

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 106

HON. RAYMOND CHOATE, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

-vs-

BRUCE MCGREGOR DAVIS,

Defendant.

NO. A-267861

212

REPORTERS' DAILY TRANSCRIPT

Wednesday, December 15, 1971

VOLUME 12

APPEARANCES:

For the People:

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

For Defendant Davis:

GEORGE V. DENNY, III

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

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1 LOS ANGELES, CALIFORNIA, WEDNESDAY, DECEMBER 15, 1971 9:50 AM

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4 THE COURT: The Court had, I believe, spoken with Mr.
5 Jackson briefly.

6 And, Mr. Denny, you may begin talking with Mr.
7 Jackson, I believe.

8 MR. DENNY: Yes.

9 May I have just a few moments, your Honor?

10 THE COURT: Ladies and gentlemen, in this lull, I
11 didn't say good morning to you. How are you?

12 (Whereupon, there were murmurs of "Good morning,
13 your Honor," heard throughout the prospective jury
14 panel.)

15 THE COURT: Good to see you all. Kind of ignoring you
16 here.

17 Is there anyone of you who, in the last 48 hours,
18 has heard, seen or read anything in connection with Mr.
19 Manson or this case, anyone of you who's in the box?

20 (No affirmative response.)

21 THE COURT: Fine.

22 Well, there is one gentlemen there.

23 What is your name?

24 A Arlett, Robert P.

25 THE COURT: We may ask you about that later on,
26 Mr. Arlett.

27 The others of you, I would assume, then, have
28 followed the Court's instructions and neither inadvertently,

1 nor willfully have you seen, heard or read anything concerning
2 Mr. Manson or this case?

3 Mr. Denny.

4 MR. DENNY: Yes, thank you, your Honor.

5
6 VOIR DIRE EXAMINATION OF

7 MR. LEWIS JACKSON

8 BY MR. DENNY:

9 Q Mr. Jackson, you say you are an eligibility worker
10 for the County of Los Angeles and have been for the last two
11 years, is that correct?

12 A Yes.

13 Q And in what area do you work, sir?

14 A Burbank.

15 Q And this is eligibility for what?

16 A Welfare assistance.

17 Q And is this aid to dependent children?

18 A Yes, AFDC.

19 Q All right.

20 And prior to your work for the County of Los
21 Angeles, in that capacity, what was your work?

22 A I worked for an insurance company, Standard Life
23 Insurance Company.

24 Q Doing what, sir?

25 A Uh, I was -- I was an account representative for
26 them.

27 Q Account representative.

28 How long, sir?

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1 A For about 18 months.

2 Q And before that?

3 A Before that I was doing nothing but riding my
4 motorcycle around the country. And before that I was in the
5 Service.

6 Q Just out of curiosity, how long did you ride a
7 motorcycle around the country?

8 A About 18 months.

9 Q About 18 months. All right.

10 And in the Service, what branch of the Service
11 were you in?

12 A I was in the Army.

13 Q And for how long?

14 A 40 months.

15 Q Did you see combat?

16 A Yes.

17 Q In Vietnam?

18 A Yes.

19 Q And were you shooting at people?

20 A I was Special Forces Advisers Second 327.

21 Q Second 327?

22 A Yeah, 327.

23 Q Well, again, I understand the Advisers also did
24 some shooting on occasion.

25 A Yes, we did shooting.

26 Q And you were shot at?

27 A Yes.

28 Q Did you see anybody killed?

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1 A Yes.

2 Q To your knowledge did you kill anybody over
3 there?

4 A Yes.

5 Q There may be some testimony in this case con-
6 cerning motorcyclists, members of certain motorcycle gangs
7 and/or clubs, I should say.

8 Did you belong to any particular organization
9 or were you just riding?

10 A I was just riding.

11 Q Motorcycle free.

12 And going to this point that you mentioned to
13 the Court about your nephew having been charged with a crime.

14 He was a juvenile at the time, I take it?

15 A Yes.

16 Q Was a Juvenile Court petition sustained against
17 him?

18 A Uh, I don't understand what you mean by sustained.
19 Was he tried in a Juvenile Court, you mean?

20 Q Yes.

21 A Yes.

22 Q And they found that the charges were true?

23 A Well, it is -- I really don't know what they
24 found. They just let him go. He had committed it, but it was
25 a man he killed. He was a juvenile and the man wasn't
26 supposed to be there, so they just let him go.

27 Q They did let him go?

28 A Yes.

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1 Q I wasn't quite sure when you answered the Court
2 and you said you had been present since Monday, since I
3 think most of the jurors came in the Friday before this last
4 Friday.

5 Were you absent that Friday for some reason or
6 did you come in with the --

7 A Yeah, I came in with the panel on Friday.

8 Q Friday before last, all right, fine.

9 Now, sir, again I begin the day by asking you
10 some questions on the death penalty, because this is the only
11 opportunity we have to talk to you about that, whether we get
12 to it or not.

13 Have you done any thinking about the death
14 penalty at all since you've been --

15 A Yes.

16 Q -- sitting as a juror here, a potential juror?

17 A Yes.

18 Q And prior to that time had you done any reading
19 on the subject?

20 A No.

21 In school, maybe, that's all.

22 Q All right. Had you conversed with your friends
23 or such on the death penalty, the pros or cons of it,
24 abolition, retention?

25 A Yes, this was ten years ago. The last I really
26 discussed it with anybody in the class or something.

27 Q All right. Well, you do have some recollection
28 of that being a topic of discussion in class?

1 A Yes.

2 Q All right. And we had one juror here who had
3 apparently, for extra credits, taken a position against it
4 because you got extra credits if you were against it or those
5 who were for it, or any kind of formal discussion; did you
6 engage in any such activity?

7 A No, I didn't.

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Q All right. Now, I take it that in response to your -- to the questions of the Court, it would be true that there is no particular case -- is that right? -- where you would say that, even assuming a man had been found guilty of willful, premeditated, deliberate murder, first degree murder, you would automatically because of that impose or vote to impose the death penalty; is that true?

MR. KAY: Well, your Honor, I'm going to object on the same grounds enunciated last week. Mr. Denny's question does not state "without regard to the evidence," and Witherspoon --

THE COURT: Well, he used the word "automatically," I believe, if I heard him correctly.

MR. KAY: But he didn't say, "without regard to the evidence."

Q BY MR. DENNY: Let me put in that little key phrase, then, Mr. Jackson.

I don't know how you could find a man guilty without regard to the evidence, but we posit the fact that you have listened to the evidence; you have found a man guilty by listening to that evidence -- which you obviously have to do, before you can find him guilty.

Now, having found him guilty of willful, deliberate, premeditated first degree murder, would you, without more, without anything else -- without regard to the evidence, however that can be -- automatically invoke the death penalty?

MR. KAY: Well, the problem with that question is --

1 THE COURT: Yes, I know the problem very well.

2 MR. KAY: Thank you, your Honor.

3 THE COURT: The objection is sustained.

4 MR. DENNY: Your Honor, I know the problem, too; and
5 there's no way that a juror can find a person guilty without
6 regard to the evidence.

7 And then there's no way that he can vote, having
8 found him guilty, regarding the evidence, on the death
9 penalty or life, quote, without regard to the evidence.

10 He has had to regard the evidence. The question
11 obviously poses a situation where he has regarded evidence
12 to get the first degree verdict. Then --

13 THE COURT: We are talking about, however, about the
14 subject of penalty.

15 MR. DENNY: Right.

16 THE COURT: Then, of course -- well, without discussing
17 it openly here, I believe that you know the defect in your
18 question. You may rephrase it.

19 Q BY MR. DENNY: Well, let's try to -- you'll
20 excuse the expression -- play the game, in the words of the --
21 the little words that we have to use.

22 But do you understand what I am trying to get to?

23 A I think so.

24 Q Having listened to all the evidence to find a man
25 guilty, you've found him guilty of first degree, willful,
26 premeditated murder.

27 Now, I put it to you in the phraseology that
28 apparently we have to use here: Without regard to the

1 evidence, then, would you automatically impose the death
2 penalty?

3 A I come to the same thing. I don't understand
4 that. If I regard the evidence to find him guilty of
5 premeditated first degree murder, then in my mind, he's
6 guilty of first degree premeditated murder;

7 And these circumstances would call me to get the
8 circumstances, you know, before this call for this; and then,
9 whether I could give a first degree or second degree -- but
10 it would have to be on the evidence that I had seen in that
11 particular case.

12 Q Obviously. All right.

13 Then, having considered that evidence, you are
14 arriving at the point where you've convicted him. Now, there
15 are some people who would say, having convicted him of
16 willful, premeditated, deliberate first degree murder -- or
17 first degree murder under the felony-murder rule, which
18 could even be by accident -- as Mr. Kay and Mr. Manzella
19 have said, under the felony-murder rule, a murder committed
20 in the perpetration of a robbery is first degree murder,
21 automatically; and even if it's done accidentally, it's
22 first degree murder, automatically, if it's committed in
23 the perpetration of a robbery or a burglary -- or some other
24 crimes.

25 All right. But it's first degree murder. Now,
26 there are some people who would say, "Any man guilty of
27 first degree murder, I would automatically invoke the death
28 penalty, merely by virtue of the fact that he's guilty of

1 first degree murder, no matter what the evidence was that
2 brought him to that point."

3 Now, is that your feeling?

4 A No, it isn't.

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1 Q All right. So, your position is that there are
2 first degree murders and there are first degree murders; there
3 are first degree murderers and there are first degree murderers;
4 and it would depend on the circumstances before you whether you
5 would vote for either life or death; is that correct?

6 A True.

7 Q All right. Now, sir, you've heard the questions
8 that I've asked the other jurors during the last week or so,
9 that you have been present in court?

10 A Yes.

11 Q And do you feel that your answers would be
12 essentially the same as those other jurors who are sitting
13 there in the panel with you now?

14 A I think so.

15 Q Do you remember the various points of law that
16 I've particularly talked about? Particularly insofar as the
17 concept of guilt by association, and that association alone is
18 not enough to convict someone?

19 A Yes.

20 Q And you would have no reluctance in acquitting the
21 defendant, if all that was shown was simply association and
22 nothing more; is that right?

23 A True.

24 MR. DENNY: All right, sir.

25 I'll pass for cause, your Honor.

26 MR. KAY: Thank you, your Honor.

27 Excuse me a moment, Mr. Jackson, while I set up
28 here.

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VOIR DIRE EXAMINATION

BY MR. KAY:

Q Mr. Jackson, I want to ask you a couple of questions about the case involving your nephew, in Juvenile Court.

How involved did you personally get in that case? Did you get so involved that you went down to Juvenile Court to watch the proceedings?

A No. I was down in San Diego at the time, and no one was allowed in but the -- like the immediate family and so forth.

Q So, it was a closed hearing, in other words?

A Yes. So, I didn't know anything but that it was the day he was going. And then they called me and told me the results down in San Diego.

Q And did you feel that he was treated fairly in these proceedings?

A Well, I was glad he got off. I really didn't know the circumstances behind it.

It was all kind of quiet; and when it was over with, it was over with.

Q And you say that your -- there is no question that your nephew actually did kill this man at the party?

A Yes. They were in a fight, yeah.

Q Okay. But this man was an intruder or something?

A Yeah, that's what I understand.

Q Okay. And I take it, then, that nothing that happened with the arrest and prosecution of your nephew would

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1 prejudice you against law enforcement authorities, or
2 prosecutors, or anything of that nature, would it?

3 A No.

4 Q How long have you worked for the County of Los
5 Angeles now?

6 A I think the 29th of March it will be two years.

7 Q And have you been at Burbank that whole time?

8 A No. I was in DPSS downtown, when I first -- about
9 five months; and then they transferred me to Burbank.

10 Q And have you ever sat on a jury anywhere before?

11 A No.

12 Q This is the first time you've had jury duty?

13 A Yes.

14 Q All right. Now, let me ask you a couple of
15 questions relating to the death penalty. As you might have
16 heard me tell other jurors when a death sentence is returned,
17 that the clerk of the court polls each individual juror as to
18 whether each juror voted for that verdict.

19 Now, if you thought that the evidence in this case
20 warranted a death sentence, and you voted for it, would you
21 have the courage of your convictions to tell Mr. Denny and
22 Mr. Davis -- and the clerk of the court, when she polls you --
23 that that was your verdict?

24 A Yes.

25 Q In other words, would you be willing to personally
26 participate in a verdict sentencing a man to death for the
27 crimes of first degree murder?

28 A Yes, if I think that's what it came to.

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1 Q All right.

2 And I take it you've resolved in your own mind that
3 if you felt the evidence warranted it, that you could, your-
4 self, vote for the death penalty?

5 A Yes.

6 Q Now, is there any doubt at all in your mind about
7 that?

8 A No.

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

12 A No.

13 Q And do you have any close friend or relative
14 who opposes the death penalty, who you feel might try and
15 influence you to vote for life imprisonment, if you were
16 seated as a juror in this case?

17 A I have some that opposes the death penalty, but
18 no one that could influence me, no.

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1 Q All right. In other words, you wouldn't discuss
2 this case or the death penalty with this other person until
3 the case was over, --

4 A No.

5 Q -- is that correct? If you were seated as a
6 juror?

7 A Yes.

8 Q And would you even consider finding Mr. Davis
9 guilty of less than first degree murder, or conspiracy to
10 commit murder, for the sole reason that you'd want to avoid
11 moving into the penalty phase of the trial and making the
12 determination as to whether or not Mr. Davis got life
13 imprisonment or the death penalty?

14 A No.

15 Q Did you hear all the other questions that I asked
16 the other jurors yesterday -- and probably on Friday?

17 A Yes.

18 Q All right. Was there anything that came to your
19 mind that you'd like to answer in regard to those questions?

20 A No, not that I know of.

21 Q Nothing that you personally thought about at the
22 time I was asking the other jurors questions.

23 Did you understand what I told them about
24 reasonable doubt? That that's the prosecution's only burden
25 of proof in this case?

26 A Yes.

27 Q And would you be willing to follow the Court's
28 instruction on that?

1 A Yes, I will.

2 Q And did you understand that this -- the distinction
3 between circumstantial and direct evidence?

4 A I think so.

5 Q Okay. Direct evidence is what you see; and
6 circumstantial evidence, you don't see it, but you prove it by
7 other facts and inferences from those facts.

8 Do you understand that?

9 A Yes.

10 Q Okay.

11 And you understand that under the law, they're
12 both entitled to equal weight? One type of evidence is not
13 taken over the other, but direct and circumstantial are
14 absolutely equal; do you understand that?

15 A No, I didn't understand that.

16 Q Well, that is a fact. Will you be willing to
17 follow the Court's instructions in that regard?

18 A Yes.

19 Q All right. And do you have any quarrel with that?

20 A No.

21 Q And do you think it's unfair that a defendant can
22 be convicted of first degree murder, based on circumstantial
23 evidence alone?

24 A No, if it -- do you mean do I personally feel
25 that that's right, law-wise?

26 Q Yeah. Do you have any quarrel with that law?

27 A No. I mean, if it convinces me of it, fine.

28 Q Right. You understand that the only burden is

1 proving the defendant guilty beyond a reasonable doubt.
2 Whether you do this with direct evidence or circumstantial
3 evidence -- or a combination of both direct and circumstantial
4 -- is inconsequential, as long as the burden is met, of
5 proving the defendant guilty beyond a reasonable doubt.

6 A Yes.

7 Q And do you feel that you'd give any less weight to
8 the testimony of a witness because that witness is a police
9 officer?

10 A No.

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

13 A No.

14 Q -- even the slightest?
15 Have you ever studied law?

16 A No.

17 Q Do you know any criminal defense attorneys?

18 A No.

19 Q Private investigators?

20 A Yes. I know a private investigator.

21 Q And who is that?

22 A Mr. Williams. He was -- he lived across from me
23 for about a year and a half.

24 Q And who does he work for?

25 A I don't know. All I know, he was a private
26 investigator. That's all I've ever known about him.

27 Q Have you discussed any cases with him --

28 A No, nothing.

1 Q -- or anything?

2 Have you ever testified as a witness in a court of
3 law before?

4 A No.

5 Yes. Overseas, when I was overseas. I testified
6 over there.

7 Q What, in a proceeding under the Uniform Code of
8 Military Justice?

9 A No. It was in Thailand. The guy was killed in a
10 bar one time, and --

11 Q You were a witness?

12 A And I was -- well, I really wasn't a witness.
13 They just asked me to come in and testify to the number of
14 people that were in the bar and so forth.

15 Q Were you in the Special Forces the whole time you
16 were in the Army, or --

17 A Up until I came back from Viet Nam.

18 Q And then what branch were you in?

19 A Then I was 101st Airborne Division.

20 Q You were in the thick of it all the time, huh?

21 Now, if you believe Mr. Davis was guilty of
22 first degree murder, beyond a reasonable doubt, in Count III,
23 the murder of Donald Jerome Shea, would you vote to convict
24 him of that crime, even though Mr. Shea's body had not been
25 recovered?

26 A Yes.

27 Q Is there any doubt in your mind about that?

28 A No.

1 Q Can you think of any reason at all why you could
2 not or should not sit on this jury?

3 A Not that I know of.
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1 Q All right. Do you feel that you could give the
2 People of the State of California a fair trial?

3 A Yes.

4 MR. KAY: I'll pass for cause, thank you.

5 THE COURT: Upon a conviction of murder in the first
6 degree -- I want to give you this instruction, in view of the
7 colloquy that's been engaged in. This is for everyone's
8 benefit, not just yours, Mr. Jackson.

9 You've heard it before, and it's repetitive, but
10 even so, it may not be clearly understood.

11 Upon the conviction, then, of murder in the first
12 degree, it would be the jury's duty to determine which of the
13 penalties provided by law should be imposed for that offense.

14 In arriving at this determination, you should
15 consider all of the evidence received here in court, presented
16 by the People and the defendant, throughout the trial, before
17 this jury.

18 You may also consider all of the evidence of the
19 circumstances surrounding the crime, of the defendant's
20 background, history, and of the facts in aggravation or
21 mitigation of the penalty which has been received here in
22 court.

23 MR. DENNY: Your Honor, I'm sorry. The people in the
24 back can't hear you.

25 THE COURT: Thank you.

26 In arriving at this determination, you should
27 consider all of the evidence received here in court, presented
28 by the People and the defendant throughout the trial before

1 this jury.

2 You may also consider all of the evidence of the
3 circumstances surrounding the crime, of the defendant's
4 background and history, and of the facts in aggravation or
5 mitigation of the penalty which has been received here in
6 court.

7 However, it is not essential to your decision
8 that you find mitigating circumstances on the one hand, or
9 evidence in aggravation of the offense on the other.

10 Are we at the point, now, where we should ask
11 Mr. Jackson about his knowledge about prior publicity?

12 MR. KAY: I believe so, your Honor.

13 MR. DENNY: Yes, your Honor.

14 THE COURT: Since that is the case, then, I'll ask the
15 rest of you to take a walk.

16 Would somebody open both the doors? And would you
17 leave very quickly and quietly?

18 Remember not to discuss this case amongst your-
19 selves nor with anyone else.

20 (Pause in the proceedings while the members of
21 the jury panel exited the courtroom.)

22
23 VOIR DIRE EXAMINATION

24 BY THE COURT:

25 Q Mr. Jackson, what we are interested in is knowing
26 what you may have heard, seen or read concerning this case,
27 before I read the indictment to you or told you about it.

28 A Are you talking about the Manson case?

1 Q I am talking about this particular indictment.

2 A Nothing at all.

3 Q Had you ever heard the name Bruce Davis? Heard,
4 seen or read it?

5 A No, I hadn't. I had been working two jobs for
6 the last ten months, and I didn't -- I go to work at 7:30 in
7 the morning, and I go back home at 11:30 in the evening, and
8 then I just go to bed.

9 And on the weekends, I be in the street, so I
10 haven't read too much at all.

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1 Q How is that going to affect your jury duty?

2 A Well, I don't have the second job any more and the
3 County is going to pay me.

4 Q This is going to be a rest for you in some ways?

5 A Really.

6 Q If you should be selected.

7 So you've been too busy in the last ten months,
8 at least, to pick up any news about Mr. Davis or this case?

9 A Yes.

10 Q When did you come back from overseas?

11 A Uh, July, '67.

12 Q Well, then, you, ofcourse, heard of the Tate-La
13 Bianca case and the prosecutions of Charles Manson, the
14 prosecution of Charles Manson for various counts of murder
15 in that case, is that correct?

16 A Yes.

17 Q And you know about the Manson Family, is that
18 correct?

19 A Yes.

20 Q Would somebody who is a member of the Manson
21 Family -- I never asked you this, but do you have any
22 feeling now of any kind against the defendant as a result of
23 his association, which we believe the evidence will show,
24 with Charles Manson?

25 A No, I --

26 Q Or the Manson Family?

27 A I didn't -- I didn't read anything about the case.
28 I don't know exactly what all -- all I know is they were

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1 convicted and they were guilty, but this is about all I know.

2 Q What do you know the Manson Family to be?

3 A I don't even know how many people it is. I
4 know they had some people. I know they had some women coming
5 in court and sitting in the back and looking at people. This
6 is all I know.

7 Q Without specifically knowing how many members
8 there were, what do you know the Manson Family to be?

9 A Some hippies that I thought was kind of traveling
10 around.

11 Q And who associated with this man Charles Manson,
12 is that correct?

13 A Well, I was thinking that he was one of the group.

14 Q I see.

15 A That was traveling around.

16 Q Have you ever heard the name Gary Hinman before?

17 A No.

18 Q Before I read this indictment to you?

19 A I heard of Shorty Shea before.

20 Q You had heard of that?

21 A Not in relation to the case, but I heard of
22 Shorty Shea before.

23 Q What had you heard, seen or read about the name
24 Shorty Shea?

25 A Well, Jim McAndrews used to work for the movies
26 and he had worked for him for sometime.

27 Q He worked --

28 A He wanted to be a stuntman like McAndrews and I

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1 heard him mention his name a couple of times, that's all.

2 Q In what connection had he mentioned it? Did he
3 mention him, stating he was deceased?

4 A No, no. This was like -- McAndrews and I was
5 in the Service together. This is when I heard it before then.

6 Q Well, what do you know about Shorty Shea insofar
7 as whether or not he's living?

8 A All I know his body wasn't found. He's supposed
9 to be dead.

10 Q That's what I was searching for, whether you
11 knew that item?

12 A Yeah.

13 Q How about Hinman? Do you know anything about
14 Hinman, whatever?

15 A No, nothing.

16 Q Nothing whatever? You didn't recognize the name?

17 A No.

18 Q All right. Now, as to Shea.

19 Your friend McAndrews knew Shea?

20 A Well, evidently -- yeah, sec, I guess he did know
21 him in some sort of way.

22 Q In some sort of way?

23 A Yeah.

24 Q But you, yourself, had never in any way
25 encountered Mr. Shea, is that correct?

26 A No.

27 Q That is correct?

28 A That is correct.

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1 Q It was a bad way for me to put that question to
2 you.

3 Well, now, you've learned from the newspaper or
4 from your friend McAndrews that Mr. Shea is missing and that
5 they've looked for his body.

6 What I want to know from you is whether, in
7 deciding what you must decide in this case, one of the issues
8 will be, of course, whether Mr. Shorty Shea is deceased.

9 In deciding what you must decide in this case,
10 can you set aside anything that you may have heard, seen or
11 read through the news media or talked about with your friends
12 or relatives?

13 A I think I can.

14 Q Are you certain of your ability to set aside
15 anything, any bit of information that you may have accumulated
16 over the last two years for the purpose of acting as a fair
17 and impartial juror in this case?

18 A Yes. I think it is very little I can recall
19 upon anyway.

20 Q You may recall something that you do not recall
21 now.

22 What we are primarily interested in is, one,
23 whether you primarily have the capability of being objective
24 in setting aside such material. Not forgetting that, but
25 blanking your mind out for the purpose of acting as a juror
26 as to the purpose of that information; do you understand?

