

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

214

REPORTERS' DAILY TRANSCRIPT

Friday, December 17, 1971

VOLUME 14

APPEARANCES:

For the People:

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

For Defendant Davis:

GEORGE V. DENNY, III

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

COPY

I N D E XWITNESSES

(None)

E X H I B I T SDEPENDANT'S SPECIAL EXHIBITSFor Identification

B-1 through B-7: photographs 2347

B-8: copy of a report from
the Sheriff's Crime Lab

1 LOS ANGELES, CALIFORNIA, FRIDAY, DECEMBER 17, 1971, 10:40 A. M.

2
3 THE COURT: All right. The case of People versus Davis?
4 Will you get the jury down?

5 MR. DENNY: Your Honor, before we get the jury in, could
6 we have a hearing on the motion that's pending for today?

7 THE COURT: Oh, yes. The Court has read the --

8 MR. DENNY: I think we probably need the defendant.

9 THE COURT: The Court has read your submitted motion and
10 declaration in connection with your request to have an
11 ophthalmologist appointed to examine the People's proposed
12 witness, Ruby Pearl.

13 As I told you informally yesterday, off the
14 record, the Court had considered it, and was not inclined to
15 grant it, but would hear your argument.

16 MR. DENNY: Your Honor, in this matter, I have spoken with
17 Mrs. Pearl -- again, by phone, last night -- and I would be
18 willing to swear, so that it would be included as part of a
19 declaration here, that she indicates to me that she has not had
20 her eyes treated in any way; that her eyesight is good; that
21 the last eye examination that she had was for her driver's
22 license, at a DMV on Winnetka in Canoga Park; and that as far
23 as she knew, she passed it with flying colors.

24 And that's all.

25 THE COURT: She is not color-blind, either?

26 MR. DENNY: Well, I don't think they test for color-
27 blindness.

28 THE COURT: Yes, they do -- a little. They don't give an

1 extensive test.

2 MR. DENNY: Well --

3 THE COURT: But they do.

4 MR. DENNY: At any rate, there are no -- there are
5 apparently no records of any optometrist or ophthalmologists
6 extant pertaining to Mrs. Pearl.

7 Thank you, Joyce.

8 THE COURT: That's some indication of her ability
9 to find her way around without a seeing-eye-dog.

10 MR. DENNY: Yes. And seeing as how she's the seeing-eye-
11 dog for Mr. Spahn, apparently she can at least do that much.

12 Your Honor, my point in asking for this examination
13 is maybe even foolhardy on the part of a defense attorney,
14 because the chances of it helping us are slight, as compared
15 with the chances of its helping the prosecution, in that if it
16 is shown that her eyesight is good now, then it must be
17 assumed that, being an older person, her eyesight has not
18 improved with age, and so it was good two years ago.

19 If, on the other hand, it is shown that her
20 eyesight is poor now, it does not necessarily mean that her
21 eyesight was poor two years ago; because advancing age does
22 bring on advancing changes in the eye.

23 However, advancing age generally brings on what
24 is called presbyopia, or farsightedness, as the eyeball is not
25 able to expand and contract, as it did in the younger days,
26 therefore creating the image differently on the retina.

27 But in spite of that fact -- and not testifying as
28 an expert there, and I think the Court wears glasses, so that

1 the Court has some knowledge of the necessity for glasses with
2 the passing of the 35th birthday, let's say -- at any rate,
3 your Honor, it is very possible --

4 THE COURT: Compliments are going to get you nowhere.

5 MR. DENNY: Well, I just didn't want to go the other
6 way, and be saddled with lack of a compliment.

7 At any rate, your Honor, there is a question --
8 which I'm sure the People will raise -- as to the probative
9 value of a test, two years after the fact, as to the eye
10 exam that we are speaking of.

11 My position is: It can only help the prosecution
12 in this case. And from that standpoint, I cannot see why they
13 would oppose it. There is only a -- not a slight chance, but
14 there is some chance, a significant chance, so that I am
15 willing to risk it on behalf of my client, that it will show
16 some significant loss of visual acuity, that Mrs. Pearl is
17 not herself aware of, so that it would be of some significance
18 to a jury.

19 Now, we don't know what the findings are going to
20 be.

21 In the Ballard case, and in the cases that have
22 come down since that -- and I -- I, of course, analogize this
23 to the Ballard case, as I did in my points and authorities.

24 There are two areas of the Court's exercise of
25 its discretion --

26 THE COURT: Well, the Ballard case is a good analogy,
27 but I think it's relatively limited -- if this is about what
28 you are going to say, in any event, I suppose. But go ahead.

1 MR. DENNY: All right. The whole matter is, of course,
2 submitted for the Court's discretion, and the Supreme Court has
3 said, "We are not going to make a rule that in every case the
4 Court must order a psychiatric exam; neither will we in every
5 case say that it should not. It would depend somewhat on the
6 circumstances, for the initial question of ordering the
7 examination."

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1 Thereafter, there is a secondary exercise of the
2 Court's discretion, in determining whether or not the examina-
3 tion, having been made, the results of that examination can be
4 used in evidence.

5 Now, that was what was brought up in the case of
6 People versus Russel, 69 Cal 2d 187, the perhaps leading
7 case since the Ballard case.

8 And in that particular case, the Court refused
9 to permit the psychiatrist to testify. This was a case in which
10 there had been a hung jury, initially, with a young
11 prosecutrix in a sex case; and as the Court knows in its
12 opinion, possibly because of the fact that the jury obviously
13 found the prosecutrix's testimony somewhat difficult to
14 accept -- at least, some of them did -- and possibly, they
15 say -- although the judge was not as clear on it as he might
16 have been -- because the judge shared that view, the judge
17 ordered a psychiatric examination.

18 Thereafter, however, he refused to permit the use
19 of that psychiatric examination in the course of the trial,
20 and the Court, in its opinion, the Supreme Court goes through
21 a rather long dissertation, of background and history of what
22 it means by "exercise of discretion," and spells it out very
23 clearly, and finally, says, at Page 198:

24 "Finally, having in mind the rationale and
25 objective of Ballard and the danger in sex offense
26 cases that the charge may rest on the credibility
27 of the child as against the bare denial of the
28 defendant, we think that the legal discretion of

1 "the judge should be exercised liberally in favor
2 of the defendant." Citing People versus Newton, a Court
3 of Appeals case.

4 Now, your Honor, in this case, all I am asking --

5 THE COURT: Well, Mr. Denny, why shouldn't the defense --
6 and in each case where there is an eyewitness -- demand this
7 type of thing? Why shouldn't someone who is defense counsel,
8 wherein the turning point in a case might be whether a conversa-
9 tion was heard correctly, demand a hearing examination of the
10 witness? Or a psychiatric examination, in all cases, of any
11 witness?

12 MR. DENNY: Well, your Honor is asking a question and
13 raising a spectre of the nose of the camel in the tent, or the
14 thin edge of the wedge, the parade of horrors, whatever,
15 which is the law school example that is always given.

16 But I submit that that is certainly an area for
17 the exercise of the Court's discretion. If you have a
18 simple shoplifting case and the store detective says, "I saw
19 the witness do so-and-so," and you are in that type of situa-
20 tion, and the defendant comes in and says, "I want an eye
21 examination of the store detective," I think there is a marked
22 difference in that type of situation and a murder case, where
23 the only -- the only connecting evidence, connecting the
24 defendant with the alleged murder -- and the time of murder,
25 as the People are attempting to show it, is the testimony of
26 one elderly lady, in the light of a full moon.

27 Now, there's a marked difference, it seems to me --

28 THE COURT: You propose to have an examination in which

1 the examiner, as nearly as possible as he can, would re-create
2 the conditions that existed that particular evening? Under a
3 full moon, when Miss Pearl is alleged to have seen Mr. Davis?

4 MR. DENNY: Your Honor, I don't know whether a doctor
5 can re-create those conditions. But I don't think you have
6 to re-create those conditions in order to determine a
7 person's general ability to see, and their ability to see in
8 diminished light or night vision, as it's called.

9 There are certain chemical responses to light under
10 diminished light, which may or may not occur, which may or may
11 not affect the ability of one to see at night.

12 And there are certain general rules of optics and
13 vision which pertain, because of the difference in the use of
14 the rods and cones, and what the rods or the cones see at night,
15 which can be demonstrated by certain tests, made by a doctor
16 at the time he's examining a defendant -- or, a witness.

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1 But in this case, your Honor, she is the only
2 witness. It is highly important, highly relevant, and I
3 submit that it is going to be, at least from this standpoint,
4 a proper exercise of the Court's discretion to permit and
5 order the examination itself. From that point on, the
6 Court still has the second step of exercising its discretion
7 as to whether that -- the results of that examination can be
8 used in evidence. But I don't think the Court should, at
9 this point, completely foreclose the defendant from this area
10 of its defense. It is a --

11 THE COURT: People wish to be heard?

12 MR. MANZELLA: Your Honor, the People impose the
13 motion on the following grounds:

14 In the first place, as the Court has already
15 noted, the conditions under which Mrs. Pearl observed what
16 she testified to cannot be recreated, having occurred over
17 two years ago.

18 Secondly, the delay in making the request on
19 the part of Mr. Denny, he having been assigned to this case
20 for quite some time now.

21 Thirdly, the fact that the testimony of Mrs.
22 Pearl is not the only connecting evidence, the only evidence
23 connecting Mr. Davis to the murder of Shea.

24 But the primary reason that the People object
25 to the motion is the fact is its lateness in being made
26 and, perhaps more importantly, the inconvenience to the
27 witnesses. These witnesses have said -- have testified many
28 times in many hearings and many trials here in Los Angeles,

1 including the out-of-state witnesses. Some of them have
2 testified as many as a dozen times. And you can say for
3 each request made of them, well, it is just one -- it is
4 a small request to make in light of the serious conse-
5 quences of a conviction in the case. However, I think we
6 have made many, many requests of these witnesses and they
7 have done an admirable job in meeting their responsibilities
8 as citizens and as witnesses.

9 And I don't think that based on all the other
10 objections to this type of test, that the Court is required
11 to add another burden to, in this case, Mrs. Ruby Pearl.

12 And for those reasons, the People oppose the
13 motion.

14 MR. DENNY: Your Honor --

15 THE COURT: Well, the lateness of the request is not
16 significant to the Court. Miss Pearl has not always been
17 available, since she lives out of state.

18 The inconvenience to a witness, while it is a
19 factor which the Court considers shouldn't be ruling.

20 But in the Court's discretion it is -- this
21 examination is either allowable or not, orderable or not,
22 and it is my determination that the motion should not be
23 granted.

24 The Court believes that her credibility can be
25 judged on the usual standards and through the usual methods
26 of examination and cross examination.

27 MR. DENNY: Your Honor, may I be heard before the
28 Court makes a final ruling on that, just briefly, on that

1 just briefly, on that point the Court has just enunciated.

2 My own feeling is, and you'll excuse me if I
3 speak very strongly on this, we are given -- the prosecution
4 is given and uses every scientific means available to
5 convict a man. They are given the opportunities to use
6 all sorts of scientific tests.

7 In this case, they're used everything from
8 helicopters to fingerprint men to gun experts to everything
9 else under the sun. Every person in the Crime Lab, in both
10 the Sheriff's Crime Lab and the LAPD Crime Lab. It seems--
11 and the photography lab. Every -- everyone has been used
12 to focus on the prosecution of this case.

13 Now, your Honor, it does seem to me somehow or
14 other that the defense is equally entitled to the scientific
15 means available and not just to the old horse and buggy
16 means of cross-examination that are available to get across
17 a point to the jury.

18 THE COURT: The Court will make available to you such
19 scientific investigations, and the Court has done so upon
20 your request previously, as you believe are required here,
21 and the Court, within its discretion, feels should be
22 ordered.

23 In this case, it is a matter of discretion and
24 the Court does not believe that it should be ordered.

25 Accordingly, let's proceed this morning with
26 the selection of the jury.

27 (Whereupon, unrelated matters were called and
28 heard before the Court.)

1 THE COURT: On the record. I believe I had questioned
2 Miss Menard.

3 MR. KAY: No, Mrs. Carter, juror No. 8. That's --

4 No, Mrs. Carter, you were down next to Mr.
5 Gould.

6 PROSPECTIVE JUROR CARTER: Excuse me.

7 THE COURT: You are right, Mr. Kay.

8 The record will show the defendant to be present
9 with all counsel present, and all prospective jurors in the
10 box beyond the rail present.

11 Good morning, ladies and gentlemen.

12 (Whereupon, there were murmurs of "Good morning,"
13 heard throughout the prospective jury panel.)
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1 THE COURT: The Court apologizes for keeping you
2 waiting over in that other courtroom. I had other business
3 that I had to accomplish this morning.

4 Now, we're ready, however, and I think we are
5 about -- Mr. Denny, you were about to examine Mrs. Carter.

6 MR. DENNY: Excuse me just a minute.

7 (Whereupon Mr. Denny conferred with Mr.
8 Manzella and Mr. Kay at the counsel table.)

9
10 VOIR DIRE EXAMINATION OF

11 MRS. SHIRLEY CARTER

12 BY MR. DENNY:

13 Q Good morning, Mrs. Carter?

14 A Good morning, sir.

15 Q Ma'am, you indicated that your answers to the
16 general questions that the Court had asked of other prospec-
17 tive jurors would be the same. And sometimes, particularly
18 after you've sat almost a week listening to those questions,
19 some of them get a little confused with the questions that the
20 attorneys ask and all the rest. So let me ask just a couple
21 of them, if I may.

22 That is, first of all, have you or any member
23 of your family ever been the victim of any sort of crime at
24 all?

25 A No.

26 Q Was that hesitation in your voice because you
27 were thinking about some situation that might fit into that
28 category?

1 A Uh, I was thinking of my oldest boy who is in some
2 difficulties off and on.

3 Q What oldest boys aren't?

4 Well, as a victim or mixed up with the law some-
5 how with them charging him?

6 A Yes.

7 Q All right. Let's get to that point, then.

8 Has he been in some trouble or some difficulty
9 with law enforcement agencies of one sort or another?

10 A Periodically and regularly, yes.

11 Q And has he ever gone to court as a result of that?

12 A Yes.

13 Q Is that Juvenile Court or Adult Court?

14 A Adult Court.

15 Q How old is he now?

16 A He's 21.

17 Q And have you ever appeared on his behalf as a
18 witness in court?

19 A No.

20 Q Have you appeared as guardian of a minor in
21 Juvenile Court with him?

22 A No, he's with his father. The children are with
23 their father. I have been married twice.

24 Q I see.

25 A I bailed him out recently.

26 Q On what sort of charge, do you know?

27 A Uh, drunkenness.

28 Q All right. Now, without getting too deeply

1 into the difficulties that your son has had, has he been in
2 your custody during any of this period of time when he has
3 had some difficulties with the law?

4 A No, I asked him to come at that time, but he, uh--
5 he had other things he had to do. And it was the big
6 merry-go-round again.

7 Q Would any of these scrapes that your son has been
8 in with the law have created within you any feeling of
9 antipathy or prejudice toward law enforcement agencies?

10 A No.

11 Q Or toward the prosecution of this case?

12 A No.

13 Q Do you think on the other hand they might affect
14 you so that you would be a little bit harder on someone
15 charged with a crime?

16 A No.

17 Q In other words, as far as your position as a juror
18 is concerned, those family matters and however they might
19 affect you as you think about your son, won't affect your
20 judgment of the truth or falsity of the evidence presented
21 here on this case, is that right?

22 A That's right.

23 Q All right, ma'am.

24 Now, in response to one of the Court's questions
25 or observations, you had indicated something about the husband
26 from whom you are separated and his field of work, at any
27 rate, but didn't give us what he may have worked in at one
28 time; what was that?

1 A He had been a gardener, a cook, an artist, a
2 philosopher. That sort.

3 Q I see.

4 All right, now, did you hear the questions that
5 I have asked of the other jurors over the week that you have
6 now been with us?

7 A Yes.

8 Q Did you have any pause or sort of, "Hmmm, I
9 wonder how I would answer that?" as to those questions that I
10 asked of a general nature to the other prospective jurors in
11 the box at any time?

12 In other words, was there any question that --
13 that kind of hangs in your mind as one that kind of gave you
14 trouble in answering, besides some of the incomprehensible
15 ones that I have asked?

16 A Uh, offhand I can't pinpoint any particular one.
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1 Q All right. And on this one point that I have not
2 talked about for some time, there are some people who feel,
3 without understanding the constitutional aspects of it, that
4 if a defendant does not take the stand in a criminal charge,
5 he must therefore be guilty of the crime charged against him.

6 Do you feel that way?

7 A No, you explained that.

8 Q I did indeed. And I just wanted to make sure you
9 did understand because even though I have explained it, a
10 person still feels that way no matter what the explanation is.
11 But you understand under the constitution you are not even
12 permitted to draw such an inference?

13 A Yes.

14 Q If the attorney doesn't want to put on evidence
15 and thinks the People's case is too weak, he can let it go to
16 the jury on that stand and that's perfectly acceptable?

17 A Yes.

18 Q All right.

19 Now, again, I'm not sure whether the judge asked
20 you too much on the question of the death penalty, and we're
21 in that hypothetical situation where I have to assume that you
22 are going to get to that stage here. So, let's talk about it.

23 Have you ever done any reading in the field of the
24 death penalty?

25 A Not extensively, no.

26 Q That is, you haven't made a particular study of it
27 for any particular reason, is that right?

28 A Uh, I had particular feelings about it many years

1 ago, but I have since changed my views.

2 Q Well, would you say those particular feelings
3 were for its abolition?

4 A Yes.

5 Q Or --

6 And since that time you have determined that
7 there may be some cases where you feel it would be proper?

8 A Yes.

9 Q And in any case where, for instance, you had
10 arrived at a conclusion, whether by virtue of having found the
11 person guilty through the felony murder doctrine or as an
12 accomplice or a conspirator or by virtue of his having been
13 the one who actually did the crime, you've nevertheless found
14 him guilty of first degree murder.

15 Is it your feeling that having found a person
16 guilty of that, you would, automatically, without further
17 consideration, impose the death penalty on that person?

18 A No.

19 Q Again, because of these thoughts you've had about
20 it, you would be open to a determination as to what the
21 proper penalty would be under those circumstances?

22 A Yes.

23 Q There are different first degree murders and there
24 are different first degree murderers, is that right?

25 A Yes.

26 Q All right, ma'am.

27 Now, have you discussed your feelings about the
28 death penalty any time recently with anybody?

1 A No, not recently.

2 Q Or have joined in any discussions, either formal or
3 informal concerning the death penalty?

4 A No, I haven't.

5 Q Do you feel at this time, ma'am, that you are in a
6 frame of mind where you can be completely fair, both to the
7 People and to the defendant?

8 A Yes, I believe I can.

9 Q All right. Now, a question has been asked of a
10 number of jurors by either Mr. Manzella or Mr. Kay concerning
11 this third Count and the fact that they are going to attempt
12 to establish the death of Shorty Shea and the criminal agencies
13 involved in the death of Shorty Shea by circumstantial
14 evidence and whether you would have an open mind to the proof
15 of his death by circumstantial evidence.

16 And, again, some of the jurors have been asked the
17 question, and all of them thus far have answered positively.

18 Are you willing to be convinced beyond a reasonable
19 doubt of his death as shown by circumstantial evidence?

20 I take it your answer would be the same, you are
21 willing to be convinced; is that right?

22 A Yes.

23 Q I take it you are not overwilling to be
24 convinced in that you would find that death by any less
25 evidence than would be required under the general rule of law
26 that you can't find the commission of any crime, whether on
27 direct or circumstantial evidence, unless you are convinced
28 beyond a reasonable doubt and to your moral certainty; is that

1 right?

2 A Right, right.

3 Q So, although you may be open-minded on it, you're
4 not just waiting for any little thing to drop to convince you
5 by less than the burden of proof that is on the defendant -- on
6 the prosecution in every criminal case; is that right?

7 A It is a burden, yes.

8 Q All right, ma'am.

9 I'll pass for cause, your Honor.

10 MR. KAY: Thank you.

11
12 VOIR DIRE EXAMINATION

13 BY MR. KAY:

14 Q Mrs. Carter, you stated that you changed your views
15 recently in regards to capital punishment; is that correct?

16 A Not recently. Several years ago.

17 Q About how many years ago?

18 A Five -- four or five years ago.

19 Q And did you change your views as a result of
20 careful thought and consideration on your part or was there
21 something that happened that made you change your views?

22 A Uh, I accepted a different philosophy. And with
23 that different philosophy, I changed my views.

24 Q You mean a different philosophy of life?

25 A Yes.

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1 Q Is this a different religion or just a philosophy of
2 life?

3 A Religion.

4 Q Different religion.

5 And under the religion that you presently accept,
6 the capital punishment is acceptable; is that correct?

7 A Well, it allows for all possibilities.

8 Q And so, have you resolved in your own mind whether
9 or not, if you felt the evidence in this case -- if you felt in
10 your sole discretion that the evidence in this case warranted
11 the death penalty, that you could vote for it?

12 A Yes.

13 Q And I take it you have resolved that you could vote
14 for it if you felt it was proper?

15 A Yes.

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

17 A No.

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

20 A No.

21 Q Have you ever testified in a criminal case before,
22 either for the prosecution or the defense?

23 A No.

24 Q Have you ever been in a court of law where you've
25 testified in either a civil case or anything?

26 A For my mother's divorce. That was in the forties.

27 Q And I don't know if you were asked this -- well,
28 yes, you were.

1 You were an alternate juror last week?

2 A Yes.

3 Q And that was on a child molesting case?

4 A Yes.

5 Q But you didn't participate in any deliberations?

6 A No.

7 Q Now, do you understand what I have said to the
8 other jurors about the burden of proof in this case? That it
9 is -- the prosecution must prove the defendant guilty beyond a
10 reasonable doubt, and that's it; do you understand that?

11 A Yes.

12 Q Would you -- knowing that that, and that alone,
13 is the legal burden, would you hold us to any higher standard?

14 A No.

15 Q You wouldn't hold us to any higher standard than the
16 law requires, would you?

17 A Right.

18 Q Do you understand what Mr. Manzella and I have said
19 about circumstantial and direct evidence?

20 A Yes.

21 Q And do you think you understand the distinction
22 between circumstantial and direct evidence?

23 A Yes, I do.

24 Q All right. And would you be willing to follow the
25 Court's instructions in that regard?

26 A Yes, I would.

27 Q And, again, as you've stated to Mr. Denny, you
28 would be willing to keep an open mind on Count III, the murder

1 of Donald Jerome Shorty Shea, and let, if the evidence could do
2 it, let the evidence convince you beyond a reasonable doubt
3 that Mr. Davis was guilty of that charge? And I take it
4 that's correct?

5 A Yes.

6 MR. KAY: Thank you. Pass for cause.

7 THE COURT: Both sides pass for cause?

8 MR. DENNY: Your Honor, I wonder, in view of a couple
9 of answers that were given to Mr. Kay's questions, whether I
10 could ask a couple of more questions of Mrs. Carter?

