

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.

215

No. A-267861

REPORTERS' DAILY TRANSCRIPT

Monday, January 3, 1972

VOLUME 15

APPEARANCES:

For the People:

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

For Defendant Davis: GEORGE V. DENNY, III

COPY

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

1 LOS ANGELES, CALIFORNIA, MONDAY, JANUARY 3, 1972 10:56 A.M.

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4 THE COURT: Good morning, everybody.

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

7 THE COURT: Nice to see you again. I hope you had some
8 happy holidays, and that you have a fine 1972.

9 In the case of People vs. Davis, the record will
10 show that the defendant is present with his counsel; that
11 Mr. Manzella and Mr. Kay are present for the People, and
12 that there are prospective jurors beyond the railing.

13 Would you all please rise and face the Clerk?

14 THE CLERK: You and each of you do solemnly swear that
15 you will well and truly answer such questions as may be asked
16 of you touching upon your qualifications to act as trial
17 jurors in the cause now pending before this court, so help
18 you God?

19 THE PROSPECTIVE JURORS: I do.

20 THE COURT: Will counsel approach the bench?

21 Do we have three seats there? Beyond Mrs.
22 Obradovich, there are two seats; and one the other side of
23 Mr. Cano.

24 (Whereupon, the following proceedings were had
25 at the bench among Court and counsel, outside the
26 hearing of the jury:)

27 THE COURT: We will take three prospective jurors?

28 MR. MANZELLA: I think that would be enough.

1 THE COURT: And then -- do you think it will take the
2 balance of the day to get these three?

3 MR. DENNY: Oh, I am sure it will.

4 MR. MANZELLA: I do, too.

5 THE COURT: Should we release those jurors who are in
6 the box?

7 MR. MANZELLA: I think that would be a good idea, to
8 release them until tomorrow morning.

9 MR. DENNY: Judge, the only thing I was wondering was
10 whether or not they had heard anything over the holiday.
11 It's sort of an awkward situation, having impaneled them
12 at this point, but I do think it's important to determine,
13 since Manson was sentenced -- not Manson, but Grogan was up
14 on a motion for new trial, and the new trial motion was
15 granted.

16 It did make the news, and it made some headlines
17 in connection with the Shea murder. And it certainly seemed
18 relevant, if they -- if any of them had been made aware of
19 that fact.

20 THE COURT: All right. The Court will inquire about
21 it.

22 Other than that, you would agree that the jury
23 may be released --

24 MR. DENNY: Yes, if --

25 THE COURT: -- while we select the alternates?

26 MR. DENNY: If any of them have heard, I would request
27 that the Court inquire of them out of the presence of the
28 other jurors and the prospective jurors, as to what they have

1 heard.

2 MR. KAY: I would just like to make one correction in
3 the record. I think Mr. Denny misspoke when he said that
4 the motion for new trial was granted as to Grogan.

5 MR. DENNY: Well --

6 MR. KAY: It wasn't granted. But the penalty was
7 reduced from death to life.

8 MR. DENNY: Yes.

9 THE COURT: Yes. So I read in the newspaper.

10 MR. DENNY: Judge, I do have another motion to make at
11 this point, and it revolves around that reduction of penalty.

12 Again, in view of the fact that all of the parti-
13 cipants in the Hinman and Shea killings, other than Bobby
14 Beausoleil -- who, according to all the evidence, did in fact
15 stab Gary Hinman to death -- have received life; and in view
16 of the reduction in the death penalty which was granted by
17 Judge Kolts to Defendant Grogan, I feel that it would very
18 definitely constitute, under the California Constitution,
19 unusual punishment, if the death penalty were to be either
20 voted by the jury or any attempt were made to carry it out.

21 It seems inconceivable --

22 THE COURT: So your motion is what?

23 MR. DENNY: My motion is that the alternates at this
24 point not be queried as to their feelings on the death penalty;
25 and that the People not proceed on the basis that they are
26 going to seek the death penalty in this case, because I think
27 if they did so, that this Court, under all of the circumstances
28 that this Court is aware of, pertaining to the Defendant Manson,

1 to the Defendant Atkins, both of whom this court has
2 sentenced, and the Defendant Grogan, all of whom have
3 received life sentences in connection with all of these
4 cases -- both Hinman and Shea -- that this Court would be
5 required to set aside any death penalty verdict, and --

6 THE COURT: How can you say that until you know that
7 the Court -- when you know that the Court has not heard the
8 evidence in this case?

9 MR. DENNY: Well, this Court has heard the evidence in
10 this case.

11 MR. KAY: No.

12 MR. MANZELLA: It hasn't heard the evidence with regard
13 to Mr. Davis.

14 MR. DENNY: Well, this Court has heard --
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1 THE COURT: Well, what do you have to say, the People?

2 MR. KAY: Well, we --

3 MR. MANZELLA: We want to proceed in the same manner in
4 which we have been proceeding, and -- because nothing has
5 occurred in this court so far which would bring into play the
6 Eighth Amendment regarding cruel and unusual punishment.

7 And at this point -- at this point, not having
8 heard the evidence, it would be difficult for the Court to say
9 whether or not a death sentence as to Mr. Davis would be cruel
10 and unusual punishment, or whether or not it should be lowered
11 -- or whether it should be reduced upon a motion for new trial.

12 Now, in the Grogan case, the only murder for which
13 Grogan was tried was the Shea murder. And in this case,
14 Mr. Davis is being tried for the Hinman murder as well.

15 And this Court has not heard the evidence with
16 regard to Mr. Davis on the Hinman murder.

17 And furthermore, Judge Kolts, it seems to me his --
18 part of his reasoning -- again, I only know about it from the
19 newspapers -- but it seems to me that part of his reasoning
20 was also the background of the defendant Grogan; not merely
21 the facts of the case.

22 MR. KAY: Having talked to Burton Katz, who was the
23 prosecutor on this case, he said that Judge Kolts weighed
24 very strongly the fact that Grogan was 16 when he joined --

25 MR. DENNY: Eighteen.

26 MR. KAY: No, 16.

27 MR. DENNY: I'm sorry.

28 MR. KAY: (Continuing) -- when he joined the Family;

1 and just a couple of weeks over 18 at the time of the murder, so
2 that -- and that he is of very low intelligence.

3 Now, I don't think we have that in this case, be-
4 cause it's my understanding --

5 MR. DENNY: Hold it down, please.

6 MR. KAY: -- that Mr. Davis has had three years at the
7 University of Tennessee, and that he's something like 27 or 28
8 right now.

9 MR. DENNY: Well, your Honor --

10 THE COURT: The motion is --

11 MR. DENNY: Your Honor, I would ask for an offer of proof
12 at this time as to what additional the People would intend to
13 show by way of evidence of Bruce Davis that they have not
14 already shown in the Manson case, or in the Grogan case, or that
15 has not already appeared before this Court in the transcript of
16 the Grand Jury, which this Court had to read in connection with
17 the 995 motion;

18 And in addition, what the People would intend to show
19 at the penalty trial, so as to determine whether or not, in
20 good faith, there is going to be a real attempt made to get the
21 death penalty on this defendant, and why this defendant -- who,
22 by all of the evidence that I am aware of thus far, through all
23 of the discovery that I have made -- and I am sure through all
24 of the evidence that this Court has heard and has become aware
25 of, not only through the evidence in the Manson case, but at
26 the Grand Jury hearing and through the Grand Jury transcript --
27 was no more than, at most, an accomplice who drove the three
28 parties, Beausoleil, Atkins and Brunner, to the -- to the Hinman

1 home, and then drove Manson to the Hinman home; did not in any
2 other way --

3 THE COURT: The Court is not going to require that offer
4 of proof.

5 The Court denies the motion.

6 I will, however, inquire of the jury that's in the
7 box as to whether or not they have heard, seen or read anything
8 concerning the case of People versus Grogan.

9 MR. DENNY: Well, your Honor, may I just again, to
10 complete the record -- it would not only be unusual punishment
11 under the California Constitution, but cruel and unusual
12 punishment under the Eighth Amendment, and violation of the
13 Fourteenth Amendment of the United States, and a violation of
14 due process under the Fourteenth Amendment.

15 THE COURT: All right. Let's proceed.

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

4 THE COURT: I am directing this question, ladies and
5 gentlemen, to each of you in the box.

6 I'll ask you now whether any of you, during the
7 course of the recess, has heard, seen or read anything con-
8 cerning Mr. Manson, this case or the case of People vs.
9 Grogan?

10 (No affirmative response.)

11 THE COURT: I see no affirmative response.

12 And I see negative responses from several jurors.

13 Is there anyone now who has heard, seen or read
14 anything concerning this case, Charles Manson or a Steven
15 Grogan?

16 (No affirmative response.)

17 THE COURT: I see a negative response from all jurors.

18 Very well, it is the agreement of all the
19 attorneys here and the Court that you may be excused now
20 during the time that we are selecting the alternate jurors.
21 We'll be selecting three alternate jurors and you may be
22 excused tomorrow if we do not have them selected. If we do
23 have them selected tomorrow, then we'll probably begin the
24 case tomorrow. If not, then, I'll probably be excusing you
25 again at about this time.

26 But in any event, I'll excuse you now until --
27 not 10:00 o'clock, but 9:30 tomorrow morning. I'll assume
28 we'll be able to start at 9:30.

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1 I'll see you then tomorrow at 9:30, with this
2 admonishment, remember you are obliged during the course of
3 this recess and any subsequent recess not to converse amongst
4 yourselves, nor with anyone else, nor permit anyone to con-
5 verse with you on any subject connected with this matter, nor
6 are you to form or express an opinion on the matter until it
7 is finally submitted to you.

8 Likewise, remember the admonishment regarding
9 publicity. You are not to see, hear or read anything concern-
10 ing Charles Manson or this case.

11 Miss Frazier, you indicated to the bailiff that
12 you wanted to be excused.

13 Could you be here by 10:00 o'clock?

14 JUROR FRAZIER: I don't know. I'll call and see if I
15 can get a later appointment.

16 THE COURT: Pardon?

17 JUROR FRAZIER: I'll call and see if I can get a later
18 appointment. I doubt it, though.

19 THE COURT: In deference to you, then, in your situation,
20 I will, instead of 9:30, make it 10:00 o'clock that we
21 assemble. I'll change the order. You are to be here by
22 10:00 o'clock and if you can change that appointment, -- I'm
23 sure that the doctor would accommodate you if he knew what
24 your situation is.

25 Perhaps you can let him know that.

26 All right, thank you, and good to see you all
27 back, and see you tomorrow morning at 10:00 o'clock.

28 (Whereupon, the jury retired from the courtroom,

and the following proceedings were had:)

THE COURT: Joyce, will you take three alternate jurors.

THE CLERK: Mrs. Mary M. DeKuh; M-a-r-y, middle
initial "M", last name D-e-K-u-h.

Cecil H. Chavers, C-e-c-i-l, last name, C-h-a-v-e-r-s.

Miss Manuela Alvarez; first name M-a-n-u-e-l-a,
last name A-l-v-a-r-e-z.

THE COURT: I'm speaking to all of you ladies and
gentlemen beyond the rail and in the box now, the three of
you who are in the box and those who have been sworn, this
is the case of the People of the State of California vs.
Bruce McGregor Davis. Mr. Davis is, by this indictment before
the court, charged with three violations of law, three counts.
The indictment is in three counts.

And the first count charges that Mr. Davis, who
is the gentlemen seated at the far end of the counsel table
from the jury box, -- charges that Mr. Davis on or about the
27th day of July, in the County of Los Angeles, with -- and
Defendants Charles Manson and Susan Denise Atkins, did
willfully, unlawfully and feloniously, and with malice
aforethought, murder Gary Alan Hinman, a human being.

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1 Count II charges that Charles Manson, Susan Denise
2 Atkins and Bruce McGregor Davis did commit the crime of
3 conspiracy to commit murder and robbery in violation of Section
4 182.1, of the Penal Code of California, in that on or about the
5 25th through the 28th day of July, 1969, in the County of Los
6 Angeles, those defendants did willfully, unlawfully and
7 feloniously and knowingly conspire, combine, confederate and
8 agree together and with other persons who true identity is
9 unknown to commit the crime of murder, a violation of Section
10 187, Penal Code of California, a felony, and of robbery, a
11 violation of Section 211, Penal Code of California, a felony.

12 That pursuant to and for the purpose of carrying
13 out the objects and purposes of the aforesaid combination,
14 agreement and conspiracy, the following overt acts were commit-
15 ted.

16 And three overt acts are alleged in Count II.

17 That on or about the 25th of July, 1969, the said
18 defendants, Bruce McGregor Davis and Susan Denise Atkins, and
19 Robert Beausoleil did travel to the vicinity of 964 Old Topanga
20 Road, Malibu, in the County of Los Angeles, is overt act number
21 one.

22 Overt act number two alleges that on July 26th,
23 1969, the defendants, Charles Manson, Susan Denise Atkins, and
24 Bruce McGregor Davis did enter the residence at 964 Old
25 Topanga Road, Malibu, in the County of Los Angeles.

26 And overt act number three charges that on or about
27 July 26th, 1969, the defendants Charles Manson and Bruce
28 McGregor Davis did drive away from 964 Old Topanga Road, in a

1 Fiat automobile owned by Gary Hinman.

2 Count III charges Mr. Davis with murder in viola-
3 tion of Section 187 of the Penal Code, in that it is alleged
4 that between the 16th day of August, 1969, and the first day of
5 September, 1969, that he, Charles Manson, Bruce McGregor Davis
6 and Steve Grogan did willfully, unlawfully and feloniously, and
7 with malice aforethought, murder one Donald Jerome Shorty Shea,
8 a human being.

9 To that indictment, to those Counts in the indict-
10 ment, Mr. Davis has entered pleas of not guilty and this is the
11 time set for trial.

12 Mr. Davis is represented by Mr. George Denny,
13 III, who is now standing.

14 And the People are represented by Mr. Manzella,
15 Mr. Anthony Manzella and Mr. Stephen Kay, who are Deputies
16 District Attorney.

17 Is there any one of you who knows anything what-
18 ever about this case?

19 (No response.)

20 THE COURT: Is there any one of you who knows any of
21 the attorneys or has ever been represented by any of the
22 attorneys in any way?

23 (No response.)

24 THE COURT: Is there any one of you at this time who
25 feels that he has any information other than what he might have
26 heard, seen or read which would disqualify him from being fair
27 and impartial as a juror in this case?

28 (No response.)

1 THE COURT: This case is expected to last about two
2 months. In other words, until about the end of February. The
3 Court realizes that it might be a considerable hardship to you
4 to serve as a juror for that period of time, particularly if
5 -- if you would suffer a financial hardship. That is, your
6 wages would not be paid or if there is some other good reason
7 which would cause you hardship. And if such is the case,
8 that is if there is some unusual hardship, rather than just
9 inconvenience -- the Court knows that everyone is inconvenienced
10 who has to serve for two months as a juror, but if it is more
11 than just inconvenience, if it is a financial hardship or if it
12 is some considerable hardship, the Court will hear from you if
13 you wish to be excused as a result of that hardship.

14 During the recess, the coming recesses and during
15 the rest of the day, if you have a chance, you may call your
16 employer to determine whether you will be paid beyond the
17 usual time of service for jurors which is 20 or 30 days.

18 There are some firms that will pay and some will
19 not, and if you have any doubt about that, the Court would like
20 you to inquire.

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1 The Court does not intend to sequester you, that is
2 to keep you from your homes during the course of the trial. You
3 will be released each evening during the course of the trial to
4 go to your homes. You will be released on weekends except
5 possibly during deliberations.

6 We are in the process, the Court and counsel, of
7 selecting alternate jurors.

8 Now, an alternate juror may or may not participate
9 depending upon whether someone who is in the box, sworn as a
10 juror is unable to proceed.

11 If someone becomes ill or for some reason or other
12 is excused from service as a juror, then the alternate jurors
13 are selected. It means that you must, if you are selected by
14 a -- as an alternate juror, be just as attentive as someone
15 who is in the box because you may be called upon to serve. And
16 you must take careful notes and listen to all the evidence.
17 And your duties are just the same as that of any juror up to
18 the time of deliberation. And you may, indeed, be called upon
19 during the time of deliberation to fill in should it become
20 necessary by reason of the absence of one of the other jurors,
21 one of the jurors who is sworn.

22 I'll direct my questions to the three of you who
23 are in the box now.

24 First, I want to tell you, instruct you as to
25 certain things, certain terms that you will be hearing during
26 the course of this voir dire examination so that there won't
27 be any doubt in your mind as to what is being talked about.

28 "A defendant in a criminal action is presumed to

1 be innocent until the contrary is proved, and in case of a
2 reasonable doubt whether his guilt is satisfactorily shown, he
3 is entitled to an acquittal. This presumption places upon the
4 State the burden of proving him guilty beyond a reasonable
5 doubt. A reasonable doubt is defined as follows: It is not a
6 mere possible doubt; because everything relating to human
7 affairs, and depending on moral evidence, is open to some
8 possible or imaginary doubt. It is that state of the case,
9 which, after the entire comparison and consideration of all the
10 evidence, leaves the minds of the jurors in that condition that
11 they cannot say they feel an abiding conviction, to a moral
12 certainty, of the truth of the charge.

13 "All persons concerned in the commission of a crime
14 who either directly and actively commit the act constituting
15 the offense or who knowingly and with criminal intent aid and
16 abet in its commission or, whether present or not, who advise
17 and encourage its commission, are regarded by the law as
18 principals in the crime thus committed and are equally guilty
19 thereof.

20 "A person aids and abets the commission of a
21 crime if he knowingly and with criminal intent aids, promotes,
22 encourages or instigates by act or advice, or by act and
23 advice, the commission of such crime.

24 "The testimony of a witness, a writing, a material
25 object, or anything presented to the senses offered to prove
26 the existence or nonexistence of a fact is either direct or
27 circumstantial evidence.

28 "Direct evidence means evidence that directly

1 proves a fact, without an inference, and which in itself, if
2 true, conclusively establishes that fact.

3 "Circumstantial evidence means evidence that proves
4 a fact from which an inference of the existence of another fact
5 may be drawn.

6 "An inference is a deduction of fact that may
7 logically and reasonably be drawn from another fact or group
8 of facts established by the evidence.

9 "It is not necessary that facts be proved by
10 direct evidence. They may be proved also by circumstantial
11 evidence or by a combination of direct evidence and
12 circumstantial evidence. Both direct evidence and
13 circumstantial evidence are acceptable as a means of proof.
14 Neither is entitled to any greater weight than the other.

15 "You are not permitted to find the defendant
16 guilty of any crime charged against him based on circumstantial
17 evidence unless the proved circumstances are not only
18 consistent with the theory that the defendant is guilty of the
19 crime, but cannot be reconciled with any other rational
20 conclusion and each fact which is essential to complete a set
21 of circumstances necessary to establish a defendant's guilt
22 has been proved beyond a reasonable doubt.

23 "Also, if the evidence as to any particular Count
24 is susceptible of two reasonable interpretations, one of which
25 points to the defendant's guilt and the other to his innocence,
26 it is your duty to adopt that interpretation which points to
27 the defendant's innocence, and reject the other which points
28 to his guilt.

1 "A conspiracy is an agreement between two or more
2 persons to commit a public offense and with the specific intent
3 to commit such offense followed by an overt act committed in
4 this state by one or more of the parties for the purpose of
5 accomplishing the object of the agreement. Conspiracy is a
6 crime.

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1 In order to find a defendant guilty of conspiracy,
2 in addition to proof of the unlawful agreement, there must be
3 proof of the commission of at least one of the overt acts
4 alleged in the indictment.

5 Murder of the first degree is murder perpetrated
6 by willful, deliberate and premeditated killing, with malice
7 aforethought, or a murder committed by torture, or a murder
8 committed -- strike that.

9 (Continuing) -- or a killing committed by -- strike
10 that.

11 (Continuing) -- or a killing committed in the
12 course of a burglary or a robbery.

13 Now, the fact that the Court has given an instruc-
14 tion does not mean that it will be necessary for you to utilize
15 that instruction, except for the construction concerning
16 reasonable doubt, because as to whether or not an instruction
17 will be utilized by a juror will depend upon the juror's
18 determination of what the facts are. And a juror -- the jury
19 is the group, the body that decides what are the facts, what
20 is the evidence in the case.

21 You are the sole judges of the evidence in the
22 case, if you are chosen as a juror, and you determine what the
23 facts are from the evidence that's presented here in court.

24 Now, I am going to ask several questions of the --
25 just general questions, I'll term them, of the three who are
26 in the box. And will those of you who are beyond the rail
27 listen to the questions as I put them to the three who are in
28 the box? Because you will all be asked whether your answers

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1 would be the same.

2 If your answers are not the same in any respect,
3 remember how your answers would differ, so that when Court and
4 counsel begin to question you, you can tell us in what
5 respect your answers would differ.

6 All right. Speaking to Mrs. DeKuh, Mr. Chavers
7 and Miss Alvarez -- is that it?

8 PROSPECTIVE JUROR ALVAREZ: Yes.

9 THE COURT: Have any of you had any legal training or
10 legal experience?

11 (No affirmative response.)

12 THE COURT: Has any of you been a victim of a crime of
13 violence?

14 (No affirmative response.)

15 THE COURT: Or had a friend who has been the victim of a
16 crime of violence?

17 (No affirmative response.)

18 THE COURT: Has any one of you been arrested for any-
19 thing other than a misdemeanor charge, a misdemeanor traffic
20 charge?

21 (No affirmative response.)

