

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

DEPARTMENT NO. 106
DEPARTMENT NO. 100

HON. RAYMOND CHOATE, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

Vs.

BRUCE MCGREGOR DAVIS,

Defendant.

211

No. A-267861

REPORTERS' DAILY TRANSCRIPT

Monday, December 13, 1971
Tuesday, December 14, 1971

VOLUME 11

APPEARANCES:

For the People:

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

For Defendant Davis: GEORGE V. DENNY, III

COPY

MARY LOU BRIANDI, C.S.R.
ROGER K. WILLIAMS, C.S.R.
Official Court Reporters

1 LOS ANGELES, CALIFORNIA, MONDAY, DECEMBER 13, 1971 10:15 A.M.

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4 THE COURT: Is there any other attorney present, on a
5 matter I can call?

6 MR. DENNY: Yes, your Honor. In the Davis matter.

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

8 MR. DENNY: Yes. Would you come forward, ma'am?

9 THE COURT: You had subpoenaed some record? Is that
10 right?

11 MR. DENNY: Yes, I had, from the Veterans Hospital.
12 And the custodian is here, and apparently needs a court
13 order to turn them over to the Clerk.

14 THE COURT: Those are records of what person?

15 MRS. HYATT: John L. Flynn.

16 THE COURT: All right. I think it was agreed between
17 you and Mr. Kay that the foundation -- the foundational
18 testimony would be waived? That you could stipulate to
19 the foundational testimony, but not --

20 MR. KAY: But not to admissibility.

21 THE COURT: Yes.

22 MR. KAY: Yes, so stipulated.

23 MR. DENNY: So stipulated.

24 THE COURT: All right. The Court would order you,
25 then, to leave those records in the custody of the Clerk.
26 Thank you.

27 MR. DENNY: Could we have the young lady's name,
28 just for the record?

1 MRS. HYATT: Mrs. Gail M. Hyatt; H-y-a-t-t.

2 THE COURT: And your connection with the hospital is
3 what?

4 MRS. HYATT: I am lead clerk in insurance correspondence
5 department.

6 THE COURT: Thank you, Mrs. Hyatt. You may leave those
7 records with Mrs. Holt, then.

8 MR. DENNY: Thank you, your Honor.
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1 LOS ANGELES, CALIFORNIA, MONDAY, DECEMBER 13, 1971 2:05 PM
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4 THE COURT: The record will show that all the prospec-
5 tive jurors are present except for Mrs. Nelson.

6 Is that the one who is absent?

7 Would you inform the Jury Commissioner of her
8 absence and have him inquire as to why she is not here?

9 All right, the record will show, then, that
10 with the exception of Mrs. Nelson, we are gathered here,
11 outside the presence of the defendant. Both counsel,
12 however, are present.

13 The Court wishes to tell you that we are not
14 going to convene in Department 106 this afternoon, ladies
15 and gentlemen.

16 Instead, I am going to excuse you at this time.
17 There is a matter going on in Department 106, and that's
18 the reason I have not brought you there.

19 The Court admonishes you that in this recess
20 between now and 9:30 tomorrow morning that you are not to
21 hear, see or read anything whatever in connection with Mr.
22 Manson, Charles Manson, the case of People vs. Manson, or
23 this case, in which you are prospective jurors, People
24 vs. Davis.

25 The Court would ask that for the next 24 hours,
26 or rather, until you have gathered together tomorrow at
27 9:30 in Department 106, that you avoid any newscasts, radio,
28 newspaper or television reports, and that you not discuss

1 Mr. Manson, Mr. Davis or this case with anyone. That's an
2 order of the Court. And I want everyone of you to take
3 affirmative steps to see that you are not exposed to any
4 news report for the next 24 hours.

5 Then tomorrow morning, then, I'll see you at
6 9:30 in Department 106.

7 You are excused for now. Good night.

8 (Whereupon, at 2:11 o'clock p.m. an
9 adjournment was taken.)
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LOS ANGELES, CALIFORNIA, TUESDAY, DECEMBER 14, 1971 9:51 AM

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THE COURT: Good morning, ladies and gentlemen.

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

THE COURT: I will ask those of you who were in the box -- the record should show the defendant to be present with his counsel, and Mr. Kay for the People.

I'll ask those of you who are in the box as prospective jurors whether the answers that you've given to me thus far, concerning publicity about this case, Charles Manson, the Manson Family, whether those answers would be any different now?

If there is an affirmative response, raise your right hand and let me know, whether your answers would be any different now than they were when you responded to the Court's questions and counsel's questions concerning publicity?

(No visible response.)

THE COURT: I trust that all of you followed the Court's directions in connection with publicity, and have avoided any publicity in connection with the Manson Family, and Mr. Manson, and this case?

(No visible response.)

THE COURT: Is there anyone of you who, through inadvertence or otherwise, may have heard anything whatever about Charles Manson in the last 24 hours?

1 I see no hands.

2 All right. Now, we were in the process, I
3 believe, of voir dire on -- general voir dire of three
4 prospective jurors, and I've forgotten just where it was
5 that you halted, Mr. Denny.

6 But I believe we were in the process of --

7 MR. DENNY: Yes. I know about where I was, your Honor.

8 THE COURT: Very well.

9
10 VOIR DIRE EXAMINATION OF

11 MR. LAWRENCE CAMPBELL

12 BY MR. DENNY:

13 Q Mr. Campbell, did you just raise your hand when
14 the Court asked if you had seen, heard or read anything about
15 Mr. Manson --

16 A Yes, sir.

17 Q -- since we were last here?

18 A I did. But I was trying to think of how long
19 ago it was.

20 Q All right.

21 A And it wasn't within 24 hours.

22 Q All right. Let's hold off on that until just a
23 little bit later, if I may. I just did want to -- I just
24 did want to correct the record, because I didn't think the
25 Court saw you raise your hand.

26 Was there anyone else who raised his hand,
27 in response to the Court's question, that --

28 THE COURT: Well, the Court saw Mr. Campbell, but I

1 saw him put his hand down when I mentioned 24 hours.

2 You have not heard anything about Mr. Manson in
3 the last 24 hours?

4 PROSPECTIVE JUROR NO. 1: Yes, I have.

5 THE COURT: Oh, you have?

6 PROSPECTIVE JUROR NO. 1: Yes, I have.

7 MR. DENNY: Well, that's why I said, your Honor,
8 perhaps we could hold off on the questioning on that until
9 we are through questioning the panel as a whole.

10 Mrs. Dunkins -- could you pass the microphone
11 back to Mrs. Dunkins, Mr. Campbell?

12
13 VOIR DIRE EXAMINATION OF

14 MRS. NORMAL DUNKINS

15 BY MR. DENNY:

16 Q We were kind of interrupted almost in mid-
17 sentence, as I was questioning you at the conclusion of
18 Friday's proceedings concerning this matter of the burden
19 of the People, and the fact that a defense attorney may,
20 if he thinks they have not sustained that version, by the
21 testimony they have put on, the defense attorney may just
22 decide to leave it at that time; to submit it to the jury,
23 feeling that they have not established their case beyond
24 a reasonable doubt, and not put on any witnesses; not put
25 on any evidence -- or may just put on a witness here or
26 there to controvert those things that he thinks may be
27 even questionable.

28 Now, going back again, I'm not sure whether I

1 received the answer from you. Do you understand that this
2 is the right of the defendant and the defense, to put the People
3 to the -- to the test, to the burden that the rules impose
4 on them?

5 A Yes.

6 Q Do you understand that?

7 A Yes.

8 Q And if in this case, assuming you are seated
9 as a juror, it occurs that that's the state that I feel
10 that the People's case is, and I don't put on a defense --
11 I don't put on the defendant, for instance --

12 A Yes.

13 Q -- do you have any feelings, as you sit there
14 now, that -- "Well, that must mean that the defendant is
15 guilty"?

16 A No.

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AA-1

1 Q Some people think that, you know. And you under-
2 stand that, again, under our constitution, you are not even
3 permitted to draw that inference; it is an inference that the
4 constitution and the laws that have been made interpreting the
5 constitution say you can't permissibly draw.

6 Do you understand that?

7 A Yes, I do.

8 Q And I take it that that would be your state of mind
9 in this case, assuming that that state of events occurred?

10 A Yes.

11 Q All right. Now, Mrs. Dunkins, you did say that your
12 ex-son-in-law is in the D. A.'s Office?

13 A Yes.

14 Q And have you had any conversations --

15 A No.

16 Q -- with him during -- well, let me finish my
17 question. You may have had some conversations -- I hope you
18 have -- on a general level.

19 A Yes.

20 Q All right. Have you had any conversations with him
21 about his work? Just in general?

22 A No, not really.

23 Q How long was he your son-in-law before he became
24 your ex-son-in-law?

25 A Well, I guess maybe five years, maybe.

26 Q All right. Now, the personnel changes quite a bit
27 there, so I don't know whether he's a Deputy D. A., an
28 investigator, or what.

AA-2

1 A I don't really know. I know that he was to take
2 the State Board, and I don't know if he passed it or not yet.

3 Q All right. And you know what they say about mother-
4 in-law's --

5 A This is a special son-in-law. I knew him before
6 he was born, so he's kind of special.

7 Q I see. Well, then, I am just thinking that you
8 wouldn't have any feelings against the prosecution, his being
9 an ex -- in an ex-son-in-law state?

10 A No. I'm very fond of him.

11 Q All right. And by the same token, your fondness
12 for him as an individual, I take it, doesn't mean that you
13 have that same fondness for anything associated with the
14 prosecution, --

15 A No.

16 Q -- is that right?

17 So, as far as you are concerned, this relationship
18 has no bearing, or would have no bearing, on your ability to
19 be fair to both sides in this case; is that right?

20 A No.

21 Q And there was another gentleman, I think, who is
22 in some way connected with the D. A.'s Office.

23 A Well, I just know a Deputy Brown. You know,
24 Eddie Brown?

25 Q No, I don't know him, but --

26 A Well, I used to see him on television a lot, with
27 Manson. So, this is how I knew he was connected somehow. He
28 was the deputy, I think.

AA-3

1 Q Well, now, is that a Deputy Sheriff --

2 A Yes.

3 Q -- in the bailiff's office?

4 A I don't know which office.

5 Q Well, in the Sheriff's Office, --

6 A Yes.

7 Q -- at any rate?

8 A Yes.

9 Q And you say you know him personally?

10 A Yeah.

11 Q You have had social contacts with him?

12 A I have had two daughters, and they were friends.

13 They're friends. He is a friend of my daughters.

14 Q Well, has he dated them; is that it?

15 A Well, yes.

16 Q And is that recently, within the last couple of
17 years?

18 A Well, now, they don't live with me now. But I've
19 seen him with her. But I don't know how long ago.

20 Q Well, would it have been during the time that
21 you've seen him pictured on TV or newspapers, or whatever,
22 with Mr. Manson? During or since that time?

23 A I think so. Because I remember seeing him and
24 calling him, telling him that I saw him on television.

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1 Q I see. And have you ever discussed with him that
2 association other than calling him and telling him --

3 A No.

4 Q -- that you had seen him?
5 Have you discussed at all his feelings about
6 Mr. Manson, perhaps?

7 A No.

8 Q Or anything of that kind?

9 A No.

10 Q Have you discussed that with your daughters?

11 A No.

12 Q Do you feel that there's anything at all about
13 that relationship or that association which might, in the
14 long run, have any kind of bearing on your ability to sit and
15 render a verdict either for or against one associated with
16 Mr. Manson?

17 A No.

18 Q Now, you've said you've had prior jury experience?

19 A Yes.

20 Q What experience is that, ma'am?

21 A About three years ago I was on -- a Superior Court
22 juror. And I was on a couple of civil cases and one criminal
23 case.

24 Q What kind of criminal case was that?

25 A I believe it was rape.

26 Q Well, you ought to know.

27 A It was, it was.

28 Q You ought to know whether or not -- I'm being a

1 little facetious here, but when somebody says, "I believe,"
2 it indicates they're not sure or it was just a way of saying
3 it was.

4 I take it in your case it was?

5 A It was.

6 Q All right.

7 And I take inasfar as the different burdens of
8 proof were concerned, you were well aware at that time of the
9 difference of the burdens of proof in a civil case as
10 distinguished from a criminal case?

11 A Oh, yes.

12 Q And you would have no trouble in applying the
13 rather more stringent burden in a criminal case, assuming that
14 you were seated as a juror here; is that right?

15 A That's right.

16 Q Now, I note, going back down again, that you have
17 a couple of cousins in law enforcement, also, and --

18 A Well, one is a retired Deputy.

19 Q Deputy Sheriff?

20 A Uh-huh. And one is a police officer that's also
21 retired.

22 Q And this retired Deputy Sheriff worked where,
23 when he was --

24 A I just know he worked in the county. And I think
25 it was in a car. I don't know where -- what station he worked
26 out of.

27 Q All right. And were you particularly close to him
28 socially or see him?

1 A Just occasionally, no. Some funeral or somebody
2 dies.

3 Q I know how that is.

4 And how about --

5 A Well, the other one is his brother, so same
6 difference.

7 Q Quite a law enforcement family.

8 A Yes.

9 Q All right.

10 Now, you've heard the questions that I asked of
11 the other jurors concerning the death penalty, did you?

12 A Yes.

13 Q All right. And would your answers be essentially
14 the same as theirs?

15 A Yes.

16 MR. DENNY: Your Honor, I'll pass all the jurors at this
17 time for cause.

18 Thank you, Miss Dunkins.

19 MR. KAY: It might take me a couple of seconds to get
20 set up here, so please bear with me.

21 My podium got moved over here yesterday.

22 I'm going to try, as much as possible, to question
23 all three of you at the same time. So when I ask a question,
24 if I ask it of all three of you, please speak out with a
25 yes or a no so I can tell that you are answering. Sometimes
26 with nods of heads, I miss it.

27 But, again, if you want to explain your answer,
28 if you don't want to answer yes or no, if you want to answer

1 some other way, then, fine, just tell me so. I want to get the
2 best answer possible, that's the most accurate of your state of
3 mind.

4
5 VOIR DIRE EXAMINATION OF

6 NORMA L. DUNKINS
7 WILLIAM S. BURTISS
8 LAWRENCE CAMPBELL

9 BY MR. KAY:

10 Q Now, can any of you three think of any reason why
11 you could not or should not sit on this jury?

12 A (No negative response.)

13 Q And is it all of your firm positions, the
14 prosecution, the People of the State of California whom
15 Mr. Manzella and I represent, are entitled to an equal fair
16 trial with the defense in this case?

17 A (No negative response.)

18 Q Now, do any of you have any sympathy for Mr. Davis
19 because he is a defendant in this case?

20 A (No affirmative response.)

21 Q Mr. Burtiss, did you -- I didn't --

22 A (MR. BURTISS) No.

23 JUROR NO. 4: Excuse me, the first three panelists or
24 all of us?

25 MR. KAY: No, Mr. Campbell, Mrs. Dunkins and Mr. Burtiss.
26 All of you have been through this ordeal already. You don't
27 have to go through it again.

28 That is, again, as I mentioned in the very
beginning, if any of you changed your mind on anything, you

1 want to raise your hand, you've been thinking about anything,
2 you want to change any of your answers or you decided you
3 can't vote for the death penalty, please raise your hand. I
4 won't put you through much of an ordeal, but I will ask you
5 a couple of questions again.

6 Q BY MR. KAY: Now, in the guilt phase in this trial,
7 the prosecution has the legal burden, and that's the only
8 legal burden we have in the defense phase of the trial. And
9 that's proving the defendant guilty beyond a reasonable doubt.

10 Now, realizing this, and only this as the
11 prosecution's burden to prove the defendant guilty beyond a
12 reasonable doubt, would any of you hold the prosecution to
13 a higher burden of proof?

14 A (No affirmative response.)

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1 Q Do you understand that we don't have the burden of
2 proof, of proving the defendant guilty to an absolute certainty,
3 or beyond a shadow of a doubt or beyond all doubt; do all of you
4 understand that?

5 A (No negative response.)

6 Q Now, do you understand that in a criminal case, be
7 it a traffic ticket, if a defendant runs a stoplight or stop
8 sign or speeds on the freeway or is guilty of reckless driving
9 or burglary or robbery or rape or whatever, that the burden
10 of proof is always the same? That in every criminal case the
11 defendant must be proven guilty beyond a reasonable doubt; do
12 you all understand that?

13 A (No negative response.)

14 Q Now, would any of you three hold the prosecution to
15 a higher standard or burden of proof because this is a murder
16 case rather than, say, a robbery or burglary or a traffic ticket
17 or anything like that; would any of you do that?

18 A (No affirmative response.)

19 Q And at the beginning of a case, the defendant is
20 presumed innocent until the contrary is proven.

21 Do you understand that this presumption of
22 innocence lasts only until the defendant is proven guilty
23 beyond a reasonable doubt; do you understand that?

24 A (No negative response.)

25 Q And will all of you follow the law in that
26 regard?

27 A (No negative response.)

28 Q Have any of you ever testified in a court of law

1 before?

2 A (No affirmative response.)

3 Q Has any of you, or have any of your close friends
4 or relatives ever been charged with any crime other than a
5 traffic offense?

6 A No.

7 Q And other than Mrs. Dunkins, Mr. Burtiss or
8 Mr. Campbell, have you ever sat on a jury before?

9 A (MR. BURTISS) I have. It was Municipal Court. A
10 long time ago, 1952 or something.

11 Q All right. That is a long time.

12 A About 20 years.

13 Q And you have, also?

14 A (MR. CAMPBELL) As I stated earlier.

15 MR. DENNY: I'm sorry, I can't hear.

16 THE COURT: Use that microphone.

17 A (MR. CAMPBELL) I stated earlier that I was on
18 a case last week that was dismissed. It was a criminal case.

19 Q BY MR. KAY: Was that a burglary case?

20 A (MR. CAMPBELL) Yes.

21 Q That's where the defendant pled guilty and they
22 didn't have a jury trial?

23 A (MR. CAMPBELL) No.

24 Q And you were dismissed as jurors?

25 A (MR. CAMPBELL) No, the defendant pleaded not
26 guilty.

27 Q Yeah, but I understand in that case that after the
28 prosecution's evidence he pled guilty or something, and then

1 the jury was dismissed?

2 A (MR. CAMPBELL) They didn't tell us, but it was
3 dismissed.

4 Q Mr. Stillman was the prosecutor in that case,
5 John Stillman?

6 A (MR. CAMPBELL) Yes.

7 Q He's a short man?

8 Okay, that's what happened. You know now.

9 Have any of you ever studied law before?

10 A (MR. CAMPBELL) Yes.

11 Q Oh, you have, business law?

12 A (MR. CAMPBELL) Business law.

13 Q And as far as being an architect, what you should
14 know?

15 A (MR. CAMPBELL) It was connected with the work I
16 do, yes.

17 Q Do any of you know any criminal defense attorneys
18 or private investigators who work in the criminal defense
19 field?

20 A (No affirmative response.)

21 JUROR NO. 4: I know a criminal attorney. I believe
22 Mr. Dave Cunningham is a criminal defense attorney.

23 MR. KAY: Right. Very fine man. I know him, too. I
24 think we all know him, Mr. Denny and Mr. Manzella. A very fine
25 man.

26 Q BY MR. KAY: Now, on circumstantial versus direct
27 evidence, we have a new panel that's come in. And when the
28 original panel was here I gave an example, and I'm going to

1 give another example now and hopefully I'm only going to have
2 to give this example one time, so I hope that all of you can
3 listen to it, the difference between circumstantial and direct
4 evidence. And then, I'll ask all the jurors some questions
5 about it, other than, of course, the jurors that have already
6 been questioned. So that hopefully you'll understand the
7 difference between direct evidence and circumstantial evidence.

8 But after my example, if you don't understand it,
9 if you think it is -- if you think it is not clear, then,
10 by all means please tell me.

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1 Okay. Now, say that I went into the Broadway
2 Department Store and I was Christmas shopping now, it is around
3 Christmas time. And say I went into the sweater department
4 and I saw a nice sweater that I wanted to pick out and get my
5 wife for Christmas. So, I went up to the saleslady and I took
6 out my Broadway credit card and I gave her the credit card.
7 And I said, "I would like to have this sweater," and every-
8 thing.

9 And she said, "Okay."

10 And so she took the credit card and she ran it on
11 her little machine there, on the credit card sales slip, and
12 then she gave me the sales slip and she gave me the credit
13 card back. And I put the credit card down and I signed my
14 name to the credit card sales slip and she took it back and I
15 took the sweater back to have it wrapped and I forgot to pick
16 up the credit card. So I left the credit card there.

17 So, say, sometime that day the saleslady didn't
18 notice the credit card was left there and a person comes by
19 and we'll call the person a suspect. The suspect comes by
20 and sees that some dumb person has left his credit card there.
21 And so he takes the credit card and confiscates it to his own
22 use. And then, he goes over to the sporting goods department
23 and he decides he wants to buy a football or something, so he
24 goes up to the sales person in the sporting goods department
25 with the football and he hands the sales person my credit
26 card and they go through the same credit card transaction and
27 the sales person there watches the suspect sign my name to the
28 credit card sales slip.

1 Well, now, there's a crime called credit card
2 forgery. And in this case, this would be direct evidence
3 because the sales person saw the suspect sign my name, using
4 my credit card, to the credit card sales slip. So if he came
5 into the court and he testified that "I saw the suspect sign
6 Mr. Stephen Kay's name to this sales slip," that would be
7 direct evidence. He saw him doing it.

8 Now, take the example, this very same example that
9 the suspect goes up to the sales person in the sporting goods
10 store to get the football, but as it so happened, there are so
11 many people coming through at Christmas time the sales person
12 just doesn't remember. Said, "Well, I don't know whether I saw
13 the guy or not. I can't remember him. I just don't know.
14 There are just so many people coming through that I can't
15 recognize him."

16 But -- so what we have, we had this credit card
17 sales slip now with the name "Mr. Stephen Kay" on it and I look
18 at it and I say, "Hey, I lost my credit card and that's not my
19 signature."

20 So, then, say the suspect is taken into custody,
21 maybe on another related offense or something not with my
22 credit card, but they have him fill out a handwriting
23 exemplar and a handwriting expert compares it to maybe some
24 different cases and they find out, "Well, gee, the signatures
25 of Mr. Stephen Kay on this credit card sales slip, that's the
26 defendant. In my opinion, the defendant is the one or the
27 suspect is the one that wrote Mr. Kay's name on this credit
28 card sales slip."

