for a life sentence rather than a death  
26 sentence if you don't think the case warrants the imposition  
27 of the death penalty?

28 A No.

16 fol

16-1

1 Q Do you think you'd be doing your duty, then, as  
2 a juror, in bringing in a life sentence under those circum-  
3 stances?

4 A Yes.

5 Q Where you weren't convinced that the death penalty  
6 was the proper penalty?

7 A Yes.

8 MR. DENNY: I'll pass for cause on these issues, your  
9 Honor.

10 THE COURT: Counsel?

11 MR. KAY: May we have just a moment, your Honor?

12 (Pause in the proceedings while a discussion  
13 off the record ensued at the counsel table between  
14 Mr. Manzella and Mr. Denny.)

15  
16 VOIR DIRE EXAMINATION

17 BY MR. KAY:

18 Q I'll get up here at my podium, Mrs. Acosta.  
19 You say you work for the Woolworth Company.  
20 What do you do for the Woolworth Company?

21 A Well, up until a month ago, I merchandised or --  
22 department head; but -- a person who orders for the depart-  
23 ment is in charge, besides clerking on the floor.

24 Q What type of department is it that you work for?

25 A Well, different ones.

26 (Whereupon the members of the prospective jury  
27 panel commenced to file into the courtroom.)

28 THE COURT: Did you want to inquire further?

16-2

1 MR. KAY: Well, I did on the penalty, but I guess you  
2 want to send the jurors home.

3 THE COURT: Yeah.

4 Your numbers are being whittled away, ladies and  
5 gentlemen. Is this all of you now?

6 PROSPECTIVE JUROR NO. 6: Yes, your Honor.

7 THE COURT: The Court will give you the same admonish-  
8 ment that I've heretofore given you, and this is to the effect  
9 that you are not to converse amongst yourselves nor with  
10 anyone about any subject connected with this matter, nor to  
11 form or express any opinion until the matter is submitted  
12 to you, should you be chosen as a juror.

13 Don't see, hear or read anything in connection  
14 with Mr. Manson, this case, or any other case in which Mr.  
15 Manson may be involved.

16 I will see you tomorrow morning at 9:30. Tomorrow  
17 morning at 9:30. You are excused until then.

18 Good night.

19 (Whereupon, the members of the prospective  
20 jury panel exited the courtroom, and the following  
21 proceedings were had:)

22 BY MR. KAY:

23 Q Mrs. Acosta, how long have you worked for the  
24 Woolworth Company?

25 A Oh, approximately 22 years.

26 Q And in what area is this Woolworth Company  
27 located?

28 A 7th and Broadway.

1 Q 7th and Broadway?

2 A Yes.

3 Q Have you ever been -- while you have been there  
4 at the Woolworth store, have you ever been a victim of a  
5 robbery? Or has a robbery ever taken place at the Woolworth  
6 store?

7 A Oh, all the time. I have been to court several  
8 times with shoplifters.

9 Q You've actually testified in court?

10 A Well, it isn't anything like this, no.

11 Q But you have been up on the witness stand and  
12 testified?

13 A Well, it's really done in a small room, just  
14 between two lawyers and -- and the victim -- or, the shop-  
15 lifter, and --

16 THE COURT: In the Municipal Court?

17 PROSPECTIVE JUROR NO. 1: I guess the Municipal Court.

18 Q BY MR. KAY: And what about an armed robbery?  
19 Have you ever been the victim of an armed robbery?

20 A No, sir.

21 Q Has an armed robbery ever taken place in the  
22 Woolworth store while you have been there?

23 A We have had shoplifters pull a gun on the boss  
24 several times.

25 Q Have you ever seen that?

26 A No.

27 Q And you state that you are a widow.

28 What did your husband do while he was alive?

1 A He was a cook.

2 Q And whereabouts was he a cook?

3 A At Mike Lyman's, in Hollywood.

4 Q Now, getting to the question of the death penalty  
5 -- and again, as I'm sure you heard me tell the other jurors  
6 -- that I want you to be just as candid as you possibly can  
7 be. And don't -- you know, don't feel embarrassed by  
8 answering these questions, because some people are against the  
9 death penalty, and some people are for it.