27 A Yes.

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1 Q And do you have any doubts about your ability to
2 do that?

3 A No.

4 Q Will you do that?

5 A Yes.

6 Q And will you decide this case based -- making any
7 decision you might be called upon on any point, only upon the
8 evidence that's produced here in court and the Court's
9 instructions of law?

10 A Yes.

11 Q And will you be a fair and impartial juror in
12 spite of what you may have heard, seen or read in the news
13 media or in conversing with friends or relatives?

14 A I shall.

15
16 VOIR DIRE EXAMINATION

17 BY MR. DENNY;

18 Q Mr. Jackson, just to follow up on this second
19 job you mentioned, what kind of job was that, sir?

20 A I was a supervisor for 14 floors out on Wilshire.
21 Janitorial service out on Wilshire.

22 Q What company was that?

23 A Uh, uh, wow, let me think.

24 Uh, Monarch Building Maintenance.

25 Q I'm sorry?

26 A Monarch.

27 Q All right. Jim McAndrews was in the Service
28 with you during what portion of the time that you were

3a-2

1 there?

2 A Uh, we left Vietnam together. That's when I
3 first met him. And like it was about, uh, a year. A year.
4 From '66 to '67, like that.

5 Q All right. And have you maintained that friend-
6 ship or relationship with him since that time?

7 A Yeah, I'm his God father's -- child's God father.
8 But I haven't seen him in about -- eight months ago we went
9 to a party and I put him on a plane to Frisco and I haven't
10 heard from him or said a word to him since.

11 Q You might say he's disappeared?

12 A He's disappeared.

13 Q And did you have some discussions with him about
14 Shorty Shea before Mr. Shea's name hit the news?

15 A No, not -- in Vietnam -- I say, that's when I
16 can remember him mentioning the name connected with something
17 about the movies. And then, we never discussed anything
18 about it since then.

19 Q Well, this was back before 1967, then, is that
20 right?

21 A Well, he was in the same Service -- I mean, he
22 was in the First Cavalry. I was in the Second 327, and they
23 came down and rescued us one time and this is actually when
24 I first saw him. And we stayed together until we got our
25 company built back up. We stayed together after this until
26 we came back. We got put in the same company, 101st.

27 Q Now, this conversation that you had about Shorty
28 Shea, was this just a single conversation you had?

3a-3

1 A Just one conversation. He wanted to be an actor
2 and he often talked about the movies and people he knew. And
3 one of the things he mentioned was Shorty Shea, and said he
4 was a stuntman, something to this effect. He wanted to be a
5 stuntman.

6 Q Now, when you say "he" --

7 A He, McAndrews.

8 Q Jim McAndrews himself?

9 A Yeah.

10 Q And he had worked some with Shorty Shea?

11 A I don't know whether he worked with him exactly
12 or wanted to work with him, but he was talking about some-
13 thing -- he had seen him some place.

14 Q I see. And just so I get it straight, is it that
15 you have not talked with him at all, not talked with Jim
16 McAndrews at all about Shorty Shea after the news broke of
17 this Manson connection with him?

18 A No, not at all.

19 Q Now, insofar as your knowledge of the Tate-La
20 Bianca matters, do you recall having read about or seen or
21 heard anything over the radio or TV about that case when it
22 initially broke or those cases, when they initially broke?

23 A No, I think the cases were -- they were well into
24 it before I even heard anything at all about it.

25 Q Well, did you recall reading anything about the
26 trial when it commenced or anything of that kind?

27 A No. I remember now when he said something about
28 -- when he was reading the indictment in '69. I didn't even

1 know it was -- gone back that far. You said something to
2 the -- that effect.

3 Q The indictment he read --

4 A I said him (indicating).

5 Q -- is against Mr. Davis, but is not connected with
6 the Tate-La Bianca trials?

7 A Yes, I realize this.

8 Q All right. As far as the Manson Family, you said
9 you thought they were a group of hippies.

10 Were they --

11 A Yes.

12 Q Wandered around?

13 A Hippies in quotes.

14 Q What do you mean by that?

15 A Well, everybody has their definition what
16 hippies are.

3b fls.

3b-1

1 Q Well, that's what I wanted to know, what you mean
2 by that.

3 A You still want to know?

4 Q Yeah.

5 A Well, I think I was a hippie for a while. I
6 traveled. I got on my motorcycle and let my hair grow and
7 took off and do what I wanted to do. For 19 months I felt
8 that I was. I wasn't going along with the nice establish-
9 ment way of doing things.

10 Q I see. So that essentially your definition
11 is just that, one who does not conform for a greater or
12 shorter period of time to what the establishment is doing?

13 A Yes.

14 Q And this is your feeling about what the Manson
15 Family members are or have been doing, is that right?

16 A Yes.

17 When I say "hippies," that's what I am referring
18 to.

19 Q All right. Do you have any feeling yourself,
20 having sort of left that subculture, against those who may
21 still remain?

22 A No, I don't. I think that some of them are a
23 lot better off, endquote, you know, than we, the establish-
24 ment, are.

25 Q All right. Maybe there are a lot who agree
26 with you there. Do you have any feeling, however, that
27 because of your association with people in the, say,
28 hippie subculture, hippies, whatever, that you would be somehow

1 prejudiced against the prosecution of this case?

2 A No, I think I would be more objective.

3 Q All right. I take it you don't feel because of
4 your association you'd be prejudiced against the defendant
5 in this case, is that right?

6 A No.

7 Q All right. And, again, as the Judge asked you,
8 if anything that comes from the witness stand there may
9 trigger something in your mind that you do recall having seen,
10 heard or read similar to that, do you think you can push
11 back again that which you have seen, heard or read and
12 consider only that which comes from the witness stand in
13 determining the guilt or innocence of Mr. Davis in this case?

14 A Yes, I can.

15 Q And you'll do so?

16 A And I shall do so.

17 MR. DENNY: All right, pass for cause, your Honor.

18 MR. KAY: Having questioned Mr. Jackson generally, I
19 have no questions on publicity, your Honor.

20 THE COURT: All right, both sides pass for cause?

21 MR. KAY: Yes, your Honor.

22 MR. DENNY: Yes, your Honor.

23 THE COURT: The next peremptory is with the defendant.

24 MR. DENNY: Your Honor, we'll thank and excuse, even
25 in his absence, juror No. 8, Mr. Micsky.

26 THE COURT: All right, I think Mr. Micsky will probably
27 be happy to hear that. I think he's the bank manager.

28 MR. DENNY: I think he will. Savings and loan. They

1 pay higher interest.

2 THE COURT: Savings and loan.

3 Pick another name.

4 THE CLERK: Mrs. Mary V. Taylor, M-a-r-y, middle
5 initial "V", T-a-y-l-o-r.

6
7 VOIR DIRE EXAMINATION

8 BY MR. DENNY:

9 Q I have a question to ask you.

10 If someone in the course of deliberation, should
11 you be chosen as a juror, should mention the Tate-La Bianca
12 case and Mr. Manson's previous convictions or Mr. -- some-
13 thing that has come through the news media concerning Mr.
14 Davis, which has not been presented as evidence in this case,
15 would you tell them that that has no place in their
16 deliberations?

17 A Yes. I --

18 Q In their considerations?

19 A I shall, sir.

20 MR. DENNY: All right.

21 THE COURT: Would you rejoin the group, then.

22 Who is it after Mr. Micsky?

23 THE CLERK: Mary Taylor.

24
25 VOIR DIRE EXAMINATION OF

26 MARY V. TAYLOR

27 BY THE COURT:

28 Q Miss Taylor.

1 A Yes.

2 Q Is it Mrs.?

3 A Uh, supposed to be ex.

4 Q All right.

5 Have you been present during all of the proceed-
6 ings since the Court explained the nature of this case?

7 A I have.

8 Q Would your answers be any different than the
9 majority of the jurors responded to the questions of a
10 general nature?

11 A No.

12 Q Had you ever heard of this indictment charging
13 two counts of murder and a count of conspiracy for murder
14 before?

15 A I am afraid I have.

16 Q In what way?

17 A I read the story in the detective magazine.

18 Q And it -- a detective magazine story talked
19 about Mr. Davis?

20 A Uh, I'm not real sure about that, because it's
21 been a long time.

22 Q But you did read something about the death of
23 these alleged victims, Hinman and Shea?

24 A Yes.

25 Q What did you hear about Shea, read about Shea?

26 A I'll tell you, it's been so long I couldn't
27 really tell you.

28 Q Well, just off the top of your head, as it were,

1 do you recall?

2 A I recall the punishment they dealt to Hinman.

3 Q Do you recall anything about whether his body was
4 found or --

5 A Hinman?

6 Q No, Shea.

7 A No, Hinman is the one I remember.

8 Q Hinman's death occurred where, according to what
9 you read?

10 A Uh, I tell you, your Honor, I deal so much with--

11 Q Rather hazy?

12 A -- law in those stories, it is rather hazy.

13 Q You mean by that you read a lot of reports of
14 that nature?

15 A I study law and I am required to.

16 Q Oh, I see.

17 What is your job?

18 A Oh, my job is insurance.

19 Q I see. And you study insurance law and in
20 addition to that you dabble in the study of criminal law?

21 A Yes.

22 Q I see. Well, do you think with what you have
23 learned about this case that you could be impartial?

24 A Yes.

25 Q You think you could?

26 A I believe.

27 Q Would it be possible for you to forget what you
28 have absorbed from reading, your wide reading?

1 A You know, we've had quite a bit of study about
2 evidence and how to take it and --

3 Q Where have you studied evidence?

4 A Parker Center.

5 Q I see.

6 A But I go to college through East L. A. College.

7 Q Are you taking law classes there?

8 A Yes.

9 Q Criminal law?

10 A Well, it is police science.

11 Q Police science?

12 A Uh-huh.

13 Q I see.

14 Why are you studying police science in connection
15 with your work?

16 A Well, all my life I lived around police officers
17 and I have a cousin who is a chief of police and -- I don't
18 know, I just --

4 fls.

4-1

1 MR. DENNY: I'm sorry, your Honor. Could I have that
2 read back?

3 THE COURT: She had a cousin who was a chief of
4 police, and -- "And I don't know," and it drifted off.

5 MR. DENNY: No, the first part. "All my life."

6 (Whereupon, the record was read by the reporter as
7 follows:

8 "A Well, all my life I lived around
9 police officers, and I have a cousin who is a
10 chief of police. And I don't know; I just --")

11 BY THE COURT:

12 Q Well, do you think it's possible, with that police
13 background, for you to be fair and impartial in determining the
14 guilt or innocence of somebody who is accused by law
15 enforcement of two murders?

16 A Yes.

17 Q Do you think you could forget that background,
18 for the purpose of acting as a juror in this case?

19 A Yes.

20 Q What else have you heard about Shea and Hinman,
21 that you can recall? That you have not yet related to us?

22 A Well, your Honor, I can't really tell you a thing.
23 That's really a fact.

24 Q Well, did you learn that both of those persons
25 were, according to the story, deceased? Killed?

26 A I know Hinman was. And there's something vague --
27 something about the other fellow.

28 Q Have you ever heard the name Davis before you came

4-2

1 into the courtroom?

2 A I'm not sure. I have an attorney by the name of
3 Davis, and I know a lot of Davises, so --

4 Q Well, I mean, have you ever heard of Bruce
5 McGregor Davis, the defendant?

6 A I don't recall it.

7 Q You had heard of Charles Manson --

8 A Yes.

9 Q -- and the Manson Family?

10 A Yes. I saw the pictures of the courtroom scene --
11 I believe in this building, I guess.

12 Q Did you -- so you followed television and
13 newspapers and radio reports --

14 A Well, my TV has been broken for two years, and
15 since I have been going to college, I've left it that way.

16 Q Well, where did you see these pictures?

17 A In a detective magazine and the newspaper.

18 Q Did you follow that case fairly closely?

19 A Not too close, no.

20 Q Would somebody who is a member of the Manson
21 Family be at any disadvantage in having you as a juror? Would
22 you be of such a frame of mind that that person couldn't
23 receive a fair trial, do you believe? Where he would start
24 out with any detriment by reason of his being a Manson Family
25 associate?

26 A No.

27 Q Do you think you could forget about what you may
28 have learned about the Manson Family, for the purpose of

4-3

1 judging this case, basing your judgment only on the evidence?

2 A Yes. From a long line of training, I believe fully
3 in evidence.

4 Q All right. Let's move right on here.

5 Have you had jury experience before?

6 A Well, we are just learning courtroom procedures.

7 Q Have you ever served as a juror on any case?

8 A One, this session.

9 Q What was the nature of that case?

10 A Accident.

11 Q Criminal -- I mean, a civil case?

12 A A civil case.

13 Q Not a criminal action; not a drunk driving, felony
14 drunk driving, but it was civil, was it? A demand for damages?

15 A Civil.

16 Q I see. And you would be careful to distinguish
17 between the two burdens of proof in a civil and a criminal
18 case?

19 A Yes.

20 Q What type of work do you do for the insurance
21 company?

22 A Well, that's the problem. I'm in trouble with my
23 boss if --

24 Q Well, that's another question I neglected to ask
25 you. Would it be any hardship to ask you to serve in this
26 case?

27 A My boss says definitely.

28 Q Would you be paid?

4-4

1 A Only for my regular 20 days.

2 Q Oh, I see. So that you would not be paid beyond
3 the 30 days -- or 20 days?

4 A No. And he made it so drastic, I would lose that,
5 maybe.

6 Q I'm sorry I wasted all of your time in not asking
7 you about that right on top.

8 It's just that I became sidetracked.

9 May she be excused, then, gentlemen, in view of
10 the hardship that it would obviously be to her, to serve
11 through February?

12 MR. DENNY: So stipulate.

13 MR. KAY: So stipulate.

14 THE COURT: All right. Well, regrettably -- although
15 maybe not from your standpoint -- these gentlemen have
16 stipulated to excuse you.

17 PROSPECTIVE JUROR NO. 8: It might make me a little overly
18 poor.

19 THE COURT: Thank you, Mrs. Taylor.

20 PROSPECTIVE JUROR NO. 8: Thank you.

21 THE COURT: You are excused.

22 Take another name, then.

23 MR. KAY: Thank you, Mrs. Taylor.

24

25

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1 THE COURT: Off the record.

2 (Whereupon, a discussion off the record ensued
3 between the Court and members of a high school class seated in
4 the spectator section.)

5 THE COURT: Do we have another name?

6 THE CLERK: Joseph W. Ross; R-o-s-s.

7 (Pause in the proceedings.)

8 THE COURT: Are you Mr. Ross?

9 PROSPECTIVE JUROR NO. 8: Yes, I am.

10 THE COURT: Come forward. And would you pick up that
11 microphone, and be seated right where that microphone is now?

12
13 VOIR DIRE EXAMINATION OF

14 JOSEPH W. ROSS

15 BY THE COURT:

16 Q Mr. Ross, were you present when the Court
17 explained the nature of this case and read the indictment to
18 the prospective jurors?

19 A Yes, sir.

20 Q Would your answers be any different than the
21 majority of jurors responded subsequently to the questions put
22 by the Court?

23 A No, sir.

24 Q You did hear all of those, did you not?

25 A Yes, sir.

26 Q And you can't think of any respect in which your
27 answers would vary or differ from the majority's answers?

28 A No, sir.

4a-2

1 Q All right. Would it be any hardship to you to
2 serve in this case?

3 A No, sir.

4 Q What type of work do you do?

5 A I am a spot welder, General Motors.

6 Q And General Motors will pay you even should you
7 serve through February?

8 A Yes, sir.

9 Q All right. You have a spouse? Is there a
10 Mrs. Ross?

11 A Yes, sir.

12 Q And is she employed outside the home?

13 A No, sir.

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

16 A No, I'm not.

17 Q And in what general area do you and your spouse
18 reside?

19 A Pico-Rivera.

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

22 A No, I don't.

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

26 A Not automatically, no.

27 Q Or would you, upon a conviction of murder of the
28 first degree automatically impose it, regardless of the

4a-3

1 evidence?

2 A No, I wouldn't.

3 Q Or would you be of such a mind concerning the
4 death penalty that you would never vote -- that you would
5 never vote to impose it?

6 A No.

7 Q Concerning this indictment, had you ever heard,
8 seen or read of it before I read it to you?

9 A This particular indictment, --

10 Q Yes.

11 A -- no.

12 Q Yes, this indictment charging the defendant with
13 the deaths of Gary Hinman and --

14 A No.

15 Q -- Shorty Shea, and the conspiracy to commit
16 murder.

17 A No, I haven't.

18 Q Had you ever heard the name Bruce Davis? Heard,
19 seen or read it before?

20 A No, I haven't.

21 Q Had you ever -- you had, of course, heard the name
22 Charles Manson?

23 A Yes, I have.

24 Q And the Manson Family?

25 A Yes.

26 Q Would anyone who is a member of the Manson Family
27 be at any disadvantage in having you as a juror? In other
28 words, would he start out -- start off with any strikes

4a-4

1 against him or any feeling against him on your part simply
2 because of this association?

3 A No.

4 Q Had you heard the name -- heard, seen or read the
5 names Shorty Shea or Gary Hinman --

6 A Yes, I have.

7 Q -- before? In each case, what had you heard? For
8 each name?

9 A For Shorty Shea, I believe I heard that he was a --
10 a -- the thing that stands out in my mind, that he was an
11 employee of a ranch or --

12 And Gary Hinman, I heard the name, but I don't
13 know.

14 Q Had you heard that Mr. Shea was missing?

15 A Yes, I have.

16 Q And that somebody had looked for him, and they were
17 unable to find him?

18 A Yes.

19 Q As to Hinman, do you recall any of the facts that
20 you heard, saw or read, or alleged facts?

21 A The only thing I can remember about Hinman is the
22 name. I don't --

23 Q You don't recall any details?

24 A No details, no.

25 Q Well, some of them -- those may come to you later
26 on. What I want to know from you -- and each counsel and the
27 Court is interested in -- is whether you can get aside what-
28 ever you may have learned -- for example, in Shea's case,

4a-5

1 what you've just recounted to us here -- that you've heard
2 through the news media.

3 Do you think that you could effectively set that
4 aside, in spite of having formed an opinion about Mr. Shea's
5 being missing, from having read the newspapers, could you set
6 that aside and make any judgment that you might be called
7 upon to make in this case regarding Mr. Shea's death, for
8 example? Aside from such matters, basing your judgment only
9 on the evidence?

4b fol

10 A I think I could.
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1 Q Are you expressing any reservation when you say,
2 "I think," or are you certain about your ability to objectively
3 set aside any news reports that you may have heard, seen or
4 read, and decide the case only on the evidence?

5 A Yes.

6 Q Are you sure about your ability to do that?

7 A Yes, sir.

8 Q Now, as I say, there may be other things that you
9 may remember as you go along. And do you think you are
10 objective enough to set those aside -- whatever they may be --
11 and make a determination of any issue in this case, basing your
12 judgment only on the evidence that's produced from the witness
13 stand?

14 A Yes.

15 Q Can you do that?

16 A Yes.

17 Q And will you do that?

18 A Yeah, I will.

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

20 A Yes.

21 Q And will you be?

22 A Yes, I will.

23 THE COURT: Mr. Denny?

24 MR. DENNY: Yes. Thank you.

25
26 VOIR DIRE EXAMINATION

27 BY MR. DENNY:

28 Q Mr. Ross, do you regularly subscribe to a news-

1 paper?

2 A Well, the L. A. Times, just the Sunday edition.

3 Q The Sunday Times?

4 A Right.

5 Q Do you get the paper at all during the week?

6 A No, I don't.

7 Q And do you watch TV or listen to radio for news of
8 the day?

9 A Yes, I do.

10 Q On a regular basis?

11 A Yes.

12 Q Do you see a regular morning news broadcast or
13 evening news broadcast on TV?

14 A The evening news, yes.

15 Q In the evening?

16 A Yes.

17 Q Uh-huh. And what would you say is your main source
18 of information concerning the news of the day? The TV, radio
19 or newspaper?

20 A I would say the TV.

21 Q And was it most recently that you had heard any-
22 thing about Mr. Manson?

23 A Oh, we was in here Monday, and when I went home that
24 evening just before -- well, on Tom Snider news, he had said
25 that -- that something concerning the Manson case would come up
26 right after a commercial.

27 And remembering the judge's instructions, just
28 before we left here Monday, I left the room.

1 Q Were there other members of your family who then
2 heard that; do you know?

3 A I don't believe so -- well, what I mean, my wife
4 was in another room doing something else, and my kids are --
5 are too small to understand.

6 Q I see. You didn't turn it off; you just left the
7 room --

8 A I left --

9 Q -- for that? All right.

10 And before that time, when was the next most
11 recent time that you had heard anything about Mr. Manson?
12 Say within the last couple of months, if you had heard any-
13 thing within that time?

14 A I don't think so, not in the last couple of months.
15 I don't really remember.

16 I know I have heard, but I don't recall how long it
17 would have been. It was from -- oh, six or seven months, or
18 a year.

19 Q All right. Were you aware of the verdicts that
20 were brought in on the Tate and LaBianca trials -- or trial?

21 A Yes.

22 Q And the verdicts, as far as life or death, were
23 you aware of what occurred there?

24 A Yes.

25 Q All right. And since the rendition of those
26 verdicts -- and as you recall, they were death verdicts; is
27 that right?

28 A Yeah.

1 Q Do you recall that?

2 A Yes.

3 Q All right. Since the rendition of those verdicts,
4 and the publicity attending those, do you recall having heard
5 anything else about Mr. Manson?

6 A Not nothing specially, no.

7 Q Do you recall having heard, read or seen anything
8 else pertaining to any so-called Manson Family member?

9 A No, I don't.

10 Q And insofar as Shorty Shea is concerned, you said
11 something about, "The thing that stands out is that he was an
12 employee at a ranch."

13 A I -- I believe that -- that last summer when they
14 had the fires or something -- if I can remember correctly --
15 I think that one of the ranches -- the ranch that he was an
16 employee of or something -- and it was in the news about the
17 fire also, if I can remember that correctly.

18 Q That that ranch burned down?

19 A Yes, yes.

20 Q That's the Spahn Ranch?

21 A Yes, yes.

22 Q Does that ring a bell?

23 A Right.

24 Q All right. And do you recall reading anything
25 earlier about Shorty Shea being missing? I think you did say
26 that he was missing, and they couldn't find him, something
27 like that?

28 A Yes. I remember vaguely something about Shorty

1 Shea being missing, yes.

2 Q All right. And do you recall anything about any
3 attempts that had been made by any law enforcement agencies
4 to find him?

5 A No, not especially, no.

6 Q All right. So that you -- as you sit there right
7 now, at the present moment, do you have a feeling inside that
8 Shorty Shea is dead somewhere? Or that he may be alive; that
9 he's simply missing? And you don't know whether he's alive or
10 dead?

11 Or that you are reasonably sure, from what you've
12 seen, heard or read, that he is dead?

13 A Well, I couldn't say I am reasonably sure that he
14 is dead. The only effect that I could say, that I recall, he
15 had been missing. I don't know whether he's dead or not. No,
16 I don't.

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1 Q All right. And you understand that that's what
2 the People have to prove here?

3 A Yes.

4 Q Not just that he's missing, but that he is dead
5 and that he was killed by criminal means. Not just accident,
6 but disappearance, suicide or whatever. And that this
7 defendant had something to do with the death, had some
8 criminal responsibility for that death, if the death occurred
9 by criminal means at all.

10 Do you understand that?

11 A Yes, I understand that.

12 Q So if by any chance during the course of the
13 testimony something comes out in the evidence that sort of
14 triggers something in your mind that you may have read, you
15 will be able to push that aside and determine those factors
16 that we have just talked about or those facts, whether he is
17 alive or dead, and whether he died by criminal means?

18 A Yes.

19 Q Whether this defendant had anything to do with it?

20 A Yes.

21 Q From what comes from the witness stand and not
22 from what may be triggered in your brain that you read some-
23 wheres or heard or saw; is that right?