22 THE COURT: Has any of you been charged with a criminal
23 offense other than a misdemeanor traffic offense?

24 (No affirmative response.)

25 THE COURT: Have any of you been -- has any of you been
26 a witness in a criminal case, or a civil case?

27 (No affirmative response.)

28 THE COURT: Will you all follow the Court's instructions,

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1 as I give them to you, regardless of what you believe the law
2 should be, or what you believe the law is? Regardless of
3 whatever beliefs you may hold concerning the law, will you
4 follow the Court's instructions as I give them to you?

5 (No negative response.)

6 THE COURT: All right. I see affirmative responses
7 there. All other responses have been negative.

8 All right. Can any of you think of any reason
9 whatever why you couldn't be fair and impartial in this case?

10 (No affirmative response.)

11 THE COURT: I'll tell you now that the People have
12 charged the defendant with offenses which are punishable
13 by death or by life imprisonment. And in a case in which the
14 offense charged is punishable by death -- or may be punish-
15 able by death -- the Court is required to ascertain if any
16 prospective juror entertains such conscientious opinions as
17 would preclude the defendant -- preclude a person from finding
18 a defendant guilty if the evidence should justify such a find-
19 ing; or if he would, under no circumstances, vote for the death
20 penalty; or, having once found a defendant guilty of murder
21 of the first degree, would always vote for the death penalty.

22 In other words, this is a case in which, if a
23 defendant -- if the defendant is found guilty of murder in the
24 first degree, the jury will be called upon to determine whether
25 the defendant should suffer life imprisonment or death.

26 By saying this, the Court is not in any way
27 inferring to you that it believes that it will be necessary
28 for you to enter into a penalty phase, because I do not know

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1 at this time, nor do you -- because you have not heard the
2 evidence -- whether the defendant will be found guilty of
3 murder in the first degree, or guilty of any of the Counts of
4 which he's charged, each of which is possibly punishable by
5 death.

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1 But you should understand this: That in view of
2 what I have said, and in connection with the penalty phase,
3 that it may be possible that this jury -- that you, as members
4 of this jury -- will be considering the question of life
5 imprisonment or death for this defendant.

6 In arriving at a verdict in the case as to the
7 guilt or innocence of the defendant -- and that will be
8 determined in the first phase, the so-called first phase,
9 the guilt or innocence phase of the trial -- the subject of
10 penalty or punishment is not to be discussed or considered
11 by you as a juror, as that is a matter which, under our law,
12 must be considered in a separate proceeding, the so-called
13 second phase or the penalty phase, if your finding in the
14 first phase should require such a proceeding.

15 Do you all understand me thus far? If you do
16 not, well, you may ask -- you may indicate to me by raising
17 your hand that you do not.

18 Do you all understand me, those of you who are
19 in the box?

20 (No negative response.)

21 THE COURT: All right. I see no hand, so I assume
22 you understand.

23 In other words, if the defendant is acquitted,
24 or if he's found guilty of a lesser crime than murder in
25 the first degree, then there's nothing to submit to the jury
26 on the issue of penalty. There's no second phase.

27 If the defendant is found guilty of murder of
28 the first degree, an offense punishable by life imprisonment

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1 or death, then there shall thereupon be the second proceed-
2 ings, the second phase, on the issue of penalty; and it's the
3 jury's duty then to fix the penalty at death or life imprison-
4 ment.

5 Now, you should know that the law imposes neither
6 death nor life imprisonment, but presents the two alternatives
7 to the absolute discretion of the jury.

8 The Legislature has formulated no rules to
9 control the exercise of the jury's discretion. It's entirely
10 a juror's discretion as to whether or not life imprisonment
11 or death should be imposed.

12 Therefore, I will be inquiring of jurors who are
13 called -- or prospective jurors who are called to the box
14 here -- whether you entertain such conscientious opinions
15 concerning the death penalty as would preclude you from
16 finding a defendant guilty, if the evidence should justify
17 such a finding.

18 In other words, in the first phase of the trial,
19 would you have such views concerning the death penalty as
20 would preclude you from finding a defendant guilty?

21 I'll be asking you whether your opinions are such
22 concerning the death penalty that you would automatically
23 refuse to impose it, without regard to any evidence that
24 might be developed. Would you automatically refuse to
25 impose it?

26 Or, on the other hand, if the defendant were
27 found guilty of murder in the first degree, would you vote
28 to impose the death penalty without regard to the evidence

2a-3 ,
1 that might be developed during the trial? Would your reaction
2 be an automatic one in connection with the imposition of the
3 death penalty, without regard to the evidence, if there were
4 a conviction of murder of the first degree?

5 Or are your views such concerning the death
6 penalty that you could not be impartial in determining guilt
7 or innocence? Or are your views such that you would
8 never vote to impose the death penalty?

9 We'll begin with Mrs. DeKuh now, and I will ask
10 her about her background, and including those questions, when
11 we get to them.

12
13 VOIR DIRE EXAMINATION OF
14 MRS. MARY M. DE KUH

15 BY THE COURT:

16 Q Have you had any jury experience, Mrs. DeKuh?

17 A No.

18 Q Neither civil nor criminal?

19 A No.

20 Q All right.

21 And what type of work do you do?

22 A I work for the Los Angeles County Health Depart-
23 ment, over at County General Hospital, secretarial.

24 Q Secretarial for --

25 A Public Health Nursing, Women's Division.

26 Q Very well. And how long have you been so
27 employed?

28 A A year and a half.

2a-4

1 Q I take it it would not be a hardship to you to
2 serve in this case?

3 A No, it wouldn't.

4 Q All right. I'll ask you this, right at the
5 outset, too.

6 Have you heard of Charles Manson?

7 A Yes.

8 Q And have you heard of the Manson Family?

9 A Yes.

10 Q Do you have such views about Charles Manson or
11 the Manson Family that a person -- a defendant shown to be
12 a member of the Manson Family could not receive a fair and
13 impartial trial from you, as a juror, because of what you've
14 heard, seen or read concerning Charles Manson or the Manson
15 Family?

16 Do you understand my question?

17 A Yes -- no, I do. I think I could be fair, because
18 what I've --

19 Q In spite of what you may have heard, seen or
20 read concerning --

21 A Yeah, because --

22 Q -- concerning the Manson Family, you believe that
23 you could be fair and impartial --

24 A Sure.

25 Q -- to somebody who might be a member -- the
26 evidence might show to be a member of that Family?

27 A Yes. Because I don't believe that the public has
28 seen or heard everything.

2b fls.

2b-1

1 Q You think that the association alone with -- just
2 considering the association with Mr. Manson or the Manson
3 Family would not be sufficient, in your mind, to raise any
4 prejudice against an individual; is that correct?

5 A That's right.

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

8 A Yes.

9 Q Now, by law enforcement officer, I mean a police-
10 man, a patrolman, a deputy sheriff, --

11 A Yes.

12 Q Let me finish this definition, too.

13 (Continuing.) -- a deputy district attorney, a
14 member of the Attorney General's staff, or the District
15 Attorney's staff; anyone who could be -- a California Highway
16 Patrolman, for example.

17 Now, what is that relationship?

18 A I am married to a deputy sheriff.

19 Q Is that a close relationship?

20 (Laughter.)

21 A Yes, very -- extremely.

22 Q And where -- a Los Angeles County Sheriff?

23 A Los Angeles County.

24 Q What is his assignment?

25 A He is out of Transportation Division.

26 Q In the Civic Center?

27 A Yes. I think he -- he reports to the Jail
28 Division.

2b-2

1 Q All right. Do you think that you could be fair
2 and impartial?

3 A I really do. (Laughing.) No, I do.

4 Q Do you think it might cause some family argument?
5 Are you afraid it might cause some family arguments, if you
6 were to adhere to a position against the prosecution?

7 A No, really. Because I think I am a pretty
8 strong -- our marriage is based on a pretty strong-willed
9 mind.

10 Q Would that even enter your mind?

11 A My decision, on what his opinion would be? Oh,
12 no. I mean, I would -- you know.

13 Q Do you think you could be completely independent
14 of any -- any such thoughts?

15 A Yes. Because he wasn't a cop when I married him
16 -- no -- yes.

17 Q He was or was not?

18 A He was not.

19 Q All right. And you -- would you be able to --
20 will everyone take note of this? That there will be an
21 instruction read to you, ladies and gentlemen, concerning the
22 criteria you use or may use as jurors to determine credi-
23 bility of witnesses.

24 You are the sole judges of the credibility of a
25 witness.

26 Now, let me ask Mrs. DeKuh:

27 Would you be able to judge a police officer's
28 credibility on those standards which the Court spells out for

2b-3

1 you, and not give the police officer's testimony any greater
2 credence, simply because of his status?

3 A Definitely.

4 Q Where do you and Mr. DeKuh or Officer DeKuh
5 reside?

6 A In Highland Park, right on the Eagle Rock border.

7 Q All right. Let's go to Mr. Chavers.

8
9 VOIR DIRE EXAMINATION OF

10 MR. CECIL H. CHAVERS

11 BY THE COURT:

12 Q Would it be any hardship to you to serve, Mr.
13 Chavers?

14 A No, sir, it wouldn't.

15 Q Concerning the question I put to Mrs. DeKuh,
16 about the association with Manson and the Manson Family,
17 by reason of the publicity that you may have heard, seen or
18 read, do you think that you could be fair and impartial to
19 a person who is, according to the evidence, a member of the
20 Manson Family, or associated with Mr. Manson?

21 A Yes, I do.

22 Q What type of work do you do?

23 A I am a senior clerk for the Department of Water
24 and Power.

25 Q Have you had any jury experience whatever?

26 A No, I haven't.

27 Q How long have you been employed with the Depart-
28 ment of Water and Power?

2b-4

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A Three years.

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

A No, I'm not.

Q And is there a Mrs. Chavers?

A I'm sorry; I didn't hear.

Q Are you married?

A Yes, I am.

Q And what type of work does your spouse do?

A She's a housewife.

Q And you reside in what general area?

A Southwest Los Angeles.

Q Now, I didn't ask Mrs. DeKuh these questions, so I'll come back to her in a minute.

But I'll ask you: Do you have such views concerning the death penalty that, by reason of those views, you could not be fair and impartial in determining guilt or innocence?

A No, I do not.

2c fls.

2c-1

1 Q Or are your opinions concerning the death penalty
2 such that you would automatically refuse to impose it,
3 regardless of the evidence?

4 A No, they are not.

5 Q Or upon a conviction of murder of the first
6 degree, would you automatically impose the death penalty,
7 regardless of the evidence?

8 A No.

9 Q All right. Would you pass the microphone, then,
10 to Mrs. Alvarez?

11
12 VOIR DIRE EXAMINATION OF

13 MRS. MANUELA ALVAREZ

14 BY THE COURT:

15 Q Mrs. Alvarez, --

16 A Yes.

17 Q -- would it be any hardship to you to serve on
18 this jury?

19 A No.

20 Q What type of work do you do?

21 A I am a clerk for the County of Los Angeles.

22 Q In what department?

23 A Purchasing and stores.

24 Q I'm sorry?

25 A Purchasing and stores.

26 Q And what would your answer be to the question that
27 I put to Mrs. DeKuh and Mr. Chavers regarding your views
28 about a person whom the evidence might show to be a member

2c-2

1 of the Manson Family, or associated with Mr. Manson?

2 A I -- I'm unbiased. I don't --

3 Q Pardon?

4 A I said: I'm unbiased, I would hope.

5 Q You would be unbiased in making any judgment
6 that you'd be called upon to make in this case?

7 A Yes.

8 Q The things that you may have heard, seen or
9 read concerning Mr. Manson or of the Manson Family would not
10 -- you would not allow to influence you in this case?

11 A No, I would not.

12 Q Have you served as a juror before?

13 A No, I have not.

14 Q Are you acquainted with or a friend of
15 any law enforcement officer, as I've defined law enforcement
16 officer?

17 A No.

18 Q Is it Miss Alvarez?

19 A Yes.

20 Q In what general area of Los Angeles County do
21 you reside?

22 A Southwest L. A.

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

26 A Yes.

27 Q Would your views about it be such that you could
28 not be fair and impartial in determining guilt or innocence

2c-3

1 in the first phase?

2 A No.

3 Q In other words, you could be fair and impartial
4 in determining the question of guilt or innocence of murder
5 of the first degree; is that right?

6 A Yes.

7 Q Now, if you, however, were to enter into a second
8 phase, and had the duty to determine whether a person should
9 suffer life imprisonment or death, what would be your atti-
10 tude about that?

11 A I -- I don't believe in capital punishment.

12 Q So that your reaction would be to automatically
13 refuse to impose it in any case?

14 A Yes.

15 Q Would you ever consider imposing the death
16 penalty?

17 A No.

18 MR. KAY: Your Honor, the prosecution would respect-
19 fully challenge the juror under 1073, Subdivision 2 of the
20 Penal Code.

21 MR. DENNY: Well, may I inquire briefly, your Honor?

22 THE COURT: I think it's clear that -- you may if you
23 wish, however. Go ahead.

24
25 VOIR DIRE EXAMINATION

26 BY MR. DENNY:

27 Q Miss Alvarez, --

28 A Yes.

2c-4

1 Q -- notwithstanding your feelings about being
2 against what they call capital punishment, nevertheless are
3 there some cases, some horrendous cases that you can think
4 of -- a mass murder or something of that kind -- where you
5 feel that the death penalty might be a proper penalty?

6 A No.

7 Q All right. You don't feel there are any cases
8 that you could possibly conceive of, where you feel the
9 death penalty would be proper, where it would be proper for
10 the State to kill someone; is that correct?

11 A No.

12 MR. DENNY: All right.

13 THE COURT: You are excused, then. Thank you, Miss
14 Alvarez.

15 MR. DENNY: Thank you very much, Miss Alvarez.

16 MR. KAY: Thank you, Miss Alvarez.

17 THE COURT: The Court grants the challenge.

18 THE CLERK: Miss Molly Ackerman; M-o-l-l-y; last name,
19 A-c-k-e-r-m-a-n.

20
21 VOIR DIRE EXAMINATION OF
22 MOLLY ACKERMAN

23 BY THE COURT:

24 Q Mrs. Ackerman, is it?

25 A Miss Ackerman.

26 Q Miss Ackerman?

27 A Yes.

28 Q Miss Ackerman, --

1 A Yes.

2 Q -- you've heard the proceedings thus far this
3 morning?

4 A Yes, sir.

5 Q Would your answers be any different than the
6 three have responded to the -- the first three prospective
7 alternates have responded to the questions of a general
8 nature?

9 A Yes, sir. They would be in the affirmative.

10 Q Your answers would be different or would not be?

11 A (No response.)

12 Q In what respects would your answers vary, if any?

13 A I would be fair and unbiased, but -- well, the
14 last question --

15 Q Concerning the death penalty?

16 A Yes, sir.

17 Q All right. Do you have such views about the death
18 penalty, Miss Ackerman, that you could not be fair and impar-
19 tial in determining the question of guilt or innocence in the
20 first phase?

21 A Yes, sir. I am opposed to capital punishment.

22 Q So that in the first phase of the case, which
23 involves the question of guilt or innocence, you could not be
24 fair and impartial in determining whether or not the defendant
25 was guilty of murder of the first degree; is that right?

26 A Yes, sir.

3 fls.

27

28

3-1

1 Q Why is that? Is that because you know -- knowing --
2 you might know what would face you in the second phase or what;
3 would you explain that?

4 A Perhaps I didn't say that correctly. I think I
5 would be fair in the first phase.

6 Q First phase you could be?

7 A Yes, sir.

8 Q Could be fair and impartial?

9 A Yes, sir.

10 Q It is only when you get to the second phase
11 involving punishment where you feel as though you have such
12 views that you could not impose the death penalty?

13 A That is correct.

14 Q Would your reaction be an automatic one that you
15 would refuse to impose the death penalty automatically,
16 regardless of the evidence in any case?

17 A Yes, sir.

18 Q Can you think -- strike that.

19 Are your views about the death penalty such that
20 you would never vote to impose it in any case?

21 A Never.

22 Q Would you even consider imposing the death
23 penalty in any kind of case?

24 A No, sir.

25 MR. KAY: Your Honor, the prosecution would respectfully
26 challenge Miss Ackerman under Section 1073, Subdivision 2 of
27 the Penal Code.

28 MR. DENNY: May the record reflect my objection to it and

3-2

1 based particularly on the objections I noted to the Court at
2 the beginning of the proceedings this morning.

3 THE COURT: The record will so note.

4 MR. KAY: Thank you, Miss Ackerman.

5 MR. DENNY: That is as to the prior alternate juror also.

6 THE COURT: Yes, the record may so show.

7 THE COURT: Miss Ackerman, the Court would thank you and
8 you are to follow the clerk's instructions.

9 THE CLERK: The 15th floor.

10 THE COURT: 15th floor. Yes, you are to go to the 15th
11 floor of the New Hall of Records.

12 Let's take another juror for Miss Ackerman.

13 THE CLERK: Carroll M. Ailman, first name C-a-r-r-o-l-l,
14 middle initial M, last name A-i-l-m-a-n.

15
16 VOIR DIRE EXAMINATION OF

17 CARROLL M. AILMAN

18 BY THE COURT:

19 Q Mr. Ailman, you have been present thus far this
20 morning?

21 A Yes, sir.

22 Q And heard all of the proceedings?

23 A Yes, sir.

24 Q Would your answers be any different than the
25 majority of prospective jurors have responded to the Court's
26 questions?

27 A No, not on the general questions.

28 Q Can you think of any respect in which your answers

3-3

1 might vary other than the very personal ones involving your
2 background?

3 A No.

4 Q All right. Would it be any hardship to you to
5 serve as a juror in this case?

6 A Yes, it would.

7 Q All right, what way?

8 A I am led to believe that my presence is important
9 to my company and in one month's time I'm expected to go to
10 work on a very important project. So, a long duration --

11 Q What company is that?

12 A McDonnell-Douglas Astronomical Corporation.

13 Q Will they pay you?

14 A I'm not sure of that. I know they will for the
15 first increment of time.

16 Q Is it involving some part of a space program?

17 A Yes.

18 Q And that industry is not -- is not at its best at
19 this moment?

20 A That is correct.

21 Q Would you be concerned about -- if you were
22 selected to serve for two months -- be concerned about your
23 position with the company?

24 A I am not in a position to say. I don't know. But
25 I have the impression that my job would be in jeopardy.

26 Q During the recess would you inquire, the coming
27 recess? We'll be in recess from noon until 2:00 o'clock. Would
28 you or anyone else who has such questions in his mind about

3-4

1 whether he or she will be paid and whether it will affect your
2 status with the company; inquire about that?

3 A Yes, sir.

4 Q All right.

5 MR. DENNY: Your Honor, may we approach the bench just
6 briefly?

7 THE COURT: Yes, you may.

8 (Whereupon, proceedings were had at
9 the bench among Court and counsel, outside the hearing of the
10 prospective alternate jurors, which was not reported:)

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

14 Q BY THE COURT: Mr. Ailman, have you served as a
15 juror before?

16 A No, sir.

17 Q And you told us about your work.

18 Specifically what do you do for McDonnell-
19 Douglas?

20 A I'm an engineer.

21 Q How long have you been so employed with them?

22 A About twelve years.

23 Q Where is that place --

24 A Currently --

25 Q -- of employment?

26 A Currently in the Santa Monica location.

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

29 A In a very distant way.

3a-1

1 Q Tell us about that.

2 A My mother in a second marriage married a man who
3 has two sons, one of whom is a policeman, who has become a
4 policeman. I have a very casual, very distant acquaintance-
5 ship with them.

6 Q Do you think that that would affect your judg-
7 ment in this case?

8 A In no way.

9 Q And is there a Mrs. Ailman?

10 A No, I am not married.

11 Q And your place of residence generally in the
12 County is where?

13 A In the Hollywood Hills.

14 Q Regarding the death penalty, do you have such
15 views that you would automatically refuse to impose it in any
16 case regardless of the evidence?

17 A No, I do not.

18 Q Or are your views about it such that you would
19 automatically impose it upon a conviction of murder of the
20 first degree regardless of the evidence?

21 A No, I would not.

22 Q Or would you, by reason of any views you might
23 entertain concerning the penalty, be unable to be fair and
24 impartial in determining guilt or innocence?

25 A I believe I could be fair and impartial.

26 Q What would be your answer to the question that I
27 put to Mrs. DeKuh and Mr. Chavers and the others regarding
28 publicity? Would your views by reason of publicity that

3a-2

1 you may have heard, seen or read concerning the Manson Family
2 be such that you could not be fair and impartial to someone
3 who the evidence might show would be a member of that Family?

4 A Surprisingly enough I have read nothing about
5 any of the previous cases.

6 Q Have you ever heard the name Charles Manson?

7 A Yes, I have, but only in the general context that
8 everyone's heard it.

9 Q I take it -- I judge from your answer that you
10 believe that you could be fair and impartial, even though the
11 evidence might show that somebody is associated with Mr.
12 Manson?

13 A That is correct.

14 Q Now, can you think of any reason whatever why
15 you couldn't be fair and impartial in this case?

16 A No, I could not.

17 Q Let's go back to Mrs. DeKuh.
18

19 VOIR DIRE EXAMINATION OF

20 MRS. MARY M. DE KUH

21 BY THE COURT:

22 Q Mrs. DeKuh, I did not ask you about the death
23 penalty.

24 Are your views about that penalty such that you
25 could not be fair and impartial in determining guilt or
26 innocence?

