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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NO. 52

HON. JOSEPH L. CALL, JUDGE

4
5 PEOPLE OF THE STATE OF CALIFORNIA,)

6 Plaintiff,)

7 v.)

NO. A 267861

8 STEVEN GROGAN,)

9 Defendant.)

10
11
12 REPORTERS' DAILY TRANSCRIPT

13 Thursday, July 8, 1971

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17 APPEARANCES OF COUNSEL:18
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ST. JAMES
CHURCH
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1800

1 LOS ANGELES, CALIFORNIA, THURSDAY, JULY 8, 1971

2 9:55 A.M.

3
4 THE COURT: Now, gentlemen, we will proceed in People
5 against Steve Grogan.

6 The defendant is here, defendant's counsel is here,
7 People's counsel is here.

8 And the jurors are in the jury box that we have
9 been examining.

10
11 PHYLLIS L. JONES

12 BY THE COURT:

13 Q Now, we have a new lady, No. 9.

14 So, lady, I will go over some of these situations
15 with you, then the counsel will examine you.

16 I take it you have been in the courtroom at all
17 times since you came over with the second grouping of jurors,
18 isn't that correct?

19 A Yes, that's right.

20 Q Did you hear everything I said to the jurors?

21 A Yes. Yes, I did.

22 Q Did you hear me read the charge that has been filed,
23 the Information, count that has been filed against the
24 defendant in this case?

25 A Yes.

26 Q Now, I want you to assume that you have been
27 selected as a juror in the trial of the case, sworn to act as
28 a juror and that we have proceeded, we have tried the action

1 and that you have gone to the jury room with the rest of the
2 jurors to decide on the question of guilty or not guilty.

3 At that time the jury could make a finding of not
4 guilty and that would conclude the case in its entirety.

5 If the jury on the other hand should make a finding
6 of guilty as charged then the next step for the jury would be,
7 at that time right there, to make a finding of degree, either
8 first degree or second degree.

9 If the jury makes a finding of second degree then
10 again the case is concluded with that finding as far as the
11 jury is concerned. The jury is discharged. In other words,
12 it is the end, you might say, the end of the lawsuit so far as
13 the jury is concerned.

14 Now, on the other hand, if the jury makes a finding
15 of first degree murder then there is a subsequent hearing
16 called the penalty hearing held. It follows immediately after
17 the trial. And as a result of which the jury must make a finding
18 on the question of penalty which must be either the death
19 decree, capital punishment, or life imprisonment.

20 Is that clear to you?

21 A Yes.

2-1

1 Q Now, if you will assume that you are on the jury,
2 as I said, and that you held the penalty hearing, you are in
3 the jury room voting on penalty, what that is, should it be
4 the death penalty or life imprisonment; now, at that point I
5 will ask you this question: at that time would you automatically
6 vote against the imposition of the death penalty without
7 regard to any evidence that might be developed at the trial of
8 this case before you?

9 A Yes, I would.

10 Q The answer is "Yes"?

11 A Yes.

12 Q All right. Let me reaffirm it in this fashion;
13 is there any question at all, whatsoever, in your mind, that you
14 would absolutely vote against the death penalty, no matter what
15 the testimony should be; your mind is made up to that; is that
16 a correct statement?

17 A That's right, I could not.

18 Q I am not arguing with you, I am just trying to get
19 a yes or no.

20 Is that a correct statement?

21 A Yes, it is.

22 Q Understand, I am not trying to debate or argue or
23 quarrel or discuss the matter, I am just trying to --

24 A I'm just trying to be honest.

25 Q But that's your position?

26 A Yes.

27 THE COURT: All right.

28 Everybody is entitled to their position, I am not

1. saying this to be critical or complaining one way or the other
2. with anybody. I am following the law, that's the reason I am
3. trying to get a clear-cut statement.

4. I think there is ground there, gentlemen.

5. MR. KATZ: Yes, your Honor.

6. MR. WEEDMAN: I wonder if I might have just a couple of
7. questions, your Honor? I'd appreciate that.

8. THE COURT: Very well.

9. BY MR. WEEDMAN:

10. Q Mrs. Jones, in connection with those other jurors
11. who have expressed substantially your feeling, do you recall
12. what I said to them insofar as the law doesn't make any --

13. A Yes, I remember.

14. Q -- has no preference one for the other, and that
15. the defendant is clearly entitled to have persons on the jury,
16. even if it goes to penalty phase, who are opposed in principle
17. to capital punishment.

18. Did you hear those questions?

19. A I did.

20. Q Did you pretty much understand the thrust of
21. those -- and notwithstanding all of that it is your feeling that
22. you could not, irrespective of the evidence, participate in
23. any --

24. A I know me too well.

25. Q -- death penalty?

26. A I say, I know me. It took me two days to arrive
27. at this conclusion and I didn't realize --

28. THE COURT: I would rather you wouldn't argue the

1 question.

2 MRS. JONES: No, but I am just --

3 THE COURT: Just answer it yes or no, if you can.

4 MRS. JONES: Okay; that's the only thing --

5 Q BY MR. WEEDMAN: This is a matter which you have
6 given some thought to, then?

7 A Yes, I have given very much thought to it.

8 Q And you feel that you could not listen to the
9 evidence in a penalty phase, that you would ignore all of the
10 evidence; is that so, as far as the penalty phase?

11 A I wouldn't ignore the evidence, no.

12 Q Well, perhaps "ignore" is not a good word.

13 Would you consider the evidence at all --

14 MR. KATZ: Again, there is an objection on the grounds
15 of whether or not she would consider it is not material to the
16 inquiry here; the only issue is whether or not she could vote
17 the death penalty.

18 THE COURT: You could be correct, but I will nevertheless
19 allow the question. You may answer.

20 Restate your question.

21 Q BY MR. WEEDMAN: Will you consider evidence that is
22 pertinent to the penalty?

23 A I would consider evidence, yes.

24 Q Now, by "consider" I mean you would weigh it and
25 allow it at least to enter into your judgment with respect to
26 either the death penalty or life imprisonment.

27 Do you understand the use of the word "consider"?

28 A Yes.

1 Q Well, does that mean, then, that irrespective,
2 then, of how you, perhaps, feel about capital punishment
3 generally, that at least in this case you would not auto-
4 matically vote against the death penalty, but, rather, would
5 consider all of the evidence before arriving at a decision
6 with respect to penalty?

7 A I have never been in the position. All I know is
8 I can't even kill a rattlesnake. When it came to condemning
9 a man to death, it would not only be branded on my mind, but
10 it would be branded on my soul.

The 3

1 THE COURT: Well now, wait a minute, folks.

2 Lady, try -- I don't want to get into a discussion.
3 Try to answer.

4 The question is so framed you can answer it "Yes,
5 that's right," or "No, it isn't."

6 Now, let's try the question.

7 MR. WEEDMAN: I will. Thank you.

8 THE COURT: Put your question any way you want to. Let's
9 try to get an answer back yes or no to it.

10 I am not trying to suggest or encourage the conver-
11 sation. I am not saying. But you make a leading question of
12 it. Try to keep conversation from going on at this time.

13 MR. NEEDMAN: Certainly, your Honor.

14 Q Would you -- just going back for a moment --
15 consider all of the pertinent evidence if this thing gets to
16 a penalty phase before arriving at a decision as to either the
17 death penalty or life imprisonment?

18 A Well, I would consider the evidence.

19 Q Okay. And would you, notwithstanding your quote
20 "consideration of the evidence" automatically reject the death
21 penalty?

22 A I don't know. I am afraid yes, to be truthful, I
23 would be.

24 It would have to be yes.

25 Q So you are telling us then clearly that no matter
26 what the circumstances are you would not even -- let me put it
27 this way.

28 Is your answer then that under no circumstances
and irrespective of the evidence you would never ever vote for

3-2

1 the death penalty?

2 A I can't say for sure, but --

3 Q Are you telling us then that there are some cases
4 which you would in your own mind theoretically at least vote
5 for the death penalty?

6 A To myself, no. Vote for the death penalty, no,
7 I couldn't do it.

8 For my own conscience I could not vote the death
9 penalty.

10 MR. NEEDMAN: All right. We appreciate your candor very
11 much.

12 THE COURT: I will grant the --

13 MR. KATZ: May I just ask one question.

14 THE COURT: Go ahead.

15 MR. KATZ: I want to be clear in my mind, your Honor, as
16 to the grounds.

17 THE COURT: I don't want to get in a discussion.

18 MR. KATZ: I agree, your Honor.

19 THE COURT: She answered the question.

20 MR. KATZ: I want a yes or no answer to the question.

21 THE COURT: All right. Go ahead.

22 BY MR. KATZ:

23 Q Miss Jones, only you know what your feelings are and
24 your beliefs are concerning capital punishment.

25 Is it your state of mind as you sit here now that
26 you would under no circumstances and regardless of the
27 evidence vote for a death penalty verdict; is that your state
28 of mind?

A Yes.

1 Q Thank you. And there is no doubt about it?

2 A No.

3 Q Is that right?

4 Thank you.

5 Respectfully thank the juror for absolute candor
6 and challenge her under 1073 subsection 2; 1074, subsection 8;
7 and the Witherspoon doctrine.

8 MR. WEEDMAN: I agree, your Honor. There is no objection.

9 THE COURT: All right. Thank you very much. I will excuse
10 the lady under a challenge for cause. I find that under the
11 doctrine of Witherspoon as well as Section 1073, subdivision 2
12 and 1074, subsection 8, grounds for excuse for cause exists
13 and so find.

14 Call the next juror, Mr. Clerk, please.

15 THE CLERK: Gertrude B. Meyer, M-e-y-e-r.

16
17 GERTRUDE B. MEYER

18 BY THE COURT:

19 Q Now, lady, you came in, you were one of the second
20 grouping of jurors that came in the other day; isn't that
21 right?

22 A That's right, sir.

23 Q From the main jury room?

24 Have you heard everything that I have said since
25 you have been in the courtroom?

26 A Yes.

27 Q Did you hear me read the charge that has been
28 filed against the defendant in this case?

A Yes, I have.

1 Q Now, I will ask you to assume that you have been
2 sworn to act as a juror in this case and that the jury has
3 heard -- the case has been tried and you are one of the jurors,
4 and you go to the jury room with the other jurors to make a
5 finding of guilty or not guilty as charged.

6 Now, at that time the jury could make a finding of
7 not guilty which at that very moment would conclude the case
8 entirely.

9 The jury could make a finding of guilty as charged
10 and in that event the jury then would make a finding of guilty
11 first degree murder or guilty second degree murder.

12 Now, procedurally, you understand that?

13 A That's right.

14 Q All right.

15 Now, if the jury makes a finding of guilty second
16 degree murder then there is no further duty from the jury. It
17 is excused.

18 On the other hand, if the jury makes a finding of
19 guilty first degree murder then there is a subsequent penalty
20 hearing held as a result of which the jury is again sent to
21 the jury room and the jury then votes on the question of
22 penalty which must be either the death penalty or life imprison-
23 ment.

24 Now, if you will consider that you as a juror
25 are up to the point in the jury room where you are voting on
26 the question of penalty as I have just indicated. I will ask
27 you this question: at that time would you automatically vote
28 against the imposition of the death penalty without regard to
any evidence that might be developed at the trial of this case

1 before you?

2 A No, I wouldn't.

3 Q Thank you. Now, I will ask you two more questions.

4 If you are selected as a juror do you feel you
5 could be fair and impartial to both the People and the defendant
6 seated there in the trial of this action?

7 A Is this the time for me to say --

8 Q Well, is your answer yes or no?

9 A Well, last fall I was asked to be a juror in October.
10 And I am a teacher --

11 Q No, that won't help me in my determination.

12 A I know.

13 Q I must try to get an answer.

14 You would be fair or you would not be fair. That
15 is my question.

16 What is your answer to that?

17 A The other lady, later on told why she couldn't serve.
18 Then you said that this was the time that she should have said
19 it.

20 Q Can you tell me if you would be fair if you tried
21 this case as a juror or not?

22 A Yes, I would.

23 Q What is your answer?

24 A Yes, I would be fair.

25

26

27

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1 Q All right.

2 Now, I will ask you this question, do you know of
3 anything that might arise during the course of this trial that
4 could upset you or disturb you in any way so that you could not
5 be fair and impartial in your duties as a juror?

6 A Yes, I believe so.

7 As I started to say, I was supposed to report --

8 Q Well, try and answer the question. Yes, you do
9 know of something or you don't?

10 A Yes, I do know of something.

11 Q Do you know of anything or not?

12 A Yes, I do.

13 Q Yes or no.

14 A Yes, I do.

15 Q All right.

16 You feel that something might arise that could
17 disturb you so that it might affect your fairness or your
18 judgment, disturb you in your clear perception of this case;
19 is that correct?

20 A Yes, sir.

21 THE COURT: Thank you, lady.

22 Does the defendant desire to inquire?

23 MR. WEEDMAN: No, your Honor. Thank you.

24 THE COURT: People desire to inquire?

25 MR. KATZ: Excuse me. May I have one moment, your Honor?

26 THE COURT: Yes, indeed.

27 MR. KATZ: Your Honor, yes, I would like to inquire just
28 on this point.

4-2

1 THE COURT: Go ahead.

2 BY MR. KATZ:

3 Q Is that Miss or Mrs. Meyer?

4 A Mrs.

5 Q Mrs. Meyer, can you tell us what it is that might
6 interfere with your ability to discharge your duties as a juror?

7 A I am a teacher and I was supposed to be here last
8 October and I asked it be postponed for the summer months
9 because I felt as a teacher it would work a hardship on my
10 pupils to have a substitute off and on for a month or two,
11 because we cannot get a permanent substitute, as a rule; it
12 would be two days and then three days and maybe one day, and
13 so I asked, as I felt it was my duty to serve, so I asked for
14 the summer months.