1 Well, that's circumstantial evidence of his guilt.

2 The expert, the handwriting expert has given his
3 opinion that the suspect wrote my name on the credit card sales
4 slip.

5 And, also, another example of circumstantial
6 evidence in that same regard is, say, the defendant or suspect
7 confessed when he was arrested on another crime or something.
8 He said, "Well, by the way, not only was I involved in this
9 crime, but I have this credit card in Mr. Stephen Kay's name
10 and I bought a football at the Broadway Department Store and I
11 signed his name to the credit card sales slip."

12 That would be another example of circumstantial
13 evidence, a confession on the part of a defendant.

14 Now, do the three of you who are in the box now,
15 think that you have at least a basic understanding of the
16 difference between circumstantial and direct evidence?

17 A (No negative response.)

18 Q Would you want me to give another example or you
19 think you have that?

20 A (No affirmative response.)

21 Q Okay.

22 Now, under our law, under our law both circum-
23 stantial and direct evidence are entitled to equal weight.
24 In other words, one type of evidence is not favored over
25 another.

26 Will all of you follow the law in this regard?

27 A (No negative response.)

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1 Q And do any of you quarrel with that law, giving
2 equal weight to both?

3 A (No affirmative response.)

4 Q And do any of you have quarrel with the fact that
5 a defendant in a murder case can be convicted of first
6 degree murder based on circumstantial evidence alone; do
7 any of you quarrel with that?

8 A (No affirmative response.)

9 Q Now, we have in California what's known as the
10 felony-murder rule.

11 And by the way, if any of you can't hear me
12 back there, just raise your hand and I'll -- I'll shout a
13 little louder.

14 We have what's known as the felony-murder rule
15 in California. And this means that if a murder is committed
16 in the course of a robbery, that it is automatically murder
17 of the first degree.

18 Do any of you quarrel with this law?

19 A (No affirmative response.)

20 Q In other words, that if you find that a murder
21 has been committed in the course of a robbery, it takes
22 away your discretion.

23 In other words, you have to find that it is
24 murder of the first degree, if you find that it is committed
25 in the course of a robbery.

26 Do you all understand this?

27 A (No negative response.)

28 MR. DENNY: Well, your Honor, I'm not sure that that's

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1 a law. It has to be a reasonably foreseeable event and
2 there are some other things involved there.

3 THE COURT: Ladies and gentlemen, the Court -- both
4 counsel's remarks concerning this rule are stricken. You
5 are to take your instructions concerning the law from the
6 Court.

7 You may proceed.

8 MR. KAY: Thank you. Your Honor.

9 Q BY MR. KAY: And, again, as I stated to the panel
10 that was here earlier, you can't go wrong if you follow the
11 Court's instructions, because that's where you are going to
12 get all the final instructions from Judge Choate, not from
13 Mr. Denny over there or myself.

14 Now, in the Hinman case, which is Count No. I,
15 and Count No. II, the conspiracy, as I stated before to the
16 first panel, the body of Mr. Hinman was recovered. But in
17 Count No. III, the murder of Mr. Shea, the body was not
18 recovered.

19 Do any of you feel that it is unfair to try a
20 defendant for murder. And I'm talking about Count No. III
21 now, Mr. Shea's murder.

22 Do any of you feel that it is unfair to try a
23 defendant for murder where the prosecution and the law
24 enforcement agencies have been unable to find the body of
25 the victim of the murder? Do any of you feel that it is
26 unfair?

27 A (No affirmative response.)

28 Q Now, in this regard, the prosecution has to

1c-3

1 prove that the victim died and that he died by criminal
2 means.

3 For example, that he was murdered. This is our
4 burden in this regard, where a body has not been found.

5 Will you all follow the law in this regard?

6 A (No negative response.)
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1 Q And I am sure that you can all think of many good
2 reasons why this is the law. But do any of you quarrel with the
3 law that permits the death of the victim to be proven by
4 circumstantial evidence?

5 A (No audible response.)

6 Q And did it offend your sense of justice, any of
7 you three, that a person can be convicted of the -- of first
8 degree murder, where the body of the victim has not been found?

9 A (No negative response.)

10 Q Now, all three of you, if you did believe that
11 Mr. Davis was guilty, in Count III, in the murder of Mr. Shea,
12 that he was guilty of murder in that Count, beyond a reason-
13 able doubt -- which, again, is the prosecution's only legal
14 burden -- if you believed that Mr. Davis was guilty of Count
15 III beyond a reasonable doubt, could you vote to convict him,
16 even though Mr. Shea's body could not be found?

17 A (No negative response.)

18 Q Now, would any of you automatically vote against
19 the imposition of the death penalty in Count III, the murder
20 of Mr. Shea, for the reason that Mr. Shea's body had not been
21 found?

22 A (No negative response.)

23 Q Now, under our law, the motive for a crime is not
24 an element of the crime which the prosecution must prove. In
25 other words, we don't have the burden of proving why Mr. Davis
26 or others with him committed these murders.

27 But if we do introduce evidence as to the motive,
28 you can consider this as circumstantial evidence of guilt.

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1 Will you all follow the Court's instructions in
2 this regard?

3 A (No negative response.)

4 Q Now, Mr. Denny has mentioned that the testimony of
5 an accomplice must be viewed with caution. Do you understand
6 that, just because Mr. Denny has mentioned the term "accom-
7 plice," does not mean that an accomplice is going to be called
8 as a witness, or that if an accomplice is called as a witness,
9 that it would be the prosecution rather than the defense that
10 called the witness.

11 Do you all understand this?

12 A (No negative response.)

13 Q Now, the Court instructed you previously on the law
14 of aiding and abetting, on Friday. He read the California
15 Jury Instructions in this regard.

16 Under the law of aiding and abetting, the person
17 who, with criminal intent, aids another in the commission of a
18 crime is just as guilty as the one who commits the crime.

19 Do you all understand this?

20 A (No negative response.)

21 Q And do any of you quarrel with this law?

22 A (No negative response.)

23 Q And would you all follow the Court's instructions
24 in this regard?

25 A (No negative response.)

26 Q So, you understand that under the law of aiding
27 and abetting, a person can be guilty of first degree murder,
28 even though he personally did not inflict the fatal blow?

2-3

1 Do you all understand this?

2 A (No negative response.)

3 Q Now, Mr. Denny has asked you all not to convict
4 Mr. Davis of these charges, merely because he may have been
5 associated with others who were involved with these crimes.

6 Well, we would ask you not to convict Mr. Davis
7 because of this reason also. We'd ask you to convict him
8 because he was personally guilty of these crimes.

9 But in this regard, let me -- let me inform you
10 that under our law of conspiracy, each member of a criminal
11 conspiracy -- that is, each and every member of a criminal
12 conspiracy -- is liable for each act, and bound by each
13 declaration of every other member of the conspiracy, if said
14 act or said declaration is in furtherance of the object of the
15 conspiracy.

16 Do you all understand that?

17 A (No negative response.)

18 Q And will you follow the law in this regard as
19 given to you by Judge Choate?

20 A (No negative response.)

21 Q And also, every conspirator is legally responsible
22 for an act of a co-conspirator that follows as one of the
23 probable and natural consequences of the object of the
24 conspiracy, even though it was not intended as part of the
25 original plan, and even though he was not present at the time
26 of the commission of such act.

27 Will you all follow the law in this regard?

28 A (No negative response.)

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1 THE COURT: They have indicated -- the jury has indicated
2 now that they will follow the Court's instructions, regardless
3 of what they believe the law to be or how they feel the law
4 should be written. They will follow those instructions,
5 Mr. Kay.

6 MR. KAY: Thank you.

7 Q And will you all promise me that when you'll get in
8 the jury room, if you are seated as a juror on this case, that
9 you'll all be reasonable?

10 A (No negative response.)

11 Q Will you promise me that? And will you promise me
12 that you will reasonably express your views to the other jurors
13 and let them express their views to you? Do you all promise
14 me that?

15 A (No negative response.)

16 Q Okay. Can any of you think of any reason at all
17 why you could not give the People of the State of California
18 a fair trial in this case?

19 A (No affirmative response.)

20 Q Now, I have just a few personal questions to ask
21 here.

22

23

NORMA L. DUNKINS

24

BY MR. KAY:

25

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Q Mrs. Dunkins, I want to ask you a question that
is -- that has kind of been bothering me over the weekend, and
I certainly don't mean any offense by it.

But you know, I don't know you, not before you came
here, and I want to be perfectly clear on what your views are

2a-2

1 in this regard.

2 I think I know now, but I just want to ask you to
3 be sure.

4 In questioning last week you stated that you had --
5 had seen an interview over TV with the wife of Donald Jerome
6 Shea, and that you had been surprised to learn that she was
7 black, and that Mr. Shea was white.

8 Now, I'll ask you in this regard, would you hold
9 that against either one of them?

10 A No.

11 Q In other words, you are completely neutral to that?

12 A Oh, yes.

13 Q Okay. I was sure that was your position, but I
14 hope you understand that -- you know, there are a lot of people
15 in the world, and I have to ask that question.

16 A Yes.

17 MR. KAY: Thank you. I have no further questions. I
18 pass for cause.

19 THE COURT: Both sides having passed for cause, it
20 appears to the Court that the next peremptory is with the
21 defendant.

22 MR. DENNY: Yes, your Honor. We'd like to thank and
23 excuse juror No. 8, Mr. Burtiss.

24 THE COURT: Thank you, Mr. Burtiss.

25 The 15th floor, if you would, the new Hall of
26 Records.

27 PROSPECTIVE JUROR NO. 8: The new Hall of Records? Thank
28 you.

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1 THE COURT: Diagonally across the street.

2 THE CLERK: Charles A. Braun; B-r-a-u-n.

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4

VOIR DIRE EXAMINATION OF

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CHARLES A. BRAUN

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BY THE COURT:

7

Q Mr. Braun, were you present when the Court
8 explained the nature of this case to your panel of prospective
9 jurors --

10

A Yes, sir.

11

Q -- and when the Court questioned prospective
12 jurors?

13

A Yes, sir.

14

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

16

A No, sir.

17

Q What type of work do you do?

18

A Uh -- I work for the Auto Club, claims adjuster.

19

Q I see. And do you work generally in the Los
20 Angeles area?

21

A Santa Monica area.

22

Q Would your answers be any different than a
23 majority of jurors responded to the questions of a general
24 nature, that I put to them?

25

A General nature, yes, there's a few questions I
26 would --

27

Q Were there any that you marked or took note of?
28 If so, you can give me the -- the respects in which your

2a-4

1 answers would vary.

2 A Well, there's one or two.

3 Q All right. Go ahead.

4 A Well, as far as the state -- the feelings of a
5 person, if they have any feelings toward the defendant, --

6 Q Yes.

7 A -- well, as a human being, I feel he is still
8 innocent, until proven guilty. And as one human being to
9 another, there is compassion.

10 He was -- he would still have to live with it the
11 rest of his life, whether he's guilty or not guilty. There's
12 a stigma attached to it.

13 Q Is there any reason at all that you can think of,
14 that you couldn't be fair and impartial --

15 A No.

16 Q -- in the case?

17 A No, I could be fair.

18 Q I'm not quite sure I understand your first state-
19 ment.

20 Would that affect -- this feeling that you've
21 just expressed concerning the defendant, would that in any
22 way affect your judgment in the case?

23 A No.

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1 Q On either the first or the second phase of the
2 trial?

3 A I believe in no phase. It's just a feeling, before
4 the case starts -- or until I hear the full case, and then I
5 can draw my conclusions from that.

6 Q How long have you worked for the Auto Club?

7 A Two years.

8 Q Do you know many attorneys?

9 A Uh -- I've run across them. But I have not dealt
10 with them directly, because any case -- any bodily injury case
11 that goes to an attorney, we do transfer it out.

12 Q Oh, I see. Do you have any friends or relatives
13 who are law enforcement officers?

14 A I worked for the probation department for nine
15 years.

16 Q Nine years?

17 A Yeah. Juvenile Hall.

18 Q And during that time, of course, you associated
19 with police officers, Deputy Sheriffs?

20 A No. This was in an institution.

21 Q I see. You were associated with fellow probation
22 officers?

23 A Yes, right.

24 Q Do you think that would affect your judgment in a
25 case of this nature?

26 A No.

27 Q Are there any relatives of yours who are law
28 enforcement officers, as I've explained that term, --

2b-2

1 A No.

2 Q -- or close friends?

3 A Well, I still play golf and tennis with a few of
4 the probation officers. But I haven't seen them for about one
5 year now.

6 Q And are you married?

7 A Single, sir.

8 Q In what area do you reside?

9 A Wilshire area.

10 Q Concerning the death penalty, now, do you have such
11 views about it that you could not be impartial in determining
12 the first phase of the case? The question of guilt or
13 innocence?

14 A No, I don't believe so.

15 Q Or do you have views about the death penalty such
16 that you would automatically refuse to impose it in any case?

17 A No, I would not automatically.

18 Q Or would you automatically impose it, regardless
19 of the evidence in the case, --

20 A No.

21 Q -- upon a conviction of murder of the first
22 degree?

23 A No, I would not automatically.

24 Q Are your views concerning the death penalty such
25 that you would never impose it?

26 A No.

27 Q Let me ask you this generally. Do you have such
28 views, because of what you have heard, seen or read concerning

2b-3

1 the Manson Family or Charles Manson, that you could not be a --
2 could not be fair and impartial to this defendant?

3 A No. Because I have not -- I haven't read the
4 papers. They just play on sensationalism, so I usually don't
5 read the front page.

6 Q "Impartiality" means taking a stand which is in
7 the middle, not for either side.

8 A Right.

9 Q In other words, being impartial, --

10 A Right.

11 Q -- do you believe that you can be impartial in spite
12 of what you have heard, seen or read concerning the Manson
13 Family? Assuming, for the purpose of this question, that it
14 may be established that -- or, it will be established that the
15 defendant is in some way associated with Mr. Manson?

16 A I believe I can be impartial.

17 Q Now, can you think of any respect in which your
18 answers would vary -- other than what you've stated to us --
19 would vary from the answers of the majority of jurors who have
20 been questioned, in your presence?

21 A Well, some of them. I -- I can't really answer
22 with a yes or no answer, because there's -- sometimes, there's
23 more to it than just a plain yes or no answer.

24 Q All right. Have you studied law previously?

25 A No, I have not.

26 Q Have you ever been a victim, or has any close
27 friend or relative been a victim of a crime of violence?

28 A No.

2b-4

1 Q Have you been a witness in a criminal case, for
2 one side or the other?

3 A No.

4 Q Were you an investigating probation officer, or
5 one who wrote reports?

6 A I was strictly inside; care and custody of the
7 child in the institution.

8 Q I see. And how old were these charges?

9 A From 7 years of age until 18.

10 Q Was anything -- did anything develop in your mind
11 as a result of that experience which would cause you to be
12 sympathetic toward one side or the other in this type of case?

13 A No. I do feel that there should be some changes
14 made, but that's just strictly my views.

15 Q Changes in the criminal procedure?

16 A Court procedure, and --

17 Q Court procedures?

18 A Right. And certain laws.

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1 Q Would those views of yours in any way affect
2 your judgment in the trial?

3 A No.

4 Q I'm not sure whether I asked you. Have you
5 studied law?

6 A Yes, you asked me, and I said: No.

7 Q No. And in any way, have you studied criminal
8 law or any aspect of --

9 A No criminal law. But we did have to bone up
10 a little, more or less, on juvenile law.

11 Q I see. Probably on elements of criminal
12 offenses, from time to time, you had to know that, did you
13 not?

14 A No, not particularly on criminal offenses, no.

15 Q Have you sat as a juror in a civil case?

16 A No. This is my first.

17 THE COURT: All right. You may examine, Mr. Denny.

18 MR. DENNY: May we approach the bench a moment, your
19 Honor?

20 THE COURT: Yes, you may.

21 (Whereupon, proceedings were had at the
22 bench among Court and counsel, outside the hearing
23 of the jury panel, which were not reported.)

24 THE COURT: You may proceed, Mr. Denny.

25 MR. DENNY: Thank you, your Honor.

26
27 VOIR DIRE EXAMINATION

28 BY MR. DENNY:

2c-2

1 Q Mr. Brown, I was not sure, when you answered
2 the Court's question, about your dealings with attorneys,
3 as to how close you have dealt with some.

4 You've indicated that you did generally assign
5 out the work to other people, where there was a bodily
6 injury claim.

7 I got the impression, from something you said,
8 that you did have some association with some attorneys; is
9 that right?

10 A It was more or less by -- I handled bodily
11 injury cases until they went to an attorney. If the
12 plaintiff got or retained the attorney, they would more or
13 less send me a letter, putting me on notice or giving me
14 a telephone call, and from then on, I did not converse with
15 the plaintiff or with the attorney.

16 Q I see. All right.

17 Now, insofar as your work in the Probation
18 Department, where was it that you worked, sir?

19 A Downey, California.

20 Q In what facility?

21 A Los Padrinos Juvenile Hall Home.

22 Q And were you there for the full nine years?

23 A Nine years.

24 Q And had you had some sort of training in the
25 field before you went into it?

26 A Not in probation work. I was with the Board of
27 Education for four years before that, part-time job.

28 Q In what sort of work, sir?

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A Recreation.

Q Did you major in sociology or anything of that kind?

A No, sir. Well, we had sociology classes in college. But I did not graduate from college.

Q All right. Now, you indicated to the Court that there were some areas, I believe, in the field of court procedures and certain laws that you felt should be changed; is that correct?

A Yes.

Q And without going into perhaps a catalogue of them, do any of them involve the procedures, say, that might be involved in this case? At this stage?

A It's hard to say, until I -- I don't know what -- what will come up.

Q Well, I am thinking about the normal criminal case that comes up, where one side puts on testimony; there's opening statements; the other side has a chance, if it deems warranted, to put on testimony. A jury deliberates.

If a first degree verdict is brought in, there's the penalty phase of the trial, where evidence may or may not be put on. There's argument, and the jury deliberates again. Instructions are given by the Court. Arguments are made by counsel. Things of that kind.

Is there anything in that --

A Court procedure, no.

Q -- court procedure that you find should be changed or feel should be changed?

2c-4

1 A No.

2 Q All right, sir. Now, did you say that you have
3 had, in these nine years that you worked at Los Padrinos,
4 no actual contact with law enforcement officers?

5 A No. We -- we received the child from court --
6 or, he was picked up off the street. And no police officers
7 were actually allowed on the grounds.

8 So, we just never saw 'em.

9 Q I see.

10 A And if we had any problems, we took care of them
11 ourselves. We had no outside help involved.

12 Q All right. Was your job, then, not only
13 custodial, but counseling in a way?

14 A Care and custody. Getting them to bed, waking
15 them up, taking them to chow, school, and things like that.

16 Q Well, did you have any job connected with
17 counseling, either on a formal or informal basis, of your
18 charges?

19 A Formal and informal. There's times that the child
20 definitely needs right on-the-spot counseling; or physical
21 treatment to keep him from injuring himself or others.

22 Q Now, sir, have you done any reading in the field
23 of the death penalty?

24 A I -- I have in the past -- well, I forget. I
25 think it was before I was 21, when they had a -- the vote on
26 the death penalty or not, and I did read -- I believe it was
27 in the Times; they ran articles, pro and con.

28 But that was some time back. I don't recall

2c-5

1 exactly what was said or --

2 Q This is the last time there was a sort of a vote
3 in the Assembly on it? Or a plebiscite?

4 A No, it was with the people, I believe.

5 Q All right.

6 And other than that particular occasion, have
7 you read any magazine article or any books, attended any
8 type of talks, lectures on the subject?

9 A I have read a book, but it wasn't basically on
10 the death penalty. It was on a person that was convicted
11 of the death penalty.

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1 Q What was that?

2 A Uh, Caryl Chessman.

3 Q All right. The book that he wrote?

4 A Yes.

5 Q Now, do you have -- have you had any discussions
6 with people concerning the death penalty?

7 A I believe it was during this time when they were
8 trying to get a stay of execution for Caryl Chessman. I
9 forget the year. Uh, it was sometime ago.

10 Q Around 1960?

11 A 1960?

12 Q Uh-huh.

13 A Well, I was in college then. And my views -- I
14 did read the book before that. And my views were such that I
15 felt that the -- that they should more or less give the man a
16 stay of execution because the man had a lot of smarts and he
17 could have been -- it was a waste of mankind, more or less,
18 because the man could still do some good to society.

19 Q That was in connection with that particular
20 individual, then, that you were talking about?

21 A Right.

22 Q All right. Now, have you formed any opinion, sir,
23 concerning the abolition of the death penalty, itself, as
24 contrasted with its retention here in the State of California?

25 A No, I couldn't say whether I was for it or against
26 it.

27 Q All right. Other than, I take it, other than some
28 conversations you did have some time around in 1960, you have

1 not discussed it at all with anyone?

2 A No, not that I can recall.

3 Q Or done any further reading on it, is that right?

4 A No.

5 Q And I take it, as I think you indicated to the
6 Court, assuming you had heard all the evidence in a case and
7 had returned a verdict of first degree murder, assuming it is
8 a willful, deliberate, premeditated murder, thereby making it
9 murder of the first degree, having heard sufficient evidence
10 to warrant that conviction in your mind, would you at that
11 point automatically vote to give someone the death penalty
12 whom you had convicted of first degree murder?

13 A No, I would not automatically do anything.

14 Q All right, sir.

15 Now, you heard the questions that I asked of the
16 other jurors, both Friday and today?

17 A Yes, I have.

18 Q And some of the questions that I asked, perhaps,
19 in the week before Friday?

20 A Yes.

21 Q Since you've been out there?

22 A Yes.

23 Q All right.

24 Now, sometimes it is hard to remember, particularly
25 over a weekend, but insofar as those questions are concerned,
26 would your answers be essentially the same as those jurors in
27 the box?

28 A Yes. At this time, uh, it is like I said before,

1 there are some of them, uh, some questions that can't really
2 be answered with a yes or no. And I just -- I'd have to, --
3 whatever question was asked of me, then, I could more or less
4 say from that point on whether it was a yes or no or something
5 added to it.

6 Q All right.

7 Well, let me return to a couple of points.

8 I take it that in connection with your work at
9 Los Padrinos, you had some dealings with young people involved
10 in the drug scene?