27 A No.

28 Q Or are your views about the penalty such that

1 you would automatically refuse to impose it regardless of the
2 evidence?

3 A No.

4 Q Or would you automatically impose it upon a
5 conviction of murder of the first degree regardless of the
6 evidence?

7 A No.

8 THE COURT: Mr. Denny, do you wish to inquire?

9 MR. DENNY: Yes, thank you.

10
11 VOIR DIRE EXAMINATION

12 BY MR. DENNY:

13 Q I'll try to sight you through the two DA's
14 here, Mrs. DeKuh.

15 As might be expected, I am somewhat curious about
16 your deputy sheriff husband and the effect that it might
17 have on your deliberations.

18 You do seem to be a rather strong-willed woman
19 from your statements, but nevertheless it might have some
20 bearing, so I would like to inquire, if I may, how long have
21 you been married to Mr. DeKuh or Deputy DeKuh?

22 A Eleven years.

23 Q How long has he been a deputy sheriff?

24 A Nine.

25 Q How long has he been in Transportation?

26 A Six or seven, I believe. Yeah, it was -- I
27 believe it is about seven.

28 Q All right. And what was his duty assignment

1 before that, do you recall?

2 A Uh, yes, he was in the Jail Division.

3 Q Was that downtown here in the Hall of Justice
4 jail, right here?

5 A Yes. And then, I think they built a new one
6 somewhere along the line. I think he's been in both
7 divisions, the new jail and the old jail.

8 Q And at the present time is he in county-wide
9 transportation?

10 A Yes. He drives the buses out of Transportation.

11 Q Now, does he come home at times and discuss
12 his work with you?

13 A No, not really, because being a driver they don't
14 -- at one time I think they used to be in court more. The
15 Sheriff's Department. And then, it went to another division.
16 And he said they were always on the go. Once in a while,
17 if there was a particular case, but generally when he comes
18 home he kind of likes to relax. And being in charge of the
19 prisoners, that they don't -- so forth -- escape and stuff
20 like that, he doesn't really get to know or hear the records
21 about the prisoners.

3b fls.

3b-1

1 Q All right.

2 Now, do you have a number of friends, however, in
3 the Sheriff's department?

4 A Actually, no. Most of our friends aren't on the
5 department at all.

6 Q Well, do you see friends socially who are members
7 of the Sheriff's department?

8 A No, we don't.

9 Q You don't engage in any activities with the
10 Sheriff's wives?

11 A No.

12 Q Of any kind?

13 Well, now, the Court asked you concerning whether
14 there would be any adverse effect or pressure brought on you.
15 I'm sure there would be no pressure brought on you during the
16 course of your deliberations by your husband, and I'm sure you
17 wouldn't feel any effects afterwards, but my feeling is just
18 knowing his viewpoint about law enforcement and being on the
19 side of enforcement of the law, as Deputy Sheriffs are, do
20 you feel that this would, in some way, affect your own point
21 of view in judging evidence? That is, would you be somewhat --
22 well, I hate to use the word "bias," because nobody wants
23 to admit they're biased. No one wants to admit they're
24 prejudiced. That's kind of a leading -- but some people,
25 because of their relationships do, and can honestly say, "Yeah,
26 I sort of lean toward the prosecution," or because of other
27 things maybe they don't like police officers or something, they
28 would say, "I lean toward the defense."

3b-2

1 Now, do you, as you sit there, considering your
2 own feelings based on your eleven years of marriage and your
3 own upbringing and background, feel that you have some sort of
4 leanings toward the prosecution?

5 A I think I am more conservative than my husband. He
6 is more liberal, really, when it comes down to it. And the fact
7 he doesn't believe in the death penalty at all. So that's a
8 little bit of his background. Where I don't have that feeling
9 about the death penalty.

10 Q Uh-huh.

11 A So, I tend to be much more conservative than he
12 does, which is unusual, really. And that's why I think most of
13 our friends aren't with the department, I mean, the friends,
14 personal friends -- we are not closely associated with the
15 department socially.

16 Q Well, again, going back to the original question.

17 A Yeah (laughing).

18 Q Assuming that you have a liberal husband, as a
19 police officer he is still a police officer or Deputy Sheriff.
20 If you are more conservative, it might make you more
21 prosecution prone than he; is that what you are saying?

22 A I think I might have a tendency, really, truth-
23 fully.

24 Q That's what we are trying to get at. And we want
25 you to be truthful.

26 A I am a conservative. My ideas are more conserva-
27 tive, really.

28 Q Well, do you feel because of that particular bent

3b-3

1 or that feeling or just your own point of view that you would,
2 in a criminal case, tend, perhaps, to side with the prosecu-
3 tion?

4 A I hope I wouldn't, but I have a feeling that I
5 might. I hope I would sit and judge very equally.

6 Q Well, of course everybody hopes they can. But --

7 A But human nature --

8 Q That's right, and you know your human nature better
9 than we. That's what we are trying to get at.

10 A I think I would lean conservatively towards the
11 defense.

12 Q In other words, you feel maybe it would be a little
13 easier for the prosecution to bring in a conviction with you as
14 a juror than somebody who didn't have that predisposition; is
15 that right?

16 A I believe so, yes.

17 Q And perhaps the doctrine of reasonable doubt would
18 be a little more easily overcome with your point of view, is
19 that right?

20 A Definitely.

21 Q And in spite of the judge's reading to you about
22 that doctrine, it would be perhaps difficult for you to apply
23 it in a criminal case; is that right?

24 A That's right.

25 Q And do you feel, then, that really perhaps you could
26 not be totally fair and impartial?

27 A I -- I hope I could, but I do lean.

28 Q Toward the prosecution?

3b-4

1 A Toward the prosecution.

2 Q Well, again, we're kind of at a --

3 A Yes, I know, (laughing). I've never sat on a jury
4 before, so I --

5 Q We're at a point of no return here, because of the
6 way you've answered certain questions.

7 A Certain questions, yes, because myself, I really
8 don't know --

9 Q See, I don't either, and I don't know you half as
10 well as you know you. And all we're trying to do, both the
11 prosecution and the defense, is to get fair-minded, down the
12 road jurors who are not leaning one way or the other, you see.

13 A Yeah.

14 Q But if you are, and you do have this predilection
15 or bent for the prosecution, and you would not impose on
16 them the burden that the Court read you of proving the defendant
17 guilty beyond a reasonable doubt and to a moral certainty, that
18 you would perhaps impose less of a burden than that, then you
19 really shouldn't sit on a criminal jury, you see. And
20 particularly one where a man's life is in jeopardy, as it is
21 here.

22 A Yes.

23

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1 Q Now, I have to ask you: Do you feel, under those
2 circumstances, that it would be better that you not sit on
3 this jury?

4 A Yes.

5 MR. DENNY: Well, I would, under the circumstances,
6 your Honor, challenge the juror under 1073, Subdivision 2 --
7 and with great thanks for her candor.

8 THE COURT: In view of her answers, the Court will
9 grant the challenge.

10 MR. DENNY: Thank you very much, Mrs. DeKuh.

11 THE COURT: Mrs. DeKuh, thank you very much.

12 PROSPECTIVE JUROR DE KUH: You're welcome.

13 MR. KAY: Thank you.

14 PROSPECTIVE JUROR DE KUH: You're welcome.

15 THE COURT: Let's see. That's the 15th floor, Mrs.
16 DeKuh, the 15th floor of the New Hall of Records, if you
17 would, the assembly room there.

18 Now, as to the rest of you -- let's take another
19 name first, in place of Mrs. DeKuh.

20 THE CLERK: Mrs. Beverly A. Ford; B-e-v-e-r-l-y;
21 last name, F-o-r-d.

22
23 VOIR DIRE EXAMINATION OF

24 MRS. BEVERLY A. FORD

25 BY THE COURT:

26 Q Mrs., is it?

27 A Yes.

28 THE CLERK: Yes.

4-2

1 Q BY THE COURT: Mrs. Ford, would it be any hard-
2 ship to you to serve in this case?

3 A No, it wouldn't.

4 THE COURT: All right. We'll get to the rest of the
5 questions after -- to you, after 2:00 o'clock.

6 During the recess, ladies and gentlemen, you are
7 obliged not to converse amongst yourselves, nor with anyone
8 else, nor permit anyone to converse with you on any subject
9 connected with this matter, nor are you to form or express
10 any opinion on the matter until it is finally submitted to
11 you, should you be chosen as a juror in the case.

12 All right. We are in recess now until 2:00
13 o'clock. We'll see you all then.

14 MR. DENNY: Your Honor, could the Court also request
15 that the jurors check during the lunch time as to the hard-
16 ship matter, and --

17 THE COURT: Yes. The Court has asked them previously
18 to do that. You'll remember that.

19 (Whereupon, at 12:01 o'clock p.m., an adjourn-
20 ment was taken in this matter until 2:00 o'clock
21 p.m. of the same day.)
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1 LOS ANGELES, CALIFORNIA, MONDAY, JANUARY 3, 1972 2:05 P.M.

2 - - - -

3
4 THE COURT: The record will show Mr. Davis to be present
5 with his counsel, and Mr. Denny. And Mr. Kay for the People.
6 And in the box we have the prospective alternate jurors,
7 Mrs. Ford, Mr. Chavers, and Mr. Ailman.

8
9 VOIR DIRE EXAMINATION OF
10 MRS. BEVERLY A. FORD

11 BY THE COURT:

12 Q Were we about to talk to you, Mrs. Ford, is that
13 it?

14 A Yes.

15 Q I think we had just called your name.

16 I think you indicated it would be no hardship
17 if you were to serve as a juror; is that true?

18 A Yes, I did call my employer on our lunch break
19 and as far as there was a limit as to how long, no one knew.

20 Q What is your business or occupation?

21 A I work for Kaiser Permanente Optical Lab.

22 Q I'm sorry?

23 A Kaiser on Sunset, the Optical Lab.

24 Q As nearly as I can recall, we've had people from
25 Kaiser on the jury before. It is my recollection that they
26 were paid for the service beyond the 30 days period.

27 A Uh-huh.

28 Q You couldn't get an answer over the lunch hour,

1 is that correct?

2 A No, they are either out to lunch or on vacation,
3 those that knew. But as far as the contract was concerned,
4 my supervisor said there was no limit.

5 Q All right. So you are not concerned about being
6 paid during the time that you are serving as a juror?

7 A No.

8 Q Are your views about the death penalty such that
9 you would automatically refuse to impose the penalty regard-
10 less of the evidence?

11 A No.

12 Q Or are your view about the death penalty such
13 that you would automatically impose it, that is vote for
14 the death penalty upon a conviction of murder of the first
15 degree regardless of the evidence?

16 A No.

17 Q Or would your views be such that you could not
18 be fair and impartial in determining the question of guilt
19 or innocence in the first phase of the case because of your
20 views about the death penalty?

21 A No.

22 Q You've told us what your work is.
23 How long have you been so employed?

24 A Approximately three years.

25 Q And is there a Mr. Ford?

26 A No, we're divorced.

27 Q What type of work did he do?

28 A Uh, he worked for Bethlehem Steel.

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

3 A No, I am not.

4 Q And in what general area do you reside?

5 A Southeast.

6 Q Would you have such views about the Manson Family
7 and Charles Manson as a result of what you have heard, seen
8 or read that you could not be fair and impartial to somebody
9 whom the evidence would show is a member of the Manson Family
10 or associated with Mr. Manson?

11 A No.

5a fls.

5a-1

1 Q You could be fair and impartial in spite of any-
2 thing you may have heard, seen or read, is that correct?

3 A Yes.

4
5 VOIR DIRE EXAMINATION OF

6 CARROLL M. AILMAN

7 BY THE COURT:

8 Q Mr. Ailman, what did you find out about your
9 economic situation in the event you serve?

10 A To paraphrase my boss's boss, branch chief,
11 named Gerald Carey, the company does not guarantee remunera-
12 tion beyond the four-week period of time. And if my presence
13 is not available for beginning work on a proposal as of the
14 beginning of February, there is a risk that someone else will
15 be assigned and the job situation might be --

16 Q Precarious for you?

17 A -- precarious, yes. Thank you for the word.

18 MR. DENNY: I would --

19 A On the basis of those two statements, I would
20 respectfully submit that I not be considered as an alternate
21 juror.

22 MR. KAY: We would stipulate that he may be excused for
23 hardship.

24 MR. DENNY: I would so stipulate, your Honor.

25 THE COURT: Both Mr. Denny and Mr. Kay having stipu-
26 lated, the Court would agree it is a hardship and you are
27 excused. Thank you Mr. Ailman.

28 JUROR AILMAN: Thank you.

1 THE CLERK: Francis L. Munsch; F-r-a-n-c-i-s, last name
2 M-u-n-s-c-h.

3
4 VOIR DIRE EXAMINATION OF

5 FRANCIS MUNSCH

6 BY THE COURT:

7 Q Mr. Munsch, you have been present during all of
8 the proceedings thus far today?

9 A Yes, I have.

10 Q Would your answers be any different than the
11 majority have responded to the questions of a general nature?
12 And if so, in what respect would your answers vary?

13 A The only difference so far would be that my
14 employer will only pay 25 days.

15 Q I see. After that, you'd be on your own?

16 A That's right.

17 Q Would that constitute a hardship to you?

18 A Family of eight to support, yes.

19 Q What type of work do you do?

20 A Electronic engineer.

21 Q For whom?

22 A North American Rockwell.

23 Q And you ascertained since I talked to you this
24 morning that this would be the case, they only pay for 25 days?

25 A Yes. I spent a half-hour on the phone.

26 MR. KAY: We'd stipulate that he could be excused for
27 hardship, your Honor.

28 MR. DENNY: So stipulate, your Honor.

1 THE COURT: All right, you are excused, then. Thank
2 you, Mr. Munsch.

3 THE CLERK: Jose A. Macias; J-o-s-e, last name M-a-c-i-a-s.
4

5 VOIR DIRE EXAMINATION OF

6 JOSE MACIAS

7 BY THE COURT:

8 Q Mr. Macias, have you been present during all the
9 proceedings thus far?

10 A Yes, sir.

11 Q Would your answers be any different than the
12 majority have responded to the Court's questions?

13 A Well --

14 Q If so, in what respect?

15 A Uh, I mean, can I answer it -- any of the answers
16 you asked?

17 Q Surely.

18 A Well, I -- I don't believe in capital punishment.

19 Q Are your views about the death penalty such that
20 you would automatically refuse to consider the -- voting for
21 the death penalty regardless of the evidence?

22 A Well, I --

23 Q Would you ever vote for the death penalty in any
24 case?

25 A No. This is my first case that I have been in the
26 jury.

27 Q Yes.

28 A And I -- I haven't been -- uh, before, in a place

1 like this.

2 Q You have never been before in a situation like
3 this?

4 A No, sir.

5 Q Well, you have given some thought to the subject?

6 A Yes, I have.

7 Q All right. Would there be any crime for which,
8 assuming that a man is guilty, that you would vote the death
9 penalty?

10 A Well, I -- I would have to say this, sir, I -- I
11 have to -- I never -- I don't know the case, this case at all.

12 Q That's correct.

13 A Because I never read the papers.

14 Q None of us know it.

15 A No.

16 Well, I don't know -- I -- it is difficult for me
17 to say it.

18 Q Would you ever consider imposing the death penalty
19 in any case?

20 A No, sir.

21 Q You would not?

22 A No, sir.

23 Q Now, talking about the first phase of the case, the
24 phase wherein you are not to consider penalty or punishment,
25 but are concerned, really, with the question of guilt or
26 innocence.

27 Would your views about the penalty be such that
28 you could not be fair and impartial, I'm asking you, in the

1 first phase of the case?

2 A Well -- yes, yes.

3 Q I see.

4 Now, getting to the second phase of the case which
5 involves punishment, the question of life imprisonment or
6 death,

7 Faced with that choice, would you automatically
8 refuse to impose the death penalty in every case regardless of
9 the evidence?

10 A You mean death?

11 Q Yes. Would you automatically -- am I confusing
12 you?

13 Would you vote against the death penalty
14 automatically?

15 A Yes.

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1 Q You would never vote to impose the death penalty,
2 I take it, from what you've said, in any case, regardless of
3 the evidence?

4 A That's right.

5 MR. KAY: Your Honor, the prosecution would respect-
6 fully challenge this juror under Section 1073.2 of the Penal
7 Code.

8 MR. DENNY: And we object, your Honor, on the grounds
9 stated this morning.

10 THE COURT: All right. The Court grants the challenge,
11 and you are excused, Mr. Macias. Thank you very much.

12 PROSPECTIVE JUROR MACIAS: Okay.

13 MR. KAY: Thank you, Mr. Macias.

14 THE CLERK: Miss Judith D. Gonzales; J-u-d-i-t-h;
15 last name, G-o-n-z-a-l-e-s.
16

17 VOIR DIRE EXAMINATION OF

18 MISS JUDITH D. GONZALES

19 BY THE COURT:

20 Q Miss Gonzales, you have been present during all
21 the proceedings thus far?

22 A Yes, I have.

23 Q Would your answers be any different than the
24 majority have responded to the questions put to the group
25 as a whole?

26 A No.

27 Q It would constitute no hardship to you to serve
28 as a juror, then?

6-2

1 A No.

2 Q And would you have such views about the death
3 penalty that you would automatically refuse to impose it?

4 A Yes.

5 Q You would?

6 A Yes.

7 Q In other words, you would never vote to impose
8 the death penalty?

9 A Yes.

10 Q Are there any -- strike that.

11 Would you ever consider imposing the death penalty?

12 A No.

13 Q Given the choice between life imprisonment and
14 death, as you would be if you were a juror, and if you were
15 called upon to decide the question that would be presented
16 in the second phase of the case, the penalty phase, you would
17 automatically, in every case, vote for life imprisonment
18 against death?

19 A Yes.

20 Q Regardless of what evidence -- whatever evidence
21 might be produced?

22 A Yes.

23 MR. KAY: Your Honor, the prosecution would respectfully
24 challenge Miss Gonzales under Section 1073, Subdivision 2 of
25 the Penal Code.

26 MR. DENNY: Your Honor, did the Court inquire as to
27 the first phase of the case? I'm sorry. I was writing.

28 THE COURT: No, I haven't yet.

6-3

1 Q BY THE COURT: Would you ever consider imposing
2 the death penalty in any case?

3 A No.

4 Q Would your views be such concerning the death
5 penalty that you could not be fair and impartial in the first
6 phase involving guilt or innocence?

7 A I don't understand that.

8 Q You understand what I have said concerning the
9 possibility that there will be two phases in this case?

10 A Yes.

11 Q The first phase concerns what?

12 A (No response.)

13 Q What are you concerned with in the first phase of
14 the case?

15 A Do you mean --

16 Q Yes.

17 What do you -- what are you concerned with? I'm
18 testing you to find out if you understand.

19 A Oh.

20 Q What are you concerned with in the first phase
21 of the case, then, according to what I have explained to you?

22 I want to find out whether you understand it.

23 A Do you mean if they're innocent or not?

24 Q That's correct. You are concerned with guilt
25 or innocence in the first phase, aren't you?

26 A Yes.

27 Q All right. Now, would your views about the
28 death penalty be such that you would be unable to be fair and

6-4

1 impartial in that first phase, or could you look at the
2 evidence in the first phase and decide whether somebody is --

3 A Oh, in the first phase, I could.

4 Q -- is guilty or innocent, without regard to any
5 feelings you might have about the death penalty?

6 A In the first phase, I could, yes.

7 Q All right. So it's only when you get to the
8 second phase that you have the problem wherein you would
9 never vote to impose the death penalty; is that correct?

10 A Yes.

11 MR. DENNY: I would object to the challenge again, your
12 Honor, on the grounds previously stated.

13 THE COURT: The Court grants the challenge.

14 Thank you, Miss Gonzales. The Court does excuse
15 you.

16 THE CLERK: Herbert H. Edmondson; H-e-r-b-e-r-t; last
17 name, E-d-m-o-n-d-s-o-n.

18
19 VOIR DIRE EXAMINATION OF

20 HERBERT H. EDMONDSON

21 BY THE COURT:

22 Q Mr. Edmondson, you have been present during all
23 the proceedings thus far, have you not?

24 A Yes, I have.

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

28 A No, they wouldn't.

6a fls.

6a-1

1 Q It would be no hardship to you to serve in this
2 case?

3 A No, it wouldn't.

4 Q What type of work do you do?

5 A Sheet metal worker.

6 Q And do you have views concerning the death
7 penalty that are such as would keep you from being fair and
8 impartial in determining guilt or innocence?

9 A No.

10 Q Or are your views about the penalty such that you
11 would automatically refuse to impose it?

12 A No, I would not.

13 Q Or would your views be such that you would auto-
14 matically impose it upon a conviction of murder of the first
15 degree, regardless of the evidence?

16 A Say that again?

17 Q Would you automatically vote for the death
18 penalty, upon a conviction of murder of the first degree,
19 without regard to the evidence?

20 A Yes, I would.

21 Q In other words, if somebody were convicted of
22 murder of the first degree, you would automatically impose it
23 without regard to the evidence?

24 A No, not necessarily.

25 Q Then I might have confused you in putting it the
26 way I did.

27 Would you -- in either case, would you, if you were
28 called upon to decide the question of life imprisonment or

1 death, would you examine the evidence and consider and weigh
2 the evidence, before you voted either way?

3 A Yes, I would.

4 Q And would you in any way vote automatically for
5 either penalty, life imprisonment or death, automatically?
6 Without regard to the evidence?