15 But, now, I am to understand that this trial may go
16 from eight to ten weeks, perhaps longer, and it would, again,
17 bring me in the same situation; it would bring me into September
18 and October.

19 Q May I ask whether or not the school term, for
20 example, commences before September of 1971?

21 A I have to report the day after Labor Day.

22 Q All right.

23 You realize that six weeks from this date, which is
24 roughly what, July 8th, is it -- would certainly not bring us
25 anywhere close to September 1st.

26 Do you realize that?

27 A But on the other, a teacher is like a lawyer, too;
28 we have to prepare our work ahead of time before class.

4-3

1 I have had no rest since school is out; I have to
2 get myself physically and mentally ready for my fall term.

3 Q Are you asking to be excused?

4 A That's right.

5 MR. KATZ: I have no further questions.

6 MR. WEEDMAN: Your Honor, both counsel will stipulate.

7 THE COURT: Yes?

8 MR. WEEDMAN: That she be excused, your Honor. If that
9 is agreeable to the court.

10 THE COURT: All right.

11 Well, I think probably there exists a for cause.
12 The lady stated in an uncertain fashion -- she advised the
13 court that she could be fair and impartial but, nevertheless,
14 it is coupled with a subsequent statement there might be factors
15 that could or would disturb her so as to impair her judgment of
16 this case.

17 I think probably there exists a for cause in the
18 matter.

19 I will excuse you, lady. Thank you very much.

20 I make a finding there exists ground for excuse
21 for cause by the court under section 1973, subdivision 2 and
22 section 1074, subdivision 8 of the Penal Code.

23 You may call another juror.

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THE CLERK: Frances Harding, H-a-r-d-i-n-g.

2

It is not indicated here if it is Miss or Mrs.

3

MRS. HARDING: Mrs.

4

THE CLERK: Thank you.

5

6

FRANCES HARDING

7

BY THE COURT:

8

Q Now, lady, you came in with the second group of jurors?

10

A Yes.

11

Q You have heard everything I said to the jury?

12

A Yes.

13

Q And did you hear me read the charge that has been filed against the defendant?

15

A Yes.

16

Q Now, let's assume that you have been sworn in to act as a juror in this case; we have tried the case, the jury has been sent to the jury room to make a finding of guilty or not guilty.

20

Now, at that time the jury could find the defendant not guilty, which would conclude the matter entirely; the jury could make a finding of guilty as charged.

23

If that is the case, then the jury would make an additional finding of degree, first degree murder or second degree murder.

26

If the jury makes a finding of second degree murder, then the duties of the jury is completed entirely and the jury is excused, under a finding of second degree murder.

28

1 However, if the finding is first degree murder,
2 then a further penalty hearing is held by the court before the
3 same jury, as a result of which the jury is again sent to the
4 jury room to determine the question, what is the penalty. The
5 jury must make a finding on penalty of either the death penalty
6 or life imprisonment.

7 Now, let's assume that we have proceeded to the
8 point of a penalty hearing, the penalty hearing has been held
9 and you are in the jury room voting on the question of the
10 penalty. Now, at that point I will ask you this question:
11 would you automatically at that time vote against the imposition
12 of the death penalty without regard to any evidence that might
13 be developed at the trial of this case before you?

14 A Yes, I would.

15 Q Is there any question at all in your mind that you
16 would automatically vote against the imposition of the death
17 penalty, regardless of any evidence or testimony in the case?

18 A No.

19 Q Your mind is clear on that?

20 A Yes.

21 Q I'm not trying to, if I can say, mug you -- I am
22 not trying to do that, if I can use that common parlance.

23 I just want a clear expression -- and your mind is
24 clearly made up on that point?

25 A Yes.

26 THE COURT: I think grounds exist for the court to excuse
27 the juror.

28 MR. WEEDMAN: Yes, we agree, your Honor.

1 MR. KATZ: We agree, your Honor.

2 THE COURT: Thank you, lady.

3 I make a finding under Witherspoon, as well as the
4 code sections 1073, subdivision 2 and 1074, subdivision 8;
5 grounds for cause to excuse exist, and the court so exercises;
6 excused for cause.

7 THE CLERK: Bertram O. Winkler, W-i-n-k-l-e-r; first
8 name is B-e-r-t-r-a-m; middle initial O.

9
10 BERTRAM O. WINKLER

11 BY THE COURT:

12 Q Now, Mr. Juror, you are a part of the second group
13 of jurors that came in; isn't that correct?

14 A Yes, sir.

15 Q Have you heard everything I have said as we have
16 gone along in the picking of the jury in this case?

17 A Yes, sir.

18 Q Did you hear me read the charge that has been filed
19 against the defendant?

20 A Yes, sir.

21 Q All right.

22 Let's assume that you have been selected as a juror
23 in this case; the case has been tried and you have gone to the
24 jury room to decide the question, guilty or not guilty.

25 Now, at that time the jury could make a finding of
26 not guilty, in which event the case is concluded entirely and
27 the jury is excused.

28 If the jury makes a finding of guilty as charged,

1 then they must make a further finding of degree, first degree
2 murder or second degree murder.

3 If the jury finds or sets the degree second degree
4 murder, then the jury is excused, there is no further work or
5 duty from the jury; it is concluded at that point.

6 However, if the jury makes a finding of first
7 degree murder, then there is a subsequent penalty hearing held,
8 as a result of which the jury makes a finding on the penalty,
9 the death penalty or life imprisonment.

10 Let's assume that the jury, there has been held a
11 penalty hearing in this case, the jury has gone to the jury
12 room to make a finding on penalty, the death penalty or life
13 imprisonment.

14 Now, at that time if you were voting on that
15 question, I will ask you this question: would you at that time
16 automatically vote against the imposition of the death penalty
17 without regard to any evidence that might be developed at the
18 trial of this case before you?

19 A I would not.
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1 Q Thank you. Now I will ask you a further question.

2 If you are selected as a juror do you know of any
3 reason that you could not be fair and impartial to both
4 parties in this case in the trial of this action?

5 A No, sir.

6 Q This next question is pretty much the same as the
7 first. A little more inclusive.

8 Do you know of anything that might arise during
9 the course of the trial, any factual situation that might
10 develop that could disturb you, upset you or keep you from
11 having a free and open mind during the course of this trial?

12 A No, sir.

13 THE COURT: Thank you.

14 The defendant may inquire.

15 MR. WEEDMAN: Yes. Thank you.

16 Q Mr. Winkler, may I ask what your business or occupa-
17 tion is?

18 A I am retired inspector of weights and measures,
19 Los Angeles County.

20 Q Mr. Winkler, one of my assistant scoutmasters has
21 your identical name, Bert Winkler. You don't have a son in Los
22 Angeles named Bert Winkler, do you?

23 A No, sir.

24 Q All right. Is there anything about the nature of
25 employment that particularly has led to any close friendships
26 with persons in law enforcement?

27 A Yes. Only as relates to the Business & Professions
28 Code.

Q All right. Now, in a sense you do some of the

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1 background work for law enforcement, do you not -- or not?

2 A I am retired.

3 Q I am sorry. You did. Yes, you did in any event,
4 do some foundational work that led to certain kinds of
5 perhaps orders, sanctions, fines, indeed prosecutions; isn't
6 that so?

7 A Yes, sir.

8 Q All right.

9 Is there anything about the nature of your work
10 before you retired that you think might interfere with your
11 evaluating the evidence in this case?

12 A No, sir.

13 Q Okay. Is there any Mrs. Winkler?

14 A Yes, sir.

15 Q Is she employed?

16 A No, sir.

17 Q Was she employed?

18 A Many years ago.

19 Q All right.

20 Is there anything about the estimated length of
21 this trial that would cause you any personal hardship?

22 A No, sir.

23 Q In respect to the matter of penalty if this case
24 should ever get that far, would you automatically impose the
25 death penalty?

26 A No, sir.

27 Q Irrespective of the evidence in the case?

28 A No, sir.

Q As you sit there now can both sides be assured

5-3

1 that you will fairly appraise the evidence with respect to
2 penalty before you even begin to make up your mind about
3 appropriate penalty in the case?

4 A Yes, sir.

5 Q Have you heard about the so-called Charles Manson
6 family?

7 A Yes, sir.

8 Q Have you formed any opinions with respect to the
9 Charles Manson family?

10 A I suppose so, yes.

11 Q All right. And I trust that that's not a -- well,
12 let me withdraw that.

13 If the evidence as I have suggested to so many
14 other jurors here reflects that my client was associated with,
15 even perhaps even indeed a member of -- so-called member,
16 we are not really sure what that means yet -- of the Manson
17 family, do you think that that would interfere with your
18 objectively evaluating the evidence as presented in this case?

19 A No, sir.

20 Q You feel that merely because my client has been
21 charged with so heinous a crime and because on top of that the
22 prosecution is asking for the death penalty, that the chances
23 are more likely than not that my client is guilty?

24 A No, sir.

25 Q Do you understand that the prosecutor's job here
26 is to present and argue and urge his point of view but that
27 is not necessarily determinative.

28 In other words, it will be the jury that is going

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1 to decide, not the prosecutor, whether my client is guilty
2 or not?

3 A Yes, sir.

4 Q Okay. Is there anything about this case, Mr.
5 Winkler, that as Judge Call has really already asked you, that
6 makes you feel that you couldn't give both sides the kind of
7 trial that we are entitled to here?

8 A No, sir.

9 Q I take it, Mr. Winkler, that you have no quarrel
10 with the idea that my client is not required to prove his
11 innocence to you?

12 A I have no quarrel with that.

13 Q And do you -- you can probably understand the
14 reason for the rule, but I take it your answer is the same
15 whether you appreciate the reason for the rule or not since
16 it is the law of the land?

17 A Yes.

18 Q Okay. Mr. Katz has asked some of the other
19 prospective jurors if it makes any difference if the prosecution
20 is unable to prove a particular date or time or place of the
21 alleged murder or even the alleged death of Shorty Shea.

22 I take it in connection with the burden of proof
23 that you are not going to hold the prosecution, first of all,
24 to particular date or time or place?

25 A That's correct.

26 Q Okay. By the same token if that is the way the
27 evidence develops you are not going to require the defendant
28 to precisely account for his whereabouts during that range of
time?

1 A That's true, yes.

2 MR. WEEDMAN: Okay. Well, that's all I have.

3 Thank you, Mr. Winkler.

4 THE COURT: People.

5 MR. KATZ: Yes.

6 BY MR. KATZ:

7 Q Mr. Winkler, prior to being called for jury service
8 have you given thought to the death penalty?

9 A Yes.

10 Q And have you discussed the subject matter with
11 friends and associates?

12 A Yes. I suppose so.

13 Q Is it a fair statement to say that you are not
14 opposed to capital punishment?

15 A That's right.

16 Q Under certain circumstances?

17 A Yes, sir.

18 Q Have you given some thought since we began
19 questioning in this area to determine whether or not you
20 yourself could personally participate in a death penalty
21 verdict if called upon to do so?

22 A Yes.

23 Q And as we discussed before, you do recognize
24 the distinction between letting 12 other persons vote for the
25 death penalty in some case and yourself personally voting
26 the death penalty, do you not?

27 A Yes, sir.

28 Q And as you sit here now is your state of mind
 such that if you believed from all of the evidence in this

1 case a death penalty was warranted, that you would have the
2 courage to vote that conscience and return a death penalty
3 verdict?

4 A Yes, sir.

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1 Q You do recognize that task and that decision is
2 not only very difficult, it is very distasteful, is it not?

3 A Yes.

4 Q Nevertheless, if selected as a juror I take it
5 you would be willing to live up to that responsibility, that
6 very important responsibility, and weigh very carefully all of
7 the evidence in the case to determine whether or not in your
8 sole and absolute discretion this case warranted the imposition
9 of a capital verdict; is that correct?

10 A I would, sir.

11 Q You heard our discussion concerning circumstantial
12 evidence. Would your answers be substantially the same as the
13 other prospective jurors?

14 A As I understand it, yes, sir.

15 Q I take it you have no quarrel with the rule of law
16 in this state which permits a man to be convicted of murder in
17 the first degree based wholly upon circumstantial evidence, is
18 that correct?

19 A I have no quarrel with that.

20 Q I take it you would not require the People to
21 produce a body or an eyewitness to the killing or indeed even
22 a witness to having observed the body in death, if you were
23 convinced by proper evidence, that is, by circumstantial
24 evidence, that the defendant ^{committed} ~~convicted~~ murder in the first
25 degree beyond a reasonable doubt and to a moral certainty; is
26 that correct?

27 A Yes, sir.

28 Q In other words, what I am saying is you wouldn't

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2 require the People to produce any particular kind of evidence,
3 just evidence which sustains our burden in law, that is, proof
4 to an abiding conviction to a moral certainty; is that correct?