11 A Yes.

12 Q And in that connection have you formed any
13 particular opinions as to the use of drugs by individuals?

14 A Use of drugs per se or are you trying to put them
15 all together?

16 Q Well, let's say the use of illegal drugs or the
17 illegal use of drugs.

18 A I would, -- uh, as the law stands, it is a
19 violation. I would have to -- I would have to be against it.
20 I'm not saying that certain laws pertaining to drug usage should
21 not be changed.

22 Q All right.

23 Well, let's put it this way: Because of your
24 connection with people who have used drugs, do you feel that if
25 the evidence discloses in this case that there was some usage
26 of drugs by some of the people involved in the case or in the
27 testimony, do you feel that, in and of itself, would prejudice
28 you against those people to the extent that you could not be

1 fair in determining their credibility?

2 A No, either way, for or against.

3 Q All right. So that drug usage in and of itself,
4 would not be the compelling factor in your determination of
5 their credibility, is that correct?

6 A Right.

7 Q It would be a factor, which, with all the other
8 factors that the judge gives you, as far as items for criteria
9 that you can look to to determine the credibility of a
10 witness, drug usage would be one of them but not necessarily
11 the one which would blind you to the other factors; is that
12 correct?

13 A That's correct.

14 Q All right, sir.

15 Now, again, I assume that since the young people
16 that you dealt with at Los Padrinos were between the ages of
17 17 and 18, you got into what might be termed the hippie group;
18 would that be true?

19 A Uh -- excuse me.

20 The -- that period of time, no. There was not
21 too many hippies around or so-called hippie group.

22 Of course, during that period of time, they did
23 have to conform to the -- they were much more rigid in that
24 time period so there was no beards, there was no long hair.
25 Everybody had to shave each and every day or when you needed
26 it. So, there was no appearance of any --

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1 Q That was within the institution you were talking
2 about?

3 A Right, right.

4 Q All right. Have you been in the Service at all,
5 sir?

6 A Four years.

7 Q And in what branch of the Service?

8 A The Air Force.

9 Q And did you see any combat duty at all?

10 A No.

11 Q Have you seen anyone ever killed?

12 A No.

13 Q Now, sir, again, these questions that I ask
14 concerning the death penalty of you, like the other jurors,
15 you understand I'm asking in a hypothetical sense, since I
16 don't assume that we are going to get there, but I must ask
17 some of these questions because this is the only opportunity
18 I've got; you understand?

19 MR. KAY: I'm going to object to Mr. Denny's gratui-
20 tous remark that he doesn't assume we're going to get there.
21 That's --

22 THE COURT: I think the jurors understand that there --

23 MR. KAY: Hope runs eternal.

24 THE COURT: Either way.

25 MR. DENNY: Hope runs eternal either way, 'if that
26 remark's going to stay in, your Honor?

27 THE COURT: Well, both remarks of Mr. Denny and Mr.
28 Kay are stricken in respect to their last few comments.

3a-2

1 MR. DENNY: Thank you, your Honor.

2 MR. KAY: Thank you.

3 Q BY MR. DENNY: Mr. Braun, I take it, then, that
4 you have never been in a position that where, because of
5 your own conduct, your own act, your own willful, deliberate,
6 thoughtful act, you have had the situation where, what you
7 said alone would mean the death or the possible death of
8 another individual; is that correct?

9 A That's correct.

10 Q And is there anything about being in that
11 situation or possibly in that situation in this case that
12 makes you feel that you would rather not sit with that
13 responsibility?

14 A I'd have to weigh the facts.

15 Q And assuming the facts dictate in your mind that
16 the defendant in this case should suffer death. You would
17 feel that that would be something that you would be able to
18 do; is that right?

19 A Yes.

20 Q And assuming the facts in this case were such
21 that you did not feel that it was such a case that it did
22 not warrant the death penalty at all, would you have any
23 reluctance, any hesitation, whatsoever, in voting for life
24 rather than death?

25 A No reluctance.

26 Q And would you feel that you were doing your duty
27 as a juror, as a conscientious juror in returning such a
28 verdict if you felt that was a proper verdict?

3a-3

1 A Yes.

2 Q All right, fine.

3 I'll pass for cause on these issues, your Honor.

4
5 VOIR DIRE EXAMINATION

6 BY MR. KAY:

7 Q Mr. Braun, do you have a relative named Harlan?

8 A No, I don't.

9 Q Now, as far as the death penalty is concerned,
10 Mr. Braun, I take it that you have thought about it since
11 you've been in this courtroom?

12 A Yes.

13 Q Quite extensively?

14 A Yes.

15 Q Think about it over the weekend?

16 A Past two weekends.

17 Q And have you determined in your own mind that
18 if you felt that the evidence in this case warranted it,
19 that you could vote for the death penalty?

20 A Yes, I could.

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

22 A No doubt.

23 Q And, as Mr. Denny was questioning you, and as
24 I explained to some of the -- some of the other jurors, in
25 order to have a verdict of death, all 12 jurors must
26 personally participate in that verdict.

27 In other words, if one juror disagrees, then,
28 there's no verdict either on guilt or on death.

3a-4

1 Do you understand that?

2 A Yes, I do.

3 Q And are you willing to personally participate
4 in a verdict of death if you think it is just?

5 A Right.

6 Q Do you feel that any moral or religious beliefs
7 that you presently hold would prevent you from voting for
8 the death penalty in this case?

9 A No, I don't know of any.

10 Q Well, I'm sure if you don't know of any, there
11 aren't any.

12 A You never know.

13 Q Would you even consider finding Mr. Davis guilty
14 of less than first degree murder for the sole reason that you
15 would want to avoid facing the responsibility of moving on
16 to the second phase of this trial and making the determination
17 as to whether or not he got life imprisonment or suffered
18 the death penalty?

19 A No.

20 Q Have you ever belonged to or sympathized with
21 any organizations which might be opposed to the death
22 penalty?

23 A No.

24 Q And do you have any close friends or relatives
25 who you feel are against the death penalty and might try and
26 influence you to vote for life imprisonment if you are
27 seated as a juror in this case?

28 A No, not on your side.

K3a-5

Q What does that mean?

A Well, I'm speaking -- you asked me the question of -- about -- of anybody that would try to influence me to vote against it.

Uh, I would say, uh, in my family there are a few of the old -- uh, father or aunt or uncle of that -- that are very strong, staunch, that are definitely for it, uh, uh, by reading in the paper or TV or something like that, that would say, well, string them up or something like that.

3b fls.

3b-1

1 Q Well, you understand that either way you can't
2 let anybody influence you if you are sitting on this jury.
3 It is your own opinion, not your father's or your aunt or
4 wife or whatever.

5 A Correct.

6 Q You understand that.

7 And if you are seated as a juror in this case,
8 you can't even let anybody talk to you about that until the
9 case is over; do you understand that?

10 A Right. Correct.

11 Q And you promise me if you are seated as a juror
12 you won't do that? You won't talk to anybody either about the
13 facts of the case or about the death penalty?

14 A I agree.

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

17 A No, I can't think of any reason.

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

21 A Yes.

22 Q Now, when you were in the Juvenile Hall there,
23 did you ever deal with any individuals who had a petition
24 of murder sustained against them in the juvenile court?

25 A Yes.

26 Q Numerous individuals or what?

27 A I can recall in nine years one incident.

28 Q I take it that the Juvenile Hall that you worked

1 at is not a maximum security juvenile hall? Or is it?

2 A They can't get out.

3 Q You make sure of that, huh?

4 A Right.

5 Q And did you understand what I said about reason-
6 able doubt?

7 A Yes.

8 Q Do you think you understand that?

9 A I would like to have the Court's interpretation
10 of a reasonable doubt.

11 MR. KAY: Does the Court want to read the instruction
12 on it?

13 THE COURT: Not at this time. The Court will repeat
14 it at the conclusion of the case.

15 MR. KAY: All right.

16 Q You understand that the prosecution only has the
17 legal burden of proving the defendant guilty beyond a
18 reasonable doubt; do you understand that?

19 A Yes.

20 Q And you understand that from the Court's reading
21 of the instruction before, that this does not mean that we
22 have to prove the defendant guilty beyond a shadow of a
23 doubt, to an absolute certainty, beyond all doubt; only
24 beyond a reasonable doubt, a doubt based on reason? Do you
25 understand that?

26 A Yes, and no.

27 Q Well, I sympathize with you, that it is a hard
28 concept. But if you are reasonable and you do promise me

1 that if you sit on the jury that you will be reasonable?

2 A Yes, as far as I'm reasonable.

3 Q All right. Well, there's a reasonable juror
4 and a reasonable doubt.

5 THE COURT: Let me read the instruction.

6 "The defendant in a criminal action is
7 presumed to be innocent until the contrary is
8 proved. And in case of a reasonable doubt
9 whether his guilt is satisfactorily shown,
10 he is entitled to an acquittal. This presump-
11 tion places upon the State the burden of proving
12 him guilty beyond a reasonable doubt.

13 "Reasonable doubt is defined as follows:

14 "It is not a mere possible doubt because
15 everything relating to human affairs and depending
16 on moral evidence is open to some possible or
17 imaginary doubt. It is that state of the case
18 which, after the entire comparison and considera-
19 tion of all the evidence, leaves the minds of
20 the jurors in that condition that they cannot say
21 that they feel an abiding conviction to a moral
22 certainty of the truth of the charge."

23 Q BY MR. KAY: Think you understand that?

24 A Want me to be honest?

25 Q Sure.

26 A No, I still don't feel that I really know what
27 you want by a reasonable doubt.

28 Q You mean what the Court wants?

1 A Right.

2 Q And it's the Court's instruction.

3 Well, I'm sure Mr. Denny and Mr. Manzella and
4 myself will have a few things to say about what constitutes
5 a reasonable doubt in our final arguments in this case, and
6 we can clarify it for you a little more.

7 Now, would you give any less weight to the
8 testimony of a witness because that witness is a police
9 officer?

10 A No.

11 Q Do you feel to any degree, whatsoever, any bias
12 or prejudice against police officers?

13 A They're human beings.

14 Q Well, I'm not sure that you answered my question.

15 Do you feel any bias or prejudice to any degree,
16 whatsoever, against police officers?

17 A No.

18 Q Now, you stated when -- in your first response
19 to the Court that you felt some compassion for Mr. Davis
20 at this point?

21 A Yes.

22 Q Do you know anything about Mr. Davis?

23 A Never heard of him or saw him before.

24 Q All right. So you'd listen to the evidence in
25 this case impartially, wouldn't you?

26 A Yes.

27 Q And you'd give both sides a fair trial?

28 A Yes.

1 Q And if you felt Mr. Davis was guilty beyond a
2 reasonable doubt, what you determine that to mean, that you
3 would convict him in this case, wouldn't you?

4 A Yes.

5 THE COURT: We'll take a recess for about ten minutes,
6 ladies and gentlemen.

7 During the recess you are obliged not to converse
8 amongst yourselves, nor with anyone else, nor permit anyone
9 to converse with you on any subject connected with the
10 matter, nor are you to form or express any opinion on it
11 until it is finally submitted to you, should you be chosen
12 as jurors.

13 We'll take between ten and fifteen minutes.

14 (Morning recess.)
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4 fls.

4-1

1 THE COURT: Is Mrs. Nelson here now? Mrs. Nelson?

2 PROSPECTIVE JUROR NELSON: There's two.

3 THE COURT: Pardon?

4 PROSPECTIVE JUROR NELSON: There's two.

5 THE COURT: Two Mrs. Nelsons? Were you here yesterday?

6 PROSPECTIVE JUROR NELSON: Yes. I'm Josephine. The
7 other one is Shirley.

8 THE COURT: Oh, I see. In other words, the other Mrs.
9 Nelson, who was absent yesterday, --

10 PROSPECTIVE JUROR NELSON: Yes, she wasn't here yester-
11 day. That's Shirley.

12 THE COURT: Well, Shirley Nelson, we have been informed
13 that she suffered an automobile accident, and she is excused.

14 And also Mr. Freer.

15 THE BAILIFF: F-r-i-e-r.

16 THE COURT: And Frier. It is stipulated that he may
17 be excused, likewise?

18 MR. DENNY: So stipulated.

19 MR. MANZELLA: So stipulated.

20 THE COURT: You may proceed, Mr. Kay.

21 MR. KAY: Thank you, your Honor.

22
23 VOIR DIRE EXAMINATION OF

24 CHARLES A. BRAUN

25 BY MR. KAY:

26 Q Mr. Braun, I take it that you heard the questions
27 I asked the other jurors on circumstantial evidence, that
28 example I went through?

4-2

1 A Yes, sir.

2 Q All right. And would you follow the Court's
3 instructions to the effect that there's -- in the eyes of
4 the law, that one type of evidence does not have more weight
5 than the other?

6 A Right.

7 Q And do you feel that it's unfair to try a
8 defendant for murder, where law enforcement authorities and
9 prosecution authorities have been unable to find the body of
10 the victim of the murder?

11 A It is right.

12 Q Well, my question was: Do you feel that it is
13 unfair --

14 A No.

15 Q All right. And do you quarrel with the law
16 that permits the death of a victim to be proven by circum-
17 stantial evidence?

18 A No.

19 Q And if you believed that Mr. Davis was guilty of
20 first degree murder on Count No. III, the murder of Donald
21 Jerome Shea, beyond a reasonable doubt, would you vote to
22 convict him of that murder, even though Mr. Shea's body had
23 not been recovered?

24 A Yes.

25 Q And would you automatically vote against the
26 imposition of the death penalty, in Count No. 3, the murder
27 of Donald Jerome Shea, for the reason that Mr. Shea's body
28 had not been found?

4-3

1 A No.

2 Q Have you, or has any close friend or relative,
3 ever been accused of a crime, other than a minor traffic
4 offense?

5 A My brother.

6 Q And what charge was that?

7 A GTA, when he was 13 years of age.

8 Q And he was treated as a juvenile then?

9 A Yes.

10 Q And was the petition sustained or --

11 A Yes. Yes, he was put on probation.

12 Q And do you feel that anything that happened --
13 well, do you feel that he was fairly treated in that --

14 A Yes.

15 Q So I take it that nothing that happened in that
16 case would prejudice you against the law enforcement
17 authorities or --

18 A No.

19 Q And do you feel that you could give the People
20 of the State of California a fair trial in this case?

21 A Yes.

22 MR. KAY: Thank you. Pass for cause, your Honor.

23 MR. DENNY: Your Honor, I wonder, in view of Mr.
24 Braun's answers to a couple of the questions, if I may have
25 an opportunity to ask him a few more questions.

26 THE COURT: Yes, you may.

27
28 FURTHER VOIR DIRE EXAMINATION

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1 BY MR. DENNY:

2 Q Mr. Braun, I did mean to ask you -- and Mr. Kay
3 asked you -- about the initial comment you made, and I
4 wasn't quite sure what you had meant by it.

5 My notes reflect that you said something to the
6 effect, "As a human being, I feel that the defendant is
7 still innocent until proven guilty. But there is still a
8 stigma attached to it. He'll have to live with it the rest
9 of his life."

10 A That's correct.

11 Q And I'm not sure exactly what you mean by that,
12 what your state of mind is in connection with the Court's
13 question that you answered that way.

14 I take it you start off with the presumption
15 in law that there is that the defendant is innocent,
16 until proven guilty beyond a reasonable doubt and to a
17 moral certainty; is that right?

18 A Right.

19 Q Now, over and above that, apparently you have
20 some -- some feeling that having been charged with a crime,
21 or -- if he's either guilty or found not guilty, he would
22 have a stigma, or he would have to live with it.

23 What do you mean by that? I don't quite under-
24 stand.

25 A Well, as he sits there, there is a stigma
26 attached. If he's tried and found guilty -- or not guilty,
27 or of lesser degree -- there's still a stigma attached
28 there. And it will stay. It usually will stay with a person.

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4a fls.

1 as it's been proven before, having a hard time without a
2 stigma attached to it, of getting through life, of making
3 a living.
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1 Q All right. Well, again, assuming the validity of
2 that observation, their merely having been charged with a
3 crime -- and certainly, a crime of the magnitude of the crimes
4 charged against this defendant -- will create a stigma, no
5 matter whether he's found innocent or not, do you have any
6 feelings, as you sit there, that would affect your judgment
7 as to his guilt or innocence?

8 A No.

9 Q It wouldn't create any sympathy for him that
10 would affect your judgment; is that right?

11 A No.

12 Q All right. It's just a fact of life, and you go
13 from there?

14 A Right.

15 Q All right. Now, again, the judge has now read,
16 in your hearing at least, this reasonable doubt instruction,
17 twice. And the only difference between reading it a third
18 time and reading it two times is the time that it would take
19 to read it again. And having heard it twice, you still
20 apparently would have some difficulty in following that
21 instruction, even though you've indicated to the Court,
22 "Yes, I'll follow your instructions."

23 But you can't follow an instruction you don't
24 understand. And apparently you are upset by something within
25 that instruction.

26 I'm upset by a few things, too, but maybe I've
27 heard it long enough and know some of the law behind it, and
28 you don't.

44a-2

1 But what we wanted to find out is -- and this is
2 just as important to the People as it is to the defendant -- is
3 what it is that upsets you, what it is that causes you concern,
4 what it is that causes you perhaps difficulty in applying that
5 which is a fundamental instruction, in the field of criminal
6 prosecution.

7 Could you tell us?

8 A When you say a reasonable doubt -- uh -- since
9 there is no 60/40, or 70/30 or something like that, I would
10 more or less have to -- to do justice to both sides, I would
11 just more or less have to weigh the facts myself; and, in my
12 own mind, of saying: "Is it beyond a reasonable doubt?"

13 I can't -- as I sit here, I cannot give you a real
14 explicit answer to what I feel is a reasonable doubt, till I
15 hear both sides of it.

5 fol

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1 Q Well, you understand -- perhaps, put it this way:

2 There is a distinction in the burden of proof in a
3 civil case in which the plaintiff, the equivalent to the
4 People, the prosecution in a criminal case, the plaintiff, the
5 party bringing the action has the burden of proof in a civil
6 case, which is just the very slightest preponderance of the
7 evidence. If the evidence is closely balanced, but the jurors
8 feel, well, I'd say on the whole that the evidence preponder-
9 ates even slightly in favor of the plaintiff, the plaintiff,
10 has met that burden of proof. It is just a feeling, kind of,
11 within the jury, "Yes, they have preponderated enough so that
12 it tips the scales just slightly in their favor."

13 Distinguished from that is the burden of proof in
14 a criminal case, which is beyond a reasonable doubt, to a
15 moral certainty that the jury feels an abiding conviction to
16 a moral certainty of the truth of a charge.

17 Now, those words are somewhat indefinite. But they
18 obviously create a much heavier burden and about the only
19 difference is that it is not beyond all possible doubt. Be-
20 cause as the judge says, everything dealing in human affairs
21 and depending on moral evidence may have some possible or
22 imaginary doubt, but exclusive of that just imaginary far-
23 fetched doubt, it means every other doubt, every reasonable
24 doubt is taken care of. And it is a heavy burden,

25 Now, assuming that I have not misstated the law,
26 and if I had I'm sure the prosecution and the judge would have
27 corrected me, do you have any difficulty in feeling that you
28 could apply that burden in determining the guilt or innocence

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1 of the defendant in this case?

2 A Yes.

3 Q You do feel you have some difficulty with it?

4 A No, no, I do feel in my own mind --

5 Q That --

6 A -- that beyond a reasonable doubt is beyond --
7 there can't be any doubt in my mind.

8 Q Well, now, here again --

9 A Doubt in my mind -- let me put it this way,
10 doubt in my mind as far as over a reasonable doubt.

11 Q All right. I think we're communicating, but you
12 do get -- there's -- the burden is not so insuperable that
13 every possible imaginary doubt -- you know, somebody can throw
14 up something and say, yeah, this may be, but the jury may
15 say, yeah, but there's no evidence at all to support that.
16 That's an imaginary doubt you are creating.

17 But on the other hand, excluding those imaginary
18 doubts, you still have to be convinced beyond a reasonable
19 doubt and to a moral certainty, and that's the burden.

20 And can you apply that burden in this case?

21 A Yes.

22 Q All right, sir.

23 I will pass for cause, your Honor.

24 MR. KAY: May I just briefly question him on this point?

25 THE COURT: Yes, you may.

26 MR. KAY: Thank you, your Honor.

27

28

VOIR DIRE EXAMINATION

1 BY MR. KAY:

2 Q You understand that what Mr. Denny told you was not
3 exactly correct, because under the judge's instruction, defining
4 a reasonable doubt, it says it is not a mere possible doubt,
5 because everything relating to human affairs and depending on
6 moral evidence is open to some possible imaginary doubt. So,
7 it is not just an imaginary doubt. It is also possible doubt,
8 which is not within the definition of reasonable doubt. It is
9 only -- the prosecution has only the burden of proving the
10 defendant guilty beyond a reasonable doubt. Not to the
11 exclusion of all possible doubt or imaginary doubt. It is not
12 just imaginary doubt.

13 Do you understand that?

14 A Yes.

15 Q So you understand what Mr. Denny's definition was,
16 was not a precise definition; do you understand that?

17 A Right.

18 Q But do you think you have some understanding of what
19 the Court's definition was now? It is a doubt based on
20 reason, a reasonable doubt. Not just something that you can
21 think -- well, say on the handwriting, that example I gave you
22 on circumstantial evidence. Well, a possible doubt was, say,
23 you were trying to prove the defendant at some time held a
24 pen in his hand at some time or other and you proved that he
25 had signed this credit card sales check. And you said, well,
26 that shows -- and it was in ink. And that proves that he held
27 a pen in his hand and you can say, "Well, gee, what if he wrote
28 it with his feet? Some people can write with his feet."

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1 Well, that can be a possible doubt, I suppose, but
2 that's not reasonable, is it? It is not a reasonable doubt.

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1 MR. DENNY: Depends on the rest of the evidence, your
2 Honor. I think it is asking him to prejudge the facts of
3 that particular case.

4 THE COURT: That may be so.

5 Q BY MR. KAY: All right. You understand some of the
6 factors you have to take into consideration between mere
7 possible doubt and reasonable doubt?

8 A All right.

9 Q Okay.

10 Thank you, I have no further questions.

11 THE COURT: Anything further now?

12 MR. DENNY: I think both of the jurors, your Honor --

13 THE COURT: I think at this time -- yes, the Court would
14 like to question Mr. Campbell and Mr. Braun outside of the
15 presence of the panel.