24 A Yes, that's right.

25 Q All right, sir.

26 Your Honor, does the Court want us to cover at
27 this point the death penalty matter?

28 THE COURT: Let's bring the panel back in at 11:00

5-2

1 o'clock.

2 Any questions about publicity?

3 MR. KAY: No questions on publicity.

4 THE COURT: We'll recess until 11:00 o'clock. Have the
5 panel back in at 11:00 o'clock. We can go ahead with the voir
6 dire. We're in recess.

7 (Morning recess.)

8 THE COURT: All right, all the prospective jurors are
9 present. The defendant is present with counsel.

10 There was a matter that the Court called this
11 morning, and counsel was not here.

12 (Whereupon, unrelated matters were called
13 and heard before the Court.)

14 THE COURT: All right. In the Davis matter all
15 prospective jurors are present. Counsel are present, and
16 I think we were about to question Mr. Jackson generally.

17 You may proceed.

18 MR. KAY: No, it is Mr. Ross, I believe.

19 THE COURT: It is Mr. Ross, excuse me. That's correct.
20 We have finished questioning Mr. Jackson and we are now ready
21 to question Mr. Ross.

22 Go ahead.

23
24 VOIR DIRE EXAMINATION

25 BY MR. DENNY:

26 Q Mr. Ross, have you or any member of your family
27 ever been the victim of a crime of any kind?

28 A No.

1 Q Or charged with a criminal offense of any kind?

2 A No.

3 Q All right, sir.

4 And have you had any military service yourself?

5 A Yes, I have.

6 Q And what was that service, sir?

7 A I spent four years in the Air Force.

8 Q In what branch, what command?

9 A Well, 66 installations.

10 Q Doing what sort of work, sir?

11 A I was a clerk.

12 Q And was any of that time spent overseas?

13 A Yes.

14 Q Where?

15 A In Germany.

16 Q I take it, then, you were not in combat?

17 A No, I wasn't.

18 Q And I take it, then, that you have not been in a
19 position, yourself, where you have been either faced with
20 being killed or killing somebody?

21 A No, I haven't.

22 Q You understand, sir, in effect, you would be
23 in somewhat of an analogous position here, if you are chosen
24 as a juror and the People's evidence were to convince you and
25 eleven others that this defendant was guilty of first degree
26 murder, where you would then be in a position of determining
27 whether this man should live or die; do you understand that?

28 A I understand that.

1 Q And you resolved that problem in your own mind and
2 heart so that you felt under proper circumstances you could
3 bring in a verdict that he would live; is that right?

4 Under circumstances that you considered correct,
5 assuming that you were required to determine whether he should
6 live or die, if you felt that it was not a case -- it was not a
7 case where you thought the death penalty could be voted,
8 you could properly and in good conscience vote to give him
9 a life sentence rather than death; is that right?

10 A Yes, that's right.

11 Q And, conversely, if you felt it was a case where,
12 because of all the facts involved and everything that you were
13 aware of, he should be executed by the state, by the
14 administration of lethal gas, that you could come in and look
15 him in the eye, look him in the eye, look anybody else in the
16 eye and say, "You die"; is that right?

17 A That's right.

18 Q And you would feel that in either case, whether
19 you brought in the death penalty or brought in a verdict of
20 life, you would either be doing your duty as a juror; is that
21 correct?

22 A That's correct.

23 Q All right, sir.

24 Now, I have asked a good many questions, as has
25 Mr. Kay, concerning various areas of law that we're interested
26 in.

27 Have you heard all of those questions that I had
28 asked of other jurors?

29 A Yes, I have.

5a-1

1 Q And some jurors have expressed some concern over
2 whether they can actually apply this doctrine of reasonable
3 doubt, and for one of the jurors the Court read it a second
4 or third time.

5 Do you feel at this point that you would have
6 any difficulty in applying the doctrine of reasonable
7 doubt in this case?

8 A No, I don't.

9 Q And, again, you understand that there's a
10 significant difference in the burden that is placed on the
11 prosecution in a criminal case from that burden which is
12 placed on a plaintiff in a civil case and a burden beyond
13 a reasonable doubt means something more than just a mere
14 preponderance of the evidence; is that right?

15 A Yes, I understand that.

16 Q And although it is not an impossible burden,
17 it is a significant burden and you would hold the People to
18 that burden in this case, is that correct?

19 A That's correct.

20 Q And if you were not convinced that they had met
21 that burden on any particular count, you would vote to
22 acquit as to that particular count; is that correct?

23 A That's correct.

24 Q Understanding that there are three separate
25 counts and each count must be separately considered?

26 A Yes.

27 Q Understand that?

28 A Yes.

5a-2

1 Q All right, sir.

2 Do you have any feeling at all, sir, about
3 people who use drugs that they are, just simply because of
4 that drug usage, and I'm talking about illegal use of drugs,
5 not prescribed usage -- that they are, therefore, untrust-
6 worthy or not to be believed merely by use of those drugs?

7 A No, I don't.

8 Q However, would you consider that usage along
9 with all the other factors that the Judge may instruct you
10 about, will instruct you about, because it is a mandatory
11 instruction as to the criterion involved in determining the
12 credibility of a witness?

13 In other words, a person may have a bias or
14 prejudice. A person may have some relationship to the case.
15 There are a number of factors involved.

16 And, also, a factor is whether a person can
17 perceive, recollect and relate what he has perceived and
18 perhaps by drug usage or intake of alcohol or something he
19 might not have been able to perceive or to recollect what
20 he perceived; do you understand that?

21 A No. Would you mind repeating that? I don't
22 fully understand.

23 Q Well, there are a number of factors to determine
24 whether a person is telling the truth or not.

25 The Judge will read you an instruction at the end
26 of the case, but whether a person is related to someone might
27 have a bearing on it. Whether he has an obvious bias or
28 prejudice that shows might have a bearing on it.

5a-3

1 Whether at a time he has made inconsistent
2 statements that are not consistent with his testimony on
3 trial.

4 All of these are factors that you can consider
5 in determining whether he is credible, whether he is
6 believable; do you understand that?

6 fls.

7 A Yes, I understand that.
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1 Q All right. In addition, there are these general
2 categories, whether a person was in a position to perceive,
3 to see what he says he saw, whether through one reason or
4 another, he can or cannot recollect what he says he saw.

5 And if a person is drunk, for instance, he may
6 not be able to recollect; or he may not really have seen
7 what he says he saw.

8 Do you understand that?

9 A Yes, I understand.

10 Q All right. Now, these are all factors --

11 A Yes, sir.

12 Q -- whether a person has consumed drugs at a time
13 when he is testifying concerning events at that time; that
14 may be a factor; do you understand?

15 A Yes.

16 Q All right. And you'll take that into considera-
17 tion, as well as all these other factors that we've talked
18 about, --

19 A Yes.

20 Q -- in determining the credibility of a witness?

21 A Yes, yes.

22 Q All right.

23 Now, I asked this question of you, sir, because
24 it has been asked of most of the jurors here, and I just ask
25 it to -- kind of counter the effect of the question.

26 But you have been asked by Mr. Kay or Mr.
27 Manzella whether you would vote for not guilty or vote for
28 something less than first degree murder, merely to avoid

6-2

1 the responsibility of determining the life or death matter,
2 in the second phase of the case, that would be required in
3 the event of a first degree murder conviction.

4 Do you remember questions like that asked by
5 the --

6 A Yes.

7 Q -- co-prosecutors here?

8 A Yes.

9 Q Very well. Assuming, under the instructions
10 that were given to you by the Court, you found that this was
11 not murder of the first degree; that this was murder of the
12 second degree, or manslaughter -- if it fit into those
13 legal categories -- and you felt that under the law and
14 under the facts, that was a proper verdict, I take it you
15 would return that verdict?

16 A Yes, I would.

17 Q Not because you wanted to avoid voting life or
18 death, but because you were convinced that that's where it
19 properly fitted; is that correct?

20 A Correct.

21 MR. DENNY: All right. Fine. Pass for cause, your
22 Honor.

23 THE COURT: Mr. Kay?

24 MR. KAY: Thank you, your Honor.

25
26 VOIR DIRE EXAMINATION

27 BY MR. KAY:

28 Q Mr. Ross, how long have you been employed by

6-3

1 General Motors as a spot welder?

2 A Nine years.

3 Q And before you had that job, I take it you were
4 in the Service? Or did you have another job?

5 A I had another job. I was a deputy clerk.

6 Q And where was that?

7 A In Louisville, Kentucky.

8 Q And were you a clerk of a court?

9 A Municipal Court, right.

10 Q And how long did you have that job?

11 A Four and a half years.

12 Q So I take it you are fairly familiar with court-
13 room procedures?

14 A Fairly, yes.

15 Q Now, did you work for one particular judge the
16 whole time, or did you go around and work for different
17 judges?

18 A I worked out of the Clerk's office.

19 Q I see. Handling exhibits or what?

20 A No, it was issuing of warrants and bonds, and
21 preparation of the dockets for the next day.

22 Q Have you ever appeared as a witness in a court of
23 law?

24 A Yes, I have.

25 Q All right. And what -- how many times have you
26 appeared as a witness?

27 A Once.

28 Q And what type of case was that?

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A Murder.

Q And were you a witness for the prosecution or the defense?

A For the defense.

Q Were you a witness to a murder?

A No, I wasn't.

Q What was the nature of your testimony?

A I was on duty at the time that a fellow had come to secure a warrant for another person that was -- that he had said was bothering him.

And at that particular time, he didn't have enough information to get the warrant. And later on, he killed the person.

Q Was this a bail bondsman or something?

A No. It was an individual.

Q Was this an individual that you were a friend of, or you didn't know, other than in a business capacity, or what?

A Well, I knew him from school days, see.

Q Did anything happen in his case that would prejudice you in any way against law enforcement authorities or prosecutors or anything like that?

A No. I just testified that he had come over there to secure the warrant, and I was unable to issue it, because he didn't have proper information.

6a fls.

6a-1

1 Q In other words, that was the whole nature of
2 your testimony?

3 A Yes, that's right.

4 Q Okay. And this is the only case you ever
5 testified in?

6 A Yes.

7 Q So you -- you basically, then, have been out in
8 California for nine years?

9 A Right.

10 Q Have you ever studied law in any way?

11 A No, I haven't.

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

14 A No.

15 Q Do you know any criminal defense attorneys
16 out here?

17 A No, I don't.

18 Q Any private detectives?

19 A No.

20 Q You understand that at the beginning of this
21 case, that Mr. Davis is presumed innocent, but that that
22 presumption lasts only until his guilt is proven beyond a
23 reasonable doubt? Do you understand that?

24 A I understand that.

25 Q And in a criminal case, the prosecution only
26 has the burden of proving the defendant guilty beyond a
27 reasonable doubt; we don't have the burden of proving him
28 guilty beyond a shadow of a doubt or to an absolute

6a-2

1 certainty or beyond all doubt; do you understand that?

2 A I understand that.

3 Q And do you have any quarrel with that law?

4 A No, I don't.

5 Q And do you understand that in all criminal
6 cases, the burden of proof is the same, proof beyond a
7 reasonable doubt, whether it be a murder case or a traffic
8 case or a burglary or robbery or any type of case? Do you
9 understand that?

10 A Yes.

11 Q And can you think of any reason why you could not
12 or should not sit on this jury?

13 A I can't think of any.

14 Q No reason at all?

15 A No.

16 Q And do you think you understood the example I
17 gave, the distinction between circumstantial and direct
18 evidence --

19 A Yes. The credit card?

20 Q Right. Do you have any quarrel with the fact
21 that a defendant in a murder case can be convicted of first
22 degree murder, under our law, based on circumstantial evidence
23 alone? Do you have any quarrel with that?

24 A I have no quarrel with that.

25 Q And in Count No. III, you have -- that's the
26 murder of Donald Jerome Shea -- you've heard that Mr. Shea's
27 body has not been located by law enforcement authorities or
28 the prosecution. And we don't have an eyewitness to the

6a-3

1 murder. Now, does that make you want to shut your mind
2 to the evidence? Or are you willing to keep an open mind
3 and be convinced of Mr. Davis' guilt of that charge, beyond
4 a reasonable doubt, if the evidence can do that?

5 A Yes. Just the evidence.

6 Q And if you believed that Mr. Davis was guilty of
7 Count No. III, the murder of Mr. Shea, beyond a reasonable
8 doubt, would you vote to convict him, even though Mr. Shea's
9 body hadn't been recovered?

10 MR. DENNY: Just a moment. I'll object to that ques-
11 tion as an improper question.

12 THE COURT: It is improper. It's too broad.

13 Q BY MR. KAY: If you believed in Count No. III,
14 the murder of Donald Jerome Shea, that Mr. Davis was guilty
15 of that charge, beyond a reasonable doubt, guilty beyond a
16 reasonable doubt, would you vote to convict Mr. Davis of
17 that charge?

18 A Yes.

19 Q And you'd do that, even though Mr. Shea's body
20 hadn't been recovered?

21 MR. DENNY: Well, I have to object to that question,
22 your Honor, because that's going to be one of the items
23 that's going to determine whether or not he feels that Mr.
24 Davis is guilty beyond a reasonable doubt, the fact that
25 there is no body.

26 He's asking him to prejudge the evidence.

27 THE COURT: It may be asking for a prejudgment. I
28 think that subject, however, has been covered, and that Mr. Ross

6a-4

1 has answered.

2 MR. KAY: Thank you.

3 Q And will you promise me, if you are seated on
4 this jury, that when you get into the jury room, that you will
5 be reasonable and discuss your views of the case with the
6 other jurors, and let them discuss their views with you?

7 A Yes.

8 Q Sometimes jurors unfortunately will go into the
9 jury room, and the minute they get in there, they'll make
10 an emphatic statement on the case and say, "Well, I think
11 thus and so."

12 And then, out of pride, they don't want to
13 change that view, even though maybe the other jurors point
14 out that they're wrong, they point out reasonably that they
15 should be on the other side.

16 Will you promise me that you will be reasonable,
17 and that if other jurors show you that your position isn't
18 reasonable, that you will change your position, if you feel
19 in good conscience that it isn't reasonable?

6b fls.

20 A If I feel in good conscience, yes.
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1 Q Do you have any quarrel with the law in the
2 State of California that allows the death of a victim of a
3 murder to be proven by circumstantial evidence?

4 A No, I have no quarrel with that.

5 Q Now, in regard to the death penalty, have you
6 thought about the death penalty before? Before you came
7 into this courtroom?

8 A Yes.

9 Q And how much thinking had you done about the
10 death penalty before you came into this courtroom?

11 A Well, I've heard some pros and cons on it, and--
12 and read a little bit on it.

13 Q Have you made up your mind where you stand on it?

14 A Not one way or the other, no, I haven't.

15 Q Have you determined in your own mind that if
16 you felt that the evidence warranted it, in your opinion,
17 in the case, that you could vote for the death penalty?

18 A Would you mind repeating that?

19 Q Well, have you resolved in your own mind --
20 and of course, only you can tell me that, because you are the
21 one that's thought about it, and you know how you stand --
22 had you resolved in your own mind whether or not, if you
23 felt that the evidence warranted it in a particular case,
24 that you could vote for the death penalty?

25 A Well, if the evidence warranted it, I think I
26 could go with my -- with what my conscience would dictate
27 in it, after hearing the evidence.

28 Q Well, do you think you could vote for the

1 death penalty?

2 A Yes, I think I could.

3 Q Is there any doubt at all about that in your mind?

4 A No.

5 Q Because again, as I told the other jurors, now's
6 the time to speak out. If you have any -- any doubt, speak
7 out now. Because we want to know.

8 Do you think that you have any moral or religious
9 belief that you presently hold that would prevent you from
10 voting for the death penalty?

11 A No.

12 Q And you heard me tell the other jurors that, in
13 order to have a verdict of death, imposing the death penalty
14 on the defendant, that all 12 jurors must agree -- in other
15 words, it must be unanimous -- it must be a unanimous
16 verdict,

17 Are you willing to participate in a verdict of
18 death, if you think the evidence in the case warrants it?

19 A Yes.

20 MR. KAY: Thank you. I have no further questions.

21 Pass for cause, your Honor.

22 THE COURT: Both sides pass for cause?

23 MR. DENNY: Yes, your Honor.

24 THE COURT: The next peremptory is with the People.

25 MR. KAY: Thank you, your Honor. The People will thank
26 and excuse juror No. 11, Mr. Jackson.

27 Thank you, Mr. Jackson.

28 THE COURT: Thank you, Mr. Jackson.

Floor 15 of the New Hall of Records, please.

THE CLERK: Mrs. Annette R. Kaufman; A-n-n-e-t-t-e;
last name, K-a-u-f-m-a-n.

VOIR DIRE EXAMINATION OF

MRS. ANNETTE R. KAUFMAN

BY THE COURT:

Q Mrs. Kaufman, have you been present during all
the proceedings thus far since the Court --

A Yes, your Honor.

Q -- explained the nature of the case?

A Yes.

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

A Yes, your Honor.

Q They would be?

A Yes.

Q In what respect would your answers be different?

A I would not vote for capital punishment.

Q Are your views about the death penalty such that
you would never vote to impose the death penalty?

A That's right, sir.

Q Would you automatically refuse to impose the
death penalty, regardless of the evidence that might be
produced during the trial?

A Yes, sir.

Q Or would your views be such that, in the first

1 phase of the trial, you could not be fair and impartial in
2 determining the question of guilt or innocence, knowing that
3 you have to go on and determine whether or not a person
4 should suffer the death penalty.

5 A No, sir, I couldn't be fair --

6 Q Would you hold the gum just a moment, please?
7 So that we can understand you?

8 A Yes, your Honor.

9 Q I understand you are nervous, but -- go ahead.
10 What would be your answer to that?

11 A I don't think I could do a fair job for the
12 prosecution.

13 Q Well, can you do a -- if you say "fair job," you
14 understand -- in other words, your bias would be against the
15 prosecution on the first phase of the case?

16 A I am against capital punishment.

17 Q Well, what I am asking you is whether, in the
18 first phase of the case, involving guilt or innocence, you
19 would have such feelings about capital punishment that you
20 would be prejudiced against the prosecution's case?

21 A Yes, sir.

22 Q All right, and so your reaction would be that
23 you would automatically, in any case, regardless of the
24 evidence, refuse to impose the death penalty; is that
25 correct?

26 A Yes, sir.

27 MR. KAY: Your Honor, the prosecution would respectfully
28 challenge Mrs. Kaufman under Sections 1073, Subdivision 2
and 1074, Subdivision 8, of the Penal Code.

6c-1

1 MR. DENNY: Might I inquire a moment, your Honor?

2 THE COURT: I think not. I think it's abundantly
3 clear.

4 MR. DENNY: Well, your Honor, I think she was confused
5 about one -- one area. And I would like to ask just two
6 questions on that.

7 THE COURT: I don't think so. The Court grants the
8 challenge.

9 You are excused.

10 MR. KAY: Thank you, your Honor.

11 Thank you, Mrs. Kaufman.

12 PROSPECTIVE JUROR NO. 11: Thank you.

13 THE CLERK: Mrs. Estella W. Gaines; E-s-t-e-l-l-a;
14 last name, G-a-i-n-e-s.

15 THE COURT: Mrs. Gaines, would you come forward there?
16

17 VOIR DIRE EXAMINATION OF

18 MRS. ESTELLA W. GAINES

19 BY THE COURT:

20 Q Have you been present during all the proceedings,
21 Mrs. Gaines, since the Court first called the case?

22 A Yes, I have.

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

26 A I don't think so.

27 Q Can you think of any respect in which an answer
28 was given, and which -- well, strike that.

1 And in which the majority answered in a certain
2 way, and you noted that your answer would have been different
3 to that series of more or less general questions that I've
4 put to the prospective jurors?

5 A No.

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

8 A Not that I know of.

9 Q Concerning your jury experience, have you been a
10 juror before in any criminal case?

11 A Yes.

12 Q In this tour of duty?

13 A No.

14 Q All right. Some previous tour of duty with the
15 Superior Court?

16 A Quite some years ago, in Federal jury.

17 Q I see. Would you set aside whatever you may
18 have learned in your previous jury experience and decide
19 this case only from what you see and hear in this courtroom?

20 A Yes.

21 Q All right.

22 And what type of work do you do? Are you employed
23 outside the home?

24 A No, I am a retiree.

25 Q From what type of work?

26 A I did secretarial and audit clerk.

27 Q For what type of firm?

28 A Sears-Roebuck, retail.

1 Q And is there a Mr. Gaines?

2 A Yes.

3 Q What type of work does he do?

4 A He was committed to the State Hospital 26 years
5 ago.

6 Q As a result of what? A criminal case or a --

7 A No. He lost his red corpuscles, and had what
8 they call lapse of memory.

9 Q I'm sorry to hear that, Mrs. Gaines.

10 In what general area do you reside?

11 A It's called the Van Ness Square.

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1 Q Do you think there was anything unfair about the
2 commitment of Mr. Gaines? Presumably he was committed by a --

3 A By our family doctor.

4 Q Oh, I see.

5 And it was not an action by the state?

6 A No.

7 Q I see. Do you have such views about the death
8 penalty that you would automatically refuse to impose it in
9 any case?

10 A No.

11 Q Or are your views about the death penalty such that
12 you would automatically impose it upon a conviction of murder
13 of the first degree without regard to the evidence?

14 A Not automatically.

15 Q Would you view the evidence to determine whether the
16 evidence justifies in your opinion and in your discretion the
17 imposition of the death penalty or life imprisonment, either
18 way?

19 A Yes.

20 THE COURT: Gentlemen, will you examine her generally at
21 this moment, and then we'll excuse the balance of the panel and
22 talk to her about publicity.

23
24 VOIR DIRE EXAMINATION

25 BY MR. DENNY:

26 Q Mrs. Gaines, your work at Sears Roebuck, was this
27 over a long period of time?

28 A Thirty-seven and a half years.

7-2

1 Q A long period of time. All right.

2 And you were in that same field, secretarial and
3 auditing, during the greater part of that time?

4 A Yes. I was secretary for the manager of the store
5 ten year to the month and the balance in the auditing.

6 Q All right. Was that here locally?

7 A Ten years was in St. Louis, Missouri, and then I
8 was transferred out to the Hollywood store here in Los Angeles.

9 Q All right. And you said you'd had prior federal
10 jury duty.

11 Was that grand jury duty or was it called the
12 petit jury, the trial jury?

13 A I really don't know. It's been several years ago.
14 It was in '45. And all I know is it was a federal court.

15 I have the letter on it, but I don't recall it.
16 I haven't seen it for years.

17 Q Well, it --

18 A It was a robbery case, if that would help.

19 Q Well, was this a case in which the evidence was
20 just presented to the jurors and there was no cross examina-
21 tion by the defense attorney?

22 A Oh.

23 Q The defendant was not there?

24 A Oh, no, that --

25 Q Or was this an actual trial?

26 A Yes.

27 Q I see.

28 Well, that would then be the petit jury or the

7-3

1 trial jury, as they say, as distinguished from the grand jury
2 that just hears one side of the case and determines whether
3 they should file an indictment or not so a trial can be held
4 by a trial jury.

5 A Yes, it was a trial.

6 Q All right. And that's the only previous jury
7 experience you had, that one case in federal court?

8 A Uh --

9 Q As they say, a federal case?

10 A No, I served federal jury twice, but I wasn't on a
11 jury -- on a case after -- in the second time.

12 And then, I served Superior, uh, a few years ago.
13 I don't remember just how long -- eight or nine years ago.
14 And I was on a couple of cases.

15 Q Well --

16 A Jury cases.

17 Q That's what we are trying to get to.

18 Here in Los Angeles?

19 A Yes.

20 Q And about eight or nine years ago you sat on some
21 civil cases?

22 A Uh, yes, two. I don't recall just how many years
23 it's been. At least eight or nine years ago. It might even
24 be ten.