5 A That's correct.

6 Q And can you think of any reason why you couldn't be
7 fair and impartial to both sides, sir?

8 A I know of no reason.

9 MR. KATZ: Thank you.

10 Pass for cause.

11 THE COURT: Very well.

12 MR. KATZ: I think it is the defendant's peremptory, your
13 Honor.

14 THE COURT: Where are we on the peremptory, gentlemen?

15 MR. WEEDMAN: It is with the defense, your Honor.

16 THE COURT: All right.

17 MR. WEEDMAN: Your Honor, we will thank and excuse
18 Mr. Winkler.

19 Thank you, Mr. Winkler.

20 THE COURT: All right.

21 THE CLERK: Joseph R. Foster, F-o-s-t-e-r.

22 MR. KATZ: Sorry, what was that, Mr. Clerk?

23 THE CLERK: Joseph R. Foster, F-o-s-t-e-r.

24 MR. KATZ: Thank you.

25 JOSEPH R. FOSTER

26 BY THE COURT:

27 Q All right. Now, I will ask you, Mr. Juror, you
28 came in with the second allotment of jurors, isn't that correct?

1 A Yes, your Honor.

2 Q Have you heard everything I have said to the jury?

3 A Yes.

4 Q Did you hear me read the charge, that is the
5 indictment that has been filed against the defendant?

6 A Yes.

7 Q All right. Will you please assume that you have
8 been selected as a juror and the case has been tried. The jury
9 goes to the jury room to make a finding or a voting of guilty
10 or not guilty.

11 At that point if the jury votes not guilty the case
12 is entirely concluded in all respects.

13 If the jury votes guilty then the jury must set the
14 degree, first degree murder or second degree murder. If the
15 jury makes a finding of second degree murder then as far as the
16 jury is concerned the case is concluded.

17 If the jury makes a finding of first degree murder
18 then there is another subsequent hearing held right here in
19 this court as a result of which the jury then goes back to the
20 jury room to make a finding on the question of penalty, what is
21 the penalty. And at that time the jury must make a finding of
22 the death penalty or life imprisonment.

23 Now, if you will put yourself, please, in a position
24 of being in the jury, a member of the jury, you are voting on
25 penalty. And then I will ask you this question: at that time
26 would you automatically vote against the imposition of the death
27 penalty without regard to any evidence that might be developed
28 at the trial of this case before you?

1 A No, your Honor.

2 Q All right. Now, I will ask you this question.

3 Do you know of any reason at all why you could not
4 be fair and impartial if you are selected as a juror in this
5 case?

6 A No, your Honor.

7 Q Do you know of any situation that might arise,
8 anything that could occur that during the course of the trial
9 would disturb you or upset you so that you couldn't be fair
10 and impartial in your judgment?

11 A No.

12 THE COURT: Thank you.

13 The defendant may inquire.

14 MR. WEEDMAN: Thank you, your Honor.

15 Q Mr. Foster, may I ask your business or occupation,
16 please.

17 A Yeah, I am a civil engineer in highway construction.
18 I work for the Division of Highways.

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Q Is it the State Division of Highways?

A The State.

Q Do you have any close friends or relatives who are in law enforcement?

A No.

Q If this case should last as long as we have been indicating that it may last, will it cause you any personal hardship?

A No.

Q With respect to the death penalty, Mr. Foster, would you consider all of the evidence in the case before you even begin to make up your mind as to what an appropriate penalty might be if it ever gets to that?

A Yes.

Q So I take it that you are not going to vote automatically for anything here?

A Right.

Q You are going to wait until you hear all of the evidence in this case?

A Yes.

Q Have you formed any opinion about the Manson family that you think might interfere with your giving my client a fair trial in this case?

A No.

Q I take it, Mr. Foster, during the course of the trial that you will not be looking for any kinds of hidden clues as to what the proper verdict should be?

And by that I mean some of the things that Mr. Katz has already suggested, the physical appearance of counsel has

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1 nothing to do with the evidence in this case, I am sure you
2 will agree.

3 Whether or not during a recess my client is
4 permitted to have a cup of coffee and a cookie obviously has
5 nothing to do with this case, don't you agree?

6 A Yes.

7 Q Okay. The apparent enthusiasm or apparent optimism
8 or apparent despair of counsel likewise has nothing to do with
9 the evidence in this case, I am sure you agree with that?

10 A Yes.

11 Q And likewise, Mr. Foster, will you not apply any
12 artificial standards to the evidence?

13 A No, I will not.

14 Q Probably as a civil engineer you probably live
15 in a rather precise world professionally where probably enormous
16 demands are made upon you to be extremely accurate, to check
17 and recheck.

18 Will you bring that to this trial, Mr. Foster,
19 that kind of objectivity?

20 A Yes.

21 Q If you are selected as a juror here, as well as
22 your own knowledge of human affairs and human nature and the
23 like, will you do that for us?

24 A Yes.

25 MR. WEEDMAN: All right. Thank you, sir.

26 THE COURT: People.

27 MR. KATZ: Yes. Thank you.

28 Q Mr. Foster, what general area of town do you reside

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1 in, please.

2 A Pico-La Brea area.

3 Q Mr. Foster, have you given some thought to the
4 death penalty prior to being called for jury service here?

5 A Yes.

6 Q Have you discussed this subject matter with friends
7 and relatives?

8 A Yes.

9 Q And have you read any literature in connection
10 with the pros and cons of capital punishment?

11 A Yes.

12 Q I take it as all thinking people you have formed
13 at least some tentative conclusions and opinions regarding
14 the propriety of capital punishment, is that right?

15 A That is true.

16 Q Without arguing or asking for your reasons are you
17 generally opposed to capital punishment?

18 A No.

19 Q Is it fair to say that you feel that under certain
20 circumstances it is in fact warranted and justified?

21 A I suppose I could say yes.

22 Q Let me ask you this. Do you have any quarrel with
23 the law which permits in effect the State to take a life of
24 another human being by way of the courtroom proceedings?

25 MR. NEEDMAN: Excuse me. I think we are getting into that
26 philosophical discussion.

27 MR. KATZ: I withdraw that, your Honor.

28 THE COURT: All right. It is withdrawn. Start again.

1 Q BY MR. KATZ: As you sit here now are you neutral
2 towards the death penalty one way or the other?

3 A Yes.
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Q All right.

I take it you formed no hard fixed beliefs one way or the other, either for capital punishment or against capital punishment.

Is that a fair statement?

A That is a fair statement.

Q I take it, therefore, it would be fair to say that you have no conscientious scruples that would preclude you from considering in a proper case, in accordance with your discretion, what the proper penalty is in a murder case; is that correct?

A Yes, that's correct.

Q All right; and you realize that in this case should we reach the phase known as the penalty hearing the People will deliberately prevail on the jury, each and every member of the jury, to return a death penalty verdict.

Do you understand that?

A Yes.

Q I am sorry, I didn't hear the answer.

A Yes; yes, I understand.

Q And in that connection do you believe that the People are ghoulish or bloodthirsty or do you have any feeling of antipathy toward the People because we are making this disclosure to you at the outset?

A No.

Q All right, and this hypothetical situation we are talking about over the past few days, wherein you might find yourself, following the conclusion of the penalty hearing, after hearing not only the evidence in the guilt phase but evidence in

1 background -- going to the background of the defendant, showing
2 what kind of human being he is, perhaps any evidence in
3 mitigation of the offense, maybe some evidence in aggravation
4 of the offense, after considering all of these factors would
5 you be willing to discuss with the other 11 jurors the proper
6 penalty to be assessed in this case in accordance with your
7 conscience?

8 A Oh, yes.

9 Q And if 11 jurors on each ballot had voted for
10 death and you are now asked to vote and you knew that your
11 vote, if you voted for the death penalty, would result in
12 sending Mr. Grogan to his death, would you refuse to vote the
13 death penalty solely because of this fact, even though you may
14 have felt in your conscience and your heart that that penalty
15 was the right verdict?

16 A No; if I agreed with the verdict I would vote
17 that way, regardless of what the other 11 --

18 Q I think we can all agree that it would be a very
19 arduous and a very distasteful task; isn't that correct?

20 A Yes.

21 Q And certainly you would be charged with some very
22 grave and severe responsibilities in this situation; isn't
23 that right?

24 A Yes.

25 Q And as the other juror so candidly stated -- I
26 think it was Mrs. Meyer, if I am correct -- she indicated that
27 under no circumstance could she take the life of another human
28 being; indeed, I think she said she wouldn't even kill a

1 rattlesnake.

2 You understand that people are entitled to that
3 view and it is nothing to be ashamed of because they express
4 that feeling with regard to life; you appreciate that?

5 A Yes.

6 Q I am not trying to convince you ^{you} should disregard
7 any feelings you have in this area; all I am trying to
8 ascertain ^{is} whether or not you can give the People a fair trial
9 on the issue of penalty if you are called upon to determine
10 that issue.

11 You appreciate that?

12 A Yes.

13 Q So what I am asking you is do you believe that if
14 after consideration of all the evidence and the People have
15 now requested the death penalty and you feel in your conscience
16 that the crime is so horrible that it warrants the commission
17 or the imposition of the death penalty, could you vote that
18 conscience knowing that you will have to live with that
19 decision for the rest of your life?

20 A I could vote it if I felt the evidence warranted
21 the death penalty.

22 Q And you realize that you would be sitting as a
23 jury of one and, accordingly, that verdict is yours for the
24 rest of your life and you can't blame 11 other people?

25 A Yes.

26 Q And you are willing to accept that responsibility?

27 A Yes.

28 Q Do you have any quarrel with the rule of law which

1 permits a man to be convicted of murder in the first degree
2 based wholly on circumstantial evidence?

3 A No.

4 Q And you recognize that in your everyday life you
5 use circumstantial evidence, which means that you draw
6 inferences from facts that are proven to you and make decisions
7 based upon those inferences; isn't that right?

8 A Yes.

9 Q And I take it you have no quarrel with that kind of
10 application of common sense ^{on facts} proven to you; is that right?

11 A That's right.

12 Q In other words, what you are doing, in effect, you
13 are just making decisions as we do in our everyday life; isn't
14 that correct?

15 A Yes.

16 Q And in this connection the decisions are more
17 difficult because the ramifications of those decisions may
18 affect the liberty of Mr. Grogan and, indeed, his life; isn't
19 that right?

20 A That is true.

21 Q And some jurors would rather not and some people
22 would rather not make those kind of decisions if they are not
23 called upon to do so; so I will ask you, would you be asking to
24 be excused or do you think that you would be willing to accept
25 the responsibility of having to make these kinds of hard
26 decisions in this case?

27 A I'd be willing to make the decision.

28 Q And do you have any quarrel with or does it offend

1 your sense of justice and fair play that the People need not
2 produce a body or an eyewitness to the killing in order to
3 prove a case of murder in the first degree?

4 A No.

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1 Q You appreciate the fact that many crimes such as
2 murder are not committed in public and, therefore, not in
3 front of witnesses and, as a result, the People have to resort
4 to circumstantial evidence to prove their case; isn't that
5 correct?

6 A Yes.

7 Q And does it offend your sense of morals or fair
8 play that in this State a man may not only be convicted of
9 murder in the first degree based on circumstantial evidence,
10 indeed he can be sentenced to death by the jury?

11 A Yes.

12 Q That doesn't offend your sense of morals or fair
13 play?

14 A No.

15 Q With respect to police officers, for example, since
16 Mr. Weedman had raised this issue again, do you feel that you
17 would weigh their testimony in the light of the objective
18 evidence and apply the same standards in assessing their credi-
19 bility as you would any witness who takes the stand?

20 A Certainly.

21 Q In other words, we are not going to say that police
22 officers, merely because they are police officers, are entitled
23 to more weight solely because of that fact; is that right?

24 A That's right.

25 Q And on the other side of the coin, we are not going
26 to say that their testimony should be given lesser weight solely
27 because they are police officers; is that right?

28 A That's right.

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1 Q You would want to know what their qualifications
2 are, what their training is with respect to their testimony,
3 and you would, of course, have to consider all the other factors
4 in the light of the objective evidence to determine whether
5 or not the testimony should be accepted by you; isn't that
6 right?

7 A That's right.

8 Q And finally, if after consideration of all of the
9 evidence -- that is, all of the circumstantial evidence in this
10 case--- you felt an abiding conviction to a moral certainty of
11 the truth of the charge, would you vote guilty?

12 A Yes.

13 MR. KATZ: Thank you, sir.

14 Pass for cause.

15 THE COURT: Now, is there any peremptory?

16 I believe it is the People.

17 MR. KATZ: Yes. People wish to thank and excuse Mr. Robinson.

18 THE CLERK: Ira. E. Harris, H-a-r-r-i-s.

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21 IRA E HARRIS

22 BY THE COURT:

23 Q I am going to ask you, Mr. Juror, you were one of
24 the second grouping of jurors who came in the other day?

25 A Yes.

26 Q Have you heard anything I have said to those other
27 folks in the jury box?

28 A Yes, I have.

 Q You heard me read the charge that has been filed

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1 against the defendant?

2 A I did.

3 Q Let's assume you are selected as one of the jurors
4 in this case, sworn to try the case, let's assume the case has
5 been tried, the jury goes to the jury room to make a finding
6 of guilty or not guilty.

7 Now, if the jury makes a finding of not guilty
8 the case is entirely concluded and everything is through,
9 the jury is excused.

10 If the jury makes a finding of guilty as charged,
11 then the jury must make a finding of degree, either first degree
12 or second degree murder. If the jury sets the degree as second
13 degree murder, then there is no further duties from the jury,
14 they are excused.