16 Mr. Kuczera, where will the panel be?

17 THE BAILIFF: Be in the hall, sir.

18 THE COURT: You have seating arrangements for them?

19 THE BAILIFF: Yes, sir, there's some.

20 THE COURT: All right, ladies and gentlemen, the Court
21 will ask you to leave the courtroom now. And during the time
22 that you're outside of the courtroom, don't converse amongst
23 yourselves concerning this case or permit anyone to converse
24 with you about it. And everyone but Mr. Braun and Mr. Campbell
25 please leave the room.

26 (Whereupon, the prospective jurors retired from
27 the courtroom, and the following proceedings were had:)

28 THE COURT: All right, Mr. Braun, perhaps you could wait

1 just outside the door.

2
3 VOIR DIRE EXAMINATION OF
4 LAWRENCE CAMPBELL

5 BY THE COURT:

6 Q Mr. Campbell, we're interested in why you raised
7 your hand. What caused you to raise your hand? Had you heard,
8 seen or read something that you had not encountered when the
9 Court was asking about your previous contact with publicity.

10 A I raised my hand because I had heard something on
11 Monday and I pulled it down because I didn't know if it was
12 within 24 hours. But I had heard something on the radio.

13 Q All right, what had you heard?

14 A I had heard that Charles Manson asked for a re-
15 trial.

16 Q And that was in connection with the recent
17 prosecution?

18 A It didn't say. It just said that.

19 Q I see. You were listening to the radio and you
20 heard --

21 A I was listening to the radio, yes.

22 Q Had you heard something before you could turn it
23 off or turn it down?

24 A Yes.

25 Q You had absorbed that information, right?

26 A Yes.

27 Q Did the announcement state at all what the case --
28 what the motion pertained to?

1 A It stated the reason. It didn't -- I'll tell you
2 what I heard, and then you can -- I heard that -- I was driving
3 into the parking lot yesterday before lunch, and I heard that
4 Charles Manson asked for a re-trial. And the reason was be-
5 cause there was fist fighting on the jury. And that's all that
6 was stated.

7 Q Do you think that would affect your judgment
8 whatever in the case?

9 A I don't think so.

10 Q Do you think that you could still be fair and
11 impartial?

12 A Yes.

13 Q Could you set aside whatever inferences you might
14 take from that, whether now or later, whatever they may be --
15 I know it is difficult to prognosticate what your feelings
16 might be in the future, but let's assume that you learn that
17 Charles Manson was somehow or other connected with these
18 alleged charges here.

19 A I could separate it.

20 Q Yes.

21 Could you separate effectively --

22 A Yes.

23 Q -- in your mind that which you learned over the
24 radio and that which is produced here as evidence in court?

25 A Yes.

26 THE COURT: All right. Either of you gentlemen have any
27 questions?

28 MR. KAY: No questions by the People.

1 MR. DENNY: Yes, I would like to ask a couple of
2 questions.

3
4 VOIR DIRE EXAMINATION

5 BY MR. DENNY:

6 Q Mr. Campbell, insofar as this particular radio
7 announcement that you heard, what station were you listening
8 to?

9 A KISS.

10 Q And was this just shortly after noon, around
11 1:00 o'clock?

12 A No, it was before.

13 Q Before noon?

14 A Yes.

15 Q Do you recall which?

16 A At what time?

17 Q At about what time.

18 A I think it was 11:15. They have a newscast at
19 a quarter past the hour, and I believe that was the time.

20 Q All right. And do you recall was the announcement
21 that you heard the first thing that came on the news?

22 A Yes, it was.

23 Q And, again, you heard that Mr. Manson was making a
24 motion for a new trial, is that correct?

25 A Yes.

26 Q Based on fistcuffs among the jurors?

27 A Yes.

28 Q And did it indicate the people who are the parties

1 to the trial other than Mr. Manson?

2 In other words, what he had been tried for, what he
3 had been convicted of?

4 A No. What I said is -- that's all the announcer
5 said is that Mr. Manson asked for a re-trial. The reason,
6 there was fist fighting on the jury. There was no other
7 comments on this matter.

8 Q Well, did you push the station off or turn the
9 knob or turn off the program or what?

10 A I was turning into the parking lot at the time.
11 And I turned it off after I got in, but I --

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1 Q Well, would you say that you heard, then, the
2 next news item that came on after that?

3 A I -- I don't know. I can't recall it.

4 Q Well, would you say that you heard all of this
5 particular news item?

6 A I -- I think so, but I don't --

7 Q All right, fine.

8 Thank you.

9 A I would like to change a couple of answers that
10 I gave previously.

11 THE COURT: Go ahead.

12 PROSPECTIVE JUROR CAMPBELL: That was in relation to
13 friends and relatives.

14 THE COURT: All right.

15 PROSPECTIVE JUROR CAMPBELL: As attorneys. I have a
16 friend that is an attorney. I don't see him very often.
17 That's probably why I didn't pay any attention to it.

18 THE COURT: Is he connected with the prosecutor's
19 office?

20 PROSPECTIVE JUROR CAMPBELL: I don't know.

21 THE COURT: Do you know whether he handles the defense
22 of criminal cases?

23 PROSPECTIVE JUROR CAMPBELL: No, I don't.

24 THE COURT: Do you think that this would affect your
25 judgment in any way?

26 PROSPECTIVE JUROR CAMPBELL: No.

27 And the other two, I have friends, not good
28 friends, acquaintance friends that are judges that I have

1 played golf with through the club that I work for, has the --

2 THE COURT: What company is that?

3 PROSPECTIVE JUROR CAMPBELL: Bechtel Corporation.

4 THE COURT: I see. And there's a club that's connected
5 with Bechtel through which you play golf with these people?

6 PROSPECTIVE JUROR CAMPBELL: Yes.

7 THE COURT: Do you think that would affect your judgment?

8 PROSPECTIVE JUROR CAMPBELL: No.

9 THE COURT: Have you in any way discussed this case or
10 any case that you can remember with any of these judges
11 while you were playing golf?

12 PROSPECTIVE JUROR CAMPBELL: No.

13 THE COURT: All right.

14 Anything further, gentlemen?

15 MR. KAY: No questions.

16
17 VOIR DIRE EXAMINATION

18 BY MR. DENNY:

19 Q May I inquire who the judge is?

20 A Judge Moore and Judge Vince Erickson.

21 Q Which Moore is that?

22 A I think it is Dave Moore. He's an elderly man
23 and he's been sick, so I --

24 Q Have you discussed with Judge Erickson anything
25 pertaining to -- in the field of criminal law?

26 A No.

27 Q Justice?

28 A No, I don't even know what court he's connected to.

5b-3

1 Q All right.

2 Fine, I have no further questions.

3 MR. KAY: No questions.

4 THE COURT: Thank you.

5 Would you join the other jurors outside, please.

6 Send Braun in.

7
8 VOIR DIRE EXAMINATION OF

9 CHARLES A. BRAUN

10 BY THE COURT:

11 Q Mr. Brown -- Braun, before you came into this
12 courtroom and heard the Court read the indictment, had you
13 ever heard of this case?

14 A Not the Davis case. The Manson, yes. Uh --

15 Q Had you ever heard of a prosecution of anyone
16 for this case?

17 A The -- I heard Monday morning, approximately
18 about 8:00 o'clock in the morning, I was doing some things
19 on the house and the first part of it came over and I didn't
20 pay any attention to it, but then I heard the names of Gary
21 Hinman and Shorty Shea. And then the --

22 Q You mean yesterday morning you heard this?

23 A Yes.

24 Q I see.

25 A And I heard the verdict. A verdict was given of
26 life imprisonment. And then, it did mention Manson's name.

27 Q So that at this point you know that Mr. Manson
28 was convicted of the murders of Shorty Shea and Gary Hinman,

5b-4

6 fls.

1 if the news report is to be believed, is that correct?
2 A If that was -- if the radio reported as such,
3 yes.

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1 Q And had you previously, before yesterday, heard
2 anything whatever about the case?

3 A Not of this case. I -- I --

4 Q You had heard about the Tate-La Bianca killings?

5 A Right, on TV was the -- the first day, they
6 showed the area. But I don't usually read newspapers or
7 watch the news on TV, because it's more or less sensation-
8 alism; it sells papers.

9 Q Had you heard of the Manson Family, however?

10 A The Manson Family?

11 Q Yes. Charles Manson and the Manson Family.

12 A I've heard of this, -- I've heard of Mr. Manson
13 and his foll- -- I heard that he had a following. Just --
14 but of no names.

15 Q What were your views concerning the Manson Family?

16 A I had no views either way.

17 Q You didn't think of them as either good or bad?

18 A Well, I knew that -- knew that some evil was
19 committed; but that is not for me to judge, without hearing
20 both sides.

21 Q If a person, it should be disclosed on the part
22 of the evidence, is a member of the Manson Family or
23 associated with Charles Manson, then you would not take any
24 stand in your mind against him? You would not be prejudiced
25 by reason of your knowing this, to begin with; is that
26 correct?

27 A Right.

28 Q What had you heard, seen or read about Gary

6-2

1 Hinman or Shea?

2 A Gary Hinman and Shea, I do recall -- whether it
3 happened before the -- the incident out in Topanga Canyon,
4 I don't know. Before or after, I really don't know.

5 I -- I do recall hearing something about one of
6 them was a music composer or a writer of some sort.

7 Q You heard of musician Gary Hinman, then?

8 And then, had you heard about stuntman Shorty
9 Shea?

10 A As you say now, I do recall hearing that he was
11 a stuntman. Whether -- in what capacity, whether in the
12 movies or that, I don't know.

13 Q Have you heard -- had you heard previously that
14 he was deceased, or thought to be deceased?

15 A No, I did not know whether there was a body
16 found or not.

17 Q Do you read a newspaper daily?

18 A The sports page.

19 Q Do you read a news magazine regularly?

20 A No.

21 Q Do you watch television news reports regularly?

22 A I will have the TV on, say, prior to a sports
23 cast of some sort. But news, per se, no. I will have the
24 radio on, if I'm doing something around the house, or
25 something -- or doing something else; but it's more or less
26 for pleasure; you know, entertainment type of -- as far as
27 music goes, but --

28 Q All right. I see. Now, knowing what you have

1 learned about the Manson Family and about the Tate-La Bianca
2 case, and since you have heard something in connection with
3 the alleged death of Hinman and Shea, do you think that you
4 could effectively set aside such material, for the purpose
5 of making a judgment in this case, based upon the evidence?

6 A Yes, sir.

7 Q Would you be able to wipe your mind clean,
8 make it a blank, insofar as any news report concerning Charles
9 Manson and the Manson Family or this case is concerned?

10 A Yes. Each case is an individual, as it stands.

11 Q I'm not asking whether you can forget such
12 matters, but I'm asking you whether you could set them aside,
13 to make your mind a blank as to those things, for the
14 purpose of making an independent judgment, based on the
15 evidence in this case.

16 Can you do that?

17 A Yes.

18 Q Are you certain of your ability to do that?

19 A Yes.

20 Q And will you do that?

21 A Yes.

22 Q And will you be fair and impartial in this case?

23 A Definitely.

24 THE COURT: Mr. Denny?

6a Fls.

6a-1

VOIR DIRE EXAMINATION

BY MR. DENNY:

Q Mr. Braun, let me go right to this Monday report that you heard -- that is, just heard yesterday; is that correct?

A Right.

Q All right. And at about 8:00 o'clock in the morning, you heard that Mr. Manson was coming up for something in connection with his conviction, his most recent conviction; is that right?

A The way I interpreted it over the radio was that he was already sentenced to life imprisonment.

Q Um-hmmm.

A With -- what I got out of it, or ascertained --

Q And sentenced for what crimes?

A The Shorty Shea and Gary Hinman.

Q For those murders?

A Yes.

Q All right. Now, assuming the correctness of the reports in this case -- that they were not sensationalized, but at least factually reported, the conviction and the sentence imposed -- this would lead you to believe, I presume, that there had already been a judicial determination of the murder of Shorty Shea; is that right?

A I don't -- I -- I can't say yes or no, because I don't -- I didn't sit in. I didn't hear every detail.

Q I understand that. But you understand that a person can't be convicted of a crime -- can't be convicted of the

1 murder of someone, unless either a court or a jury has returned
2 a verdict of conviction of that crime.

3 A That's true. But I -- I got -- what I received
4 over the radio, it could have been for one or the other or
5 both; I don't know. I don't know. The radio did not -- the
6 radio stated both, but I can't say for sure that the radio was
7 reporting it as such.

8 Q I see. All right. So that as you are sitting
9 there, it's your state of mind, perhaps, that maybe Charles
10 Manson was convicted of one, and not the other, or at least
11 one, but you're not sure which; right?

12 A Well, like I said, I did hear both named -- both
13 names; and they did state death -- the life imprisonment; and
14 they mentioned both of the deceased.

15 So, I assume that it was for -- whether it was for
16 one Count, two Counts or three Counts or whatever, how many
17 Counts, I don't know.

18 But -- because they didn't go into any detail.

19 Q Um-hmmm.

20 A I'm just taking it as what I've heard.

21 Q All right. Well, let's get not, then, to simply
22 what you heard, but how your brain functioned thereafter,
23 having heard that.

24 And this is that your -- your state of mind right
25 now, is it your feeling right now that Shorty Shea probably is
26 dead? Based on what you've seen, heard or read?

27 A Uh -- as I sit here, I can't say definitely.

28 Q Or Gary Hinman? As a juror, are you of the state

1 of mind that, based on what you've seen, heard or read, that
2 Gary Hinman is probably dead?

3 A I don't know. Stranger things have happened.

4 Q Well, do you have a -- a feeling at this point
5 that, again, based on what you've seen, heard or read, that
6 some jury has made a finding already that Shorty Shea --
7 taking the first one -- is dead?

8 A Yes. I can assume that twelve people felt that
9 Gary Hinman is dead.

10 Q Well, I said Shorty Shea, and you are saying Gary
11 Hinman.

12 A Either one. I'm sorry.

13 Q Either one. All right. Well, is it your feeling
14 at this point, then, that there probably has been a judicial
15 determination, a jury verdict establishing the death of,
16 say, Shorty Shea?

17 A I can assume. But it's not -- it's not any
18 positive thing.

19 Q Um-hmmm. Well, now, you understand that one of
20 the main questions to be resolved in this case is whether
21 Shorty Shea is actually dead or not; do you understand that?

22 A Yes.

23 Q And if so, whether his death was caused by
24 criminal, rather than accidental or any other means;

25 Do you understand that?

26 A Right.

27
28

6b-1

1 Q And then even assuming that, whether this
2 defendant had anything to do with it; do you understand that?

3 A Yes.

4 Q All right. Now, with your present state of
5 mind, that you think a jury here in this county has already
6 made a determination that Shorty Shea is dead, that he was
7 killed, that he was killed by criminal means, and that Mr.
8 Manson had something to do with it, do you think that you
9 could fairly determine in this case -- well, do you think
10 that that would sort of preclude you, at least, from
11 finding that Shorty Shea was not dead?

12 Do you think that would have such an effect
13 on you, that you would say, "Well, it's already been
14 established that he's dead. I am not going to say that
15 he's not dead."

16 Do you understand that?

17 A I understand that. No, not even 12 people
18 in a jury can be -- they do make mistakes, as human beings
19 do, so there's no presumption on my part of -- either way.

20 I would have to hear both sides. To me, there's
21 another man on trial, and not -- and not Manson.

22 Q Well, there's another man. But some of the issues
23 are the same; you see?

24 A Correct.

25 Q All right. Now, some people feel, "Look, I
26 don't know what they heard, what evidence was produced,
27 but if they made that finding, they must have had good and
28 sufficient reason, and no matter what I hear, I am not going

6b-2

1 to make a different finding; no matter what I don't hear,
2 I am not going to make a different finding."

3 And they would be foreclosed from ever making
4 a different determination, if they thought that one jury
5 had already said that they felt that this guy was dead;
6 see?

7 Now, you seem to be of the opinion that, "Well,
8 juries can make mistakes."

9 And they do make mistakes -- unfortunately. And
10 that another jury, hearing other evidence, perhaps new
11 evidence -- perhaps not hearing the same evidence that that
12 jury, the earlier jury, heard -- might be able to determine
13 a little different what the facts are, or are not.

14 Now, is that your state of mind?

15 A Definitely.

16 Q So that in this case, would you put out of your
17 mind entirely this state of mind that you presently have --
18 and, as you say, you are not sure; you presume from news
19 reports, but even so, you are not sure -- but whatever that
20 state of mind is, can you put that out of your mind in
21 determining, in this case, the issue, which is: Is Shorty
22 Shea dead? Was he killed by criminal means?

23 Can you do that?

24 A Yes. But I mean, when you say "definitely put
25 out of your mind," there's -- whatever's in your mind now
26 is there to stay. You are not --

27 Q All right.

28 A But to hear the case, each individual case

1 separately, that's all a person can do.

2 Q Obviously, as the Judge says, you can't
3 possibly forget that it's there, stored in the computer
4 somewhere. But you can at least cut that off from that
5 which is going to affect your deliberations, in determining
6 the truth or falsity, or where the truth lies in this case;
7 is that it? Is that right?

8 A Right.

9 Q And you are able to do that?

10 A Yes.

11 Q And can you again so cut that off in the
12 computer section of your brain that you would not discuss
13 it with your fellow jurors?

14 A True. That would definitely be my obligation.
15 I would not have to discuss it, because at some point, that
16 is -- that is to say -- what you might say is -- people can
17 be led.

18 Q That's right.

19 A And something like that, on a case like this,
20 would not be fair at all.

21 Q That's right.

22 A Well --

23 Q I've got to determine whether I think you have
24 got this information -- which might, as you say, sway some
25 people, although it would apparently not sway you -- but
26 whether you could keep that information to yourself and not
27 disseminate it to other jurors.

28 And you feel you could do that?

1 A Yes.

2 MR. DENNY: I'll pass, your Honor.

3 MR. KAY: No questions, your Honor.

4 THE COURT: All right. Mr. Braun, would you return
5 with the panel at 1:45? Don't discuss the case with your
6 fellow jurors or with anyone else. Return at 1:45. I'm
7 going to take a recess until that time.

8 Will you have somebody inform the panel that
9 they are to return at 1:45?

10 THE BAILIFF: Yes, sir.

11 (Whereupon, at 12:00 o'clock noon, a recess
12 was taken in this case until 1:45 o'clock
13 p.m. of the same day.)
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1 LOS ANGELES, CALIFORNIA, TUESDAY, DECEMBER 14, 1971, 2:00 P. M.

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THE COURT: People versus Davis.

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The record will show that the defendant is present. All counsel are present, and the prospective jurors are all present.

7

I believe it is the People's --

8

Both sides pass for cause?

9

MR. MANZELLA: Yes, your Honor.

10

MR. DENNY: Yes.

11

THE COURT: I believe it is the People's peremptory.

12

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MR. MANZELLA: People would like to thank and excuse Charles Braun, your Honor, juror No. 8.

14

THE COURT: Thank you, Mr. Braun.

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16

Report to the 15th floor of the new Hall of Records, will you please, the jury assembly room there.

17

THE CLERK: Andrew J. Micsky, M-i-c-s-k-y.

18

19

VOIR DIRE EXAMINATION OF

20

ANDREW J. MICKSKY

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BY THE COURT:

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Q Mr. Micsky, were you present when the Court explained the nature of this case and read or paraphrased the indictment and conversed with prospective jurors?

25

A Yes, sir.

26

27

Q And you've been present since, except during the time when you were excluded by the Court?

28

A Correct.

7-2

1 Q Would your answers be any different than the majority
2 of the jurors have responded to the questions of a general
3 nature that I put to those prospective jurors?

4 A No, sir.

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

7 A Yes, sir.

8 Q In what way?

9 A I have to get back to work. I can't take off two
10 more months.

11 Q Will you not be paid, is that it?

12 A No, I just have a brand new office and only four
13 employees. My operation's officer will be going for an
14 operation.

15 Q Are you a sole-practitioner of some --

16 A No, I work for a savings and loan.

17 Q Pardon?

18 A I work for a savings and loan.

19 Q You work for a savings and loan company?

20 A Correct.

21 Q And they will pay you if you serve through
22 February?

23 A I'm sure they would. However, I checked with the
24 personnel manager and he would just as soon have me go back
25 to work.

26 Q Well, you understand that the jury duty -- the
27 Court knows that you expect to, when you do jury duty, sustain
28 some sacrifice, some personal sacrifice. And the Court does

7-3

1 not wish to release you for just mere inconvenience. Every-
2 body is inconvenienced by jury duty. And that's why, really,
3 only the very responsible people in the community undertake
4 jury duty. But it is not just an idle act --

5 A I know that.

6 Q -- by which the Court releases you. It is only
7 upon some reflection and upon a finding that it constitutes
8 quite a hardship to you.

9 Now, what sort of a hardship would it constitute
10 to you if you were to be required to serve as a juror in this
11 case?

12 A Well, I am the branch manager and I have to be
13 sure that there's always a replacement there for me from one
14 of the other offices.

15 Q You are a branch manager of a savings and loan --

16 A Correct.

17 Q -- company?

18 What savings and loan is that?

19 A Valley Federal.

20 Q How many branches are there?

21 A Nine.

22 Q The principal reason for your being present each
23 day would be to make sure that there is somebody present who
24 could do what; manage the branch; is that it?

25 A Right, take over my responsibilities.

26 Q Well, who is doing them at the present time?

27 A My assistant manager.

28 Q Well, are you concerned that the work will not be

1 done, is that it?

2 A Well, it is making sure that there's sufficient
3 staff to keep operating.

4 Q Well, offhand, Mr. Nicsky -- Nixky --

5 A Micsky.

6 Q Micsky -- I'm sorry, would you spell that for me,
7 please?

8 A M-i-c-s-k-y.

9 Q Thanks. I'm sorry to have mispronounced that. I
10 misunderstood.

11 Mr. Micsky, it doesn't appear to me to be the kind
12 of a hardship which would constitute a sufficient hardship to
13 be released.