7 A (No response.)

8 Q Do you want me to restate that?

9 A Yes.

10 Q Would you automatically vote for either punish-
11 ment -- penalty or penalty, life imprisonment or death, --
12 without regard to the evidence?

13 A Yes.

14 MR. DENNY: Well, your Honor, I think that's a compound
15 question. I think he has -- it has to be put -- the two
16 questions, the alternatives, should be put in two separate
17 questions.

18 THE COURT: Well, the Court has received answers from
19 him indicating that he would not -- indicating separate
20 responses that he would not. And, in order to save time, I
21 put them in that way. Apparently it is confusing, however.

22 Let's start over.

23 Q Mr. Edmondson, would you, if you were called upon
24 to determine the issue of penalty, automatically refuse to
25 impose the death penalty, regardless of the evidence?

26 A I would not.

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

1 regardless of the evidence?

2 A No.

3 Q What type of work do you do? You say sheet metal?

4 A Yes, sir.

5 Q For whom do you work?

6 A Well, I am under Amtrak now. I have a five-year
7 contract, but I don't work.

8 Q I see. You are under a five-year contract?

9 A It's five and a half now, yes.

10 Q Wherein you do not work?

11 A That's right.

12 Q Explain that to me. That sounds like a fairly
13 good contract.

14 (Laughter.)

15 A Well, I worked -- I worked for the Union Pacific;
16 and when they --

17 Q Keep that microphone close, please.

18 A I worked for the Union Pacific up until May,
19 and they done away with their passenger trains, and all those
20 that was laid off as a result of it, if you had over five
21 years service, you got six years' pay -- yearly.

22 Q I see. All right. Is that the type of work that
23 you have done most of your life, sheet metal work, --

24 A Yes.

25 Q -- for the railroad?

26 A Forty-four years.

27 Q And are you related to or a friend of any law
28 enforcement -- a law enforcement officer as I've explained

1 that term?

2 A No.

3 Q Is there a Mrs. Edmondson?

4 A No, there isn't.

5 Q In what area do you reside, generally?

6 A The west part.

7 MR. DENNY: I'm sorry?

8 Q BY THE COURT: I didn't hear that.

9 A The west part of L. A.

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

12 A No, I can't.

13 Q Do you have such views about the Manson Family or
14 Charles Manson, as a result of what you've heard, seen or
15 read in the news media, that you couldn't be fair and impartial
16 to somebody whom the evidence would show to be a member of the
17 Manson Family?

18 A No. I haven't taken any sides one way or the
19 other.

6b fol.

1 Q Would a member of the Manson Family be at any
2 disadvantage --

3 A No, they would not.

4 Q -- in other words, in having you as a juror?

5 A No, they would not.

6 THE COURT: All right. You may examine.

7 MR. DENNY: I wonder if you could pass that microphone
8 down to Mrs. Ford? And I will question her first.

9

10 VOIR DIRE EXAMINATION OF

11 BEVERLY A. FORD

12 BY MR. DENNY:

13 Q Mrs. Ford, I don't believe -- I'm sorry. We seem
14 to be dodging heads here -- you were asked, "Have you had any
15 prior jury experience?" ma'am?

16 A No, I haven't.

17 Q You hesitated. I'm wondering what the reason for
18 your hesitation was?

19 A Well, I was a witness in -- I have been a
20 witness.

21 Q Do you want to hold that right up to your mouth?

22 A Okay.

23 Q That's the way. Then we can hear.

24 A I said: I have been a witness. And that was the
25 reason for the hesitation.

26 Q All right. And in what kind of case?

27 A Narcotics.

28 Q And was this recently?

1 A No. It's been about -- oh, nine years.

2 Q And was this -- were you called by the defense or
3 by the prosecution?

4 A The defense.

5 Q And was this someone related to you or a friend of
6 yours?

7 A Yes, it was my uncle.

8 Q All right. And was he convicted or acquitted?

9 A Acquitted.

10 Q Now, have you been a witness in any other case at
11 any other time?

12 A No, I haven't.

13 Q All right. In that particular case, I assume that
14 since he was acquitted, you felt that he had been wrongfully
15 charged, perhaps? Is that right?

16 A Yes.

17 Q All right. Now, as a result of that, is there,
18 would you say, any lingering feelings of hostility toward the
19 prosecution, or toward the police forces, for having wrong-
20 fully charged him --

21 A No.

22 Q -- of the narcotics offense?

23 A No.

24 Q Do you feel that anything in connection with that
25 particular past event would make you kind of tend to be a
26 little bit -- as the lady before you, sitting in that very
27 seat, says, "Edging toward the prosecution" -- do you feel that
28 it would make you tend to edge towards the defense, or against

1 the prosecution --

2 A No.

3 Q -- because of that?

4 And did police officers testify in that particular
5 case?

6 A Yes, they did.

7 Q All right. And was your testimony in conflict
8 with theirs?

9 A Hmmm -- no, not really. No.

10 Q All right. Well, I'm not sure that the question
11 was specifically asked of you, as it was again of Mrs. DeKuh --
12 but looking at it from the other side, since she was married to
13 an officer -- because of the experience that you have pre-
14 viously had, do you feel that you would give less weight to the
15 testimony of any police officer than you would to a civilian
16 witness, because of the fact that he was a police officer?

17 A No.

18 Q You would judge his credibility by the same
19 standards that you would judge the credibility of any other
20 witness?

21 A Yes, I would.

22 Q Based on the criteria that the judge will give you
23 in an instruction; is that right?

24 A Yes.

25 Q All right. Now, other than this case against your
26 uncle, have any other friends or relatives of yours been
27 charged with an offense, as far as you know?

28 A No.

1 Q Now, what is the optical job that you have, ma'am?

2 A I order the frames and lenses.

3 Q All right. And what sort of work did your husband
4 do at Bethlehem Steel?

5 A He was a -- it's been some time ago -- a floorman.
6 That was one of the titles.

7 Q All right. Now, I'm going to ask you a number of
8 questions concerning the death penalty. As the Court has
9 stated to you, the mere fact that we ask these questions does
10 not in any way indicate that we think we will necessarily get to
11 that issue. But this is the only chance we have to talk to
12 you jurors.

13 And you understand that?

14 A Yes.

15 Q My questioning of you doesn't by any means indicate
16 to you that I think we'll ever get there; do you understand
17 that?

18 A Yes.

19 Q All right. Now, these questions that I will ask
20 you, I will probably repeat them to most of the jurors who are
21 sitting out there, so they can all listen, and I'll try and
22 speak loudly enough through this microphone so that they can
23 hear, too, and think of the questions that they -- or, the
24 answers they might give to those questions.

25 First of all, have you read anything at all con-
26 cerning the death penalty, the pros or cons or anything of
27 that kind? At any time --

28 A Yes.

1 Q -- during your life?

2 A Yes, I have.

3 Q Have you made any sort of study of the issue of the
4 death penalty? Have you done any --

5 A No, no studying, no.

6 Q -- any directed reading in that?

7 A No.

8 Q Your reading was just sort of by chance, just
9 reading it as you were coming across something?

10 A Yes, reading it in the newspaper.

11 Q These type of cases where perhaps the paper
12 carries an article about someone who has been executed by the
13 State, or on the contrary, issues raised pro and con about the
14 death penalty? Or both?

15 A Issues pro and con about the death penalty.

16 Q All right. And have you ever attended any sort of
17 meetings or anything where that was the topic of conversation?

18 A No.

19 Q Now, you are going to be asked in this case by the
20 prosecution to bring in a guilty verdict, obviously. That's
21 what they want. And they say that they then want to ask you to
22 vote to execute this defendant.

23 Now, I take it you've never had a situation
24 involved where your word, your single, sole, solitary word,
25 meant whether somebody lived or died; is that correct?

26 A Yes.

27

28

7 fol

7-1

1 Q Now, generally the prosecutor will ask you in the
2 case, and I'll ask you the same thing now, whether, assuming
3 you felt that this was a case where you felt in your sole
4 discretion, because nobody tells you how to vote, not even
5 the Judge, not even the laws of the State -- assuming you
6 felt that this was a case where, for whatever reason, you
7 felt the defendant should be executed by lethal gas in the
8 gas chamber up in San Quentin.

9 Would you have the courage of your convictions,
10 as that phrase is sometimes used, to come in from your
11 deliberations, to look him in the eye, to look me in the eye,
12 and say to Mr. Davis, "By my vote I sentence you to die?"
13 Could you do that?

14 A Yes, I would.

15 Q And by the same token, ma'am, if you did not
16 feel that this was a case where the death penalty was
17 warranted, if you did not feel that this was a defendant
18 against whom the State should exact such a toll, would you
19 feel that you were doing your duty as a juror to come in and
20 face the Judge and the prosecutor and your friends and
21 everyone else and say, "No, I vote life and not death for
22 this man."

23 Would you be able to do that?

24 A Yes, I would.

25 Q Would you feel that you were doing your duty as
26 a juror by doing that?

27 A Yes, I would. If I felt this, I would do it.

28 Q All right.

7-2

1 Now, ma'am, the Court has asked you, and some-
2 times we get down to sort of neat phraseology here, whether
3 you would refuse to invoke the death penalty or vote the
4 death penalty on a first degree murder verdict regardless
5 of the evidence. And you stated no.

6 The Court has also asked you if you would
7 automatically vote for the death penalty on a finding of
8 first degree murder. And to that you have also answered no.

9 Is that correct?

10 A Yes.

11 Q In other words, it would depend on a whole lot of
12 factors, is that right?

13 A Right, right.

14 Q All right. So, that at this point, you are not
15 predisposed one way or the other, is that right?

16 A No, I am not.

17 Q Just as you are not predisposed toward the guilt
18 of the defendant; is that right?

19 A Right.

20 Q You are predisposed toward the innocence of the
21 defendant, right?

22 A Right.

23 Q Because you understand under our law he is
24 presumed innocent; you understand that?

25 A Yes, uh-huh.

26 Q And until you go into that jury room, you will
27 carry that presumption with you; is that right?

28 A That's right.

7-3

1 Q All right, ma'am.

2 Now, I've asked you about whether any friend has
3 been charged with a crime or any relative other than your
4 uncle. I'm not sure whether the Court asked you whether any
5 friend or relative had ever been a victim of a crime or if
6 you, yourself, had ever been a victim of any kind of crime;
7 have you?

8 A No.

9 Q Or has any friend or relative?

10 A No.

11 Q Now, I believe you heard the Court read to you
12 certain instructions which generally come at the end of the
13 case.

14 But in order to give you some idea what this case
15 is about, the Court read some instructions concerning evi-
16 dence, concerning accomplice, concerning conspiracy, things of
17 that kind. And one of those instructions concerns circum-
18 stantial evidence.

19 Now, do you understand that circumstantial evi-
20 dence is accepted just as direct evidence is; do you under-
21 stand that?

22 A Yes.

23 Q Now, the definition of circumstantial evidence
24 that the Court gave is one which even lawyers, I think, have
25 a hard time understanding.

26 But circumstantial evidence is, in effect, some-
27 thing where you have to draw an inference that something
28 else occurred, you see.

7-4

1 For instance, if I can give you just a brief
2 illustration, and this will, I hope, do for the other jurors,
3 too.

4 A mother sees her little son going into a cookie
5 jar in the kitchen after she has told him not to. She says,
6 "Don't do that. That's against the law in this house."

7 And she sees him go and take cookies from the
8 cookie jar.

9 What she sees is direct evidence of the household
10 crime, you see.

11 You understand?

12 A Yes..

13 Q On the other hand, the mother having told the son
14 not to go into the cookie jar, that's a no-no, she goes out
15 of the room and when she comes back in the kitchen, the top
16 is off the cookie jar, and there are cookies missing off the
17 top of the cookie jar because it was full when she left. And
18 her son has crumbs on his mouth. But she did not see him go
19 into the cookie jar. Her observations, what she
20 saw at that time, although they are observations of what she
21 has seen, is circumstantial evidence of that household crime.

22 Do you understand that?

23 A Yes.

7a fls.

28

7a-1

1 Q All right.

2 Now, the law in this state says either one could
3 convict him of that crime. And it says also that either kind
4 of evidence can convict a person of murder.

5 Now, do you find anything so abhorrent in that,
6 that a person could be convicted of murder only on circum-
7 stantial evidence that you would not vote for guilty if you
8 felt the circumstantial evidence showed that the defendant
9 had committed the crime?

10 A I think I'd have to have time to weigh it in my
11 mind.

12 Q Well, you'd be given all the time you need. That's
13 one thing that the Court will do.

14 A And I think, uh, there would have to be more
15 evidence than just crumbs on his mouth.

16 Q Just what?

17 A Crumbs on his mouth. There would have to be more
18 evidence.

19 (Laughter.)

20 Q BY MR. DENNY: Well, assuming, though, there
21 were more evidence than just crumbs on his mouth. That there
22 was sufficient evidence so that you felt beyond a reasonable
23 doubt and to a moral certainty that that crime had been
24 proven.

25 Could you then conscientiously vote a verdict
26 of guilty?

27 A Yes, I could.

28 Q All right. Now, let me go one step further. I

7a-2

1 may sound like a prosecutor here. I'm trying to ask some
2 of these questions just to speed the thing up. These are
3 questions that he would normally ask.

4 In this case there are two charges of murder.
5 There is one charge of conspiracy, too.

6 On one of the charges of murder, the People are
7 attempting to prove that Donald Jerome Shorty Shea died.
8 That he died by criminal means.

9 In other words, that he was murdered. And that
10 this defendant is in some way responsible for this death.

11 However, there is no body. The death, if in fact
12 any death occurred is going to be attempted to be proved by
13 the People by circumstantial evidence.

14 Now, interestingly enough in California, although
15 some people think you have to have a body to prove murder, it
16 is not so. You can prove a murder without a body. And you
17 prove it by circumstantial evidence.

18 Now, the People, then, as to Count III are going
19 to attempt to show a death and a death by criminal means by
20 circumstantial evidence.

21 If they can produce sufficient evidence, and. I
22 say if they can, to convince you beyond a reasonable doubt
23 and to a moral certainty that Shorty Shea is dead, that he
24 died by criminal means, and that this defendant was criminally
25 responsible for it, do you feel that you could vote guilty?

26 A Yes.

27 Q All right.

28 Now, the Judge read you, as part of an instruction,

7a-3

1 an instruction that is a very important instruction in a
2 circumstantial evidence case, where the case of the People
3 rests wholly or substantially on circumstantial evidence,
4 and there are two reasonable interpretations of the evidence,
5 one pointing to the defendant's guilt and one to his innocence,
6 and the instruction goes: You are required, where they are
7 both reasonable interpretations of the evidence, you are
8 required to adopt that view of the evidence pointing to the
9 defendant's innocence and reject that pointing to his guilt.

10 Now, do you have any quarrel at all with that
11 instruction?

12 A No, I don't.

13 Q Do you think that is fair?

14 A Yes.

15 Q And would you follow that instruction to the
16 letter?

17 A Yes, I would.

18 Q If you find that the evidence in this case
19 falls within the ambit of that instruction?

20 A Right.

21 Q All right. Now, there will be some experts
22 testifying in this case or people who will attempt to qualify
23 themselves and may qualify themselves as experts.

24 I'm not sure that the Court read an instruction
25 concerning expert testimony.

26 But do you feel just because a man may qualify
27 as an expert that anything he says is gospel and you must
28 accept everything that he says from the witness stand?

7a-4

1 THE COURT: Well, the Court will instruct you with
2 respect to expert testimony.

3 Q BY MR. DENNY: Well, let --

4 THE COURT: The Court's instruction generally will
5 state to you that you are not bound to accept expert testi-
6 mony. You may reject the testimony if you find it to be
7 unreasonable.

8 Will you follow that instruction as well as all
9 the other instructions the Court gives you concerning the law?

10 THE PROSPECTIVE JUROR: Yes, I would.

11 Q BY MR. DENNY: All right, thank you.

12 Now, ma'am, let's go back to a situation where
13 you are in the guilt or innocence phase of the trial and you
14 have now retired to the jury room for your deliberations and
15 you are in a minority. Perhaps a minority of one. All of
16 your other fellow jurors, 12 good citizens who are conscien-
17 tiously attempting to do their job just as you are, are of
18 a different opinion than you are.

19 And let's just, for the sake of an example, say
20 that they are all voting for guilt and you are voting for
21 innocence, acquittal, because you do not feel that the
22 People have proven their case and proven it beyond a reason-
23 able doubt and to a moral certainty, which is their burden.

24 Would you, simply in order to bring in a
25 unanimous verdict change your view from theirs if you are
26 not convinced their view is right?

27 A No, I don't think so, because his life would be
28 at stake.

7b fls.

7b-1

1 Q That's correct.

2 Now, by the same token, would you, nevertheless,
3 listen to what they had to say to see if they could convince
4 you of the correctness of their position?

5 A Yes, I would.

6 Q And on the other hand, would you explain to them
7 your position, why you felt as you felt and why you felt they
8 were wrong?

9 A Yes.

10 Q You wouldn't just clam up and say I know what
11 I know and I'm not going to change no matter what?

12 A No.

13 Q Because you understand -- well, some people do
14 that. You smile and I smile as I say it, but it has
15 happened and it is in the interest of both the People and the
16 defendant in a case which is going to be a long case to
17 attempt to reach a verdict if you can conscientiously do
18 so. But if you can not, you would not change your vote to
19 bring in a unanimous verdict or merely because 11 other
20 people are against you, is that right?

21 A Yes.

22 Q Now, the Court has read to you three charges,
23 three counts.

24 Count I charging the murder of Gary Hinman;
25 Count II charging the conspiracy to commit robbery and
26 murder of Gary Hinman -- did I say Count II or Count III?
27 That was Count II; and, Count III, the alleged murder of
28 Shorty Shea.

1 Now, each of these is a separate count. And
2 again, I'm not sure that the Court read this instruction,
3 but there is an instruction that you must consider the
4 evidence or consider the guilt or innocence of the defendant
5 separately as to each count.

6 Now, do you think that you could do this?

7 A. Yes.

8 Q. In other words, these are two separate alleged
9 murders. One occurring in late July and one supposedly
10 occurring in late August. And sometimes it is said that a
11 defendant is greatly prejudiced by having two separate
12 charges put together that way for the same jury to hear.
13 And sometimes it is felt that a jury has an almost insuperable
14 job in trying to keep the two counts separate, because they
15 may say, "Well, he's guilty of one and, therefore, he must
16 be guilty of the other."

17 Or, "Well, where there's all that smoke, there
18 must be fire. And let's say he is guilty of one and acquit
19 him of the other."

20 Or, "Where there's smoke there's fire. He must
21 be guilty of both, although there doesn't seem that strong
22 of evidence on either."

23 Now, this sometimes happens.

24 Now, do you think you can segregate those three
25 charges and determine separately as to each whether the
26 People have produced enough evidence as to each separate
27 count to sustain their burden of proof beyond a reasonable
28 doubt and to a moral certainty; can you do that?

1 A I would certainly try to. I --

2 Q All right, well, that's all we can ask. Fine.

3 Now, a question has been asked by the prosecutor
4 earlier when we were questioning other jurors as to whether
5 or not you would vote for second degree murder instead of
6 first degree murder or some lesser charge simply in order to
7 avoid the responsibility of determining the issue of life or
8 death, assuming you reached a first degree murder verdict.

9 You wouldn't do that, would you?

10 In other words, you wouldn't vote something
11 less than the evidence showed if the evidence showed beyond
12 a reasonable doubt and to a moral certainty that the defendant
13 was guilty of one of the crimes that he was charged with
14 simply to avoid your responsibility of voting in the penalty
15 phase of the trial, would you?

16 A No, I wouldn't.

17 Q If, on the other hand, the evidence showed some-
18 thing less than first degree murder and you were instructed
19 that you might find something less, and you were convinced
20 only that the defendant were guilty to that degree or to that
21 extent, you'd have no reluctance in voting for that lesser
22 offense, would you?

23 A No, I wouldn't.

24 Q If the People did not sustain their verdict as
25 to any charge, would you feel you were doing your duty in
26 voting to acquit the defendant?

27 A Yes, I would.

8 fls.

28

8-1
1 Q Now, the Court has read you certain instructions
2 concerning conspiracy, and conspiracy is where two or more
3 people combine to commit a criminal offense.

4 Now, there's something known as kind of a concept
5 of -- "Birds of a feather flock together," or, "Guilt by
6 association."

7 You've heard that expression?

8 A Yes, I have.

9 Q Or those expressions?

10 A Yes.

11 Q All right. Now, it's also part of our law that
12 mere association -- if the prosecution in any case, where
13 they're charging conspiracy, shows only association of the
14 defendant with some acknowledged conspirators, and that's all,
15 that that in and of itself is insufficient to convict.

16 Now, does that seem fair to you?

17 A Would you rephrase that, please?

18 Q Yes. If the prosecution shows only that the
19 defendant associated with some acknowledged conspirators -- but
20 that's all; only mere association and nothing more; no criminal
21 design or intent on his part -- then you must acquit him, and
22 that's the law.

23 Now, does that seem fair to you?

24 A Yes.

25 Q All right. And would you follow that instruction,
26 assuming the Court gives it to you?

27 A Yes, I would.

28 Q All right. Now, indeed, the law goes even further

8-2

1 than that and says even if someone doesn't act -- and it is
2 shown by the prosecution that someone doesn't act which may
3 further the ends of the conspiracy, but he does it without
4 guilty knowledge or guilty intent or criminal intent, that the
5 mere doing of an act, without the showing of criminal intent,
6 if that's all the prosecution can show, then the jury must
7 acquit.