15 If the jury makes a finding of first degree murder,
16 then there is a subsequent trial that is called a hearing,
17 called a penalty hearing, and after the penalty hearing then
18 the jury goes back to the jury room to decide on the penalty,
19 which must be either the death penalty or life imprisonment.

20 Now, please assume you are at that situation or
21 position where you were in the jury room voting on the penalty,
22 what is the penalty, and I will ask if at that time and place --
23 I will ask you this question: would you automatically vote
24 against the imposition of the death penalty without regard to
25 any evidence that might be developed at the trial of this
26 case before you?

27 A I would.

28 Q All right.

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1 Now, I will repeat that question in this fashion:
2 is there any question at all? Are you sure and positive
3 that you would vote against the imposition of the death penalty,
4 no matter what the testimony in the case might be?

5 A I would.

6 THE COURT: Thank you.

7 Gentlemen, I think this is a clear-cut case for
8 cause here.

9 MR. KATZ: Yes, your Honor.

10 THE COURT: I would be inclined to excuse him, and I
11 thank you for your honest statements.

12 I make a finding that for cause exists under
13 Witherspoon case as well as 1073, subsection 2, and 1074,
14 section 8 of the Penal Code.

15 Now we will call another juror.

16 THE CLERK: Celia Schulman, S-c-h-u-l-m-a-n.

17 MR. KATZ: The first name, Frank?

18 THE CLERK: C-e-l-i-a.
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CELIA SCHULMAN

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2 BY THE COURT:

3 Q Now, lady, you were one of the second grouping of
4 jurors that came in; isn't that right?

5 A Yes, sir.

6 Q Have you heard everything that I have said to the
7 other jurors?

8 A Yes, sir.

9 Q Did you hear me read the charge to the jurors that
10 have been filed against the defendant in this case?

11 A I have.

12 Q All right.

13 Now, let's assume that you have been selected as
14 a juror and the case has been all tried, you are sent to the
15 jury room to decide the question of guilty or not guilty.

16 Now, at that time the jury could make a finding of
17 not guilty, which concludes the case entirely. The jury could
18 make a finding of guilty as charged and if the jury does that
19 then the jury must find or fix the degree, first degree murder
20 or second degree murder.

21 Is that procedure clear to you?

22 A Yes.

23 Q Now, if the jury finds second degree murder, then
24 at that point the jury is excused because there is no further
25 trial in this case; that's the end of the trial.

26 On the other hand, if the jury makes a finding of
27 first degree murder, then there must be a penalty hearing held,
28 at the conclusion of which the jury is again sent to the jury

1 room to determine the question of penalty; the penalty is
2 either the death penalty or life imprisonment.

3 Now, if you will please assume that you are in the
4 position of having completed the penalty hearing, you are
5 voting on penalty, the death penalty or life imprisonment, I
6 ask you this question: at that time would you automatically
7 vote against the imposition of the death penalty without
8 regard to any evidence that might be developed at the trial of
9 this case before you?

10 A Yes, sir.

11 Q The answer is "Yes."

12 I will repeat the question in this way: is there
13 any question at all in your mind that you would vote against
14 the imposition of the death penalty no matter what the testi-
15 mony or the evidence might be?

16 A That's correct.

17 THE COURT: Thank you.

18 I think there is a clear conviction from this lady.

19 MR. WEEDMAN: Yes, your Honor; we agree, your Honor.

20 Thank you, Mrs. Schulman.

21 THE COURT: You are excused, lady. Thank you very much.

22 MR. KATZ: Will the court state the grounds?

23 Will the court state the formal grounds for
24 excusing this juror?

25 THE COURT: Pardon me?

26 MR. KATZ: Would the court state --

27 THE COURT: Didn't I make a finding?

28 MR. WEEDMAN: We agree and stipulate that Mrs. Schulman

1 may be excused for cause, your Honor.

2 MR. KATZ: Under 1073.2, 1074.8?

3 THE COURT: That's the finding.

4 MR. KATZ: That's fine; we appreciate it.

5 THE CLERK: Mrs. Clarice A. Williams, W-i-l-l-i-a-m-s;
6 Clarice.

7 THE COURT: The reason I went so fast, I felt the
8 stipulation more or less was there.

9 MR. KATZ: Yes, there was a stipulation.

10 THE COURT: That's why I moved so fast.

11 MR. KATZ: Thank you, your Honor.

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13 CLARICE A. WILLIAMS

14 BY THE COURT:

15 Q All right. Now, lady, you are one of the second
16 grouping of jurors that came in the other day; isn't that right?
17 right?

18 A Yes.

19 Q Have you heard everything that I have said to the
20 jurors up to this time?

21 A Yes, I have.

22 Q And did you hear me read the charge that has been
23 filed against the defendant in this case?

24 A Yes, I have.

25 Q Charging him with murder?

26 A Yes.

27 Q Now, let's assume that you are a juror, we are
28 trying the case -- sworn in to try this case and we have tried

1 the case; then the court sends the jury out to decide the case,
2 guilty or not guilty.

3 Now, at that point the jury could make a finding
4 of not guilty and that would conclude this lawsuit entirely.

5 That's clear to you?

6 A Yes.

7 Q On the other hand, if the jury makes a finding of
8 guilty then they must make a finding of the degree, guilty
9 first degree murder or guilty second degree murder. Now, if
10 the jury should find guilty second degree murder, then, again,
11 at that point the jury is excused, nothing further for the jury
12 to do.

13 If the jury makes a finding guilty first degree
14 murder, then the jury must hold -- the court holds a penalty
15 hearing, at the conclusion of which the jury goes back to the
16 jury room and makes a finding on what is the penalty. The
17 penalty must be either the death penalty or life imprisonment
18 and that's up to the jury.

19 Now, let's assume, again, that you are one of the
20 jurors, we have held the penalty hearing and you are in the
21 jury room discussing with the jurors what is the penalty, and
22 you are voting on the question of the death penalty or life
23 imprisonment.

24 Now, I will ask you, if that situation were as I
25 have indicated it and you were in there debating and about to
26 vote, I will ask you this question: would you automatically vote
27 against the imposition of the death penalty without regard to
28 any evidence that might be developed at the trial of this

1 case before you?

2 A No.

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1 Q Now, I will ask you a further question.

2 Do you feel if you are selected as a juror that
3 you could be absolutely fair and impartial to both the defendant
4 and the People in this trial?

5 A Yes, I would be.

6 Q Do you know of anything that might arise, any facts,
7 anything that could happen during the trial of the case that
8 would disturb you, upset you, annoy you, so that your mind
9 couldn't be free and clear during the trial of the case?

10 A No.

11 THE COURT: Thank you, lady.

12 I pass the lady.

13 You may proceed.

14 MR. WEEDMAN: Thank you, your Honor.

15 THE COURT: Do you want a recess?

16 MR. KATZ: Yes, your Honor.

17 THE COURT: Let's take a very short recess. We will go
18 right ahead.

19 Do not discuss the case or come to any opinion
20 or conclusion.

21 Thank you very much. We are at recess.

22 (Recess.)
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1 (The following proceedings were had
2 in chambers, defendant and both counsel
3 being present:)

4 THE COURT: Go ahead. We are in chambers.

5 MR. WEEDMAN: Just very briefly, your Honor, my client
6 has been put in the hole over at County Jail for some purported
7 infraction of their rules, and it means a substantial denial
8 of ordinary privileges to an inmate of County Jail.

9 THE COURT: I see.

10 MR. WEEDMAN: And I am informed by my client and he is
11 prepared to testify if necessary that he has no idea why he
12 was placed in the hole.

13 And we are seeking some relief by the court at
14 this time by way of a petition for writ of mandate.

15 THE COURT: Does that stop you from consulting with him
16 or talking with him in any way?

17 MR. WEEDMAN: Oh, no, it does not, your Honor. But I
18 noticed today, for example, that Mr. Grogan's appearance is
19 such that I assume that it is caused by this kind of onerous
20 addition to the already onerous incarceration.

21 THE COURT: All right. Now, just a minute. I will listen
22 to you.

23 Did you want to say anything, Mr. Katz?

24 MR. KATZ: No, your Honor. I will submit it.

25 THE COURT: All right.

26 MR. WEEDMAN: Let the judge read that.

27 THE COURT: Let me read it.

28 MR. WEEDMAN: That doesn't have to be incorporated into

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1 this trial record.

2 THE COURT: Do you want me to read it?

3 MR. WEEDMAN: Yes, your Honor.

4 THE COURT: All right. Let's give you a better record
5 here. You see, I want you to have -- you are entitled to have
6 any record.

7 THE DEFENDANT: (Handing.) I don't want to file this one.

8 THE COURT: Do you want it clipped and filed?

9 THE DEFENDANT: No. I wanted to keep that for further
10 reference because it has points and authorities in it.

11 I didn't have time to make a copy.

12 THE COURT: I see. You want me to read it, don't you?

13 THE DEFENDANT: If you have difficulty I could read it
14 to you.

15 THE COURT: I will read it here. If you read it to me
16 I may not be able to follow you. But if I can study it as I
17 read it, may be more to your advantage. I can analyze it.

18 THE DEFENDANT: My circumstances was when I got back --

19 THE COURT: Well, let me finish. Don't you want me to
20 read it?

21 THE DEFENDANT: Well, you see, there is kind of a space
22 in there where you got to put your circumstances.

23 THE COURT: Well, I want to see what you are asking me
24 for, you see. I have no way of giving you a ruling in the
25 matter unless you let me read it.

26 THE DEFENDANT: Okay. Excuse me.

27 (Short pause.)

28 THE COURT: Now, I have read your statement here.

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1 Now, what do you want to say, Mr. Grogan? You
2 tell me.

3 THE DEFENDANT: What I wanted to say, I more or less
4 wrote it down here, what I wanted to tell you.

5 When I came back from court the other day, the
6 6th, I came back and they told me to roll for Siberia.
7 And I asked him why. He didn't tell me why. Said "roll it."

8 I rolled up my gear and took it upstairs. He
9 took all my gear. Then I had to come back down to the
10 conference with Charles and Davis and the attorney.

11 And I come back. And they took all the rest of
12 my gear away from me and gave me a mattress. That was all.
13 Took me and threw me in the cell -- they didn't throw me in
14 the cell, I misquoted that.

15 But, you know, assigned me a little cell and
16 there I stayed for 10 days, not knowing why.

17 THE COURT: Let me ask you some questions.

18 Has there been any trouble going on there that
19 would cause the sheriff to do that? That the sheriff had to
20 do that?

21 THE DEFENDANT: I asked him what was his cause, and he
22 didn't tell me.

23 THE COURT: Do you know of any reason?

24 THE DEFENDANT: I don't know any. The only reason -- I
25 haven't violated any infractions of the rules.

26 As I stated here, though, generally it is just
27 because maybe sometimes they don't like the person and at their
28 own whim they can say anything, and you --

1 MR. NEEDHAM: I think it is fair to say for the record
2 I understand Mr. Grogan has been in the hole before. Almost
3 every inmate I have ever represented for any substantial
4 period of time ends up in the hole at one time or another.

5 They always know why. You can step out of line
6 and that is grounds to be in the hole. So when Mr. Grogan
7 tells me that he doesn't have any idea why, I think that is
8 very persuasive in my estimate.

9 THE COURT: I tell you, Mr. Grogan, there is nobody that
10 wants you to have a fair trial any more than I do as a judge.
11 I want to do everything that I can to see that you have a
12 fair trial.

13 You see, I don't have unlimited power as a judge.
14 I have got a lot of power but I don't have unlimited power.

15 Now, I can't tell the sheriff what to do. I can't
16 tell the chief of police what to do.

17 I can make some recommendations. I would have no
18 objection making the recommendation to the sheriff.

19 Now, it falls to a great extent under what he might
20 do with my recommendation or not. With recommending to him
21 the importance that during the course of this trial -- in other
22 words, take one step at a time, not too much, too big a bite
23 here -- during the course of this trial that would be my
24 recommendation, that he make every effort to restore normal
25 privileges or normal activities to you.

26 That is, it can only go in the form of a recommenda-
27 tion with particular stress in the fact that you are in trial
28 here and confronted with many issues. And you do have

1 consultations with your attorney, preparations of your trial,
2 and that it would be my recommendation during the trial that
3 no unusual situations develop, augment problems.

4 In other words, we have got enough problems right
5 in the courtroom without having to take on other problems.

6 I have no objection to suggesting that to him or
7 recommending it to him. And I will do that. But I can't go
8 any further than that.

9 I have no objection to doing that.

10 If you have anything further you want to say
11 so it can go in the transcript, you go ahead and say it.
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1 THE DEFENDANT: Well, in all places like the penitentiary,
2 before, I think it is in the Supreme Court decision that they
3 have to go before a board or a committee or Captains Boards,
4 so they can be heard on the matter and present witnesses.

5 THE COURT: Well, that is a situation that wouldn't
6 apply -- I will give you a general answer -- it wouldn't apply
7 at this time or during this trial.

8 As far as I can go, I have done here, that is that
9 it would be my recommendation you be placed under an ordinary
10 status. That is, where you were without any sanctions against
11 you or imposition of any kind of penalty, particularly during
12 the trial.