11 THE COURT: You may.

12
13 VOIR DIRE EXAMINATION

14 BY MR. DENNY:

15 Q Just concerning your earlier answers to Mr. Kay's
16 questions.

17 Are you a member of any Buddhist sect or have you
18 been at any time?

19 A No.

20 Q All right. And the particular new philosophy that
21 you have adopted is an offshoot or a part of which religious
22 faith?

23 A Uh, Yoga.

24 Q All right. Thank you, ma'am, very much.

25 A Yes.

26 MR. DENNY: Pass for cause, your Honor.

27 MR. KAY: I believe we haven't questioned Mrs. Carter on
28 publicity. Everything but publicity.

1 majority of the jurors have responded to the Court's questions
2 of a general nature?

3 A Yes, they would, your Honor.

4 Q In what way?

5 A Well, uh, pertaining mainly to the --

6 MR. MANZELLA: Would you hold the microphone up?

7 A -- to the penalty phase.

8 Q BY THE COURT: In regard to the penalty phase, are
9 your views about it such that, and regarding the penalty, the
10 death penalty, -- are your views about the death penalty such
11 that you could not be impartial in determining the question of
12 guilt or innocence in the first phase?

13 A No, your Honor.

14 I would like to explain that.

15 Q That wouldn't be any hurdle to you?

16 A No.

17 Q Even in spite of your feelings about the death
18 penalty, you could be fair and impartial in determining the
19 question of guilt or innocence?

20 A Not -- not in the case that is based mainly on
21 circumstantial evidence, I couldn't go along with it.

22 Q Aside from that point, in talking -- in talking
23 about the death penalty, you could be fair and impartial in
24 speaking of the question when -- we're speaking now of the
25 first phase, in spite of your views about the death penalty?

26 A I don't know. I have in my mind --
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1 THE COURT: I thought we had, outside the presence of the
2 other jurors.

3 MR. KAY: I don't think we got to -- I think the Court
4 got to the general questions, but I don't think Mr. Denny --

5 THE COURT: Do any of you -- do either of you wish to
6 ask her about publicity?

7 MR. DENNY: I have no questions, your Honor, in view of
8 the Court's questions.

9 THE COURT: Very well. That leaves the peremptory,
10 I think, with the defendant.

11 MR. DENNY: Your Honor, we accept the jury as presently
12 constituted.

13 THE COURT: With the People.

14 MR. KAY: The People will thank and excuse juror No. 8,
15 Mrs. Carter. Thank you very much, Mrs. Carter.

16 THE COURT: Thank you very much Mrs. Carter.

17 PROSPECTIVE JUROR CARTER: Thank you.

18 THE COURT: Go to that 15th floor of the New Hall of
19 Records, Mrs. Carter, please.

20 THE CLERK: James M. Costello, C-o-s-t-e-l-l-o.

21
22 VOIR DIRE EXAMINATION OF

23 JAMES M. COSTELLO

24 BY THE COURT:

25 Q Mr. Costello, you have been present in all the
26 proceedings thus far since last Friday, have you not?

27 A That is correct, your Honor.

28 Q Would your answers be any different than the

2-1

1 Q Let me take you a step further. Let's assume that
2 you get to the penalty phase; that you have gotten beyond the
3 first phase and have found the defendant to be guilty beyond
4 a reasonable doubt.

5 We are simply assuming this. We are not inferring
6 that that will be necessary; you understand that?

7 A Yes.

8 Q Assuming that you get to this point of the penalty
9 phase, are your views about the death penalty such that you
10 would automatically refuse to impose the death penalty, regard-
11 less of the evidence?

12 A Well, your Honor, I don't think I could go through
13 the first phase, since I -- it has been explained by Mr. Kay
14 that it will all be circumstantial.

15 Q Well, you understand that there are two homicides
16 here?

17 A Yes.

18 Q And Mr. Kay has made some reference to circumstan-
19 tial evidence as being heavily relied upon, in connection with
20 the third Count, and that no body will be produced in respect
21 to the third Count.

22 You understand that?

23 A Yeah.

24 Q And have you heard the Court's explanation of the
25 nature of direct and circumstantial evidence?

26 A I have.

27 Q And -- well, you have two Counts to consider here,
28 you understand.

2-2

1 A But they're -- it's in the same trial.

2 Q Yes.

3 A So, they're related to each other.

4 Q Well, the quarrel that you find with applying the
5 death penalty is that, insofar as the third Count is concerned,
6 there would be no body?

7 A Right.

8 Q That is, you would assume from what has been said, --

9 A No direct evidence.

10 Q -- the questions that have been asked, there will
11 be no body in the case?

12 A (Indicating affirmatively.)

13 Q And in that kind of a case, then, would you never
14 apply the death penalty?

15 MR. DENNY: Well, your Honor, again I object to that
16 question, because that is then considering the evidence.

17 BY THE COURT:

18 Q Is that what you are saying?

19 MR. DENNY: He would consider that as part of the
20 evidence.

21 THE COURT: Your objection is overruled.

22 Q Is that what you are saying?

23 A What's this?

24 Q I'm not sure of what you are driving at.

25 A Well, so far, listening to the evidence -- these
26 are two separate charges, but it's still -- it's all in one
27 case.

28 And knowing -- knowing what the -- what is it, the

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1 third charge? The Shea?

2 Q Pardon?

3 A Shea, the Shea incident.

4 Q Yeah.

5 A This is the third charge; right?

6 Well, knowing how I'm going to think on this
7 charge, I would probably automatically be prejudiced to any --
8 to any testimony that the District Attorney or State may try
9 to show me.

10 I realize that this -- I would listen to the
11 testimony of the defense and the prosecution.

12 Q Well, would you hold your mind open in determining
13 whether or not --

14 A I couldn't say that I would, no, your Honor.

15 Q I see. You'd start out in the first instance,
16 then, with a prejudice against the People's case in the third
17 Count?

18 A Right.

19 Q Well, do you think that you can follow the Court's
20 instructions, in respect to -- in respect to circumstantial
21 evidence?

22 A I am certain I could. But I couldn't change what
23 I basically believe in my own mind.

24 Q Well, if you would follow the Court's instruction --
25 regardless of what you think the law is or should be concerning
26 the evidence, would you follow the Court's instructions?

27 A I naturally would follow the Court's instructions.

28 Q Well, if you follow the Court's instructions in

2-4

1 respect to direct and circumstantial evidence, that's what you
2 would have to do, really, in order to be a juror in the case.

3 A But the --

4 Q Now, you would, in other words, consider the
5 evidence in order to determine -- let's assume that we are
6 talking about the first Count now. You would consider the
7 evidence in order to determine whether or not, in your
8 judgment, you should impose, in your discretion, impose the
9 death penalty?

10 A Right.

11 And I assume that you mean both sides of --

12 Q Well, yes. Well, whatever evidence there is in the
13 case for you to look at, you would examine it --

14 A Yes.

15 Q -- to determine whether or not you should impose
16 it; is that correct?

17 A Absolutely.

2a fol

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1 Q And you would not automatically act, either to
2 impose it or to refuse to impose the death penalty; is that
3 right?

4 A No, I would not.

5 Q All right. Now, would it be any hardship to you
6 to serve in the case?

7 A Not really.

8 Q Have you served as a juror before?

9 A No.

10 Q What type of work do you do?

11 A I am an aircraft mechanic. I work for Western
12 Airlines.

13 Q For Western?

14 A Right.

15 Q And Western will pay you beyond your 30 days?

16 A They will.

17 Q And is there a Mrs. Costello?

18 A Yes, there is.

19 Q Is she employed outside the home?

20 A Not at present.

21 Q Is she usually?

22 A Uh -- not now. She hasn't been employed.

23 Q What type of work does she usually do when she
24 works outside the home?

25 A She's a registered nurse.

26 Q Are you related to or a friend of any law
27 enforcement officer?

28 A No.

2a-2

1 Q In what general area do you reside?

2 A The Crenshaw area, Los Angeles.

3 Q All right. Now, the other questions that I've
4 put to the other prospective jurors, would your answers
5 be substantially the same, as the majority have responded
6 to those questions?

7 A Well, I think you asked me that in the first
8 place.

9 Q And you said -- well, right away, you talked
10 about the death penalty.

11 Would your other answers be the same?

12 A More or less, I suppose.

13 Q For example, have you ever been arrested on any
14 charge, other than on misdemeanor traffic violations?

15 A No, I haven't.

16 Q Or have you had any close friend or relatives
17 who have had that happen to them?

18 A No.

19 Q Or has any friend or relative been the victim
20 of a crime of violence?

21 A I have.

22 Q Tell us about that.

23 A I was shot in the stomach by an alleged friend
24 of mind.

25 Q Well, you use that word "alleged" advisedly,
26 I suppose.

27 (Laughter.)

28 Q How long ago did that happen?

2a-3

1 A It's about four and a half years ago, approxi-
2 mately.

3 Q Was he prosecuted for that?

4 A He was, by the state.

5 Q Did you testify?

6 A I did.

7 Q Where did that occur? In California?

8 A In Los Angeles, yes, sir.

9 Q And was he convicted?

10 A No, he was set free.

11 Q Well, now, does that raise any ire or -- strike
12 that.

13 Does that raise any feeling in your mind against
14 somebody who is accused of a crime of violence?

15 A No, it doesn't.

16 Q Or does it raise any feeling against people who
17 are involved in prosecutions -- or against prosecutions in
18 general, as a result of that incident?

19 A Oh, no. There was no charges brought by me. The
20 state automatically prosecuted it, and he waived a jury trial.

21 So, it was left to the discretion of the Judge.

22 Q And the Judge, upon hearing the evidence, turned
23 him free; is that correct?

24 A Yes, sir.

25 Q Was there any feeling whatever in your mind, by
26 reason of what you -- by reason of which you could not be
27 fair and impartial in the case?

28 A No, not that I know of.

2a-4

1 Q All right. Now, can you think of any other
2 respect in which your answers might vary from the usual
3 answers given by the majority of the jurors?

4 A No, sir, I can't.

5 Q In what general area do you reside?

6 A The Crenshaw District.

7 Q Concerning publicity, have you ever heard about
8 this case before you came in here?

9 A This particular case?

10 Q Yes.

11 A No.

12 Q Have you ever heard the name -- heard, seen or
13 read the name Bruce Davis?

14 A Never.

15 Q You've heard the name Charles Manson?

16 A Oh, yes.

17 Q And the Manson Family?

18 A Right.

19 Q And assuming for the purpose of this question that
20 the proof will show that Mr. Davis is a member of the Manson
21 Family, or associated with Charles Manson, would he, Davis,
22 suffer any prejudice in your mind? Or would he suffer any
23 disadvantage in having you act as a juror in the case?

24 A He would not, no.

25 Q Because of something that you may have heard,
26 seen or read concerning the Manson Family?

27 A No.

2b fls.

28

2b-1

1 Q The Manson Family, in your mind, is a group of
2 people who associated with Charles Manson; is that just about
3 it?

4 A Just about it.

5 Q And the things you've heard about them have or have
6 not been complimentary? Which is it?

7 A The things that I've heard about them?

8 Q Yes.

9 A Oh, by the -- through the media, definitely
10 uncomplimentary.

11 Q And that in itself --

12 A You don't mean in my mind, do you?

13 Q No, I mean the things that you have heard, seen or
14 read.

15 A Yes.

16 Q Well, now, that -- knowing that, knowing what
17 you've heard, seen or read about the Family, and about
18 Mr. Manson, do you think that that would rub off on Mr. Davis,
19 to begin with, so that he would have some prejudice in your
20 mind to overcome, in the beginning of this case?

21 A No, I don't.

22 THE COURT: Mr. Denny?

23 MR. DENNY: Thank you.

24
25 VOIR DIRE EXAMINATION

26 BY MR. DENNY:

27 Q Mr. Costello, if we may, let me return to this
28 issue of your problem with circumstantial evidence.

2b-2

1 I may sound a little bit like the prosecution, as
2 I am beginning to question you, perhaps from this standpoint;
3 but the law is very clear -- it doesn't matter whether you are
4 on the prosecution side or the defense side -- so let me just,
5 if I can, recapitulate a little to ask you a question.

6 You understand, from the Court's having read
7 certain instructions to you -- and I must say that the
8 instruction on what is circumstantial evidence and what is an
9 inference and what is a deduction to be drawn from an
10 inference, et cetera, is very difficult to understand, even
11 among lawyers.

12 A Um-hmmm.

13 Q But essentially, you do understand that there is
14 direct evidence, what you see or hear at a given time, and
15 then there is circumstantial evidence, both of which are
16 accepted as proper evidence on which to sustain a conviction.

17 A I understand that.

18 Q All right. And circumstantial evidence can
19 sometimes, if there are sufficient circumstances -- and they
20 are susceptible of only one interpretation, and this is an
21 interpretation of guilt -- they can be just as strong as
22 direct evidence, eyewitness evidence?

23 THE COURT: One reasonable interpretation, Counsel?

24 MR. DENNY: Yes, of course, your Honor.

25 MR. MANZELLA: May I also object to Mr. Denny's state-
26 ment, "Sometimes circumstantial evidence can be as strong as
27 direct"?

28 There's no quantitative difference between

2b-3

1 circumstantial and direct evidence. I think maybe the
2 question ought to be withdrawn.

3 THE COURT: That also is a correct statement.

4 The Court will strike Mr. Denny's statement thus
5 far.

6 MR. DENNY: All right, sir.

7 THE COURT: Because it does -- it does have some
8 problems.

9 Q BY MR. DENNY: There are always problems with
10 evidence.

11 But to get to your frame of mind, sir, understand-
12 ing that the law accepts both in order to sustain a convic-
13 tion -- and the law also accepts both, if produced by the
14 defendant, to controvert evidence introduced by the People --
15 do you feel that you could listen to the evidence, whether
16 it's direct or circumstantial evidence, with a mind open
17 enough so that if all of the evidence, whether direct or
18 circumstantial -- or even totally circumstantial -- convinced
19 you beyond a reasonable doubt and to a moral certainty of
20 the truth of the charges brought here by the People, that you
21 could conscientiously vote for guilt?

22 Do you feel you could do that?

23 A Well, when you use the word "convince," I mean,
24 it's -- it's up to me --

25 Q That's right.

26 A -- myself, to be convinced.

27 Q It is up to you, based on the instructions that
28 the Court gives you as to what is necessary, as far as

2b-4

1 reasonable doubt goes.

2 A I'm sorry. I can't go along with that.

3 If I have -- if I make up my mind, I have to make
4 up my own mind, regardless of how I have been instructed.

5 Q Well, you have to make up your mind, but within
6 the rules that are set up by the Court. You have indicated
7 that you will follow the rules of the Court.

8 A I would follow the rules of the Court, surely.

9 Q And obviously, everybody has to follow their
10 conscience in determining whether that evidence that they have
11 heard meets the standard that the Court sets forth -- that is,
12 beyond a reasonable doubt and to a moral certainty.

13 You are no different from any other juror that way.

14 Now, do you think that you can do that in this
15 case?

16 A I can listen to the evidence, yes, on both sides.
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2c fol

2c-1

1 Q All right. And assuming, as I have said to some
2 other people, the defendant doesn't put on any evidence,
3 you've only heard the evidence on the People's side and the
4 cross-examination of their witnesses, you can still make up
5 your mind based on that; right?

6 A I could.

7 Q All right. So that you would be able, then, in
8 that case, to bring in a verdict of either guilty or innocent;
9 is that right?

10 MR. KAY: Well, I am going to object that it's ambigu-
11 ous. In what case? Mr. Denny says, "In that case." There
12 was -- there was nothing to preface that.

13 THE COURT: The objection is overruled.

14 Q BY MR. DENNY: You understand what I was asking,
15 sir?

16 A I think I do.

17 Q Having heard all the evidence produced, and
18 having listened to the instructions of the Court, whether that
19 evidence is direct or circumstantial, you could follow the
20 instructions of the Court and bring in a verdict, one way or
21 the other; do you feel qualified to do that?

22 A I'll say: Yes.

23 Q Well, don't say "Yes" if you don't mean "Yes."

24 A I mean "Yes." If I say "Yes," I mean "Yes," I
25 assure you.

26 Q Good. Well, I thought that. Sometimes it's like
27 someone says, "I believe," and they're hesitant, and others
28 say, "I believe," and they mean, "You're doggone right I will."

2c-2

1 And they both use the same phrase.

2 Now, apparently your trouble comes not from the
3 determination of guilt or innocence -- even though it may be
4 necessary to prove that by circumstantial evidence -- but in
5 the second phase that might come -- that is, the penalty
6 phase of the trial -- is that right?

7 A Right.

8 Q And your feeling is that if you had been convinced
9 beyond a reasonable doubt --

10 A Well, if that's the --

11 Q All right. We are assuming that. But you had
12 been convinced beyond a reasonable doubt that the defendant
13 was guilty of Count III in this case, which count is --
14 as everyone has said, must be proven by circumstantial
15 evidence -- and if you have followed the instructions of the
16 Court and listened to the evidence, and you've brought in a
17 verdict of guilt now, then you would have some difficulty in
18 imposing the death penalty, because of the evidence you had
19 heard, which was purely circumstantial; isn't that right?

20 A Right.

21 Q All right.

22 So, then, your answer is -- is it not? -- that
23 you would not automatically impose life, without considering
24 the evidence? Because you would have considered as part of
25 the evidence that it was circumstantial; isn't that correct?

26 A Right.

27 Q All right, sir.

28 A So far as the evidence, the evidence and the --

2c-3

1 the -- what's the -- in the -- what is that?

2 Q In the penalty phase?

3 A In the penalty phase, right. In my mind, if I
4 were to vote one way or the other -- the penalty phase,
5 I say, as I believe it's supposed to be, would not enter
6 my mind, until I was thoroughly convinced one way or the
7 other.

8 Q That's right. In the guilt phase --

9 A Death or imprisonment or two months or anything
10 else.

11 Q That's right. In arriving at the determination
12 of guilt or innocence, you are not supposed to think about the
13 penalty; only whether the facts show the person is guilty or
14 innocent.

15 A And I think the Court has read an instruction to
16 that effect at one point.

17 A Yes.

18 Q So you would not -- you would have no difficulty
19 doing that, --

20 A No.

21 Q -- is that right?

22 A And then -- well, we've already gone into the
23 question of the death penalty.

24 I take it, now, sir, that insofar as the imposi-
25 tion of the death penalty, in a case where it was established
26 by non-circumstantial evidence -- let's put it that way;
27 direct evidence -- and you had voted for a finding of first
28 degree murder, in that case you would not automatically,

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without regard to the evidence, impose the death penalty;
is that right?

A Absolutely not.

Q All right. You would consider the evidence in
that case, just as you'd consider the evidence in a circum-
stantial evidence case, before you determined which penalty
would be proper; is that right?

A That's right.

2d fls.

2d-1

1 Q All right, sir. Now, getting to the -- by the
2 way, have you done any reading in the field of the death
3 penalty at all?

4 A No.

5 Q Or discussed it with people, now and again?

6 A Yes.

7 Q Sort of bull session discussions?

8 A Yes, that's about it.

9 Q All right.

10 And again, from your answers, I take it that you
11 would feel that there are cases where it might be appropriate
12 and cases where it would not be appropriate, --

13 A That's right.

14 Q -- is that right?

15 A That's right.

16 Q Depending on all of the circumstances, depending
17 on the circumstances of the case and the evidence that's
18 presented to you?

19 A Yes.

20 Q All right. Fine, sir.

21 Now, getting to this area where you said the
22 state prosecuted this fellow for having shot you, did you
23 feel at the time that perhaps it was just a misunderstanding,
24 and the state shouldn't even have gotten into it? Is
25 that why you phrased it that way?

26 A No. Truthfully, I think I -- I aroused the
27 Judge's ire.

28 Q Well, in other words, you did feel that it was

2d-2

1 an unwarranted attack on you?

2 A It definitely was.

3 Q And that he was guilty?

4 A Yes.

5 Q But that he got off because you aroused the
6 Judge's ire, perhaps?

7 A Right.

8 Q Rather than because he was innocent?

9 A Right.

10 Q All right. Now, having that feeling, perhaps,
11 that there was a miscarriage of justice there, in your
12 particular case, I assume you've thought of that, over the
13 four years since it happened?

14 A Yes, I certainly have.

15 Q And would that tend to make you feel, sir, that
16 perhaps you'd want to get even with the State, by finding
17 someone else innocent, --

18 A No.

19 Q -- even though you felt that he was guilty?

20 A The only one that I would like to get even with
21 is him, but he died about two years ago.

22 (Laughter.)

23 Q Well, apparently justice prevailed in the end.

24 Well, on the other hand, sir, would that make
25 you feel, as far as the defendant in this case, that if it
26 were a close case, that you might have some feelings --

27 "Well, I am going to see that this guy gets it. Sort of
28 in place of the guy who shot me."?

2d-3

1 A Well, I would tend to go along with what I was
2 instructed, that the defendant is innocent until proven
3 guilty.

4 Q I hope you tend to go along with that, sir.
5 Fine.

6 Have you done any time in the military service
7 at all?

8 A Yes, sir.

9 Q In what branch of the Service?

10 A ASFTC.

11 That was in World War II.

12 Q Thank you for explaining that one.

13 And what work did you do in the transportation
14 service? Were you an aircraft mechanic in the Service?

15 A Well, I was a -- it was more or less supplies
16 of vehicles, ships and what not; any type of transportation,
17 in the Armed Services.

18 Q All right, sir. And were you in combat at all
19 yourself?

20 A Never.

21 Q All right. So, as has been asked of several
22 other jurors, I take it you've never been in a position
23 before where you held the fate of a man's life in your
24 hands, by virtue of your sole and solitary vote?

25 A No, I haven't.

26 Q And although it perhaps is not the pleasantest
27 duty, you can accept that duty and responsibility, and can
28 exercise it in good conscience, one way or the other; is

2d-4

1 that right?

2 A I believe I could, yes, sir.

3 Q And if you were to come to the point -- again,
4 we are talking about a hypothetical situation -- but if you
5 were to come to a point where you did have to make a
6 determination, in the guilt -- in the penalty phase of
7 the trial as to life or death, as Mr. Kay or Mr. Manzella
8 have asked a number of the jurors, you could come in and
9 face -- with the other jurors, and face Mr. Davis and say,
10 "You are going to die, by virtue of my vote."

11 Is that right?

12 A If I was so convinced, yes, sir.

13 Q On the other hand, you would feel you were doing
14 your duty as a juror if, in good conscience, you felt that
15 this was not such a case that required that sort of penalty,
16 to say to the Judge and the prosecutor -- and anybody else
17 in the whole world -- "No, I certainly vote for life."

18 You could do that?

19 A Certainly.

2e fls.

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1 Q And still feel that you were upholding your duty
2 as a juror in this state; is that right?

3 A Right.

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

6 THE COURT: The People?

7 MR. MANZELLA: Thank you.

8 THE COURT: Any examination?

9 MR. KAY: Oh, yes.

10
11 VOIR DIRE EXAMINATION

12 BY MR. MANZELLA:

13 Q Mr. Costello, I want to ask you a few questions
14 with regard to Count III, which charges this defendant with
15 the murder of Shorty Shea.

16 Knowing that we will not be able to produce the
17 body, or a witness who saw the body in death, do you think
18 you could be fair to the prosecution?