8 For instance, I'll give you an example. We'll go
9 back to the days of the horses, and three men on horseback come
10 up to a bank. And they're going to rob the bank. They have
11 conspired to rob the bank.

12 And they leave their horses with a fellow stand-
13 ing on the corner, by the old cigar store, and say, "Here,
14 fellow, hold these horses just a few minutes, would you?"

15 And he said, "Sure."

16 They go in, and they rob the bank. They run out,
17 they jump on their horses, and they go away. The guy's
18 left standing there, dumfounded, and the Sheriff comes and
19 grabs him.

20 Well, he was not part of the conspiracy, and he
21 had no criminal intent. He didn't know what they were going
22 to do, but he did an act which furthered the object of the
23 conspiracy, holding the horses, to enable them to go in and
24 rob the bank.

25 Do you see? Now, if the People were only able to
26 show that much, that person would have to be acquitted of the
27 charge of robbery -- or, conspiracy to commit robbery.

28 Do you understand?

8-3

1 A Yes.

2 Q All right. Now, does that seem fair to you?

3 A Yes, it does.

4 Q And if you are given an instruction to the effect
5 that a defendant must be acquitted, where the only showing is
6 that he did an act which furthered the ends of the conspiracy,
7 but that's all, would you follow that instruction?

8 A Yes, I would.

9 MR. DENNY: All right, ma'am. Perhaps -- let's pass the
10 microphone over to Mr. --

11

12 VOIR DIRE EXAMINATION OF

13 CECIL H. CHAVERS

14 BY MR. DENNY:

15 Q (Continuing) -- is it Chavers or Chaivers?

16 A Chavers.

17 Q Chavers?

18 A Yes.

19 Q All right. Mr. Chavers, prior to your work with
20 the Department of Water and Power, which you say you've
21 worked at for three years, for whom did you work?

22 A I worked for the Department of Traffic, City of
23 Los Angeles.

24 Q Doing what sort of work?

25 A I was a clerk-typist over there.

26 Q For how long?

27 A For four years and seven months.

28 Q And that's right down to the minute almost. And

8-4

1 in that particular department did you come in contact with
2 police officers?

3 A No. No personal contact, no.

4 Q All right. Now, do you have any friends at all
5 in the field of law enforcement?

6 A No.

3a fol

8a-1

1 Q Now, you say that your wife is presently a
2 housewife. Had she previously been employed in any capacity?

3 A Yes. Approximately two years ago, she worked
4 for a road manufacturing firm for approximately three months.
5 I don't recall the name of it, but it was in the city of
6 Vernon somewhere, I believe.

7 Q All right.

8 Now, sir, I'll ask you this question. And this
9 applies to all of the other jurors, too.

10 When you are asked about your work, or your
11 business or occupation, that includes any part-time work
12 that you do, too. Sometimes people will answer what their
13 main job is, but they have a part-time job which is very
14 significant, too -- or may be.

15 Do you have any part-time employment?

16 A No, I don't.

17 Q All right.

18 Have you been in the Service at all?

19 A No, sir.

20 Q Now, again, because this is the opportunity
21 that we -- the one opportunity that we get to talk to you,
22 I'm going to ask you certain questions about the death
23 penalty. And starting off, have you done any reading on the
24 subject?

25 A I have noticed articles -- one, I believe, I
26 read in the Los Angeles Times approximately seven or eight
27 months ago.

28 Q Was this on the question of abolition or retention

1 of the death penalty?

2 A Yes, it was.

3 Q All right. And have you on occasion discussed
4 this with friends, relatives or classmates in school, something
5 of that kind? Or a school assignment, maybe?

6 A No, no school assignment.

7 Q Have you done any studying on it, other than just
8 this casual reading that you've mentioned?

9 A No, I haven't.

10 Q All right. So, you, too, are in a position
11 where, for the first time in your life, if you are chosen as
12 a juror, and are seated with the regular jury for some
13 reason, you would be in a position of your single, sole,
14 solitary vote determining whether a man lives or dies. And
15 you have never been in that position before, I take it?

16 A That's correct.

17 Q And again, would you have the courage of your
18 convictions, if that's what it is presumed to take, to come
19 in and look Mr. Davis in the eye, if you felt that it was the
20 kind of case where you felt the death penalty was appropriate,
21 and the kind of defendant where you felt it was appropriate,
22 and say, "Mr. Davis, because of my vote, you will die"?

23 A Yes. I would --

24 Q Do you think you could do that?

25 A Yes.

26 Q And, sir, by the same token, if you did not
27 feel that he was the kind of defendant or that this was
28 the kind of case or these were the kind of cases -- assuming

1 we again ever get to that point -- where the death penalty was
2 appropriate, would you feel you were doing your duty in saying
3 to the Court, to counsel over there, and everyone else, "No,
4 I properly vote for the death penalty -- for life imprison-
5 ment in this case, against the death penalty"?

6 A Yes, sir.

7 Q And as you sit there now, you have no predilection
8 one way or the other as to what type of case you feel the
9 death penalty would be the case -- would be the penalty that
10 you would vote; is that right?

11 A No, I have no idea at the present time, no.

12 Q All right, sir. Well, again, so that we are
13 communicating, not only you and me but the rest of the jurors,
14 too, the prospective jurors, you understand that if a person
15 is found guilty of first degree murder, that does not mean
16 that he should automatically suffer the death penalty; do you
17 understand that?

18 A Yes, sir.

19 Q There are some people who feel that first degree
20 murder means automatically he should get death. You are not
21 of that mind?

22 A No, sir, I'm not.

23 Q Now, again, as we discussed with Mrs. Ford, I
24 take it as of this moment, your state of mind -- or frame of
25 mind -- is that the defendant is innocent; is that correct?

26 A That's correct.

27 Q Because that is the presumption of law which
28 follows him right through to the point where you exit to

1 the jury room to begin your deliberations.

2 Do you understand that?

8b fls.

3 A Yes.

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8b-1

1 Q Now, do you also understand that in a case -- in a
2 criminal case, the defense is not required to put forward any
3 evidence whatsoever? Do you understand that?

4 A Yes.

5 Q The defense has no burden whatsoever; do you under-
6 stand that?

7 A Yes, sir.

8 Q And it is the prerogative of the defense attorney
9 if he feels that the People have not established their case,
10 by the necessary burden of proof -- if they haven't proven
11 their case beyond a reasonable doubt and to a moral certainty,
12 as far as the defendant's guilt is concerned -- then he
13 doesn't even have to call the defendant to the witness stand,
14 or he doesn't even have to put on any evidence.'

15 Do you understand that?

16 A Yes, I do.

17 Q Now, do you have any feelings as you sit there
18 that a defendant, if he does not take the witness stand, must
19 have something to hide? And therefore, is probably guilty?

20 A No, I do not.

21 Q Do you understand that, by the constitution of the
22 United States, that presumption is not only inappropriate,
23 it's unconstitutional?

24 That you can't presume that? You can't properly
25 presume that?

26 Some people feel this, you know. But the law is to
27 the contrary. The defendant doesn't have to take the stand,
28 may not be compelled to take the stand; and indeed, if his

8b-2

1 attorney feels that the case is so weak that they don't need
2 to put on evidence, he shouldn't take the stand.

3 Now, do you feel that there would be anything
4 wrong with -- in the defendant following that course in this
5 case?

6 A No, I do not.

7 Q And if in fact I did not choose to call him to the
8 stand, or I only put on a couple of witnesses, say, to rebut
9 a couple of points perhaps that the People have brought out,
10 and then rested, you would not make up any deficiency in the
11 People's case by the fact that the defendant did not take the
12 stand, would you?

13 A No, sir, I wouldn't.

14 Q All right. Fine.

15 Now, sir, did you hear the questions that I
16 asked of Mrs. Ford previously?

17 A Yes, I did.

18 Q And would your answers to her questions -- to
19 those questions be the same as her answers?

20 A Yes, they would.

21 Q All right. I'm not sure -- yes, you did indicate
22 you had had no prior jury experience; is that correct?

23 A That's correct.

24 Q I see. Yes.

25 Is there any reason at all why you feel that you
26 could not be fair both to the People and to the defendant, in
27 the trial of this case?

28 A No, sir, I do not.

8b-3

1 MR. DENNY: All right. Could you pass the microphone,
2 then, back up to Mr. Edmondson?

3
4 VOIR DIRE EXAMINATION OF

5 HERBERT H. EDMONDSON

6 BY MR. DENNY:

7 Q Mr. Edmondson, we have been over the questions
8 about the death penalty, but these are questions again that I
9 have to ask each individual juror.

10 And sir, I did make note of your initial answer
11 to the Court's question, and I was not sure whether it was
12 based on perhaps a misinterpretation of the Court's question,
13 or of a conviction on your part.

14 But I put down, when you answered the question,
15 whether you would automatically vote to impose the death
16 penalty upon a verdict of murder in the first degree, that you
17 said: Yes, you would.

18 Now, was that your frame of mind, sir?

19 A No, not necessarily.

20 Q Do you have the feeling that one who is found guilty
21 of murder of the first degree should therefore be given the
22 death penalty?

23 A No, I do not.

24 Q You understand that murder in the first degree
25 may be found in a number of different ways. If a person
26 actually kills, then he may be found guilty of murder in the
27 first degree, on the basis of premeditation, deliberation,
28 cold-blooded murder.

3b-4

1 On the other hand, he may be an accomplice; he
2 may never strike a blow himself, and yet be found guilty as an
3 accomplice.

4 And the Court read you certain accomplice
5 instructions: One who aids and abets with guilty knowledge
6 is an accomplice, or he may be guilty as a conspirator, al-
7 though being miles away at the time.

8 There may be all sorts of ways that a person can
9 be found guilty of murder of the first degree; do you under-
10 stand that?

11 A Yes.

12 Q And therefore, there would be degrees of culpa-
13 bility that might affect the judgment of one determining the
14 issue of penalty, assuming there had been a finding of murder
15 of the first degree.

16 Do you understand that?

17 A Yes.

8c fol

8c-1

1 Q All right. And you'd take all of those factors
2 into account before you would vote one way or the other, I
3 take it; is that correct?

4 A That's correct. That's right.

5 Q All right. Have you done any time in any of the
6 Armed Forces, sir?

7 A Yes, I have. World War II.

8 Q And what branch of the Service were you in?

9 A Navy.

10 Q And did you see active duty, sir?

11 A Yes, I did.

12 Q In what kind of work?

13 A Uh -- Shipfitter in the Navy, on -- on the Alabama.

14 Q I take it, however, that you were not firing at
15 people yourself -- is that right?

16 A No, I wasn't. I wasn't.

17 Q And were you fired upon?

18 A Yes. A number of times.

19 Q All right. Have you seen men killed about you?

20 A No, huh-uh. No, I haven't.

21 Q Now, sir, I take it, then, that this would be a
22 first for you, as far as the situation where you had to make
23 a decision which, because of your own cold, calculated,
24 reflected choice, involved the life or death of a man; is that
25 correct?

26 A That is correct.

27 Q And do you feel any reluctance or hesitancy in
28 undertaking that responsibility?

8c-2

1 A No, I do not.

2 Q And again, the questions that I have asked of
3 the other jurors here, assuming that you did not feel that
4 the death penalty were an appropriate penalty in this
5 particular case -- assuming, again, in the hypothetical
6 situation, if we ever get there -- which I'm not conceding
7 by a long shot -- but for the sake of this questioning
8 session that we are going through, assuming that you felt
9 that it were not, would you have the courage of your
10 convictions to look the Judge in the eye, and the prosecutors,
11 the reporters -- anybody else -- and say, "No, I vote for
12 life and not death."

9 fls.

13 A That is right.

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9-1

1 Q And would you feel, sir, that you were doing --

2 A Yes.

3 Q -- your duty as a juror in returning a verdict
4 of that kind?

5 A Yes, I would.

6 Q All right, sir.

7 Now, you say there is no Mrs. Edmondson.

8 Has there been a Mrs. Edmondson in the past?

9 A No.

10 Q A bachelor all these years?

11 A That's right.

12 Q Son of a gun.

13 And I'm not sure whether you were asked by the
14 Court whether you or any friend or relative have ever been
15 the victim of any crime.

16 Had you, sir?

17 A No, I haven't.

18 Q Now, the Court read you the instruction on
19 reasonable doubt and defined reasonable doubt to you.

20 We talked about the burden of proof on the
21 People being to prove the charge beyond a reasonable doubt and
22 to a moral certainty.

23 Now, this is a heavy burden. It is not an
24 insuperable burden, because obviously people are found
25 guilty of crimes every day. It is not a burden of proving
26 a person guilty beyond all possible or imaginary doubt, any
27 doubt that can be cooked up out of the blue.

28 But it is proof beyond a reasonable doubt and to

1 a moral certainty.

2 Now, do you feel, sir, that there is anything
3 wrong in a criminal case, as distinguished from a civil
4 case, where a man's life and liberty are at stake in imposing
5 that heavy burden on the People?

6 A No.

7 Q You feel that it is proper that they be
8 required to bring in evidence to that degree of proof before
9 a man is found guilty by a court or by a jury?

10 A Yes.

11 Q And in this case, would you have any hesitancy,
12 whatsoever, in voting to acquit the defendant, voting not
13 guilty, if the People did not bring in sufficient evidence
14 to convince you beyond a reasonable doubt and to a moral
15 certainty that the crimes have been committed and that he was
16 in any way responsible for those crimes if committed by
17 anyone?

18 A No, I'd have to be convinced.

19 Q And you'd have to be convinced?

20 A Yes.

21 Q By that degree of proof?

22 A Yes.

23 Q Beyond a reasonable doubt and to a moral
24 certainty?

25 A That's right.

26 Q And if you were not convinced, you feel that you
27 would vote to acquit?

28 A Right.

1 Q And you would feel you were doing your duty as
2 a juror?

3 A Yes, I would.

4 Q In upholding the laws of this state, is that
5 right?

6 A That's right.

7 Q All right, sir.

8 Now, going back again, just briefly, to the
9 death penalty issue.

10 Have you done any reading on the subject your-
11 self?

12 A No, I haven't read anything up on it, only what
13 I just happened to see in the paper and glance at it. That's
14 all.

15 Q All right. You've made no study of it yourself,
16 is that right?

17 A No.

18 Q All right, sir.

19 Your Honor, I'll pass at this point pending the
20 examination on the publicity.

21 MR. KAY: Your Honor, I wonder if we can take our
22 afternoon recess at this time?

23 THE COURT: Yes, we will take a short recess.

24 You are admonished that you are obliged not to
25 converse amongst yourselves, nor permit anyone to converse
26 with you on any subject connected with this matter. It will
27 be about ten minutes.

28 MR. KAY: Thank you.

(Afternoon recess.)

THE COURT: The record may show the defendant is present with his counsel. Mr. Kay for the People. All the prospective jurors are present.

You may proceed, Mr. Kay.

MR. KAY: Thank you.

VOIR DIRE EXAMINATION

BY MR. KAY:

Q Mrs. Ford, do you have it firmly resolved in your mind that if you felt that if the evidence in this case warranted it, that you could come back and vote for the death penalty against Mr. Davis?

A Yes, I could.

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

A No.

Q Mr. Chavers, do you have it firmly resolved in your mind that -- if you felt that the evidence in this case warranted it, that you could come back and tell Mr. Davis that he had to die for the crimes he's committed?

A I do.

Q And is there any doubt at all in your mind?

A No, there isn't.

Q Mr. Edmondson, do you have it firmly resolved in your mind that you could vote for the death penalty in this case if you felt that the evidence warranted it?

A I can.

1 Q And is there any doubt at all about that in your
2 mind?

3 A None.

4 Q Now, as much as possible, I'm going to try to
5 ask the three of you questions as -- collectively, instead
6 of individually. But in order to effectively do this, I'll
7 need each of you to answer out loud when I ask you the
8 questions. Most of the questions can be answered with a yes
9 or no, but if you don't want to answer the question yes or
10 no, don't feel that you have to. If you want to explain
11 your answer, please feel free to do so.

12 And if, at any time, you give an answer to either
13 Mr. Denny or to myself and you thought a little bit more about
14 it and you want to change your answer, don't hesitate to do
15 so.

16 Now, this is a question that I ask of all jurors
17 that allows them to bring up any personal reason that they
18 have that they might not want to sit on the case that hasn't
19 been touched upon.

20 And the question is, can any of you think of any
21 reason why you could not or should not sit on this jury or
22 don't want to sit on the jury?

23 ALTERNATE JUROR NO. 1: No.

24 ALTERNATE JUROR NO. 2: No.

25 ALTERNATE JUROR NO. 3: I cannot.

26 Q Now, is it the firm position of all three of you
27 that the prosecution is entitled to an equal fair trial to
28 the defense in this case?

1 A (All three prospective alternate jurors answered
2 in the affirmative.)

3 Q And do any of you have any sympathy for Mr. Davis,
4 the defendant, because he is a defendant in this case?

5 A (All three prospective alternate jurors answered
6 negatively.)

7 Q Now, in the guilt phase of the trial, as you've
8 heard from Judge Choate already, the prosecution has the
9 legal burden of proving the defendant guilty beyond a
10 reasonable doubt.

11 Now, this, and this alone, is our legal burden
12 at the guilt phase of the trial.

13 And in the penalty phase there is no burden on
14 either side. The defense has no burden and the prosecution
15 has no burden. It is entirely up to the sole discretion of
16 the jury as to whether or not Mr. Davis gets life imprison-
17 ment or the death penalty.

18 But getting back to the guilt phase, do you
19 understand this, and this alone, proving the defendant guilty
20 beyond a reasonable doubt, is our legal burden?

21 In other words, we don't have the burden of
22 proving the defendant guilty to an absolute certainty, beyond
23 a shadow of a doubt or beyond all doubt. It is beyond a
24 reasonable doubt.

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

26 A (All three prospective alternate jurors answered
27 in the affirmative.)

28 Q And realizing this is the standard, the burden of

1 proof that the prosecution has, would any of you hold the
2 prosecution to any higher standard, any higher burden of
3 proof?

4 A (All three prospective alternate jurors answered
5 in the negative.)

10 fls.

10-1

1 Q Now, in every criminal case, be it a misdemeanor
2 or a felony -- in other words, if the defendant's charged with
3 running a red light, the prosecution still has to prove that
4 he is guilty beyond a reasonable doubt. The same is true of
5 any felony case: A burglary, a robbery, a narcotics case, or
6 a murder.

7 Now, just because this is a murder case, would
8 any of you hold us to any higher burden of proof, realizing
9 that the burden of proof is the same in every criminal case,
10 no matter what the charge?

11 (The three prospective alternate jurors answered
12 in the negative.)

13 Q Now, other than Mrs. Ford, who has already
14 answered this question, do either of you two gentlemen have
15 any close friend or relatives that have been charged with a
16 crime other than misdemeanor traffic offenses?

17 PROSPECTIVE JUROR EDMONDSON: No, sir.

18 PROSPECTIVE JUROR CHAVERS: Yes. I had an uncle who --

19 MR. DENNY: Excuse me. Could we have him use the
20 microphone?

21 PROSPECTIVE JUROR CHAVERS: Yes. I had an uncle that
22 was convicted on narcotics. He was an addict, and he did
23 serve some time for that.

24 Q BY MR. KAY: Okay.

25 Were you a witness in that case?

26 A (Prospective Juror Chavers) No, sir.

27 Q And did anything take place in that case that
28 would prejudice you against police officers, or prosecutors?

10-2

1 A (Prospective Juror Chavers) No.

2 Q Did you feel that your uncle was fairly treated in
3 his case?

4 A (Prospective Juror Chavers) Yes, I did.

5 Q And Mrs. Ford, I take it that you felt that your
6 uncle was not fairly treated in his case; is that correct?
7 That's what I understood from what you told Mr. Denny.

8 A (Prospective Juror Ford) He was acquitted. I
9 felt that he was fairly acquitted.

10 MR. DENNY: Would you take the microphone?

11 Q BY MR. KAY: In other words, you felt he was
12 fairly treated by the jury, but not by the prosecutorial
13 authorities, by charging him with the crime?

14 A (Prospective Juror Ford) There was no jury.

15 Q Oh. It was a court trial?

16 A (Prospective Juror Ford) Yes.

17 Q In front of the judge alone?

18 A (Prospective Juror Ford) Yes.

19 Q And did you witness the alleged crime? Is that
20 what you testified to? Or did you just testify as to your
21 uncle's character?

22 A (Prospective Juror Ford) No, his character. And
23 there was a discrepancy as to whether he was home or not on
24 the day that the police officers -- well, that was the
25 difference.

26 Q I see. Okay. So, that's basically what you
27 testified to, --

28 A (Prospective Juror Ford) Yes.

10-3

1 Q -- as to whether or not he was home or not home --
2 A (Prospective Juror Ford) Yes.
3 Q -- on that particular day?
4 Now, would any of you -- any of the three of you
5 give any less weight to the testimony of a witness, because
6 that witness is a police officer?
7 A (The three prospective alternate jurors answered
8 in the negative.)
9 Q Do any of you to any degree whatsoever -- any
10 degree whatsoever -- feel any bias or prejudice against police
11 officers?
12 A (The three prospective alternate jurors answered
13 in the negative.)
14 Q Mrs. Ford, did you -- I didn't hear an audible
15 answer.
16 A (Prospective Juror Ford) I said: No.
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10a fol

10a-1

1 Q Okay. Thank you.

2 And Mrs. Ford, do you feel to any degree whatso-
3 ever that you lean towards the defense in this case, from your
4 past experiences?