13 That is my recommendation and I will see that it
14 goes out.

15 Now, whether the sheriff might follow that or
16 might not, but let's see where we go from there.

17 Now, if you feel, for instance, when the trial is
18 over you feel that situations have happened or occurred that
19 are unlawful, that are grounds for presentment for a higher
20 court, that will all show up in the course of the conduct and
21 the witnesses, from what you have testified, would all appear
22 in the reporters' transcript or other documentary evidence.
23 The appellate court could also examine it, so you are not
24 without a review of the matter.

25 That's why I am trying to give you as complete a
26 statement here as possible.

27 MR. WEEDMAN: Your Honor, it has been my experience in
28 such matters that if the Sheriff's Department, perhaps the

8-21 watch commander receives a call either directly from your Honor
2 or from your Honor's clerk, which is not in the nature of an
3 order but merely an inquiry --

4 THE COURT: Yes.

5 MR. WEEDMAN: -- that very often that has a very
6 salutary effect and eliminates the problem.

7 THE COURT: I know; I wonder if a --

8 MR. WEEDMAN: -- acting expressly --

9 THE COURT: -- a minute entry to the effect that it is
10 the recommendation of this court that during the course of this
11 trial, if possible -- or, it is recommended the defendant
12 receive the ordinary course of treatment or confinement that is
13 subject to the other prisoners and no sanctions be imposed
14 particularly during this trial, I would have no objection to
15 making a minute entry to that effect.

16 MR. WEEDMAN: Your Honor, if it is a minute entry they
17 may not get it for a couple of weeks, and it would become a
18 moot matter.

19 I am concerned not only for Mr. Grogan in his
20 individual rights but I am concerned insofar as this treatment
21 of Mr. Grogan will affect my preparation in his defense; and
22 I think that if it is a capricious act on the part of the
23 sheriff, that it is a denial of due process to the client.

24 THE COURT: That is a matter that would have to be argued
25 at a later stage. You are arguing it now --

26 MR. WEEDMAN: I agree, your Honor.

27 THE COURT: -- I am treating it as a matter you are
28 fully entitled to. I would treat it as a recommendation and

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1 not an order.

2 I can't tell the sheriff, "From now on out you do
3 this and you do that." Of course, I'd probably get an answer,
4 "I'll run the Sheriff's Department, you have to run the
5 courtroom;" but I can make a recommendation in there.

6 MR. WEEDMAN: They will listen to that; I know they will.
7 I will only ask that.

8 THE COURT: It should be pointed out to the sheriff that
9 during the course of this trial -- that's as far as I can go
10 anyway -- that during the course of this trial any sanctions --
11 I would recommend there be, if it is possible, in the course of
12 his ordinary business, to relinquish any sanctions during this
13 trial, that he do it.

14 MR. WEEDMAN: You see, the court, of course, has an
15 enormous amount of power in this connection because -- I mean,
16 I submit that that's so because the sheriff, after all, is
17 holding Mr. Grogan for this court; that's the only theoretical
18 reason, of course, that he's there.

19 THE COURT: That's right.

20 MR. WEEDMAN: And, anything, it seems to me, that tends
21 to interfere improperly with normal due process of this case --

22 THE COURT: Let's see how a recommendation would go.

23 MR. WEEDMAN: Very well.

24 THE COURT: Now, the question is how do we get that --
25 Chuck, who is the supervisor; who has charge of the proceedings
26 up there? It isn't Pitchess, himself, who is actually acting
27 or makes the proceedings, day-by-day regulations, do you know?

28 THE BAILIFF: I believe they have an Inspector Welsh.

1 MR. WEEDMAN: Welsh is the man to talk to.

2 THE BAILIFF: Head of the jail.

3 THE COURT: If I were to get a minute entry and have
4 Frank strike it off, could you deliver, at my request, my
5 orders, give him a copy of the minute entry?

6 THE BAILIFF: Yes.

7 THE COURT: That might get it right to him.

8 MR. WEEDMAN: I think it will, your Honor.

9 THE DEFENDANT: I asked some other people during the
10 trial and they were being harassed in the same nature and the
11 judge made a restraining order for them and all witnesses --

12 THE COURT: I can't give a restraining order under the
13 structure as it is now, but I can make a recommendation, which
14 I will be glad to do if it will assist you.

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MR. WEEDMAN: Clerk, let's do that for today and let's see where we go.

Thank you very much, your Honor.

THE COURT: Let's wait a minute till I get this to Frank.

Frank, would you make a minute entry directed to the sheriff's department, attention Sgt. Welsh --

THE BAILIFF: Inspector Welsh.

THE COURT: Just your minute entry -- it is the recommendation of this court that during the course of this trial in which the issue of capital punishment is an issue -- and certainly at this time it is what is being asked for by the People -- that unless absolutely necessary no special sanctions or punitive action being taken as against this defendant.

I am limiting that to the course of the trial because I can't go any further, anyway; and that if it is possible it is the recommendation of this court that no sanctions exist.

I am putting it, if it is possible to operate without the imposition of sanctions during the course of this trial, to do so.

Now, that's as far as I can go.

THE CLERK: Yes, sir.

THE COURT: Let's try that and see where we are.

THE DEFENDANT: There is one teeny little more matter, in the matter that I am taken out of Siberia and taken to another module, six-man cell, before, in Judge Choate's court we had an order to keep me in a single-man cell, 2100, if you could direct that back to the module that I was presently

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1 being detained in --

2 THE COURT: How would that go?

3 See, I am not too familiar with the procedure
4 there.

5 MR. WEEDMAN: Well, I think --

6 THE COURT: That confinement be in -- suppose I put that
7 in the minute entry.

8 MR. WEEDMAN: That, and something to the effect that if
9 the sheriff deems this recommendation appropriate, it is
10 further urged that Mr. Grogan be held in a single cell.

11 There is a very good reason for that.

12 THE COURT: Let's put it in, during the course of this
13 trial -- I think it is very important; there are many reasons
14 for this, and I think it would be well worth the recommendation.

15 Let's go at that basis.

16 THE CLERK: All right.

17 THE COURT: All right, let's see where we are.

18 THE CLERK: Surely.

19 MR. WEEDMAN: Thank you again, your Honor.

20 THE COURT: All right, gentlemen, let's go ahead here.

21 (The following proceedings were had
22 in open court:)

23 THE COURT: All right, I just completed with this lady,
24 hadn't I?

25 MR. WEEDMAN: Yes, your Honor.

26 THE COURT: All right, you go ahead for cause.

27 MR. WEEDMAN: Thank you, your Honor.
28

CLARICE A. WILLIAMS

BY MR. WEEDMAN:

Q Mrs. Williams, are you employed?

A Yes, I am.

Q May I ask what you do for a living?

A Pacific Telephone Company.

Q What do you do for Pacific Telephone?

A I investigate the fraudulent use of telephone company credit card numbers.

Q How interesting.

As such, do you have any close friends or at least close contacts with people in law enforcement?

A No.

Q Is there anything about the testimony which may come in in this trial from police officers that you feel should be treated differently or in some special way merely because it is from police officers?

A No.

Q Is there a Mr. Williams?

A No.

Q If this trial, Mrs. Williams should last the projected ten weeks or so would it cause you any personal hardship?

A No, it would not.

Q Have you any prior criminal jury experience?

A Yes, some years ago.

Q Pardon?

A Yes, some years ago.

1 Q Some years ago.

2 A Yes.

3 Q With respect to this pretrial or other trial
4 publicity in regard to Charles Manson and the Manson family,
5 I take it it is a fair assumption that you have been exposed
6 to this kind of publicity from the news media?

7 A Yes, I have been.

8 Q Have you formed any opinions as a result of that
9 exposure that you think would interfere with your giving my
10 client a fair and impartial trial?

11 A No, no.

12 Q With respect to the matter of circumstantial
13 evidence do you have any objection to utilizing circumstantial
14 evidence as well as direct evidence in order to arrive at --

15 A No, I wouldn't.

16 Q -- the facts in this case?

17 A No.

18 Q Do you have any quarrel, particularly in light
19 of Mr. Katz's questions, which I assume that you have heard
20 in regard to circumstantial evidence, the rule which states
21 that circumstantial evidence may not be used to convict
22 someone unless the proved circumstances are consistent with
23 the People's theory and are irreconcilable with any other
24 rational conclusion?

25 A No.

26 Q In other words, you understand that the circumstan-
27 tial evidence may be used but that, nonetheless, there are
28 certain, if you will, restrictions surrounding the use of

1 circumstantial evidence, and I take it you have no quarrel
2 with that?

3 A No.

4 Q And I am sure you appreciate that merely because
5 Mr. Katz has questioned about circumstantial evidence doesn't
6 somehow dignify it, doesn't somehow make it better evidence
7 than some other kind of evidence?

8 A No.

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1 Q Mr. Katz' questions with respect to the penalty
2 phase have perhaps somehow hinted that evidence of my client's
3 background -- and I don't know what that might be -- but that
4 evidence of my client's background might somehow act in
5 aggravation with respect to penalty.

6 Will you please, Mrs. Williams, understand that
7 counsel's remarks during the course of this voir dire of the
8 jury -- my remarks and Mr. Katz' remarks are in no way to be
9 considered by you as any kind of evidence in this case?

10 A Yes.

11 Q That for purposes of this trial there hasn't been
12 one single shred of evidence produced up until now and there
13 will not be until the first witness is sworn and begins to
14 testify, you understand that?

15 A Yes.

16 Q So I will understand then, I am sure that you are
17 not going to be trying to guess and figure out what lies ahead.
18 But you are merely going to -- you are not going to reach out
19 and try and grab for -- you are going to let the information
20 come to you and you are going to sift through it as a juror in
21 this case and not try and look for any kind of hidden clues or
22 try and anticipate anything; am I correct in all that?

23 A Yes, you are.

24 MR. WEEDMAN: Thank you, Mrs. Williams.

25 We will pass for cause, your Honor.

26 THE COURT: All right. People.

27 MR. KATZ: Thank you.

28 Q Mrs. Williams, what general area of Los Angeles do

9-2 1 reside in?

2 A I live in the Wilshire area.

3 Q Thank you.

4 Mrs. Williams, prior to being called for jury
5 service duty had you given some thought to the penalty in
6 general?

7 A Yes, I have.

8 Q And have you read any literature on the death
9 penalty at all or heard any philosophical discussions and
10 perhaps on the David Susskind show or the Dick Cavett show
11 or Johnny Carson or Merv Griffin?

12 A No.

13 Q All right.

14 Have you discussed this matter with other friends
15 who have given to you their opinions concerning capital
16 punishment?

17 A No, I haven't.

18 Q All right.

19 And do you have an open mind about the propriety of
20 capital punishment in this State?

21 A Yes, I do.

22 Q Is it fair to say that you don't either lean for
23 capital punishment upon the return of a first degree murder
24 verdict necessarily, nor do you lean against it upon the return
25 of a first degree murder verdict; is that correct?

26 A That's correct.

27 Q I take it that you would want to evaluate each case
28 on its own facts and determine whether or not those facts

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1 warranted in your own conscience the return of a capital
2 verdict; is that correct?

3 A Yes.

4 Q And have you asked yourself the question as we
5 have been asking other prospective members of the panel over
6 the past four or five days whether or not you could personally
7 vote the death penalty, bearing in mind you have to live with
8 that judgment for the rest of your life?

9 A Yes, I have.

10 Q How did you answer that question to yourself?

11 A I felt that if all the evidence warranted the
12 punishment I would vote for it.

13 Q All right.

14 In other words, you are not going to make up your
15 mind right now and of course we are not trying to have you
16 precommit yourself as to the proper penalty in this case should
17 we reach that issue. But that you would want to hear the
18 circumstances, I take it, surrounding the commission of the
19 crime, the culpability, if any, of the defendant, what perhaps
20 is his background, his history, what evidence in aggravation or
21 mitigation of the offense which is produced before making a
22 judgment as to the proper penalty in this case; is that correct?

23 A Absolutely, yes.

24 Q That hypothetical situation that we mentioned
25 wherein 11 jurors after hearing all the evidence in the case
26 are voting for the death penalty and now you are asked to cast
27 your ballot for death or for life. And if you felt in your
28 conscience that this case warranted the death penalty would you

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1 have the courage to vote that conscience and vote for the
2 death penalty?

3 A Yes, I would.

4 Q And you realize you would be required to come right
5 back in seat No. 1 where you are seated at the present time and
6 tell the court by your verdict that Mr. Grogan is sentenced to
7 die, you understand that?

8 A Yes, I do.

9 Q I daresay that is a very unpleasant task, is it not?

10 A Yes.

11 Q It is a very grave and serious responsibility which
12 you would be obliged to accept if selected as a juror, isn't
13 that right?

14 A Yes, it is.

15 Q As we discussed before, there are a lot of people
16 that don't like to make decisions and even though we are
17 required to make decisions in our everyday life we try and
18 avoid making the serious ones.

19 Now, I think you agree with me that perhaps the
20 decisions in this case may be the most important ones you will
21 ever make in your life; isn't that correct?

22 A Yes.

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1 Q And nevertheless, if selected as a juror, would
2 you be willing to accept that responsibility?

3 A Yes, I would.

4 Q All right.

5 Now, we have discussed circumstantial evidence.
6 Do you think your answers would be substantially the same as
7 the majority members of the panel who answered the questions
8 that I propounded to them?

9 A Yes, they would be.

10 Q I take it you have no quarrel then with the
11 principle of law which permits a person to be convicted of
12 murder in the first degree based wholly on circumstantial
13 evidence without the production of an eyewitness to the killing
14 or the body or any parts thereof, or any witness to having
15 observed the body in death; is that correct?