19 A No, I don't.

20 Q Do you think you could be impartial in this case?

21 A As I said, I could listen to the circumstances.

22 I would like to ask you something, Mr. Kay.

23 Q Manzella.

24 A Mr. Manzella; I beg your pardon.

25 This is in my mind. It has come to my mind.

26 Now, in the -- in a case such as this, where there has been
27 no physical evidence, no eyewitness, I ask myself, "Suppos-
28 ing this turns out to be a hoax?"

2e-2

1 And I would be sitting here in judgment on this
2 person. How could I feel after? How would we all feel?

3 Q Right. In other words, you feel that if you
4 convicted Mr. Davis of the killing of -- or, of the murder
5 of Donald Shea, and after you came in with your verdict,
6 five minutes later, Shorty Shea walked into the courtroom --

7 A No, ten years later.

8 Q You'd feel embarrassed?

9 A No. I would feel more than embarrassed. That's
10 why I say: I couldn't possibly -- I couldn't even consider
11 it.

12 Q All right. I understand that, Mr. Costello.
13 And, believe me, we don't put you down for your views.

14 But you have to understand that people with
15 certain views could not, because they couldn't be fair,
16 just couldn't sit on the jury.

17 But we don't put you down for your views.

18 A I'm willing to sit on the jury.

19 Q So, are you telling us, then, that because of
20 your state of mind with regard to the fact that we will not
21 be able to produce a body, in the evidence we introduce
22 in connection with Count III, that you would not -- you
23 would never be able to vote for a conviction of Mr. Davis
24 on that count, regardless of any other --

25 A Well, I would be contradicting myself, if I
26 said that.

27 Q I'm sorry. I didn't hear that.

28 A I said: I would be contradicting myself, if I

2e-3

1 said "Yes" to that; because I said I would be willing to
2 sit and listen impartially -- except for this phase, this --
3 this Shea situation.

4 Q Yeah. Okay.

5 A But you'd have to convince me beyond a reasonable
6 doubt -- which I doubt that you could.

3 fls.

3-1

1 Q I'm not making myself clear.

2 Can you be fair to the People in Count III, knowing
3 that we will not be able to produce a body?

4 A I don't know what you mean by being fair to the
5 People. How can I --

6 Q Well, you know --

7 Let me ask you this, Mr. Costello: When you know
8 that we will not be able to produce a body or an eyewitness
9 to the killing, a person that saw the body in death, do you
10 lean one way or the other right now? Do you lean in favor of
11 Mr. Davis?

12 A I don't lean in favor of Mr. Davis or in favor of
13 the State. These are my own personal thoughts and beliefs.
14 I see no way in the world that I can be made to believe that
15 a person is dead when no one has seen their body, the corpse.
16 There have been no eyewitnesses.

17 Q Um-hmmm.

18 You see no way in the world, that no one can
19 convince you of that?

20 A That's right. That's right.

21 Q Well, to my mind, Mr. Costello, that makes me
22 think what -- what you are saying, that no matter what
23 evidence we will put on in this courtroom, you would never
24 believe that Mr. Shea is dead.

25 A You know, we --

26 Q Would you answer that, Mr. Costello?

27 A If you will give me a chance.

28 In the case of murder, and unless -- a lesser

3-2

1 offense, where there's life involved, this is where I say I
2 would require more de- -- more evidence.

3 I repeat, I'll make it perfectly clear, I would --
4 I -- there's no way that you could prove to me that this man is
5 dead.

6 MR. MANZELLA: People would challenge Mr. --
7 respectfully challenge Mr. Costello.

8 PROSPECTIVE JUROR COSTELLO: Thank you.

9 MR. MANZELLA: For cause, under Section 1073, Subdivision
10 2 of the Penal Code for actual bias in that he could not act
11 fairly and impartially without prejudice to the substantial
12 rights of the People in the guilt phase of this trial.

13 MR. DENNY: May I inquire before the Court rules on that?

14 THE COURT: Yes.

15
16 VOIR DIRE EXAMINATION

17 BY MR. DENNY:

18 Q Mr. Costello, understanding that your feelings
19 again -- that you have expressed, some people would have
20 expressed them just as eloquently as you, but there are, of
21 course, cases where bodies are never recovered; during the
22 Service, during the war.

23 You are aware of those cases?

24 A Yes.

25 Q And it is pretty clear the people have died.

26 There are cases, for instance, where somebody may
27 have seen a car drive off a thousand-foot embankment into the
28 ocean and by the laws of physics and every other law, nobody

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1 could have survived that crash, and yet the body is never
2 recovered.

3 So, circumstantially, that death has to be
4 established; do you understand that?

5 A (Nods head.)

6 THE COURT: Do you?

7 PROSPECTIVE JUROR COSTELLO: Yes, I do.

8 THE COURT: Answer aloud.

9 Q BY MR. DENNY: All right. There are a number of
10 different ways in which a death may be established without a
11 body.

12 Again, I'm sounding like a prosecutor, but I have
13 to try to probe your thinking here.

14 When you say that there is no way that you would
15 find someone is dead without a body, I'm just positing to you
16 certain situations in which almost any reasonable person
17 would say, well, though there is no body, it is clear that the
18 guy died.

19 Now, do you accept the fact that there are some
20 circumstances in which the proof of death without a body would
21 be something that you could accept and that you could go along
22 with?

23 A No.

24 MR. MANZELLA: People would renew their challenge under
25 Section 1073, Subdivision 2.

26 THE COURT: It seems to be well taken.

27 MR. DENNY: No further questions.

28 THE COURT: It seems to be well taken, and the Court

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1 grants the challenge.

2 You are excused, then.

3 THE CLERK: Michael P. Timothy, T-i-m-o-t-h-y.

4 THE COURT: What's his name?

5 THE CLERK: Michael Timothy.

6

7

VOIR DIRE EXAMINATION OF

8

MICHAEL P. TIMOTHY

9

BY THE COURT:

10 Q Mr. Timothy, you have been present during all of
11 the proceedings since last Friday, have you not?

12 A Yes.

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

15 A No.

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1 Q Would your answers be the same as the majority
2 of jurors have responded to the Court's questions of a general
3 nature?

4 A Yes.

5 Q Can you think of any respect in which your
6 answers would vary from what the majority have responded
7 to the Court?

8 A No.

9 Q Do you know of any reason whatever as to why you
10 could not or should not sit as a juror in this case?

11 A No.

12 Q Regarding the penalty phase or the death penalty,
13 would you have such views about it that you would automatically
14 refuse to impose it regardless of the evidence?

15 A No.

16 Q And would your views about the death penalty
17 be such that you would automatically impose it upon a
18 conviction of murder of the first degree without regard to
19 the evidence?

20 A No.

21 Q Would you ever consider -- strike that.
22 Would you refuse to impose the death penalty in
23 any case?

24 A No.

25 Q Have you been a juror before?

26 A No.

27 Q This is your first case of any type?

28 A That's right.

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Q What type of work do you do?

A I work for the Gas Company.

Q Southern California Gas Company?

A Yeah.

Q And how long have you been so employed and what is the nature of your employment with them?

A 20 years.

Q What do you do for them?

A Maintenance on pipelines.

Q Keep that microphone up.

A Maintenance on pipelines.

Q You're one of these fellows that digs up the street every so often?

A That's right.

(Laughter.)

Q BY THE COURT: Is there a Mrs. Timothy?

A No.

Q Have you ever been married?

A No.

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

A Well, I know a couple.

Q A couple of law enforcement officers?

A Yeah.

Q Are those close friendships?

A No, they're not close friendships.

Q Are they neighbors?

A No, I just see them occasionally.

3a-3

1 Q You see them occasionally?

2 A Yeah.

3 Q And would these relationships in any way affect
4 your judgment in this case?

5 A No.

6 Q In what general area do you reside?

7 A Wilshire District.

8 Q Would somebody who is a member of the Manson
9 Family -- do you know what that term means?

10 A Yeah.

11 Q Would somebody who is a member of the Manson
12 Family be at any disadvantage in having you as a juror?

13 A No.

14 Q You believe that you can still judge the evidence
15 fairly and impartially?

16 A That's right.

17 THE COURT: All right, we'll resume with you, then,
18 Mr. Timothy, at 1:45. We'll recess until 1:45. During the
19 recess you are admonished, ladies and gentlemen, that you
20 are not to converse amongst yourselves, nor with anyone
21 else, nor are you to permit anyone to converse with you on
22 any subject connected with this matter, should you be chosen
23 as a juror.

24 All right, we're in recess.

25 (Whereupon, at 11:56 o'clock a.m. the noon
26 recess was taken.)

27

28

1 LOS ANGELES, CALIFORNIA, FRIDAY, DECEMBER 17, 1971, 2:37 P. M.

2
3 THE COURT: All right. Let's get the jury in.

4 MR. DENNY: Well, your Honor, before you get the jury in,
5 I would like to put this on the record. And this is why I'm
6 looking at the file.

7 Your Honor, I would like to have introduced -- at
8 least, marked for identification at this time as Defendant's
9 Special Exhibits -- and I think we have Special Exhibits A-1
10 through 23 or 24, in connection with the change of venue
11 motions.

12 So, if these can be B-1 through 8, the first items?
13 A-1 through -7 are seven photographs, which appear to be
14 microphotographs of bullets, comparison photographs. And the
15 last, which would be A-8 -- or B-8 -- is a copy of a report,
16 a brief report from the Sheriff's Crime Lab.

17 Your Honor, I've showed the bullets and the report
18 to Mr. Manzella. I would like to show them to the Court at
19 this time.

20 And as soon as the order is found in the file, I
21 would like to have the Court peruse that order.

22 I can, however --

23 THE COURT: Well, the Court has looked at the photo-
24 graphs.

25 (Pause in the proceedings while a discussion off
26 the record ensued at the counsel table between Mr. Denny and
27 the clerk.)

28 MR. DENNY: Well, your Honor, let me -- I'm sure the

1 Court recalls. Let me refresh the Court's recollection, since
2 we don't seem to be able to find the order at the present time.

3 But the Court signed an order, and the date of the
4 order is on B-8 to the effect that the Sheriff should make
5 photomicrographs, comparison photographs, of the bullet -- I
6 believe People's Exhibit 30 or 31 in the Manson case; I can't
7 recall exactly which -- but it is the bullet that was recovered
8 from the Hinman home, and the test bullet fired by them on or
9 about March 13, 1970;

10 That the photographs were to be in either a
11 sequence of six photographs, showing the comparison of the
12 impressions of the recovered bullet and the test bullet, of
13 each land, there being six land impressions on the bullets --
14 or, three photographs showing, in the photograph itself, two
15 land impressions of each bullet.

16 They have given me, through Mr. Manzella,
17 purporting to be by their report, in response to that order,
18 seven photographs, numbered 1 through 6; the last photograph,
19 7, being apparently a duplicate of 6, since they bear on the
20 bottom numbers 1 through 6.

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1 Your Honor, they have either purposely sought
2 to mislead me or there is the most gross sort of negligence
3 involved in the production of those photographs.

4 I'd ask the Court to look, without putting them
5 away, your Honor --

6 THE COURT: I'll look at them later. I am going to
7 call the jury in now and continue with the jury selection.
8 I'll hear from you later on the subject.

9 Let's get the jury in.

10 MR. DENNY: May I just request, your Honor, that you
11 do look specifically, while we are voir diring the jurors,
12 at the photographs 2 and 3 and photographs 5 and 6, which
13 are identical. They are not different photographs of the
14 different land impressions, they are identical photographs
15 of the same land impressions.

16 (Whereupon, the prospective jury panel was
17 brought into the courtroom, and the following
18 proceedings were had:)

19 THE COURT: Everyone is in place.

20 The defendant is present. Mr. Manzella is
21 present. Mr. Denny is present and all prospective jurors
22 are present.

23 I think, Mr. Timothy, we were talking to you
24 when we recessed, were we not?

25 PROSPECTIVE JUROR TIMOTHY: Yes.

26
27 VOIR DIRE EXAMINATION OF
28 MICHAEL P. TIMOTHY

1 BY THE COURT:

2 Q Do you have such views concerning the death
3 penalty --

4 Had I talked to you about death penalty, Mr.
5 Timothy?

6 A Yes.

7 Q I think I had.

8 Now, had I talked to you about the Manson Family?

9 A Yes.

10 THE COURT: I think, then, we were about to have Mr.
11 Denny talk to you.

12 Mr. Denny, you may question Mr. Timothy.

13 MR. DENNY: Thank you, your Honor.

14
15 VOIR DIRE EXAMINATION

16 BY MR. DENNY:

17 Q Mr. Timothy, do I detect a bit of an Irish brogue
18 there?

19 A That's right.

20 Q I thought so.

21 And you've worked at the Southern California Gas
22 Company for 20 years.

23 Where did you work before that, sir?

24 A I worked in Chicago.

25 Q And before that?

26 A In Toronto, Canada.

27 Q And have you ever done any kind of work in the
28 field of law enforcement?

1 A No.

2 Q Do you have any friends or relatives in law
3 enforcement of any kind?

4 A Not friends or relatives.

5 Q I think you indicated that you do know a couple
6 of police officers, is that correct?

7 A I know a sheriff, police.

8 Q A deputy sheriff, is that it?

9 A A deputy -- no, just a sheriff, a member of the
10 Sheriff's Department.

11 Q A member of the Sheriff's Department?

12 A A member of the Sheriff's Department.

13 Q Well, does he wear a uniform?

14 A I guess so. I've never seen him in his uniform.

15 Q I see, all right.

16 And, sir, considering the question again, of
17 this hypothetical situation, as we get into the death penalty;
18 have you ever done any reading on it?

19 A No.

20 Q Or discussed it at all?

21 A Well -- no, and, --

22 THE COURT: Mr. Gould, you're going to have to wait
23 to drink your coffee. I'm sorry I caught you at an
24 inopportune time.

25 Q BY MR. DENNY: All right.

26 And I take it, again, because of the answers you
27 have already given the Court, that if it should come to pass
28 in this case that you found the defendant guilty of first

1 degree murder, by whatever means, again, an accomplice having
2 done it himself, willful, premeditated, deliberate felony
3 murder, whatever, but having found beyond a reasonable
4 doubt and to a moral certainty that he was guilty of that,
5 would you then automatically, because he had been found
6 guilty of first degree murder, and without more, vote to
7 impose the death penalty?

8 A No.

9 Q You'd look at all of the evidence?

10 A Yes.

11 Q And all of the factors?

12 A That's right.

13 Q The defendant himself, and anything else that
14 you deemed relevant, whether you felt the death penalty was
15 a good thing or a bad thing, and taking all of those circum-
16 stances into account, determine whether or not you would
17 vote life or death; is that right?

18 A That's right.

19 Q Now, sir, have you, yourself, ever been the
20 victim of any sort of crime?

21 A No, sir.

22 Q Or been charged with any sort of crime?

23 A No.

24 Q Or any friend or loved one ever been the victim
25 of a crime?

26 A No.

27 Q Or charged with a crime?

28 A No.

1 Q And have you been in the Service at all, sir?

2 A No.

3 Q Now, again, without going back over all of the
4 questions I asked the other jurors, I take it you have heard
5 those questions during the week now that you have been
6 sitting here?

7 A Yes, that's right.

8 Q All right. And were there any questions that
9 I asked that gave you any pause for reflection when you
10 heard them?

11 A No.

12 Q You felt you could answer those questions the
13 same as the jurors who are presently sitting in the box have
14 answered them?

15 A Well, yes.

16 Q Insofar as the idea of a defendant's not testi-
17 fying, for instance, would you draw any adverse inference --

18 A No.

19 Q -- against him?

20 A No.

21 Q Or would you permit yourself to even consider
22 filling in the gaps in the People's case by that, if there
23 were gaps in the People's case?

24 A No.

25 Q If there are gaps there; you understand?

26 A Yes.

27 Q The defendant's not testifying --

28 A Yes.

1 Q -- or not putting on defense evidence even --

2 A Yes.

3 Q -- isn't going to fill in what isn't there?

4 A Yes.

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

6
7 VOIR DIRE EXAMINATION

8 BY MR. MANZELLA:

9 Q Mr. Timothy, you've never been involved in the
10 defense of criminal cases?

11 A No.

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

13 A No.

14 Q Did you say you had served on a jury in this
15 tour of duty?

16 A No, I haven't.

17 Q With regard to the death sentence, I take it
18 from the answers you have given to the Judge's questions and
19 Mr. Denny's questions that if you sat on this jury, having
20 heard all of the evidence in the case and convicted Mr.
21 Davis, this defendant, of first degree murder, that you
22 would be able and willing to decide whether or not he
23 should receive the death sentence?

24 A That's right.

25 Q And if you decided, having heard all of the
26 evidence, and having convicted this defendant of first
27 degree murder, if you decided that for these crimes this
28 defendant did deserve the death sentence, that you would be

1 able and willing to vote for it, is that correct?

2 A Yeah.

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1 Q All right. Is there any doubt in your mind about
2 that?

3 A No.

4 Q You've heard the questions that have been referred
5 to with regard to Count III of the indictment, charging this
6 defendant with the murder of Donald Shorty Shea, and the fact
7 that the People will not be able to produce a body or a person
8 who saw the body in death; in other words, somebody who saw the
9 killing.

10 Have you heard the answers of the other jurors?

11 A Right.

12 Q All right. Does that fact in any way make you think
13 you could not be fair to the prosecution, to the People in this
14 case?

15 A No, I don't think so.

16 Q Do you lean towards the defense at this moment,
17 knowing that we will not be able to produce a body?

18 A (Pause) No, I don't.

19 Q Is there any doubt in your mind?

20 A No.

21 Q So, as you sit there right now, you are willing
22 to be convinced beyond a reasonable doubt that Shea's been
23 murdered, --

24 A Yeah.

25 Q -- and that this defendant murdered him?

26 A Yeah.

27 Q Do you have any quarrel with that? Does that
28 strike you as unfair in any way, that the law permits a person

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1 to be convicted of first degree murder, even though the body of
2 the victim has not been found?

3 A Well, not if it's proved beyond a reason of a doubt.

4 Q That's what the law requires, --

5 A Yes.

6 Q -- so you have no quarrel with that rule?

7 A No.

8 Q All right. Now, did you hear all the questions
9 that were asked by Mr. Kay and myself of the other jurors?

10 A Yeah.

11 Q And did you -- were you able to hear the answers
12 given by the other jurors?

13 A Yes.

14 Q And did any of those questions or answers make you
15 think of anything that you think we ought to know? About your
16 state of mind?

17 A Well, no. Not that I can think of.

18 Q Okay. None of those questions gave you any
19 trouble? You didn't have any quarrel with any of the proposi-
20 tions of law --

21 A No.

22 Q -- that were stated by either side?

23 A No.

24 MR. MANZELLA: All right. Thank you, Mr. Timothy.

25 The People pass for cause, your Honor.

26 THE COURT: Does either side wish to examine Mr. Timothy
27 concerning publicity?

28 MR. DENNY: Yes, I think so, your Honor.

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1 THE COURT: All right. Then we'll ask the rest of you to
2 leave. You'll have a chance to drink your cup of coffee.

3 And don't converse about the case, nor permit
4 anyone to converse with you about it during the time that you
5 are out in the hall.

6 Except for Mr. Timothy, would you all just move
7 into the hallway, then?

8 (Pause in the proceedings while the members of the
9 jury panel exited the courtroom.)
10

11 FURTHER VOIR DIRE EXAMINATION

12 BY THE COURT:

13 Q Mr. Timothy, we are interested in what you may have
14 heard, seen or read about this case, previous to coming in
15 here. Had you previously heard about this indictment?

16 A Not about this present case.

17 Q Not about this case?

18 A No.

19 Q Had you ever heard the name Davis?

20 A I couldn't say I have.

21 Q Have you ever heard the name Shorty Shea?

22 A Yes, I have.

23 Q What had you heard about -- heard, seen or read
24 about that name?

25 A Well, that he had disappeared.

26 Q And that somebody was looking for him?

27 A Yeah, that's right.

28 Q Do you know where they looked for him?

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1 A Well, out at some ranch.

2 Q Some ranch?

3 A Some ranch.

4 MR. DENNY: I wonder if Mr. Timothy could hold that
5 microphone up a little bit closer, so we could hear?

6 PROSPECTIVE JUROR NO. 8: Yeah.

7 Q BY THE COURT: You are a very soft-spoken man,
8 and I think we need that microphone for you.

9 What part of the auld sod are you from?

10 A County Galway.

11 Q Were you born there?

12 A Yes.

13 Q Kind of a foolish question, in view of your
14 accent.

15 To get back to the subject at hand, however,
16 had you heard the name Hinman before? Gary Hinman?

17 A Hinman? Was he a musician?

18 Q Yes. Often, in the press, he was stated to be
19 "Musician Gary Hinman."

20 A Yes, I have.

21 Q What have you heard about that name? Heard, seen
22 or read about that?

23 A Well, that he got murdered.

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1 Q All right. Now, having in mind that the People
2 have to establish these killings; that the People's burden is
3 to prove these killings, and to prove that the victims were --
4 the alleged victims were killed unlawfully, illegally, having
5 that in mind, that that's one of the elements, the death, the
6 unlawful death is one of the elements, do you think that the
7 People would have an easier time as a result of what you have
8 heard, seen or read? Or could you set aside whatever you've
9 heard, seen or read in order to make your judgment solely on
10 the evidence in this case?

11 A Yes, I could.

12 Q You could set it aside?

13 A I could set it aside.

14 Q Do you have any doubt about your ability to set
15 aside what you may have heard, seen or read in the news media?

16 A No.

17 Q So that -- am I describing your mind accurately,
18 if I say that you would, for the purpose of sitting as a juror
19 in this case, wipe your mind clean of anything that you may
20 have heard, seen or read concerning Mr. Manson, the Manson
21 Family, or this case?

22 A That's right.

23 Q Do you read a newspaper daily?

24 A Yes, I do. I just read the headlines, mostly.

25 Q Did you follow the Tate-LaBianca trial?

26 A No, sir, I never had the full story. I followed
27 the headlines. I looked at the headlines, and seen some
28 pictures; and that was about it.

1 Q That was about it?

2 A Yes.

3 Q Did you form any opinions about the Manson Family?

4 A No, I couldn't say that I did.

5 Q Well, you didn't think they were a group of
6 do-gooders, did you?

7 A No, I didn't.

8 Q You thought there was probably something wrong
9 with them?

10 A Something wrong, yes.

11 Q You knew them to be hippies, didn't you?

12 A Yeah, that's right.

13 Q Well, now, does that set forth in your mind any --
14 any ill feeling toward somebody who might have been a member
15 of that group?

16 A Well, if I were to give them justice, I'd give
17 them justice.

18 Q In other words, the mere fact of association with
19 that group wouldn't prejudice you against a member of that
20 group?

21 A No, it wouldn't.

22 Q All right. I'll ask you, then, whether you
23 believe that you can be fair and impartial, even though you
24 may have heard, seen or read something concerning this case --
25 and many things, perhaps that you can't remember now, and you
26 may recall later -- but will you set those matters aside and
27 decide the case only on the evidence?

28 A Yes, I would.

1 Q And would you be fair and impartial?

2 A I'd be fair.

3 THE COURT: Mr. Denny?

4

5 VOIR DIRE EXAMINATION

6 BY MR. DENNY:

7 Q Sir, in response to the judge's question, when he
8 asked you if you'd be prejudiced at all against one of the
9 members of the Manson Family, I believe you answered, "I'd
10 give him justice."