25 Q All right. But those were jury cases?

26 A Yes.

27 Q Automobile accident type of cases?

28 A Well, one was hurt at work and another was hurt

7-4

1 in the -- in a retail store.

2 A All right.

3 Q Well, we've discussed somewhat before the
4 difference in the burden of proof.

5 A Right.

6 Q In civil versus criminal.

7 A Right.

8 Q And you are super clear on that difference?

9 A I think so.

10 Q As far as the far greater burden that there is
11 on a -- on the prosecution in a criminal case than there is
12 on the plaintiff in a civil case?

13 A Yes.

14 Q And you'd have no trouble applying that far
15 greater burden in this case, despite anything that has
16 happened in the past in your civil jury experience?

17 A I don't think so.

18 Q All right. Now, there has been some discussion
19 from time to time about the fact that there may be references
20 to hippies in this case.

21 Do you have any feelings about -- toward those who
22 might be termed or who you might consider hippies which you
23 feel would kind of give you sort of a bias or prejudice against
24 those in that category?

25 A No, I don't.

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1 Q Nobody likes to say they are biased or prejudiced,
2 despite the fact we all have bias and prejudices, particularly
3 when you're sitting in the jury box. But we're interested in
4 those feelings that you have.

5 Let's go on to drug users. There may be some
6 evidence concerning the use of drugs by some people involved
7 as witnesses perhaps in this case.

8 Do you have any feelings about those who illegally
9 use drugs?

10 A I have.

11 Q Which just, because of those feelings, would make
12 you feel a little bit biased against them or prejudiced against
13 them?

14 A I haven't given it that much thought.

15 Q All right.

16 Giving it thought at this point, you still don't
17 have that sort of inner reaction that makes you rebel against
18 that to the point where you would feel antipathy towards them?

19 A No, I don't.

20 Q All right. And, again, concerning the fact that
21 there are three Counts in this case, each one a separate and
22 distinct Count, do you feel you would have any difficulty at
23 all in complying with the judge's order to you that each of
24 those Counts must be considered separately and individually?

25 A I understand.

26 Q All right. And you would do so if you were seated
27 as a juror in this case?

28 A Yes.

7a-2

1 Q Now, again, going to the death penalty matter which
2 I must question you about.

3 Have you done any reading in the field of the death
4 penalty?

5 A No.

6 Q Any discussion either formal or informal about it?

7 A No.

8 Q And since coming to the jury room last Friday,
9 now, two Fridays past, have you had an opportunity, yourself,
10 to do a little thinking about it?

11 A Yes.

12 Q And I take it, based on your answers to the Court's
13 questions thus far that you feel there are some of those cases
14 which you could vote to have the state execute a man?

15 A Yes.

16 Q Is that right?

17 And inasfar as the finding of a first degree murder
18 verdict, having found one guilty of first degree murder, would
19 you, thereupon, -- and there is willful, deliberate, pre-
20 meditated murder, which is obviously one of the most serious
21 offenses that we have on the books -- would you, because of
22 that finding, and without regard to any other evidence,
23 automatically vote to impose the death penalty?

24 MR. KAY: Well --

25 A Not automatically.

26 MR. KAY: Excuse me. I'm going to object to that
27 question again on the same grounds.

28 THE COURT: The objection is sustained.

7a-3

1 Q BY MR. DENNY: All right. I take it, then, that
2 you, too, like your fellow jurors who are presently in the box
3 with you, would feel that you would be doing your duty as a
4 juror in voting for life imprisonment as distinguished from
5 death, if you felt that the circumstances of the case, every-
6 thing else about it, all of the evidence just did not warrant
7 the imposition of the death penalty; is that right?

8 A Yes. If it didn't prove it beyond a reasonable
9 doubt, I couldn't do it.

10 Q Well, this is the problem we get in this area.

11 When we talk about voting for the imposition of the
12 death penalty there, there is no beyond a reasonable doubt-type
13 burden. You never get to that until you are satisfied beyond
14 a reasonable doubt and eleven other of your jurors are sat-
15 isfied beyond a reasonable doubt that the defendant did it,
16 that he killed someone or was involved as an accomplice or
17 conspirator or whatever in the killing of someone.

18 So, you've got to be convinced beyond a reasonable
19 doubt before you ever get to the death penalty phase or the
20 penalty phase that he did it. And you've got to be convinced
21 beyond a reasonable doubt.

22 THE COURT: Do you understand that, Mrs. Gaines?

23 PROSPECTIVE JUROR GAINES: I think I do.

24 Q BY MR. DENNY: Well, this is the problem. Because
25 you see a lot of people feel, all right, once having arrived
26 at that verdict, and once being sure in my own mind that that
27 defendant is beyond a reasonable doubt guilty of willful,
28 premeditated, deliberated first degree murder, then based on

7a-4

1 that finding of first degree murder I would automatically vote
2 for the death penalty if I were convinced of his guilt beyond
3 a reasonable doubt, you see.

4 Now, that's what I want to find out if that is what
5 your frame of mind is.

6 A Well, I could, yes, if my mind was made up like
7 that. But I'd have to be convinced that he was.

8 Q Well, we assume, now, that you are convinced of
9 it.

10 A Yes.

11 Q And that you are convinced beyond a reasonable
12 doubt, to a moral certainty.

13 Would you then automatically vote to impose the
14 death penalty?

15 MR. KAY: Well, your Honor, I'm going to object. This
16 is going on the same line of questioning that we have discussed
17 before and I think it is very confusing and ambiguous.

18 THE COURT: Overruled. I'll permit that answer.

19 Would you automatically impose it without regard
20 to the evidence that's been produced in the trial?

21 PROSPECTIVE JUROR GAINES: No.

22 THE COURT: Fine.

7b fol

23

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7b-1

1 Q BY MR. DENNY: Well, I am a little confused now
2 and maybe we both are. We're hemmed in by some sort of
3 strictures here as to how we ask questions and what we ask.

4 But it is your frame of mind that I am particu-
5 larly interested in, and only you know that. And so when I
6 ask you, I put you in a situation where you are convinced by
7 the evidence that you have heard that a person has been
8 killed, that a person has been killed by criminal means, and
9 that the defendant is responsible in one way or another for
10 that death and, therefore, guilty of first degree murder.
11 You have reached all of those conclusions by the evidence
12 you've heard and you are satisfied of that beyond a reasonable
13 doubt and to a moral certainty.

14 Now, you may have gotten there through a number
15 of different ways. The evidence may be horrendous. The
16 evidence may be not so bad, you know. A body is a dead
17 body, no matter what. But the killing may be horrible; the
18 killing may be brutal; the killing may be swift; the killing
19 may be accidental, even, in the course of a felony murder
20 of a robbery.

21 No matter how you have arrived at the conclusion,
22 you have finally reached a conclusion and you are satisfied
23 in your own mind and heart that the defendant is guilty of
24 that with which he is charged, first degree murder; you
25 understand?

26 A Yes.

27 Q Now, there are some people who have arrived at
28 that conclusion, say, having determined that a person is

7b-2

1 guilty of willful, deliberate first degree murder -- just
2 first degree murder, whether it is willful or not. They say
3 having arrived at the conclusion that he is guilty of first
4 degree murder, that person would say, "I would automatically
5 vote the death penalty for --" you see.

6 Now, is that your frame of mind?

7 A Well, I think so. I don't -- I get confused
8 with that automatically.

9 Q Well, we all get a little bit confused with it.

10 But, you see, it means an awful lot to my client.
11 And if your frame of mind is that anyone guilty of first
12 degree murder, "I will automatically vote the death penalty,"
13 that's what I want to know.

14 A No.

15 Q Having found him guilty of first degree murder?

16 A No.

17 Q In other words, there are other factors that you
18 would take into account?

19 A Yes.

20 Q Before you would automatically -- before you
21 would vote death penalty versus life imprisonment, is that
22 right?

23 A Yes.

24 THE COURT: What Mr. Denny means by that, there may or
25 may not be other factors, as the Court has explained to you.

26 PROSPECTIVE JUROR GAINES: Yes.

27 THE COURT: But whatever the evidence may be, you will
28 view it before making a decision?

1 PROSPECTIVE JUROR GAINES: That's right.

2 MR. DENNY: I'll pass for cause at this time, your
3 Honor.

4
5 VOIR DIRE EXAMINATION

6 BY MR. KAY:

7 Q Mrs. Gaines, I want to make clear, after Mr.
8 Denny's questions, that after a defendant is convicted of
9 first degree murder or conspiracy to commit murder, the jury
10 can, in their sole discretion, decide to give the defendant
11 the death penalty based on the evidence that comes out of the
12 guilt phase of the trial.

13 Do you understand that?

14 A I think so.

15 Q In other words, neither side has any burden to
16 put on any evidence in the penalty phase of the trial.
17 The prosecution can get up in the penalty phase of the trial
18 and say that the facts, the evidence at the guilt phase are
19 so horrendous that based on those facts you should give the
20 death penalty to the defendant.

21 Or the defense can stand up and say the other
22 side of the coin.

23 Do you understand that?

24 A I think so.

25 Q So based on the evidence that you hear at the
26 guilt phase of the trial, you can give the defendant the
27 death penalty in your sole discretion?

28 A Yes.

1 Q So you think you are not confused on that point
2 now?

3 A No.

4 Q Because that's sometimes why I object to Mr.
5 Denny's question because that might tend to confuse some of
6 the jurors into thinking, well, gee, they have to hear
7 something else after the guilt phase of the trial is over.
8 But they don't. You can determine it just on the evidence
9 of the guilt phase, whether to give him life or death.

10 Of course, if there is more evidence produced in
11 the penalty phase, you should consider that also. But that
12 might not change your mind either way.

13 Do you understand that?

14 A Yes.

15 Q Now, have you determined in your own mind whether
16 or not you could, if you felt the evidence in a case warranted
17 it, vote for the death penalty?

18 A Yes.

19 Q And I take it you've determined that you can vote
20 for the death penalty?

21 A Yes, like you said, if --

22 Q If the evidence warranted it?

23 A If the evidence warranted it.

24 Q And you feel you could, as I have discussed with
25 the other jurors, you could personally participate in a verdict
26 of death if you thought the evidence warranted it in the case?

27 A Yes.

28 Q And is there any doubt at all in your mind that

1 you could do this?

2 A No.

3 MR. DENNY: Your Honor, may we approach the bench just
4 a moment?

5 THE COURT: Yes, you may.

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

7c fls.

7c-1

1 MR. DENNY: Judge, I think we might be able to expedite
2 this, because I would just like to question her on the
3 publicity. If she's not challengeable under publicity,
4 I'm going to exercise a peremptory on her anyway. So I
5 think we can expedite the People's voir dire.

6 THE COURT: All right.

7 MR. DENNY: By taking her now on --

8 THE COURT: Let's do that.

9 MR. KAY: Wait a minute, I take it if Mr. Denny decides
10 not to peremptorily challenge her on publicity, I can take
11 her back and examine her on general voir dire?

12 MR. DENNY: Peremptory challenge for cause? I'm either
13 going to challenge her on publicity or exercise a peremptory.

14 THE COURT: Yes. He misstated himself.

15 MR. KAY: Yes.

16 MR. DENNY: But if I don't get sufficient to challenge
17 her on publicity, I'm going to challenge her peremptorily,
18 so it would be a waste of time to question her anyway.

19 THE COURT: Okay. I thought that's what you were
20 approaching the bench for.

21 I would like to suggest this, in order to move
22 it along faster, I think each side has covered the important
23 aspects or important points of law and all of the jurors
24 have been impressed. I don't think there is any need to
25 burden the jury and the Court with a lot of discussion about
26 the law. Let's see if we can concentrate on the things that
27 must be covered, unless you see some particular point that
28 needs to be stressed that you haven't stressed and see if we

1 can move it along.

2 MR. KAY: Okay.

3 MR. DENNY: All right.

4 (Whereupon, the following proceedings were
5 had in open court within the presence and hearing
6 of the prospective jury;)

7 THE COURT: Ladies and gentlemen, I'll excuse you,
8 with the exception of Mrs. Gaines, until 2:00 o'clock.
9 Remember the admonition not to converse amongst yourselves,
10 nor permit anyone to converse with you on any subject
11 connected with this matter. See you all at 2:00 o'clock
12 except you, Mrs. Gaines. You remember where you are, would
13 you, please.

14 Somebody open both doors there, and perhaps we
15 can move right along. Thanks.

16 (Whereupon, the balance of the prospective
17 jurors retired from the courtroom, and the following
18 proceedings were had;)

19
20 VOIR DIRE EXAMINATION

21 BY THE COURT:

22 Q Mrs. Gaines, before you came into this courtroom
23 and heard the Court explain the nature of this case and read
24 the indictment, had you previously heard of the case?

25 A Yes.

26 Q Had you previously heard of Bruce McGregor Davis?

27 A No.

28 Q But you had heard of the alleged killings of

1 Gary Hinman and Shea?

2 A Slightly.

3 Q What had you heard about the case?

4 A I really can't tell you anything. Only that
5 there was some killings and there was more than one person
6 involved.

7 Q Well, are you speaking of the Hinman-Shea
8 killings?

9 A No. No particular and really -- really when I
10 think of it, just the Manson.

11 Q Oh, you're talking about the trial of Charles
12 Manson and some of the people who were associated with them,
13 who were accused of the Tate-La Bianca murders?

14 A Yes, I believe.

15 Q Sharon Tate's murders?

16 A I believe so, yes.

17 Q Is that what you were talking about?

18 A Yes.

19 Q But so far as this particular indictment is
20 concerned, I trust that you have not heard about it, whatever?

21 A No.

22 Q All right. Have you read the name, read, heard
23 or seen the name Charles Manson in the last few months?

24 A Possibly I've seen it. I've never read anything
25 about it.

26 Q I see. You don't recall what you may have
27 read?

28 A I know I haven't read it.

1 I might have seen the name in a headline or
2 something.

3 Q But whatever it is, let's say within the last six
4 months, do you remember what it was?

5 A Hmm, I didn't read anything.
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1 Q All right. Do you know the name -- strike that.
2 What is the name "Manson Family" mean to you?

3 A Oh, just a name, really. That was -- that there
4 was a lot of talk about, and in the papers; that's all.

5 Q Well, would somebody who is a member of the Manson
6 Family be at any disadvantage in having you as a juror? That's
7 what we want to know.

8 A No.

9 Q Would you be prejudiced toward somebody as a
10 result of what you had heard, seen or read, whom the evidence
11 shows is or was a member of the Manson Family?

12 A No.

13 Q Had you heard the name Steve Grogan?

14 A No.

15 Q The Spahn Ranch?

16 A No.

17 Q Have you -- have you read anything whatever about
18 somebody looking for a body in the course of this last two
19 years?

20 A No.

21 Q Well, if you do remember anything in connection
22 with this case, or Charles Manson, which you think has a
23 bearing on this case, can you set it aside -- can you set aside
24 anything that you may have heard, seen or read?

25 A Yes.

26 Q I don't mean forget it. But can you blank your
27 mind out in connection with it, so that you can decide this
28 case, basing your judgment only on the evidence, and the Court's

8-2

1 instructions?

2 A Yes, I can.

3 Q And will you do that?

4 A Yes, I will.

5 Q And will you be fair and impartial?

6 A Yes.

7 THE COURT: Mr. Denny?

8
9 VOIR DIRE EXAMINATION

10 BY MR. DENNY:

11 Q Mrs. Gaines, I didn't fully report what you said,
12 but I got the impression, when the judge asked you about the
13 case, and you said that there was more than one killing and
14 several people involved, and -- "And when I think of them,
15 I think of Manson. They're all related somehow."

16 Is that right?

17 A Well, as I said, I didn't read -- I didn't read
18 anything. I -- but I have overheard remarks a few times.

19 And it was some time ago. I couldn't even tell
20 you when it started. But I know it's been some time ago when
21 I first heard the word Manson.

22 And through him -- or with him, there was some
23 clink -- killings; and that's all.

24 Q Some clique killings, you remember?

25 A No, I didn't say clique. I said there was some
26 killings.

27 Q Some killings?

28 A Um-hmmm.

8-3

1 Q All right. And is it your feeling from what you
2 have seen, heard or read that those associated with Mr. Manson,
3 as members, say, of the so-called Manson Family, that anyone
4 who has been associated with him, closely, over a period of
5 time as a member of the Manson Family, is somehow criminally
6 oriented, or criminally directed?

7 A No, I wouldn't say that.

8 Q Or somehow shares Mr. Manson's criminality?

9 A No.

10 Q Do you take any kind of newspaper? A subscription
11 to a newspaper?

12 A (No response.)

13 Q Do you subscribe --

14 A My son does.

15 Q Do you read it?

16 A That lives with me.

17 Q What does your son do?

18 A He's in commercial catering.

19 Q All right. And do you read that paper regularly?

20 A (Laughing) I leaf through it sometimes. And I
21 read Dear Abby, and -- and that's about it.

22 Q All right. And where would you say your source of
23 news comes from, generally?

24 A Well, very little, I guess. I read, but I read
25 books and things like that.

26 Q All right. And in the course of your reading,
27 you've read nothing about Shorty Shea, or heard or seen --

28 A I don't know.

8-4

1 Q -- nothing about Shorty Shea?

2 A I don't recognize the name.

3 Q Stuntman Shorty Shea, does that ring a bell?

4 A That doesn't mean anything to me.

5 Q Or musician Gary Hinman?

6 A I don't know the name, but I have -- I do recall
7 something about a musician.

8 But the name doesn't mean anything to me.

9 THE COURT: We will take our recess now until 2:00
10 o'clock. Don't converse, Mrs. Gaines, with anyone in connec-
11 tion with this case.

12 (Whereupon, at 12:02 P. M., an adjournment was
13 taken in this matter until 2:00 o'clock P. M. on the same
14 day, Wednesday, December 15, 1971.)
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1 LOS ANGELES, CALIFORNIA, WEDNESDAY, DECEMBER 15, 1971, 2:00 P. M.

2
3 THE COURT: The record will show -- let's see, the
4 defendant is present. All prospective jurors are present. Both
5 counsel are present.

6 Gentlemen, I don't think we completed the question-
7 ing of Mrs. Gaines, have we?

8 MR. DENNY: Yes, I think we had, your Honor.

9 THE COURT: Oh, let's see.

10 MR. DENNY: Yes, your Honor.

11 THE COURT: Are we ready to proceed now with the entire
12 group present?

13 MR. DENNY: Yes. Yes, I think it is the defendant's
14 next peremptory, your Honor.

15 THE COURT: Very well.

16 MR. DENNY: And I would like to thank and excuse juror
17 No. 11, Mrs. Gaines.

18 THE COURT: All right, thank you, Mrs. Gaines.

19 THE CLERK: Mrs. Josephine Nelson, N-e-l-s-o-n.

20
21 VOIR DIRE EXAMINATION OF

22 JOSEPHINE NELSON

23 BY THE COURT:

24 Q Mrs. Nelson, were you present when the Court
25 explained the nature of this case and when the Court was
26 questioning prospective jurors?

27 A Yes, your Honor.

28 Q Would your answers be any different than the

1 majority responded to the questions of a general nature?

2 A No, they would not.

3 Q Would it be any hardship to you to serve in the
4 case?

5 A It would be health-wise right now. I'm on
6 penicillin for an infection and I have to go back to the
7 dentist. He put me on so that I could serve, but he said it
8 might flare up again.

9 Q Oh, I see. You have some sort of a problem that
10 would be recurrent, do you think?

11 A Yes, it is, uh, an infection in my teeth and gums.

12 Q And you think it would prevent you from serving,
13 continuously, if you must?

14 A Yes. He doesn't want me to stay on this
15 penicillin too long. He wants me to come back. It might
16 flare up even before my two weeks.

17 Q Here is what we have in prospect here.

18 If you were selected as a juror, the Court will
19 recess on Friday, and there will be a vacation period for the
20 Court and for some of the other personnel from the 20th
21 through the end of the year. We'll resume on January 3rd.
22 Possibly January 4th if I can't make it back from where I am
23 going.

24 A Well, he has to remove the teeth and replace them
25 and says it is months of work.

26 Q All right, then, you needn't go into any more
27 grim detail.

28 MR. KAY: We'll stipulate that she may be excused for

1 a hardship,

2 MR. DENNY: So stipulate.

3 THE COURT: We think that is a hardship and the Court
4 thanks you for serving at all.

5 PROSPECTIVE JUROR NELSON: Thank you, sir.

6 THE COURT: Are you suffering such discomfort --

7 PROSPECTIVE JUROR NELSON: Not right now.

8 THE COURT: -- you would like to be excused?

9 PROSPECTIVE JUROR NELSON: No, not right now.

10 THE COURT: How much time do you have left?

11 PROSPECTIVE JUROR NELSON: This is my second week.

12 THE COURT: And you're willing to go ahead and serve?

13 PROSPECTIVE JUROR NELSON: So long as I can.

14 THE COURT: All right. Then, the 15th floor of the new
15 Hall of Records.

16 PROSPECTIVE JUROR NELSON: Thank you.

17 THE CLERK: N. Holger Mortensson. That's initial N,
18 H-o-l-g-e-r, last name is M-o-r-t-e-n-s-s-o-n.

19 THE COURT: Will you gentlemen approach the bench,
20 please.

21 (Whereupon, the following proceedings were had at
22 the bench among Court and counsel, outside the hearing of the
23 prospective jurors:)

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1 THE COURT: This fellow is an architect who is employed
2 by the County. They're in the midst of building some sort
3 of a building over at the Medical Center nearby here. And
4 if he is not present they say that dire things will happen
5 to the budget on the building. Hahn called me and indicated
6 that that would be the case. So I don't know that Mr.
7 Mortensson wants to be excused. However, he may relish
8 sitting on this jury away from the fire.

9 MR. KAY: Well, we'd be willing to stipulate that he
10 may be excused.

11 THE COURT: Let's hear whether he does wish to be
12 excused, whether it would be a hardship. If he chooses to
13 stay, I think we'll let Mr. Hahn whistle.

14 MR. KAY: We wouldn't want Mr. Hahn to put too much
15 pressure on this man if he did stay.

16 THE COURT: That's true.

17 MR. KAY: I don't know what type of position he would
18 be in.

19 THE COURT: Well, apparently he's a key man in the
20 acquisition of funds in that he has to inspect, approve
21 construction or something of that nature. I didn't listen
22 to all of it, but I just listened enough to gather that
23 Mortensson is fairly important to the construction of the
24 building because of the holdup of funds if he is not there.

25 MR. DENNY: Well, do you suppose if we excuse Mr.
26 Mortensson Mr. Hahn will get off our backs in case there are
27 any problems of finances in this case? A tit-for-tat
28 situation.

1 THE COURT: I would like very much to arrange some sort
2 of agreement like that.

3 Anyway, in the event it should go that way, any
4 objection to excusing him?

5 MR. DENNY: I have no objection as a taxpayer, your
6 Honor, in excusing anybody who is going to save the
7 taxpayers money. But I do believe we should hear what he
8 has to say on this.

9 THE COURT: All right,

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

13
14 VOIR DIRE EXAMINATION OF

15 MR. N. HOLGER MORTENSSON

16 BY THE COURT:

17 Q Mr. Mortensson.

18 A Yes.

19 Q Have you been present during the proceedings thus
20 far since I explained the nature of this case?

21 A Yes, sir.

22 Q And before you heard me read the indictment, had
23 you ever heard of the case at all before, before that?

24 A I do not believe so.

25 Q Would it be any hardship for you to serve as a
26 juror in this case?

27 A Uh, not personally. But after Friday I inquired
28 of my employer and the administrator at the hospital felt

1 that it would be very much of a hardship for them.

2 Q Would you explain that to me?

3 A Well, I -- the type of work I do there is rather
4 unique. I have no backup. I am an architect for the L.A.C.-
5 USC Medical Center.