10 You understand that?

11 A Yes.

12 Q Now, do you recognize that if you voted for the  
13 death penalty, that emotional and nervous tension would  
14 probably be pretty high; do you understand that?

15 A It wouldn't be anything new to me. I have been  
16 in that state of physical health almost all my life, I having  
17 high -- having been -- having nervous tension.

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16a fls.



16a-1

1 Q You say you are kind of --

2 A Like things in the store, you know, might go wrong.  
3 I lie awake just thinking about it.

4 Q Now, have you ever -- have you thought about the  
5 death penalty, before you came into this courtroom?

6 A No.

7 Q You haven't thought about it at all?

8 A No, I don't think about it.

9 Q So, in other words, the opinions that you  
10 expressed to Mr. Denny and the judge were something that you've  
11 thought about just since you have been in this courtroom?

12 A When I was questioned, yes.

13 Q Oh. You just thought about them when you were being  
14 questioned?

15 A Yes.

16 Q You hadn't thought about them before?

17 A No.

18 Q So, do you really think that you could vote for the  
19 death penalty? In any case?

20 A No, not in any case, no.

21 Q Well, I mean, is there any case in which you think  
22 that you could vote for the death penalty?

23 A Yes, some -- well, there are some pretty horrible  
24 crimes that I believe, that if they're committed, they should.

25 Q And is there any doubt in your mind about whether  
26 or not you could vote for the death penalty in those cases?

27 A Yes, there is a doubt. I don't think I would vote  
28 for it.

16a-2

1 Q You don't think you would vote for it?

2 A I don't think I would, no.

3 Q Okay. Now, that's what I wanted -- that's what I  
4 want to find out.

5 Because, from your answers to the judge, I thought  
6 that that might be -- that might be the case.

7 Now, don't you really feel, from your position and  
8 what you think about the death penalty, that in any case of  
9 first -- or, in every case of first degree murder, where the  
10 defendant had been convicted of first degree murder, don't you  
11 really, honestly feel that you would vote for life imprison-  
12 ment in every case?

13 MR. DENNY: Well, again, that's an improper question.  
14 "Without regard to the evidence," your Honor.

15 MR. KAY: Well, with --

16 THE COURT: Yes. I think that's a legitimate objection.

17 Q BY MR. KAY: Don't you really feel that, in every  
18 first degree murder case, that you would automatically vote  
19 for life imprisonment, because of your feeling about the death  
20 penalty, without regard to the evidence? Don't you feel that  
21 you'd really do that, candidly?

22 A Well, I really believe I would, because I'd be --  
23 I won't be taking that responsibility of -- of condemning a  
24 person to death.

25 Q Right. And you don't want that responsibility,  
26 do you?

27 A No.

28 Q And, so, isn't it unmistakably clear in your mind--

16a-3

1 and again, this is what we are talking about -- isn't it  
2 unmistakably clear that no matter what the evidence was, that  
3 you would -- in the penalty phase of the trial, that you would  
4 automatically, without regard to the evidence, vote for life  
5 imprisonment? Don't you feel that this is true?

6 A I feel that's what I would do.

7 Q Right. And there's no doubt about that in your  
8 mind, is there?

9 A No.

10 MR. KAY: Does your Honor wish to -- well, may I have  
11 just a moment?

12 THE COURT: Yes.

13 (Pause in the proceedings while a discussion off  
14 the record ensued at the counsel table between Mr. Kay and  
15 Mr. Manzella.

16 BY MR. KAY:

17 Q All right. Let me ask you just a couple of more  
18 questions, Mrs. Acosta --

19 Is that all right, your Honor?

20 THE COURT: Yes, certainly.

21 Q BY MR. KAY: All right. In the guilt phase of the  
22 trial -- now, I'm talking about the first phase; you under-  
23 stand that there are two phases --

24 A Yes.

25 Q -- or a possibility of two phases to the trial?

26 Now, in the guilt phase of the trial, do you feel  
27 that your feelings about the death penalty -- and apparently,  
28 from what you've said, that you do have some strong feelings

16a-4

1 about the death penalty -- do you feel that your feelings about  
2 the death penalty are such that you might not be able to  
3 be completely impartial in the guilt phase of the trial?