5 A (Prospective Juror Ford) No.

6 Q Have any of the three of you ever studied law?

7 A (The three prospective alternate jurors answered
8 in the negative.)

9 Q And do any of you know any criminal defense
10 attorneys, or private investigators?

11 A (Prospective Juror Ford) I know an attorney. I
12 don't know if he is a criminal --

13 Q What's his name?

14 A (Prospective Juror Ford) English. Herman A.
15 English.

16 Q He is both.

17 Now, Mr. Denny described to you how you must
18 consider the guilt or innocence of Mr. Davis in this case, on
19 each of the three Counts; separately on each of the three
20 Counts.

21 But you understand that you might consider some of
22 the same evidence as to two or more of the Counts. In other
23 words, say you have fact A. Well, fact A might bear on Count
24 No. 1 and Count No. 2; so you can consider fact A on both
25 Counts -- although you have to decide and determine Mr. Davis's
26 guilt or innocence separately on each Count.

27 Do you all understand that?

28 A (The three prospective alternate jurors answered

10a-2

1 in the affirmative.)

2 Q And as far as circumstantial evidence, Mr. Denny
3 gave the example that in the circumstantial evidence case,
4 that where there are two reasonable interpretations of the
5 evidence, one pointing to guilt and one pointing to innocence,
6 that you must take the interpretation which points to the
7 defendant's innocence.

8 However, you all understand that the key word in
9 this instruction is "reasonable." Now, if you find that
10 there's only one reasonable interpretation, and that
11 interpretation points to the guilt of the defendant, I take it
12 that none of you would even hesitate in finding the defendant
13 guilty; is that correct?

14 A (The three prospective alternate jurors answered
15 in the affirmative.)

16 Q And Mr. Denny also said that it's the prerogative
17 of the defense attorney to decide if the People's case is
18 weak, and then he can determine not to put on a defense.

19 Well, you understand that -- that that may be his
20 decision, or that his decision may be that he just doesn't
21 have a defense to put on.

22 Do you understand that?

23 A (The three prospective alternate jurors answered
24 in the affirmative.)

25 Q So, would you follow the Court's instructions on
26 that?

27 A (The three prospective alternate jurors answered
28 in the affirmative.)

10a-3

1 Q Now, Mr. Denny gave you the example of the cookie
2 jar, that example; and I am going to give you a real short
3 example which might be even simpler than that -- hopefully.

4 Say, for example, that in a case -- you were trying
5 to prove -- or, the prosecutor was trying to prove that I wrote
6 this yellow legal piece of paper that I have here (indicating);
7 trying to prove that I wrote this.

8 Now, if you saw me write this (indicating) with your
9 own eyes, that's direct evidence. You saw me do it.

10 But say that you didn't see me do it. Now, how are
11 you going to do this? Well, assume that a handwriting expert
12 came in, and he -- his job was to determine whether or not I
13 wrote this. And say that he got some other papers that he knew
14 that I wrote -- maybe he saw me write some other papers -- and
15 then he compared my handwriting on the papers that he saw me
16 write with this, and he said that, in his expert opinion, that
17 I also wrote this paper.

18 Well, that's circumstantial evidence. Also, it --
19 if I confessed, if I said to you, "I wrote this page; this is
20 my handwriting," that's a confession, and a confession is
21 circumstantial evidence.

22 There are probably a lot of things that are
23 circumstantial evidence that you don't -- you don't think of,
24 like fingerprints, confessions, expert testimony, ballistics,
25 things like that are circumstantial evidence.

10b Fol

10b-1

1 Now, do any of you have a quarrel with the
2 Court's instruction that in the -- in the State of California
3 -- as in every other state -- circumstantial and direct
4 evidence are entitled to equal weight?

5 In other words, one type of evidence is not
6 favored over the other, under our law. Do any of you
7 quarrel with that?

8 A (The three prospective alternate jurors answered
9 in the negative.)

10 Q And do any of you quarrel with the fact that,
11 under our law, a person can be convicted of first degree
12 murder, based on circumstantial evidence? Standing alone?

13 A (The three prospective alternate jurors answered
14 in the negative.)

15 Q Now, I believe that the evidence will show in
16 this case that, as to Count No. I and Count No. II, that the
17 body of Gary Hinman was recovered.

18 But in Count No. III, the authorities have been
19 unable to locate the body of Donald Jerome Shea, whom the
20 papers have sometimes referred to by his nickname of
21 "Shorty," Shorty Shea.

22 Now, do any of you feel that it is unfair to
23 try a defendant for murder, where the authorities have been
24 unable to locate the body of the victim of that murder?

25 MR. DENNY: Well, your Honor, excuse me. I think
26 this assumes facts not based on evidence, --

27 THE COURT: Mr. Williams, would you read the question,
28 please?

1 MR. DENNY: -- and is asking them to judge, prejudge
2 the evidence.

3 THE COURT: Would you read it to me, please, Mr.
4 Williams?

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

7 "Now, do any of you feel that it is
8 unfair to try a defendant for murder, where the
9 authorities have been unable to locate the body
10 of the victim of that murder?")

11 MR. DENNY: This assumes that there is a body.

12 THE COURT: Sustained.

13 MR. DENNY: Or that he is dead.

14 MR. KAY: Well, I am going to object to Mr. Denny's
15 statements. As usual, he is just --

16 THE COURT: Yes. The Court has sustained the objec-
17 tion.

18 MR. DENNY: Thank you.

19 THE COURT: There's no need to comment any further.

20 MR. KAY: May Mr. Denny's statements be stricken?

21 THE COURT: Yes. And your remarks in argument are
22 stricken likewise.

23 Ladies and gentlemen, when the Court strikes
24 anything, you are to treat it as though it had never been
25 uttered, never been heard.

26 The Court does strike the statements of counsel.

27 Q BY MR. KAY: In this regard -- and in Count
28 No. III, you've already been told that no body will -- has

1 been found.

2 In this regard, under the law of the State of
3 California, the prosecution does not have to produce the body.

4 I believe Mr. Denny already explained that to you
5 in his voir dire.

6 In this regard, we have to prove only that the
7 victim died, and that his death was caused by criminal means --
8 for example, that he was murdered.

9 And will you all follow the law in this regard?

10 A (The three prospective alternate jurors answered
11 in the affirmative.)

12 Q And do any of you have any quarrel with this law?

13 A (The three prospective alternate jurors answered
14 in the negative.)

15 Q Do any of you quarrel with the law that permits
16 a death of a victim to be proven by circumstantial evidence?

17 PROSPECTIVE JUROR FORD: Would you restate that?

18 Q BY MR. KAY: Do any of you quarrel with the law
19 that permits the death of a victim to be proven by circum-
20 stantial evidence?

21 In other words, if you don't have the body, you
22 have to prove the death by circumstantial evidence.

23 If you have the body, the death is proven by
24 direct evidence. If you don't have the body, it's proven
25 by circumstantial evidence.

26 Now, do any of you quarrel with the law in
27 California that permits the prosecution to prove the death
28 of a victim by circumstantial evidence?

1 A (The three prospective alternate jurors answered
2 in the negative.)

3 Q And I take it that on Count III, in the -- well,
4 let me ask you this:

5 After hearing that the prosecution will be unable
6 to produce a body of Donald Jerome Shea in Count No. III --
7 the Count No. III that Mr. Davis is charged with -- do any
8 of you just automatically shut your mind to the case? Or
9 would you be willing to listen to the evidence in this case
10 and, if the evidence can do it, if the evidence can convince
11 you beyond a reasonable doubt, are you willing to be convinced
12 beyond a reasonable doubt of Mr. Davis' guilt in the death
13 of Donald Jerome Shea?

14 A (The three prospective alternate jurors answered
15 in the affirmative.)

16 11 fls.
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11-1

1 Q Now, in California, under the law of aiding and
2 abetting, a person who, with criminal intent, aids another
3 in the commission of a crime is just as guilty as the one who
4 actually commits the crime.

5 Do any of you quarrel with that law?

6 A (The three prospective jurors answered in the
7 negative.)

8 Q So, you understand in aiding and abetting a person
9 can be guilty of first degree murder, even though he did not
10 personally strike the blow? Do any of you quarrel with this
11 law?

12 A (The three prospective jurors answered in the
13 negative.)

14 Q Under the law of conspiracy in California, each
15 member of a criminal conspiracy is liable for each act and
16 bound by each declaration of every other member of the
17 conspiracy if that act or that declaration is made in
18 furtherance of the object of the conspiracy.

19 Do any of you quarrel with that law?

20 A (The three prospective alternate jurors answered
21 in the negative.)

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

24 A (The three prospective alternate jurors answered
25 in the negative.)

26 Q And do all of you feel that you can give the
27 prosecution, the People of the State of California, whom
28 Mr. Manzella and I represent, a fair trial in this case?

11-2

1 A (The three prospective alternate jurors answered
2 in the affirmative.)

3 Q And will all three of you promise me that if you
4 are selected in this case, and I know sometimes it is hard for
5 an alternate juror, although in many cases an alternate juror
6 does have to replace a regular juror, especially in a case of
7 long duration, and this is estimated to last for probably a
8 month and a half, to two months, but it will probably be a
9 month and a half, that you have a very good chance of taking
10 the place of a regular juror.

11 But will all of you promise me if you do become
12 regular jurors and you do deliberate in the jury room that you
13 will all be reasonable?

14 A (The three prospective alternate jurors answered
15 in the affirmative.)

16 MR. KAY: I have no further questions. I'll pass for
17 cause, your Honor.

18 THE COURT: Both sides pass for cause?

19 MR. DENNY: As of this point, yes, your Honor.

20 THE COURT: Ladies and gentlemen, I'm going to ask both
21 of you beyond the rail and both you gentlemen who are in the
22 box, likewise, to go out in the hall. We're going to question
23 each one who is in the box individually, beginning with
24 Mrs. Ford, concerning publicity that they may have heard, seen
25 or read concerning this case or about this case, about Charles
26 Manson.

27 We are ' interested in knowing, ladies and
28 gentlemen -- one moment.

11-3

1 We're interested in knowing what you have heard.
2 You might be thinking about what you have heard, seen or read
3 in any of the news media concerning this case, Charles Manson,
4 or the Manson Family.

5 We're interested in knowing whether you can put
6 such matters, as you may have learned, out of your mind and
7 act independently on any issue that you may be called upon to
8 decide as a juror. Whether, in spite of what you heard, you can
9 be fair and impartial. If you cannot be, right at the outset,
10 let us know that. If you can be fair and impartial, and
11 whether you can or whether you will be fair and impartial and
12 will disregard such matter that you may have heard, seen or
13 read.

14 Very well. Don't discuss the case during the time
15 that you are outside with anyone. Don't allow anyone to discuss
16 it with you.

17 You may wait outside in the corridor until your name
18 is called.

19 (Whereupon, the prospective panel retired from the
20 courtroom, and the following proceedings were had:)

21
22 VOIR DIRE EXAMINATION OF

23 BEVERLY A. FORD

24 BY THE COURT:

25 Q Mrs. Ford, you previously have heard the name
26 Charles Manson, have you not?

27 A Yes, I have.

28 Q And Manson Family, that phrase, have you not?

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A Yes.

Q Do you know the name Bruce Davis? Have you ever heard, seen or read it before?

A No.

Q Do you know the name Grogan, Steven Grogan?

A No.

Q Or do you know the name Atkins, Susan Atkins?

A Yes, I've read it.

Q What do you know about that name?

A That she was supposed to have been in on the mass murders.

Q Now, you're talking about the Tate-LaBianca case?

A Yes.

Q The Sharon Tate killing?

A Yes.

Q Did you follow that in the press or in the newspapers?

A Uh, I didn't read too much of it. I got most of my information from the television news.

11a fol

11a-1

1 Q I see. Do you read the newspaper daily?

2 A I glance through it, yes.

3 Q Do you subscribe to the Times or a paper?

4 A A pay paper, Herald.

5 Q I see. You buy that on the stands?

6 A Yes.

7 Q Have you heard anything whatever about the name

8 Shea, Shorty Shea?

9 A The name sounds familiar, but I couldn't --

10 Q Have you heard the name Hinman?

11 A No.

12 Q All right. What do you know about the Manson

13 Family? What do you think they are?

14 A Personally?

15 Q Yes.

16 A Well, when it first happened, I thought it was,

17 uh, savage, a savage act.

18 Q The killings, of course, were savage?

19 A Yes.

20 And over a period of time, I guess I lost interest

21 in it. Every so often I would hear the Manson name, but I

22 never did keep with it daily.

23 Q When was the last time you heard the name Manson?

24 A I guess about three weeks ago.

25 Q In connection with what?

26 A When he was sentenced. Uh --

27 Q Do you know what he was sentenced for?

28 A He was, uh, I believe it was -- they found him

1 guilty for the Sharon Tate murders.

2 Q That's your best recollection?

3 A Yes.

4 Q And your best recollection of what the sentence
5 was is what, life imprisonment or death?

6 A Death.

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

9 A No.

10 Q Did you ever hear anything which you believe
11 would prejudice you to such an extent that you couldn't be
12 fair to somebody who might be shown to be a member of the
13 Manson Family?

14 A No.

15 Q Now, are you capable of setting aside whatever
16 you may have heard, seen or read concerning Charles Manson,
17 the Manson Family, concerning Shorty Shea or Hinman, if you
18 should remember any such matters?

19 A I could set it aside.

20 Q Are you capable of setting those things aside
21 in deciding any issue that you might be called upon to
22 decide solely from the evidence that's received hereinforth
23 and only upon that evidence and not upon any of that material
24 that you may have heard, seen or read outside the courtroom?

25 A Yes.

26 Q And will you do that?

27 A Yes, I will.

28 Q Are you sure about your capability of setting

1 aside of any such thing that you may have heard, seen or
2 read?

3 A Yes, because I haven't read that much of it,
4 so I couldn't be prejudiced.

5 Q And can you, in spite of what you heard, seen
6 or read, or in spite of what you may remember, set such
7 matter aside and be fair and impartial?

8 A Yes.

9 Q Will you do that?

10 A Yes, I would.

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

12 MR. KAY: No questions on publicity.

13 THE COURT: All right, bring another person in, then.

14 And perhaps you could go outside, if you would,
15 Mrs. Ford.

16
17 VOIR DIRE EXAMINATION OF

18 CECIL H. CHAVERS

19 BY THE COURT:

20 Q Mr. Chavers, would you come forward just a
21 moment and be seated there where the microphone is.

22 Have you ever heard of this case before?

23 A This particular case?

24 Q You may pull that loose, if you would. I see
25 that it is tangled.

26 Thank you, Mr. Kuczera.

27 Yes, this case. Have you ever heard of it
28 before?

1 A No, sir, I haven't.

2 Q You have heard of Manson and the Manson Family?

3 A Yes.

4 Q Have you heard of Shorty Shea before?

5 A Yes, I've heard reference of that in the Manson
6 case that I have read in the paper.

7 Q What do you know about Shorty Shea?

8 A Nothing other than the fact that they accused
9 the Family of disposing of him.

10 Q Of disposing of his body?

11 A Well, of the individual. I don't -- I'm not cer-
12 tain whether or not that body was ever found or not, but I
13 noticed that they were on trial for that one, also.

14 Q What do you know about Mr. Hinman except that
15 which I've read in the indictment?

16 A Uh, only that the Manson Family was tried for his
17 murder, also. The disposition of his body, whether it was
18 found or not, I really don't recall.

19 Q Do you know whether or not anyone has been found
20 guilty of his murder?

21 A Uh, yes. I believe this was a couple of weeks
22 ago I saw on television that they had convicted, I believe it
23 was, Manson and I think it was Mr. Watson. And that they
24 mentioned he had life imprisonment on it or something. That's--

25 Q Do you know of what Mr. Manson was convicted? Was
26 that the murder of Hinman; is that your best recollection?

27 A Gee, I believe so. I'm not certain. I'm not
28 certain of that.

11b-1

1 Q Had you ever heard anything of an anti-Negro
2 nature concerning the Manson Family during the time of that
3 Tate-La Bianca trial?

4 A I believe during the first couple of weeks there
5 was some inference to that. After that, I -- I cannot say
6 I heard any other information in regards to it.

7 Q Having that in mind now, do you think that you
8 could be fair to somebody whom the evidence shows might be
9 a member of that Manson Family?

10 A Yes, sir.

11 Q You can set that out of your mind?

12 A Yes, sir.

13 Q Do you think that you could be as fair, for
14 example, as a juror who had never heard of the incident
15 involving the search for Shea's body or who had never heard
16 of the Hinman murder conviction?

17 In other words, are you capable of setting such
18 matters completely out of your mind for the purpose of making
19 any judgment that you might be called upon to make in this
20 case?

21 A Yes, I'm sure I could.

22 Q You understand that any -- as you've heard here,
23 this morning, this afternoon, that one of the elements that
24 the People must prove in proving a count of murder, is death
25 by an illegal means, by criminal means; you understand that?

26 A Yes.

27 Q And do you think that what you have heard, seen
28 or read in the news media would at all sway you in making a

1 decision as to whether or not that element had been proved?

2 A No, sir, I don't.

3 Q All right. Are you certain of your capability
4 of setting aside such matters and deciding this case solely
5 on the evidence that you hear solely in the courtroom, hear
6 and see here?

7 A Yes.

8 Q And will you do that?

9 A Yes, sir, I will.

10
11 VOIR DIRE EXAMINATION

12 BY MR. DENNY:

13 Q Mr. Chavers, going back to the most recent thing
14 that you have heard concerning the Manson or Manson Family
15 members in court.

16 What is the most recent thing that you have
17 heard and through what media did you hear it?

18 A The most recent thing that I have heard was the
19 conviction of Manson in regards to one of the deaths. I
20 don't know exactly which one it was. I know I was watching
21 it on Channel 7 News, the evening news and they indicated
22 that he had been convicted of a murder and that he received
23 a life sentence for this particular one. The individual,
24 I honestly do not recall which one of the individuals it was.

25 Q All right.

26 Have you heard of anyone else being tried for the
27 Hinman or Shea murders?

28 A No, sir.

1 Q Does the name Steve Grogan ring any sort of bell
2 with you?

3 A No, sir, it doesn't.

4 Q And you mentioned Watson. What did you read
5 about him and how recently?

6 A Well, I believe it was about two months ago
7 possibly. Uh, when they made some indication that, I
8 believe it was, he had been convicted of one of the murders.
9 Here again, I can't be specific because I didn't follow it
10 in detail on a daily basis. Just when I looked at it on the
11 news. They would give some story as to what occurred during
12 the day, but I really don't honestly know all the individuals
13 involved.

14 Q Well, sir, going to the Manson matter, the case
15 that you heard about concerning Mr. Manson.

16 Is it your recollection that it involved either
17 Gary Hinman or Shorty Shea?

18 A Uh, yes, I believe it was. Yes.

19 Q Or both. Or do you know?

20 A Well, I -- I do know that at one time I heard
21 references towards both individuals.

22 Q Hmm.

23 A But this last conviction that they gave him a
24 sentence on, I could not honestly say it was for the first
25 gentleman or the last that you mentioned. I honestly do
26 not know which it was. I just know the outcome of the trial.

27 Q All right. And as far as you know, there was
28 a finding by a jury of guilty of one of those two alleged

1 murders, is that correct?

2 A That's correct.

12 fls.

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12-1

1 Q All right. Now, there are a number of people
2 in this county who are not aware of that. They haven't seen,
3 heard or read it.

4 By the way, you say that this was over Channel 7
5 where you got this information?

6 A Yes, it is.

7 Q Is that the main source of your daily news?

8 A Yes. Normally I look at the early news, around
9 5:00 o'clock, when I get in from work.

10 Q How about newspapers? Do you read a newspaper
11 also?

12 A Yes. I have very little time to read newspapers.
13 Mostly, sports are my main interest, because of limited time
14 that I have during the working hours.

15 So therefore, I rely a great deal on -- you know,
16 the evening news, to let me know what's happening.

17 Q All right. Now, having been made aware that a
18 jury here in Los Angeles County has found Mr. Manson guilty
19 of one of the two alleged murders, do you feel that, with
20 that knowledge in mind, you would perhaps tend to feel that --
21 "Well, the murders were in fact committed"?

22 Would you feel that way?

23 A That the murders were in fact committed?

24 Q Yes.

25 A Yes.

26 Q Both murders? Shea and Hinman? Is that your
27 feeling, as you think about it now?

28 A Well, I -- I believe that -- whatever one that he

1 was convicted from -- excuse me. See, because I do not
2 know the individuals, -- let me say this again; excuse me --
3 exactly which one it was. But there was some reference to it.

4 And they did convict him of one. I don't know
5 exactly which. But I would have to say this:

6 That I would have to see evidence that indicated
7 that such a murder did take place, if it did.

8 That's all I can say.

9 Q Well, let me put it to you this way:

10 Do you think that if you sat there -- let's just
11 presume, for the sake of argument, that something in your head
12 said, "Oh, now I am sure that it was the Shea case that he
13 was found guilty of."

14 Do you see?

15 And -- "Ah-ha!" while you are sitting there
16 listening to the evidence, you say, "By golly, now something
17 tells me it was the Shea case he was found guilty of."
18 Something has rung a bell here or done something. "And I
19 know that a jury found that Shea had been murdered, and that
20 someone in the Manson Family at least was responsible --
21 namely, Charlie Manson."

22 Do you feel that you would be able, if the
23 evidence was put on here, to say, "Well, I don't know how
24 that jury found that Shorty Shea was dead -- or Shorty Shea
25 was killed, because there just isn't proof of it here,
26 sufficient to convince me beyond a reasonable doubt."