11 A Yes.

12 Q Was that your answer?

13 A Yes.

14 Q And do you have anything particular in mind when
15 you say that?

16 A Well, no. I would have to hear the evidence
17 first.

18 Q Some people's idea of giving them justice is, you
19 know, "We will give them a fair trial before we take them out
20 and hang them."

21 A Yeah, that's right. I've heard that.

22 Q And this is not what you are thinking about?

23 A That's not what I am thinking.

24 Q So, the mere fact that a man may have associated
25 with Mr. Manson or the Manson Family isn't going to make any
26 difference, as far as you are concerned, as to how you view
27 the evidence; is that right?

28 A No, that's right.

1 Q And that if he's a member of the Manson Family, or
2 the King Sisters or whatever, you'd still have to have proof
3 beyond a reasonable doubt?

4 A That's right.

5 Q And to a moral certainty, before you'd find him
6 guilty?

7 A That's right.

8 Q All right, sir. What is the latest bit of
9 information that you have heard, seen or read about Mr. Manson
10 or any member of the Manson Family? Do you recall?

11 A Well, when I went home Friday evening, my landlady
12 said, "Did you hear about Manson?"

13 And I told her I was on jury duty, and she says,
14 "You don't have to worry any more about him."

15 Q And did she go further into it than that?

16 A She said that he was sent to San Quentin.

17 Q Well, did she say anything more than that?

18 A No.

19 Q Did you tell her --

20 A I told her that I was on jury duty.

21 Q And you didn't want to hear any more?

22 A Yeah.

23 Q All right. You don't know why he was sent to San
24 Quentin?

25 A Well, I -- I could guess.

26 Q Well, what is your guess?

27 A That he was sent for these murders.

28 Q Which murders?

1 A Well, I don't know.

2 Q Well, you've heard about some murders that he has
3 been connected with?

4 A Yeah.

5 Q Isn't that right?

6 A Yeah, but -- them -- the Tate --

7 Q The Tate and LaBianca murders?

8 A Yeah. And Shorty Shea.

9 Q And Shorty Shea?

10 A Yeah.

11 Q Well, did you hear that he was convicted of killing
12 Shorty Shea?

13 A Well, I didn't hear he was convicted. I just heard
14 he got sent to San Quentin.

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1 Q Well, did your landlady tell you that he was
2 sent to San Quentin?

3 A No, she didn't. She said, "We don't have to
4 worry any more about him, he was sent to San Quentin."

5 Q Well, I don't understand then how you associate
6 Mr. Manson with Shorty Shea.

7 What is it you heard connecting him with Shorty
8 Shea?

9 A Well, I didn't hear -- I thought it was all in
10 the same case. I never read the cases, I just went by
11 headlines.

12 Q You understand the Tate-La Bianca murders were
13 tried in one trial, and are separate and distinct from the
14 Shorty Shea and the Gary Hinman cases; do you understand
15 that?

16 A Yeah.

17 Well, I never read -- I never read it. I never
18 read the papers, I just read the headlines, what went on
19 and --

20 Q Well, what's the most recent headline that you
21 read concerning Mr. Manson?

22 A Gee, I couldn't remember.

23 Q Well, what's the most recently you can remember
24 having read anything about Mr. Manson in the headline;
25 within the last week, a couple of weeks, the last month?

26 A Oh, it would be the last month.

27 Q Within the last month?

28 A Yeah.

7-2

1 Q Well, do you remember what you read about it?

2 A I remember something about Watson.

3 Q Tex Watson?

4 A Yeah.

5 Q Do you remember something --

6 A That was about the last thing I read about that.

7 Q His being convicted of the Tate-La Bianca
8 killings?

9 A I didn't read about his being convicted. I just
10 read about it.

11 Q Does the name Steve Grogan ring a bell at all to
12 you, sir?

13 A No.

14 Q Well, do you recall having heard, seen or read
15 about anyone being charged with the alleged killings of Gary
16 Hinman and Shorty Shea?

17 A No, I can't say that I have.

18 Q Or being tried for them?

19 A No, I can't say that I have.

20 Q Well, is it your impression, as you sit there
21 now, that Mr. Davis is the first person who has been charged
22 and is being tried or who has been charged with those murders
23 or alleged murders?

24 A I thought I heard something about a girl.

25 Q A girl?

26 A Yeah.

27 Q Being charged with --

28 A The murder of --

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Q -- one of the murders?

A Of the musician.

Q Of Gary Hinman?

A Yeah.

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7a-1

1 Q Does the name Bobby Beausoleil ring a bell or
2 Bëausolail, as it has been pronounced?

3 A I couldn't say.

4 Q Mary Brunner?

5 A Yeah, I remember her name.

6 Q All right.

7 A I couldn't associate her with that murder.

8 Q With the Hinman murder?

9 A No, I couldn't.

10 Q Well, is it your impression, then, that some girl
11 has been charged with the murder of Gary Hinman?

12 A Yeah. I remember something of that.

13 Q All right. Do you remember what it was that
14 you read about that?

15 A Well, uh, some stabbing or something.

16 Q Some stabbing?

17 A Stabbing, yeah.

18 Q Of Gary Hinman?

19 A Yes.

20 Q I see.

21 Well, as the Judge asked you, it may be as you
22 hear things, if you are seated as a juror, as you hear
23 things from the witness stand right up there, they may
24 trigger something in your memory as to what you have seen,
25 heard or read about the case.

26 A Yeah.

27 Q Do you think that you can consciously be aware
28 that, "Oh, that thing that I have just thought about is not

7a-2

1 evidence"?

2 A Yeah.

3 Q And put that aside?

4 A Yeah.

5 Q And consciously put it aside and not consider it
6 in determining the guilt or innocence of Mr. Davis in this
7 case?

8 A Yes, I could.

9 Q And if anybody else in the jury has any tendency
10 to bring up stuff that has not been brought out in evidence,
11 but has come from newspapers or TV, would you have any
12 difficulty in saying during your deliberations, "We can't
13 consider that. You are not supposed to consider that.
14 We're only supposed to consider the evidence."

15 A The evidence, yeah.

16 Q All right. And that's all you would consider?

17 A That's all I would consider.

18 Q And the law given to you by this Court?

19 A That's right.

20 Q Now, as far as hippies go, do you have any
21 feelings about hippies, sir, that --

22 A Well, no, I don't, so long as I don't have to
23 associate with them. I don't. They can --

24 Q So long as they go their way and you go yours?

25 A That's right.

26 Q All right.

27 Now, if you are seated in a case wherein hippies
28 may have been involved, whatever you think of as hippies, do

1 you think that you would automatically be prejudiced against
2 the testimony of a person who is described as a hippie or
3 who describes himself as a hippie?

4 A No, I don't.

5 Q How about drug users? Do you have such feelings
6 about the use of drugs by people that you would automatically
7 tend to discount their testimony?

8 A No, I don't think so.

9 Q Well, you paused quite a while on that, and I
10 suppose you were thinking very hard about that.

11 A Hmm.

12 Q You must have some --

13 A Well, I never met any people that uses drugs and
14 I -- I don't know very much about them.

15 Q Well, I take it you don't have such strong
16 feelings against such people, then, that it would affect
17 your ability to judge them fairly?

18 A Oh, no.

19 Q When they're testifying?

20 A No.

21 Q All right, sir.

22 I'll pass for cause, your Honor.

23 MR. MANZELLA: I have no questions on publicity.

24 Thank you, Mr. Timothy.

25 THE COURT: You may be seated just a moment, Mr.
26 Timothy.

27 Both sides pass for cause, it is the peremptory
28 challenge of the defendant.

1 MR. DENNY: We accept the jury, your Honor.

2 MR. MANZELLA: People accept the jury, your Honor.

3 THE COURT: All right, bring the panel back in.

4 (Whereupon, there was a pause in the proceedings
5 while the prospective jury panel was brought into the
6 courtroom.)

7 THE COURT: All right, ladies and gentlemen, would
8 you please rise and raise your right hands.

9 THE CLERK: You, and each of you, do solemnly swear that
10 you will well and truly try the cause now pending before this
11 court, and a true verdict render therein, according to the
12 evidence and the instructions of the Court, so help you
13 God?

14 THE JURORS: I do.

15 THE COURT: Please be seated.

16 Ladies and gentlemen, you 12 have been selected
17 as jurors in this case.

18 At this time I can excuse you and allow you
19 to return the first day -- the first court day of January.

20 Will counsel approach the bench? We needn't have
21 the reporter.

22 (Whereupon, proceedings were had at the bench
23 among Court and counsel, outside the hearing of the
24 jury, which was not reported:)

7b' fls.

25

26

27

28

7b

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

3 THE COURT: Mr. Mortensson, are you satisfied with your
4 previous answers in connection with hardship?

5 JUROR MORTENSSON: No.

6 THE COURT: You've changed your mind in connection with
7 it?

8 JUROR MORTENSSON: Yes, I have.

9 Shall I proceed?

10 THE COURT: Well, would it be any personal hardship for
11 you to proceed?

12 JUROR MORTENSSON: Yes, I am afraid it would. What
13 has -- shall I explain?

14 THE COURT: Is it any different than it was when you
15 explained it to me before?

16 JUROR MORTENSSON: Yes. It changed since then.

17 The medical center has now received approval to
18 start the planning of the new hospital, and at the time I
19 answered Mr. Denny's question, at first, I said I thought I
20 could clean up my things in the ensuing two weeks.

21 And then, his question, will I -- if I felt that
22 the pressures of work might detract from my time here, my
23 deliberations, I said I thought, having the two weeks in which
24 to clean up my affairs, I can proceed in that manner.

25 Since that time, we have received this approval to
26 proceed and I am afraid it would be very much of a hardship
27 to try and keep that going, as I would be expected to, and to
28 give the full attention to this matter.

1 THE COURT: Well, nevertheless, in spite of the fact it
2 would be difficult, would you be able to give your full
3 attention to the trial?

4 JUROR MORTENSSON: I would be able to give my -- I think,
5 the full attention during the court time, but I would be --

6 THE COURT: That's what I meant.

7 JUROR MORTENSSON: But I would be working other hours to
8 supplement what I should be doing at the medical center. I
9 am trying to be very honest about this in bringing out all the
10 facts.

11 THE COURT: Well, as long as -- you understand that the
12 Court is not going to sequester you. You'd have afternoons
13 free and you'd have other time free.

14 JUROR MORTENSSON: Yes, I'd have evenings free and
15 weekends free and I --

16 THE COURT: And the only time that you would not be --
17 the only time that you would not be free would be during the
18 time that you are deliberating, which is anticipated, as you
19 know, as some time in February.

20 JUROR MORTENSSON: Yes, sir.

21 Well, I think one of the problems is I would be
22 very involved in conferences and such that would normally be
23 during the normal court time, and I would have to miss those
24 and try to keep up with the progress of the work from notes
25 and, also, working evenings and weekends.

26 THE COURT: You gentlemen want to approach the bench.
27
28

8-1

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

4 THE COURT: Well, I wish that I had asked one more
5 question of everybody, whether there was any -- there was
6 anything that's changed since they had been asked questions by
7 the Court and counsel. I had intended to do that.

8 MR. DENNY: Well, Judge, I don't think it's too late to
9 do that, I -- I think that this is why they have the system of
10 alternate jurors, too. And we haven't even gotten into the
11 alternate jurors.

12 So, I don't think we are in a case where even
13 having been sworn, if there's some different answer -- and I
14 would --

15 MR. MANZELLA: I agree with Mr. Denny.

16 THE COURT: It might be possible to change one juror.
17 However, you could change the complexion of the group, such
18 that it might prolong the selection.

19 That's what I had in mind.

20 Of course, if that's necessary, then we'll have to
21 do it.

22 Do you wish to ask any questions of this man?

23 MR. DENNY: Well, I was just going to ask him whether he
24 felt that the strain of work would create some -- either physical
25 or psychological hardship on him.

26 He seems to be damned conscientious, and my only
27 feeling is -- although lawyers are expected to work 25 hours a
28 day and eight days a week, I don't think jurors are.

1 And I want to be in a position -- I don't want to
2 be in a position of causing this guy significant hardship from
3 that standpoint.

4 THE COURT: Yes. He is not a young man, and --

5 MR. DENNY: That's right. And he does -- he does seem
6 willing to assume it, but on the other hand, if it's going to
7 be a real problem to him, then I think we should excuse him
8 for hardship.

9 THE COURT: All right. Let's quiz him some more about
10 it, then.

11 MR. DENNY: And the panel, too, Judge.

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

14 THE COURT: Is there anyone else whose answers, ladies
15 and gentlemen, to any questions that were put to you, to him
16 or her, at the time of the voir dire examination, by the Court
17 and counsel, would change?

18 Is there anyone who would answer any differently
19 to any question that was put to him or her at the time of
20 examination by the Court or counsel?

21 (No affirmative response.)

22
23 FURTHER VOIR DIRE EXAMINATION OF

24 N. HOLGER MORTENSSON

25 BY THE COURT:

26 Q Mr. Mortensson, would you feel that this might
27 be a -- too much of a physical or a mental burden upon you?

28 A I'm concerned it may be a very heavy physical

8-3

1 burden, more than a mental burden.

2 Q Do you think that -- that your health might suffer
3 as a result? Have you been in good health?

4 A Yes, I have been in good health.

5 But when I anticipate spending the day here, and
6 trying to catch up every evening, I'm a little concerned.

7 Q You want to maintain your good health?

8 A I would like to.

9 MR. DENNY: Your Honor, I think we'd both stipulate
10 that, under the circumstances, we certainly appreciate your
11 situation, sir, and you may be excused for hardship.

12 MR. MANZELLA: So stipulated, your Honor, in view of
13 Mr. Mortensson's situation.

14 THE COURT: All right. In spite of the fact that you
15 have been sworn, there is a stipulation that you may be
16 excused. And the Court would agree that it does constitute
17 a hardship, and the Court does excuse you. Thank you.

18 Would counsel again approach the bench, with the
19 defendant?

20 (Whereupon, the following proceedings were had at
21 the bench among Court, counsel and the defendant, outside the
22 hearing of the jury and the prospective jury panel;)

23 THE COURT: Mr. Davis, you have understood what has gone
24 on here? Have you had an opportunity to talk with Mr. Denny
25 about it in connection with Mr. Mortensson?

26 MR. DENNY: Well, we have not discussed it at all,
27 but I can say that, normally, it's not the normal thing for a
28 juror to be excused once they have been sworn.

8-4

1 But it's our feeling -- my feeling, certainly, too
2 -- that it's not going to do anybody any good to have a juror
3 on a panel whose mind is so occupied with other things that he
4 can't listen to the evidence.

5 I want people who can listen to the evidence and
6 decide it properly, based on that evidence. So that's why --

7 THE DEFENDANT: Yeah. Well, the guy, if he don't want to
8 be here, there's no use making him be here.

9 THE COURT: Well, what the Court is seeking is your con-
10 sent to the defendant being -- to the juror's being excused.

11 You agree to that, --

12 THE DEFENDANT: Yeah, I agree.

13 THE COURT: -- to his being excused?

14 All right. Let's proceed, then. And we will call
15 another name.

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

THE CLERK: Jimmie A. Furnace; J-i-m-m-i-e; last name, F-u-r-n-a-c-e.

VOIR DIRE EXAMINATION OF

JIMMIE A. FURNACE

BY THE COURT:

Q Mr. Furnace, have you been present during all the proceedings thus far?

A Yes, I have.

Q Would your answers be any different than the majority of jurors have responded to the questions of a general nature, that the Court has put to them?

A No.

Q Can you think of any respect in which your answers would differ, to that series of questions that I've put to the prospective jurors?

A No.

Q Concerning the question of hardship, would it be any hardship to you to serve in this case?

A Yes, I'm afraid it would.

Q Why would that be so?

A Well, because of my wife's health condition, and my job, only allowing me one month.

Q By what company are you employed?

A The Deelin Service Company. That's contracted

8a-2

1 to the Gas Company.

2 Q And they pay you only for a limited number of
3 days?

4 A That's right.

5 Q And you do rely on your earnings to support
6 yourself and your family?

7 A That's right.

8 MR. MANZELLA: We'd stipulate it constitutes a hardship,
9 your Honor.

10 MR. DENNY: So stipulate, your Honor.

11 THE COURT: All right. Then thank you, Mr. Furnace.
12 The Court does excuse you, finds that it is a hardship,
13 and appreciates your being here.

14 Can he be excused until Monday -- do you have any
15 time left? On jury duty?

16 PROSPECTIVE JUROR NO. 11: One week.

17 THE COURT: You have a week left?

18 Could he be excused until Monday, to report to
19 Room 253?

20 THE CLERK: Yes, sir.

21 THE COURT: Room 253 at 9:00 o'clock. You needn't
22 go over there now.

23 PROSPECTIVE JUROR NO. 11: Thank you.

24 THE CLERK: Manuel Candelaria; M-a-n-u-e-l; last name,
25 C-a-n-d-e-l-a-r-i-a.

26
27 VOIR DIRE EXAMINATION OF
28 MANUEL CANDELARIA

8a-3

1 BY THE COURT:

2 Q Mr. Candelaria, have you been present during all
3 the proceedings thus far?

4 A Yes.

5 Q Would your answers be any different than the
6 majority of jurors have responded to the Court's questions of
7 a general nature?

8 A No.

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

11 A Yes, it would.

12 Q Tell me about that.

13 A Because they won't pay me for the length of the
14 trial.

15 Q I'm sorry?

16 A Because I won't be paid for the length of the
17 trial.

18 Q I see. There's -- whom do you work for?

19 A RCA Service Company.

20 Q And you've inquired since I asked you --

21 A Right.

22 Q -- and found out that your pay stops at 30 days?

23 A Right.

24 Q Or 20 days?

25 A Right.

26 Q And your salary, too, is utilized for the support
27 of yourself and family?

28 A Yes, sir.

8a-4

1 MR. MANZELLA: We'd stipulate it constitutes a hard-
2 ship, your Honor.

3 MR. DENNY: So stipulate.

4 THE COURT: Thank you, Mr. Candelaria. You are excused,
5 and you may be excused until Monday morning at 9:00 o'clock.
6 You will report to the jury assembly room in the courthouse.

7 PROSPECTIVE JUROR NO. 11: Okay. Thank you.

8 THE CLERK: Mrs. Ethel S. Griffin; E-t-h-e-l; last
9 name, G-r-i-f-f-i-n.

10
11 VOIR DIRE EXAMINATION OF

12 MRS. ETHEL S. GRIFFIN

13 BY THE COURT:

14 Q Mrs. Griffin, have you been present during all
15 the proceedings since the Court read the indictment?

16 A Yes, I have, sir.

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

20 A No. There was just one that I believe you asked,
21 and it was if any member of the family had been criminally
22 assaulted, at the time.

23 Q Tell us about that.

24 A Well, I had a sister that was murdered some years
25 ago.

26 Q How long ago?

27 A 29 years.

28 Q Was there a prosecution for that?

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A Yes, um-hmm.

Q And a conviction?

A Yes. And then at the retrial, he was released.

Q Now, would that raise such a resentment in your mind that you might be unable to be fair and impartial in a trial involving murder?

A I'm afraid it would. I -- I -- I still remember all the details.

Q You remember so many of the details that you feel that you couldn't be impartial in judging somebody? And you will be acting as a judge, you know?

A Yes, um-hmm.

8b fls.

3b-1

1 Q And are you afraid that you could not be impar-
2 tial in acting as a judge?

3 A I'm afraid I would. Because there was too much
4 at the time that is -- it hurt.

5 MR. DENNY: Well, I'm not sure -- I would assume it's
6 on the defense side that the objection would be taken under
7 Section 1073, Sub 2; but whether it's defense or prosecution--

8 MR. MANZELLA: I think it's well taken, a challenge.

9 THE COURT: You are excused. And the Court appreci-
10 ates your acting as a juror.

11 Come back to the courthouse, Room 253, on Monday
12 at 9:00 o'clock.

13 PROSPECTIVE JUROR NO. 11: All right.

14 THE CLERK: Mrs. Florence Holmes; F-l-o-r-e-n-c-e;
15 last name, H-o-l-m-e-s.
16

17 VOIR DIRE EXAMINATION OF

18 MRS. FLORENCE HOLMES

19 BY THE COURT:

20 Q Mrs. Holmes, have you been present during all
21 the proceedings thus far, since the Court read the indict-
22 ment?

23 A Yes.

24 Q Would your answers be any different than the
25 majority have responded?

26 A No.

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

1 A No.

2 Q Would it be any hardship to you to serve?

3 A No, I guess it wouldn't be.

4 Q You kind of sound doubtful. We don't want you to
5 get in the middle of this and then suddenly decide it
6 would be a hardship.

7 This is the time to tell everybody now.

8 A No, it won't be. No.

9 Q What type of work do you do?

10 A I'm in bonding assembly at Hughes Aircraft.

11 Q And Hughes will pay you for the time?

12 A Yes.

13 Q And have you served as a jurywoman before -- a
14 juryman before?

15 A One case, before I came over here, over in
16 Division 77.

17 Q Division 77. In the Municipal Court?

18 A Yes.

19 Q And that was sometime ago?

20 A That was last week -- the week before we came
21 over, the same week I came over.

22 Q What type of case was that?

23 A It was a child molesting.

24 Q Oh, I see. It was a department of the Superior
25 Court?

26 A Yes.

27 Q And will you set aside whatever you may have
28 heard in that case, and decide this case only from the

1 evidence in this case and the Court's instructions here?

2 A Yes.

3 Q All right. What type of work do you do? You
4 said that you work for whom?

5 A Hughes Aircraft.

6 Q What do you do for them?

7 A Bonding assembly.

8 Q Bonding?

9 A Yes.

10 Q And assembly?

11 A Yes.

12 Q What do you bond and assemble? Aircraft parts?

13 A Yes.

14 Q How long have you been so engaged?

15 A Five years.

16 Q And is there a Mr. Holmes?

17 A No, divorced.

18 Q Are you related to or a friend of any law
19 enforcement officer?

20 A No.

21 Q In what general area do you reside?

22 A West Los Angeles.

23 Q Have you been on any tour of duty as a juror
24 before this?

25 A No.

26 Q Regarding the death penalty, do you have such
27 views about it that you couldn't be fair and impartial in
28 determining the first phase of the case, the phase involving

1 guilt or innocence?

2 A No.

3 Q Or assuming that you get to the penalty phase,
4 are your views about the death penalty such that you would
5 automatically refuse to impose it, regardless of the
6 evidence?

7 A No.

8 Q Or would you automatically vote for the death
9 penalty, regardless of the evidence, should there be a
10 conviction of murder of the first degree? Without regard to
11 the evidence?

12 A No.

13 Q Are your views such that you would never vote
14 to impose the death penalty in any case?

15 A No.

16 Q About publicity that you may have heard, seen or
17 read, have you ever heard, seen or read Mr. Davis' name
18 before you came into this court?

19 A No.

20 Q Had you ever heard, seen or read anything of this
21 indictment before you came into this court?

22 A No.

23 Q You had heard of the Manson Family, though, had
24 you not?

25 A Yes.

26 Q And knowing what you know, or what you've heard,
27 seen or read concerning the Manson Family, would someone who
28 is a member of the Manson Family be at any disadvantage in

1 having you as a juror?