6 MR. DENNY: I wonder if you could put that microphone
7 up to your mouth because I can't hear.

8 Q BY THE COURT: Yes, Mr. Mortensson.

9 You are a what?

10 A I am an architect for the L.A.C.-USC Medical
11 Center.

12 Q And you are employed by the County of Los Angeles?

13 A County and University of Southern California.

14 Q Well, what's your function in connection with the
15 hospital?

16 A I am basically in charge of the master plan
17 development for the Medical Center. And they are just
18 starting more or less, getting in the full swing of it at
19 this time.

20 Q They're just starting to spend County money on
21 it?

22 A Joint authority money, sir.

23 Q If we kept you here, is there a possibility that
24 the money would not be spent?

25 (Laughter.)

26 A I rather doubt that.

27 Q BY THE COURT: Are you asking to be excused, sir?

28 A Personally, no, sir.

1 Q In other words, you'd just as soon stay?

2 A Well, it would be somewhat of a hardship because
3 I have been working evenings to try to keep things going.
4 But I'm willing to do so.

5 Q Well, do you think that you could keep up that
6 pace for two months?

7 A No, I would have to taper off, I'm sure.

8 Q Well, having that in mind, now, and knowing that--
9 what your obligations are, do you wish -- are you asking the
10 Court to excuse you now or not? Are you willing to go ahead
11 and serve on the jury?

12 A Yes, I'm willing to go ahead and serve on the
13 jury.

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1 Q All right.

2 Have you served as a juror before in any kind of

3 case?

4 A No, I have not.

5 Q And the nature of your work is architecture; you

6 are a licensed architect?

7 A Yes, sir.

8 Q And is there -- are you married --

9 A Yes, sir.

10 Q -- Mr. Mortensson?

11 And what does Mrs. Mortensson do?

12 A She manages my household.

13 Q Probably better hang onto her.

14 A Right.

15 Q Are you acquainted with or related to law

16 enforcement officers?

17 A No, I am not.

18 Q Pardon, I am sorry.

19 A No, I am not.

20 Q In what general area do you and Mrs. Mortensson

21 reside?

22 A Hollywood.

23 Q Can you think of any reason why you couldn't be

24 fair and impartial in this case?

25 A No, sir.

26 Q Would you follow the Court's instructions in

27 regard to the law, regardless of what you believe the law is

28 or should be?

9b-2

1 A I would.

2 Q And would -- would -- can you think of any
3 respect in which your answers would be different, in which any
4 of your answers would be different to the questions that I put
5 to other -- questions of a general nature that I put to
6 prospective jurors?

7 A No, I can't think of any that I would differ
8 with.

9 Q In connection with the penalty, the death penalty
10 that we've talked about, would your views about it be such that
11 you would be unable, by reason of those views, to be impartial,
12 fair and impartial in determining guilt or innocence?

13 A No, I think not.

14 Q Or would you be of such a mind concerning the
15 penalty that you would automatically refuse to impose it
16 regardless of the evidence produced?

17 A No, sir.

18 Q Or, conversely, would you automatically impose the
19 death penalty upon a conviction of murder in the first degree
20 regardless of the evidence?

21 A No, I would not.

22 Q Well, let me ask you this, just generally, then,
23 before we examine you more closely on the question of what you
24 might know about the Manson Family.

25 By reason of what you have heard, seen or read
26 concerning the Manson Family, would somebody who -- whom the
27 proof might show would be a member of the Manson Family, would
28 he be at any disadvantage in having you as a juror in the case?

1 A No, I think I could be very impartial.

2 THE COURT: Mr. Denny.

3 MR. DENNY: Your Honor, do you want us to take on general
4 questions first?

5 THE COURT: General questions until we get to the point
6 where we're going to quiz Mr. Mortensson about publicity, his
7 knowledge of publicity.

8
9 VOIR DIRE EXAMINATION

10 BY MR. DENNY:

11 Q Sir, are you a practicing architect right now?
12 Is that the field in which you work or are you in the field of
13 finances?

14 A No, I do more in the way of programing and planning
15 and not straight architecture. Not the nuts and bolts of
16 architecture.

17 Q All right. And in this connection do you work
18 with, say the board of supervisors, people connected with that
19 area?

20 A No, I don't quite get that high, sir.

21 Q All right. You do, however, work with county
22 officials?

23 A Yes.

24 Q In your job capacity?

25 A Yes, I do.

26 Q And do you work with any officials connected
27 in any way with the law enforcement agencies?

28 A No, I don't.

1 Q Have you, in the past, done so?

2 A No, sir.

3 Q How long have you worked for the county?

4 A Four years.

5 Q Prior to that, sir?

6 A I was in private practice up until that time.

7 Q As a --

8 A As an architect.

9 Q Sole-practitioner or with a firm or a company?

10 A With a firm. I was in private practice myself for
11 ten years.

12 Q And in that connection did you do any work with
13 public buildings?

14 A Hospital work, that's all.

15 Q That is your field of specialty, then?

16 A Yes, sir.

17 Q Police stations are not?

18 A No, I know nothing about them.

19 Q Either outside or inside?

20 A Right, either inside or outside.

21 Q All right. And the question has been asked of
22 some of the jurors of whether they have ever been the victim
23 or any close friends or relatives been the victim of a violent
24 crime.

25 Your answer would be "No"?

26 A "No,"

27 Q Or ever charged with such?

28 A No, sir.

1 Q All right, sir.

2 Have you ever had any military service?

3 A I have not.

4 Q Inasfar as this hardship question, the Court has
5 asked you on most of the questions and I don't want to belabor
6 it. But do you have any feeling at all, for instance, if
7 it came to the point that the jury were locked up for
8 deliberations at the end of the People's case of the trial,
9 whatever, whenever the case terminated, as far as the evidence
10 went, and the jury retired to deliberate, and perhaps those
11 deliberations had gone for a number of days and you would not
12 then be able to work at night, would you have any feeling at
13 all, sir, that that might pose such a problem to you as far as
14 your own mental or emotional state that you would be, perhaps,
15 detracted from determining the guilt or innocence of Mr. Davis
16 in this case?

17 A No. If I reach that point, I would devote every
18 effort towards the jury duty.

19 Q You'd have no feelings perhaps if the building was
20 going down the drain somehow and you had to come in with a
21 verdict no matter what, just in order to get out of being
22 locked up?

23 A No. I think that that would go on and the jury
24 duty would prevail.

25 Q All right. You understand that in a case of this
26 length, and there will be a number of exhibits, sometimes
27 the jury does take a while to deliberate.

28 A Right.

1 Q And you'd have no reluctance in joining in those
2 good faith deliberations among your fellow jurors to reach a
3 verdict?

4 A No, sir.

5 Q All right, sir.

6 Now, have you done any reading at all in the field
7 of the death penalty?

8 A Uh, not seriously. I may have read an article now
9 and again in a paper or magazine, but that's the extent of it.

10 Q You've made no study of it, then?

11 A No, sir.

12 Q Had no reason to look into it for any particular
13 purpose?

14 A No, I have not.

15 Q And have you ever had discussions on the subject
16 pro or con?

17 A I think perhaps, thinking back there, I might
18 have been involved in several discussions, bull session-type
19 of things, but nothing really pro or con. It was just a
20 general discussion.

21 Q All right. So, you would say by no means are you
22 well versed or well schooled in the background of the death
23 penalty or how it functions, how it operates in this state,
24 any of those facts; is that right?

25 A Absolutely not.

26 Q All right. I take it, sir, that you have never
27 previously been in a situation where, because of your single,
28 solitary act, by your vote, you could in effect condemn a man

1 to death; is that right?

2 A I've never been in that position.

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1 Q And you feel that this is the position that,
2 although perhaps not one that you'd court, that you could at
3 least accept, and fulfill the necessary duty of making that
4 determination in the case?

5 A Yes, I think I could cope with it.

6 Q Do you have any feelings yourself, sir, that
7 having found a man guilty of first degree, that would then
8 automatically -- and again, as they say, without regard to
9 the evidence -- but merely by virtue of having found him
10 guilty of first degree murder, then return a verdict of
11 death?

12 A No, I would not.

13 Q And I take it from your previous answers that
14 you would feel that you were doing your duty, not shirking
15 your duty, if you come to that point -- as I say, this is
16 all hypothetical at this point, as far as I am concerned;
17 and hypothetical as far as we are all concerned at this
18 point -- but if it came to the point of returning a verdict
19 of either life or death, and you felt that this was not the
20 type of case that, in your opinion, should have a death
21 penalty judgment, that you could in good conscience return
22 a verdict of life imprisonment?

23 A Yes, I could.

24 Q And you would feel that you were doing your
25 duty as a juror under those circumstances?

26 A Yes.

27 Q All right, sir. I'll pass for cause, your
28 Honor --

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1 Well, let me just ask you; You did hear the
2 other questions that I've asked the other jurors during the
3 course of the voir dire, over the last week or so?

4 A Yes. I have been here since last Friday.

5 Q Yes, indeed. I have been here longer than that.

6 And would your answers be the same as those of
7 the jurors sitting in the box with you?

8 A Yes, sir.

9 Q All right. There's nothing in your mind as you
10 sit there that would prevent you from giving your full
11 attention to this case during -- however long it may take,
12 and from rendering a fair verdict, both to the People and
13 to the defendant; is that right?

14 A That's right.

15 MR. DENNY: Thank you, sir.

16 Pass for cause, your Honor.

17 THE COURT: The People?

18
19 VOIR DIRE EXAMINATION

20 BY MR. MANZELLA:

21 Q Mr. Mortensson, are you working on any particu-
22 lar facility right now? The construction of any particular
23 facility right now for the S.C.County Medical Center?

24 A Nothing particular. We are in the process of
25 interviewing programming firms for doing programs for future
26 facilities.

27 Q The reason I ask is because you mentioned that
28 you had no backup man, no assistant that could carry on your

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1 position.

2 Is there anything in the future -- see, this
3 trial will last probably till the middle of February of next
4 year.

5 Is there anything in the future that would --
6 that's coming up in the future that you could -- that you
7 think might cause you to feel some pressure, if you were to
8 serve on the jury?

9 A No. I -- I believe that -- if I remain on the
10 jury, that that will have to be the first thing; and the
11 others will have to, shall we say, do the best they can.

12 I am sure they can do it very well without me
13 being there.

14 Q Fine. That's the way it has to be, for you to
15 serve on the jury.

16 A Right.

17 Q And my question to you is: Would you feel any
18 pressure, if you were to be put in that position?

19 In other words, is there anything coming up that
20 would normally take your full time and attention?

21 A No. I would anticipate that if I were to serve
22 on the jury, I would have -- as it was mentioned in the
23 recess -- that I could put my affairs in order and -- and
24 then feel free to devote my full time to this.

25 Q All right. Fine. Thank you, Mr. Mortensson.

26 I take it you have not -- and you don't know
27 anyone personally that's been accused of any crime; is that
28 correct?

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1 A I do not.

2 Q And have you ever been involved in the defense of
3 criminal cases, as an attorney? Or in any other capacity
4 involved in the defense attorney business?

5 A No, sir.

6 Q And you've never testified in a criminal case?

7 A I have never testified.

8 Q Now, because of the questions you've answered of
9 the Court's and of Mr. Denny's, I think I know your state of
10 mind with regard to the death sentence.

11 I would like to ask you, however, that if you did
12 serve on the -- serve on this jury, and if the jury did
13 convict this defendant of first degree murder, would you be
14 able and willing to make the decision as to whether or not the
15 death sentence should be imposed?

16 A Yes, I would.

17 Q And if you determined, after hearing all the
18 evidence in the case, that for these crimes this defendant
19 did deserve the death sentence, would you be able and would
20 you be willing to impose the death sentence?

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21 A I would.

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1 Q All right. Mr. Mortensson, in Count III of the
2 indictment, as you know, charging this defendant with the murder
3 of Donald Shorty Shea, the People will not be able to produce a
4 body, nor will they be able to produce a eyewitness to the
5 killing of Shea -- that is, someone who saw Shea's body in
6 death.

7 Therefore, if the People are to prove their case,
8 they must rely upon circumstantial evidence. Now, knowing that,
9 do you feel that you could never vote for conviction in that
10 type of case?

11 In other words, does that more or less make your
12 mind up for you, knowing those facts?

13 Or on the other hand, do you feel that you could
14 listen to the evidence in the case, fairly and impartially,
15 and be willing to be convinced beyond a reasonable doubt that
16 Shea had been murdered, and that this defendant was one of those
17 responsible for the murder?

18 A Yes. If the evidence proved it, I could accept
19 that.

20 Q Do you feel that -- the way you answered the
21 question, I'm not sure of your state of mind with regard to
22 that point.

23 Do you feel that it's possible for the evidence to
24 produce that -- to prove that, where there is no body, no
25 body has been recovered?

26 A Yes, I believe so.

27 Q Do you in any way feel that it's unfair for the law
28 to permit a person to be convicted of first degree murder in

1 that type of situation?

2 A No, I do not.

3 Q Having been present since Friday -- you were
4 present when Judge Choate read the -- some of the instructions,
5 including the law of aiding and abetting.

6 Now, does it seem unfair to you that, under the
7 law, the law of aiding and abetting, a person could be
8 convicted of first degree murder, even though he himself did not
9 strike the fatal blow?

10 A No, I do not think that's unfair.

11 Q You have no quarrel with that?

12 A No, I do not.

13 Q And if you found that that law -- after hearing
14 all the evidence in the case, you found that that law applied
15 to the facts of this case, as you found them to be, would you
16 be able to follow that law?

17 A Yes, I would.

18 Q Now, as you know, you are -- because the defendant
19 has been indicted for murder does not mean you are to feel
20 prejudice against him or sympathy for him, merely because of
21 the fact that he's been indicted.

22 Do you feel any of those things at this point for
23 Bruce Davis -- either prejudice against him or sympathy for
24 him -- because he has been indicted?

25 A Neither.

26 MR. MANZELLA: All right. Thank you, Mr. Mortensson.

27 The People pass for cause, your Honor.

28 THE COURT: Any further questions, generally?

1 MR. DENNY: No, your Honor.

2 THE COURT: All right. Ladies and gentlemen, I'll ask
3 you to leave again. And do so very quickly and quietly.

4 Will somebody out there, the first out, please hold
5 the door open?

6 (Pause in the proceedings while the members of the
7 prospective jury panel exited the courtroom.)

8 THE COURT: Mr. Mortensson, we want to talk to you --

9 PROSPECTIVE JUROR NO. 11: I just wanted to get my
10 briefcase.

11 THE COURT: Oh. All right.

12
13 FURTHER VOIR DIRE EXAMINATION

14 BY THE COURT:

15 Q Had you ever heard of the name of Bruce Davis
16 before the Court read the indictment to you?

17 A Not to my recollection.

18 Q And had you heard the name Shorty Shea?

19 A Yes, sir.

20 Q And what had you heard, seen or read about that
21 name?

22 A Uh -- my recollection of Shorty Shea was -- comes
23 to mind, thinking of reading some of the articles on the
24 Manson Family, a year or so ago, whenever it might have been.

25 Q You know from my having read the indictment to you
26 that he's the alleged victim in the third Count?

27 A Yes, I realize that.

28 Q Was the story you read something concerning his

1 being missing, or his being deceased?

2 A Uh --

3 Q Or do you recall?

4 A As I recall, the articles I read mentioned that he
5 was missing. I'm not -- that, I am sure of.

6 Q And how about Hinman? What did you read in
7 connection with him?

8 A Hinman?

9 Q Yes.

10 A I merely recognize the name. I read very little --
11 I read nothing of the case, really.

12 Q Have you heard the name Steven Grogan? Steve
13 Grogan?

14 A I think that was in the articles regarding the
15 Manson Family.

16 Q How long ago was it that you read these articles?

17 A Oh, well, it was shortly after -- uh --

18 Q The Tate-LaBianca killings? Homicides?

19 A It was after -- yes, it was, as I recall -- I
20 think it may have been a year after the killings; because when
21 the first -- when the Mansons were first mentioned in the
22 case is, I think, the time I read it.

23 Of course, I couldn't have read it before, because
24 they weren't mentioned until then.

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1 Q When's the last time that you read, saw or heard
2 anything about -- whatever about Mr. Manson?

3 A Well, last night, I opened the paper and saw a
4 headline, "MANSON --" and a picture; and I turned the page;
5 I didn't read it.

6 I saw the picture, though.

7 Q You saw a picture and a headline. What did the
8 headline say?

9 A I don't know. I just saw the name "MANSON," and
10 I ignored it.

11 Q All right.

12 Now, except for that, have you seen anything in
13 the last six months concerning Mr. Manson?

14 A Uh -- I think his name has been in the paper,
15 and I've noticed the name, but I haven't read anything about
16 it.

17 Q You don't know why it's been in the paper?

18 A Well, I just presumed because of this trial --
19 not this trial, but his trial.

20 Q The Tate-La Bianca case?

21 A No, I don't know anything about that one.

22 Q Well, you heard about the -- you heard about the
23 killing of Sharon Tate and the --

24 A Yes.

25 Q -- and various other victims?

26 A I heard -- I read -- or heard and read somewhat
27 of the Sharon Tate mansion case.

28 Q Yes. Are you referring to that when you say

10b-2

1 "his trial"?

2 A Yes.

3 Q Well, knowing what you know about Mr. Shea -- or
4 what you read about Mr. Shea, through the media -- do you
5 think it would be possible for you to set such matter aside,
6 for the purpose of making a judgment concerning the question
7 as to whether or not Mr. Shea is dead? Basing your judgment
8 only upon the evidence that's received here in court?

9 A Yes, I think I could hear the evidence and make
10 a decision from that.

11 Q Could you make your mind blank as to any such
12 matters that you might remember concerning Charles Manson, or
13 the Manson Family? And start afresh, as it were, without any
14 such matters on your mind, when you come to the point where
15 you are deliberating concerning this case?

16 A Yes, I think I could look at this and determine
17 it on the merits of the case.

18 Q And will you do that?

19 A Yes, I would.

20 Q And will you be fair and impartial?

21 A Yes, I would.

22 THE COURT: Mr. Denny?

23 MR. DENNY: Thank you, your Honor.

24
25 VOIR DIRE EXAMINATION

26 BY MR. DENNY:

27 Q Mr. Mortensson, do you subscribe to a newspaper
28 regularly?

10b-3

1 A Yes, we subscribe to the L. A. Times.

2 Q And do you also get your news via TV and radio on
3 a daily basis, would you say?

4 A Practically never via TV. I hear the news
5 broadcast at 7:00 o'clock in the morning, and that's about it.

6 Q On the radio?

7 A On the radio, yes, sir.

8 Q All right. Would you say, then, that the newspaper
9 was probably your chief source of news?

10 A Yes, sir, it is.

11 Q All right. Now, do you -- some people, you know,
12 avidly gobble up anything having to do with crime news;
13 some people avidly stay away from it; some people, if it's
14 a particularly interesting case, or one that's a great deal
15 in the news, they'll look at it, perhaps follow it.

16 Where would you say that you fall in that spectrum?

17 A I fall in the spectrum of not reading it.

18 Q You just --

19 A In fact, I read the paper very little, actually.

20 Q All right. Certainly, you, then, just don't pay
21 any attention -- or much attention -- to this crime news; is
22 that correct?

23 A Not much attention, no.

24 Q All right. I take it you couldn't help but see
25 something relating to the Tate and the La Bianca murders
26 when they occurred, and perhaps the trial, as it progressed;
27 is that right?

28 A I think it would be impossible to avoid that.

1 Q All right. And having read something of that,
2 do you have -- you have, I take it, some idea of what the
3 Manson Family, as it's been referred to in the papers, is?
4 Is that right?

5 A Yes, sir, I do.

6 Q And what is your concept of the Manson Family?

7 A They -- I would say that my concept is: They're
8 a communal type of family, living as a group; very likely
9 contrary to the accepted norm of past years.

10 But the norm is changing right now, and it's
11 becoming more and more free.

12 Does that answer your question?

13 Q It certainly does, if this is the -- your concept
14 of it.

15 And in this connection, do you have any feelings
16 about them, that those people, who are members of this Manson
17 Family, as it's been tagged, were probably criminally
18 oriented?

19 A Yes, I think I would feel that way. I have little
20 admiration for the Family.

10c fls.

10c-1

1 Q Well, would you feel, then, that as a whole, in
2 general, those members associating themselves with or
3 attaching themselves to Charles Manson were somewhat criminally
4 oriented?

5 A Somewhat, yes, sir.

6 Q And under those circumstances, would you feel --
7 well, to put it another way -- that perhaps they shared
8 Charlie Manson's criminality or criminal bent?

9 A Yes, I think -- I would think that that's correct.

10 Q And with that feeling, would it be your state of
11 mind that one who definitely is a member of that Family would
12 likely, then -- or perhaps tend to be more guilty of a crime
13 with which he is charged than one who was not a member of the
14 Manson Family?

15 A No, I would not buy that.

16 I would think that they were -- they may be
17 criminally inclined, but I think each member, each party
18 should be judged on what the evidence on that one party
19 is, not the whole group.

20 Q In other words, mere association, as that term is
21 used, would be insufficient, in and of itself, in your mind
22 to cause you to vote guilt as to any charge, if any associa-
23 tion was shown with Mr. Manson?

24 MR. MANZELLA: Your Honor, excuse me. I think I know
25 how Mr. Denny means the question, but I would object on the
26 grounds that it could be taken to mean other things.
27 Association in what? It could be asking a juror to prejudge
28 the evidence.

1 THE COURT: Well, I think not. I think its meaning is
2 clear.

3 The objection is overruled.

4 Q BY MR. DENNY: Do you understand my question,
5 Mr. Mortensson?

6 A Yes. I was going to say that I don't believe
7 mere association, just mere association, would make a man
8 guilty or not. I think the association may have something
9 to do with it, but the proof of the crime would have to be
10 on its own, and not part of association.

11 Q Well, to get right to the point, as far as I
12 particularly am concerned, representing Mr. Davis, assuming
13 in this case that the evidence shows that Mr. Davis has
14 for a time been associated with Mr. Manson -- been, as they
15 say, a Family member -- only you can tell us how that would
16 affect your feelings, your gut reaction, if you will, as to
17 the evidence.

18 Now, there are some people who quite frankly
19 feel that -- and have so stated here, from the very chair
20 you're sitting in, in fact -- that that fact alone would
21 tend to make them feel a little bit more for the prosecution
22 and against the defense; just in viewing the evidence, they
23 would have that sort of predisposition, that because of that
24 association, because of those factors, they couldn't be quite
25 as objective as if that association was not there. Right
26 from the start, they start out with that feeling.

27 And I got the feeling from what you said that you
28 are somewhat of that opinion; that you do not approve of the

1 Manson Family; that you don't approve of anything that you
2 know of that they allegedly did; and that therefore, any
3 member of the Family would somewhat share the criminality of
4 Mr. Manson, and perhaps you start out with a little bit of
5 that feeling against the defendant in this case -- which
6 obviously, then, has got to somewhat tip your judgment in
7 looking at the evidence.

8 Now, as a matter of fact --

9 A I don't think that is a fact. I think it would
10 be natural to have that feeling you mentioned, but I think --
11 I feel very confident that I can look at this case -- or any
12 case -- on its merits, and ignore and not have any feeling
13 because of this association, alleged association.

14 As to whether that would cause guilt or innocence,
15 I think I could assess the case very objectively and put
16 whatever feeling I might have in back of me.

17 Q You don't have any doubt whatsoever of your
18 ability to do that?

19 A I have no doubts of that.

20 Q Assuming -- and I don't think it's improper to
21 say this -- that there are heated exchanges sometimes in the
22 jury room, in discussing a case.

23 Now, that doesn't always -- although perhaps it
24 should -- resolve itself into objective, cold analysis of the
25 evidence; sometimes the emotions do get involved, and people
26 finally express these emotions: "Well, the son of a gun,
27 he's a Manson Family member. You know he's got to be guilty."
28 And it comes out that way.

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1 And I am just wondering if you feel that there's
2 any possibility that that might happen in your deliberations
3 in this case?