4 In other words, you -- realizing that if you found  
5 the defendant guilty of first degree murder, that you would have  
6 to take on the responsibility of determining whether or not he  
7 died in the gas chamber, by lethal gas, or got life imprison-  
8 ment, do you feel that you could not be altogether impartial  
9 in the guilt phase of the trial? And, maybe you would tend  
10 to, say, find him guilty of second degree murder to avoid  
11 that responsibility? Do you feel that?

12 A Yes, I feel that.

13 Q And getting on to the second phase of the trial,  
14 do you feel, again, because of your strong feelings about the  
15 death penalty, that you would in the penalty phase of the  
16 trial, you would automatically vote against the death  
17 penalty -- or conversely, for life imprisonment -- without  
18 regard to the evidence?

19 Do you feel that?

20 A Yes. I feel that, yes.

16b fol

16b-1  
1 MR. KAY: Your Honor, we would respectfully challenge  
2 the juror for cause under Section 1017.2,

3 MR. DENNY: I would like to inquire, your Honor.

4 THE COURT: You may.

5  
6 FURTHER VOIR DIRE EXAMINATION

7 BY MR. DENNY:

8 Q Mrs. Acosta, I made some rather detailed  
9 notes when the Judge was questioning you on this very  
10 subject; and as I recall, when he asked you similar  
11 questions, you said, "I believe I would vote against the  
12 death penalty. I believe there are some crimes where death  
13 should be the penalty, but I wouldn't like to impose it."

14 But, you said, "I would vote to do so in certain  
15 types of cases."

16 Now, am I misquoting you, or --

17 A No.

18 Q -- or are those your answers?

19 A Those are my answers, yes, sir.

20 Q And is that the way you feel?

21 A Well, let me put it this way:

22 That if the defendant should be found guilty of  
23 first degree murder --

24 Q Can you hold that microphone up a little more,  
25 please?

26 A If he should be found guilty of first degree  
27 murder, and the other 11 felt that way, I would vote against  
28 it. Because I wouldn't want to have any part of it.

16b-2

1 If they believed it, it's all right with me. But  
2 I wouldn't -- I wouldn't do it.

3 Q Well, then, it is your feeling now -- you are  
4 changing the position you took when the Judge asked you,  
5 so that when you told the Judge, "I would vote for the death  
6 penalty in certain types of cases," now you are changing your  
7 mind?

8 A Well, let me -- let me put it this way: I mean --  
9 I believe that there are certain crimes that -- that are  
10 committed, for which the death penalty should be the -- uh --

11 Q Should be the penalty?

12 A Should be the penalty, yes.

13 MR. DENNY: I have no further questions.

14  
15 FURTHER VOIR DIRE EXAMINATION

16 BY MR. KAY:

17 Q May I just ask a question, Mrs. Acosta? You feel--

18 MR. DENNY: Your Honor, I have no objection to the  
19 challenge at this point, either.

20 MR. KAY: Oh? All right.

21 If there's no objection, we do renew the  
22 challenge.

23 (Pause in the proceedings.)

24 MR. KAY: May I just ask one question in spite of what  
25 Mr. Denny has said?

26 THE COURT: Well, I'm not certain that this is a good  
27 challenge.

28 MR. KAY: May I just ask one question?

1           Q       Mrs. Acosta, even though you just told Mr. Denny  
2 that you feel that there are some crimes in which the death  
3 penalty might be warranted, it's your position that you  
4 would never vote for it, even in those crimes; isn't that  
5 right?