2 A No.

3 Q You could be fair and impartial in spite of the
4 fact that you have heard, seen and read many things about
5 the Manson Family?

6 A Yes.

7 Q And in spite of the fact that the evidence may
8 show that -- or, will show that Mr. Davis was associated in
9 some way with Mr. Manson, you can be fair and impartial?

10 A Yes.

11 THE COURT: Gentlemen? Mr. Denny?

12 MR. DENNY: Yes, your Honor.

13
14 VOIR DIRE EXAMINATION

15 BY MR. DENNY:

16 Q Let's see if I can see over the head of Mrs.
17 Menard here. Thank you.

18 Mrs. Holmes, in this prior case that you sat on,
19 the child molesting case over in Department 77, did that
20 go to a jury verdict?

21 A No. The jury was dismissed.

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8c fls.

8c-1

1 Q That's the same case that someone else --
2 A Yes, sir.
3 Q -- previously told us about? All right.
4 And although divorced, what did your husband do
5 during the time you lived with him?
6 A Carpentry work.
7 Q Carpentry work?
8 A Yes.
9 Q All right. And have you or any member of your
10 family ever been the victim of any kind of crime at all?
11 A Yes.
12 Q What --
13 A I have a sister who was the victim of a crime.
14 Q Your sister was the victim of a crime?
15 A Yes.
16 Q And what crime was that?
17 A She had a husband who got into a fight, and her
18 husband was stabbed.
19 Q Her husband was stabbed?
20 A Yes.
21 Q By her?
22 A Yes.
23 Q And was she charged with that crime?
24 A Yes.
25 Q With an assault, or was -- did he die from it?
26 A Yes.
27 Q He did die?
28 A Yes.

8c-2

1 Q And she was charged with murder?

2 A Yes.

3 Q And was she convicted?

4 A She had -- she had gotten five years' probation.

5 Q She was convicted of manslaughter, then? Do
6 you know?

7 A I don't know how it goes. But I know she was
8 off -- she had got probation from it.

9 Q Well, was that straight probation, without doing
10 any jail time at all?

11 A Well, she --

12 Q Other than the time she spent in jail awaiting
13 trial?

14 A That's all.

15 Q And how long ago was that, ma'am?

16 A It's been six years ago.

17 Q And now, did you appear by any chance as a witness
18 in that case, on your sister's behalf?

19 A No.

20 Q Or against her?

21 A No.

22 Q Is this a sister with whom you are fairly close?

23 A Uh -- well, yes, fairly close.

24 Q Younger or older sister?

25 A She's younger.

26 Q And are you still fairly close to her?

27 A No, we don't live too close together. She lives
28 a ways from me.

8c-3

1 Q Well, I don't mean --

2 THE COURT: I didn't hear --

3 MR. DENNY: "She lives away from me," she says.

4 Q No. I mean, not physically, but emotionally?

5 A No, we are not too close.

6 Q Are you still friendly? Do you see each other on
7 occasion?

8 A Oh, yes. Naturally.

9 Q Well, some sisters and brothers don't. In fact,
10 they hate each other, I've seen some.

11 All right. I take it that's not the case with you
12 and your sister, however?

13 A No.

14 Q All right. Now, did you feel at that time that she
15 was wrongfully convicted?

16 A No.

17 Q And did you feel at that time that, for any reason,
18 that what came out of that, that you have some kind of
19 resentment or anger against the People of the State of
20 California, and that general amorphous mass that brought the
21 charges against her and prosecuted her?

22 A No.

23 Q You feel it was actually justified under the
24 circumstances, in at least prosecuting her?

25 A Yes.

26 Q All right. And those are questions, obviously,
27 from the prosecution's standpoint, as to your bias or prejudice
28 against them.

8c-4

1 I am interested in -- if perhaps, under the
2 circumstances, something might have happened in your own
3 feelings, then, that might cause you to feel sort of anger or
4 resentment against anyone charged with murder?

5 A No.

6 Q Do you hold such feelings?

7 A No.

8 Q All right. Do you feel that there's anything
9 about that particular situation, wherein a close family member
10 was so intimately involved with a crime, that -- that was a
11 homicide, that would make you rather not sit on a homicide
12 case?

13 A No.

9 fol

9-1

1 Q Do you feel that you could judge the facts of
2 this case fairly and dispassionately, without bias or
3 prejudice toward either the prosecution or the defense?

4 A Yes.

5 Q Now, did you say that you knew no law enforcement
6 officers?

7 A No.

8 Q Well, other than your sister, has anybody ever
9 been the victim of any crime of any kind?

10 A Not that I can remember.

11 Q And have you ever appeared as a witness in any
12 kind of a case at all in court?

13 A Just divorce.

14 Q All right.

15 Getting down to the question, again, since this is
16 the only opportunity that we have to even talk about it in
17 a hypothetical situation.

18 Have you done any reading on the death penalty?

19 A No.

20 Q Or discussed it at any time among your friends
21 or relatives?

22 A No.

23 Q So, I take it, up until at least the time you
24 came into this courtroom and heard, understood that you
25 might be sitting on what's been known as a capital case,
26 you've done no real serious thinking about that, is that
27 right?

28 A No, I haven't.

1 Q You have not done any real serious thinking up
2 until that time, is that right?

3 A No, that's true.

4 Q Have you since that time?

5 A Well, not real seriously.

6 Q Well, I'm asking you to think real seriously
7 about it now, as far as your feelings.

8 And, again, I'll ask you some of the questions
9 that I have asked some of the other jurors on this.

10 Assuming you have arrived at the situation where,
11 with your fellow jurors, you are convinced beyond a reason-
12 able doubt that the defendant is guilty, see, first degree
13 murder, whether you have arrived at that by virtue of one or
14 a number of different avenues that are available as the
15 prosecution and the Court have indicated by the instructions
16 read, you find that he's guilty of first degree murder in
17 this hypothetical situation we're positing here.

18 Would you, by virtue of having found him guilty
19 of first degree murder, automatically, without more, vote to
20 impose the death penalty?

21 A No.

22 Q Would you, under the same circumstances, auto-
23 matically vote for life imprisonment?

24 A Would I automatically vote?

25 Q Yes.

26 A Yes.

27 Q Well, having found him guilty of first degree
28 murder, would you automatically vote for life as opposed to

1 death?

2 A No, no.

3 Q In other words, you are not predisposed one way
4 or the other, even assuming that someone is found guilty of
5 first degree murder, is that right?

6 You don't have any feelings right now that you
7 would head in one direction, life, or one direction death,
8 having found a person guilty of first degree murder; is that
9 right?

10 A No.

11 Q You're on the fence?

12 A Yes.

13 Q In neutral, as it were. All right.

14 Again, not to sound like a prosecutor, but to
15 hurry things along just a little bit, if you felt that this
16 was a death penalty case and the death penalty was warranted,
17 you could vote for the death penalty; is that right?

18 You could come in and tell Mr. Davis, look him
19 right in the eye and tell him, "You are going to die because
20 of my vote"; is that right, could you do that?

21 A Look at Mr. Davis and tell him that?

22 Q Yes, ma'am.

23 You realize that's what the prosecution is asking
24 you to do?

25 A No, I don't realize what they're asking me to do.

26 Q That's what they are asking you to do. They
27 have said to you --

28 MR.MANZELLA: Your Honor, excuse me, we are not literally

1 asking anybody to do that.

2 Q BY MR. DENNY: Well, Mr. Kay --

3 MR. MANZELLA: I'm not sure what Mr. Denny means by
4 that.

5 THE COURT: I think the objection is well taken.

6 Q BY MR. DENNY: Well, you've heard Mr. Kay ask
7 every other juror here, standing at that podium, "Could you
8 come back from your deliberations and look Mr. Denny and Mr.
9 Davis right in the eye and say 'I sentence you to death'?"
10 You've heard him ask that question?

11 A I heard him ask something about the evidence
12 shows all these three things against him or something like
13 that.

14 Q If the evidence shows he's guilty of first degree
15 murder and you find him guilty of first degree murder and --
16 in the first phase of the case you have found him guilty of
17 first degree murder, and you have brought in a verdict of
18 first degree murder, and then you go out and deliberate as
19 to whether he shall live or die, and then I am going to ask
20 you the question Mr. Kay has asked standing at that podium
21 of all the other witnesses -- all the other jurors here:

22 "Mrs. Holmes, would you have the courage of
23 your convictions to come in and look Mr. Davis and
24 Mr. Denny in the eye and say to Mr. Davis, 'You die
25 because of my vote'?"

26 A Not just first degree murder.

27 Q No, because you were convinced that he should die.

28 A Not at first degree murder.

1 Q That's what I am trying to get at.

2 A I haven't said that.

3 Q If you found him guilty of first degree murder --

4 A No.

5 Q -- and it was a hideous, horrendous, terrible,
6 awful crime, and you felt in your own heart and mind for
7 that crime anybody, including Mr. Davis, should be sentenced
8 to the gas chamber and executed there by lethal gas, could
9 you bring in a verdict of death?

10 A If it is enough evidence.

11 Q If it is enough evidence you could?

12 A Yes.

13 Q Is that right?

9a fls. 14

A Yes.

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1 Q All right, that's all I am asking you. That's all
2 Mr. Kay has asked the other people. It wouldn't be nice, but
3 you could do it; is that right?

4 A Yes.

5 Q By the same token, as far as I am concerned, would
6 you feel that you are doing your duty as a juror if you did
7 not feel that there was sufficient evidence to warrant a death
8 penalty verdict, by coming in and looking the judge and
9 Mr. Manzella and Mr. Kay and anybody else in this whole
10 world in the eye and saying, "No, I vote for life instead of
11 death"?

12 A Yes, I could do that.

13 MR. DENNY: Thank you, ma'am, and pass for cause.

14
15 VOIR DIRE EXAMINATION

16 BY MR. MANZELLA:

17 Q Mrs. Holmes, did your sister talk to you about her
18 case, the circumstances of her case?

19 A No, I never talked -- she never talked about it.

20 THE COURT: You might get that microphone up a little
21 bit.

22 A No, she never talked about it much.

23 Q BY MR. MANZELLA: How did you find out about it?

24 A How I found out?

25 Q How did you know about it?

26 A Well, we lived -- she lived upstairs and I lived
27 downstairs when it happened.

28 Q Were you at home when it happened?

1 Did it happen at your home?

2 A No, they were out.

3 Q How did you find out about it?

4 A I think someone called or something.

5 Q You learned the facts from whom? Who told you the
6 facts of what had happened, exactly what had happened?

7 A Well, I went to court with her one day and I
8 listened.

9 Q Is that during her trial?

10 A Yes.

11 MR. MANZELLA: Thank you, Mrs. Holmes. I have no further
12 questions, your Honor.

13 Pass for cause.

14 THE COURT: You gentlemen wish to examine Mrs. Holmes
15 on publicity?

16 MR. DENNY: May we approach the bench a moment?

17 THE COURT: Yes.

18 (Whereupon, the following proceedings were had at
19 the bench among Court and counsel, outside the hearing of the
20 prospective jurors:)

21 MR. DENNY: Judge, I can examine her briefly on
22 publicity. I, again, have the feeling that Mr. Manzella might
23 want to challenge her, but I don't know any way of asking
24 sufficient questions to know if she's heard enough so that I
25 would challenge her. So, I guess the only way -- I was trying
26 to think of some way we could do it without --

27 MR. MANZELLA: Ask fewer questions. Do it that way.

28 MR. DENNY: That's what I was planning on doing, ask fewer

1 questions.

2 THE COURT: Maybe we can do it with the panel here.
3 Most of these people -- I don't know, let's excuse them. We've
4 been consistent so far, and it is cumbersome -- but can we
5 excuse the others?

6 No, we can't.

7 MR. MANZELLA: No.

8 MR. DENNY: No.

9 THE COURT: We've kind of re-opened -- let me see, the
10 others have been sworn.

11 MR. MANZELLA: Well, I know I accepted the jury as it
12 was presently constituted.

13 THE COURT: And I don't think a peremptory would lie to
14 anybody else.

15 MR. MANZELLA: I am not asking for a peremptory, but I
16 don't agree with your position. I accepted the jury as
17 presently constituted, and Mr. Mortensson left.

18 MR. DENNY: Let's keep them here, Judge. It is not
19 going to be too much longer, hopefully, and I'm hopeful.

20 MR. MANZELLA: So am I.

21 THE COURT: Does the excuse of Mr. Mortensson simply,
22 somehow or other, vitiate the oath that they've taken as
23 jurors and take them automatically out of that status as sworn
24 jurors?

25 MR. MANZELLA: I don't think we have to argue the point
26 now.

27 THE COURT: Except I can let them go if you both agree.

28 MR. DENNY: Well, as long as there is some doubt or

1 some reservations, and let's not take the time to argue it
2 now, because it may be academic.

3 (Whereupon, the following proceedings were had in
4 open court within the presence and hearing of the prospective
5 jurors:)

6 THE COURT: All right, I'll excuse you to go back to the
7 hallway or wherever you were before.

8 Where were you, in the hallway or Department 100?

9 (Whereupon, there were murmurs heard from the
10 prospective jury panel of "Hallway.")

11 THE COURT: All right, go back to that delightful
12 hallway, if you would, please, except for Mrs. Holmes.

13 And do not discuss the case amongst yourselves,
14 or with others or permit anyone to discuss it with you.

15
16 VOIR DIRE EXAMINATION

17 BY THE COURT:

18 Q Mrs. Holmes, we're interested in knowing whether
19 or not you had ever heard of the case before you came into
20 court and we --

21 A No.

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9b-1

1 Q Had you ever heard the name Davis?

2 A No.

3 Q Had you ever heard the name Shorty Shea, heard,
4 seen, or read it?

5 A No. I think I heard it mentioned once or twice
6 in the news, but I never paid it too much attention.

7 Q Had you ever heard, seen or read the name Hinman,
8 Gary Hinman?

9 A Hinman? I heard that in the news, too, I think.
10 A little sketch of it.

11 Q What did you hear, if you remember about either
12 names?

13 A Uh, let's see. What did I hear?

14 Uh, they say that Shorty Shea, his body -- he was
15 missing. That's what I heard, he was missing. And that they
16 couldn't find him.

17 Q Where did they look for him, do you know?

18 A I don't remember.

19 Q How about Hinman?

20 A Hinman, Hinman? I don't actually remember what
21 happened to him. I didn't get the full fact.

22 Q Do you know whether he's -- from what you have
23 read, dead or alive?

24 A No.

25 Q What do you know about the name Grogan, Steve
26 Grogan?

27 A I don't know anything about that.

28 Q Susan Atkins?

1 A Susan Atkins, Susan Atkins?

2 Q Do you remember that name?

3 A I think she's dead, isn't she? Is that the one that
4 died?

5 Q That's your best remembrance?

6 A I think so.

7 Q What about the name Charles Manson? You've heard
8 that?

9 A Yes.

10 Q And Manson Family?

11 A Yes.

12 Q All right.

13 Now, do you think that you could be fair and
14 impartial despite what you have read about the Manson Family,
15 knowing that Mr. Davis is a member of the Manson Family or
16 the proof will show that?

17 A Yes.

18 Q Do you think the People will start off with any
19 advantage, the prosecution will start off with any advantage
20 in proving the death of Shorty Shea or Gary Hinman by reason
21 of what you have read?

22 In other words, will you allow that to take the
23 place of any evidence?

24 A No, I don't -- no, I won't.

25 Q Will you decide the case based solely on the
26 evidence you hear in this case and make any judgment that you
27 might be called upon or will be called upon to make in this
28 case, independently of anything that you have heard, seen or

1 read?

2 A Just only what I hear in the case. That's all I
3 will go on.

4 Q And you will set aside -- not forget, but set
5 aside anything that you may have heard, seen or read, is that
6 correct?

7 A Correct.

8 Q Did you ever hear anything of an anti-Negro nature
9 concerning the Manson Family?

10 A No.

11 Q If anyone should raise anything that is not within
12 the evidence that came from the news media, obviously came from
13 the news media, or that you know came from the news media and
14 was not in the evidence, would you bring up in the jury room,
15 if that is brought up in the jury room, would you state to that
16 person that that does not belong in the discussion?

17 A No, I won't.

18 Q In other words, would you remind the person that
19 that talk about what was printed or what was said in the news
20 media does not belong in the jury room?

21 A Right.

22 Q Can you be fair and impartial in deciding any issue
23 in spite of what you may have heard, seen or read?

24 A Yes.

25 Q Will you be?

26 A Yes.

27 MR. DENNY: No questions.

28 MR. MANZELLA: No questions, your Honor.

1 THE COURT: The next peremptory is --

2 Both sides pass for cause?

3 MR. DENNY: Yes, pass for cause.

4 MR. MANZELLA: Yes, pass for cause.

5 THE COURT: The next peremptory I believe, is with the --

6 MR. DENNY: Is with the defense, we'll accept the jury
7 as presently constituted.

8 THE COURT: With the People.

9 MR. MANZELLA: Your Honor, the People would like to
10 thank and excuse Mrs. Holmes.

11 THE COURT: Thank you, Mrs. Holmes. Room 253 on Monday
12 -- Tuesday, Mrs. Holmes.

13 PROSPECTIVE JUROR HOLMES: Tuesday?

14 THE COURT: Not until Tuesday at 9:00 o'clock in the jury
15 assembly room.

16 PROSPECTIVE JUROR HOLMES: Oh, I see.

17 THE COURT: Over in the courthouse.

18 PROSPECTIVE JUROR HOLMES: Thank you.

19 THE CLERK: Lawrence Quevedo, L-a-w-r-e-n-c-e,
20 Q-u-e-v-e-d-o.

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VOIR DIRE EXAMINATION OF
LAWRENCE QUEVEDO

BY THE COURT:

Q Mr. Quevedo, have you been present during all the proceedings thus far?

A Yes, sir.

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

A No, sir.

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

A I cannot, sir.

Q Would it be any hardship to you to serve?

A No, sir.

Q What type of work do you do?

A I am a clerk for the Los Angeles County, Department of Social Services.

Q How long have you been so employed?

A Six months.

Q Before that, what type of work did you do?

A I was unemployed, for nine months.

Q And unemployed for a period of nine months?

A Yes.

Q Is there a Mrs. Quevedo?

A No, sir.

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

10-2

1 A No, sir.

2 Q In what general area do you reside?

3 A In Los Angeles, northeast.

4 Q Do you have such views concerning the -- strike
5 that.

6 Did I ask you to think back to that series of
7 questions that I've asked you -- that I asked the other
8 jurors? And did you reply as to whether or not your answers
9 would be the same as the majority have responded?

10 For example, has any friend or relative of yours
11 been the victim of a violent crime?

12 A No, sir.

13 Q Have you been arrested for anything other than a
14 misdemeanor traffic violation?

15 A No, sir.

16 Q Would your views about the death penalty be such
17 that you could not be fair and impartial in determining what
18 the question of guilt -- in determining the question of guilt
19 or innocence?

20 A No.

21 Q Or are your views about the death penalty such that
22 you would automatically refuse to impose the death penalty,
23 regardless of the evidence?

24 A No, sir.

25 Q Or would you automatically impose the death penalty
26 upon a conviction of murder of the first degree?

27 A No, sir.

28 Q Would your views concerning the death penalty be

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1 such that you could never vote to impose the death penalty?

2 A No, sir.

3 Q Concerning publicity, have you ever heard anything
4 about this case before the Court read the indictment to you?

5 A No, sir.

6 Q Had you ever heard, seen or read the name Davis,
7 Bruce Davis?

8 A No, sir.

9 Q Charles Manson?

10 A No -- oh, Charles Manson, yes.

11 Q Charles Manson?

12 A Yes.

13 Q The Manson Family?

14 A Yes.

15 Q What does the term Manson Family mean to you?

16 A I can only --

17 Q Just what you know from the press and radio and
18 television.

19 A I actually -- I really don't know what it actually
20 means. But I guess the press used it to refer to those
21 most -- to the crimes that were committed a few years ago.

22 Q Yes. But is the Manson Family a football team or
23 a ballet troupe or what?

24 A I really don't know, sir.

25 Q You don't know?

26 A No.

27 Q Had you ever heard that anyone in the Manson
28 Family was accused of a crime? Or anyone you believed from

10-4

1 the press to be a member of the Manson Family was accused of a
2 crime?

3 A Charles Manson.

4 Q And what had you heard about that?

5 A Well, I've -- I know he has been convicted.

6 Q Of what?

7 A First degree murder.

8 Q Are you referring to the Tate-LaBianca killings?

9 A I believe so, sir.

10 Q Did you follow those -- that prosecution?

11 A No, sir.

12 Q Have you ever heard of anyone being prosecuted
13 for the death of -- the alleged death of Shorty Shea or the
14 alleged death of Gary Hinman?

15 A No, sir.

16 Q Do you know the name Gary Hinman?

17 A Yes, I've heard of it, sir.

18 Q In what way?

19 A On radio, I think, and probably television.

20 Q How have you heard -- what have you heard?

21 A I've just heard the name; and that's it. I've
22 really --

23 Q You don't recall any facts in back of the name, and
24 you don't know whether he's dead or alive, --

25 A No, sir.

26 Q -- from what you've read?

27 A That's right.

28 Q And how about the name Shea?

10-5

1 A The same thing, like -- I mean, I've just heard the
2 name; but I still haven't bothered to follow through with it,
3 really.

4 Q You can't recall in what context you heard or saw
5 or read the name?

6 A No, sir.

10a fol

10a-1

1 Q You do know that Mr. Manson was convicted of some
2 killings?

3 A Yes, sir.

4 Q If a person were shown, by the evidence, to have
5 been associated with Mr. Manson, would that raise any
6 prejudice in your mind against that person, so that you
7 couldn't be fair and impartial?

8 A No, sir.

9 Q If I were to tell you that whatever you might
10 remember, or whatever you remember at this time, that you
11 haven't told us about, in connection with Mr. Manson or this
12 case -- or Mr. Davis -- that that is to be set out of your
13 mind; that you are instructed to set that aside for the
14 purpose of making a judgment independently of such matter,
15 basing your judgment on whatever issue, then, that you
16 might be called upon to decide in this case, solely upon
17 the evidence that's produced here and the Court's
18 instructions of law, could you do that?

19 A Yes, sir.

20 Q Do you think that you are capable of doing that?

21 A I think so, sir.

22 Q And would you do that?

23 A Yes, sir.

24 Q And can you be fair and impartial, and will you
25 be in this case?

26 A Yes, sir.

27 THE COURT: All right. Mr. Denny?

28 MR. DENNY: Thank you, your Honor.

10a-2

VOIR DIRE EXAMINATION

BY MR. DENNY:

Q Mr. Quevedo, do you subscribe to a newspaper?

A No, sir.

Q What is your major source of news?

A Los Angeles Times. That's about it. The daily news --

Q Well, do you just pick this up on the newsstand, or what?

A Do you mean publications or what? I do watch television.

Q Well, that's what I am talking about, too.

A Yes, sir.

Q If you get more news via television and radio than you do by the newspaper --

A Yes, sir, more through television.

Q That's your major source, then?