14 Let me ask you this, have you served as a juror
15 before?

16 A No, sir.

17 Q And how long have you been engaged in the business
18 that you are engaged in now?

19 A Fifteen years.

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

22 A No, sir.

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- 1 Q Is there a Mrs. Micsky?
- 2 A No, sir.
- 3 Q In what general area do you reside?
- 4 A In Hollywood.
- 5 Q Have you ever had any legal training?
- 6 A No, sir.
- 7 Q Are you acquainted with any lawyers?
- 8 A I know a few; not --
- 9 Q Any close friendships?
- 10 A Not close friendships, no, sir.
- 11 Q And you have no friends or relatives who are
- 12 law enforcement officers, as I've explained law enforcement
- 13 officers to be, including Deputies District Attorney or
- 14 Deputies Attorney General?
- 15 A No, sir.
- 16 Q Concerning the death penalty, would your views
- 17 be such about that penalty that you could not be fair and
- 18 impartial in determining the question of guilt or innocence
- 19 in the first phase of the case?
- 20 A No, sir.
- 21 Q Or regarding that penalty, would you have such
- 22 views about it that you would automatically refuse to
- 23 impose it, regardless of the evidence in the case?
- 24 A No, sir.
- 25 Q Or would you automatically impose it, upon a
- 26 conviction of murder of the first degree, without regard
- 27 to the evidence?
- 28 A No, sir.

1 Q Now, other than the reason that you've given me,
2 concerning your employment here, your work, do you see any
3 other reason why you feel you shouldn't serve as a juror in
4 this case?

5 A No, sir.

6 Q Do you think you could be fair and impartial in
7 the case?

8 A Yes, sir.

9 Q You have heard of the Manson Family?

10 A Yes, sir.

11 Q Because of what you've seen, heard or read
12 concerning that Manson Family, would you have such views
13 about it that you could not be fair and impartial to someone
14 whom the evidence might show was a member of that Family?

15 A No, sir.

16 Q Do you think that you can set that aside and
17 decide the case solely on the -- whatever feeling that may
18 be, if you do have one, concerning a Manson Family member --
19 you would set that aside and decide this case solely on
20 the evidence that's presented here and the Court's instruc-
21 tions of law?

22 A Yes, sir.

23 THE COURT: Mr. Denny?

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

25
26 VOIR DIRE EXAMINATION

27 BY MR. DENNY:

28 Q Mr. Micsky, you said you do know a few attorneys.

1 Is this through your business associations, --

2 A Yes.

3 Q -- at the savings and loan institution?

4 A Yes, sir, mostly.

5 Q And they come in as depositors or borrowers;
6 is that it? Or what?

7 A Not necessarily. Could have been on any -- well,
8 say, claims that they may have had for some reason.

9 Q Do you have any social contacts with any of them?

10 A Very seldom.

11 Q Have you discussed any matters pertaining to
12 criminal law, crimes, criminal trials, things like that?

13 A No, sir.

14 Q You indicated that there was no Mrs. Micsky at
15 the present time. Has there been in the past?

16 A No, sir.

17 Q And before you worked in the savings and loan
18 field, did you do any other kind of work?

19 A I was in the Army before that.

20 Q And what branch of the Army? What --

21 A Military Police.

22 Q And for how long were you in the MP's?

23 A Two years.

24 Q And was this stateside or overseas?

25 A Stateside.

26 Q And did you receive some training for that in
27 school?

28 A Just through basic training. The last eight

1 weeks were devoted to military police work.

2 Q And was that in the apprehension of criminals,
3 or strictly in patrol work? Or what?

4 A Both.

5 Q And were you given any instructions in various
6 crimes?

7 A No. Very general, if it was.

8 Q Well, were you given anything more about the
9 Uniform Code of Military Justice at that time, than you
10 received -- or any other Army recruit received --

11 A Yes.

12 Q -- at Basic Training?

13 A Yes, sir.

14 Q And in the course of your work as an MP, did you
15 make arrests?

16 A Yes, sir.

17 Q And did you do interrogation of arrestees?

18 A No, sir.

19 Q Have you maintained any kind of Service connec-
20 tion, by virtue of Reserve status?

21 A No, sir.

22 Q Other than this experience as an MP, have you had
23 any other kind of work in the field of law enforcement?

24 A No, sir.

25 Q In the past 15 years, that you say you have been
26 associated with savings and loan work, have you done any other
27 work besides the work in that field?

28 A No, sir.

1 Q Now, sir, again, have you done any reading in the
2 field of the death penalty? Ever?

3 A Just -- probably from newspaper articles; nothing
4 other than that -- magazines.

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1 Q And have you ever discussed it, either formally,
2 in discussion sessions of a formalized nature, or informally,
3 in bull sessions?

4 A In a bull session, probably.

5 Q And in such discussions, have you taken a side,
6 pro or con -- for it, or for the abolition of the death
7 penalty?

8 A No, sir.

9 Q Have these sessions arisen out of particular
10 cases that have been publicized at the time, or just sort of
11 in general the subject would come up?

12 A Just in general.

13 Q And is it your feeling at the present time that you
14 have no feelings, one way or another, as to the type of case in
15 which you would automatically impose the death penalty?

16 A No, I wouldn't.

17 No, I don't.

18 Q You have no such feelings presently?

19 A No, sir.

20 Q No preconceived ideas of a case in which you
21 would automatically impose the death sentence, --

22 A No, sir.

23 Q -- is that right.

24 Now, insofar as the questions that I have previously
25 asked the other jurors, have you been present during the past
26 week, when the whole venire was present in the courtroom? And
27 heard me ask questions of the other jurors?

28 A Yes, sir.

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1 Q And are there any questions that I asked of the
2 other jurors that you feel you would answer any differently?

3 A No, sir.

4 Q Have you had any experience at all with any people
5 involving the use of drugs, or involved in the use of drugs?

6 A No, sir.

7 Q Have you been the victim -- or your savings and
8 loan, your particular location -- been the victim of any crime
9 of any kind?

10 A Not the present location, no.

11 Q Have you previously been at a location that was
12 the victim of a crime?

13 A Yes, sir.

14 Q And what sort of crime?

15 A Holdup.

16 Q And were you involved in that at all?

17 A Afterwards. Not at the time that it happened, no.

18 Q Were you present at the time that it happened?

19 A Yes, sir.

20 Q You weren't aware of it as it went on, --

21 A No, sir.

22 Q -- is that right?

23 And did you appear in court in connection with
24 this particular holdup?

25 A No, sir.

26 Q Did any members of your staff appear in court
27 thereafter?

28 A Not in court. The FBI agents came to the office;

that's all.

Q Was this the only instance in which you personally had any involvement of any kind with any sort of violent crime?

A Uh -- I witnessed another holdup; not at our branch.

Q And where was that, and when?

A Hmmm -- that was the Union Bank, about 14 years ago.

Q Were you present as a customer then, or what?

A Yes.

Q All right. And were you personally robbed, or anything taken from you?

A No, sir.

Q Did you appear as a witness as a result of that?

A No, sir.

Q And did you make a statement to the police?

A No, sir. The guard apprehended him before he got out the door.

Q Now, as far as these two incidents, are these the only incidents that you are aware of, that either you or any close friend or relative have been involved in, insofar as being the victim or a near victim of a crime?

A Yes, sir.

Q And do you have any feeling that those two incidents would have such an affect on you that you might be a little bit prosecution-oriented, toward one charged with crime?

8a-4

1 A No, sir.

2 Q Do you feel, as you sit there, that one who has
3 been indicted by a grand jury, charged with serious crimes,
4 probably may be guilty of those, because of that charge?

5 A No, sir.

6 Q Or do you feel that he is clothed with the
7 presumption of innocence, and you will maintain that
8 presumption until the evidence is in -- is that correct?

9 A Yes, sir.

10 Q -- and all of the evidence is in?

11 And you would not make up your mind before the
12 evidence is all in, and you are instructed as to the law; is
13 that right?

14 A Correct.

15 Q No matter what the appearances might be at any
16 given point in the trial, until you've heard all the evidence,
17 and you are instructed on the law, you would not make up your
18 mind, and not remove that presumption of innocence from the
19 defense, --

20 A Correct.

21 Q -- is that correct?

22 A Yes.

23 MR. DENNY: All right. I'll pass for cause, then, your
24 Honor.

25 THE COURT: The People?

26 MR. MANZELLA: Thank you, your Honor.

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VOIR DIRE EXAMINATION

1
2 BY MR. MANZELLA:

3 Q Mr. Miesky, I have just a few questions I would
4 like to ask you.

5 Have you ever been accused of any crime, or do
6 you know anyone personally who has ever been accused of any
7 crime?

8 A No, sir.

9 Q Have you ever testified --

10 I believe you said you've never testified in a
11 criminal case; is that correct?

12 A No, sir.

13 Q And you've never served on a jury before?

14 A No.

15 Q Let me ask you a few questions about the subject
16 of the death sentence. Would you -- if, during the course of
17 your deliberations on the guilt or innocence of Mr. Bruce
18 Davis, the defendant in this case, if you were to look
19 ahead to the penalty phase, would you in any way consider
20 finding a defendant not guilty or finding him guilty of
21 something less than first degree murder, to avoid having
22 to make the decision as to whether or not he'll receive the
23 death sentence?

24 A No, sir.

25 Q Do you have any objection to the law which
26 allows the jury to impose the death sentence --

27 A No, sir.

28 Q -- on a -- and I take it that if you sat on this

1 jury, and the jury convicted the defendant of first degree
2 murder, and you felt after hearing all the evidence in the
3 case that the -- that for these crimes this defendant
4 deserved the death sentence, would you be able and willing
5 to vote for it?

6 A Yes, sir.

7 Q All right. Mr. Micsky, as to Count III of this
8 indictment, charging Bruce Davis with the murder of Donald
9 Shea, you already know from being in the courtroom that the
10 prosecution will not produce the body of Shea or photographs
11 of the body or an eyewitness to the killing of Shea.

12 Do you -- does knowing that make you close your
13 mind to the case? Does that make you feel, well, you really
14 don't have to think any more; that you could never vote
15 for conviction in a case like that?

16 A No, sir.

17 Q In spite of knowing those things, would you be
18 willing to be convinced beyond a reasonable doubt, if the
19 evidence can do that?

20 A Yes, sir.

21 Q All right. Mr. Micsky, under the law of
22 some of the instructions which Judge Choate has read to you--
23 or read to you and the other jurors -- already, one of the
24 laws he covered was the law of aiding and abetting, under
25 which a person can be convicted of first degree murder, even
26 though he was not present at the scene of the crime or even
27 though he was -- he did not strike the fatal blow.

28 Would you be able and willing to follow that law,

1 if you felt it applied to the facts of this case?

2 A Yes, sir.

3 Q Do you have any quarrel with that law? Does it
4 seem unfair to you at all?

5 A No, sir.

6 Q Now, just as you are not to have any prejudice
7 or bias against the defendant because he has been charged
8 with these crimes, you are not to have any sympathy for him,
9 because he has been charged with these crimes, in the guilt
10 phase of the trial.

11 Do you feel any sympathy for Bruce Davis because
12 he has been charged with these two murders?

13 A No, sir.

14 Q All right. Is there anything you can think of,
15 that you feel that Mr. Kay and I, as representatives of the
16 People, would want to know, in trying to determine in our
17 own minds whether you could be fair to the People in this
18 case?

19 A Not that I know of.

20 MR. MANZELLA: All right.

21 Thank you, Mr. Micsky.

22 And the People pass for cause, your Honor.

9 fls.

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1 THE COURT: All right, again, ladies and gentlemen,
2 I think it is incumbent upon the Court to excuse all of you
3 except for Mr. Micksy. So --

4 THE BAILIFF: Department 100.

5 THE COURT: So you can be seated in Department 100.

6 The Court would appreciate it if somebody first
7 out the door would open both doors, and if you would leave
8 very quickly and very quietly, thank you.

9 So assemble in Department 100, and we'll be
10 calling you again.

11
12 VOIR DIRE EXAMINATION OF

13 ANDREW J. MICKSKY

14 BY THE COURT:

15 Q Mr. Micksy, counsel and the Court would like to
16 know whether you had ever heard of this indictment before you
17 came into this courtroom -- when was it, Friday, a week ago --
18 and before the Court read this indictment to you. In other
19 words, had you ever heard it?

20 A I think I came in -- was it Thursday?

21 Q Did you?

22 A Thursday.

23 Q Well, before the Court read the indictment to you,
24 had you ever heard of the case, the prosecution --

25 A Just on TV and the newspapers.

26 Q Well, that's what I mean. We want to know whether
27 through the news media, any news media you have heard of the
28 case.

9-2

1 Had you heard the name Bruce Davis; heard, seen or
2 read it?

3 A I believe so.

4 Q Does it come to your mind whether you had heard,
5 seen or read it?

6 A I don't recall what it was about at this point. I
7 remember hearing the case and that was it.

8 Q Do you remember that anyone else other than Davis,
9 any other person other than Davis was prosecuted for it, for
10 these alleged crimes? Does it come to your mind that you have
11 heard, seen or read anything in connection with that?

12 A No.

13 Q Had you heard the name Shorty Shea before?

14 A Yes.

15 Q And in what connection do you recall that name?

16 A Just associated with the Manson Family.

17 Q Before I read the third Count of the indictment,
18 wherein Mr. Shea is alleged to be a victim of the Count of
19 murder charged therein, had you heard that Mr. Shea was
20 deceased or -- come to your mind?

21 A Yes.

22 Q What other facts or what other reports, rather,
23 do you recall from what you have heard, seen or read in connec-
24 tion with Mr. Shea?

25 A Nothing else that I recall.

26 Q What do you know about Gary Hinman, the name Gary
27 Hinman?

28 A It is about the same association. I remember hear-

1 ing it on the news.

2 Q That he was deceased?

3 A Yes.

4 Q Do you read a newspaper daily?

5 A Yes.

6 Q Times?

7 A The Times and the Wall Street Journal.

8 Q And you read both of those periodicals daily; and
9 in addition to that, do you read a news magazine?

10 A Yes.

11 Q And do you watch television news regularly?

12 A Probably four or five days a week.

13 Q How about radio newscasts?

14 A Yes, sir.

15 Q Daily or more than --

16 A I would say normally twice a day.

17 Q Twice a day, going to and from --

18 A Correct.

19 Q -- your bank; is that right?

20 A Yes.

21 Q Did you follow the Tate-LaBianca case, the homicide
22 case in the press and over these various media that you
23 mentioned?

24 A No, other than headlines.

25 Q Do you think someone who was associated with the
26 Charles Manson -- you did answer this in a way. I wish to
27 ask you again.

28 -- someone whom the evidence will show is associated

1 with Charles Manson can receive a fair trial from you?

2 A Yes, sir.

3 Q Are you capable, do you think, of setting aside,
4 for example, what you may have heard, seen or read about Shorty
5 Shea or Gary Hinman, just taking this one aspect of what you
6 have heard, seen or read regarding the death, the purported
7 deaths of these two alleged victims? Could you set that aside
8 and require the People to prove the element of death which is
9 an illegal death or an unlawful death, the unlawful killing,
10 rather? Would you require the People to prove that beyond a
11 reasonable doubt without relating to what you may have heard,
12 seen or read in the media?

13 A Yes, sir.

14 Q And are you confident of your ability to set aside
15 any information that you may have learned from the media
16 concerning this case and Mr. Manson?

17 A Yes, sir. Yes.

18 Q Will you do that?

19 A Yes.

20 Q And can you be fair and impartial and will you be?

21 A Yes, sir.

22 THE COURT: All right, Mr. Denny.

23

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MR. DENNY: Thank you.

VOIR DIRE EXAMINATION

BY MR. DENNY:

Q Mr. Micsky, when is the most recently that you have heard, seen or read anything about Charles Manson?

A A neighbor was on jury duty, I guess, about a month ago. We talked about that. He was part of the Manson Family. I don't recall which trial it was.

Q A neighbor of yours; who was that?

A Uh, Anthony -- (Pause) uh, Werner.

Q Anthony Werner?

A Werner, right.

Q And it was about a month ago that you discussed with him something concerning this jury duty in connection with one of the Manson cases?

A He mentioned that he was on the Manson trial.

Q Was that the Tate-La Bianca case?

A I really don't know.

Q Well, what did he tell you about it?

A Nothing, other than the fact I think they were locked up for, I think it was, two weeks or something like that.

Q Well, did he indicate to you the purpose for which he was locked up?

A No, we never got into any discussion on that.

Q When was this that you said you had this conversation with him?

9a-2

1 A I would say roughly a month ago.

2 Q About a month ago.

3 And had he just gotten off the case?

4 A No. I think they still had the penalty trial
5 after that.

6 Q And did he tell you what Mr. Manson was charged
7 with?

8 A No, we never discussed that.

9 Q He said they were going into the penalty phase?

10 A Correct.

11 Q At about that time?

12 A Correct.

13 Q Well, I'm -- how did this conversation happen to
14 come up?

15 A I don't know. Neighbors just started chatting
16 and --

17 Q Well, did you say anything yourself about your
18 going on to jury duty or did he just volunteer or that he was
19 on jury duty at that time or do you have any recollection?

20 A No. I knew he was on jury duty and I probably
21 said, "Are you still on jury duty?"

22 Q And at that time he told you yes, he was?

23 A Correct.

24 Q And the case he was on?

25 A I really don't recall if he mentioned the names
26 other than the Manson Family.

27 Q Well, did he mention that he was sitting on a
28 case trying Charles Manson?

9a-3

1 A I really don't know. He didn't say. I don't
2 recall.

3 Q Well, he didn't say, "I'm trying the Manson
4 Family," did he?

5 A No. He said he was on the Manson Family trial
6 or something to that effect. I didn't pinpoint it to any
7 individual.

8 Q Uh-huh.

9 Well, as a result of this information that your
10 neighbor -- is this just a next door neighbor, right next
11 door?

12 A Yes, sir.

13 Q All right. As a result of this information,
14 did you check the newspapers at all around that time to
15 determine what the status of that Manson case was?

16 A No, sir.

17 Q Or hear it on radio or television or anything?

18 A Not that I recall now, no.

19 Q Well, when is the last that you recall other
20 than this particular incident of hearing, seeing or reading
21 anything in connection with Charles Manson?

22 A Probably months ago. Nothing specific.

23 Q Well, is it your recollection now that --

24 A Well, I've heard it so many times that I really
25 can't recall when I've heard them.

26 Q Well, I understand that that might well be.
27 But is it your recollection now that you don't have any
28 knowledge at all as to the charge or any of the matters of

1 the case that this Mr. Anthony Werner was sitting on?

2 A No. I don't know any of the facts or who the
3 individuals were.

4 Q Well, when you say that you had heard that Mr.
5 Shea was deceased, do you recall when you heard that?

6 A It was right after it happened.

7 Q Right after what happened?

8 A When the news first came out.

9 Q Do you recall about when that was?

10 A Probably two years ago.

11 Q Based on what you have seen, heard and read
12 about that, is it your opinion that Mr. Shea is probably
13 dead?

14 A I really don't know.

15 Q Well, what did you see, hear or read about it?

16 A This is probably more the question.

17 Q Is the one -- is he the one that was out at the
18 ranch, supposedly?

19 A Well, there has been some publicity so I think
20 I can answer that yes.

21 I think I recall remembering that from --

22 Q Just that he was out at the Spahn Ranch?

23 A Correct.

24 Q Do you recall reading anything about anybody
25 looking for him out there at the ranch, for instance?

26 A Yes, I recall hearing that.

27 Q All right.

28 And do you recall anything either at or about

1 that time or since then pertaining to rumors on how he is
2 supposed to have died or whether he's supposed to have
3 died or anything of that kind?

4 A No, sir.

5 Q And Gary Hinman, is it your feeling you heard
6 about him about the same time that you heard about Shea?

7 A Just about the same time, I would say.

8 Q Do you recall what you heard about him?

9 A No, other than a name, really.

10 Q Well, would you say you've heard of either of
11 them since that time?

12 A No, other than here in the courtroom the past
13 week.

14 Q Now, you do take the Times and the Wall Street
15 Journal. And I take it you read them regularly each day?

16 A Not necessarily regularly. I usually go through
17 it.

18 Q All right. And over the last several months,
19 two to three months, have you read anything in the paper
20 pertaining to, for instance, Charles Watson or Tex Watson?

21 A Not that I recall, no.

22 Q Do you recall anything about his being tried for
23 the Tate-La Bianca murders?

24 A I've heard that, yes.

10 fls.

10-1

1 Q Do you recall when you heard anything about that?
2 Or read anything about that?

3 A I really don't know. Probably a month, two months
4 ago, a couple of months ago.

5 Q Does the name Steve Grogan ring a bell at all?

6 A No, although I may have heard the name before.

7 Q Do you recall under what circumstances or in what
8 connection?

9 A No.

10 Q Have you heard it associated with Shorty Shea or
11 Gary Hinman, to your knowledge?

12 A I just associate it with the Manson Family.

13 Q With the Manson Family.

14 How about a Manson Family member, as he's been
15 designated, by the name of Kenneth Como? Have you read any-
16 thing in the paper or heard anything about him --

17 A No, sir.

18 Q -- in the last several months?

19 A No, sir.

20 Q Now, the judge asked you if you had followed
21 the Tate and LaBianca matters, and you said you didn't follow
22 them, as one avidly reads about them.

23 But would you say that, as of the time those
24 stories broke, the murders themselves broke, and the arrest
25 of Charles Manson and some of his Family members, that you did
26 at least keep somewhat abreast of that news? Would you say
27 that?

28 A At the beginning, yes.

1 Q All right. How about at the beginning of the
2 trial of Mr. Manson and his -- the female followers who were
3 tried with him? Did you keep somewhat abreast of that?

4 A No. Other than the radio news or TV news.

5 Q You say other than the radio and TV news?

6 A Nothing other than radio or TV.

7 Q If you came across a headline concerning it in
8 the paper, would you just read the headline and forget any of
9 the rest of the matter in the body of the story, or read at
10 least a couple of lead paragraphs in the story?

11 A Depending on the amount of time I had at the time.
12 I might have followed it, let's say, that way.

13 Q All right. Are you aware of what the outcome of
14 that particular trial was, the Tate-LaBianca trial?

15 A Yes. I think he was found guilty -- Manson, that
16 is.

17 Q And how about the people tried with him? Do you
18 know whether or not they were found innocent, guilty, one or
19 more, or anything of that kind?