16 A That's correct.

17 Q And you realize that circumstantial evidence in this
18 State is just as good as direct evidence in that it is accepted
19 in the law as a reasonable means of proof; do you accept that
20 principle?

21 A Yes, I do.

22 Q And I take it whether we are talking about a
23 petty theft case or a robbery or a burglary case or indeed just
24 a nonsufficient funds case in connection with banking transactions
25 that you would always require us to maintain and sustain our
26 burden of proof, which is proof beyond a reasonable doubt, and
27 to a moral certainty, is that correct?

28 A That's correct.

1 Q I take it at the same time you would listen fully
2 to his Honor's instructions with regard to our burden and would
3 not, if so instructed, require the People to demonstrate that
4 degree of proof which excludes all possibility of error and
5 produces absolute certainty in your mind, is that correct?

6 A Yes.

7 Q And with respect to the defendant's evident youth
8 you understand that in connection with the determination of the
9 guilt or innocence of the defendant his age has nothing
10 whatsoever to do with his guilt or innocence; isn't that
11 correct?

12 A That's correct.

13 Q I take it you wouldn't give to Mr. Grogan, because
14 of his appearance or because of his youthful appearance or
15 exterior, any benefit which you would not give to any other
16 person who was sitting here under the same circumstances; is
17 that correct?

18 A That's correct.

19 Q If you were sitting right here in my seat and you
20 were the prosecutor in this case and you wanted 12 impartial
21 jurors to hear all of the issues fairly, to evaluate the
22 evidence, to weigh the evidence in the light of the other
23 objective evidence, and to determine all of the issues, includ-
24 ing the proper penalty in this case, would you be willing to
25 have 12 jurors of your same frame of mind sit in judgment on
26 this case?

27 A Yes.

28 Q I take it you can be fair to both sides, is that

1 right, ma'am?

2 A Yes.

3 MR. KATZ: I think you can. Thank you.

4 Pass for cause.

5 THE COURT: All right.

6 Now, gentlemen, on our peremptory. I believe it is
7 defendant's.

8 MR. KATZ: Defendant's, yes.

9 THE COURT: All right.

10 MR. WEEDMAN: Yes. May I have just a moment, your Honor.

11 (Counsel and defendant confer.)

12 MR. WEEDMAN: Thank and excuse Mr. McGregor.

13 Thank you, Mr. McGregor.

14 THE COURT: All right.

15 THE CLERK: Carlos C. Sequeida, S-e-q-u-e-i-d-a.

16 MR. WEEDMAN: Will you spell that again.

17 THE CLERK: Yes. Carlos, middle initial C. Sequeida,
18 S-e-q-u-e-i-d-a.
19

20
21 CARLOS C. SEQUEIDA

22 BY THE COURT:

23 Q Now, you were one of the second grouping of jurors
24 that came into the courtroom?

25 A Yes, sir.

26 Q Have you heard everything that I have said to the
27 jurors up to this point?

28 A Yes, sir.

Q And you have heard me read the charge that has been

1 filed against the defendant in this case?

2 A Yes, sir.

3 Q All right.

4 Now, let's assume that you have been sworn in as a
5 juror in this case and that the case has been tried. The court
6 sent the jury to the jury room to decide the question of guilty
7 or not guilty of the offense as charged.

8 Now, at that point the jury can bring in the verdict
9 of not guilty as charged. That would conclude the case
10 entirely.

11 The jury could bring in a verdict of guilty as
12 charged. If that is the case the jury would then set the degree,
13 second degree murder or first degree murder.

14 If the jury makes a finding of second degree murder
15 that concludes all services of the jury at that point. However,
16 if the jury makes a finding of first degree murder then there
17 is a subsequent hearing held as a result of which the jury
18 then again goes back to the jury room after the hearing, called
19 a penalty hearing, to determine the question of penalty.

20 The jury must make a finding of either the death
21 penalty or life imprisonment.

22 Now, if you will assume that you are in the jury
23 room with the jurors discussing the question of penalty, I will
24 ask you this question.

25 At that time would you automatically vote against
26 the imposition of the death penalty without regard to any
27 evidence that might be developed in the trial of this case
28 before you?

29 A No, sir.

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1 Q All right.

2 Now, I will ask you another question: do you know
3 of any reason that you could not be fair and impartial if
4 you are selected to try this case as a juror?

5 A No, sir.

6 Q And I have a last question that is very similar
7 to that question that I just asked you: do you know of any
8 event or any situation, any facts that might arise during
9 the course of the trial that might, so far as you know, might
10 upset you or disturb you or pull your mind away from the
11 trial or keep you from having a free and open, fair mind
12 during the course of the trial?

13 A I don't think there is anything.

14 THE COURT: Thank you.

15 You may inquire for defendant.

16 MR. WEEDMAN: Thank you, your Honor.

17 Q Is that Mr. Sequeida?

18 A Sequeida.

19 Q Mr. Sequeida, what is your business or occupation,
20 please?

21 A I am an unemployed engineer at the moment.

22 Q I see.

23 A One of those.

24 Q So, when you were working you worked as an engineer?

25 A Yes.

26 Q Have you any prior criminal jury experience?

27 A No, this is the first time.

28 Q Despite the fact that you are presently unemployed,

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1 would this trial, if it lasts some eight weeks, cause you any
2 personal hardship?

3 A No.

4 Q Is there anything that you may have heard or read
5 in connection with the Tate-La Bianca case, the Charles Manson
6 case, that makes you feel that it would interfere with your
7 giving my client a fair hearing on the evidence in this case?

8 A No.

9 Q You understand that -- well, perhaps we better
10 establish that you did, in fact, read something about that --

11 A Yes.

12 Q -- the Tate-La Bianca case.

13 A But I didn't --

14 Q That case had nothing to do with my client; isn't
15 that so?

16 A Yes.

17 Q But even more to the point, irrespective of what
18 you may have read, I take it the only evidence you are going
19 to consider is evidence that comes to you personally from this
20 courtroom.

21 A That's right.

22 Q Not anything that may have been in the papers and
23 some other case at some other time?

24 A That's right.

25 Q Assuming that you have heard Mr. Katz's questions
26 of the other prospective jurors with respect to the death penalty,
27 Mr. Katz has from time to time talked about the need for courage
28 in order to impose the death penalty.

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1 Mr. Sequeida, do you understand it is not a
2 matter of throwing down the gauntlet to the jury, as far as
3 courage goes, it is a matter of carrying out, really, calmly
4 and dispassionately your duty to consider all of the evidence,
5 if it ever gets to the penalty phase, as distinguished from,
6 perhaps, an argument that says, "Well, if I am not courageous,
7 which you know I am going to be courageous, if I am not
8 courageous, then it means that I am going to vote for life
9 imprisonment."

10 You understand the matter of courage on the part
11 of an individual juror has nothing whatever to do with this
12 case?

13 A No.

14 With respect to anything that Mr. Katz may have
15 inadvertently, I am sure, hinted at with respect to evidence
16 that might be produced at a penalty phase, will you, along
17 with Mrs. Williams, agree that there has been no evidence
18 adduced in this case?

19 A Not up to this point.

20 Q That you are going to start with a clean slate, then,
21 and that the burden rests with the prosecution; if he has not
22 got some evidence that satisfies, that is satisfactory, okay;
23 but if he doesn't, that's why we're here -- if he doesn't, then
24 you are just not going to consider it and arrive at any conclu-
25 sion that my client is guilty; isn't that so?

26 A That's right.

27 Q Have you any close friends or relatives in law
28 enforcement?

A No.

MR. WEEDMAN: That's all I have.

Thank you.

THE COURT: People.

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MR. KATZ: Yes.

Q Is it Mr. Sequeda?

A Yes.

Q Have you given thought to the death penalty before being called for jury duty?

A Yes.

Q And have you read any literature concerning the pros and cons of the death penalty?

A Not too much.

Q Have you taken any college courses or ethics courses or such, or philosophy courses which have touched upon that subject matter?

A No, not really.

Q I see; and are you generally opposed to capital punishment, in the abstract?

A No.

Q And do you believe that under certain circumstances capital punishment is justified and the State has the right to exact the death penalty?

A Yes.

Q And you heard the question that I have asked the other prospective members of the panel concerning the ability to personally participate in a death penalty verdict; is that correct?

A Yes.

Q And have you asked yourself this question as you have been sitting in the courtroom for the past four or five days; namely, whether or not you could, yourself, vote the death

1 penalty if you felt it was warranted?

2 A Yes, I did.

3 Q How did you answer that question?

4 A I think I could, if it is --

5 Q I think you agree with me that that would be,
6 certainly, a very unpleasant and distasteful task; isn't that
7 correct?

8 A It would be, yes.

9 Q But, nevertheless, if you felt in your sole and
10 absolute discretion, based upon the evidence in this case,
11 based on your common sense application to evaluating all the
12 evidence in this case and the defendant's moral culpability
13 that if the case warranted the death penalty, you could do so
14 however distasteful; is that correct?

15 A If it does, yes, I believe.

16 Q And you understand that in this State the law
17 doesn't place any burden upon the People to prove anything in
18 the so-called penalty phase?

19 You appreciate that?

20 A Yes.

21 Q And at the same time it doesn't place any burden
22 upon the defendant to prove anything in the penalty phase.

23 You understand that?

24 A Yes.

25 Q So that what the law does, it says that upon the
26 return of the first degree murder conviction there may or may
27 not be additional evidence presented in the penalty phase and
28 after which the issue is then submitted to the jury for the

1 jury to determine in their sole and absolute discretion the
2 proper penalty in this case.

3 You understand that?

4 A Yes.

5 Q So, for example, the People don't have to prove
6 certain facts before you vote the death penalty; or, in the
7 absence thereof, you vote life.

8 You appreciate that?

9 A Yes, sir.

10 Q Now, as you sit here now, do you think that you
11 would have an open mind on the proper penalty in this case
12 should you reach that issue in this case?

13 A I think I would, yes.

14 Q Okay; and we have talked about circumstantial
15 evidence.

16 Do you think that there is anything wrong with the
17 law that permits a man to be convicted of murder in the first
18 degree based wholly upon circumstantial evidence?

19 A No, sir.

20 Q Do you agree with me that there are certain crimes
21 that are not committed in public or before witnesses?

22 A I didn't understand that.

23 Q Do you agree with the general principle that there
24 are certain crimes, because of their very nature that are not
25 commonly committed in public --

26 A Oh, yes.

27 Q -- or before witnesses?

28 And so, therefore, the law contemplates or permits

1 the People to prove their case by circumstantial evidence,
2 which requires the trier of fact to draw inferences from facts
3 that are proven to them.

4 You understand that?

5 A Yes.

6 Q And you heard the example I gave with respect to
7 the pie and the gentleman who apparently took the pie, even
8 though no one saw him take the pie?

9 A Yes.

10 Q And you agree that it was a reasonable inference
11 to be drawn from that example that the gentleman took the pie?

12 A Yes, I would.

13 Q And I take it that in your everyday life you are
14 aware of the fact that you draw inferences all the time from
15 facts which are proven to you; isn't that right?

16 A That's right.

17 Q And you make value judgments and you determine a
18 certain course of conduct based upon facts that are proven to
19 you.

20 Do you understand that?

21 A That's right.

22 Q And I take it you would not be reluctant at all to
23 consider circumstantial evidence, to weigh it to determine what
24 quality it has as it comes forth and unfolds from the witness
25 stand; and if all of the testimony taken as a whole at the
26 conclusion of the case creates in your mind an abiding
27 conviction to a moral certainty you will vote guilty; is that
28 correct?

1 A Yes, sir.

2 Q And if it doesn't, then we haven't met our burden
3 of proof and you will vote for acquittal; is that correct?

4 A That's right.

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1 Q I take it that you would not require the People
2 to produce a body or any parts thereof or an eyewitness to a
3 killing before you would be willing to vote for guilty if we
4 met our burden of proof as I have outlined for you; is that
5 correct?

6 A That's correct.

7 Q And do you think that you would give the defendant
8 some benefit in this case you would not give to any other
9 person who was sitting here under the same circumstances,
10 merely and solely because of his youth?

11 A I don't think so.

12 Q All right. Do you understand that whether a person
13 is black, yellow, purple, brown, green or whatever his ethnic
14 background is or what have you, he is entitled to equal treat-
15 ment under the law; is that right?

16 A Yes, it is.

17 Q Unfortunately, while we know that is not always
18 the case, we are going to put aside whatever prejudices we have
19 because in this courtroom there is only one thing we are con-
20 cerned with, that is the ascertainment of the truth; isn't
21 that correct?

22 A That's correct.

23 Q I take it you agree with the principle that without
24 that very deliberate function, that is the determination of
25 the ascertainment of the truth, there can be no foundation of
26 justice in America, is that correct?

27 A That's correct.

28 Q Any reason why you couldn't be fair and impartial to

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1 both sides?

2 A No, sir.

3 MR. KATZ: Thank you.

4 THE COURT: Well, now, where are we, gentlemen. The
5 People, are there any peremptories there?

6 MR. KATZ: People wish to thank and excuse Mrs. Chaffin.

7 THE COURT: Very well.

8 Call another juror.

9 THE CLERK: George E. Yousling, Y-o-u-s-l-i-n-g.

10 MR. YOUSLING: That's correct.

11 THE COURT: Well, now, at this point before we start in,
12 it is about two minutes of 12. We will take it as a unit
13 at 2 o'clock, gentlemen.