27 Do you think you could do that?

28 A Yes, I could.

1 MR. KAY: Well, your Honor, I was -- all right.

2 Q BY MR. DENNY: If you felt that some jury in Los
3 Angeles County had found that Shorty Shea was dead, but there
4 was evidence here, and it wasn't sufficient, you'd have no
5 reluctance in finding not guilty; is that right?

6 A That's correct.

7 Q Even if you supposed that some other jury had found
8 that he was dead; is that right?

9 A Yes. Well, I can only go by this: That -- I
10 would have to hear the evidence here, and be convinced,
11 thoroughly convinced, that this actually did take place,
12 based upon the evidence.

13 And then I would have to make a decision.

14 Q All right. And you understand, I am just -- when
15 I was discussing it, I was positing a hypothetical situation;
16 because, as you said, you weren't sure which one Manson was
17 found guilty of, whether Hinman or Shea, both or either; is
18 that right?

19 A That's correct.

20 Q All right. Now, as far as this anti-black
21 evidence, what was it that you heard about that?

22 A Well, it's very difficult to recall, because this
23 was during the -- gee, I imagine the first week or two of
24 this trial. I recall hearing some reference to Manson's
25 -- uh -- oh, his plan to do these killings and blame it on
26 black people or something of this nature.

27 This was very early. Other than that, I don't
28 recall ever hearing any other information in regards to it.

12a-1

1 Q And did you ever hear anything concerning a --
2 Manson's philosophy concerning a black-white confrontation
3 of any kind?

4 A I believe this was the information that I did
5 hear, in the early parts of the trial. I believe this was
6 where I did hear the information.

7 Q Um-hmm. And is it your state of mind that this --
8 at this point, that you -- that you feel kindly disposed
9 toward Mr. Manson because of those philosophies?

10 A Oh, no, sir. I feel that -- well, he has a
11 right to express his own opinions. I don't necessarily --
12 you know, share his views.

13 But nevertheless, I feel that -- I don't feel
14 one way or the other about it. I hear a lot of things, and
15 I try not to let them affect the way I think, and try to make
16 judgments on the things that I feel that are important, that
17 count.

18 Q All right. And again, going back to this idea
19 of guilt by association, assuming the evidence shows -- and
20 the evidence will show, in fact -- that Mr. Davis was
21 associated with Mr. Manson, and the so-called Manson Family,
22 do you have any feelings at all, based on what you have
23 seen, heard and read -- and feel -- about Mr. Manson and the
24 Manson Family, or his philosophy or his crimes or anything
25 else, that that would affect your judgment against Mr. Davis,
26 in determining his guilt or innocence of the charges?

27 A No, sir. I would be going only on the facts.

28 MR. DENNY: Okay. Pass for cause, your Honor.

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

2 THE COURT: All right. Thank you. Would you retire
3 to the hallway, then, Mr. Chavers, and ask Mr. Edmondson to
4 come in?

5
6 VOIR DIRE EXAMINATION OF

7 MR. EDMONDSON

8 BY THE COURT:

9 Q Mr. Edmondson, have you ever heard of this case
10 before you ever walked into this courtroom?

11 A Not of this case, no, sir.

12 Q Have you ever heard, seen or read anything
13 whatever concerning Mr. Bruce Davis?

14 A (Pause.) I think I did, at the time of arrest.

15 Q Tell me what you remember.

16 A Well --

17 Q And hold the microphone up, if you would, please.

18 A The only thing I can remember was the crime he
19 was charged with, is all.

20 Q What was that?

21 A Uh -- murder of Shorty Shea.

22 Q Had you heard -- heard anything whatever about
23 Mr. Shea?

24 A No, I don't know nothing about him.

25 Q Or read anything?

26 A No.

27 Q Had you ever seen a news report on television,
28 for example, concerning Mr. Shea?

1 A Yes, possibly I have.

2 Q What do you remember of that?

3 A Being in the movies, I believe.

4 Q He was supposed to have been in the movies?

5 A I think that's what I had seen.

6 Q What else do you know about Mr. Shea?

7 A Nothing.

8 Q Did you ever hear that he worked at a certain

9 ranch?

10 A No.

11 Q Did you ever hear, for example -- see or read

12 that he was looked for by the police agencies?

13 A Yes, I had read that.

14 Q Does that recall to your mind anything now more

15 of what you've read, heard or seen?

16 A No. Only that I knew that they hadn't located

17 the body, is all.

18 Q Now, do you have any idea in your mind at this

19 time that Mr. Shea is dead or alive?

20 A No, I have no idea.

21 Q How about the name Hinman? Had you heard, seen

22 or read the name Hinman?

23 A Yes. I had heard where he was a musician;

24 that's all I knew about it -- him; that's all I had read.

25 Q Had you heard, seen or read, likewise, that he

26 was killed?

27 A No, I don't remember about him being killed.

28 Q You just recall that he was a musician?

1 A Yes.

2 Q Associated in some way with Mr. Manson or the
3 Manson Family?

4 A (No response.)

5 Q What I'm interested in is how you happen to
6 recall this, that he was described as a musician.

7 A Well, I had read -- I think I read that in the
8 paper, where he was a musician.

9 Q In what context did you read that? That you
10 remember?

11 A I -- I don't remember, other than just reading
12 it.

13 Q You just recall the phrase --

14 A Yes, yes.

15 Q -- "musician Gary Hinman"?

16 A Yes.

17 Q What do you know about the Manson Family?

18 A Nothing, only what I had read from time to
19 time. I didn't follow the trial.

20 Q What trial are you talking about now?

12b fls. 21 A The Manson trial.

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12b-1

1 Q The Tate killing of -- the Tate and LaBianca
2 killing trial?

3 A Yes.

4 Q Do you know the results in that case?

5 A Of that case, in that trial?

6 I think all those who got convicted got the death
7 penalty, but I'm not positive.

8 Q When was the last time that you heard, saw or read
9 the name Manson?

10 A When he arrived at San Quentin.

11 Q That was two or three weeks ago?

12 A Yes, sir.

13 Q Have you ever heard or seen or read the name
14 Grogan? Steve Grogan?

15 A No, I haven't.

16 Q Do you know of anyone having been prosecuted
17 previously for the murders of Shea or Hinman?

18 A Do I know of anyone who had previously been --

19 Q Prosecuted.

20 A -- prosecuted --

21 Q For the murders of Shea or Hinman?

22 A No.

23 Q Now, you may remember more as time goes on, that
24 you do not recall now; do you understand?

25 Something may cause you to remember something that
26 you had heard, seen or read concerning Mr. Manson, the Manson
27 Family, or Mr. Shea or Mr. Hinman -- or Mr. Davis -- or one
28 thing or another concerning this case.

12b-2

1 Do you understand that?

2 A Yes, sir.

3 Q Knowing now what you know about the information
4 that you garnered over the months concerning the Manson
5 Family or this case, you think that you are capable of setting
6 aside such material and making any judgment that you might be
7 called upon to make independently of such matters?

8 A Yes, I believe I can.

9 Q Would you allow anyone in your hearing, in the jury
10 room, for example, to discuss something that you know has not
11 been raised by the evidence, but was reported, say, in a
12 newspaper article, without your commenting on it and telling
13 them that that was improper?

14 A Yes, I would.

15 Q You would let them know that?

16 A Yes.

17 Q Would you yourself consider anything that had
18 been raised by the newspaper article that we are talking about,
19 and had not been established by the evidence?

20 A No, I wouldn't.

21 Q So that you feel that you can -- you do have the
22 ability to effectively set aside anything you may have heard,
23 seen or read; is that correct?

24 A Yes, sir.

25 Q Will you do so?

26 A Yes, sir.

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

28 A Yes, I will.

12b-3

1 THE COURT: Mr. Denny?

2 MR. DENNY: Thank you, your Honor.

3

4 VOIR DIRE EXAMINATION

5 BY MR. DENNY:

6 Q Mr. Edmondson, you are in effect retired at this
7 point; is that correct?

8 A Well, no. I'm not retired, no.

9 Q What are you doing, sir?

10 A Nothing. But I am on the payroll, if this is what
11 you mean.

12 Q All right. You are doing what you want to do with
13 the time you've got?

14 A That's right.

15 Q All right. And does that include keeping up with
16 the news as best you can?

17 A No, not too much anymore, because I am -- I'm
18 running around too much. I don't do too much reading.

19 Q All right. How do you attempt to keep up with the
20 news of the day?

21 A Mostly television, if I'm around.

22 Q All right. Now, sir, when you say that the last
23 you heard about Manson was two or three weeks ago, when he got
24 to San Quentin, do you recall what was the medium by which you
25 learned that information? Television, newspaper, or what?

26 A I believe it was television.

27 Q And do you recall what was said in that particular
28 television broadcast?

12b-4

1 A No. I just think it was about the arrival, is all.

2 Q Did it say why he was now arriving there?

3 A I don't know whether it said why he was arriving
4 there or not.

5 Q Did it say for what he was arriving there? For
6 what crime or crimes?

7 Or do you recall?

8 A Yes. The -- the LaBianca and Tate case. I think
9 that was it.

10 Q All right. You paused a good while before you said,
11 "I think that was it."

12 Were you trying to figure out whether there were
13 any other charges that were pending in that connection?

14 A No, that's -- that's all I could think of, that I
15 had seen on television.

16 Q All right. Now, as far as Shorty Shea, you said you
17 had possibly seen something about him on television, that he had
18 been looked for by police agencies.

19 A That's right.

20 Q Do you recall when it was that you last heard any-
21 thing about Shorty Shea?

22 A Oh, no, I don't. Sometime -- quite some time
23 ago. I remember that.

24 Q All right. And about Gary Hinman? When's the
25 last time you heard anything about him?

26 A Around the same time, I think.

27 Q Would this be over a year ago, would you say?
28 A year and a half, or two? Or within the last month or so?

12b-5

1 A Oh, I would say less than a year, anyway.

2 Q Well, would you say within the last couple of
3 months?

4 A No, I would say it was longer than that.

5 Q Have you heard of Charles Manson being charged
6 with any crimes other than the Tate-LaBianca killings? Heard,
7 seen or read of them?

8 A No, I haven't.

9 Q All right. Now, sir, do you have such feelings --
10 well, let me go back a minute.

11 You were, I assume, with most of the County of
12 Los Angeles, aware of the Tate and LaBianca killings when they
13 occurred; is that correct?

14 A That's correct.

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1 Q And like most of us, did you at least follow the
2 headlines and the news flashes on radio and TV for the couple
3 of months that followed that, up to the capture of Mr.
4 Manson and imprisonment?

5 A I don't believe I followed it that long.

6 Q Well, did you make --

7 A I didn't make any effort to read about it.

8 Q Did you do so afterwards, during any portion of
9 the trial?

10 A After the trial was over, yes, I knew the
11 result.

12 Q All right. Now, did you form any opinion at
13 that time as to Mr. Manson and those who followed him as
14 to whether they were a pack of criminals running together or
15 what?

16 A No, I don't think I formed any opinion of them.

17 Q Do you have any opinion now?

18 A No.

19 Q As to any person who might have been associated
20 in any way with Mr. Manson for any period of time?

21 A No.

22 Q Do you feel, sir, as you sit there now, that
23 one who was a member of this so-called Manson Family, Manson
24 group, one who associated with him for a period of time,
25 somehow shares some of the criminality of Charlie Manson
26 just by virtue of that association?

27 A No, I don't.

28 Q All right, sir, fine.

13-2

1 I'll pass for cause, your Honor.

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

3 THE COURT: All right, Mr. Kuczera, would you call the
4 two who are in the hallway, Mrs. Ford and Edmondson back --
5 I mean, Mr. Chavers back here?

6 THE BAILIFF: Yes, sir.

7 THE COURT: The first peremptory is -- all right, the
8 first peremptory challenge is with the People.

9 MR. KAY: The People will thank and excuse Mrs. Ford.
10 Thank you, Mrs. Ford.

11 THE COURT: Mrs. Ford, thank you, you are excused, then,
12 and you should report to Room 253 tomorrow morning at 9:00
13 o'clock. Thank you for being here.

14 MRS. FORD: 253, is that the courthouse?

15 THE COURT: Yes, that's the main courthouse, 111 North
16 Hill.

17 THE CLERK: Mrs. Margaret O'Neil, M-a-r-g-a-r-e-t,
18 O-'-N-e-i-l.

19
20 VOIR DIRE EXAMINATION OF

21 MARGARET O'NEIL

22 BY THE COURT:

23 Q Mrs. O'Neil, you have been present during all
24 of the proceedings thus far except during the time you have
25 just been excluded, is that correct?

26 A Yes, your Honor.

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

1 A Yes, it would, because I will be through in about
2 four days.

3 Q Well, tell me, if you were held over beyond that
4 time, what sort of hardship would it be for you?

5 A Well, really none in particular.

6 Q It would simply be an inconvenience to have to
7 continue the service as a juror?

8 A Uh, no.

9 Q Is that what you are telling me?

10 A No. I wouldn't suffer any way thatway, but I
11 thought probably we were not supposed to serve any more than
12 31 days.

13 Q Yes, if you have the misfortune to be caught,
14 even though it might be a last day, it could be imposed --
15 service could be imposed upon you, if you choose to look at
16 it that way.

17 A Well, I've been reading over the, uh, the juror's
18 creed, and I feel that the 18th one is very important to us.

19 Q Tell us what the 18th is.

20 A We're not here to try the -- the, uh, lawyers or
21 the Judge or the witnesses or the parties involved, but we're
22 here to listen and -- to the issues at stake.

23 Q Listen to the evidence and decide the issues
24 based on the evidence?

25 A I feel that way, that that's our duty.

26 Q And you're willing to undertake that duty even
27 though it might carry you beyond your 31 days?

28 A Yes, your Honor.

1 Q All right. Do you have such feelings concerning
2 the death penalty that you could not be fair and impartial in
3 determining the first phase of the case involving guilt or
4 innocence?

5 A No.

6 Q Do you have such views about it that you would
7 automatically refuse to impose the death penalty regardless
8 of the evidence?

9 A Well, I would have to listen carefully to the
10 evidence, and then if I felt that the death penalty was what
11 was to be voted on, I would.

12 Q In other words, you would look at the evidence
13 to determine whether or not the death penalty should be
14 imposed?

15 Your reaction would not be an automatic one?

16 A No, I feel like I would consider it carefully and
17 vote on it, if that's the way I felt it should be.

13a Fls.

13a-1

1 Q All right.

2 On the other hand, supposing there were a
3 conviction of murder in the first degree, would you auto-
4 matically impose the death penalty and vote for it, upon a
5 conviction of murder in the first degree, regardless of the
6 evidence?

7 A Well, I would certainly vote on it, if the
8 evidence showed that it was -- that the person was guilty of
9 committing it.

10 Q If a person were guilty of murder of the first
11 degree, then your reaction would be to vote for the death
12 penalty regardless of the evidence?

13 A Well, I don't understand quite what you mean
14 regardless of the evidence. If -- the evidence would have to
15 point that he was guilty, and then I would vote for the death
16 penalty.

17 Q All right. Let's assume that you are past that
18 first hurdle, that the prosecution has convinced you beyond a
19 reasonable doubt.

20 A That he is guilty.

21 Q That he is guilty.

22 Now, we're not talking about guilt or innocence at
23 this point, then, are we?

24 A No.

25 Q We're talking about penalty, then, are we not?

26 A Yes.

27 Q Now, simply upon that conviction of murder in the
28 first degree, without looking back at that evidence or looking

13a-2

1 at any evidence, if any, which is submitted to you, would you
2 automatically go in at the time of deliberation and state that
3 you were for the death penalty in any case?

4 A No.

5 Q Without looking at the evidence?

6 A No.

7 Q What type of work -- are you employed outside the
8 home?

9 A No, I am a widow. And I was a teacher many years
10 ago.

11 Q In what school system?

12 A Grammer school in Minnesota.

13 Q In Minnesota, I see.

14 And what type of work was your spouse involved in?

15 A Well, he was district manager of an oil tool
16 manufacturing company.

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

19 A No.

20 My father was a lawyer, but that was many, many
21 years ago.

22 Q Was he ever a prosecutor, District Attorney?

23 A No, he was never District Attorney. He was just
24 a little town lawyer.

25 Q Was he involved in the defense of criminal
26 cases?

27 A Well, I suppose he must have had some. Very few
28 in our little town, if any.

1 Q Where was that town?

2 A Western Minnesota.

3 Q What was the name of the town?

4 A Breckenridge.

5 Q Breckenridge?

6 A Uh-huh.

7 Q Do you, yourself, have any legal experience?

8 A No, I've never had any.

9 Q You live in what part of the county now?

10 A I live in about -- well, the Wilshire District, I
11 guess you would call it, about two blocks from the Ambassador.

12 Q Can you think of any reason why you couldn't be
13 fair and impartial in the case?

14 A No, I can't think of any reason why I wouldn't
15 be fair and impartial.

16 Q Have you ever heard of the name of Bruce Davis
17 previously?

18 A No.

19 Q Heard, seen or read it in any of the news media?

20 A No, I don't read newspapers very much.

21 THE COURT: Perhaps you two gentlemen, Mr. Chavers and
22 Mr. Edmondson would retire now, if you would.

23 Just a moment.

24 MR. KAY: No, stay here, we need you.

25 JUROR O'NEIL: Oh, gad.

26 (Whereupon, the other prospective alternate
27 jurors retired from the courtroom, and the following pro-
28 ceedings were had:)

1 Q BY THE COURT: Now, you had never heard, seen or
2 read the name Bruce Davis, Mrs. O'Neil?

3 A No, I -- I can --

4 Q Hold that up.

5 A I can truthfully say that I have never.

6 Q You had heard the name Charles Manson?

7 A Yes.

8 Q And Manson Family?

9 A Yes.

10 Q What do those words mean to you? What's Manson
11 Family mean?

12 A Well, a group of people who seemed to get off on the
13 wrong foot.

14 Q Did you follow the Tate-LaBianca trial involving
15 the killing of Sharon Tate?

16 A Not too -- no, I didn't read very much about it.

17 Q You didn't follow that murder case?

18 A No, I didn't, because I -- I -- I don't have too
19 much time to read or I don't like to read too much. But when I
20 do read, I'd rather read more uplifting things than --

21 Q All right.

22 Have you heard the name Grogan before, Steve
23 Grogan?

24 A No.

25 Q Shorty Shea?

26 A I think I've heard that name, Shorty Shea.

27 Q What do you remember about what you have heard,
28 seen or read about Shea?

1 A Well, I -- it seems to me like, uh, he was
2 involved in the -- some kind of a place they had together, this
3 family, in -- either in the Valley or Griffith Park or some
4 place. That's -- I remember the name, Shea.

5 Q Do you remember anything more about him?

6 A Well, he was -- I think he belonged to the Manson
7 Family.

13b fl

13b-1

1 Q Anything further that you can recall?

2 You say "belonged," you put it in the past
3 tense.

4 A Well, I mean, was in the group.

5 Q Had you ever heard that anybody was looking for
6 his body or he was looked for by law enforcement authorities?

7 A No.

8 Q Never heard that.

9 How about the name Hinman? Had you ever heard
10 his name, Gary Hinman, before I read the indictment today?

11 A Well, I suppose I have heard it, but I don't
12 remember where.

13 Q Musician Gary Hinman; does that help you to
14 recall anything about him that you may have heard, seen or
15 read?

16 A I can't put my finger on anything.

17 Q Now, you stated that this Manson Family appeared
18 to be a group that got off on the wrong foot, meaning that
19 they acted illegally in many cases or generally, as a matter
20 of fact?

21 A No, all I can get from all of this, hearing
22 people talk about it and seeing pictures that were on the
23 front page of the paper, whether you wanted to read it or
24 not, you saw them, and they, uh, they were influenced by
25 some person who seemed to have, uh, uh, a kind of a control
26 over them. I don't think any of them meant to be -- meant
27 to do wrong. And if they did, why, that's -- they weren't
28 good people, that's all. They --

13b-2

1 Q Would somebody who is a member of the Manson
2 Family be at any disadvantage in having you as a juror as a
3 result of what you have heard, seen or read and as a result
4 of the feeling that you have just described to us?

5 A Well, I would just certainly have to find out a
6 lot more about why these things were done and -- or, and if
7 they were done and by whom.

8 Q If they were done at all and by whom?

9 A Yeah.

10 Q In other words, the fact that a person may have
11 been associated with Charles Manson would not, as a result of
12 what you have heard, seen or read, cause you to have any
13 prejudice against him, is that right?

14 A No, I don't think -- uh, I can't make it clear.
15 But I think people can get off on the wrong foot by being
16 influenced by certain people. And -- but I think that that
17 wouldn't -- if I thought this person who was certainly old
18 enough to know better, knew he was doing wrong, I wouldn't
19 have any sympathy for him.

20 Q Well, aside from that idea about him or anybody,
21 if you are speaking of a member of -- a nameless member of
22 the Manson Family, aside from that aspect of your thinking,
23 would the defendant in this case, if the evidence shows that
24 he is a member of the Manson Family, or was a member of the
25 Manson Family, suffer any prejudice in your mind to begin
26 with?

27 A No. No. But if he -- if he actually is guilty
28 and we can prove that he was guilty --

1 Q You understand that must be established beyond a
2 reasonable doubt?

3 A Yes, yes, indeed.

4 Q And you haven't any quarrel with that?

5 A No.

6 Q Well, can you set aside what you may have heard,
7 seen or read, even though it be sparse, and decide this
8 case only on the evidence that's submitted here?