6           A       That's what I mean.

7       THE COURT: Oh, I see.

8       PROSPECTIVE JUROR NO. 1: Yes.

9       MR. MANZELLA: There you go!

10      MR. KAY: So we renew our challenge.

11      THE COURT: In other words, what you are saying is that  
12 you would never vote for the death penalty?

13      PROSPECTIVE JUROR NO. 1: I never would, no.

14      THE COURT: In any case?

15      PROSPECTIVE JUROR NO. 1: No, hmmm-mm.

16                I just couldn't tell a man, "I sentence you to die  
17 in the gas chamber." I just couldn't do it.

18      THE COURT: Would you ever consider imposing the death  
19 penalty on somebody?

20      PROSPECTIVE JUROR NO. 1: Well, through the years, there  
21 have been some pretty gruesome crimes committed, and --

22      THE COURT: Well, what we are asking is your attitude  
23 now, whether you at this time have such a state of mind that  
24 you would ever consider imposing the death penalty upon a  
25 person.

26      PROSPECTIVE JUROR NO. 1: Well, your Honor, you are kind  
27 of putting me on the spot, because --

28      THE COURT: That's right, we are putting you on the spot, --

1 PROSPECTIVE JUROR NO. 1: Because there's no one --

2 THE COURT: -- as much as we can, Mrs. Acosta.

3 PROSPECTIVE JUROR NO. 1: Because there's no one right  
4 now that I would -- that I would like to have put away in that  
17 fls. 5 manner, right at this minute.  
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17-1

1 THE COURT: Mrs. Acosta, I'm not sure of your state of  
2 mind. I'm not sure that you are.

3 There are some crimes for which you could, then,  
4 give it, although not this moment you couldn't.

5 PROSPECTIVE JUROR NO. 1: Let's say I might say it, I  
6 wouldn't impose it. I might say it.

7 THE COURT: You might say what?

8 PROSPECTIVE JUROR NO. 1: I might say, well, that so and  
9 so deserves to die, but I wouldn't be the one to tell him  
10 you're going to die.

11 THE COURT: So would you -- would your reaction, then,  
12 be an automatic one to vote against the death penalty in any  
13 case?

14 PROSPECTIVE JUROR NO. 1: No, no. No, no. Not -- no.

15 THE COURT: Then, I take it that you would consider the  
16 evidence that has been submitted to determine whether or not  
17 in your judgment you should impose the death penalty?

18 PROSPECTIVE JUROR NO. 1: Yes.

19 THE COURT: We're back where we started.

20 PROSPECTIVE JUROR NO. 1: Yes.

21 MR. DENNY: Your Honor --

22 THE COURT: All right, we'll take this up tomorrow, then.

23 Well, no, do you want to go on at this point and  
24 ask any further questions?

25 MR. DENNY: I -- I'm willing to offer a stipulation to  
26 excuse this juror, your Honor.

27 MR. KAY: We accept that stipulation.

28 THE COURT: Both sides stipulate that Mrs. Acosta may be

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1 excused, then, is that correct?

2 MR. KAY: So stipulated, your Honor.

3 MR. DENNY: So stipulated.

4 THE COURT: All right.

5 MR. KAY: That's not a challenge for cause, it is a  
6 stipulation.

7 THE COURT: By reason of that stipulation and agreement,  
8 the Court will allow Mrs. Acosta to be excused and does excuse  
9 Mrs. Acosta. Thank you, Mrs. Acosta. Room 253 tomorrow at  
10 9:00 o'clock. The jury assembly room.

11 PROSPECTIVE JUROR NO. 1: What's that?

12 THE COURT: The jury assembly room on North Hill.

13 PROSPECTIVE JUROR NO. 1: 215?

14 THE COURT: 253, you know, where the jury assembly room  
15 is.

16 PROSPECTIVE JUROR NO. 1: Yes.

17 THE COURT: Find your way there tomorrow, Room 253, the  
18 jury assembly room on North Hill at 9:00 o'clock. You are  
19 excused.

20 PROSPECTIVE JUROR NO. 1: Thank you.

21 THE COURT: All right, gentlemen, I'll see you at 9:00  
22 o'clock.

23 MR. KAY: 9:30.

24 THE COURT: 9:30. We're in recess.

25 (Whereupon, at 4:50 P. M. court adjourned.)

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