4 A I have no -- I don't think that would happen,
5 period.

6 Q And if you even saw it beginning to happen, you
7 would put those feelings aside, --

8 A Yes, I would.

9 Q -- very conscientiously, so that you could be
10 totally objective about the evidence; is that right?

11 A Yes, sir, it is.

12 Q All right.

13 Now, as far as your knowledge of Shorty Shea,
14 you did say that you had read something about him, and that
15 he was missing; is that right?

16 A Yes, sir.

17 Q Did you read anything to the effect that he was
18 dead? Or just that he was missing? Or do you recall that
19 distinction?

20 A It's -- it's hard to be explicit, but I definitely
21 remember he was missing.

22 And it --

23 Maybe I read he was dead, but I'm not sure of
24 that now. I may have glanced at the paper, but I made no --
25 it made no conscious impact upon me.

26 Q All right. Do you remember reading anything
27 about any attempts by law enforcement agencies to locate
28 him, or digging up Spahn Ranch, for instance, anything of

1 that kind? Do you recall that?

2 A Yeah, I think I saw that in the paper, some
3 article or some mention of that.

4 Q All right. And as far as you are aware at this
5 time, do you have any feelings that Shorty Shea either is
6 dead or is alive?

7 A I don't have any such feelings.

8 Q You don't know?

9 A I don't know.

10 Q And despite what you have heard, seen or read,
11 you have formed no opinion on that; is that correct?

12 A No, I have not.

13 Q And again, in spite of what you've seen, heard
14 or read, and if the testimony here may trigger something that
15 you've seen, heard or read, you'll make that determination,
16 whether he is dead, whether he died by criminal means, and
17 whether my client had anything to do with that death,
18 strictly and solely from what comes from that witness stand,
19 and nothing else; is that correct?

20 A Yes, sir.

21 Q And you don't think you'd have any trouble in
22 distinguishing, over the long course of a long trial, what
23 you might remember having seen, heard or read from what you
24 are supposed to consider? That is, only the evidence in
25 this case?

26 A No. I think I can keep them straight. What I
27 hear here is what the evidence is.

28 Q All right. And if any of your fellow jurors

1 tended to bring into their jury deliberations any facts
2 which were not in evidence, but which obviously had come
3 from outside publicity, you'd have no trouble in telling
4 them, "Get back on the track. You can't consider that."
5 Is that right?

6 A I would have no difficulty doing that.

7 Q And you'd do it yourself?

8 A Yes, sir.

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

11 MR. KAY: No questions, your Honor.

12 THE COURT: Any questions?

13 MR. MANZELLA: No.

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1 THE COURT: The next peremptory challenge is with the
2 People.

3 MR. KAY: The People will thank and excuse juror No. 4,
4 Mrs. Norma Greene.

5 THE CLERK: Conrad R. Aughinbaugh, C-o-n-r-a-d,
6 middle initial R, last name A-u-g-h-i-n-b-a-u-g-h.

7 THE COURT: Mr. Mortensson, thank you. You can be
8 excused to go with the rest of the jurors, please.

9 Mr. Aughinbaugh.

10 MR. MANZELLA: Take that microphone.

11 MR. KAY: Yes.

12
13 VOIR DIRE EXAMINATION OF

14 CONRAD R. AUGHINBAUGH

15 BY THE COURT:

16 Q Mr. Aughinbaugh, were you present when the Court
17 explained the nature of this case?

18 A Yes.

19 Q And did you hear all the proceedings, have you
20 heard all the proceedings thereafter?

21 A Yes, your Honor.

22 Q Including all of the questions of counsel and the
23 Court?

24 A Yes, your Honor.

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

28 A No, they would not, sir.

11-2

1 Q Would it be a hardship for you to serve in this
2 case?

3 A No, it wouldn't your Honor.

4 Q What type of work do you do?

5 A I am a draftsman for the Metropolitan Water
6 District.

7 Q Have you had jury duty before?

8 A Yes, I have.

9 Q Have you served as a juror on a criminal case?

10 A Yes, I have, sir.

11 Q What was the nature of that case or cases, if it
12 was more than one?

13 A It was just one case. It was a nude or obscene
14 assault or something of that. I forgot the exact nature of the
15 charge. But --

16 Q Is there a Mrs. Aughinbaugh?

17 A Yes, there is.

18 Q And is she employed outside the home?

19 A No, she is a housewife.

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

22 A No, I am not, your Honor.

23 Q In what area do you and Mrs. Aughinbaugh reside?

24 A In the Los Feliz District.

25 Q Can you think of any reason, whatever, as to why
26 you could not be fair and impartial in the case?

27 A No, I have no reason.

28 Q Concerning the death penalty, would you auto-

11-3

1 automatically refuse to impose it regardless of the evidence that's
2 been --

3 A No, I would not.

4 Q -- presented?

5 Or would you automatically impose it upon a
6 conviction of murder in the first degree?

7 A No, I would not.

8 Q Would your views be such that you would never vote
9 to impose the death penalty in any case?

10 A No, your Honor.

11 Q About publicity, had you heard about this case
12 before you came into this courtroom?

13 A This specific case?

14 Q This specific case.

15 A No, I haven't.

16 Q You have heard of Charles Manson and the Manson
17 Family?

18 A Yes, sir, I have.

19 Q Is that in connection with the Tate killings?

20 A Yes.

21 Q Did you follow that case in the press or radio or
22 news?

23 A Oh, to some extent.

24 Q Television?

25 A To some extent. I don't have a television, so I
26 don't have that opportunity.

27 Q Is this a temporary deprivation?

28 A No. Got tired of it.

11-4

1 Q And turned it off?

2 A Turned it off and gave it away, finally.

3 Q So your news, most of your news is via radio or --

4 A Newspaper, yes, sir.

5 Q Or newspapers?

6 Have you read or heard Mr. Manson's name in the
7 last six months?

8 A Well, I can't be sure. Possibly, I think.

9 Q Have you heard the name Steve Grogan?

10 A That name sounds familiar to me.

11 Q What does that mean to you? That --

12 A Well, I heard it in some connection with the
13 Manson Family, I mean.

14 Q You can't put it together as to what you may have
15 heard?

16 A No, I can't.

17 Q How about Davis? Had you ever heard the name
18 Davis?

19 A No, I haven't heard the name Davis.

20 I did see his photograph, though. I seemed to have
21 recognized him when I saw him here in the courtroom.

22 Q Do you know the name of Beausoleil, Bobby
23 Beausoleil?

24 A That -- yes, I think I have heard that before.

25 Q What have you heard about that?

26 A Something in connection with the Hinman murder,
27 I think. I think he was convicted of it quite a while ago.

28 Q And you read that some time ago in the press?

1 A Yes. Seems to be quite a while ago, sir.

2 Q What are your views about the Manson Family?

3 A Hmmm, it is rather difficult.

4 Q Could you be objective in judging, acting as a
5 judge?

6 A I think so, your Honor.

7 Q For someone who is a member of the Manson Family?

8 A Yes, I think I could, sir.

9 Q You wouldn't allow any bias or prejudice that you
10 may feel toward that family, against that family to prejudice
11 you against an individual charged with a crime?

12 A No, I would not, sir.

13 Q Would you be objective -- do you think you could
14 be objective in viewing the evidence and judging it fairly?

15 A Yes, sir, I think I could.

16 Q In such a case?

17 A Yes, sir.

11a fol

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11a-1

1 Q If I were to instruct you that you were to set
2 aside anything that you may have heard, seen or read concern-
3 ing Manson, the Manson Family, Mr. Davis or this case, that
4 you were to set aside anything that you might remember that
5 you do not now recall and judge this case, any issues that you
6 might be called upon to judge in the case, solely from the
7 evidence that's received here in court, could you do that?

8 A Yes, I could, your Honor.

9 Q Will you do that?

10 A I will do it, your Honor.

11 Q And will you be fair and impartial?

12 A And I will be fair.

13 THE COURT: Mr. Denny.

14

15

VOIR DIRE EXAMINATION

16

BY MR. DENNY:

17

Q Could you give us the pronunciation of your name
18 again, sir?

19

A Aughinbaugh.

20

Q Aughinbaugh?

21

A Aughinbaugh, yes, sir.

22

Q All right.

23

You had indicated when the Court asked you about
24 your views about the Manson Family, you said, well, that's
25 rather difficult. And you never did get to express them.
26 And I would like to hear them at this time.

27

A Well, it is rather complexed.

28

You feel, maybe, aghast at what happened in the

11a-2

1 Tate murders and the fact that they were convicted of it,
2 essentially, many members of a family, and wonder why this
3 happened and why people would do this. You know, it is
4 disturbing to think that your fellow man sometimes murders
5 without, in some respects, for too much reason.

6 Q Well, it is, certainly.

7 A Yes. You know, it is not -- at times it can be
8 unsettling, I think. Because I remember the morning of the --
9 after the Tate murders I wondered why somebody did that. It
10 was so inexplicable.

11 Q Well, did this kind of shocking crime, no question
12 about it, it was a shocking crime -- sort of rivet your
13 attention enough that you sort of followed the --

14 A Well --

15 Q -- the aftermath?

16 A Not really for too long. I was more interested
17 before the apprehension of Charles Manson and the members of
18 the Family. But I think after -- once the proceedings started,
19 I didn't follow it too much any more.

20 Q You were aware of the outcome, were you, of the
21 trial?

22 A Yes, I was.

23 Q What was that?

24 A It was guilty for Charles Manson and several
25 other people.

26 Q And as far as the penalty, do you recall what the
27 penalty was?

28 A Yes, it was the death penalty.

11a-3

1 Q It was voted.

2 All right, and have you heard, seen or read at any
3 time recently of any other Family member, as they are called,
4 being convicted or tried in connection --

5 A Well, I understand some of them have been tried.
6 I haven't really followed it that much. I don't know who
7 or what the outcome has been on anything else.

8 Q Now, insofar as this sort of feeling of shock and
9 fear, in a way, which falls on the Manson Family being
10 responsible for the Tate-LaBianca murders, does this sort of
11 get to you sufficiently so that you have a feeling that any
12 member of the Manson Family, although they may not have been
13 indicted or tried for the Tate-LaBianca killings, neverthe-
14 less, simply by virtue of being a member of the Manson
15 Family somehow shares the criminality of Charles Manson?

16 A No, I don't think that is a fair statement to make
17 of anyone, really, just because they are acquainted or share
18 the same likes or anything else, are guilty of what some
19 particular person might have been guilty of.

20 Q In other words, the old saying that birds of a
21 feather flock together, doesn't necessarily follow?

22 A No, that's not necessarily so.

23 Q Or by merely by association thereby you would feel
24 a person is guilty of anything charged against him, somebody
25 else being proven guilty of committing a crime?

26 A No, I wouldn't. It doesn't really hold water,
27 that sort of theory.

28 Q All right. Of course, what I am interested in is

11a-4

1 your own feeling, your own emotional response to the fact, and
2 it will be shown to be a fact that Mr. Davis associated with and
3 was a member of this Manson Family group, whatever, and I want
4 to make sure that you don't have such feelings as you sit there.

5 A Right.

6 Q Just in a general sense of repulsion, revulsion,
7 whatever, based on what you have seen, heard or read about the
8 Manson Family?

9 A No, I don't.

10 Q That would in any way affect your ability to fairly
11 and objectively and dispassionately judge the guilt or innocence
12 of Mr. Davis for the crimes that he is charged and only
13 charged at this point with having committed?

14 A No, I don't think it would, sir, because -- well,
15 could I expand a little about it?

11b fol

11b-1

1 Q I wish you would.

2 A I know people who could conceivably belong to
3 the Family, like Charles Manson. Whether they did or not,
4 I don't know. And I found nothing particularly repulsive
5 about them or -- maybe their dress was rather odd and maybe
6 some of their ideas I didn't agree with, but it doesn't have
7 any criminality about it. And so this -- I have no preju-
8 dice against, really, the life style of anyone.

9 Q The mere fact that they have a particular life
10 style and they have a particular philosophy that is different
11 than ours or may correspond with that someone whom we don't
12 particularly approve of, does not make it criminal in your
13 eyes?

14 A No, it does not.

15 THE COURT: It seems to me he answered that. Maybe we
16 can move along.

17 Q BY MR. DENNY: All right.

18 Now, you say you saw a picture of Mr. Davis, is
19 that correct?

20 A I think I did. He seemed familiar when I saw him
21 the first day last Friday when I came in.

22 Q Do you recall anything about the picture?

23 A No. It seems like it was a picture in the Los
24 Angeles Times.

25 Q Do you remember about how recently it may have
26 been that you saw it?

27 A Oh, six or seven months ago, maybe. It wasn't
28 very recently.

11b-2

1 Q I see. Was this a picture in which he was shown
2 to be in custody of some police officers or deputy sheriffs?

3 A I can't remember whether there was anybody with
4 him. It just seems like the blouse he is wearing now, the
5 velvet, and haircut, it seems something like that. And
6 cropped very closely, so I couldn't see anyone else.

7 Q Do you recall having seen, heard or read anything
8 about his having turned himself in voluntarily to the police
9 or anything like that?

10 A No.

11 MR. KAY: Well, I'm going to object to that because
12 that misstates what happened to Mr. Davis, and Mr. Denny
13 knows that that's very misleading. There was no voluntary
14 turn-in.

15 MR. DENNY: Well --

16 THE COURT: He is really inquiring --

17 MR. DENNY: Your Honor --

18 THE COURT: The Court will sustain the objection.

19 Do you recall anything about Mr. Davis' apprehension?
20

21 PROSPECTIVE JUROR AUGHINBAUGH: No, I don't.

22 MR. DENNY: Well, your Honor --

23 PROSPECTIVE JUROR AUGHINBAUGH: I don't even really
24 seem to remember to have read his name.

25 MR. DENNY: I have to take exception to Mr. Kay's
26 statement.

27 MR. MANZELLA: Your Honor, I don't think we should
28 argue this in front of a person who may become a juror.

1 If Mr. Denny wants to argue it, may we approach the bench?

2 MR. DENNY: I don't want to argue. I think Mr. Kay's
3 statement should be stricken and this juror told to disregard
4 that statement.

5 THE COURT: All right, fine. The Court appreciates
6 that. You should disregard the statements made in arguments
7 by either counsel.

8 PROSPECTIVE JUROR AUGHINBAUGH: Yes, I will, your Honor.

9 THE COURT: He has answered, however, that he doesn't
10 recall ever having read Mr. Davis' name in any other connec-
11 tion other than having seen his picture.

12 Q BY MR. DENNY: All right, well, I take it, then,
13 from all that you have told us about what you have seen,
14 heard and read, including the fact that you read about
15 Bobby Beausoleil being convicted of the Hinman murder, did
16 you read any of the facts of that?

17 A No, I didn't.

18 Q Just --

19 A Just --

20 Q -- that fact sticks in your mind?

21 A Yes.

22 Q That he has been convicted of that murder?

23 A Yes.

24 Q And are you aware of anyone else who has either
25 been tried or convicted or acquitted of that particular
26 offense?

27 A No, I understand that some other members of the
28 Manson Family were to be tried on that and what the outcome

1 was or who they were, I don't know.

2 MR. DENNY: All right, fine.

3 I have no further questions, your Honor. I'll
4 pass for cause.

5 THE COURT: People.

6 MR. KAY: No questions on publicity.

7 MR. MANZELLA: General? Question generally?

8 THE COURT: Let's get -- we'll take ten minutes and
9 get the group back in at the end of ten minutes.

10 You are excused, then, for ten minutes and don't
11 converse with anyone in connection with the matter.

12 We're in recess.

13 (Afternoon recess.)
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12 fls.

1 THE COURT: All right. The record will show all counsel
2 to be present now. The defendant is present, and all the
3 members of the prospective jury are present.

4 I think you were about to examine generally,
5 Mr. Denny. Is that it? Or was it --

6 MR. DENNY: Yes, I believe so, your Honor, of
7 Mr. Aughinbaugh generally.

8 (Pause in the proceedings while members of the
9 prospective jury tried to extricate the microphone cord.)

10 MR. DENNY: The age of modern science is wonderful.

11
12 VOIR DIRE EXAMINATION OF

13 CONRAD R. AUGHINBAUGH

14 BY MR. DENNY:

15 Q Mr. Aughinbaugh, prior to your work as a
16 draftsman with the Metropolitan Water District, what sort of
17 work did you do?

18 A I was a photogrammetric engineer for Fairchild
19 Aerial Surveys, engaged in geophysical mapping.

20 Q Pardon me if a smile crosses my lips, but we need
21 you.

22 I take it that your work -- well, how long did you
23 work in that field?

24 A Twelve years, sir.

25 Q And was your work actually up in the air, taking
26 photographs?

27 A At times, yes. And then, the compilation.

28 Q And what?

1 A The compilation of the photographs and other data
2 that we had.

3 Q All right. You then would class yourself perhaps as
4 an expert in the field of reading aerial photographs?

5 A Yes, sir.

6 Q All right, sir. And in this prior jury case that
7 you had, was that within this particular tour of duty --

8 A Yes, it was.

9 Q -- that you have?

10 All right. And without telling me which way it
11 went, did you arrive at a verdict in that case?

12 A There was no verdict. We were dismissed after the
13 People's case had been put on.

14 Q I see. Now, sir, you have heard all of the
15 questions that I have previously asked numerous jurors in your
16 presence, have you?

17 A Yes, sir.

18 Q And do you recall any questions that I asked
19 that gave you any moment's pause or hesitation, as to how you
20 would have answered those questions yourself?

21 A No, sir.

22 Q Your answers would have been similar to those
23 jurors' who are presently sitting around?

24 A Yes. Essentially the same, sir.

25 Q All right. And have you had any experience in
26 the military service?

27 A Yes, I have.

28 Q What experience was that?

1 A I was in the Air Force from 1947 to 1950, serving
2 as an aircraft mechanic.

3 Q And was that stateside or overseas?

4 A It was both.

5 Q In Korea?

6 A Uh -- no, I wasn't in Korea.

7 Q All right. This was not, however, in combat
8 situations; is that correct?

9 A No, no, no combat at all, sir.

10 Q All right. Then finally, going again to the death
11 penalty questions that have been asked time and again here,
12 have you done any reading in the field of the death penalty?

13 A Not specifically, no. Not for that purpose.

14 But I have read many, many things about the death
15 penalty, pro and con.

16 Q Pro and con. Abolition, retention, --

17 A Yes.

18 Q -- good or bad, whatever?

19 A Yes, sir.

20 Q And have you ever taken part in any discussions
21 on the death penalty?

22 A Yes, sir.

23 Q And in these discussions, have you espoused a
24 particular position generally, one way or the other?

25 A Oh, sometimes on both sides.

26 Q Playing the devil's advocate on both sides, then?

27 A Yes, sir.

28 Q As there are arguments on both sides.

1 A Yes.

2 Q Then I take it, as of this point, you would say
3 that you are not an avid abolitionist, --

4 A No, sir, I'm not.

5 Q -- nor one who believes necessarily in retention in
6 every case, is that right?

7 A That is true, yes, sir.

8 Q Or the application of the death -- death penalty
9 in every case of first degree murder; is that right?

10 A That's possibly -- well, I really haven't formed
11 an opinion on just what cases would be necessarily cases -- or,
12 even if they should be.

13 Q All right. In your mind, it is not the fact of a
14 conviction of first degree murder, but many other circumstances
15 that surround the crime, the defendant, everything else, that
16 would determine your vote as to which way you would vote; is
17 that correct?

18 A Yes, sir.

12a fol

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12-a-1

1 Q And that has been asked of a number of jurors,
2 if you felt that it was the proper verdict, you could come in
3 and face whoever you needed to face and say, "I vote for
4 death," is that right?

5 A Yes, sir, I could, sir.

6 Q By the same token, if you felt it was right, in
7 your own heart and mind, that this was not a case for the
8 imposition of the death penalty -- even assuming you had
9 arrived at the verdict of guilt of first degree murder --
10 you could say, "I vote for life"?

11 A I could, sir.

12 Q And feel that you were doing your duty as a
13 juror; isn't that right?

14 A Yes, sir.

15 MR. DENNY: All right. I pass for cause, your Honor.

16 THE COURT: The People?

17 MR. MANZELLA: Thank you.
18

19 VOIR DIRE EXAMINATION

20 BY MR. MANZELLA:

21 Q Mr. Aughinbaugh, we are going to have, as part of
22 the physical exhibits in this case, some aerial photographs.
23 I don't think they're of a nature such that your expertise
24 would come into play, or that an expert would be needed to
25 interpret these aerial photographs.

26 But I think it points up one thing, and this is
27 that you understand that, if experts are to be considered --
28 expert testimony is to be considered by a jury, it's to be

12z-2

1 considered after it comes through testimony from the witness
2 stand?

3 A Yes.

4 Q You understand that?

5 A Yes, sir, I understand that.

6 Q And that your expertise would not be in evidence
7 in the case; and that therefore, you would not be an expert
8 in reading aerial photographs, as a juror in this case?

9 A I understand that, sir.

10 Q All right.

11 Now, you said that you -- the jury trial on which
12 you served, was that in this tour of duty?

13 A Yes, it was.

14 Q And was it in Superior Court?

15 A It was in Superior Court. In Division 77.

16 Q All right. And you never deliberated on a
17 verdict, --

18 A No, --

19 Q -- is that correct?

20 A -- we did not.

21 Q Now, have you or has anyone you know ever been
22 accused of any crime?

23 A No.

24 Q And have you ever been involved in the defense
25 of criminal cases in any way?

26 A I have not.

27 Q Have you ever testified in a criminal case?

28 A No, I have not.

12a-3

1 Q Now, I take it from your answers to the Court's
2 questions and Mr. Denny's questions that if you served on
3 this jury, and after having heard all the evidence, this jury
4 convicted this defendant of first degree murder -- or
5 conspiracy to commit murder -- and furthermore, that after
6 hearing all of the evidence in the case, that you decided
7 that for these crimes, this defendant deserved the death
8 sentence, that you would be able and you would be willing to
9 vote for the death sentence; is that correct?

10 A Yes, sir.

11 Q Now, again, with regard to Count III -- which
12 charges this defendant with the murder of Donald Shorty Shea--
13 you've already heard me say -- and I believe you've heard
14 Mr. Kay say, and I believe also Mr. Denny -- that the People
15 would not be able to produce a body, the body of Shea, nor
16 an eyewitness to the killing of Shea.

17 So, of necessity, we must rely upon circumstan-
18 tial evidence. I want to find out from you if your state of
19 mind is such that you feel that at this moment, knowing that,
20 without your having heard the evidence in the case, that at
21 this moment you favor the defense over the prosecution because
22 of that fact?

23 A No, sir, I don't.

24 Q So you are starting out now, even in view of
25 those facts that I've told you about, what we will not be
26 able to produce, that you are still -- you are neutral, and
27 can be fair to both sides in this case?

28 A Yes.

1 Q And you would be willing to be convinced, based
2 on the evidence, that Donald Shea was murdered, and that this
3 defendant murdered him?

4 A Yes..

5 Q Have you heard the questions I've asked with
6 regard to the law of aiding and abetting?

7 A Yes, sir.

8 Q And you've heard the answers that the other jurors
9 have given to that question?

10 A Yes, I have.

11 Q Do you feel substantially the same way, or do
12 you feel on the other hand that it's unfair of the law to
13 permit a conviction of first degree murder, of a person who
14 does not actually strike the fatal blow?

15 A No, I don't believe it's unfair.

16 MR. MANZELLA: All right. Thank you, Mr. Aughinbaugh.

17 The People pass for cause, your Honor.

18 THE COURT: Both sides having passed for cause, the
19 peremptory challenge is with the defendant.

12b fls.

12b-1

1 MR. DENNY: We'd like to thank and excuse juror No. 1,
2 Mr. Campbell.

3 THE COURT: Thank you, Mr. Campbell. Thank you very
4 much.

5 Room 253 tomorrow.

6 Let's see. Mr. Campbell, perhaps you'd better
7 go up to that assembly room over there. You may be excused
8 for a day or two longer.