A Yes, more through television --

Q All right.

A -- and radio.

Q Well, when you say the L. A. Times, do you get this daily, or --

A No, sir.

Q -- buy it daily, or what?

A No, sir.

Q Just see it in other people's possession and read it, or what?

A Yes.

10a-3

1 Q All right. And do you regularly watch a TV
2 newscast?

3 A Uh -- no. Once or twice a week, maybe.

4 Q All right.

5 A I listen more to the radio than that.

6 Q All right. And when is the most recently that
7 you have heard anything pertaining to Charles Manson? Or
8 any Manson related matter, Manson Family member, as it's
9 phrased?

10 A The last -- yeah. The most recent time?

11 Q The most recent time.

12 To your best recollection.

13 A I would say around three months ago.

14 Q And what was that?

15 A I -- I -- I think it was longer than that. I'm
16 not sure.

17 Now, I can't really recall anything that comes to
18 my mind right now.

19 I do remember him going up for trial of some sort.

20 Q A trial on what charges; do you recall?

21 A I don't know.

22 Q Well, do you remember his being tried on the
23 Tate and the La Bianca murders?

24 A Well, I think that was quite sometime ago, wasn't
25 it? Yeah.

26 Q Is this, then, your recollection? That he was
27 going to trial on some other matters?

28 A I think so, yes.

10a-4

1 Q Other than the Tate-La Bianca?

2 A Yes.

3 Q But you don't know what it was?

4 A No, I don't.

5 Q Have you heard anything about him since?

6 A No, I haven't.

7 Q How about Tex Watson? Have you heard anything

8 about him?

9 A No, I haven't.

10 Q All right. And as far as Shorty Shea goes,

11 what is your most recent information about him? What do you

12 recall hearing, seeing or reading most recently about him?

13 And your most recent information may be quite

14 some time ago, but what was that?

15 A All I know is -- well, I know the name; but other

16 than that, I just know what I've heard here in court, that

17 he -- his body hasn't been found.

18 That's it.

19 Q All right.

20 Did you ever seen, hear, or read anything to your

21 knowledge about his being missing or about people looking for

22 him, anything of that kind?

23 A No, sir.

24 Q Do you kind of make it a habit of not following

25 crime news?

26 A Well, I -- I haven't been that much of a fan of

27 murders or -- you know, things of this nature, I guess. I

28 haven't kept up with them. I don't follow them, as you say.

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10b fls

Q All right. Now, you have said that you were unemployed for nine months before you went into DPSS work.

Were you in school before that, or what?

A No, I was in Service. The U. S. Army.

10b-1

1 Q And what -- what were you doing there? Were you
2 overseas?

3 A No, sir.

4 Q Where were you stationed?

5 A At Fort Ord, California; Fort Lee, Virginia;
6 Fort Huachaca, Arizona.

7 Q That's a really out-of-the-way spot. That's
8 missile testing down there, isn't it?

9 A Yes, I think. Air Force.

10 Q All right. And what sort of work did you do in
11 that connection?

12 A I was a clerk-typist, with Finance.

13 Q All right.

14 You never had any military police training or
15 anything of that kind; is that right?

16 A No.

17 Q And you've indicated, I think, through the Court
18 that you have no friends or relatives in law enforcement --

19 A No.

20 Q -- or no social acquaintances in law enforcement?

21 A No, sir.

22 Q All right. Have you done any reading on the
23 death penalty at all, sir?

24 A No, I haven't.

25 Q Or discussed it in bull sessions, one way or
26 another?

27 A No, sir.

28 Q This would be the first time you have ever had

10b-2

1 occasion to seriously consider the death penalty, all its
2 ramifications, its application; is that right?

3 A Yes, sir.

4 Q All right. And do you have any feeling, as you
5 sit there, that if you were to find anybody guilty of first
6 degree murder, whether willful, premeditated or as an
7 accomplice, or aiding and abetting, a conspirator, whatever,
8 if you found him guilty of first degree murder, you would
9 then automatically impose the death sentence on him?

10 A No, sir.

11 Q Or would you automatically refuse to impose the
12 death sentence under any circumstances?

13 A No.

14 MR. DENNY: All right, sir. Pass for cause, your Honor.

15 THE COURT: Mr. Manzella?

16
17 VOIR DIRE EXAMINATION

18 BY MR. MANZELLA:

19 Q I don't remember if you have been asked this or
20 not.

21 Have you or anyone you know ever been accused of
22 any crime?

23 A No, sir.

24 Q If you sit on this jury, and you decide -- after
25 hearing all the evidence in the case -- that Mr. Davis is
26 guilty of first degree murder, and then you go on into the
27 penalty phase, and after having heard all the evidence, you
28 decided that for these crimes, he deserved the death sentence,

10b-3

1 would you be able and would you be willing to vote for it?

2 A Yes.

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

4 A No.

5 Q All right. You've heard the questions that have
6 been asked by everyone about Count III. In fact, the fact
7 that -- and the count charging that this defendant -- this
8 defendant with the murder of Shea -- that we will not be
9 able to produce a body, or somebody who saw Shea's body in
10 death.

11 Does that cause you any problems, to the extent
12 that you have a closed mind on Count III, right now?

13 MR. DENNY: Well, your Honor, I think that's an unfair
14 question, when you say, "Do you have a closed mind on Count
15 III?"

16 You are asking him to prejudge the evidence.

17 THE COURT: I think so, in that form.

18 MR. MANZELLA: Well, of course, it doesn't really ask
19 him to prejudge the evidence, if he has a closed mind on
20 either side, for the defense or the People.

21 But I'll rephrase the question.

22 THE COURT: Well, I assume that what you are talking
23 about is what you laid the ground work on before.

24 MR. MANZELLA: Of course.

25 THE COURT: And it does --

26 MR. MANZELLA: But I will --

27 THE COURT: -- more or less ask him to prejudge the
28 evidence.

10b-4

1 BY MR. MANZELLA:

2 Q Mr. Quevedo, you hesitated in answer to that
3 question. Was there something that you wanted to say that
4 that question brought to light? Even though the question is
5 no longer pending, that you'd want to say now?

6 A No.

7 Q All right. Do you lean -- knowing those facts
8 about Count III, do you lean towards the -- towards the
9 defense position, which is that Mr. Davis is not guilty?
10 Do you lean towards that position, with regard to Count III,
11 right now, as you sit there?

12 MR. DENNY: Well, again, your Honor --

13 THE COURT: No, I think he must.

14 MR. DENNY: He must, by the law, lean toward that
15 position. He's presumed innocent.

16 THE COURT: Do you understand that?

17 PROSPECTIVE JUROR NO. 11: Yes, sir.

18 THE COURT: You understand that the defendant is
19 presumed to be innocent?

20 PROSPECTIVE JUROR NO. 11: Yes.

21 THE COURT: Until he's proven guilty beyond a reasonable
22 doubt, and to a moral certainty?

23 PROSPECTIVE JUROR NO. 11: Yes, sir.

10c fls.

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1 BY MR. MANZELLA:

2 Q Well, I don't want jurors sitting in the jury
3 box, Mr. Quevedo, who feel already that they're inclined to
4 vote innocent at the end of the case, before they have heard
5 any of the evidence, because they know that the People will
6 not be able to produce a body.

7 That's the point I am getting to.

8 A I see.

9 Q So let me ask you that question.

10 How do you feel about that, knowing what we have
11 told you about Count III?

12 MR. DENNY: Well, I object to the question, "How do
13 you feel about that?" How does he feel about what? I think
14 the question has to be more specific than that.

15 THE COURT: I think that's probably true.

16 It's late in the day, but try to put a question
17 that is more pointed.

18 MR. MANZELLA: Oh, I have got several questions, your
19 Honor.

20 THE COURT: All right.

21 BY MR. MANZELLA:

22 Q All right. Mr. Quevedo, knowing that in Count III
23 of the indictment, the People have not been able to find a
24 body of Donald Shorty Shea, do you feel that your mind is
25 closed with regard to the People's case?

26 A No, sir.

27 Q Would you be willing to listen to the other
28 evidence we have to present?

1 A Yes.

2 Q And do you think you would be willing to be
3 convinced beyond a reasonable doubt that Shea's been
4 murdered, and that this defendant murdered him?

5 A Yes.

6 Q Now, if the evidence convinced you beyond a
7 reasonable doubt, at the end of the case, that Shea was
8 murdered, and that this defendant murdered him, would you
9 hesitate to vote for a conviction, because the body had not
10 been produced?

11 A Would I hesitate to vote for conviction if the
12 body hadn't been produced?

13 THE COURT: Do you want the question reread to you?

14 PROSPECTIVE JUROR NO. 11: Yes, sir.

15 THE COURT: Mr. Williams?

11 fls.

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1 (Whereupon, the record was read by the
2 reporter as follows:

3 "Q Now, if the evidence convinced you
4 beyond a reasonable doubt, at the end of the case,
5 that Shea was murdered and that this defendant
6 murdered him, would you hesitate to vote for
7 conviction, because the body had not been
8 produced?"

9 A No, sir.

10 Q BY MR. MANZELLA: Now, you heard the instruc-
11 tions read by Judge Choate to all the jurors before. You
12 were sitting back in the spectator portion at that time.
13 In particular, I am referring to the law of aiding and
14 abetting.

15 Now, do you think it is unfair that under the
16 law a person can be convicted of first degree murder,
17 even though he, himself, did not strike the blow that caused
18 death?

19 A No.

20 Q If you found, after hearing all the evidence in
21 the case, and after hearing the Judge's instructions that
22 that law applied to this case, would you be able to follow
23 it?

24 A Yes.

25 MR. MANZELLA: All right, thank you, Mr. Quevedo.

26 The People pass for cause, your Honor.

27 MR. DENNY: We'll accept the jury as presently
28 constituted, your Honor.

1 MR. MANZELLA: People would like to thank and excuse
2 Mr. Quevedo, your Honor.

3 THE COURT: The Court will excuse you until Tuesday
4 at 9:00 o'clock, Room 253.

5 Let's take five minutes, shall we?

6 THE CLERK: Yes.

7 (Short recess.)

8 THE COURT: Call another name, Joyce.

9 THE CLERK: Mrs. Beverly J. Campo, B-e-v-e-r-l-y,
10 last name, C-a-m-p-o.

11 THE COURT: C-a-m-p-o?

12 THE CLERK: -p-o.

13 THE COURT: Campo?

14 THE CLERK: Yes.

15 THE COURT: How many are there left?

16 THE CLERK: Four left.

17
18 VOIR DIRE EXAMINATION OF
19 BEVERLY J. CAMPO

20 BY THE COURT:

21 Q How do you pronounce your name?

22 A Campo.

23 Q You may be seated, Mrs. Campo, where the --

24 A Microphone is?

25 Q -- is, yes.

26 Mrs. Campo, you have been present during all
27 of the proceedings since the Clerk called this case and
28 explained the nature of the case to your group of prospective

1 jurors, correct?

2 A Yes.

3 Q Would your answer be any different than the
4 majority had responded?

5 A Uh, mostly, no.

6 Q Do you know of any -- in any respect wherein
7 your answers would vary?

8 A Only in that it would be a hardship for me, your
9 Honor.

10 Q It would be a hardship for you?

11 A Yes.

12 Q In what way?

13 A I have two children, and during the deliberation
14 phase I would have no one to care for them.

15 Q Now, that will be sometime away.

16 Do you think that you can make some arrangements
17 for their care between now and then?

18 A Well, I really don't know. I have a neighbor.

19 Q How old are they?

20 A 13 and 11.

21 I have a neighbor who, uh, looks in on them,
22 you know, during the -- after school hours. But at night,
23 I just don't know who I could get to stay all night with
24 them.

25 Q You think you might be able to arrange that
26 between now and the end of February?

27 A Well, I don't know. I know it is difficult to
28 find people who will live in. And, of course, it would be

1 rather costly if it were any length of time.

2 MR. DENNY: I'll stipulate to her excuse, your Honor.

3 MR. MANZELLA: So stipulated.

4 THE COURT: These gentlemen have agreed that you may
5 be released, then, and the Court does excuse you.

6 PROSPECTIVE JUROR CAMPO: Thank you.

7 THE COURT: Report to Room 253 Tuesday, will you?

8 PROSPECTIVE JUROR CAMPO: Yes.

9 THE COURT: It would be at 9:00 o'clock.

10 PROSPECTIVE JUROR CAMPO: Tuesday? Not Monday but
11 Tuesday?

12 THE COURT: Yes.

13 PROSPECTIVE JUROR CAMPO: All right, thank you.

14 THE CLERK: Ollie M. Robinson, O-l-l-i-e, middle
15 initial "M", last name R-o-b-i-n-s-o-n.
16

17 VOIR DIRE EXAMINATION OF
18 OLLIE M. ROBINSON

19 BY THE COURT:

20 Q Mr. Robinson?

21 A Yes, sir.

22 Q You've been present, sir, since the Court called
23 this case and explained the nature of the case to prospective
24 jurors?

25 A Yes, I have.

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

1 A Of a general nature, no, sir.

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

4 A No, sir.

5 Q What type of work do you do?

6 A Sir, I am a retired military, sir.

7 Q And what branch were you in?

8 A The Air Force.

9 Q How long have you been in retirement?

10 A Since the 1st of July, 1970, last year.

11 Q How long did you serve in the Air Force?

12 A 27 years in the combined Service, Army and the
13 Air Force.

14 Q Army and Air Force?

15 A Yes.

16 Q In other words, you were in the Army and shifted
17 to Air Force?

12 fls. 18 A Yes, sir.

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12-1

1 Q Were you in the Army during World War II?

2 A Yes, sir.

3 Q Did you see action anywhere?

4 A Uh -- I was in Europe during World War II, but not
5 with the combat units, sir.

6 Q What unit were you with?

7 A I was with a trucking regiment.

8 Q Attached to one of the Armies?

9 A Attached to the Third Army, sir.

10 Q Would it be any -- it would not be any hardship to
11 you to serve, you've stated.

12 Have you served as a juror before?

13 A This is the first tour, sir. And I was on a jury
14 over in the Brunswick Building, but it was dismissed before --

15 Q What type of case was that?

16 A A robbery case.

17 Q Will you set aside whatever you may have learned in
18 any other case and decide this case only from its evidence and
19 the Court's instructions of law?

20 A I would do so, sir.

21 Q All right. Is there a Mrs. Robinson?

22 A Yes, sir.

23 Q Is she employed outside the home?

24 A She's employed by the postal service.

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

27 A No, sir.

28 Q In what area do you and Mrs. Robinson reside?

12-2

1 A The Crenshaw area, sir.

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

4 A I don't -- I think I could be fair and impartial,
5 sir.

6 Q You kind of hesitated there a minute. What were
7 you thinking about?

8 A I was thinking of the -- keeping up with the
9 publicity.

10 Q Oh, in connection with the publicity?

11 A Yes.

12 Q That was one of the things that we wanted to ask
13 you about at this time.

14 You had heard -- had you ever heard about this case
15 before?

16 A Yes, sir, very much so.

17 Q About this indictment, this particular indictment
18 involving the deaths of Shea and Hinman?

19 A In the papers, yes, I have. And on TV.

20 Q When was the last time that you read anything or
21 saw or heard anything about this case?

22 A Sir, it would be hard to say.

23 Q Had you ever heard, seen or read the name Davis
24 before?

25 A Yes.

26 Q And when was the last time you read Mr. Davis's
27 name? Or saw it or heard it?

28 A It was quite some time ago, sir. I just can't put

12-3

1 my finger on the number of weeks or months.

2 Q Did you follow the Tate-LaBianca trial?

3 A Yes, sir. With time on my hands, in retirement,
4 sir, I did follow it pretty closely, sir.

5 Q And you know what the Manson Family is?

6 A Yes, sir.

7 Q Would somebody who was a member of the Manson
8 Family be at any disadvantage in having you as a juror, to
9 start with? In other words, from what you have heard, seen or
10 read, do you think that you could not be -- or could be -- fair
11 in determining any issue that you might be called upon to
12 determine in this case?

13 In spite of the fact that a person -- Mr. Davis --
14 the evidence might show, would be a member of the Manson Family?

15 A I think I could, your Honor.

16 It might be a little difficult at times to just
17 blot it out and pass things out of my mind completely, sir.

18 Q Well, that's what we want to know. Because if
19 you are not sure about whether you can blot out those things
20 -- not forget them, but set them aside, those things that
21 you've heard, seen or read, for the purpose of acting as a
22 juror in this case, and acting independently of such matters
23 -- well, then, you shouldn't be in the box, should you?

24 A No, sir.

25 Q So, the question really is whether you can decide
26 this case, basing your judgment only on the evidence in the
27 matter, and ignore -- or, set aside -- everything that you
28 may have heard, seen or read concerning the Manson Family,

12-4

1 Charles Manson, this case, or Bruce Davis?

2 Do you understand?

3 A Yes, sir.

4 Q Had you heard the name Shea before?

5 A Yes, sir.

6 Q What do you know about the name Shorty Shea?

7 A Just what I read in the paper or saw on television.

8 Q Tell us what that is.

9 A Well, he -- seemingly, he was with a movie stunt-
10 man -- or connected therewith; and he was at this ranch -- I
11 don't recall exactly where it was -- but anyway, he was never
12 seen after a certain time, again.

13 Q Now, let's take that in itself alone.

14 Do you think that you could be just as impartial
15 and just as fair a juror as the next man to you, who perhaps,
16 had never heard -- who, for example, had never heard of
17 Mr. Shea's having been missing? Could you do that?

18 A I believe I could, your Honor, sir.

19 Q In other words, you would put out of your mind
20 what you've just told me, for the purpose of sitting as a
21 juror in this case?

22 A Yes, sir, I would make every effort to.

12a fol

12a-1

1 Q And what about Hinman? What have you heard about
2 him?

3 A Well, from the newspaper reports, I believe he was
4 a musician, with the -- with, I believe, the Hollywood set, or
5 something of that sort; something along those lines.

6 And he also met death.

7 Q You say "also met death."

8 A I mean, he --

9 Q Do you believe that Mr. Shea is dead, from what
10 you've heard, seen or read?

11 A I do.

12 Q Well, could you set that belief aside, for the
13 purpose of acting as a juror in this case? And require the
14 People to prove, beyond a reasonable doubt -- if they can --
15 that Mr. Shea is dead?

16 A Yes. I would do so, --

17 Q And would the --

18 A -- make the effort.

19 Q -- same prevail as to Mr. -- the articles that
20 you've heard, seen or read about Mr. Hinman, would the same
21 attitude prevail? Would you set them aside?

22 A Yes, sir, your Honor. I would have to do that,
23 sir.

24 Q All right. Do you know the name Steve Grogan?

25 A Not offhand, sir.

26 Q Bobby Beausoleil?

27 A I've read of --

28 Q What do you know about Mr. Beausoleil?

12a-2

1 A I believe he was associated with the Tate-LaBianca
2 group.

3 Q All right. What do you know about Mary Brunner, if
4 anything?

5 Have you ever heard that name?

6 A Yes, sir.

7 Q What do you associate that name with?

8 A I associate that with -- just a moment, your Honor.
9 She was given immunity, I believe, once for -- by
10 the state, for testimony in the case.

11 Q And have you read about Charles Manson in the last
12 two months?

13 A I don't believe there's been anything in the paper
14 recently about him, about Mr. Manson, sir.

15 Q When's the last time you read anything about
16 Mr. Manson?

17 A Sir, I would say -- I would say -- without -- I'm
18 not trying to pinpoint any dates. To me, when I get the
19 morning paper, if there's anything, I read it without -- just
20 kind of automatic, like, to have something to do, sir, with-
21 out trying to weigh any factors in the case.

22 And so I would say it's been over thirty days
23 ago.

24 Q If I were to tell you that you will be instructed --
25 if I were to instruct you, as I do now, that you -- if you
26 are chosen as a juror -- you are to set aside anything that
27 you may have heard, seen or read in connection with this
28 case, the Manson case, Mr. Davis, that you are to judge the

12a-3

1 case and any issues submitted to you solely on the evidence in
2 the case, could you do that?

3 A I would do it, sir.

4 Q All right. And you are sure of your ability to do
5 it?

6 A Yes, your Honor. I -- I'm almost positive.
7 Well, that's not enough, I know, sir.

8 Q Are you certain at this time?

9 A Yes, sir. I would --

10 Q And will you do that?

11 A Yes, sir.

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

13 A After listening to the evidence, I could, sir.

14 Q All right. Now, if someone were to raise some-
15 thing in the jury room that you know to be outside of the
16 evidence -- that is, something that came -- that came to that
17 juror as a result of that juror having heard, seen or read
18 something in the news media, or outside of the jury room --
19 or outside the courtroom, rather -- would you point that out
20 to that juror, and to the panel?

21 And point out that that is not to be relied upon
22 as evidence?

23 Do you understand me?

24 A If it's something that happened outside of the
25 courtroom, sir?

26 Q Sure. If it's something that was arrived at --
27 some information that was gained as a result of reading some-
28 thing in the newspaper, you would not rely on that, would you,

12a-4

1 as part of the evidence?

2 A No, sir.

3 Q And would you tell a juror who might raise that,
4 that it should not be considered unless it was submitted in
5 evidence?

6 A Oh, yes, sir.

7 Q And you -- if you find yourself thinking about
8 matters which you know were not raised in evidence, were not
9 shown by the evidence, would you be able to segregate those
10 matters from the news matters that you heard, and the articles
11 that you had heard, seen or read from the news media?

12 Would you be able to segregate those from the
13 evidence?

14 A I believe I would, sir.

15 THE COURT: Mr. Denny?

16
17 VOIR DIRE EXAMINATION

18 BY MR. DENNY:

19 Q All right. Mr. Robinson, what was your rank in the
20 Service when you retired?

21 A Chief warrant officer, sir.

22 THE COURT: We didn't ask Mr. Robinson about the penalty,
23 did we?

24 MR. DENNY: No, I don't believe so, your Honor.
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12b: fol

12b-1

FURTHER VOIR DIRE EXAMINATION

BY THE COURT:

Q Do you have any views about the death penalty such that you couldn't be fair and impartial in determining guilt or innocence?

A No.

Q Or are your views about the penalty such that you would automatically refuse to impose it, regardless of the evidence?

A No, sir, not automatically.

Q Would you automatically impose the death penalty upon a conviction of murder of the first degree? Without regard to the evidence?

A No, sir. I'd have to have the evidence, to weigh the evidence.

THE COURT: Go ahead, Mr. Denny.

MR. DENNY: Thank you.

FURTHER VOIR DIRE EXAMINATION

BY MR. DENNY:

Q Now, sir, you say since you have retired, kind of as an automatic thing, you read the morning newspaper; is that right?

A Yes, sir.

Q Or is it the evening newspaper, --

A Well, it's the morning.

Q -- or both?

A Morning. Sometimes the afternoon. And magazines.

12b-2

1 Just kind of a little hobby now.

2 Q All right. And you go pretty thoroughly through
3 that paper, do you? Daily?

4 A Almost page to page, sir.

5 Q All right, sir. And you also follow the news
6 via TV and radio?

7 A Right.

8 Q Do you regularly watch news broadcasts in the
9 morning and evening?

10 A Well, it's the evening, particularly; not too
11 much in the morning.

12 Q Which evening news broadcast do you watch?

13 A Jerry Dunphy, on Channel 2; and also, Channel 4.
14 George Putnam on his -- switch about.

15 Q All right, sir. Now, following the news as
16 closely as you do, I take it that you have certainly, since
17 your retirement -- was that in July of 1970?