20 A I don't recall.

21 Q Do you know whether they were -- or he was
22 given life or death for that? As far as the jury vote?

23 A As I recall it, he was a death penalty.

24 Q All right. Was this just something that you felt
25 you didn't want to follow? You weren't particularly interested
26 in, and therefore, despite the headlines, you just sort of
27 let it roll off your back, as it were, without paying too much
28 attention to it?

1 A Yes, I would say that's correct.

2 Q Now, do you have any feelings at all, sir, based
3 on anything that you've seen, heard or read, that would make
4 you feel that possibly a member of the Manson Family is
5 probably somewhat criminally oriented? Or shares somewhat in
6 the criminality of Charles Manson, the so-called leader of
7 this group?

8 Do you have any feeling of that kind?

9 A No, sir.

10 Q In other words, as far as you are concerned, one
11 who may have associated with them is not necessarily a
12 criminal; is that right?

13 A Yes, sir.

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

15 THE COURT: The People?

16 MR. MANZELLA: I have no questions, your Honor.

17 THE COURT: The next peremptory, I believe, would be the
18 defendant's.

19 MR. DENNY: Your Honor, we would thank and excuse,
20 even in her absence, Mrs. Dunkins, juror No. 9.

21 THE COURT: All right. Let's select another juror for
22 Mrs. Dunkins.

23 THE CLERK: Mrs. Marguerite Kohler; M-a-r-g-u-e-r-i-t-e;
24 last name, K-o-h-l-e-r.

25 MR. MANZELLA: Your Honor, I would like to ask
26 Mr. Micsky a few questions about his neighbor, Mr. Werner, who
27 was an alternate juror in --

28 THE COURT: Oh, yes.

1 MR. MANZELLA: -- one of these trials.

2
3 VOIR DIRE EXAMINATION

4 BY MR. MANZELLA:

5 Q Mr. Micsky, do you see Mr. Werner often? Do you
6 talk to him often?

7 A Sporadic. I run into him --

8 Q All right.

9 A -- usually at Christmas times.

10 Q I take it that if you served on this jury, that
11 there would be no chance -- or that it would be easy for you to
12 avoid conversation with him on the subject of this trial, or
13 the Manson trials, or Mr. Manson, or Mr. Davis, or any related
14 subjects?

15 A Yes, sir.

16 Q All right. And you would avoid discussing these
17 matters with him, if you served as a juror in this case?

18 A Yes, sir.

19 MR. MANZELLA: Thank you. No further questions.
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1 THE COURT: All right. Mr. Micsky, would you go to
2 Department 100? And we'll be calling you again.

3 And we'll need Mrs. Kohler -- who is on her way,
4 is she?

5 THE BAILIFF: Yes, sir.

6 THE COURT: If you gentlemen wish, we will bring the
7 entire panel back. But I had in mind just going ahead with
8 Mrs. Kohler outside the presence of the jury.

9 MR. MANZELLA: Fine with me, your Honor.

10
11 VOIR DIRE EXAMINATION OF
12 MARGUERITE KOHLER

13 BY THE COURT:

14 Q Mrs. Kohler, just take the seat nearest the
15 microphone there, if you would -- or, just right there will
16 do. Mr. Kuczera will d -- Mr. Kuczera will give you the
17 microphone.

18 Mrs. Kohler, were you present when the Court
19 explained the nature of this case, and read the indictment
20 to you?

21 A Yes, sir.

22 Q And before that time -- strike that.

23 Would your answers to the questions that the Court
24 put to the prospective jurors, the questions of a general
25 nature, would your answers be any different than the majority
26 responded?

27 A No, sir.

28 Q Would it be a hardship to you to serve in this

10a-2

1 case?

2 A No, sir.

3 Q Have you been on jury duty before?

4 A Yes, I was there last week, at the Brunswig
5 Building.

6 Q All right. And you served in a criminal case?

7 A It was a burglary case.

8 Q I see. Was there a verdict in the case --

9 A No. It was --

10 Q -- as to whether it was guilty or not guilty?

11 A No. It was dismissed.

12 Q I see. You never deliberated, then?

13 A No.

14 Q Is that the only case on which you've sat as a
15 juror?

16 A Yes, sir.

17 Q Are you employed outside the home, Mrs. Kohler?

18 A No.

19 Q And is there a Mr. Kohler?

20 A Yes. He's retired.

21 Q From what?

22 A He was within the Beatrice Foods.

23 Q Beatrice Foods?

24 A Beatrice Foods.

25 Q I see.

26 And --

27 A He's a bacteriologist.

28 Q I'm sorry?

10a-3

1 A He's a bacteriologist.

2 Q I see. Has he ever worked for any public agency?

3 A No.

4 Q Are you related to or a friend of any law
5 enforcement officer?

6 A I have a neighbor who is a Deputy Sheriff, but
7 just as a neighbor.

8 Q How long has he been a neighbor of yours?

9 A I think three years.

10 Q Do you see him often?

11 A Just to say hello.

12 Q Have you discussed cases with him?

13 A Oh, heavens, no.

14 Q It's not a close relationship?

15 A No, no.

16 Q Do you think that that relationship would never-
17 theless influence you in this case?

18 A No, indeed.

19 Q Have you ever been employed outside the home?

20 A Yes, years ago.

21 Q And in what type of work?

22 A I was a model.

23 Q In Los Angeles?

24 A No, in Chicago.

25 Q In what area do you and Mr. Kohler reside?

26 A In Hollywood.

27 Q Can you think of any reason why you could not be
28 fair and impartial in this case?

1 A No.

2 Q Concerning the death penalty, do you have such
3 views about it that you would, by reason of those views,
4 be unable to be fair and impartial in determining guilt or
5 innocence in the first phase of the case?

6 A No.

7 Q And did you understand the Court's explanation
8 of how the trial is possibly split into two phases?

9 A Yes, I did.

10 Q Or would your views about the death penalty be
11 such that you would automatically refuse to impose it,
12 regardless of the evidence?

13 A No.

14 Q Or, conversely, would you automatically impose
15 it upon a conviction --

16 A No.

17 Q -- of murder of the first degree, regardless of
18 the evidence?

19 A No.

20 Q Regarding publicity, had you ever heard of the
21 case before, through the news media, or through conversations
22 with friends or relatives?

23 A Do you mean this case here?

24 Q This case.

25 A No.

26 Q Had you ever heard -- heard, seen or read of
27 Shorty Shea?

28 A No.

1 Q Or Gary Hinman?

2 A No.

3 Q You had heard of Charles Manson?

4 A Yes.

5 Q Would somebody who is, the evidence shows, a
6 member of Charles Manson's group, or is associated with Mr.
7 Manson in some way, solely by reason of what you've heard,
8 seen or read in the press concerning the Manson Family,
9 be at any disadvantage in having you as a juror?

10 A No, I don't believe so.

11 Q Do you think that you can be fair and impartial,
12 regardless of what you may have heard, seen or read concerning
13 the Manson group?

14 A Oh, yes.

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10b-1

1 Q Did you follow the Tate-LaBianca prosecution?

2 A No.

3 Q Do you read a newspaper daily?

4 A We don't get a newspaper. However, the neighbor
5 sends me her paper.

6 However, we are not interested. To me, I just
7 don't want to read those things.

8 Q You generally don't follow that type of thing, --

9 A That's right.

10 Q -- crime reports, because you find them distasteful?

11 A That's right.

12 Q And do you -- have you seen television, seen and
13 heard television and radio news reports concerning that Tate-
14 LaBianca matter, however?

15 A Oh, yes.

16 Q Well, would you be able to set aside anything that
17 you may remember in the future, do you think?

18 A Yes.

19 Q Or anything you remember now, about the Manson
20 Family or this case, or Gary Hinman? Or Shorty Shea?

21 We want an appraisal of your capability of
22 setting such matters aside --

23 A Um-hmmm.

24 Q -- for the purpose of acting as a juror in this
25 case; --

26 A Yes, I understand.

27 Q -- do you understand?

28 A Yes.

10b-2

1 Q So what we want is not for you to forget those
2 matters, because they're too difficult for you to forget,
3 everything, --

4 A Yes.

5 Q -- but can you blank them out of your mind for the
6 purpose of acting fairly and impartially as a juror in the case?

7 A I am sure I can.

8 Q And will you do that?

9 A Yes, I can.

10 Q And will you be fair and impartial?

11 A Oh, yes.

12 THE COURT: Mr. Denny?

13 MR. DENNY: Thank you, your Honor.

14

15

VOIR DIRE EXAMINATION

16

BY MR. DENNY:

17 Q Ma'am, was I correct in my understanding, when you
18 say you did not follow the Tate and LaBianca cases, that you
19 didn't avidly go after information about them?

20 A Yes.

21 Q However, you seem to have certainly become acquainted
22 with the fact of Charles Manson's existence --

23 A Yes, indeed.

24 Q -- and his connection with those murders; is that
25 right?

26 A Yes.

27 Q And I take it you were aware of the fact of his
28 arrest, when that occurred?

10b-3

1 A Yes.

2 Q And the publicity attendant thereto?

3 A Yes.

4 Q And the fact that he was designated, I believe, as
5 a hippie cult leader?

6 A Yes.

7 Q And did you at least read some information --

8 A Yes. And I saw on television, also, on the news.

9 Q All right. And you saw pictures of him, I take
10 it, --

11 A Yes.

12 Q -- in custody? All right.

13 And at the time that his trial commenced, there
14 was a certain amount of TV coverage at that time, of attorneys
15 being interviewed in the hall and so on, and pictures of
16 Mr. Manson and the girls --

17 A Yes.

18 Q -- going back and forth in the hall.

19 You saw those also?

20 A Yes.

21 Q Do you by any chance regularly watch one of the
22 news broadcasts, the Big News, or the Late News or --

23 A I usually watch Walter Cronkite news.

24 Q That's the CBS?

25 A CBS, right.

26 Q And do you watch the Big News that comes on with
27 Jerry Dunphy? Before that?

28 A Yes.

1 Q All right. So this is --

2 A Not always.

3 Q So it's actually about an hour and a half's news
4 coverage from Jerry Dunphy on through?

5 A Yes. But I don't watch Jerry Dunphy all the way
6 through.

7 Q I see.

8 A I usually wait for Cronkite to come on.

9 Q All right. And you do attempt to keep current
10 on the day's events through that, at least?

11 A Oh, yes.

12 Q And this neighbor who sends you the paper, although
13 you don't subscribe to it, gives you the paper, this is on a
14 more or less regular basis; is that right?

15 A Oh, yes. She just puts it down (indicating).

16 Q All right. Is this the -- the wife of the Deputy
17 Sheriff, or is that --

18 A No. No, no, no.

19 Q -- the neighbor on the other side?

20 A It's a neighbor three doors away.

21 Q Three doors away. All right. And is that the
22 Times or the Herald-Examiner?

10c fol

23 A The Times, in the morning.

24

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10c-1

1 Q All right. And you, I take it, were aware of
2 what has been called the Susan Atkins confession that was
3 reported in the Times, and I think in Life magazine, and
4 various other media concerning the Tate and La Bianca
5 killings, were you?

6 A Yes. But I didn't get that -- I'm aware of it.
7 I am aware of it.

8 Q Well, did you read that --

9 A I believe in the -- not in the Times; in the --
10 in one of the magazines. I don't know which one.

11 Q Life magazine, I think, had it, --

12 A Possibly.

13 Q -- had a full review.

14 A Well, we get Life magazine. Possibly I read it
15 there.

16 Q All right.

17 A But I didn't read it in the Times.

18 Q Life's issue, I think, had a big picture of
19 Charles Manson on the front cover; do you remember that?

20 A Yes, I do. I do remember that.

21 Q All right. And I take it you were aware -- or
22 at least, when the verdicts came in, you were aware of that,
23 in the Tate and La Bianca cases; is that right?

24 A Yes.

25 Q They were reported rather fully.

26 A Yes.

27 Q And not only the guilty verdicts, but the
28 penalty; you are aware of that?

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A Yes.

Q And what were those penalties? Or what was the penalty? Do you know?

A It was guilty.

Q Well, that's the final finding of guilt or innocence.

A Oh, the penalty?

Q When the penalty was assessed, yes.

A Uh -- wait a moment. I just went blank just now.

Q Life or death, was it?

A It was death.

Q All right.

And do you know how many people were tried with Mr. Manson?

A No, I don't. I know there was some girls, and -- and Mr. Manson himself.

Q All right.

Now, with this information, when the Court asked you if you'd heard of Shorty Shea, you said no. And when he asked you whether you had heard of Mr. Hinman, you said no.

And then I think, when the Court asked you if you had heard of Mr. Manson, you very positively said, "Yes."

A Oh, yes. It was news in all the papers.

Q Right.

A It was even in my paper in Switzerland, believe it or not.

Q I believe it.

1 A My home town paper.

2 Q This is your home town paper, you say?

3 A My home town paper, in Neuchatel, Switzerland.

4 Q Would you mind spelling that for us, please?

5 A N-e-u-c-h-a-t-e-l. I'm sorry.

6 Q That's all right. I'm getting a knowing look
7 from the reporter, who figures that he could spell that
8 without help. But I couldn't, so I am glad you spelled it
9 for us.

10 Now, with all of this -- and I take it that a
11 good bit of this information that you got, via the media,
12 the TV in particular, and some in the newspaper -- has left
13 you with some impression of Mr. Manson and the Manson Family;
14 is that correct?

15 A Yes, of course. But what do you want to know?

16 Q Well, what is your impression of the Manson
17 Family?

18 A That's hard to answer, really.

19 Q I know it is. But you asked me what I wanted to
20 know. And this is what I want to know.

21 A Well, it's a very hard question to answer.

22 Q Well, do you have some feeling about the Manson
23 Family?

24 A Well, of course they did wrong -- I mean, I am
25 talking about -- I'm not talking about this young man here.

26 Q All right. Because --

27 A I am talking about Mr. Manson.

28 Q All right. And those members of the Family,

1 as it's called, who were convicted along with him, --

2 A Yes.

3 Q -- is that right? All right.

4 Now, do you have some feeling, though, as you
5 sit there, that the Family members who were not tried with
6 him, nevertheless were somewhat involved in -- in this
7 Tate and La Bianca murder business, even though they may not
8 have been brought to trial and convicted?

9 A Um-hmm.

10 Q That they nevertheless bore some responsibility
11 for that?

12 A That's another hard question to answer.

13 Q I pose hard questions.

14 A I know, I know. I can't answer that, to be
15 very frank with you. If you ask it in a different way,
16 perhaps --

17 Q All right. Let me do that, ma'am.

18 Do you feel, based on what you've seen and heard
19 and read, --

20 A Yes.

21 Q -- that the -- any member of the Manson Family
22 is somewhat criminally oriented, by virtue of being a member
23 of the Manson Family?

24 A Well, I wouldn't say that.

25 I really don't know.
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11 fls.

11-1

1 Q All right. So that then, if one is a member of the
2 Manson Family and is charged with a crime, and is charged with
3 having committed that crime with Charles Manson, together with
4 Charles Manson, you understand --

5 A Uh-huh, yes.

6 Q -- you have a feeling as you sit there that that
7 person charged with having committed a crime with Charles
8 Manson, being a member of the Manson Family, probably has some
9 responsibility for that crime?

10 A You're talking about a new case?

11 Q That's right.

12 A That's another thing. Another question that's hard
13 to answer unless you get all the -- see, I cannot answer that
14 now. Ask it in a different way.

15 Q All right, that's fair.

16 And I'll be very pointed in getting right down to
17 the cases here.

18 A Uh-huh.

19 Q Mr. Davis obviously was not charged with the
20 commission of the Tate-LaBianca crimes, murders.

21 He is now, however, being charged along with
22 Charles Manson -- the judge read you the indictment.

23 A Yes.

24 Q And Charles Manson is named in this indictment.

25 A Yes.

26 Q Mr. Davis is being charged with the commission of
27 three offenses: Two murders and conspiracy to commit one of
28 those murders.

11-2

1 A Yes.

2 Q Robbery.

3 Now, there are some people who have read the same
4 things you have read, who feel, "Look, I don't know what the
5 facts may be, but down deep inside of me, I know, I feel that
6 the man probably bears some responsibility for the crime that he
7 is charged with if he has been associating with Charles Manson
8 for any period of time. It may be an irrational feeling on
9 my part, but it is a feeling I've got. There's nothing I can do
10 about it." You see.

11 Other people would say, "Well, he may have been
12 associated, but I don't have any feelings about it right now."

13 A Uh-huh.

14 Q You see. People react differently to the same
15 stimulus. And people who have had the same amount of exposure
16 to the media that you have had, some of them say one thing and
17 some of them say the other. And all we're trying to determine
18 here, at this time, is what the effect has been on you and do
19 you have the feeling, it is -- pardon the expression -- a kind
20 of gut reaction, an emotional response?

21 A Uh-huh.

22 Q Do you have the feeling now that one who is charged
23 with Charles Manson, with having committed atrocious murders --

24 A Uh-huh.

25 Q -- probably has some guilty responsibility --

26 A No.

27 Q -- for those crimes?

28 A (Shakes head.)

11-3

1 Q In other words, whether he's a member of the Manson
2 Family, whether that's shown or not, the mere association with
3 the Manson Family in your mind is not --

4 A No.

5 Q Is such that it would prejudice you against him?
6 And that's a loaded word, also.

7 A Yeah.

8 Q Because no one wants to be prejudiced against
9 anything.

10 But it is all right if you were prejudiced to say
11 so.

12 A But it would not --

13 Q It would not have any bearing about your ability to
14 be fair in determining the guilt or innocence of this
15 defendant, is that right?

16 A That's right.

17 Q All right.

18 And how about people who use drugs? Do you have
19 any such feelings about them that you don't think you could put
20 aside those feelings to determine the credibility, for
21 instance, if they testify?

22 A Well, I don't know too much about drugs, let's
23 say, sir, so --

24 Q Well, there are some people in precisely that
25 frame of mind, but who are scared to death of them.

26 A Yeah.

27 Q And who react negatively when the word "drugs" is --

28 A No, no.

11-4

1 Q -- is brought up.

2 And who, just, again, emotionally say, "If anybody
3 has been using drugs, I'm not going to believe them."

4 A Well, I wouldn't be prejudiced.

5 Q Well, that would be that people are prejudiced --

6 A No, I wouldn't.

7 Q All right. You would consider that as one element
8 of their credibility along with all the other elements the
9 Court tells you you may consider, the relationship to the
10 case, bias or prejudice or reason to lie or whatever, but that
11 in and of itself would not be the determining factor in your
12 judging the credibility?

13 A No.

14 Q All right.

15 Now, when is the most recent time that you have
16 heard anything about Charles Manson?

17 A Oh, heavens, I don't know. It is a little while
18 back.

19 Q Well, that's a relative term. How far back is
20 "a little while back"?

21 A I think when they were convicted.

22 Q Of the Tate-LaBianca murders?

23 A Yes.

11a fol

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11a-1

1 Q And that's about the last time you recall having
2 heard anything specifically about Charles Manson?

3 A Uh-huh.

4 Q Have you heard anything more recently about that,
5 about any people connected with the Manson Family as the
6 press has related it?

7 A Not that I recall.

8 Q Have you heard, seen or read anything, for
9 instance, about a person by the name of Steve Grogan?

10 A Hmm, now, wait a minute. The name is familiar.
11 Now, whether I saw him on television, if he was on television,
12 that's possible.

13 Q Do you recall having heard, seen or read anything
14 on television about a Tex Watson?

15 A Yes.

16 Q Since --

17 A That was a -- wasn't he at the ranch or some
18 place out there? I don't know, to be very frank with you.

19 Q All right. That's fine. Just what you do know.

20 A Well, that's --

21 Q Is what we're interested in.

22 Now, does the phrase "Stuntman Shorty Shea"
23 ring a bell to you?

24 A Wasn't he at the ranch out there, too?

25 Q Well, I think I can answer that yes.

26 A That's -- that's all I remember. That's all
27 I know.

28 Q All right. And this is the Spahn Ranch you are

11a-2

1 talking about, is that right?

2 A That's right.

3 Q All right. And musician Gary Hinman; do you
4 recall having seen, heard or read anything about --

5 A Yes. There was a case on that, if I am not
6 mistaken.

7 Q Somebody charged with his murder?

8 A A young lady.

9 Q A young lady charged with his murder?

10 A I don't know if she was charged with his murder.
11 There was something about -- she either -- I don't recall
12 the details, to be frank with you.

13 Q Uh-huh.

14 But it does sort of ring a bell?

15 A Well, now that you mention it, yes.

16 Q That he was murdered and someone was charged
17 with his murder?

18 A That's right.

19 Q And do you recall about how long ago you read
20 about that?

21 A No, I can't.

22 Q Or heard about that?

23 A No, I can't.

24 Q Would it be any time within the last couple of
25 months, would you say?

26 A A couple or three months.

27 Q And inasfar as any of these things that you
28 have seen, heard or read, I take it like most of the others

1 that sat there, they all say, well, they don't take it as
2 gospel, just because it appears in the media. I take it
3 you feel the same, that you are not going to accept those as
4 facts in lieu of facts that come from the witness stand
5 here?

6 A Well, you can't.

7 Q That's right, but some people might want to.
8 You would not, is that right?

9 A No.

10 Q All right. And so that no matter what you have
11 seen, heard or read, even if the testimony as it comes from
12 the witness stand kind of rings a bell, like some of the
13 questions I've asked you --

14 A Uh-huh.

15 Q -- sort of rings a bell --

16 A Uh-huh.

17 Q -- "Oh, yes, I remember this."

18 Now, you're going to hear full narratives of
19 events that occurred.

20 A Uh-huh.

21 Q And these may ring a bell in your mind of things
22 that you have read similar to the evidence?

23 A Uh-huh.

24 Q I take it you will not have any difficulty or
25 even if you will have some difficulty, you will do your
26 utmost to put what you have seen, heard or read before
27 you came into this courtroom out of your mind and make
28 a decision based only on what comes from the witness stand?

1 A Yes.

2 Q And the law as given to you by the Judge, is that
3 correct?

4 A Correct.

5 Q And if there's any possibility of confusing the
6 two, you will consciously make the effort to put what you have
7 seen, heard or read through the media aside?

8 A Uh-huh.

9 Q And concentrate only on the testimony in this case
10 and the evidence in this case?

11 A Definitely.

12 Q And if any of your fellow jurors attempt to bring
13 in anything from outside, you'd have no reluctance or
14 hesitancy in saying, "Huh-uh, that's not evidence. We can
15 only consider evidence"; is that right?