14 Let's proceed until 2 o'clock. Do not discuss the
15 case or come to any opinion or conclusion. If you will kindly
16 return promptly at 2 we will proceed.

17 Thank you, folks. We are recessed, Thank you.

18 (At 12 noon, a recess was taken until

19 2 p.m. of the same day.)
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1 LOS ANGELES, CALIFORNIA, THURSDAY, JUNE 8, 1971

2 2:15 P.M.

3 - - - -

4 THE COURT: All right, gentlemen, let's proceed.

5 People against Grogan; defendant is here, both
6 counsel are here and the jurors are here.

7 Now, let's see, where is that new juror? Yes.

8
9 GEORGE A. YOUSLING

10 BY THE COURT:

11 Q Now, I will ask you a few questions. You are one
12 of the new selection of jurors that were sent in?

13 A Right.

14 Q Have you heard everything that I have said during
15 the time you have been here?

16 A (Nods affirmatively.)

17 Q And did you hear me read the charge that has been
18 filed against the defendant?

19 A (Nods affirmatively.)

20 Q Now, let's assume you are on the jury, sworn as a
21 juror, you have tried the case; when you go to the jury room
22 you will make a decision as a juror, guilty or not guilty.

23 If the jury finds the defendant not guilty, the
24 case is concluded entirely.

25 If the jury finds the defendant guilty as charged,
26 then the jury makes another finding of degree, which is murder
27 first degree or murder second degree. If the jury makes a
28 finding of second degree murder, then, again, the case is concluded

1 as far as the jury is concerned.

2 If the jury makes a finding of guilty first degree,
3 then there must be held a subsequent penalty hearing for the
4 purpose of the jury determining what is the penalty. The
5 penalty must be either the death penalty or life imprisonment.

6 Now, let's assume we have held a penalty hearing
7 and you are in the jury room deciding the penalty question.
8 I will ask you this question: at that time, voting on the
9 penalty, would you automatically vote against the imposition
10 of the death penalty without regard to any evidence that might
11 be developed at the trial of this case before you?

12 A No.

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Q Thank you.

Now, I will ask you another question.

Do you know of any reason at all that you could not be fair and impartial if you are selected to try this case?

A No.

Q Thank you.

Now, one more question that is substantially the same.

Do you know of any reason, any facts, situations that could arise while you are a juror during the trial of this case that would upset you or disturb you emotionally or in any fashion so that you couldn't give your full attention to this case?

A No.

THE COURT: Thank you.

The defendant may inquire.

MR. WEEDMAN: Thank you, your Honor.

Q Mr. Yousling, may I ask you what you do for a living?

A I am retired.

Q What did you do before you retired?

A I was a bank official.

Q May I ask you which bank that was, please?

A Security-Pacific National Bank, now. It wasn't -- The Security First National Bank at that time.

Q I see. Have you had prior criminal jury experience?

A No, I have not.

Q Mr. Yousling, have you any close friends or

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1 relatives who are in law enforcement?

2 A None.

3 Q With respect to the matter of the death penalty,
4 is your feeling about the death penalty such that you would
5 automatically impose the death penalty if it ever got to that
6 point following a first degree murder conviction without
7 reference to any other evidence?

8 A No.

9 Q And what you are telling us then, as I understand
10 it, is that you have an open mind as far as penalty is
11 concerned?

12 A That's correct.

13 Q You will wait to hear the evidence, obviously?

14 A (Nodding head affirmatively.)

15 Q Have you formed any opinion, based on anything you
16 may have read or heard or seen or discussed about the Charles
17 Manson family?

18 A Not that would have any effect on this case.

19 Q All right.

20 Are you sure then, Mr. Yousling, --

21 A Yousling.

22 Q Yousling. I am sorry. Thank you.

23 A Right.

24 Q Thank you. Is it Y-o-u-s-l-i-n-g?

25 A That's right.

26 Q You pronounced it Yousling?

27 A Correct.

28 Q Mr. Yousling, is there anything about any opinion,

1 however you may have formed, that you feel that you would have
2 to consciously put out of your mind?

3 In other words, do you think it would be a problem
4 for you in this case?

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

6 Q In other words, can we be satisfied, Mr. Yousling,
7 that if you are selected as a juror here that you are going to
8 decide this case based on what you, yourself, learn in this
9 courtroom?

10 A Right.

11 Q And not on anything else?

12 A That's correct.

13 Q All right.

14 And that will be true, will it not, sir, even
15 though this may prove, after some considerable deliberation, to
16 be a close case in your own mind?

17 You are still not going to reach outside to
18 something that is not properly given to you --

19 A No.

20 Q -- in this courtroom in order to make up your mind?

21 A No.

22 Q Finally, if you are not satisfied that the People
23 have met their burden of proof, you are not satisfied beyond a
24 reasonable doubt and to a moral certainty that my client is
25 guilty I take it that you will acquit him?

26 A I would.

27 Q You don't feel then that this is just a formality,
28 this trial, and there is an inevitable result at the end of the

1 trial?

2 A No.

3 Q So as you sit there now this matter could just as
4 well result in an acquittal. It could just as well result in
5 guilty?

6 A That's right.

7 Q All right, sir. Is there anything at all about this
8 case that makes you feel that you could not act impartially?

9 A No.

10 Q Act as the kind of third party here, if you will?

11 A No.

12 MR. WEEDMAN: For both sides?

13 All right, sir. Thank you, sir.

14 THE COURT: People.

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1 THE COURT: People.

2 MR. KATZ: Yes.

3 Q Mr. Yousling, what general area of the county do
4 you reside in?

5 A Downtown, central.

6 Q And is there a Mrs. Yousling?

7 A No.

8 Q Have you given some thought to the death penalty
9 prior to being called for jury duty?

10 A I have, several times.

11 Q And have you ever read any literature concerning the
12 pros and cons of capital punishment?

13 A No.

14 Q Have you formed any opinions one way or the other
15 regarding capital punishment?

16 A Yes, I have an opinion.

17 Q And is that opinion opposed to capital punishment
18 in general?

19 A Well, I would say that if I were to vote on it I
20 would vote against it.

21 Q But you recognize, nevertheless, that it is permitted
22 under the law of this State, and I take it --

23 A That's right.

24 Q -- and in that connection you won't argue the
25 propriety or impropriety of capital punishment in general; is
26 that correct?

27 A I would follow the law.

28 Q Now, you understand in connection with following the

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1 law, the State -- that is, through the legislature -- will
2 not tell you that this case, for example, warrants the imposi-
3 tion of the death penalty; rather, the State leaves it up
4 to you to determine the proper penalty in this case, should
5 you reach that issue.

6 You appreciate that?

7 A It defines what would be enforceable under the
8 capital, wouldn't it -- the law, I mean?

9 Q All it does, Mr. Yousling, is tell you this, that
10 upon return of a first degree murder verdict there would be
11 two permissible --

12 A I have that right to determine in my own mind
13 what I should -- the decision I should make.

14 Q Exactly, and it is up to you in your sole and
15 absolute discretion.

16 Now, you will agree with me in that connection,
17 if you were of a mind, of a deep-seated belief concerning
18 capital punishment, and assuming it is against capital punish-
19 ment and the right of the State to take a life, and because of
20 those beliefs you would never vote the death penalty, we
21 could never get a fair trial on that issue; isn't that correct?

22 A That's correct.

23 Q And you understand that one of the things the
24 People will be asking for in connection with this trial,
25 assuming we reach that phase of the trial, will be the return
26 of the death penalty verdict.

27 You understand that?

28 A That's right.

1 Q Now, as you sit here now, do you have a state of
2 mind, because of your belief in opposition to capital punish-
3 ment, that you could not give the People a fair trial on the
4 issue of penalty?

5 A No.

6 Q And do you believe that there are certain circum-
7 stances in which you, yourself, could personally participate
8 in the death penalty verdict?

9 A Yes, if I am convinced that that is the proper
10 application, I would.

11 Q I see; and, in other words, you are telling us
12 that you would not automatically vote for life --

13 A Yes.

14 Q -- each and every time, upon the return of a first
15 degree murder verdict, are you?

16 A No.

17 Q Nor would you vote for death under those same cir-
18 cumstances each and every time; is that correct?

19 A No, I would not.

20 Q Do you have an open mind with respect to the proper
21 penalty in this case should that issue be submitted to you?

22 A Do I have an open mind? Yes, I have an open mind.

23 Q All right.

24 I take it you would be willing to listen to all
25 these circumstances surrounding the commission of this crime
26 and if it was proved beyond a reasonable doubt and to a moral
27 certainty you would take that into consideration along with
28 whatever evidence which may or may not be adduced during the

1 penalty phase, after which you would be willing to discuss
2 this case with the other 11 jurors; is that correct?

3 A I would.

4 Q And if you felt then in your heart and your mind
5 and your conscience this case -- that is, the case before you --
6 warranted the death penalty, would you vote the death penalty?

7 A I would.

8 Q And you realize you'd be required to come right
9 back into that seat that you are sitting in, in open court
10 and in full view of the defendant, tell the judge that your
11 verdict is one of death.

12 You understand that?

13 A I do.

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1 Q And I am sure you agree with me that is a very
2 unpleasant and distasteful task, is it not?

3 A Yes.

4 Q Do you agree that this may, perhaps, be the most
5 important decision you may ever be called upon to make in your
6 life?

7 A It would be an important decision, I'll say that.

8 Q And certainly you wouldn't take it lightly, would
9 you?

10 A No.

11 Q And I take it that in that connection you would
12 give both sides the benefit of some very deep and thoughtful
13 consideration with respect to all of the evidence; is that
14 right?

15 A That's right.

16 Q And both sides can count on the fact that we would
17 have the benefit of your individual opinion; is that correct,
18 sir?

19 A That's correct.

20 Q Now, with reference to circumstantial evidence, you
21 have heard those questions that I have propounded to the other
22 prospective members of the panel.

23 Would your answers be substantially the same?

24 A Yes, I'd accept it, I would accept circumstantial
25 evidence for consideration.

26 Q I see; and is it your view that the State -- well,
27 let me rephrase it, if I may.

28 Do you have any quarrel with the rule of law which

14a-2 1 permits a person to be convicted of murder in the first degree
2 based wholly on circumstantial evidence?

3 A Not as long as I was convinced of his guilt.

4 Q Right; and when you say "convinced," I take it you
5 are not going to require us, merely because this is a
6 circumstantial evidence case, to sustain a burden greater than
7 that which we are required to sustain in law, would you?

8 A I would require beyond a reasonable doubt.

9 Q Well, I certainly hope you will do that.

10 A I would have to be convinced, myself, at least,
11 in my own mind.

12 Q And you understand no one can really tell you when
13 you, yourself, are convinced beyond a reasonable doubt and to
14 a moral certainty; that is going to be for you to make a
15 determination, as the sole judge --

16 A That's right.

17 Q -- of the evidence in this case; isn't that right?

18 But, at the same time, you are not going to
19 require us to sustain that degree of proof which excludes all
20 possibility of error and demonstrates that degree of proof in
21 which there is no possibility whatsoever for error; I take it
22 you won't hold us to that kind of --

23 A I'll hold it until I am convinced, myself.

24 Q And that's in accordance with the instructions of
25 law?

26 A Right.

27 Q And you have heard the other general questions that
28 I have asked the other prospective members of the panel.

1 Will your answers be substantially the same?

2 A Substantially.

3 MR. KATZ: Thank you, sir.

4 Pass for cause.

5 THE COURT: Thank you.

6 Whose last peremptory was it?

7 MR. KATZ: It was mine, and it is now, I believe, the
8 defense.

9 THE COURT: Any peremptory by the defense?

10 MR. WEEDMAN: May I have just a moment, your Honor?

11 THE COURT: Yes, sir.

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(Short pause.)

MR. WEEDMAN: Your Honor, we will thank and excuse Mr. Bailey.

THE COURT: Very well.

MR. WEEDMAN: He has been here a long time, your Honor.

THE COURT: All right.

THE CLERK: Manuela Knecht, K-n-e-c-h-t.

MRS. KNECHT: Knecht.

THE CLERK: Knecht, K-n-e-c-h-t. Mrs.

MR. KATZ: Knecht.

MRS. MANUELA KNECHT

BY THE COURT:

Q Well, let's see where we are here. Just one minute, lady.

(Short pause.)

Q Now, lady, you are one of the new jurors that were sent in, in the second assignment of jurors that came in the other day?

A Yes, I am.

Q Have you heard everything that I have said to the jurors in this case?

You have been in the courtroom and heard everything I have said?

A Yes, I have.

Q Did you hear me read the charge that has been filed against the defendant?

A I did.

1 Q I want you to assume you have been sworn. You
2 are a juror in this case and the case has been tried, and the
3 case goes to the jury for decision.

4 The jury may make a finding of not guilty and if
5 that is the situation the case is fully concluded.

6 If the jury makes a finding of guilty then the
7 jury must set the degree of the crime.

8 You understand that?

9 A Yes, I do.

10 Q First degree or second degree. If the jury makes
11 a finding of guilty second degree the matter is all concluded
12 so far as the jury is concerned.

13 You understand that?

14 A Yes, I understand.

15 Q If the jury makes a finding of guilty and sets the
16 degree as first degree then there must be held a penalty hearing.
17 And then after the penalty hearing the jury makes a finding,
18 decides on a penalty of either the death penalty or life
19 imprisonment.