18 A Yes.

19 Q (Continuing) -- followed very closely the
20 activities of the Manson trial, have you?

21 A Yes, sir, I have.

22 Q They have certainly been covered in the paper.
23 And you say you do read the paper, so that you have read the
24 news as it occurs and is covered?

25 A Right, sir.

26 Q All right. And you are aware of what penalties
27 were voted by the jury against Mr. Manson and his co-defendants
28 in the Tate and La Bianca case?

12b-3

1 A I think I recall the maximum penalty, the
2 majority of the cases.

3 Q All right.

4 Now, sir, are you aware of whether or not Mr.
5 Manson has since that time been prosecuted on any other
6 charge? Or charges?

7 A I believe he was prosecuted on the charges, the
8 same as Mr. Davis faces now, sir.

9 Q All right. And what was the result of that case,
10 as far as Mr. Manson is concerned?

11 A Gee, I don't know whether it was life or death.
12 I really don't.

13 Q You do know that he was convicted; is that right?

14 A Oh, yes, sir.

15 Q And convicted of the murders of Mr. Hinman and
16 Mr. Shea?

17 A (No response.)

18 Q You say the same charges as against Mr. Davis.
19 And those are the charges against Mr. Davis.

20 A Yes, the same charges against Mr. Davis.

21 Q So, to your knowledge -- at least, what you've
22 gotten via the paper or the radio and TV -- Mr. Manson was
23 convicted of those same charges; is that right?

24 A That's my understanding, yes, sir.

25 Q That's your understanding. So, at this time,
26 it's your understanding that a jury has found that Mr. Shea
27 is dead; is that right? And has been murdered?

28 A (No response.)

12b-4

1 Q And murdered by Mr. Manson? Is that right?

2 A If he was -- as I stated, sir, I read it, and then
3 I just go to something else, without trying to actually
4 remember it. So --

5 Q Well, I'm trying to help you remember it now.

6 A Uh-huh.

7 Q Because it's important, as to what you can
8 remember with just a little bit of help, since you are
9 going to get a lot of help if you sit here and hear the
10 witnesses talking about it.

11 So, do you remember that, now?

12 A I remember -- I'm pretty sure that Mr. Manson
13 was convicted of -- what is it? The Hinman and Shea.

14 Q All right. And that means to you, does it not,
15 that a jury has found him guilty of having killed Mr. Shea;
16 is that right?

17 A Sir, I don't know whether the jury found him
18 to be the actual murderer or whether it was circumstantial
19 matters or not.

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12c-1

1 Q All right. But as far as you are aware, at
2 any rate, a jury found that Mr. Shea was dead, and had been
3 killed by someone, by criminal means; isn't that right?

4 A I would say -- I believe so, sir.

5 Q All right. So as you sit there, then, it's
6 your impression that Mr. Shea is dead, and has been killed
7 by criminal means; is that right?

8 A Well, it's my -- my impression is that he's dead;
9 but how he reached his death, I -- I'm not too sure, sir.

10 Q Well, you recall Mr. Manson having been found
11 guilty of his murder. Is it your impression that he was
12 involved in the killing of Mr. Shea?

13 A Whether he actually killed him or --

14 Q Just whether he was involved in some way in the
15 killing of Mr. Shea.

16 A Well, I would say yes.

17 Q Yes.

18 All right.

19 Well, now, somebody, then, as far as you are
20 aware, by what you've seen, heard or read, has killed Mr.
21 Shea, and Mr. Shea is dead; is that right?

22 A Well, that --

23 Q Is that --

24 A Well, so far as I can see, I would have to say
25 yes. Because I've read it in the paper, that Mr. Manson was
26 convicted. So -- and he was, I believe, subsequently
27 sentenced --

28 Q That's right.

12c-2

1 A -- for it. So evidently, the evidence must have
2 been such that the jurors found him guilty.

3 Q And the only way they could do that is by finding
4 that Mr. Shea had been killed by a criminal agency; do you
5 understand that?

6 A Um-hmm.

7 Q All right.

8 Now, do you understand that that's what you are
9 going to be asked to determine, if you are sitting here as a
10 juror on this case? Whether Mr. Shea is dead, and whether he
11 was killed by criminal means?

12 Do you understand that?

13 A Yes, sir.

14 Q All right. Now, in your present frame of mind,
15 do you think that Mr. Davis is going to have to produce some
16 evidence to overcome what you understand to be the finding
17 of another Los Angeles County jury?

18 Is he going to have to persuade you that that
19 jury was wrong?

13 fls.

13-1

1 MR. MANZELLA: Excuse me, your Honor, is Mr. Denny
2 speaking about after the People have introduced their evidence
3 or before the People have introduced their evidence; that is,
4 right now?

5 Q BY MR. DENNY: Right now, as we start out this case,
6 is it your feeling because of the fact that you were aware that
7 one jury here in Los Angeles County has found Mr. Shea was
8 killed and killed by criminal means and killed by someone
9 connected with the Manson Family, is it your feeling that
10 Mr. Davis is going to have to present to you proof that that
11 jury was wrong and that Mr. Shea may be alive?

12 A Well, suppose that the evidence proves that he is
13 dead?

14 Q Well, that's an interesting supposition, but I am
15 asking you now, based on what you have heard, seen or read
16 right now, without having considered -- without now consider-
17 ing the evidence of what might come in whether he is dead or
18 alive right now, as you sit there, is it your feeling that
19 Mr. Davis starts out having to prove to you that Mr. Shea is
20 alive?

21 A I don't think so, sir.

22 Q But you think he's dead already?

23 A Well, I didn't say I think he's dead. I said I
24 had read in the paper where there was a conviction for death
25 for him. So, my thoughts about the matter there, in that case,
26 was just to one of maybe curiosity. It is just another case.

27 Q Well, sir, let me try to go through some of the
28 thought processes.

13-2

1 Assuming you are seated on this jury and you are
2 deliberating in the jury room and you've heard all the evidence,
3 and there's evidence which, in your mind, points, possibly,
4 toward the fact that Mr. Shea is dead. And there's some
5 contrary evidence that points toward the fact that maybe he's
6 not dead at all.

7 Would it be your feeling, as you sit there
8 deliberating, "Well, look, one jury has already found that he
9 is dead and unless I'm going to say that there was a miscarriage
10 of justice there and that an innocent man has been convicted,
11 I'm going to have to say 'go along with that jury and find
12 that he is dead'", are you going to feel that way?

13 A No, I would have to weigh the evidence. If -- the
14 evidence would be the key factor in my thought or -- as to
15 whether he was dead or alive, notwithstanding what another jury
16 had already found.

17 Q All right, sir. What is it that you have heard
18 or read about Mr. Davis?

19 A I may get some names mixed up, so I'll just kind
20 of skirt on thin ice in the beginning.

21 I believe that -- that Mr. Davis was in Texas
22 for -- this is not right? You can correct me, sir.

23 Q Well, I can correct you.

24 Do you remember a guy by the name of Tex Watson?

25 A I'm wrong about Mr. Davis.

26 Q So you're thinking about Tex Watson, then, is that
27 right?

28 A Yes, sir.

13-3

1 Q All right. Did you follow the recent trial of
2 Mr. Tex Watson in the paper?

3 A Just lightly so, sir.

4 Q Well, are you aware of what happened in that case?

5 A I'm -- I don't recall the trial, the highlights of
6 the trial or the sentences. Just the events before he was
7 returned to California.

8 Q You don't know whether he was convicted or acquitted?

9 A I couldn't say positively, sir, but I do believe,
10 the best of my knowledge, he was convicted.

11 Q All right. Now, sir, have you, in the course of
12 your reading about Mr. Manson and the Manson Family, heard,
13 seen or read anything about his philosophy in connection with
14 blacks and whites?

15 A I did read it.

16 Q What did you read about that, sir?

17 A Uh, it seems -- this has been some time ago -- that
18 he advocated to let the blacks and the whites have it out, so
19 to speak. And then, he and his group could -- oh, I don't
20 want to say assume power or anything like that, but he and his
21 group would have the definite say so in how things went.

13a fol

13a-1

1 Q All right.

2 Have you discussed this particular philosophy with
3 other of your friends?

4 A Just casual bull sessions.

5 Q Yeah, all right.

6 And I take it this was not particularly palatable
7 to you, rather distasteful, is that right?

8 A Well --

9 Q In other words, you didn't go along with that
10 philosophy very much?

11 A Well, I don't go along with the philosophy of
12 violence regardless of who it involves.

13 Q Well, particularly Mr. Manson, would that be
14 right? At least, that particular philosophy directed at
15 this sort of black-white war that you are describing?

16 A No, I wouldn't go along with it, sir. It is --
17 as I stated before, with violence within a race or a race to
18 race, I just don't like it. I don't condone it.

19 Q You don't like it.

20 And I take it, then, your feelings would be that --
21 toward Mr. Manson, that he, having espoused that particular
22 philosophy, you would not like him; you'd have some feelings--

23 A Oh, yes.

24 Q -- some feelings of antipathy toward him?

25 A Oh, yes, I definitely --

26 Q All right.

27 So if he were on trial in this case, you
28 wouldn't feel you could be very fair to him, is that right?

13a-2

1 MR. MANZELLA: That doesn't seem to be particularly
2 relevant here, your Honor.

3 MR. DENNY: Well, it is preliminary, your Honor.

4 MR. MANZELLA: We finished the Manson trial already.

5 THE COURT: The Court overrules the objection. You may
6 answer that.

7 THE PROSPECTIVE JUROR: Would you repeat it again.

8 Q BY MR. DENNY: If Mr. Manson were on trial, you
9 couldn't be very fair to him because of this feeling of
10 antipathy towards him, is that right?

11 A Well, say that I have my -- the source of my
12 feeling is strictly from newspapers, hearsay, magazines,
13 and then Mr. Manson was on trial in the courtroom, and he
14 produced his -- his attorney produced evidence to show that
15 that wasn't his feelings. That wasn't --

16 Q Yes, sir.

17 All right, what if the People produced evidence,
18 though, that it was his feelings and that everything you
19 heard was true?

20 MR. MANZELLA: That's not relevant either, your Honor.

21 MR. DENNY: Well, your Honor, it goes to the state of
22 mind.

23 MR. MANZELLA: It doesn't go to a challenge for cause,
24 your Honor.

25 MR. DENNY: Yes, it does, your Honor.

26 THE COURT: Well, finish the question.

27 Q BY MR. DENNY: Assuming everything you read was
28 true, sir, about Mr. Manson's philosophy. And it was shown

1 to you to be true.

2 You would still have that feeling of antipathy
3 toward him and anger toward him; isn't that right, that
4 you have told us about?

5 MR. MANZELLA: That's asking him to prejudge evidence
6 that may not be introduced.

7 THE COURT: That's sustained.

8 Q BY MR. DENNY: Well, you're saying that you do
9 presently have that feeling, based on what you have seen,
10 heard or read; is that correct? That feeling of, sort of
11 antipathy, anger?

12 A Well --

13 Q Unhappiness toward Mr. Manson?

14 A I don't have --

15 Q You don't like him?

16 A I don't have a feeling of anger. It is not a
17 matter of dislike or anything like that toward the individual.
18 It is just his thoughts that I just can't go along with,
19 sir. It is not that I'm -- either you're happy with something
20 or you're not happy with it. But not either this without
21 anger -- that's what I was trying to say.

22 Q Well, assuming, then, you don't have anger.

23 Would you feel that you could be fair to try
24 Mr. Manson, feeling the way you do about his philosophy,
25 if you were called upon to try him?

26 A Well, I'd have to judge it by the evidence and
27 by -- I -- just like I told his Honor, I would strive, the
28 best I know how, to put everything I've heard and seen out

13b-1

of my mind and judge it on the evidence that's presented.

1 Q Well, I understand what you said to the Court,
2 but you seem to have a great deal of trouble arriving at that,
3 because you do seem to have some feelings about Mr. Manson. You
4 do seem to have a good deal of information about the cases. You
5 followed it more closely than an awful lot of people.

6 You are a black man and there are things which you
7 have read about Mr. Manson and his feelings toward black men
8 which do seem to have some effect on you, you see.

9 A Uh-huh.

10 Q There's a question, whether being human, under all
11 of those circumstances, you can put all of that out of your
12 mind; do you understand that?

13 Now, you may think as you sit there, as you have
14 said to the judge, "It is hard. I'm not sure that I can."
15 That's what you have said.

16 MR. MANZELLA: Excuse me, your Honor. I haven't heard
17 the question.

18 MR. DENNY: The question is coming right now.

19 MR. MANZELLA: And I think many of the things Mr. Denny
20 has said are not accurate.

21 THE COURT: Well, let's try to shorten the questions,
22 particularly at this time.

23 MR. DENNY: I'm trying to, your Honor.

24 Q BY MR. DENNY: Mr. Robinson, with all of these
25 factors involved, your knowledge of what you have seen, heard
26 and read about Manson, the Manson Family, all of the things,
27 his philosophy, with your own feeling about him and his philosophy,
28 do you really think that you can be fair and impartial? Can you

13b-2

1 put all of those things away, all of those feelings away, or
2 do you think that another juror who hasn't read as much as you
3 have, and who doesn't know as much about the case as you,
4 could be a good deal fairer toward Mr. Davis in trying this
5 case than you?

6 MR. MANZELLA: That's not relevant to a challenge of
7 cause. The question is whether Mr. Robinson can be fair to
8 this defendant, not whether another juror can be fair to this
9 defendant, but whether Mr. Robinson can be fair. And he's
10 already said he can put these things aside and judge this
11 case on the evidence he hears here and be fair and impartial
12 to Mr. Davis.

13 THE COURT: What you said is true in part, Mr. Manzella,
14 but I think Mr. Denny's question is simply drawing a
15 comparison between somebody who's not heard or read or seen
16 these things and Mr. Robinson has, and he's asking Mr.
17 Robinson for his judgment in respect to that.

18 Do you understand it, Mr. Robinson?

19 PROSPECTIVE JUROR ROBINSON: Would you repeat the last
20 part of his question?

21 Q. BY MR. DENNY: Yes, because the last part is the
22 important part.

23 Do you think, in view of the fact that you know
24 all of these things, and you know about the Manson philosophy,
25 et cetera, do you think you, with that information, can be as
26 fair in trying Mr. Davis, as another juror who might be
27 sitting next to you who doesn't have all of that information?

28 A Well, I -- let's put it this way, Mr. Denny, the

13b-3

1 other juror would not have the difficulty that I have of
2 blotting it out of my mind.

3 Q That's right.

4 A So, I don't know whether it would be easier for
5 him than it would be for me. It probably would be.

6 Q Well, assuming that you would have some difficulties,
7 do you think you could completely overcome those difficulties
8 that he wouldn't have and judge the case as fairly as he
9 would be able to do so, not having those same difficulties
10 that you have?

11 A I believe so, after hearing the evidence.

12 MR. DENNY: All right, your Honor, I'll pass for cause
13 and to just shorten the process here, I will exercise my
14 13th peremptory challenge and thank Mr. Robinson.

15 THE COURT: All right, thank you, Mr. Robinson.

16 PROSPECTIVE JUROR ROBINSON: Thank you, sir.

17 THE COURT: You don't have to report now until Tuesday,
18 at 9:00 o'clock, Room 253. The Court thanks you.

19 PROSPECTIVE JUROR ROBINSON: 253.

20 THE COURT: The Court thanks you, good night.

21 PROSPECTIVE JUROR ROBINSON: Good night, sir.

22 THE COURT: What else do we have -- we're going to run
23 through them. We only have --

24 THE CLERK: Three left, two after this.

25 THE COURT: Maybe we can get a jury and work on the
26 alternates when we come back.

27 THE CLERK: Fred B. Seals, S-e-a-l-s.
28

13 c fol

13c-1

1 THE COURT: You are right, that was your 13th.

2
3 VOIR DIRE EXAMINATION OF

4 FRED B. SEALS

5 BY THE COURT:

6 Q All right, Mr. Seals. Sorry to keep you so late,
7 but we just want to demonstrate to you taxpayers that we're
8 working.

9 Mr. Seals, I would like to know whether you've
10 heard everything that has transpired since -- including the
11 Court's explanation of the nature of this case?

12 A Yes, I have, your Honor.

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

16 A No.

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

19 A Well, just financially.

20 Q Tell us about that. Would it be a hardship to
21 you?

22 A Yes, it would. My company only pays for 20 jury
23 days.

24 Q What company is that?

25 A McDonnell-Douglas.

26 Q And you've inquired since I asked you to ask
27 about that subject, is that correct?

28 A Yes, I have.

13c-2

1 THE COURT: Gentlemen?

2 MR. DENNY: Stipulate he may be excused for hardship,
3 your Honor.

4 THE COURT: Thank you, Mr. Seals. Sorry you had to
5 wait so long.

6 PROSPECTIVE JUROR SEALS: That's all right.

7 Monday morning?

8 THE COURT: Tuesday morning, Room 253 at 9:00 o'clock.

9 PROSPECTIVE JUROR SEALS: Tuesday morning?

10 THE COURT: Tuesday.

11 PROSPECTIVE JUROR SEALS: Oh, thanks.

12 THE COURT: For some reason or other they don't need
13 you until Tuesday.

14 PROSPECTIVE JUROR SEALS: All right.

15 THE CLERK: Baltazar Vasquez, B-a-l-t-a-z-a-r, last
16 name, V-a-s-q-u-e-z.

17 THE COURT: Would you spell the first name again,
18 please?

19 THE CLERK: B-a-l-t-a-z-a-r Vasquez.

20 MR. DENNY: "V"?

21 THE CLERK: "V" as in Victor.

22 There is one name left.

23 THE BAILIFF: He went to make a phone call.

24 THE COURT: Vasquez did?

25 THE BAILIFF: Yes, sir.

26 MR. DENNY: Well, your Honor, could we use this time
27 while he is making this phone call to finish up this business
28 about the sheriff's photograph?

13c-3

1 THE COURT: What is your complaint about these --

2 MR. DENNY: My complaint is, and I think willfully not,
3 and I'm not sure whether they planned to deceive me or the
4 Court or anyone else, I am not sure about that, but they have
5 not complied with the Court's order.

6 The order was that they make -- can we hold him
7 outside for just a minute?

8 THE COURT: Yes.

9 Mr. Vasquez, perhaps you could wait outside
10 for us a moment.

11 Well, let's take him. This may take some time
12 to argue.

13 MR. DENNY: All right.

14 THE COURT: Mr. Vasquez.

15
16 VOIR DIRE EXAMINATION OF
17 BALTAZAR VASQUEZ

18 BY THE COURT:

19 Q Mr. Vasquez, have you been present during all
20 the proceedings thus far since the Court called this case?

21 A Yes, sir.

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

25 A No, sir.

26 Q Is there any reason that you can think of why
27 you could not or should not sit on this case?

28 A No, sir.

1 Q Would it be any hardship to you, for example?

2 A No, sir.

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

4 A I work for the photo lab, L. A. County Flood
5 Control District.

6 Q What type of photo work do you do?

7 A Reproductions, everything. Negatives, blueprints,
8 photostats.

9 Q Aerial photographs?

10 A No.

11 Q No aerial photographs?

12 A They do that, but --

13 Q But you don't work on it?

14 A Not on that, no, sir.

15 Q All right. Have you had any jury experience
16 before?

17 A Never.

18 Q Is there a Mrs. Vasquez?

19 A Yes.

20 Q Is she working outside the home?

21 A Yes.

22 Q What type of work?

23 A She's a machine operator, envelopes.

24 Q Are you related to any law enforcement officers?

25 A No, sir.

26 Q In what area do you and she reside?

27 A Northeast.

28 Q Concerning the death penalty, do you have such

1 views about it that you could not be fair and impartial in
2 determining guilt or innocence?

3 A No, sir.

4 Q Or do you have such views about the death penalty
5 that you would automatically refuse to impose it regardless
6 of the evidence?

7 A No, sir.

8 Q Or would you automatically impose it regardless
9 of the evidence upon a conviction of murder of the first
10 degree?

11 A Uh --

12 Q Would you automatically vote for the death penalty
13 without regard to the evidence upon a conviction of murder of
14 the first degree?

15 A No, sir.

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

18 A No, sir.

19 Q Am I confusing you with some words like "impose"?

20 A Hmm, yes.

21 Q "Impose"?

22 A Uh-huh.

23 Q Did you understand it, though, the last question?
24 Are you -- are your view about the death penalty such that
25 you would never vote for it? Would you ever vote for it?

26 A Yes.

27 Q For the death penalty?

28 A Yes.

14-1

1 Q Have you understood my other questions, do you
2 think? The word "imposed," which means to vote --

3 A To go ahead.

4 Q -- to vote for the death penalty?

5 A Yes, sir.

6 Q Would you automatically vote for it, upon a
7 conviction of murder in the first degree, regardless of the
8 evidence?

9 A No, sir.

10 Q Or would you automatically refuse to apply the
11 death penalty? Would you automatically vote against it,
12 regardless of the evidence?

13 A No, sir.

14 Q I'm sorry to confuse you --

15 A That's all right.

16 Q -- with big words. Sometimes a short word is
17 better.

18 If you do have any trouble, let me know.

19 Concerning this case, have you ever heard, seen or
20 read anything about it whatsoever, before you came into this
21 courtroom?

22 A No, sir.

23 Q Have you ever heard, seen or read the name Davis
24 before?

25 A No, sir.

26 Q Or Shorty Shea? Had you ever heard, seen or read
27 that name?

28 A Only in the paper.

14-2

1 Q Tell us what you've heard, seen or read, from any
2 of the news media, about Shorty Shea.

3 A Well, just that he disappeared; that's all.

4 Q Where did they look for him, if you know?

5 A Hmmm -- some ranch or something, I think.

6 Q And is it your belief that he's deceased at this
7 time? Or do you know?

8 A I don't know.

9 Q And about Gary Hinman, have you ever heard that
10 name?

11 A Well, just in the paper.

12 Q What have you heard about that name?

13 A Just that he was murdered, I guess.

14 Q And did you ever hear that anyone was prosecuted
15 for his murder?

16 A Hmmm -- I'm not sure.

17 Q When was the last time you read anything about
18 Charles Manson? Months, weeks, days?

19 A Hmmm -- months ago, I guess.

20 Q How many months?

21 A Gee, I don't recall.

22 Q Have you ever heard of anyone being prosecuted for
23 the murder of Shorty Shea or Gary Hinman? Or either?

24 A No.

25 Q Now, if I were to --

26 A Sir?

27 Q Yes? Go ahead.

28 A I think it was Hinman -- I think it was; I'm not

14-3

1 sure.