16 A That's right.

17 Q All right, ma'am.

18 Your Honor, do you want us to go into the other
19 areas, the death penalty and the general areas at this point,
20 too?

21 THE COURT: I think we can do that with the balance
22 of the panel back, after we resume.

23 Tony.

24 MR. MANZELLA: Publicity, no questions, thank you.

25 THE COURT: None on publicity?

26 MR. MANZELLA: None on publicity, thank you.

27 THE COURT: All right, let's take a short recess,
28 gentlemen, and then we'll have the balance of the panel back

1 and proceed with the general voir of Mrs. Kohler.

2 You are excused for ten minutes.

3 PROSPECTIVE JUROR KOHLER: Thank you.

4 THE COURT: Don't talk about the case or allow anyone
5 to talk about it to you.

6 PROSPECTIVE JUROR KOHLER: No.

7 (Afternoon recess.)
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1 THE COURT: All right. The record will show the
2 defendant to be present, and all the jurors, prospective jurors
3 are present. And all counsel are present.

4 Gentlemen, you may examine Mrs. Kohler, generally,
5 if you wish to.

6 MR. DENNY: Thank you, your Honor.

7
8 VOIR DIRE EXAMINATION OF
9 MARGUERITE KOHLER

10 BY MR. DENNY:

11 Q Mrs. Kohler, again I'm going to ask you some
12 questions concerning the death penalty, because we have this
13 one opportunity to do so. And I would like to ask you if you
14 have done any kind of reading in the field, prior to coming to
15 court as a prospective juror?

16 A About the death penalty?

17 Q Yes.

18 A No.

19 Q Have you ever had any discussions with anyone
20 on the subject, either pro or con?

21 A No.

22 Q Would you say that you have in any way at this
23 point -- however many years in your life you've lived -- taken
24 a position, --

25 A Sixty-two.

26 Q -- one way or another?

27 I could comment on my ungallantry in even mentioning
28 age to a lady at this time, --

12-2

1 A No, that's all right.

2 Q -- but I think I'll comment no further than that.

3 Now, have you taken any position, one way or
4 another, for or against the death penalty, to your knowledge,
5 in any sort of discussions about it?

6 A No.

7 Q So that assuming you were seated as a juror in this
8 case, and assuming that a verdict of first degree murder or
9 conspiracy to commit that murder were returned, as the People
10 would want to have happen in this case, I take it you would be
11 in a position where you -- you had never really considered the
12 pros or cons of the death penalty, what type of evidence it
13 would take for you to vote for death, what type of evidence
14 it would take for you to vote for life, is that right?

15 A Again, that's a hard question to answer. You'd
16 have to ask a different way.

17 Q Well, would you be in a position -- assuming you
18 had reached a verdict of guilty, and guilty, let's say, of
19 first degree, willful, premeditated murder, where you were
20 open as to what sort of penalty should be assessed, depending
21 on --

22 A Yes, I know what you mean.

23 Q -- all of the factors involved, or have you the
24 state of mind at the present time where you feel -- again,
25 using this sort of magic word that we have to use -- but where
26 you would feel that, automatically, having found a person
27 guilty of first degree murder, you would thereby feel that you
28 would vote for the death penalty?

1 A Yes, I would.

2 Q And this would be without regard to any other
3 factors? Having found someone guilty of the crime of first
4 degree murder, willful, premeditated, deliberate murder, with-
5 out more, without considering any other factors, you would vote
6 for -- you would vote to inflict the death penalty?

7 A Yes.

8 Q And this is a definite, strong feeling that you
9 have; is that right?

10 A Yes, I have.

11 MR. DENNY: Well, I appreciate that, ma'am. I appreciate
12 the way you have set it forth, just as strongly as you do feel
13 it.

14 May we approach the bench, your Honor?

15 THE COURT: Any questions?

16 MR. MANZELLA: I would just like to inquire briefly.

17

18 VOIR DIRE EXAMINATION

19 BY MR. MANZELLA:

20 Q Mrs. Kohler, by any chance, are you under the
21 impression that the law requires the imposition of the death
22 sentence upon a first degree murder conviction?

23 A That the law requires?

24 Q Right.

25 A No, it does not.

26 Q But -- recognizing that the jury has the
27 discretion as to whether or not to impose death --

28 A That's correct.

12-4

1 Q -- or life imprisonment, you would automatically
2 impose the death sentence upon a conviction of first degree
3 murder?

4 A No. No, I would not, not in that -- say that
5 again?

6 Q Well, in answer to Mr. Denny's questions, you said
7 that you would automatically impose the death sentence without
8 regard to the evidence, if this defendant were convicted of first
9 degree murder; that you would automatically impose the death
10 sentence --

11 A Yes, I would.

12 Q You would? Even though you understand that the law
13 does not require that?

14 A Yes.

15 Q That the law leaves it up to the jury?

16 A Yes, yes.

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1 MR. MANZELLA: All right.

2 MR. DENNY: I would offer a challenge under 1073,
3 Sub 2.

4 THE COURT: The Court grants the challenge.

5 Mrs. Kohler, thank you very much. The Court
6 does excuse you, then.

7 PROSPECTIVE JUROR NO. 9: Thank you.

8 THE COURT: And you need not report this afternoon.
9 I think it's too late for you to go up to that jury
10 assembly room.

11 MR. DENNY: Thank you, Mrs. Kohler.

12 THE COURT: Report to Room 253 of the jury assembly
13 room in the courthouse, if you would, please, tomorrow
14 morning at 9:00 o'clock.

15 Thank you, Mrs. Kohler.

16 PROSPECTIVE JUROR NO. 9: Thank you.

17 THE CLERK: Al F. Watson. That's A-1; middle
18 initial "F", last name, W-a-t-s-o-n.

19
20 VOIR DIRE EXAMINATION OF

21 AL F. WATSON

22 BY THE COURT:

23 Q Mr. Watson, were you present when the Court
24 explained the nature of this case to the prospective jurors,
25 and when the Court read the indictment?

26 A Yes, I was.

27 Q And you have been present ever since, except
28 when the Court excluded you; is that correct?

1 A Yes.

2 Q Would your answers be any different than the
3 majority of jurors have responded to the Court's questions of
4 a general nature, --

5 A No.

6 Q -- put to the prospective jurors?

7 Can you think of any reason why you could not or
8 should not sit in this case?

9 A (Pause.) No.

10 Q Would it constitute any hardship to you?

11 A No.

12 Q Have you been a juror before?

13 A Yes.

14 Q On what types of cases? That is, you have sat
15 as a juror in criminal cases?

16 A One civil case, a long time ago.

17 Q I see. And will you be careful to distinguish
18 between the two burdens of proof that I've mentioned before,
19 the burden in a civil case, and the burden in a criminal
20 case? Will you not?

21 A Yes.

22 Q What type of work do you do?

23 A Retired postal clerk.

24 Q How long ago did you retire?

25 A Four years ago.

26 Q And where did you work for the most part?

27 A Los Angeles City.

28 Q In the central area?

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A Yes.

Q And are you a friend or relative of any police officer, as I've -- or, a law enforcement officer?

A No.

Q And is there a Mrs. Watson?

A No, I'm single.

Q In what area do you reside?

A Downtown Los Angeles. .

13 fls.

13-1

1 Q Do you have such views about the death penalty
2 that you would automatically refuse to impose it regardless
3 of the evidence in the case, Mr. Watson?

4 A Uh, repeat.

5 Q Do you have such views about the death penalty
6 that upon a -- that in a penalty phase you would automatically
7 refuse to impose it?

8 A (No response.)

9 Q In other words, would you vote against the death
10 penalty automatically without regard to the evidence?

11 A I might.

12 Q Assuming -- assuming there was a conviction of
13 murder of the first degree?

14 A Right.

15 Q And of course, only at that time do you find --
16 would a jury find that it had to decide the issue of penalty,
17 life imprisonment or death?

18 A Uh-huh.

19 Q Upon that conviction of murder of the first
20 degree?

21 A Yes.

22 Q Are your feelings about the death penalty such
23 that you would automatically refuse to impose it, that you
24 would vote against it, regardless of the evidence in the case?

25 A No.

26 Q You said --

27 A No, I wouldn't automatically do it, but --

28 Q Your tendency is against the death penalty?

1 A Yes, right.

2 Q All right. Are your views such concerning the
3 death penalty that you would be unable to impose it or
4 would refuse to impose it in any case?

5 A Oh, no.

6 Q Or are your views about the penalty such that
7 you would automatically impose it upon a conviction of murder
8 of the first degree without regard to the evidence that's
9 been produced?

10 A No.

11 Q In other words, you wouldn't say upon a convic-
12 tion of murder of the first degree that anyone convicted of
13 murder of the first degree would automatically receive from
14 you a judgment that he must suffer death?

15 A No.

16 Q You would look at the evidence to determine
17 whether or not in your opinion and in your discretion you
18 should impose the death penalty?

19 A Right.

20 Q Have you followed publicity concerning the Manson
21 Family?

22 A Yes, in the past months.

23 Q Charles Manson.

24 Would somebody who is a member of the Manson
25 Family or whom the evidence shows is associated with Mr.
26 Manson in some way -- would he suffer some disadvantage in
27 having you as a juror?

28 A I believe so.

1 Q In other words, you believe that you would have
2 such a feeling against the person that you could not be fair
3 and impartial to begin with?

4 A I believe so.

5 Q He would -- the person who would, the evidence
6 would disclose, would be a member of the Manson Family,
7 -- let's say the evidence would disclose that Mr. Davis was
8 a member of that group.

9 Then, to begin with, he has a strike or two
10 against him in your opinion?

11 A Yes.

12 Q He would have to overcome that prejudice in your
13 mind initially, is that correct?

14 A Right.

15 MR. DENNY: I would issue a challenge, your Honor,
16 under 1073, Subdivision 2, and 1076.

17 THE COURT: It seems to be well taken. The Court does
18 grant the challenge. Thank you for being so direct and frank
19 about your feelings. The Court does excuse you, then, Mr.
20 Watson.

21 MR. WATSON: Very well, thank you.

22 THE COURT: You needn't report this afternoon, though.
23 You may report tomorrow at 9:00 o'clock, Room 253.

24 PROSPECTIVE JUROR WATSON: 9:00 o'clock?

25 THE COURT: Yes.

26 THE CLERK: Hugh S. Gould, first name, H-u-g-h, last
27 name, G-o-u-l-d.
28

VOIR DIRE EXAMINATION OF

HUGH S. GOULD

BY THE COURT:

Q Mr. Gould, were you present during the Court's explanation of the nature of the -- of these proceedings, the reading of the indictment and the proceedings thereafter?

A Yes, I was.

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

A No.

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

A No, sir.

Q Have you been a member of the jury, a jury before? Have you sat on a jury before?

A No, I haven't.

Q What type of work do you do?

A I am retired, fire insurance underwriter.

Q And where did you -- where did you carry on the business?

A Here in Los Angeles.

Q And is there a Mrs. Gould?

A No.

Q Are you related to or a friend of any law enforcement officer, as I have explained law enforcement officer to be?

A No, I am not related.

1 Q In what area do you reside?

2 A Wilshire area, sir.

3 Q Concerning the death penalty, do you have such
4 views about it that you could not be fair and impartial in
5 determining guilt or innocence in the first phase of the
6 case?

7 A No.

8 Q Or are your views about the penalty such that
9 you would automatically refuse to impose it, automatically
10 vote against the death penalty, regardless of the evidence
11 that might be produced in the case?

12 A No.

13 Q Or, on the other hand, would you automatically
14 impose the death penalty upon a conviction of murder of the
15 first degree, regardless of the evidence?

13a fls. 16

A No.

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1 Q Do you have such views about a person who might
2 be associated with the Manson Family or do you have such
3 views about that group, from what you have heard, seen or
4 read about it in the news media that you could not be fair
5 and impartial to one whom the evidence might show is a member
6 of that group?

7 A No.

8 THE COURT: Gentlemen.

9
10 VOIR DIRE EXAMINATION

11 BY MR. DENNY:

12 Q Mr. Gould, you indicated there is at the present
13 time no Mrs. Gould.

14 Has there been in the past?

15 A No.

16 Q All right. And in your work as a retired -- or
17 when you were not retired, in your work as a fire insurance
18 underwriter, did you come in contact with lawyers?

19 A No, sir.

20 Q Or with any law enforcement people?

21 A No, sir.

22 Q And the Court asked you if you were related to
23 any law enforcement --

24 Do you have any friends who are in law enforce-
25 ment in any way?

26 A Not now.

27 Q You previously have had?

28 A Yes.

1 Q What friends are these?

2 A Uh, well, he's not a police officer any longer,
3 but in 1954 he was a police officer.

4 Q He's still a friend of yours, I take it, but
5 no longer in the police service, is that right?

6 A Yes. I see him about once a year.

7 Q All right. What did he do in the Police
8 Department?

9 Was that the Los Angeles Police Department, by
10 the way?

11 A Vernon Police.

12 Q Vernon?

13 A Yes.

14 Q All right. And did he obtain any particular
15 rank there?

16 A Squad car.

17 Q All right. And did you come in such close
18 contact with him that you discussed his job in particular,
19 cases that he was on, things of that kind?

20 A No.

21 Q On occasion?

22 A No.

23 Q All right. Do you have any feeling because of
24 your association with him or for any other reason that you
25 would tend to believe the testimony of a police officer,
26 deputy sheriff, whatever, as against contrary testimony of
27 a non-police officer simply by virtue of the fact that the
28 man was a police officer?

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A No.

Q Would you give less credence or less weight to a person's testimony because he was a police officer?

A No.

Q In other words, you treat them as human beings, subject to the same frailties as any other human being; is that right?

A Yes, I would.

Q All right. Have you been in the Military Service, sir?

A Yes, I have.

Q In what branch of the Service and when?

A Uh, I was in the Army 1951 to 1953.

Q In an officer capacity?

A No, corporal.

Q And what duty?

A Uh, ordinance. Ammunition supplies.

Q Were you in Korea?

A Yes.

Q And did you see combat?

A No.

Q Have you ever seen a man killed?

A No.

Q Have you ever been in a position, sir, where because of what you did a man might live or die?

A No.

Q All right.

You understand that you might be in that position

1 in this case if you are seated as a juror?

2 A Yes.

3 Q And that by virtue of your vote and your vote
4 alone, a man might be executed by lethal gas in the gas
5 chamber in San Quentin in California; do you understand that?

6 A Yes.

7 Q And do you have any qualms at this point about
8 assuming the responsibility for that life if you are seated
9 as a juror in this case?

10 A No.

11 Q Have you done any thinking about the death
12 penalty since you've come into this courtroom and heard all
13 the questions about it?

14 A Yes, I have.

15 Q I assume so.

16 And have you had an opportunity before that or
17 taken the opportunity before that to do any reading on the
18 subject?

19 A No. I don't recall any specific thing that I
20 have read. I'm sure I have, but --

21 Q All right. Have you ever had any conversations,
22 formal or informal, concerning the death penalty, its proper
23 or improper application, its abolition or retention?

24 A I can recall only one, and it was more of a
25 monologue than a discussion.

26 Q You monologuing or --

27 A No, I was listening.

28 Q -- or listening?

(Laughter.)

Q I had a feeling from the way you said it that you were -- all right.

So do you at this point have any feelings at all that if you found a person guilty of willful, premeditated first degree murder, obviously based on the evidence that you heard, but being satisfied that that evidence was sufficient to convict him of willful, deliberated, premeditated murder, would it be your feeling that you would automatically vote to impose the death penalty verdict?

A Not automatically.

Q There would be something, other factors merely than the finding of guilt of first degree that would influence your decision?

A Yes, there would be.

13b fls.

13-b
Pg. 1

1 Q All right.

2 Now, sir, I've asked a number of questions of a
3 number of jurors over the week that you all have been seated
4 here beyond the rail, and some of them you may remember and
5 some of them you might not.

6 Taking as a general question would your answers
7 be the same to the questions that I have asked of the other
8 jurors, do you think your answer would be in the affirmative
9 there?

10 A I think it would be.

11 Q All right. Let me just hit a couple of points, if
12 I may.

13 As far as this question that I have asked a number
14 of jurors, whether you were in the minority, and espousing one
15 viewpoint or the other, guilt or innocence, minority of two or
16 three or maybe a minority of one, and there were eleven good
17 souls who had heard all the same evidence that you had heard
18 and were convinced of the rightness of their position and
19 conscientiously so, but their position was different from
20 yours and you are not convinced of the rightness of it; would
21 you change your position merely because of the numbers against
22 you who were voting contrary to you?

23 A No.

24 Q Just to bring in a unanimous verdict?

25 A No.

26 Q Now, you understand, of course, and there's an
27 instruction that you get at the end of the case, that it is in
28 the interest of both the People and the defendant to get a

13b-2

1 unanimous verdict, if that can be gotten. But your duty as a
2 juror is to vote one way or the other, only within the bounds
3 of your conscience and within the bounds of the laws as given
4 to you by the Court.

5 And if you are not convinced by the rightness of
6 their position, I take it you would not join eleven others
7 merely to bring in a unanimous verdict; is that right?

8 A That's right.

9 Q On the other hand, I do trust, as both Mr. Kay and
10 Mr. Manzella have said, that you would give your fellow jurors
11 the benefit of your thinking, if you were in the minority,
12 or even if you were in the majority, you would give the other
13 jurors the benefit of your thinking as to why it is you differ
14 with him?

15 A Absolutely.

16 Q You wouldn't close your mind? That's the way our
17 jury system has to work or it doesn't work.

18 You would do that?

19 A Yes, sir.

20 Q All right. And insofar as this question as to
21 whether or not the matter of guilt by association would
22 influence you, uh, Mr. Kay has gone into some of the matters
23 this morning concerning conspiracy. You've heard the judge
24 read some of the instructions concerning conspiracy. And
25 I've questioned some of the other jurors concerning this
26 matter of conspiracy. And conspiracy is sort of a pervasive
27 doctrine of law, that there are certain limits to this
28 concept of conspiracy. Among them, the fact that even if one

1 associates with conspirators, who are proved conspirators to
2 a criminal offense, that that mere association, in and of itself,
3 is not sufficient to convict a person. And if that's all the
4 People prove in this case, would you have any reluctance, any
5 hesitation at all in returning a verdict of not guilty?

6 A No.

7 Q And would you feel that that was doing your duty in
8 upholding the law?

9 A Yes.

10 Q By such a vote?

11 A Yes, sir.

12 Q And the same thing, even if a conspiracy is proved,
13 and even if it is shown the defendant has done some act -- the
14 person charged being the defendant, obviously, has done some
15 act in furtherance of that conspiracy, the law says if that is
16 all, and that's all that's shown, that in and of itself is not
17 sufficient to convict.

18 And I take it you would follow that law?

19 A Yes.

20 Q And if that's all the People were to show in this
21 case, you'd have no reluctance in returning a not guilty
22 verdict?

23 MR. MANZELLA: Excuse me, your Honor, I'm not quite sure
24 of what facts Mr. Denny is putting into his question. And I do
25 think they are asking the juror to prejudge the evidence in the
26 case and they may or may not be accurate as to the law.

27 MR. DENNY: Well, I know I am accurate as to the law. And
28 the only facts I am putting in, if the People only show that the

1 defendant has done an act which may have furthered the objects
2 of the conspiracy, but that is all, would he have any
3 reluctance in returning a not guilty verdict in conformity with
4 the instruction that says only that.

5 MR. MANZELLA: That's my point, your Honor. With regard
6 to the circumstances surrounding the act, the commission of the
7 act and so on, it may affect the result under the law.

8 THE COURT: The Court believes that it probably would be
9 -- could be subject to their interpretation.

10 Ladies and gentlemen, you are to ignore, however,
11 the -- or the Court will strike the comments of both counsel in
12 their argument here, because you are to take the law from the
13 Court as you already know, and anything that the Court strikes
14 in the course of the trial or during the course of the
15 proceedings, you are to treat as though you had never heard
16 it.

17 MR. DENNY: May I proceed, your Honor?

18 THE COURT: Yes, you may.

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1 MR. DENNY: I'll withdraw the question.

2 THE COURT: You may rephrase it, however.

3 MR. DENNY: Yes, thank you.

4 Q BY MR. DENNY: Well, just simply following the
5 analogy or following the prior question.

6 You would have no difficulty, then, and would
7 consider that you were doing your duty in following the law
8 which says that if the People show that the defendant has
9 done an act which furthered the objects of the conspiracy,
10 that that in and of itself would not be sufficient to
11 convict, and you could follow that instruction?

12 A Uh, with the exception of this aiding and abetting
13 that we were -- you were discussing before.

14 Does that come into the same --

15 THE COURT: It might very well. It is somewhat
16 argumentative.

17 Q BY MR. DENNY: Well, let's get into that question
18 of aiding and abetting, then, because that is a part of the
19 case of the People, obviously, and a part of the case of the
20 defendant.

21 You have been told that one who aids and abets
22 may be guilty of the crime, though he does not strike the
23 fatal blow or though he is not even present. And that is
24 true.

25 But along with that goes some sort of guilty
26 knowledge, some criminal intent which is also part of it,
27 part of the instruction or part of the series of instruc-
28 tions on aiding and abetting.

13c-2

1 And without that guilty intent, one cannot be
2 guilty of being either an aider or abetter.

3 Do you understand that?

4 A Yes.

5 Q Similarly, if one does an act which helps
6 someone -- for instance, if --

7 Your Honor, if I can just make a brief example
8 here, since it seems to be possibly in order. I don't want
9 to go too far astray.

10 But if someone says to a person standing by the
11 corner, "Here, would you hold this horse for me a minute
12 while I go into the store?"

13 The guy holding the horse is helping the man going
14 into the store, unknowingly. The guy going into the store
15 commits a robbery, jumps on his horse and rides away. The
16 person holding the horse has aided the commission of that
17 by holding the horse. But he has no guilty knowledge. And,
18 therefore, cannot be guilty of the crime, even though there
19 may be an appearance by having held the horse that he was
20 guilty. Nevertheless, you have to show, in addition to the
21 mere act of doing something, the guilty intent on his part.

22 You understand that?

23 A I understand.

24 Q All right. So, again, you're going to receive an
25 awful lot of instructions, if you are seated as a juror,
26 at the end of the case, many of which seem to be confusing,
27 many of which seem almost to be contradictory.

28 And one of the instructions is if you find that

13c-3

1 there is a state of facts making that instruction inapplica-
2 ble, then, you ignore that particular instruction.