9 Go to the assembly room on the 15th floor of the
10 New Hall of Records.

11 THE CLERK: Miss Naomi E. Atwater. That's N-a-o-m-i;
12 middle initial "E"; last name, A-t-w-a-t-e-r.

13
14 VOIR DIRE EXAMINATION OF

15 NAOMI E. ATWATER

16 BY THE COURT:

17 Q Mrs. Atwater, you have been present during all
18 the proceedings and heard them all, have you not?

19 A Yes.

20 Q Would your answers be any different than the
21 majority have responded to the questions of a general nature?

22 A No, they wouldn't.

23 Q All right.

24 Would it be a hardship to you to serve in this
25 case?

26 A I have a traffic ticket for tomorrow night,
27 6:00 o'clock.

28 Q You have a traffic ticket at 6:00 o'clock?

12b-2

1 A Tomorrow night.

2 Q An appearance on it at 6:00 o'clock?

3 A I think so.

4 Q Do you anticipate not being around for a while,
5 or --

6 (Laughter.)

7 PROSPECTIVE JUROR NO. 1: Oh, no. I am telling you --
8 I am asking you now if I can go there, so I will be around.

9 Q BY THE COURT: Well, we don't want a bench
10 warrant issued for you, certainly. You can get there by
11 6:00 tomorrow.

12 But aside from that unhappy predicament, is there
13 anything else that --

14 A There's nothing else that I know of.

15 Q So that you'd be able to serve without a great
16 deal of inconvenience, or discomfort, for a period of
17 approximately two months?

18 A Yes, I would.

19 Q Do you have -- strike that.

20 Have you served as a juror before?

21 A No, I haven't.

22 Q What type of work do you do? Are you employed
23 outside the home?

24 A No, I'm not. I am retired.

25 Q From what type of work?

26 A Undergraduate nurse.

27 Q What type of nursing did you do?

28 A For the last -- for the last five years and two

12b-3

1 months, I was with one patient, till she passed.

2 Prior to that, I was with a patient two years.

3 And prior to that, I worked out of a registry,
4 as relief nurse at various hospitals.

5 Q I see.

6 Has all of your work been in Los Angeles County?

7 A Yes, it has.

8 Q And is there a Mr. Atwater?

9 A I am Miss Atwater.

10 Q Oh. All right. I'm sorry.

11 In what general area do you reside, Miss Atwater?

12 A I live in the -- in the Crenshaw area, near
13 Inglewood.

14 Q And do you have any friends or relatives who are
15 law enforcement officers?

16 A No, I don't.

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

20 A No, I do not.

21 Q Or conversely, would you automatically impose
22 it, upon a conviction of murder of the first degree?

23 A Would you say that again?

24 Q In other words, would you automatically impose
25 it upon a conviction of murder of the first degree, without
26 regard to the evidence?

27 A No.

28 Q Do you know of any reason whatever that you

1 couldn't be fair and impartial in the case?

2 A No, I don't.

3 Q You've heard of Charles Manson and the Manson
4 Family?

5 A Yes.

6 Q Would any person who is a member of the Manson
7 Family suffer a disadvantage in having you as a juror?

8 A No, they wouldn't.

9 Q In other words, would there be any prejudice
10 in your mind, which the person would have to overcome,
11 to such an extent that you should not -- could not be fair
12 and impartial?

13 A I don't know anyone. I don't know anyone.

14 Q You don't know anyone personally?

15 A No.

16 Q But aside from that, you have heard about the
17 Family?

18 A Yes.

19 Q And assessing or weighing your feelings concerning
20 Charles Manson and the Manson Family, do you think that you
21 can be fair to a person who is a member of the Manson Family,
22 in spite of what you've heard, seen or read?

23 A Yes, I could.

24 THE COURT: You may question generally, if you would,
25 please.
26
27
28

12c fls.

12c-1

MR. DENNY: Thank you, your Honor.

VOIR DIRE EXAMINATION

BY MR. DENNY:

Q Miss Atwater, do you know anyone -- or have you yourself been charged with any offense other than the present traffic ticket, or other than any other traffic ticket?

A No, I haven't.

Q Has any relative or friend been charged with such an offense?

A No, they haven't.

Q And have you ever been the victim of any sort of crime of any kind?

A Yes. Somebody stole my car night before last. I wanted to get that out.

(Laughter.)

Q You got that out. It's double trouble.

THE COURT: Just a string of bad luck.

PROSPECTIVE JUROR NO. 1: Oh, don't mention that. Don't mention it.

THE COURT: A traffic ticket, and somebody stole your car.

Has it been recovered yet?

PROSPECTIVE JUROR NO. 1: Not yet.

Q BY MR. DENNY: Well, the Judge answered my question, then.

But other than that unfortunate occurrence, you

1 have had no other unfortunate experience with any criminal --

2 A No, I haven't.

3 Q -- matter of any kind?

4 All right.

5 Now, in connection with your work, you have
6 been a nurse most of your adult life; is that correct?

7 A Yes, I have.

8 Q And when you say an undergraduate nurse, I'm
9 not quite sure what you mean?

10 A Well, there is a difference in the undergraduate
11 nurse and the practical nurse. I have had formal nursing
12 training, and didn't finish. I was unable to finish because
13 of illness.

14 Q I see.

15 And I take it, then, in your work, you have seen
16 people die?

17 A Yes, I have.

18 Q All right. Now, I take it you have never been
19 in a position where, however, because of action on your
20 part, willful, volitional action on your part, you had the
21 power of life and death over someone; is that correct?
22 By your vote?

23 A I've never been in that position.

24 Q Do you understand that that would be your
25 position, possibly, if the People were to convince you
26 and 11 other people that this defendant was guilty of the
27 charges against him, in the degree that they're charging,
28 that assuming hypothetically we have got to that stage,

1 where you and the rest of the jurors voted guilty, you might
2 then have to sit in judgment on this man's life; do you
3 understand that?

4 A Yes, I do.

5 Q All right. Now, understanding that, and the
6 obvious significance of your vote, do you have any feeling,
7 as you sit there, that you would not like to shoulder that
8 responsibility?

9 A No, I don't.

10 Q And also, do you have any feeling, then, as you
11 sit there, that one who has been found guilty by you and
12 your fellow jurors of first degree murder, then, without
13 regard to any other evidence, should be given the death
14 penalty automatically, because of that finding?

15 A Here's the same question again. It gets asked
16 when I am sitting there, and I understand it. Now that I'm
17 up here, I don't.

18 Will you please say that "automatically" again?
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13 fls.

13-1

1 Q I can understand your perplexity, ma'am. We have
2 the same trouble down here. There are some people who feel
3 that anybody who has been convicted of a crime of first degree
4 murder should get the death penalty.

5 Now, you see, there are different ways for people
6 to be convicted of first degree murder.

7 It might be willful, deliberate, premeditated
8 murder.

9 It might be a felony murder. That is a murder
10 committed in the course of a robbery.

11 In other words, it doesn't have to be willful.
12 It might even be by accident.

13 It might be that a person was an accomplice, as
14 has been said here, who didn't strike the blow, who under the
15 law has been found guilty of first degree murder as an
16 accomplice.

17 There are all sorts of ways that a person can be
18 found guilty of first degree murder.

19 All right, some people have the feeling, "Look,
20 I don't care how you got to that stage, I don't care how he
21 became a convicted first degree murderer, anybody convicted
22 of first degree murder, if I have anything to say about it, or
23 if I would have anything to do with that jury, I would send
24 to the gas chamber."

25 You see that?

26 A Yes, it is clear.

27 Q I hope it is.

28 All right, now --

13-2

1 A You want --

2 Q Is that your feeling?

3 A That regardless to the evidence they should be
4 sent to the chair?

5 Q If they have been found guilty of first degree
6 murder.

7 A No.

8 Q You can appreciate that I have some concern if my
9 client were found guilty by a juror of that state of mind?

10 A Yes.

11 Q Because then they would automatically vote for
12 first, for death, and that's what I want to know, whether you
13 have that state of mind. I'm not saying it is right or wrong
14 to have it, because some people do. I just want to find out
15 who does, because I don't think that they should be sitting
16 here on the jury to automatically vote for that if they were
17 to find my client guilty.

18 THE COURT: If that's a question, Mr. Denny, I think
19 she's answered it.

20 MR. DENNY: All right.

21 THE COURT: Move it along, will you please.

22 Q BY MR. DENNY: Have you done any reading on the
23 death penalty at all, ma'am?

24 A No, I haven't.

25 Q Or ever discussed it with anyone, the pros or cons
26 of it?

27 A No, not really a discussion had.

28 Q I'm sorry. You have to hold the microphone up.

1 A Not really discussed it seriously. I never thought
2 I'd get to this point.

3 Q All right. So, as you sit there, you have no
4 preconceived notions?

5 A Oh, no. No.

6 Q As to what type of case you would vote the death
7 penalty in or what type of case you would not; is that right?

8 A No, I do not. I would have to know the facts.

9 Q All right, ma'am.

10 Now, did you hear the questions that I have asked
11 of the other jurors concerning the various points of law that
12 had particular applicability to my case?

13 A Yes, I have.

14 Q And -- or to this case, I should say.

15 And would your answers be the same as those of your
16 fellow jurors?

17 A Yes.

18 Q Is there any question that I asked during this
19 week or so that you have been seated behind the rail here that
20 has caused you any kind of pause, any kind of difficulty at
21 all?

22 A Not when I understood the question. You have
23 clarified it for me. Now I understand what you are asking.

24 Q All right.

25 Now, just one more thing.

26 This conception of circumstantial evidence that
27 the People talk about consistently here, and the fact that
28 they are going to have to prove the death or the criminal death

13-4

1 of Shorty Shea by circumstantial evidence, since they don't
2 have a body.

3 Do you have any problem with this instruction that
4 the Court gave earlier, read the Friday before last, that
5 where there are two different interpretations of circumstantial
6 evidence, one pointing to guilt and one pointing to innocence,
7 and they're both reasonable, you must adopt that interpreta-
8 tion which points to the defendant's innocence?

9 Do you understand that instruction?

10 A I understood the instruction.

11 Q And would you have any trouble, do you think, in
12 applying it to this case which, as they say, is going to be a
13 circumstantial evidence case?

14 A I don't think I would.

15 Q And if it came to that point where there were two
16 reasonable interpretations of the evidence, one of which you
17 look at and say, well, that can be construed to apply to guilt,
18 and you look at the other interpretation and say, yeah, but
19 that can be construed to apply to innocence, and they're both
20 reasonable; would you have any hesitancy or reluctance, what-
21 soever, in adopting that which points to the defendant's
22 innocence?

23 A You said that I should weigh these two evidences?
24 Would I have any difficulty finding the one that says he's
25 innocent? Is that what you said?

13a fol

13a-1

1 Q No, I'm saying if you looked at the evidence and
2 you and your fellow jurors were discussing the evidence, and you
3 all agreed that, well, viewed in this light that evidence points
4 to guilt, but then you also said objectively viewed in this
5 light that same evidence can be construed as pointing to
6 innocence. It is equally susceptible of an innocent interpreta-
7 tion. It can be interpreted as pointing to guilt, but it is
8 equally reasonable of pointing to innocence.

9 Then, the law says under those circumstances that
10 you must adopt that interpretation pointing to innocence.

11 Do you understand that?

12 A I understand what you are saying.

13 Q Would you have any difficulty, were you seated as a
14 juror and retired to the jury room, and you looked at the
15 evidence and you were confronted with a situation like that,
16 and you and your fellow jurors agree, yeah, it can be
17 interpreted for guilt, but it can also be reasonably interpreted
18 as pointing to innocence in saying, "I will, then, accept that
19 interpretation to innocent"; would you have any trouble with
20 that?

21 A I wouldn't.

22 Q Would you understand that was your duty?

23 A Yes, I would.

24 Q And you would do that duty and figure in doing
25 so --

26 A Yes, I would. If it was pointing to his innocence,
27 I would, I could.

28 MR. DENNY: Fine.

Pass for cause, your Honor.

THE COURT: People.

MR. MANZELLA: Thank you.

VOIR DIRE EXAMINATION

BY MR. MANZELLA:

Q Miss Atwater, continuing along with Mr. Denny's question.

Do you understand that what's reasonable is up to the jury to decide?

A Yes, I do.

Q The law doesn't tell you what a reasonable interpretation is.

In -- you've heard the question I've asked the other jurors?

A Yes, I did.

Q With regard to Count III of the indictment, charging this defendant with the murder of Donald Shorty Shea.

Does that create any problems for you? Do you feel that you could not be fair to the prosecution? Do you feel already that you lean toward the defense side, knowing that we will not be able to produce a body?

A Right now I am open-minded and neutral. I am ready, willing to hear the case before I make any decisions.

Q You're willing to be convinced beyond a reasonable doubt?

A Yes, I am.

Q That Shea's been murdered?

13a-3

1 A Yes, I am.

2 Q And that this defendant did it?

3 A Yes, I am.

4 Q And you are also willing to follow the instruction
5 on the law of aiding and abetting, if you find it applies to
6 this case?

7 A Yes, I am.

8 Q All right, Miss Atwater, if -- one more question.

9 If there was -- if you were in my position,
10 selecting a juror for this case or participating in the
11 selection of jurors for this case, is there anything that you
12 would want to know about your state of mind that we haven't
13 already covered?

14 A No, I don't think so.

15 Q All right, thank you, Miss Atwater.

16 A I don't think so.

17 MR. MANZELLA: The People pass for cause, your Honor.

18 THE COURT: We must examine Miss Atwater on her
19 knowledge of prior publicity in this case, so everyone is
20 excused except her.

21 (Whereupon, the balance of the prospective
22 jurors retired from the courtroom, and the following
23 proceedings were had:)

24

25 VOIR DIRE EXAMINATION

26 BY THE COURT:

27 Q Miss Atwater, what we are interested in knowing
28 is whether, previous to coming in here and hearing about this

1 case from the Court, you had heard, seen or read anything
2 whatever about the case?

3 A I didn't know there was a case, honestly, until
4 Friday when I walked in.

5 Q Had you ever heard the name Bruce Davis?

6 A Didn't hear it until I came in the court.

7 Q You had heard the name Manson?

8 A Yes, I had.

9 Q Had you followed that prosecution?

10 A No.

11 Q Of Charles Manson?

12 A No.

13 Q Involving the Tate-LaBianca killings?

14 A No, I did not.

15 Q Did you know about the Tate-LaBianca killings?

16 A I know about it.

17 Q And you -- how did you hear about it; newspaper,
18 radio, television or all of those?

19 A Oh, everywhere for the first few days you could
20 hear it on the air.

21 Q Yes.

22 Have you heard the name Shorty Shea before?

23 A No, I hadn't. I hadn't heard it. I haven't kept
24 up with it. I haven't heard anything about it.

13b

13b-1

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Q How about the name Gary Hinman before I read it?

A No.

Q You hadn't heard that either one of those gentlemen was a person who was a victim or an alleged victim?

A No.

Q Have you at all -- have you read anything whatever about Mr. Manson in the last six months? Read, heard or seen anything?

A Wait just a minute.

Q That you can remember.

A I didn't read it. I heard it on the television-- on my radio, coming to work.

Q Do you read a newspaper every day?

A No.

Q Do you listen --

A Crossword puzzles.

Q Do you listen to your radio every day?

A No.

Q Do you watch television news every day?

A Not every day.

Q How many times a week do you watch television?

A I don't hear the news too much. I'll tell you, it is a little bit depressing to me and I've had a little problem and I can't dwell on it. Too much is going on that saddens you. That's the honest to goodness truth.

Q When this patient that you had been with for sometime, when did she --

13b-2

1 A Two years ago.

2 Q Well, what are your views about the Manson Family?
3 First, who are they and what do you think about
4 them?

5 A You can't -- you can't stay on anything -- you
6 can't stay on anything long at a time. Before you can get
7 through with that, something else's happened. Before you can
8 solve one thing, you are into something else.

9 Q Well, what do you know the Manson Family to be,
10 the --

11 A Well, in my idea, I thought it was some type of
12 a cult or a group of people or something. I haven't really
13 thought of -- no, seriously, it is out of my world.

14 Q A group of people associated with Mr. Manson?

15 A Yes, like a cult or just like you call them,
16 a Family.

17 Q Have you heard anything about using drugs by
18 this cult?

19 A No, I hadn't.

20 Q Well, whatever you may have heard about that,
21 about the Manson Family, was it at all complimentary to the
22 members of the Family?

23 A No, not really. I haven't heard too much since
24 it first happened. It was general discussion. People talked
25 about it when it first happened.

26 Q Since the news broke about the Tate killings?

27 A Yes. And then, out of my world. It hasn't been
28 in it. I'm a busy lady.

13b-3

1 Q Well, do you -- you should remember facts which--
2 or news articles, let's say, or if you remember something
3 that was said to you by a friend or relative concerning the
4 Manson Family or this case, Mr. Davis, do you think that
5 you could effectively set that aside for the purpose of
6 making a judgment in this case independent of such matter?

7 A It is going to all be a very new thing with me,
8 as I told you, I didn't hang to it. I heard it, turned it
9 loose and got busy with something else. It will be all new
10 to me.

11 Q Well, let's say at this moment you -- you cannot
12 remember something concerning the Manson Family, but later
13 on you do, in the course of sitting here as a juror, or
14 during deliberations, could you toss that aside for the
15 purpose of making a judgment based only on the evidence?

16 A Well, without seeming to want to compliment
17 myself, I think I am a rather fair person.
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14 fls.

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1 Q If someone were to raise something that had been
2 said in the press or via radio or television, concerning Mr.
3 Manson, that was not raised -- or Mr. Davis or Mr. Manson,
4 either one or both -- that was not raised in the course of
5 the trial, would you point that out to your fellow jurors,
6 that they were not to consider such matters?

7 A Why, it's not to be discussed -- it's not to come
8 under this. We get our instructions out of here. And this
9 is what we are supposed to deal with.

10 Q If I were to instruct you that you were to set
11 aside any matters that you may have heard, seen or read, and
12 decide the case solely on the evidence, could you do that?

13 A Oh, yes.

14 Q And will you do that?

15 A I will do that.

16 Q And will you be fair and impartial?

17 A I will be fair and impartial.

18 THE COURT: Mr. Denny?

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

20 THE COURT: The People?

21 MR. MANZELLA: We have no questions on publicity, your
22 Honor.

23 THE COURT: All right. Thank you.

24 The next peremptory challenge would be with the
25 People.

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

14-2

1 MR. MANZELLA: Thank you, your Honor. The People
2 would like to thank and excuse Miss Atwater.

3 THE COURT: Thank you, Miss Atwater.

4 The Court appreciates your being on jury duty.

5 I hope things come out all right with your
6 ticket.

7 PROSPECTIVE JUROR NO. 1: Yes. I hope I won't have to
8 appear in front of you.

9 THE COURT: Did you hurt yourself?

10 PROSPECTIVE JUROR NO. 1: No.

11 MR. MANZELLA: Why don't you let me have that, Miss
12 Atwater?

13 PROSPECTIVE JUROR NO. 1: Before I break it up, huh?

14 MR. MANZELLA: No, you can't break it.

15 PROSPECTIVE JUROR NO. 1: Where do I go now?

16 THE COURT: Oh, I'm sorry. Tomorrow, go to the --

17 PROSPECTIVE JUROR NO. 1: Room 253?

18 THE COURT: -- jury assembly room, 253, at 9:00
19 o'clock.

20 PROSPECTIVE JUROR NO. 1: Thank you.

21 MR. KAY: Thank you, Miss Atwater.

22 PROSPECTIVE JUROR NO. 1: Goodbye, everybody. Good
23 luck to you.

24 MR. DENNY: Yes. Thank you.

25 THE CLERK: Richard Gill; G-i-l-l.

26 THE COURT: I'm sorry. I didn't hear the first name.

27 THE CLERK: Richard.

28 THE COURT: Would you bring him in, please?

14-3

1 THE BAILIFF: Yes, sir.

2 MR. KAY: G-i-1-1?

3 THE CLERK: Right.

4 (Pause in the proceedings awaiting the
5 appearance of prospective juror No. 1.)

6 THE COURT: Mr. Gill?

7 PROSPECTIVE JUROR NO. 1: Yes, sir.

8
9 VOIR DIRE EXAMINATION OF

10 RICHARD GILL

11 BY THE COURT:

12 Q Mr. Gill, --

13 A Yes, sir.

14 Q -- you've heard all the proceedings thus far,
15 have you not?

16 A Yes, sir.

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

20 A No, sir, your Honor.

21 Q Would it be any hardship to you to serve on the
22 case?

23 A No, sir, your Honor.

24 Q What type of work do you do?

25 A I am a retired printing press operator.

26 Q For whom did you work?

27 A The Andre Paper Box Company, for some years.

28 Q For how many years?

14-4

1 A Oh, about four or five years.

2 Q And have you served as a juror before?

3 A No, sir.

4 Q Never been on a case?

5 A No, your Honor.

6 Q Is there a Mrs. Gill?

7 A Yes, your Honor.

8 Q Is she employed outside the home?

9 A No, your Honor.

10 Q Are you acquainted with or related to any law

11 enforcement officer?

12 A No, your Honor.

13 Q And in what area do you and Mrs. Gill reside?

14 A Southeast.

15 Q Southeast Los Angeles?

16 A The southeast section, yes, sir.

17 Q Do you know of any reason why you should not or

18 could not sit on this jury, as a fair and impartial juror?

19 A No, your Honor.

20 Q Concerning the death penalty, do you have any

21 thoughts about it, such that you would -- they would cause

22 you to automatically vote against it, regardless of the

23 evidence?

24 A No, your Honor.

25 Q Or would you automatically vote for it, regard-

26 less of the evidence?

27 A No, your Honor.

28 Q Do you have such views about the death penalty

14-5

1 that you would never vote to impose it?

2 A No, your Honor.

3 Q Or would you always vote to impose it upon a
4 conviction of murder of the first degree? Regardless of
5 the evidence?

6 A Not regardless of the evidence.

7 Q You would look at the evidence to determine
8 whether, in your judgment, you could impose life imprisonment
9 or death, even though the defendant -- or pre-supposing
10 that the defendant or a defendant had been convicted
11 of murder of the first degree? Is that right?

14a fls.

12 A A little louder, sir. I didn't quite get your --
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14a-1

1 Q I'm sorry. You would look at the evidence and
2 determine whether or not you should impose life imprisonment
3 or death, pre-supposing that the defendant had been convicted
4 of murder of the first degree; is that right?

5 A I would use that as my guide, yes, sir.

6 Q Have you previously heard anything about --
7 heard, seen or read anything about this case? Before I
8 told you about it? Before I --

9 A Well, do you have reference to the Manson Family,
10 or just this case?

11 Q I am making reference just to this case at this
12 time.

13 A No, your Honor.

14 Have you ever heard the name -- heard, seen or
15 read the name Bruce Davis?

16 A No, your Honor. I don't remember that.

17 Q And you mentioned the Manson Family. Had you
18 heard, seen or read that name?

19 A I've heard some things on radio, and in the
20 newspapers, and articles I've seen. But --

21 Q Did your reading and receipt of such views come
22 in about the time that the Tate-La Bianca matter first arose?
23 At the time of those killings?

24 A I don't remember the Tate part.

25 Q You don't recall the name Sharon Tate?

26 A I heard it, but I don't know how to relate it
27 to the case.

28 Q I see. Had you ever heard the name Gary Hinman?

1 A No, your Honor. I don't remember that.

2 Q Had you heard the name -- heard, seen or read
3 the name Shorty Shea?

4 A Vaguely, I've heard it. I -- I wasn't quite
5 sure how to place it in the case.

6 Q Well, you know now that he's alleged to be the
7 victim in the third count, charging Mr. Davis with murder?

8 A I learned that here, yes.

9 Q All right. Does that recall anything whatever to
10 your mind that you may have heard, seen or read?

11 A No. I was -- I am mostly being informed of it
12 now.

13 Q What do you think about the Manson Family?

14 A Well, I -- well, all I know is -- is that the
15 newspapers don't give them a very good reputation.

16 But outside of that, I don't know anything more.

17 Q Well, granted that the newspapers do not
18 generally view them favorably, what is your view? Would
19 you be able to be fair and impartial, in spite of the fact
20 that a person is a member of the Manson Family?