2 Q Hinman? What did you hear about that?

3 A Hmmm -- just that Manson was involved in it.

4 Q That Manson was involved?

5 A Um-hmmm.

6 Q When did you --

7 A That's about all.

8 Q Pardon?

9 A That's about all.

10 Q When did you hear that?

11 A I don't recall. It's been a while back.

12 Q Well, like a year ago? Or six months ago?

13 A Hmmm --

14 Q A week ago?

15 A In about -- geez, it's hard to tell.

16 Q Well, give us --

17 A Because I don't keep up with it.

18 Q Give us your best guess about when you last heard
19 anything about Mr. Manson's involvement with the Hinman case.

20 A Five or six months ago, I guess.

21 Q Five or six months ago?

22 A Yes, maybe.

23 Q Yeah. Now, if I were to instruct you that you were
24 to set aside anything -- if you were chosen as a juror, and I
25 do instruct you, if you are chosen -- to set aside anything
26 that you may have heard, seen or read about Charles Manson, the
27 Manson Family, Shorty Shea, Gary Hinman, Bruce Davis, or this
28 case; if I were to tell you that you were to set aside every

14-4

1 such matter that you may have seen, heard or read, or talked
2 about with friends or relatives, are you capable of setting it
3 aside? Not forgetting it, but setting it aside for the purpose
4 of acting as a juror in this case?

5 A Yes, sir.

6 Q And would you set it aside and make any judgment that
7 you might be called upon to make, basing your judgment only on
8 the evidence in the case, and the Court's instructions of law?

9 A Yes.

10 Q And will you be fair and impartial --

11 A Yes.

12 Q -- in the case?

13 A Yes.

14 Q In spite of what you may have heard, seen or
15 read?

16 A Yes.

17 Q And if anyone should raise anything that is not
18 within the evidence, but is something that was reported out-
19 side, in the press, TV or radio, would you point that out,
20 that that's not to be considered in the course of delibera-
21 tions?

22 A Yes, sir.

14a fol

14a-1

1 THE COURT: Mr. Denny?

2 MR. DENNY: Thank you, your Honor.

3
4 VOIR DIRE EXAMINATION

5 BY MR. DENNY:

6 Q Sir, have you ever served any time in the military
7 service?

8 A Never.

9 Q And have you or your family ever been a victim
10 of any kind of crime?

11 A No, sir.

12 Q Or charged with any kind of crime?

13 A No, sir.

14 Q And going to the death penalty, again, with the
15 pauses that you made -- which was quite obviously made just
16 because of the Court's use of the word "impose" --

17 A Well, some of the words, I guess.

18 Q All right.

19 Do you have any trouble -- and would you have
20 any trouble understanding testimony, from these witnesses,
21 or questions being asked by the attorneys, do you think?

22 A I wouldn't know. It would depend, I guess.

23 THE COURT: That's a good answer.

24 MR. MANZELLA: Yes.

25 Q BY MR. DENNY: Well, have you had any trouble
26 up to now --

27 A No, sir.

28 Q Well, I have, and so's the Court --

14a-2

1 A Well --

2 Q -- with me, I think.

3 Now, we are a little facetious about it, but it
4 is important, obviously. There was a case recently where a
5 person just didn't understand --

6 A Um-hmm

7 Q -- and if you feel that you would have any
8 trouble at all, either understanding the questions or under-
9 standing the witnesses, based on any trouble you've had in
10 the past -- not here in court --

11 A Um-hmm.

12 Q -- you should let the Court know, because it
13 would be a grave miscarriage of justice to both sides, if
14 that were so.

15 A Um-hmm.

16 Q Do you think you'd have any trouble at all?

17 A Well, I wouldn't know.

18 Q You don't have any trouble getting along daily?

19 A No. Not every day.

20 Q Okay. All right. Now, sir, insofar as the
21 death penalty, have you done any reading on that at all?

22 A No.

23 Q Discussed it, one way or another, at all?

24 A No, sir, never.

25 Q You are perfectly open to whether a person
26 should be given life or death, depending upon the circum-
27 stances of the case, and the particular individual; is
28 that right? Is that what you are saying?

14a-3

1 A Yes.

2 Q You feel you could impose it if you had to?

3 A Yes.

4 Q But you are not oriented, so that any time a
5 person is guilty of first degree murder, you would impose it;
6 is that right?

7 A No, sir.

8 Q Or vice versa; you wouldn't automatically say,
9 "I will never impose the death sentence on anyone," --

10 A No, sir.

11 Q -- is that right?

12 It all depends upon the facts that are developed;
13 is that right?

14 A Yes, sir.

15 Q Now, sir, have you heard of Mr. Manson being
16 prosecuted for any crimes other than the Tate and La Bianca
17 murders?

18 A Hmmm -- I don't recall, no, sir.

19 Q Do you get a newspaper daily?

20 A Uhh -- no; just on Sundays.

21 Q What is your major source of news, then? TV,
22 radio?

23 A The TV, once in a while, the news.

24 Q How about radio?

25 A No.

26 Q So it would be your feeling that you don't keep
27 up on the day's --

28 A Not any more, sir, no.

14a-4

1 Q All right, sir. And as far as hearing that
2 Mr. Shea had disappeared, is that about all that you
3 remember of Mr. Shea? Just that he disappeared, and they
4 were looking for him?

5 A Um-hmm.

6 Q Do you have any feeling at this time that Mr.
7 Shea is dead?

8 A I don't know.

9 Q Any more dead than alive?

10 A No.

11 Q You don't know?

12 A I don't know.

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

15
16 VOIR DIRE EXAMINATION

17 BY MR. MANZELLA:

18 Q Mr. Vasquez --

19 A Yes, sir.

20 Q -- do you know anyone who has -- or, have you
21 ever been accused of any crime?

22 A No, sir.

23 Q If you sat on the jury, and you convicted Mr.
24 Davis, this defendant, of first degree murder; and, after
25 hearing all the evidence in the case, you decided that for
26 these crimes, he deserved the death sentence, would you be
27 able to vote for it?

28 A Yes, sir.

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Q And you would be willing to vote for it?

A Yes, sir.

14b-1

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

2 A No.

3 Q So if you thought that for these crimes this
4 defendant deserved the death sentence, would you be able to vote
5 for it?

6 A Yes.

7 Q You heard the questions I asked the other jurors
8 with regard to Count III, charging the murder of Donald Shorty
9 Shea --

10 A Yes, sir.

11 Q -- and the fact that we will not be able to produce
12 the body, and we will not be able to produce a person, a
13 witness, who saw the body in death.

14 Do you understand that?

15 A Yes, sir.

16 Q Okay. Does that make you close your mind to what
17 evidence the People might present at this trial? Or will you
18 maintain an open mind through the course of this trial?

19 A An open mind.

20 Q Okay. And would you be willing to be convinced
21 beyond a reasonable doubt, if the evidence can do that, that
22 Shea's been murdered, and that this defendant murdered him?

23 A I would have to be convinced.

24 Q Okay. But are you willing to be convinced beyond
25 a reasonable doubt, even though you know that we have not
26 recovered the body?

27 A Yes, sir.

28 MR. MANZELLA: The People pass for cause.

14b-2

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Thank you, Mr. Vasquez.

THE COURT: The next peremptory is with the People.

MR. MANZELLA: The People accept the jury.

MR. DENNY: We accept the jury.

THE COURT: Would you stand, Mr. Vasquez?

PROSPECTIVE JUROR NO. 11: Yes, sir.

THE CLERK: You do solemnly swear that you will well and truly try the cause now pending before this Court, and a true verdict render therein, according to the evidence and the instructions of the Court, so help you God?

PROSPECTIVE JUROR NO. 11: I do.

THE COURT: Let's see. Mr. Vasquez, you are juror No. --

MR. DENNY: 11, your Honor.

THE COURT: -- 11. You are the fifth seat from the end in the back row.

You may take that seat for now.

I'll call the rest of the jurors back in.

(Pause in the proceedings while the remainder of the prospective jury panel entered the courtroom.)

THE COURT: Well, ladies and gentlemen, once this evening we had a jury; and then we didn't have one, as a result of having to excuse Mr. Mortensson.

And I've kept you here this late, not simply to impress you as taxpayers, but with the intention of getting a jury before some of us leave on a vacation.

And we have done it. We have twelve of you now who are sworn as jurors. But that didn't end the task.

We have to select some alternates. We'll probably

14b-3

1 select three or four alternates. But we have run out of
2 prospective jurors now to do that. So, we cannot accomplish the
3 task this evening, or before we reassemble on January 3rd.

4 The reason I called you in here is to tell you some
5 of the ground rules that you will have to observe during the time
6 that you are jurors.

7 When you are in the courtroom as jurors, the Court
8 believes that you are in a position of considerable importance,
9 and you should conduct yourselves as if you were judges in the
10 case, because that is what you are.

11 The Court would prefer that you gentlemen wear
12 coats and ties, and that the ladies dress appropriately. I
13 don't know what "appropriate dress " is for a lady. I'll just
14 leave that up to your good individual taste, because I -- I'm
15 not an arbiter of that.

16 I do know that the gentlemen, I believe, should --
17 at least, it's been my opinion that a juror should look like a
18 juror, so that he can be distinguished at least from the
19 defendants in that way, in dress.

20 So that the gentlemen wear coats and ties, and
21 comport yourselves properly, coming in and out of the court-
22 room.

23 When you leave the courtroom, if the -- whether or
24 not it's -- I am conducting any other business, it's proper to
25 leave quietly, and without a great deal of hubbub.

26 Remember that in this recess, now, that you are
27 obliged not to converse amongst yourselves nor with anyone
28 else, nor are you to permit anyone to converse with you on any

14b-4

1 subject connected with this trial, nor are you to form nor
2 express any opinion on the matter until it's finally submitted
3 to you.

4 I want you to take affirmative steps, as all of you
5 as many of you have, and you have told me that you have
6 taken affirmative steps, not to see, hear or read anything in
7 connection with Manson, the Manson Family, or this case.

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1 People have told me that they walked out of the
2 room, at a time that a television newscast was starting,
3 when they heard the name "Manson."

4 They have told me that they turned aside from a
5 newspaper, or turned the page quickly, when they've seen the
6 newspaper headlines.

7 So, it's your obligation to do that same type
8 of thing. You may be -- you may have to talk to your
9 employers about being a juror in the case. I don't mean
10 that. But you are not to discuss anything beyond that,
11 except that you are a juror in a case involving Bruce
12 McGregor Davis, and it's going to take until sometime in
13 February.

14 Have some happy holidays, and take care of
15 yourselves, because you're important. We've taken a lot of
16 time to get you, and we don't want to lose you. So take
17 care of yourselves.

18 Have some happy holidays, and I'll see you here
19 on January 3rd, at -- well, let's be realistic. I've set
20 a number of matters, so it probably should be about 10:30
21 in the morning.

22 So I'll see you at 10:30 in the morning on
23 January 3rd.

24 Good night, and Merry Christmas, and Happy New
25 Year to you.

26 (Whereupon, murmurs of "the same to you, your
27 Honor," were heard from members of the jury.)

28 THE COURT: And you, sir, your name?

4c-2

1 PROSPECTIVE JUROR TAKAYESU: Stanley Takayesu.
2 THE COURT: Say it again?
3 PROSPECTIVE JUROR TAKAYESU: Stanley Takayesu.
4 THE COURT: Sir, when does your jury duty end?
5 PROSPECTIVE JUROR TAKAYESU: December 29th.
6 THE COURT: December 29th?
7 PROSPECTIVE JUROR TAKAYESU: Yes, sir.
8 THE COURT: May it be stipulated that we could excuse
9 him? His jury duty will be finished on December 29th.
10 MR. MANZELLA: So stipulated on behalf of the People.
11 MR. DENNY: So stipulated, your Honor.
12 THE COURT: And we'll bring in a new panel, and --
13 MR. DENNY: We're going to have to anyway, --
14 THE COURT: And --
15 MR. DENNY: -- in the selection of the alternate
16 jurors.
17 THE COURT: Sir, would you report on Tuesday morning
18 to Room 253 at 9:00 o'clock.
19 PROSPECTIVE JUROR TAKAYESU: Tuesday morning?
20 THE COURT: Tuesday morning, in the jury assembly
21 room.
22 And thank you. Sorry to keep you waiting.
23 PROSPECTIVE JUROR TAKAYESU: What about Monday?
24 THE COURT: The Clerk tells me that you are excused
25 until Tuesday.
26 PROSPECTIVE JUROR TAKAYESU: Until Tuesday?
27 THE COURT: So you can skip Monday.
28 PROSPECTIVE JUROR TAKAYESU: Oh, so I have got to go

4c-3

1 to work, then?

2 THE COURT: Well, I am not ordering you to go to work.
3 You don't have to go to work.

4 PROSPECTIVE JUROR TAKAYESU: I was just wondering
5 about that one day, so --

6 THE COURT: Where do you work?

7 PROSPECTIVE JUROR TAKAYESU: For the L. A. City Schools.

8 THE COURT: Oh.

9 PROSPECTIVE JUROR TAKAYESU: Till Tuesday morning?

10 THE COURT: They're going to be on vacation anyhow,
11 aren't they?

12 PROSPECTIVE JUROR TAKAYESU: No, sir. I have got to
13 still work Monday.

14 THE COURT: All right. Tuesday morning, then, at
15 9:00 o'clock. Room 253.

16 PROSPECTIVE JUROR TAKAYESU: Okay. Thank you.

17 THE COURT: All right. We are in recess.

18 MR. DENNY: Judge, can we --

19 THE COURT: Do you want to be heard on this?

20 MR. DENNY: Yes, I sure do. I'm sorry to keep the
21 Court, but it's important, because I think some work can be
22 done over the --

23 THE COURT: All right.

24 MR. DENNY: -- holiday.

25 THE COURT: All right. Now, in what way have they
26 failed to comply with the order?

27 MR. DENNY: They have not made photographs of each of
28 the six land impressions on the evidence bullet and the test

4c-4

bullet.

It appears that they have made photographs of No. 1 land impression, No. 2 or 3 -- because they're both the same; No. 4; and No. 5 or 6, because they're both the same.

THE COURT: 2 and 3 are the same, yes. And --

MR. DENNY: And 5 and 6 are the same.

THE COURT: And 5 and 6 are the same?

MR. DENNY: And No. 4, the bullet is out of alignment.

THE COURT: It looks as though they have done some --

MR. DENNY: Or bullets.

THE COURT: Well, I don't know.

MR. DENNY: The bullets are out of alignment.

4d fls.

14d-1

1 THE COURT: I'm not well enough versed in the field to
2 know whether or not they're out of alignment. But they seem to
3 be.

4 MR. DENNY: All right.

5 Your Honor, I would like an order of this Court --

6 THE COURT: Do you wish them chastised for sloppy work in
7 connection with that?

8 MR. DENNY: Well, you know, I determined, before I came
9 in, whether I was going to be facetious and light and gay about
10 this, or be very serious. And I can be either.

11 THE COURT: Well, you can --

12 MR. MANZELLA: Mr. Denny, what did you decide? Don't keep
13 us waiting. Tell us.

14 MR. DENNY: Well, I decided to be a little bit more
15 serious than facetious on it.

16 THE COURT: Well, do you think there's something
17 nefarious --

18 MR. DENNY: I do, your Honor.

19 THE COURT: -- in their sloppy work?

20 MR. DENNY: I really do. I cannot imagine that they
21 would put the numbers "1, 2, 3, 4, 5, 6," very purposefully
22 on the bottom of those photographs -- and it has to be, then,
23 on the negative, that they're doing it -- somehow, without
24 its being very purposeful.

25 THE COURT: If you have found that order, what did the
26 Court order them to do? Has the order been procured? Where is
27 it?

28 MR. DENNY: I still don't have it, your Honor.

14d-2

1 THE COURT: Do you have your copy of it?

2 MR. DENNY: I don't have my copy here.

3 But I think Mr. Manzella may have a copy of it.

4 THE COURT: Do you, Mr. Manzella?

5 MR. MANZELLA: Yes.

6 (Whereupon, Mr. Manzella handed a document to the
7 Court, which document the Court perused.)

8 THE COURT: Now, what was ordered was three micrographs --
9 photomicrographs --

10 MR. DENNY: Or six.

11 THE COURT: -- one each of each two land impression
12 comparisons on the recovered bullet, People's Exhibit 31 in
13 this case -- in the case of People versus Manson, and the
14 bullet test fired by Sergeant Christensen on or about March
15 16.

16 MR. MANZELLA: Your Honor, may I inquire, are those --
17 do the -- are the photographs mentioned by Mr. Denny, are they
18 duplicates of each other? Or just -- or just portions of one
19 of the bullets, the same as a portion in another photograph?
20 Or are the photographs duplicates of each other?

21 THE COURT: I can't tell. The lighting -- the lighting
22 seems to be different in --

23 MR. DENNY: Your Honor, the -- I'll answer Mr. --

24 THE COURT: There seems to be a difference between 5 and
25 6 in the coloration or the lighting.

26 MR. DENNY: But they are the same photographs.

27 THE COURT: It may be that they have simply -- well,
28 although they are the same photographs, they're -- there is on

14d-3
1 each photograph -- a picture of two bullets.

2 MR. DENNY: That is correct, your Honor. The --

3 THE COURT: So, in effect, you have got a picture -- you
4 have got six pictures --

5 MR. DENNY: No, your Honor.

6 THE COURT: You have got --

7 MR. DENNY: Well, there are six pictures there; there are
8 actually seven, if you count the duplication of six, twice.

9 THE COURT: Well, I don't know whether they are copies
10 or whether they are -- that is, whether the respective pairs
11 are copies of each other, or whether they are other photo-
12 graphs, taken in different lighting conditions.

13 Because the shadings do appear to be different
14 to me. And there are some differences.

15 MR. DENNY: Well --

16 THE COURT: I think this is a matter which can be
17 informally inquired about, without there being any necessity
18 for any order.

19 And the Court will do so, --

20 MR. DENNY: Well, your Honor, may --

21 THE COURT: -- will make inquiry --

22 MR. DENNY: -- I request --

23 THE COURT: Yes?

24 MR. DENNY: -- that over this vacation -- because it's
25 going to be important to have it done, and done timely --
26 that I -- that the Court make an order that the requested
27 order be complied with? And that six photographs, photo-
28 micrographs of each of the six land impressions on the test

14d-4

1 bullet and on the evidence bullet, the recovered bullet,
2 People's 31, be made by the Sheriff's Crime Lab, in my
3 presence, so that I can see that they are doing that, as they
4 are supposed to do it?

15 fol

15-1

1 THE COURT: Well, I will require them to do it in your
2 presence, but --

3 MR. DENNY: Well, will you require them to do it, then,
4 and comply with the order as originally made?

5 THE COURT: Well, I don't know.

6 MR. DENNY: Because these are not complying with it.
7 I have taken them to Mr. Harper, your Honor, the expert that
8 I have used thus far in the case, and we've gone over them,
9 and the naked eye, the untrained eye can see that these are
10 not photographs of six different land impressions of each of
11 the bullets.

12 THE COURT: Well, Harper contends there are only three,
13 is that it?

14 MR. DENNY: There are only four. Number one is a
15 separate photograph.

16 THE COURT: Yes.

17 MR. DENNY: Comparing both the evidence and the test
18 bullet.

19 Number two and three are exactly the same, so we
20 don't know if that's the second or the third.

21 THE COURT: He says there are land two and three, for
22 example that are not separate --

23 MR. DENNY: They are identical.

24 THE COURT: -- taken -- excuse me.

25 They are not separate photographs taken at
26 different times, but they are simply copies two and three?

27 MR. DENNY: That's correct.

28 Number four, it is out of alignment, but it, at

15-2

1 least, is a different land impression than numbers one and
2 the identical two and three.

3 Number five and number six are of the same
4 land impression.

5 There should be six land impression photographs
6 showing six different land impressions. There are only --

7 THE COURT: Where do you --

8 MR. DENNY: There are only four land impressions.

9 THE COURT: From where did you procure --

10 MR. MANZELLA: From me.

11 MR. DENNY: From Mr. Manzella -- apparently procured
12 them from Mr. Christensen in --

13 MR. MANZELLA: Your Honor, if I could have them back,
14 I wanted to go over and see Christensen over at the crime
15 lab.

16 THE COURT: I'll redeliver them to you. I know you are
17 going on vacation. Can you communicate then with Mr. Kay
18 somehow or other and see that he follows through?

19 MR. MANZELLA: I can do it. I'm going to be back on
20 Tuesday and Wednesday of this week, I'm going to go over there
21 and talk to Mr. Christensen.

22 MR. DENNY: Your Honor --

23 THE COURT: They may have done it and may have
24 delivered you the wrong photographs or something of that
25 nature.

26 MR. DENNY: Your Honor, excuse me, I would like to have
27 those marked for identification. And I don't mind if
28 Mr. Manzella takes them out of --

15-3

1 THE COURT: Well --

2 MR. DENNY: Out of the clerk's possession, however she
3 wants to do it, but I want those photographs marked for
4 identification because this is just one more evidence of the
5 kind of work that the Sheriff's Crime Lab has done in this
6 case. And I want to be able to present that to the jury. So,
7 I want those marked for identification at this time.

8 THE COURT: Well, the Court is not going to mark them for
9 identification at this moment.

10 MR. DENNY: Well, your Honor, I don't want those to get
11 out of the possession of the clerk without having been marked
12 for identification because they can substitute any other
13 photographs they want at this time. And I think it is
14 important. And it is a matter of --

15 THE COURT: Why is it important?

16 MR. DENNY: Because it is one more evidence of the
17 sloppy work, the negligent work or, if not negligent, the
18 falsification of evidence of the Sheriff's Crime Lab.

19 Now, I'm not making an accusation at this time,
20 whether it is one or the other, but in either case, It is --

21 THE COURT: Your expert --

22 MR. DENNY: -- an indication --

23 THE COURT: Your expert has seen them?

24 MR. DENNY: Pardon, your Honor?

25 THE COURT: Your expert has seen these?

26 MR. DENNY: Yes, he has, your Honor.
27
28

15 a

15a-1

1 THE COURT: And has he examined them for the purpose
2 of rendering any opinions or has he worked with them for
3 any period of time?

4 MR. DENNY: No, your Honor. I just had time to take
5 them over during lunch today.

6 THE COURT: Well --

7 MR. DENNY: For a very short period of time. Only
8 short enough so that he had the opportunity to point out to
9 me what --

10 THE COURT: How do you wish them marked? What do you
11 wish them marked?

12 MR. DENNY: Marked B, Special Exhibit -- Defendant's
13 Special Exhibit B-1 through 8 for identification.

14 THE COURT: All right, B-1 through 7.

15 MR. DENNY: B-1 through 8, including the report.

16 THE COURT: B-1, 2, 3 --

17 MR. DENNY: There are seven pictures and the report.

18 THE COURT: All right, they're -- and the report will
19 be marked B-1 through 8, and pursuant to stipulation 1
20 through 8, pursuant to stipulation, that they be released
21 to Mr. Manzella.

22 MR. DENNY: Thank you, your Honor.

23 THE COURT: And the Court will ask you to return those
24 to the -- to the Court.

25 MR. MANZELLA: Yes, your Honor.

26 MR. DENNY: Thank you, your Honor.

27 THE COURT: The Court's observation is that there is
28 no indication that there is anything nefarious or willful

15a-2

1 about it at this point and without commenting on it further,
2 it just appears to me to be a case of misunderstanding.

3 (Whereupon, at 5:38 o'clock p.m. the evening
4 recess was taken, proceedings to be resumed
5 at 10:30 o'clock a.m., Monday, January 3, 1972.)
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