3 If you find there's a state of facts, then,
4 that brings this instruction into play, then, you look at
5 that instruction and try to determine what it means. And
6 if you don't understand, you always have the opportunity
7 to come back and ask the judge. He will be just as helpful
8 as he can in explaining any instruction to you. Do you
9 understand you have that opportunity?

10 A I do.

11 Q All right.

12 And to the best of your ability, you will comply
13 with, abide with and be ruled by those instructions as given
14 to you by the Court; is that right?

15 A That's right.

16 Q All right.

17 I pass for cause on these issues, your Honor.

18 THE COURT: People.

19 MR. MANZELLA: Thank you, your Honor.

20
21 VOIR DIRE EXAMINATION

22 BY MR. MANZELLA:

23 Q Mr. Gould, have you been accused of any crime
24 or anyone you know personally ever been accused of any crime?

25 A No.

14 fls.

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1 Q And have you ever testified in a criminal case?

2 A No.

3 Q You have never served on a jury; is that right?

4 A No.

5 Q Because of Mr. Denny's questions with regard to the
6 death sentence, I think I -- I think you -- your state of mind
7 in regard to that is clear. But I would like to ask you if you
8 sat on the jury in this case, and the jury did convict
9 Mr. Davis, this defendant, of murder in the first degree, or
10 conspiracy to commit murder, and then after hearing all of the
11 evidence in the case, you decided that for these crimes, that
12 this defendant should suffer the death sentence, would you be
13 able and willing to vote for the death sentence?

14 A Yes.

15 Q Is there any doubt in your mind about that?

16 A No.

17 Q Mr. Gould, in Count III, you know the People will
18 not be able to produce the body of Donald Shea, Donald "Shorty"
19 Shea, will not be able to produce photographs of the body, or
20 an eyewitness to the killing of Shea -- in other words, a
21 person who saw -- will not be able to produce a person who saw
22 Shea's body in death.

23 A I understand.

24 Q Now, knowing that, and realizing that, do you feel
25 that you could be fair and impartial to the People, the
26 prosecution in this case?

27 A Yes.

28 Q Does that in any way -- knowing those facts, does

1 that in any way make you close your mind to the rest of the case,
2 to the other evidence, and feel that you could never vote for
3 conviction in that situation?

4 Or do you feel on the other hand that you could
5 keep your mind open, listen to the other evidence, and be
6 willing to be convinced beyond a reasonable doubt that Shea
7 had been murdered, and that this defendant murdered him, if
8 the evidence shows that?

9 A Yes, sir.

10 Q I asked you two questions. Which way? Which
11 would you do?

12 A Oh, the answer to the first question was: No.

13 And "Yes" to the second question.

14 Q As Mr. Denny pointed out, under the law of aiding
15 and abetting, the law permits a person to be convicted of
16 first degree murder, even though he did not strike the fatal
17 blow under that law.

18 Do you think that's unfair? Do you have any
19 quarrel with that law?

20 A No.

21 Q If you were to find that that law applies to the
22 facts of this case, would you be able to follow that law?

23 A Yes.

24 Q Is there anything that, in your mind, if you were
25 Mr. Kay or myself, sitting here representing the People in
26 this case, that you would want to know, to determine in your
27 own mind, whether you could be a fair and impartial juror?
28 Anything that you haven't already told us?

1 A I can't think of anything.

2 Q All right. Mr. Gould, have you ever studied law?

3 A No.

4 MR. MANZELLA: All right. Thank you. The People have
5 no further questions.

6 Pass for cause, your Honor.

7 THE COURT: Both sides having passed for cause, we
8 should examine now about publicity.

9 MR. KAY: Yes.

10 THE COURT: So I'll ask you to take a little walk again,
11 back to Department 100.

12 At least, you are getting a little exercise this
13 afternoon.

14 All right. In the case of People versus Mattie
15 Wilson?

16 (Proceedings had on an unrelated matter.)

17 (Whereupon, the following proceedings were had
18 in open court, but after the other members of the prospective
19 jury panel had exited the courtroom:)

20
21 FURTHER VOIR DIRE EXAMINATION

22 BY THE COURT:

23 Q Mr. Gould, we want to ask you about what you may
24 have heard, seen or read in connection with publicity about
25 this case, news media publicity. Have you, during the course
26 of the last several months or years, ever heard of this case?

27 A Uh -- well --

28 Q This indictment?

1 A Not Mr. Davis.

2 Q Have you ever heard the name Bruce Davis?

3 A No.

4 Q Have you ever heard, seen or read the name Charles
5 Manson?

6 A Yes.

7 Q And did you follow the Tate-LaBianca trial, wherein
8 Mr. Manson was accused of several homicides?

9 A I think I followed it sporadically. I was in
10 Europe most of the summer and --

11 Q Have you ever heard of anyone other than
12 Mr. Davis being prosecuted for these charges that are in this
13 indictment?

14 A I recall other names --

15 Q Have you ever heard of Steve Grogan?

16 A Uh --

17 Q Steven Grogan?

18 A I think I have heard that name.

19 Q What do you know about that name?

14a fol 20 A Just that I remember seeing it in print somewhere.

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1 Q And that's all you can recall?

2 A Yes, sir.

3 Q What do you know about the name Gary Hinman, other
4 than what I read to you?

5 A Just that he was a musician.

6 Q And anything else?

7 A No.

8 Q Do you know whether he's alleged to be dead or
9 alive, according to the news reports?

10 A Dead.

11 Q Did you read any accounts of his demise?

12 A No.

13 Q Not that you can remember?

14 A Not that I can recall.

15 Q How about Shorty Shea? He's alleged to be a victim
16 in this third Count of the indictment.

17 Do you know anything about him, other than what
18 you've heard?

19 A I knew that the body had not been found.

20 Q Do you read a newspaper daily?

21 A Yes.

22 Q What newspaper?

23 A The Times.

24 Q Did you see and hear television and radio news
25 reports?

26 A I don't generally watch television. And if I'm
27 driving my car, I usually have the radio on, but --

28 Q Is that daily?

1 A No.

2 Q Do you think that you can set aside anything that
3 you may have heard, seen or read concerning Mr. Manson,
4 concerning Mr. Hinman and Mr. Shea? Could you set that aside
5 from your mind -- not forget it, but put it out of your mind
6 temporarily, for the purpose of making any judgment you might
7 be called upon to make in this case?

8 A I think I could.

9 Q Are you expressing any doubt, when you say, "I
10 think I could"? Because if you are in doubt, the Court wants
11 to know. If you are fully sure of your capability in setting
12 aside anything that you may have heard through the news media,
13 and decide this case only on the evidence that's presented
14 here and the Court's instructions of law, that's what we want
15 to know.

16 A Yes. I -- I can be impartial.

17 Q Could you put such matters as you may have heard,
18 seen or read about Mr. Davis or this case or Mr. Manson out of
19 your mind, for the purpose of making judgments, --

20 A Yes, sir.

21 Q -- such judgments as you are called upon to make
22 in this case?

23 A Yes, sir.

24 Q And will you do that?

25 A Yes, I will.

26 Q And can you be fair and impartial?

27 A Yes, I think so.

28 THE COURT: Mr. Denny?

1 MR. DENNY: Thank you, your Honor.

2
3 VOIR DIRE EXAMINATION

4 BY MR. DENNY:

5 Q Mr. Gould, what is the most recent bit of news
6 you've read about Charles Manson? Or heard or seen?

7 A I really couldn't pin it down. Several months ago,
8 I think.

9 Q Well, do you remember essentially the subject
10 matter that was discussed in this article? Or was that on TV?

11 A No. I tend to skim over that. When the news first
12 came out, a year or more ago, I read it thoroughly; but after
13 that, I just happened to skim through it, and not really devour
14 it.

15 Q All right. And assuming that your skimming is on a
16 regular basis -- I take it, being you are retired and single,
17 you have at least time enough to look over the morning paper?

18 A Yes, sir.

19 Q And you do a fairly good job reading through it; is
20 that right?

21 A Yes.

22 Q Would you say that you feel that you keep pretty
23 current on events, at least as far as the headlines and maybe
24 the first paragraphs of lead articles are concerned, as to the
25 news of the city, the state?

26 A Generally speaking, yes. I tend to be more
27 interested in international news than domestic.

28 Q All right. Well, would it be your habit, kind of,

1 to at least sort of see the headline, realizing it concerned
2 Manson or some Manson Family member, and having thought that --
3 well, you are not particularly interested, but just skimming on,
4 sort of let it go by after that?

5 Is that essentially what you'd say you have been
6 doing --

7 A Well, if it was the headline, I would -- I probably
8 would read, just to see what all the hullabaloo was about.

9 Q Well, for instance, have you noted in the paper
10 recently anything concerning a fellow by the name of Kenneth
11 Como?

12 A No.

13 Q An escape involving a Manson Family member named
14 Kenneth Como?

15 A I recall an escape. I didn't recall the name,
16 though.

17 Q Do you recall whether, in the news, this was
18 billed as the escape of a Manson Family member?

19 A Yes.

20 Q All right. That sort of rings a bell with you?

21 A Yes.

22 Q All right. Now, how about Tex Watson? Does that
23 name ring a bell?

24 A Yes.

14b fol

1 Q And have you read anything recently concerning Tex
2 Watson?

3 A I believe he was found guilty.

4 Q Right. And found guilty of what?

5 A Murders.

6 Q What murders?

7 A I believe it was LaBianca.

8 Q All right. And are you aware, via the headlines
9 or the other media, what penalty was assessed in that
10 particular case? Life or death?

11 A I really don't recall, actually.

12 Q All right. Now, in connection with Steve Grogan,
13 do you recall -- you say the name rings a bell of some sort.
14 Do you recall at all ever seeing a picture of Mr. Grogan in
15 the paper, or on TV --

16 A No.

17 Q -- or do you remember in what way that name Steve
18 Grogan rings a bell?

19 A Just that I recall seeing it in print. But I
20 don't recall the connection.

21 Q And do you recall approximately how recently you
22 saw it in print? Was it within the last, say, two months?

23 A Oh, one or two months.

24 Q One or two months?

25 A It could have been within the last two months.

26 Q All right. And was it in connection with Shorty
27 Shea or Gary Hinman; do you recall?

28 A No, I don't recall. No.

1 Q Now, based on what you've seen, heard and read
2 about Charles Manson and the Manson Family, do you have any
3 feelings, as you sit there now, that anyone associated with
4 Charles Manson, as a member of the Manson Family, say,
5 probably shares somewhat his criminality?

6 A No, I couldn't assume that.

7 Q You wouldn't be willing to generalize that far?

8 A No.

9 Q All right. Do you have any feeling that anybody
10 associated with Mr. Manson is probably more likely to be
11 guilty of a crime charged against him than if he were not so
12 associated?

13 A No.

14 Q Now, then, you've answered the Court that, so far
15 as Shea is concerned, you know that no body was found.

16 A Yes.

17 Q And this is based on what?

18 A On a newspaper report.

19 Q And did that newspaper report include information
20 concerning attempts that various law enforcement agencies -- or
21 the Sheriff's department -- had made to locate a body?

22 A No.

23 Q Do you remember any information or reports about
24 people digging up Spahn Ranch to try and find the body?

25 A I recall the name Spahn Ranch, but I don't --

26 Q I see.

27 A -- recall anything specific about it, whether any-
28 one had been digging it up or not.

1 Q All right. As you sit there, based on what you've
2 heard, seen and read concerning Charles Manson, the Manson
3 Family, Shorty Shea, do you feel that it is probable that
4 Shorty Shea is dead?

5 A I couldn't say one way or the other.

6 Q All right. Fine. That's a state of mind in which
7 you should be able to determine that. Because you realize
8 that that's one of the issues in this case, whether or not he
9 is dead; and whether he is dead by criminal means; and whether
10 this defendant had anything to do with any death that might be
11 proved by the People -- assuming that that's even proved?

12 A Yes.

13 Q And I take it your state of mind is such that at
14 this time, you have a completely open mind as to those factors,
15 those three factors, whether Shorty Shea is alive or dead,
16 whether, if dead, he was killed by criminal means; and whether,
17 if killed by criminal means, this defendant had anything to do
18 with it; is that right?

19 A Yes, sir.

20 Q These are all elements that you are going to wait
21 for proof of by the People; and if they're not proven, each of
22 them, beyond a reasonable doubt and to a moral certainty, you'd
23 find the defendant not guilty; is that right?

24 A Yes, sir.

25 MR. DENNY: I see. Well, again, your Honor, I don't
26 know whether the Court wants us to go into the additional
27 matters of general voir dire and the death penalty or not.

28 THE COURT: Yes. Let's do.

1 MR. DENNY: All right.

2 Q Have you done any reading in the field of the
3 death penalty at all?

4 A Not -- only in general, in skipping through.

5 Q Well, would you say this is articles that you've
6 read in newspapers, magazines, et cetera? Or have you read any
7 books on the subject?

8 A No, I have not read a book. It would be just news
9 magazines or newspapers.

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2 Q All right. And essentially, the things that
3 you've read concerned the pros and cons, the abolition or
4 retention of the death penalty; is that the type of
5 material?

6 Or more when someone has been executed by the
7 State, and you read about it?

8 Have you read anything about it, a person
9 being wrongfully executed, for instance, or being saved
10 from execution at the last minute, things of that kind?

11 MR. KAY: Well, that assumes a fact not in evidence,
12 that --

13 MR. DENNY: Obviously, I am asking him --

14 THE COURT: Let's hear it again. I'm sorry.

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

17 "Q All right. And essentially, the things
18 that you've read concerned the pros and cons, the
19 abolition or retention of the death penalty; is
20 that the type material?

21 "Or more when someone has been executed
22 by the State, and you read about it?

23 "Have you read anything about it, a
24 person being wrongfully executed, for instance,
25 or being saved from execution at the last minute,
26 things of that kind?"

27 MR. KAY: I think that's an improper question.

28 THE COURT: Well, the objection is overruled. It's
kind of an unusual question, but --

14c-2

1 MR. KAY: Yeah, all ten of them.

2 THE COURT: If you understand the question, you may
3 answer it.

4 Generally, he's asking about what you've read
5 about, I assume.

6 PROSPECTIVE JUROR NO. 9: Well, I'll try to give a
7 general answer.

8 I probably have read, at one time or another,
9 something about all of those things. But I don't recall
10 anything specific.

11 Q BY MR. DENNY: All right.

12 A I --

13 Q Well, don't let me interrupt you. You were
14 going to say something else. Go ahead.

15 A Now, I've forgot what I was going to say.

16 Q All right. Well, let me try to help you along
17 the way, then.

18 Have you had any discussions, or ever joined
19 in any discussions on the death penalty?

20 A No.

21 Q Attended any meetings of any kind where that was
22 the prime subject of discussion?

23 A No.

24 Q So that as of this point, at any rate, you are
25 sort of an open mind, sort of an open mind as to the right
26 or the wrong time, place, circumstance in which to impose
27 or not to impose the death penalty; is that right?

28 A That's right.

1 to influence you to vote for life imprisonment, if you are
2 seated as a juror in this case?

3 A No.

4 Q And are you willing to personally participate
5 in a verdict of death, understanding what that means -- what
6 I've explained to the other jurors that have been seated
7 there?

8 Do you understand that a death verdict includes
9 all 12 jurors; each individual juror must vote for death to
10 have a death sentence? Do you understand that?

11 A Yes.

12 Q And are you willing to personally participate in
13 such a verdict?

14 A Yes.

15 MR. KAY: Thank you. I have no further questions.

16 Pass for cause in all areas.

17 THE COURT: All right. Both sides pass for cause?

18 MR. DENNY: Yes, your Honor.

19 THE COURT: Then the peremptory is with the defendant,
20 I believe.

21 MR. DENNY: I believe it's with the People.

22 MR. KAY: Yes. I think Mr. Denny's right. I think
23 we've exercised eight.

24 THE COURT: Let's see.

25 MR. DENNY: That's right.

26 THE COURT: Your last --

27 MR. KAY: I think he excused Mrs. Dunkins last, Mr.
28 Denny did,

She was the last juror excused.

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1 THE COURT: That's correct, yes. So the next peremptory
2 is with the People.

3 Thank you, Mr. Denny.

4 MR. KAY: The People would thank and excuse juror No. 11,
5 Mrs. Mary Christian.

6 THE COURT: Bring the panel in. We'll excuse them at
7 this time.

8 THE BAILIFF: Yes, sir.

9 (Whereupon, there was a pause in the proceedings
10 while the prospective jury panel was brought into the
11 courtroom.)

12 THE COURT: Your peremptory challenge, then, is to the
13 juror No. 11?

14 MR. KAY: Right.

15 THE COURT: Mrs. Christian.

16 PROSPECTIVE JUROR NO. 11: Yes.

17 THE COURT: You've been peremptorily challenged,
18 Mrs. Christian, and the Court will excuse you. The Court
19 thanks you and excuses you.

20 PROSPECTIVE JUROR NO. 11: All right.

21 THE COURT: And would you report to Room 253 -- when,
22 tomorrow?

23 THE CLERK: Right.

24 THE COURT: Room 253 at 111 North Hill Street, court-
25 house. At the courthouse, Room 253 tomorrow.

26 PROSPECTIVE JUROR NO. 11: All right, thank you.

27 THE COURT: You are excused.

28 Pick another name for Mrs. Christian.

15-2

1 THE CLERK: Lewis Jackson, L-e-w-i-s, last name
2 J-a-c-k-s-o-n.

3
4 VOIR DIRE EXAMINATION OF

5 LEWIS JACKSON

6 BY THE COURT:

7 Q Mr. Jackson, have you been present during all the
8 proceedings thus far?

9 A Since Monday.

10 Q And you heard the Court explain the nature of this
11 case and read the indictments?

12 A Yes.

13 Q You've been present thereafter except when you were
14 excused, is that correct?

15 A Yes, sir.

16 Q All right, fine.
17 Would it be any hardship for you to serve in this
18 case?

19 A Not that I know of.

20 Q What type of work do you do?

21 A I am an eligibility worker.

22 Q For the County of Los Angeles?

23 A Yes.

24 Q Eligibility for welfare, is that it?

25 A Yes.

26 Q How long have you been so employed?

27 A About two years.

28 Q Have you had any jury duty before?

1 A No.

2 Q Have you served as a juror on any type of case?

3 A None, whatsoever.

4 Q Is there a Mrs. Jackson?

5 A No.

6 Q Are you related to or a friend of any law
7 enforcement officer?

8 A No.

9 Q And in what general area do you reside?

10 A West Los Angeles.

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

14 A No.

15 Q Or would you have such views about the death
16 penalty that you would automatically refuse to impose it
17 regardless of the evidence in the case?

18 A No.

19 Q Or, on the other hand, would you automatically vote
20 for the death penalty upon a conviction of murder in the first
21 degree, regardless of the evidence?

22 Would you automatically vote for the death penalty,
23 should you have found that the defendant is guilty of murder
24 in the first degree in the first phase? Coming now to the
25 second phase?

26 A Oh, you mean penalty?

27 No, I wouldn't. I don't think so.

28 Q I mean in the penalty phase, would you automatically

1 vote for the death penalty upon a conviction of murder in the
2 first degree?

3 A No, I wouldn't.

4 Q You would look at the evidence, then, I take it,
5 to determine whether, in your discretion, the evidence
6 justifies the imposition of the death penalty?

7 A Yes, I would.

8 Q Remember that series of questions that I asked
9 prospective jurors?

10 Can you think of any respect in which your answers
11 would be different?

12 A No, I don't think so.

13 What series of questions are you talking about,
14 really?

15 Q Well, there was a series of general questions.
16 For example, have you ever studied law?

17 A No.

18 Q Has a friend or relative of yours ever been charged
19 with a crime other than a traffic violation?

20 A Yes.

21 Q Have you, yourself, been charged with a crime?

22 A No.

23 Q A close friend or relative charged with a crime?

24 A Yes.

25 Q Tell us about that.

26 A Uh, my nephew was charged with, uh, uh, manslaughter,
27 I guess. He was 15 years old. He got in a fight at a party
28 and he killed a boy.

1 Q How long ago was that?

2 A A year and a half ago. A year and a half.

3 Q Did you testify in that case?

4 A No, I didn't.

5 Q Were you involved in any way?

6 A No.

7 Q Other than emotionally, perhaps?

8 A No.

9 Q Did -- from that, do you have any feeling one way
10 or another about prosecution? Do you think it was an unfair
11 situation?

12 A No, I don't.

13 Q Do you think that you could still be fair to --
14 fair and impartial in the case?

15 A Yes.

16 Q Has any close friend or relative of yours been the
17 victim of a -- of a crime of violence?

18 A No.

19 Q All right.

20 Now, do you recall that series of questions that I
21 asked?

22 Did any of those answers that were given by the
23 majority of the people seem to be different than the answer
24 you would have given?

25 A No.

26 Q All right. Would you have such views about a
27 person who the evidence discloses is a member of Charles
28 Manson's Family or this Manson group by reason of what you have

1 seen, heard or read that you could not be fair to such a
2 person in sitting as a juror?

3 A No.

4 Q Could you be fair and impartial? Could you be
5 fair as a juror in the event the evidence should disclose that
6 the defendant in this case is a member of the Manson Family
7 or would what you have heard, seen or read affect you to such
8 an extent that you could not be fair?

9 A Because he was a member of the Manson Family,
10 would this influence my decision in any way, you mean?

11 Q Yes.

12 A No.

13 THE COURT: All right, we'll resume questioning of you
14 tomorrow morning at 9:30.

15 I would like all of you to be back at 9:30
16 tomorrow morning.

17 The Court, again, admonishes you that you are not
18 to see, hear or read anything in connection with the Manson
19 Family, Charles Manson, this defendant or this case.

20 You are to take affirmative steps now as jurors
21 to avoid such matters. If you inadvertently hear a news
22 report on the radio, turn it off or go into another room.

23 The same is true as to television reports in
24 connection with such matters. And do not read any newspapers
25 or magazine articles of any type in connection with the
26 subjects.

27 All right, don't converse amongst yourselves,
28 nor with anyone else about this matter, and I'll see you

1 tomorrow morning at 9:30, ladies and gentlemen. 9:30.

2 (Whereupon, an adjournment in this matter was
3 taken at 4:24 P. M., to resume the following day, Wednesday,
4 December 15, 1971.)
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