21 A I could, yes, your Honor.

22 Q And even though you don't seem to remember much
23 about the Manson Family, or either of these alleged
24 homicides here, if you should remember something in the
25 course of this case that you may have heard, seen or read
26 previously, do you think that you could put that aside,
27 anything that you might remember, anything that you now
28 remember about Mr. Davis or this case, or the Manson Family,

1 could you put it aside for the purpose of acting independently
2 upon the evidence and deciding any issue that you might be
3 called upon to decide in this case?

4 A I believe I can,

5 Q Are you sure about that?

6 A I am sure, yes, sir.

7 Q And will you do that?

8 A I will, yes.

9 Q And will you be fair and impartial?

10 A I will, your Honor.

11 THE COURT: All right. Mr. Denny?

12 MR. DENNY: Your Honor, I would like to inquire first,
13 if I can, just briefly on the death penalty.

14 THE COURT: All right. Go ahead.

15
16 VOIR DIRE EXAMINATION

17 BY MR. DENNY:

18 Q Mr. Gill, concerning the death penalty, were you
19 present when I asked Miss Atwater certain questions concern-
20 ing the death penalty?

21 A I was, yes, sir.

22 Q And did you hear, when I was discussing with her
23 the fact that there are some jurors who, no matter how they
24 arrive at a first degree murder conviction, whether it's
25 through felony murder or willful, premeditated murder, or
26 as an accomplice or whatever, having arrived at that point,
27 they feel anybody who has been convicted of first degree
28 murder should therefore be given the death sentence?

1 Did you understand my conversation with her on
2 that one point?

3 A I understood your questions in that regard.

4 Q All right.

5 Now, are your feelings such that you fall within
6 that category? That you would feel, no matter how the person
7 had arrived at the point where they had been convicted of
8 first degree murder, whether it was willful, premeditated
9 murder, or as an accomplice, under the felony murder or
10 whatever, having been found guilty of first degree murder,
11 that then you would automatically vote to impose the death
12 penalty?

13 A I can't -- I believe only in the case of willful,
14 first degree murder, would I consider such a decision.

15 Q Well, going from that point, sir, would you
16 feel that having found someone guilty of willful murder,
17 that you would then automatically impose the death sentence,
18 based on that finding of willfulness?

19 A I would have to hear the arguments of the
20 different jurors and on both sides of the evidence, before
21 making my final decision.

14b fls.

14b-1

1 Q Now, you are saying on both sides of --

2 A Of the evidence.

3 Q -- of the evidence?

4 A Yes, sir.

5 Q Do you mean in the penalty phase, or in the phase
6 determining whether he's guilty or not?

7 A Yes, sir. By the defendant's side and the
8 prosecution's side.

9 Q Well --

10 A I would like to hear the evidence on both sides,
11 to go to have an understanding, a feeling that my decision
12 would be made.

13 I would like to get every evidence I could, and --
14 and also the arguments of the different jurors, to help me
15 decide.

16 Q Well, are you saying to help you decide on whether
17 the person is guilty or not?

18 A Yes.

19 Q All right. Assuming now that you have heard all of
20 that, and you've heard the arguments of the jurors, and you've
21 heard the evidence, --

22 A Yes, sir.

23 Q -- and you've voted -- you are convinced in your
24 own mind beyond a reasonable doubt that the defendant is guilty
25 of willful, premeditated murder, first degree murder, is it
26 then your feeling that, having made that decision, you would
27 then automatically vote to impose the death penalty on that
28 person?

29 A For no other reason, I would at this -- (Inaudible.)

15-1

1 Q Could you repeat that, sir, I'm sorry.

2 A I say that is the only reason I would make such a
3 decision.

4 Q Well, would you invariably make that decision,
5 having found the person guilty with all your other fellow
6 jurors, of willful, first degree murder, would you always vote
7 for the death penalty under those circumstances?

8 A I'm not sure. I'm not sure. I'd have to -- I'd
9 have to leave that decision to last. Every decision that I
10 have to -- or I have, before making the final -- very
11 difficult not being a sadist. It would be very difficult
12 for me to make a snap judgment of anything. I'd have to
13 decide with the -- listen to the other jurors, as I say, and
14 both sides of the evidence. I wouldn't automatically do any-
15 thing so serious as asking for a death penalty unless I was
16 absolutely sure from what I have heard.

17 Q Absolutely sure of what, sir?

18 A Of the testimony, the evidence, the arguments
19 among the jurors.

20 Q Well, are you saying that you wouldn't do it un-
21 less you were absolutely sure of his guilt?

22 A I'd have to be convinced of it, yes, sir.

23 Q All right. But then assuming you are sure of his
24 guilt, absolutely sure of his guilt, of willful first degree
25 murder, is it your feeling, then, that you would in every case,
26 then, where you had been absolutely sure of the guilt of a
27 person of willful first degree murder --

28 A I think that --

1 Q -- that you would then vote for the death penalty?

2 A -- I could in that case.

3 Q Would you?

4 A I can't say that I would. I know I could.

5 THE COURT: That's about the third or fourth time now.

6 PROSPECTIVE JUROR GILL: Is that too complicated?

7 THE COURT: I think --

8 Q BY MR. DENNY: It is not too complicated.

9 THE COURT: What you are saying, Mr. Gill, is that even
10 if the defendant is found guilty by you of murder of the first
11 degree and you're absolutely sure before you would vote for
12 the death penalty you would look at all of the evidence?

13 PROSPECTIVE JUROR GILL: Yes.

14 THE COURT: You would again review the evidence?

15 PROSPECTIVE JUROR GILL: I would, yes, your Honor.

16 THE COURT: Well, he's not saying it very clearly, but
17 he's saying it. I think that he would not act automatically
18 upon a conviction of murder of the first degree.

19 Go ahead.

20 MR. DENNY: Your Honor, may we approach the bench a
21 moment?

22 THE COURT: Yes.

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

26 MR. KAY: To what do we owe this happy occasion?

27 MR. DENNY: Judge, I'm going to exercise the peremptory
28 so that's why I wanted to cut out any questioning of -- by the

1 People.

2 THE COURT: It is your next --

3 MR. DENNY: It is, and I would just as soon at this point
4 exercise it of this gentleman. I'm not sure an exercise for
5 cause wouldn't be proper, but I'm not sure that he understands
6 enough to be a juror. That's my one difficulty in exercising
7 a peremptory at this time. That's the only reason I'd question
8 him more. But I don't know whether it is his problem in
9 speaking, which he seems to have some difficulty with --

10 THE COURT: I think that's the problem. He has sort of
11 a halting kind of speech.

12 MR. DENNY: Whether it is any problem in comprehension --
13 but at any rate, I will exercise the peremptory at this point.

14 THE COURT: Very well.

15 (Whereupon, the following proceedings were had in
16 open court within the presence and hearing of the prospective
17 juror:)

18 THE COURT: It is the defendant's next peremptory
19 challenge and, Mr. Gill, you are excused. Thank you, Mr. Gill.

20 PROSPECTIVE JUROR GILL: Thank you.

21 THE COURT: Room 253 tomorrow at 9:00 o'clock, if you
22 would, please.

23 Take another juror, will you, for Mr. Gill.

24 THE CLERK: Mrs. Betty Sandberg, B-e-t-t-y, last name
25 S-a-n-d-b-e-r-g.

26 MR. MANZELLA: Mrs. Holt, would you spell that last name
27 again, please?

28 THE COURT: S-a-n-d-b-e-r-g.

VOIR DIRE EXAMINATION OF

BETTY SANDBERG

BY THE COURT:

Q Mrs. Sandberg, you have been present in all of the proceedings thus far, have you not?

A Yes, sir.

15a fol

15a-1

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

3 A No, I don't think so.

4 Q Can you think of any respects in which your
5 answers would differ from the answers given by the majority
6 of the jurors to the Court's questions of a general nature?

7 A No, sir.

8 Q What type of -- strike that.

9 Have you served as a juror before?

10 A No, never.

11 Q What type of work do you do?

12 Are you employed outside the home?

13 A No, right now I am a housewife.

14 Q And have you ever worked outside of the home?

15 A Yes.

16 Q Where?

17 A Well, quite a while ago, for the Metropolitan
18 Life Insurance Company in New York City.

19 Q And is there a Mr. Sandberg?

20 A Yes, there is a Mr. Sandberg.

21 Q What does he do?

22 A He's an electronic engineer.

23 Q For whom?

24 A For Muzak.

25 Q And are you acquainted with or related to any
26 law enforcement officer?

27 A No, sir.

28 Q As I have explained law enforcement officer to be?

15a-2

- 1 A No, sir.
- 2 Q In what general area do you and Mr. Sandberg
- 3 live?
- 4 A In West Los Angeles.
- 5 Q Have you heard, seen or read anything of this
- 6 case before you came into this courtroom?
- 7 A Well, quite a while ago. I mean, in the
- 8 newspapers.
- 9 Q How long ago?
- 10 A Well, when the case was in its prime, you know.
- 11 Q When do you mean, "in its prime"?
- 12 A Well, you know, I don't really read the papers
- 13 too much.
- 14 Q How far back?
- 15 A During the trial period,
- 16 Q Well, a year?
- 17 A Well, I think it is about that, year or so.
- 18 Q More than a year?
- 19 A I really don't remember. But I know I've read
- 20 about it. Because I don't read the newspapers too often.
- 21 Q Have you heard the name Shorty Shea before?
- 22 A Yes.
- 23 Q What have you heard about that?
- 24 A Well, just that they haven't found his body.
- 25 They were --
- 26 Q And you read that in the newspaper?
- 27 A Yes, I read that in the newspaper.
- 28 Q Have you heard the name Gary Hinman before?

15a-3

1 A Yes.

2 Q What have you heard about that?

3 A Well, that he was one of the victims of the case.

4 MR. DENNY: I'm sorry, I didn't hear that last.

5 PROSPECTIVE JUROR SANDBERG: He was one of the
6 victims of the case.

7 Q BY THE COURT: And have you heard of the name
8 Charles Manson or Manson Family before?

9 A Yes.

10 Q Would somebody who is a member of the Manson
11 Family be at any disadvantage in having you as a juror?

12 A No.

13 Q Do you know the name Steve Grogan?

14 A Steven who?

15 Q Grogan?

16 A No, I don't.

17 Q Do you know the name Spahn Ranch?

18 A Oh, I think that has something to do with the
19 Shore, Mr. Shore -- is that it?

20 Q Mr. Shea?

21 A Shea, I meant to say.

22 Q What does that have to do with Mr. Shea in your
23 mind?

24 A Well, I think they were trying to find his body
25 there, something to that effect.

26 Q Are you of the opinion from what you have read
27 in the newspapers that Mr. Hinman is dead and that Mr. Shea
28 is dead?

15a-4

1

A Well, Mr. Hinman, I think, is dead.

2

Q And Mr. Shea?

3

A But Mr. Shea they never found his body.

4

Q I see. So you have no opinion as to whether Mr. Shea is dead or alive?

6

A No.

7

Q Is that correct?

8

A That's right.

9

Q One of the elements that must be proven, of course, by the People, is the death by criminal means of a victim.

12

Do you think that you would allow what you have heard, seen or read in the newspaper to supply any gap in the proof, if there should be any such gap?

15

A No.

16

Q Can you set aside what you may have heard about Mr. Shea and about Mr. Hinman and decide this case only upon the evidence presented here?

19

A Yes.

20

Q And if something should occur to you that you have not related to us, that you remember about this case and Mr. Davis and Mr. Manson and the Manson Family, could you be equally objective in setting it aside? Not forgetting it, but setting it aside for the purpose of arriving at a decision in this case, solely from the evidence and the -- and the Court's instructions?

27

A Yes.

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Q Would you do that?

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A Yes.

Q Would you be fair and impartial in this case?

A Yes, sir.

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

A No.

15b fls.

15b-1

1 Q Or would you impose it upon a conviction of murder
2 of the first degree, assuming that you have a conviction of
3 murder in the first degree, now, and you go into the penalty
4 phase to deliberate for the purpose of determining life
5 imprisonment or death; would you automatically, upon there
6 having been a conviction in the first phase of murder in the
7 first degree, vote for the death penalty without regard to the
8 evidence?

9 A No.

10 Q Are your views about the penalty such that you
11 would never vote to impose it?

12 A No.

13 Q Now, can you think of any reason why you could not
14 sit fairly and impartially here as a judge in this case?

15 A No.

16 THE COURT: All right, Mr. Denny.

17 MR. KAY: Your Honor, may we approach the bench on the
18 record for a minute on another matter before Mr. Denny starts
19 in?

20 THE COURT: Yes.

21 (Whereupon, the following proceedings were had at
22 the bench among Court and counsel, outside the hearing of the
23 prospective jury:)

24 MR. KAY: I just wanted to state for the record, so that
25 if it ever came up in the future it would be perfectly clear
26 that while I was employed by the Beverly Hills law firm of
27 Kaplan, Livingston, Goodwin, Berkowitz & Selvin, Muzak was one
28 of my clients and I did represent Muzak and I have dealt with

1 5b-2

1 many people there.

2 Now, I don't recognize the name, the name of her
3 husband, but it could be that I have met him over there because
4 I have talked with many people there. I worked quite closely
5 with them for a period of, at least, a month on a particular
6 case. Not -- and I just wanted to let everybody know that.

7 THE COURT: All right, thank you.

8 MR. KAY: Thank you.

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

12 THE COURT: Go ahead, Mr. Denny, you may proceed.

13

14 VOIR DIRE EXAMINATION

15 BY MR. DENNY:

16 Q Mrs. Sandberg, concerning what you have seen,
17 heard or read about this case, do you take a newspaper regu-
18 larly?

19 A No, I don't.

20 Q What is your major source of news?

21 A Well, over the radio.

22 Q Do you regularly listen to news broadcasts morning
23 and evening or --

24 A Sometimes.

25 Q -- driving a car?

26 A Yes, when I drive my car I like to listen to the
27 news.

28 Q All right. Now, when you were asked initially by

1 the judge as to whether you heard about this case, you said,
2 well, you had heard about it quite a long time ago when the
3 case was in its prime.

4 A Well, I mean, I don't get the papers that often
5 to read about it.

6 Q Well, do you understand, now, that the charges
7 involved here, as to Shorty Shea and Gary Hinman, are separate
8 and distinct entirely from those that culminated in the trial
9 of Mr. Manson?

10 A Right.

11 Q And some of the girls involved?

12 A Right.

13 Q For the Tate-LaBianca killings; do you understand
14 that?

15 A Yes, I do so understand that.

16 Q So, what we are particularly interested in at this
17 stage, is two things.

18 First of all, your knowledge about Manson, Manson
19 Family and Tate-LaBianca, but, second, and more particularly,
20 your knowledge about Shea, Hinman and Mr. Davis.

21 Now, is it your recollection that you have never
22 seen, heard or read anything about Mr. Bruce Davis at all prior
23 to coming here?

24 A No.

25 Q Have you ever seen, heard or read anything about
26 Bobby Beausoleil or Beausoleillo?

27 A No.

28 Q As it is sometimes

1 A I don't remember his name.

2 Q Have you ever heard of anyone being prosecuted
3 outside of this particular prosecution right now?

4 A Never.

5 Q For the murder of Gary Hinman?

6 A No.

7 Q Have you ever heard of anyone being prosecuted
8 for the murder of or alleged murder of Shorty Shea?

9 A No.

10 Q Have you read anything about attempts made to locate
11 the body of Shorty Shea?

12 A Well, I did read a part of that, where they were
13 digging for his body.

14 Q And digging up the Spahn Ranch?

15 A Yeah.

16 Q And unsuccessfully?

17 A That's right, unsuccessfully.

18 Q All right. Now, do you have any feelings as you
19 sit there now, based on what you have seen, heard or read or
20 discussed with anyone, do you feel now that Shorty Shea is
21 probably dead?

22 A I don't know. They never found his body, so you
23 don't know.

24 Q All right. You don't know whether he is alive and
25 you don't know whether he is dead?

26 A That's right.

27 Q That's the frame of mind that you will hold?

28 A That's right.

1 Q Until the evidence convinces you one way or the
2 other in this case, is that right?

3 A That's right.

4 Q All right. Concerning the death penalty, have you
5 done any reading on the --

6 A No.

7 Q -- subject?

8 Have you discussed it with anyone at all?

9 A No.

10 Q And I take it since coming here, you've thought
11 some seriously about it?

12 A Well, it makes you think.

13 Q It sure does. I hope it does.

14 A Yes, it does.

15 Q And your feelings are such that you are willing
16 to assume the responsibility that would devolve on you as a
17 sole and solitary juror whose vote could mean that a man is
18 executed by the state in the gas chamber?

19 A Yes.

20 Q You are willing to assume that?

21 A Yes.

22

23

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16-1

1 Q You've never had that experience before, --

2 A No.

3 Q -- I take it?

4 A No, never.

5 Q And do you have any feelings at all that there
6 is a situation where, having found a person guilty of first
7 degree murder, you would then automatically, having arrived
8 at it by considering the evidence -- but then, having
9 considered the evidence, and having arrived at a verdict of
10 first degree murder, then without any more, without any
11 further consideration of any other evidence, you would
12 automatically invoke the death penalty?

13 A No.

14 Q In other words, as far as you are concerned,
15 each case --

16 A Yes.

17 Q -- must depend on the facts of the case --

18 A Right.

19 Q -- and the background and history of the defendant,
20 and many other factors; is that right?

21 A Yes, right.

22 MR. DENNY: Your Honor, I don't know whether your
23 Honor wants to go into the general questions at this time
24 or not.

25 THE COURT: I think so. If you would, please.

26 MR. DENNY: I could briefly, I think.

27 Q BY MR. DENNY: Your work back in New York was
28 what? I'm sorry; I didn't --

16-2

- 1 A Comptometer operator.
- 2 Q Pardon?
- 3 A Comptometer operator, for Metropolitan Life
- 4 Insurance Company.
- 5 Q All right. Did you work at all with any lawyers?
- 6 A No, no. This was just in the loan department.
- 7 Q All right. And your husband, you said, was an
- 8 electrical engineer with Muzak?
- 9 A Muzak, yes, right.
- 10 Q Has he ever been involved in any litigation,
- 11 any lawsuits, as far as --
- 12 A No.
- 13 Q -- you're aware of, --
- 14 A Not at all.
- 15 Q -- representing Muzak?
- 16 And did you hear the general questions that I
- 17 asked of all of the jurors during the week and a half --
- 18 A Yes, sir.
- 19 Q -- that you've been sitting here?
- 20 A Um-hmm.
- 21 Q Would your questions be the same -- I mean,
- 22 would your answers -- I'm sorry -- be the same?
- 23 A Yes, um-hmm.
- 24 Q And is there any reason that you know of, at
- 25 all, ma'am, as you sit there, you would feel that you could
- 26 not be a fair juror to the People in this case?
- 27 A Oh, I could be fair.
- 28 Q And do you feel that you could be fair to the

16-3

1 defendant in this case?

2 A Yes.

3 Q Do you feel that there's anything that you have
4 seen, heard or read about the Manson Family that kind of
5 makes you up tight when you -- when you think about them?

6 A Oh, I wouldn't say that.

7 Q How about hippies? Do you have any feelings --

8 A No.

9 Q -- about people that might be described as
10 hippies?

11 A No.

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

13
14 VOIR DIRE EXAMINATION

15 BY MR. MANZELLA:

16 Q Mrs. Sandberg, do you know anyone that's ever
17 been accused of any crime?

18 A No.

19 Q Have you ever been involved in defense of
20 criminal cases?

21 A No.

22 Q And you've never testified in a criminal case?

23 A No, sir.

24 Q You've never served on a jury?

25 A No, never.

26 Q If -- if you sit on the jury, and after hearing
27 all of the evidence in the case, you were to decide, having
28 convicted Mr. Davis of first degree murder, that for these

16-4

1 crimes he deserved the death sentence, would you be able
2 and willing to vote for the death sentence?

3 A Yes, if he deserved it.

4 Q Do you have any objection to the law which
5 allows the jury to impose the death sentence?

6 A No.

7 Q All right. You've heard the questions I asked
8 the other jurors with regard to Count III of the indictment,
9 which charges this defendant with the murder of Donald Shorty
10 Shea.

11 You know that we will not be able to produce a
12 body, and you know that we will not be able to produce an
13 eyewitness to the killing.

14 In other words, we can't produce anybody who
15 saw Shea's body in death?

16 A No, I understand.

17 Q All right.

18 Now, how do you -- what do you feel about that?
19 Do you start out knowing those things, and before hearing
20 the evidence, do you start out leaning toward the defense,
21 rather than --

22 A No, I would have to hear the evidence. I would
23 have to get all the facts and evidence.

24 Q Does that in any way make you close your mind
25 to the case?

26 A No.

27 Q Right now, you feel that you are neutral?

28 A That's right.

1 Q And you are willing to be convinced beyond a
2 reasonable doubt that Shea's been murdered, and that Mr.
3 Davis --

4 A If I am convinced, yes.

5 Q -- murdered him?

6 You are willing to be convinced?

7 A Um-hmm.

16a fls.

16a-1

1 Q All right. You've heard Judge Choate's reading
2 to you of the law of aiding and abetting?

3 A Yes.

4 Q Do you have any quarrel with that law?

5 A No.

6 Q If you found that it applied to the facts of
7 this case, could you follow that law and apply it to the
8 facts of this case?

9 A Yes, I could,

10 MR. MANZELLA: All right. Thank you, Mrs. Sandberg.

11 PROSPECTIVE JUROR NO. 1: You're welcome.

12 MR. MANZELLA: I have no further questions.

13 The People pass for cause.

14 THE COURT: Both sides having passed for cause,
15 the next peremptory is with the People, I believe.

1 You may remain beyond the rail. I won't keep
2 you long.

3 Let's see. The peremptory challenge is with the
4 People.

5 MR. MANZELLA: Yes. The People would like to thank and
6 excuse Mrs. Figueroa, Juror No. 5.

7 THE COURT: Mrs. Figueroa, thank you very much. And
8 would you report tomorrow morning to Room 253?

9 PROSPECTIVE JUROR NO. 5: Thank you.

10 THE COURT: Thank you, Mrs. Figueroa.

11 Pick another name for seat 5, please.

12 THE CLERK: Vernon R. Stoker; V-e-r-n-o-n; last name,
13 S-t-o-k-e-r.

14 THE COURT: All right. Mr. Stoker, we will begin with
15 you tomorrow morning at 9:30.

16 Right offhand, I'll ask you whether or not you
17 have been present during all the proceedings?

18 PROSPECTIVE JUROR NO. 5: Yes, I have.

19 THE COURT: Would it be a hardship to you to serve
20 on this case?

21 PROSPECTIVE JUROR NO. 5: No, I don't think so.

22 THE COURT: All right. Then we will begin the examina-
23 tion of you tomorrow morning.

24 And you are all excused until 9:30 tomorrow
25 morning.

26 Remember the admonition that I have heretofore
27 given you, in respect to publicity. You have an obligation
28 to take affirmative steps not to expose yourselves to any

1 publicity concerning this case or Charles Manson or the Manson
2 Family.

3 And you also are admonished by the Court that you
4 are not to converse amongst yourselves nor with anyone else
5 nor permit anyone to converse with you on any subject
6 connected with the matter, nor are you to form or express
7 any opinion on it until it is finally submitted to you,
8 should you be chosen as a juror in this case.

9 Good night.

10 (Whereupon, at 4:31 o'clock p.m., an adjournment
11 was taken in this matter until 9:30 o'clock a.m.
12 of the following morning, Thursday, December 16,
13 1971.)
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