9 A Well, that's really what I would have to -- just
10 the evidence, because I want -- I took a trip this summer
11 and I was gone about four months. And I haven't really
12 been -- you'd be surprised, the papers that -- in the big
13 cities where we were, they aren't filled with this Manson
14 thing. So we didn't get a chance to -- anyway.

15 Q When was the last time that you read the name
16 Manson? Days, months, weeks ago?

17 A That I read anything about the Mansons?

18 Q About Charles Manson?

19 A Oh, I think it would -- oh, heavens, I think it
20 was, if I read anything at all, it was shortly -- it was just
21 about the time the whole thing broke.

22 Q You mean the Tate-La Bianca murders?

23 A Yeah, I suppose so.

24 Q Are you at all doubtful about your ability to
25 set aside anything you may have heard, seen or read or
26 anything that you may remember as the case goes along? Are
27 you at all doubtful about your ability to set that aside
28 and decide the case solely on the evidence?

13c fls.

1 A No, I'm not a bit doubtful about that, I know.
2 Q Will you do that?
3 A Yes, I will.
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13c-1

1 Q And will you be fair and impartial in deciding any
2 issue?

3 A Yes, of course.

4 THE COURT: Mr. Denny.

5 MR. DENNY: Thank you, your Honor.

6
7 VOIR DIRE EXAMINATION

8 BY MR. DENNY:

9 Q Mrs. O'Neil, let me go back, if I may, to the
10 Court's questions about the death penalty.

11 When the Court asked you, -- assuming, now, you
12 have found the defendant guilty of first degree murder. How-
13 ever you've gotten there, by whatever road --

14 A Uh-huh.

15 Q -- you have found that he knew what he was doing,
16 he got involved in this thing. Whether he struck the blow or
17 was an accomplice or by virtue of a connection with some
18 conspiracy to commit murder, robbery, or whatever, this fellow
19 here, sitting next to me, Mr. Davis, was guilty of first
20 degree murder, is it your state of mind that having made that
21 determination, without more, without further regard for any
22 other evidence, you would then vote to impose the death
23 penalty on him?

24 MR. KAY: Well, I'm going to object to that question,
25 your Honor, because in his question he is stating a lot of
26 evidence and he's stating without regard to any further
27 evidence.

28 THE COURT: Let me hear it.

13c-2

1 MR. DENNY: Let me rephrase the question, then.

2 THE COURT: Very well.

3 Q BY MR. DENNY: Is it your state of mind, ma'am,
4 having found the defendant guilty beyond a reasonable doubt of
5 first degree murder, that without regard to any other evidence
6 you would then vote to impose the death penalty?

7 A Well, now, let me say, if he has been found
8 guilty, what other evidence could there be?

9 Q Well, this is just what I am trying to get. I'm
10 talking about your state of mind.

11 Is it your state of mind now, that having found him
12 guilty, having listened to all the evidence, having found him
13 guilty, then, without regard to the evidence that you had
14 gotten to find him guilty, without regard to any of that
15 evidence, but merely considering the fact that now you are
16 convinced that he was guilty of first degree murder, would you
17 then vote to impose the death penalty?

18 A No, no.

19 MR. KAY: I --

20 A There would be other considerations. I'd certainly
21 listen to evidence after that. There would be some talk,
22 surely, before we came to a decision of whether to --
23 imprisonment or death. There would have to be.

24 Q Let's assume there was no other evidence. Do you
25 understand that in the penalty phase neither the prosecution
26 or the defense are required to put on any further evidence.
27 They may rest.

28 A All right. Then, we'd have to go through those --

13c-3

1 that fact business, issues of fact again, like it says in that
2 eighteenth --

3 Q No, there would be no further issues of fact. You
4 have made the determination of fact that he was guilty and you
5 had found that and found that beyond a reasonable doubt.

6 THE COURT: Mrs. O'Neil, were you referring to the facts
7 that existed in the first phase, then? The facts of those? Is
8 that what you have stated?

9 JUROR O'NEIL: You mean we have cleared up all these
10 facts in the first phase?

11 Q BY MR. DENNY: That's right.

12 A And we found him guilty?

13 Q That's right, found him guilty of first degree
14 murder.

15 Now, no further evidence is put on in the penalty
16 phase of the trial by either the prosecution or the defense.

17 Is it your feeling that you would then auto-
18 matically, without regard to the evidence, having found him
19 guilty of first degree murder, vote to impose the death
20 penalty?

21 A I think that's an awful hard question to answer.

22 Q Yes, it is, ma'am, but I have to ask it of you.

23 Q Well, I tell you why, because I am only one of
24 twelve jurors. Now, maybe some of the other jurors, after
25 discussion, have found things or discovered something that I
26 missed. Maybe I missed something they missed. It is talking
27 the thing over that makes us come to a decision.

28 Q Yes, but my --

13c-4

1 A As serious as a death penalty or as lenient as
2 maybe life imprisonment.

3 Q Well, let me just look to your state of mind,
4 though, at the present time.

5 Is your state of mind such that you would be one
6 to say, having found him guilty of first degree murder, then,
7 I vote for the death penalty?
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1 A I wouldn't be the first one to say that.

2 Q Well, would you be the second or third one to say
3 that, ma'am?

4 MR. KAY: Well, your Honor, I'm going to object. This is
5 very ambiguous.

6 THE COURT: Sustained. I think you might rephrase your
7 question.

8 Q BY MR. DENNY: Well, aside from the fact whether
9 you might be the first to say it, is your state of mind such
10 that you feel that a person having been found guilty beyond a
11 reasonable doubt of first degree murder, without regard to any
12 other evidence, should be given the death penalty?

13 A No, because I think there might have been other --
14 like you say, without any evidence. Maybe somebody has some
15 evidence after he's been given the death penalty or I mean been
16 found guilty that they might think life imprisonment would be
17 the thing.

18 Q Well, just assume that you get no other evidence.

19 THE COURT: You understand that that question is somewhat
20 ambiguous in that you can consider the evidence which has been
21 submitted to you previously in determining the question of life
22 imprisonment or death; do you understand that?

23 JUROR O'NEIL: That's right.

24 So, then I -- if the evidence that has already been
25 presented would make me feel that he deserved the death penalty,
26 I would give it.

27 Q BY MR. DENNY: All right, ma'am.

28 Let me go, then, to the publicity.

1 You say that these people, as far as you have seen,
2 heard and read, appeared to have been influenced by Mr. Manson,
3 is that correct? People associated with Mr. Manson?

4 A Well, I feel he must have had a great influence on
5 so many young people that seemed to be fairly intelligent young
6 people.

7 Q Could you hold that microphone up?

8 A Uh-huh, yes. I forget. My own voice frightens
9 me.

10 Q Well, I think you said if they did these acts on
11 their own without being influenced by Mr. Manson, then they were
12 bad people, is that correct?

13 A If they continued to follow Mr. Manson's dictates,
14 whatever they were, they -- then, I think they -- well, I
15 just don't know what to say. But I just can't understand
16 people doing that.

17 Q Well, is it your feeling, based on what you have
18 heard, seen or read, that Mr. Manson is something of an evil
19 man?

20 A Well, I surely think he's an evil man in what he's
21 either done himself or -- or had other younger people do that
22 certainly didn't --

23 Q Well, is it your feeling, then, that those who have
24 been associated with Mr. Manson for some considerable period of
25 time, perhaps over a year, share somewhat this evil quality of
26 Mr. Manson?

27 A Well, some of it must rub off on them or they could
28 see.

14-1

1 Q In other words, it's kind of this feeling again,
2 of "birds of a feather do flock together," as far as you are
3 concerned; is that right?

4 A Well, I -- I don't -- I -- I suppose so.

5 If birds of a feather flock together and stick
6 to it, then --

7 Q Well, if the evidence were to show that they had
8 stuck together with Mr. Manson for quite some period of time
9 -- several years, perhaps -- I take it you would start off
10 under those circumstances feeling that Mr. Davis was perhaps
11 criminally oriented; is that correct? Along with Mr. Manson?

12 A Well, either -- I don't think really criminally
13 oriented, but I do think he was in a way almost hypnotized.

14 Q Well, is it your feeling that perhaps if -- if
15 Mr. Davis were in fact associated with Mr. Manson for a
16 period of time, that you would -- just as you sit there now,
17 knowing that much, and then based on what you've seen, heard
18 and read, and based on your feelings which have stemmed from
19 your readings and your viewings -- do you feel that perhaps
20 you'd be a little bit antagonistic towards Mr. Davis? Because
21 of this association with Mr. Manson for that period of time?

22 A No, I don't think I'd really feel antagonistic.

23 Q Well, let me then use another word.

24 Do you feel that perhaps that Mr. Davis might
25 have to show you that he was innocent of any criminal
26 activity, because of that association with Mr. Manson?

27 A Yes, I'm afraid he'd have to show me.

28 Q And that in that case, in spite of the fact that

14-2

1 he has no burden of proof legally, as far as you are
2 concerned, he would have some burden of proof to convince
3 you that he was not guilty; is that correct, --

4 A Well --

5 Q -- based on --

6 A Well, there goes the issues of facts again.
7 That's what I don't know. We have got to learn all those
8 things.

9 Q Yes. But as far as you are concerned, in judg-
10 ing those issues of fact, you would feel, then, that Mr. Davis
11 had to prove his innocence, in effect, of any criminal charges,
12 because of his association with Mr. Manson; isn't that your --

13 A No, not entirely.

14 Q But it is -- it is a fact, is it not, that he
15 would have to show you, as you put it, that he was not guilty?

16 A Well, you mean that -- that if all of the other
17 members of the jury voted him not guilty, and I still had a
18 feeling that he was guilty -- is that what you mean? -- that--

19 Q No, no, ma'am. I am talking about your feelings
20 about him right now. Don't think about the other members
21 of the jury. I am talking about just you.

22 Now, you've seen, heard and read some things
23 about Charlie Manson which perhaps turn your stomach; right?

24 A Oh, well, I just read the headlines. I didn't --

25 Q Well --

26 A I don't like to read that.

27 Q I understand. It's nauseating stuff.

28 Would it be fair to say that, in some respects,

14-3

1 it does turn your stomach, or has turned your stomach? Would
2 that be fair to say?

3 A Well, I suppose it would, if I read enough of it.

4 Q Well, based on what you have read, would it --
5 would that be a fair phrase to use, as far as your state of
6 mind, or how it affected you?

7 A I have got a pretty good stomach.

8 Q All right.

9 A I don't turn very easily.

10 Q All right.

11 But, at least, as far as that goes, you have got
12 certain feelings about Mr. Manson, based on what you've
13 heard, seen or read; correct?

14 A Yes.

15 Q And they're not good feelings; isn't that
16 correct?

17 A What I know mostly about that is what has been
18 on television, the news. That's just about all that I
19 know.

20 Q And there has been an awful lot on the television
21 in the news?

22 A Yes, there has been quite a lot.

23 But, of course, I don't sit down from morning
24 to night and listen to the news.

25 Q All right. Getting back to the point, though,
26 you have some feelings against Mr. Manson because of what
27 you've heard, seen and read?

28 A Yes, I have, definitely.

14a fls.

14a-1

1 Q And against those people who have associated
2 with him knowingly for a period of time -- for a lengthy
3 period of time; is that right?

4 A Yes, against them, --

5 Q All right.

6 A -- but --

7 Q Don't let me cut you off. Go ahead.

8 A No.

9 Q All right. Now, with those feelings, and with
10 the information here that Mr. Davis has been associated with
11 him for a relatively long period of time, it then follows
12 that you have certain feelings against Mr. Davis, as one of
13 that group; isn't that correct?

14 A Yes, I guess that's right.

15 Q All right. And you've stated, I think, that
16 because of those feelings that you have, Mr. Davis, then,
17 as far as you are concerned -- not the other members of the
18 jury, but as far as you are concerned -- would sort of have
19 to prove to you that he was innocent of these charges; isn't
20 that correct?

21 He would have to bring up some evidence to show
22 you that he was innocent; is that correct?

23 A Well, let's say he'd have to bring up some evi-
24 dence to show that he was really involved in making the jury
25 vote guilty; that -- his part was that -- was that he really
26 was guilty.

27 Q Well, I don't quite understand you.

28 The People are supposed to prove that.

1 A I know. But I mean, my -- the People would prove
2 that by listening to what he'd have to say; and bringing up
3 all the evidence and all the facts.

4 Q Well, suppose he doesn't say anything, though?

5 A Well, I mean, he would speak through you.

6 Q Suppose I don't say anything?

7 What I am trying to --

8 A Well, I guess what I would give him would be the
9 benefit of the doubt, then.

10 Q Well, would you give him the benefit of the
11 doubt? Mrs. O'Neil? Or is it your feeling that he comes
12 in here, kind of clothed with Manson's own guilt, sharing
13 in that guilt?

14 A No. No, I don't feel that way.

15 Q Or sharing in that tendency to commit crime?
16 Do you feel that?

17 Again, going back to this "birds of a feather
18 flock together" bit, do you feel that one who has
19 associated with Mr. Manson for a period of time must share
20 some sort of criminal tendencies?

21 A Yes, I guess I do.

22 Q And do you feel that Mr. Davis, assuming that
23 he has associated with Mr. Manson, then, shares some
24 criminal tendencies with Mr. Manson?

25 A Well, I hate to compare anybody to Mr. Manson.

26 Q Well, you've just said, though, that people
27 who have associated with him for a period of time, in your
28 mind, do share those criminal tendencies; right? That's the

1 way you feel about it?

2 A Did I say "share"? They can't help but -- but --
3 I think I did say "rub off."

4 Q All right. So that they are probably more
5 likely to be guilty than innocent, because of that
6 association, in your mind; is that right?

7 A Yes, I guess that's right.

8 Q And that's so of Mr. Davis in this case; isn't
9 that right?

10 A Yes.

11 MR. DENNY: All right. I'd offer a challenge under
12 1073, Subdivision 2, your Honor.

13 MR. KAY: May I ask a few questions, your Honor?

14 THE COURT: You may.

15

16

VOIR DIRE EXAMINATION

17 BY MR. KAY:

18 Q Mrs. O'Neil, I'm not sure you are clear about
19 this. But in a criminal case, a defendant is presumed
20 innocent until the contrary is proven.

21 So, at the start of a case, the defendant is
22 presumed innocent.

23 A Yes.

24 Q Do you understand that he doesn't have to put
25 forth any evidence at all? Do you understand that? The
26 burden is on the prosecution to prove that -- as in this
27 case -- that Mr. Davis is guilty of these crimes beyond a
28 reasonable doubt; do you understand that?

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A Yes.

Q And do you feel that, as you are sitting there, that you are neutral at this point? In other words, you don't favor the prosecution, and you don't favor the defense at this time?

A No, I don't favor either one right now.

Q And could you give Mr. Davis a fair trial in this case? Even knowing what your feelings are about Mr. Manson?

A Yes.

14b fls.

14b-1

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

2 A No.

3 Q And in other words, would you base your verdict
4 solely on the evidence that came out in this trial? Solely
5 on the evidence that came from the witness stand in this
6 trial?

7 A I'm completely forgetting Mr. Manson.

8 Q Well, completely forgetting everything you knew on
9 the outside --

10 A Yeah.

11 Q -- and concentrating solely on the evidence that
12 came from the witness stand in this trial.

13 A Yeah.

14 Q Would you do that?

15 A Yes.

16 Q Is there any doubt in your mind at all that you
17 could do that?

18 A Well, I don't believe so. I feel sure I could
19 do it.

20 Q So --

21 A I think it's clear.

22 Q So in other words, you could give Mr. Davis a fair
23 trial in this case?

24 A Yes.

25 Q And there's no doubt about that in your mind?

26 A No.

27 MR. KAY: We would oppose the challenge for cause,
28 your Honor.

14b-2

1 THE COURT: The Court will grant the challenge.

2 Thank you very much, Mrs. O'Neil.

3 PROSPECTIVE JUROR O'NEIL: You're welcome.

4 MR. DENNY: Thank you, Mrs. O'Neil.

5 MR. KAY: Thank you, Mrs. O'Neil.

6 THE COURT: The 15th floor of the Hall of Records --

7 strike that.

8 Go to Room 253, the assembly room, in the new

9 courthouse, tomorrow morning at 9:00 o'clock.

10 PROSPECTIVE JUROR O'NEIL: At 9:00 o'clock?

11 THE COURT: At 9:00 o'clock.

12 PROSPECTIVE JUROR O'NEIL: Okay. Thank you.

13 THE COURT: Would you bring the balance of the panel in?

14 THE BAILIFF: Yes, sir.

15 THE COURT: Choose another name, please.

16 THE CLERK: Jesse Lee Jeffery; J-e-s-s-e --

17 THE COURT: You may remain standing, if you will.

18 THE CLERK: -- middle name, L-e-e; last name --

19 THE COURT: You may remain standing. I'm going to let

20 you go right away.

21 THE CLERK: -- J-e-f-f-e-r-y.

22 THE COURT: Jeffery?

23 THE CLERK: Yes, sir.

24 THE COURT: Mr. Jeffery?

25 PROSPECTIVE JUROR JEFFERY: Yes, sir (indicating).

26 THE COURT: Mr. Jeffery, you will be next in the box for

27 Mrs. O'Neil, who has just been excused, tomorrow morning.

28 MR. DENNY: Your Honor, I don't think they can all hear

14b-3

1 you.

2 THE COURT: Can you all hear me?

3 THE PROSPECTIVE JURORS: No.

4 THE COURT: Thank you. Mr. Jeffery, you heard me,
5 did you not?

6 PROSPECTIVE JUROR JEFFERY: Yes.

7 THE COURT: All right. Tomorrow morning, ladies and
8 gentlemen, at 9:30. -- is there still somebody missing?

9 (Pause in the proceedings.)

10 THE COURT: Is everyone here now?

11 THE PROSPECTIVE JURORS: Yes.

12 THE COURT: To your knowledge, are they all here now?

13 THE BAILIFF: To my knowledge, yes, sir.

14 THE COURT: Tomorrow morning, the Court will expect to
15 see you ladies and gentlemen, at 9:30.

16 And the Court admonishes you that you are not,
17 during the course of this recess, to discuss the case amongst
18 yourselves nor with anyone else, nor are you to permit anyone
19 to discuss with you any matter connected with the case; and
20 during the course of the recess, you are not to form or
21 express any opinions on the matter, until such time as it is
22 submitted to you, should you be chosen as a juror.

23 I'll see you at 9:30 tomorrow morning.

24 PROSPECTIVE JUROR O'NEIL: Mr. Bailiff, where did he say
25 I was to go?

26 THE BAILIFF: Room 253.

27 THE COURT: Room 253, new county courthouse, tomorrow
28 morning at 9:00 o'clock.

14b-4

1 MR. DENNY: Your Honor, before we take our recess --
2 do we have a juror present?

3 THE COURT: Yes.

4 MR. DENNY: I'll hold it just a minute.

5 (Whereupon, the following proceedings were had
6 after all the members of the prospective jury had exited the
7 courtroom:)

8 MR. DENNY: Your Honor, I have presented to the Court
9 copies of the subpoenas which I have heretofore personally
10 served on Mr. Manson and Mr. Grogan -- of which I have indicated
11 on the back of each of the subpoenas the dates when they were
12 served.
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1 I don't know whether Mr. Grogan has been trans-
2 ported to San Quentin or not, as of the present time. Of
3 course, as indicated by one of our jurors, Mr. Manson has.
4 And those subpoenas are for their presence in court today.
5 Obviously, I don't expect to call them as witnesses today.
6 I don't know when I may call them as witnesses.

7 I have had an opportunity to talk at some length
8 with Mr. Manson on one occasion and Mr. Grogan on the 23rd
9 of December, during which I received some very valuable and
10 important information from both of them. And I do want to be
11 able to discuss some further points with them. And that is
12 one of the reasons that I have subpoenaed them down. Not
13 simply to appear, but to be able to talk to them as important
14 and necessary witnesses in this case.

15 THE COURT: What are you asking?

16 MR. DENNY: Well, I'm asking that the Court determine
17 why they were not brought down or why they were -- we were
18 not notified as to why they were not brought down and to
19 insure that they will be brought down in sufficient time.

20 THE COURT: The Court had some discussion with the
21 Sheriff concerning this question as to whether or not Mr.
22 Manson should be brought down on this date and the Court told
23 the Sheriff that it was not necessary to have Mr. Manson
24 present in court at this time. I believed that it would not
25 be at a point where Mr. Manson's testimony would be -- could
26 be utilized at this time. So when we're farther along in the
27 trial, the Court will order Mr. Manson and Mr. Grogan to be
28 present at a time when you can -- will have time to discuss,

1 have a day or two to discuss testimony with them and so that
2 they will be present at the time that you want to put them on
3 the witness stand, should you wish to do that.

4 MR. DENNY: Well, that's fine, your Honor, if that can
5 be left open so I can discuss it with the Court.

6 THE COURT: So I'll leave open the date and keep me
7 apprised as to when you want them here.

8 MR. DENNY: That's fine.

9 THE COURT: And we'll work it that way.

10 MR. DENNY: Thank you, your Honor.

11 MR. KAY: Good night, your Honor.

12 THE COURT: Good night, and I'll see you tomorrow
13 morning at 9:30.

14 (Whereupon, at 4:45 o'clock p.m., the evening
15 adjournment was taken, the matter to be resumed
16 the following day, Tuesday, January 4, 1972,
17 at 9:30 o'clock a.m.)
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