20 Is that clear to you?

21 A Yes, it is.

22 Q Now, if you will assume that we have held a penalty
23 hearing, you are in the jury room deciding on the question of
24 either -- of the death penalty or life imprisonment. I will
25 ask you this question.

26 At that time would you automatically vote against
27 the imposition of the death penalty without regard to any
28 evidence that might be developed at the trial of this case?

1 A No, I would not.

2 Q The answer is no?

3 A No.

4 Q All right.

5 Now, I will ask you this question.

6 Do you know of any reason that you could not be
7 fair and impartial to both the People and the defendant if
8 you are selected to try this case?

9 A No.

10 Q Do you know of any fact or situation, a problem
11 that might arise during the trial of this action that could
12 upset you or disturb you or put you in such a mental frame of
13 mind that you couldn't be fair and impartial with your mind
14 open and free from worry during the trial of this case?

15 A The only reason I can think of is that I have a
16 16-year-old boy --

17 THE COURT: Well, try to answer it yes or no.

18 The answer is no?

19 A Yes.

20 Q Do you understand the question?

21 A The answer is yes, I understand the question.

22 Q Under such a situation is there any reason you could
23 not be -- have an open and free mind during the trial of this
24 case?

25 A Yes, there is.

26 THE COURT: All right. You may inquire for cause.

27 MR. WEEDMAN: Yes. Thank you, your Honor.

28 Q Mrs. Knecht, what is that thing that might interfere?

1 A I have a 16-year-old minor at home and I am the
2 head of the household.

3 Q I see. Are you asking to be excused on that basis,
4 Mrs. Knecht?

5 A Well --

6 Q In other words --

7 A If it would hinder my ability to be, you know,
8 to --

9 Q I take it there is no one else to care for your
10 son?

11 A That's right.

12 Q Are you the sole support of your son?

13 A That's right.

14 Q Would the fact of an eight-week-long trial also
15 cause you any financial hardship?

16 A No, it wouldn't.

17 Q Would not?

18 A No.

19 Q May I ask by whom you are employed, if you are
20 employed?

21 A The City of Los Angeles.

22 Q What do you do for the city?

23 A I am executive-secretary in the city administrative
24 office.

25 Q I see.

26 Your 16-year-old son, is he going to summer school
27 at the present time?

28 A No, he is working.

1 Q But it is clear that he resides with you?

2 A Yes.

3 Q Okay. Well, let's see.

4 We anticipate, of course, Mrs. Knecht, that the
5 trial will only occupy the normal working hours during the
6 day. That you would be free of course in the afternoon just
7 as you have been.

8 In light of that observation do you feel that it
9 still would be a problem as far as you are concerned?

10 A It would be no problem. No problem.

11 Q Well, would it be any problem, though, as far as
12 your 16-year-old boy is concerned?

13 A No, it wouldn't.

14 Q So as long as you are not locked up every night
15 with the jury then you feel it would be all right?

16 A Yes, I do.

17 Q As far as caring for your son goes?

18 A Yes.

19 Q All right.

20 I want to be sure about that because neither Mr.
21 Katz nor myself want to in any way disturb your caring for
22 your boy.

23 A I am sure.

24 Q Now, with respect to the matter of your employment
25 for the city, do you have any close friends who are in law
26 enforcement?

27 A No.

28 Q Is there anything about the nature of your employment

1 that you feel might interfere at all with your having an
2 open and objective mind with respect to my client?

3 A No.

4 Q Bearing in mind that the evidence will undoubtedly
5 reflect that my client has a lifestyle substantially different
6 probably than anyone else's in this courtroom, do you feel
7 that that fact alone, standing alone, tends to show that he
8 is guilty of some crime?

9 A No, I don't.

10 Q I take it from your answer then that you will not
11 allow yourself to be influenced by those things which we
12 ordinarily call just plain prejudice?

13 A I will not.

14 Q All right. Should you discover yourself perhaps
15 all too humanly, since we are all swayed by prejudice from
16 time to time -- should you find yourself being pushed or
17 nudged a little bit by such prejudice I take it you will just
18 ignore it, you will set it aside?

19 A I will.

20 Q Have you learned anything at all about the Charles
21 Manson family, anything in that connection that makes you
22 feel that anyone who has been associated with Charles Manson
23 is probably more likely than not to be guilty of a crime?

24 A No.

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1 Q So that you are going to listen to the evidence
2 that comes to you here in this courtroom.

3 Am I correct in that, Mrs. Knecht?

4 A Right.

5 Q Counsel have discussed a number of important
6 instructions with prospective members of the jury and we are
7 assured, by and large, that all of the jurors will follow the
8 court's instructions; and I take it that that's your position,
9 as well?

10 A That's right.

11 Q That is true, I take it, with respect to circum-
12 stantial evidence, as you have undoubtedly heard us talking
13 about it here before?

14 A Yes.

15 Q If you are instructed that you are to view with
16 caution purported statements made by a defendant relative to
17 the crime of which he is accused, will you follow that
18 instruction?

19 A I would.

20 Q I take it from your answer, then, Mrs. Knecht, that
21 you are willing to view such purported or alleged statements
22 by a defendant with caution and not just merely swallow them
23 whole without some critical appraisal of them?

24 A That's right.

25 Q Mrs. Knecht, with respect to the death penalty,
26 would you consider all of the evidence in this case before you
27 even begin to make up your mind about penalty?

28 A Yes, I would.

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1 Q Now, we have talked so much about penalty I am
2 sure it is quite clear to you that we are only talking about it
3 now because this is the only chance we have to talk about it;
4 that this case certainly is not necessarily going to get to
5 that point.

6 You appreciate that, don't you?

7 A Yes, I do.

8 Q And do you feel that merely because Mr. Katz is
9 asking for the death penalty that my client is more apt than
10 not to be guilty?

11 A No, I don't.

12 Q Do you appreciate that in ordinary life affairs,
13 as distinguished from a juror's responsibilities, that it is
14 probably all right to assume where there is smoke there is
15 fire, but that is not the proper way to proceed in the trial
16 of a lawsuit, whether it be a civil case or a criminal case.

17 Do you agree with that?

18 A Yes, I do.

19 Q With respect to circumstantial evidence do you
20 feel that you would be able to assiduously apply not only
21 circumstantial evidence, as such, being as good as direct
22 evidence, but also some of the restrictions that surround the
23 use of circumstantial evidence --

24 A I could.

25 Q -- as, for example, if it is not irreconcilable
26 with any other rational conclusion, you see, then you are not
27 permitted -- you are not permitted to use it against my client,
28 and so on.

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1 I don't wish to get into a technical discussion
2 about this rule of evidence, but it is not just simply a
3 matter of -- not just simply a matter of making a bare
4 inference and then immediately applying it to the guilt of my
5 client.

6 Judge Call, of course, will instruct you very
7 thoroughly in that regard, but I take it as you sit there now
8 you are prepared to learn about the law of circumstantial
9 evidence and you are prepared to use it here --

10 A That's right.

11 Q -- as a good juror?

12 A That's right.

13 Q Have you had prior criminal jury experience?

14 A No.

15 MR. WEEDMAN: We pass for cause.

16 Thank you, your Honor.

17 THE COURT: People.

18 BY MR. KATZ:

19 Q Mrs. Knecht, what general area of the city do you
20 reside?

21 A The central city, central.

22 Q And have you given some thought to the death penalty
23 prior to taking the seat here?

24 A Yes, I have.

25 Q And have you engaged in any discussions with your
26 friends concerning the propriety of capital punishment in the
27 State?

28 A Some, yes.

16-4

1 Q And have you read any literature concerning capital
2 punishment?

3 A No.

4 Q And without telling me your reasons, are you
5 generally opposed to capital punishment in California?

6 A No.

7 Q Do you feel that capital punishment, again without
8 telling me any reasons, because I don't want to get into a
9 philosophical discourse in this area, has some justification
10 under certain circumstances?

11 A Yes, I do.

12 Q And I take it that you can conceive of circumstances
13 in which you, yourself, would be willing to personally
14 participate in the death penalty verdict; is that correct?

15 A Yes.

16 Q And do you recognize the distinction between saying,
17 "Well, I think capital punishment is justified, but let 12
18 other persons do it, I don't want to be involved; that's too
19 difficult a decision for me to have to decide"; and, on the
20 other hand, being called upon here to determine that issue,
21 whether another person will live or die.

22 You recognize the distinction, do you not?

23 A Yes, I do.

16a

16a

1 Q Now, had you asked yourself the question, then,
2 with reference to the latter situation, "My gosh, I may be
3 called upon to determine whether or not another human being
4 will live or die. Can I do it, if I think in my conscience,
5 after consideration of all the evidence, that is a proper
6 verdict?"

7 Have you asked yourself that question?

8 A Yes, I have.

9 Q And what was your answer?

10 A Well, I would certainly go for it if I had all the
11 evidence and was convinced.

12 Q Now, you have heard the example that I have given
13 other prospective members of the panel -- I am trying to get
14 you to imagine, if you will, how difficult a situation you may
15 find yourself in, to determine whether or not you can properly
16 acquit yourself as a juror -- that is, your responsibilities
17 as a juror -- so, if you will, imagine that it is six to eight
18 weeks from this date; you have heard all the evidence in the
19 case; the jury has returned a verdict of murder in the first
20 degree, you have now heard whatever evidence has been offered
21 in the penalty phase and you are now asked for the first time
22 to cast a ballot for life or death; 11 jurors have voted for
23 death and you are the last juror to vote.

24 You know that without your vote there can be no
25 return of the death penalty; however, from a consideration of
26 all the evidence you feel in your conscience and in your sole
27 and absolute discretion that this case warrants the death
28 penalty.

1 Would you have the courage to vote your conscience
2 and vote that verdict?

3 A I would.

4 Q And you realize you would be required to come right
5 back into this courtroom and in full view of the defendant and
6 in open court, and indicate that is your verdict; that it is
7 one of death.

8 You understand that?

9 A Yes.

10 Q And, as we have discussed before, many times, we
11 have to make a lot of decisions in our lives but rarely, if
12 ever, are we called upon to determine whether or not another
13 human being will live or die; is that correct?

14 A That's right.

15 Q Is the kind of responsibility, however reluctantly
16 you may accept it, that you are willing to accept it in
17 discharge of your civic responsibilities if selected as a juror?

18 A Right.

19 Q And in connection with circumstantial evidence do
20 you find it so abhorrent to your sense of fair play or sense of
21 justice to know that a person can be convicted of murder in the
22 first degree based wholly upon circumstantial evidence?

23 A If it is the law, it would apply.

24 Q My question is do you find it so offensive to your
25 sense of fair play; do you think it is unfair that we can
26 convict a person of first degree murder without producing a
27 body, for example?

28 A No.

1 Q And I take it you don't feel it is offensive to
2 your sense of fair play that not only can a person be convicted
3 of murder in the first degree where there is no body, but he
4 can also be convicted under the same circumstances, based
5 wholly upon circumstances, even though there is no eyewitness
6 to the killing; is that correct?

7 A That's correct.

8 Q And I take it you would not require the People to
9 produce an eyewitness to the killing or any part of the body or
10 the body, itself, before voting guilty if our evidence created
11 an abiding conviction to a moral certainty of the truth of the
12 charge; is that correct?

13 A That's correct.

14 Q Now, you indicated that you had a young 16-year old
15 boy. In that connection, do you think that your identification
16 with young people, as such, would cause you to compromise your
17 verdict in the guilt phase; that is, permit yourself to be
18 influenced by the evident youth of the defendant?

19 A I don't believe so.

20 Q All right.

21 Are you sure about that?

22 A Yes.

23 Q All right.

24 In other words, you agree with the principal that
25 whether we are young or old or whatever our age is, we are
26 equally accountable under the law; is that correct?

27 A Right.

28 Q And if this case here unfolds as such and the

1 circumstances evident in this case creates an abiding convic-
2 tion to a moral certainty that the defendant has committed
3 murder in the first degree, I take it you will not withhold
4 voting guilty of murder in the first degree solely because of
5 the evident youth of the defendant; is that right?

6 A That's right.

7 Q And is there any reason why you could not be fair
8 and impartial to both sides?

9 A None.

10 MR. KATZ: Thank you, ma'am.

11 Pass for cause.

12 THE COURT: All right.

13 Now, gentlemen, People's peremptory?

14 MR. KATZ: Yes.

15 People wish to thank and excuse Mr. Yousling.

16 THE COURT: Very well.

17 THE CLERK: Roger W. Evans, E-v-a-n-s.

18
19 ROGER W. EVANS

20 BY THE COURT:

21 Q Now, Mr. Juror, you came in with the second
22 allotment of jurors?

23 A Yes.

24 Q Have you heard everything that I have said to the
25 jurors since you have been in the courtroom?

26 A Yes, I have.

27 Q Did you hear me read the charge that has been
28 filed against the defendant?

1 A Yes.

2 Q I will ask you to assume that you have been
3 selected as a juror in this case and been sworn in to try the
4 case; the case has been tried.

5 Assume the jury goes to the jury room to make a
6 finding of either guilty or not guilty. If the jury -- of
7 course, if the jury finds not guilty, the case is concluded
8 entirely.

9 If the jury finds guilty, then the jury must make
10 a finding of degree, either a first degree or a second degree
11 finding to accompany the verdict of guilty.

12 Now, if the jury makes a finding of murder second
13 degree, the case, again, is concluded so far as the jury is
14 concerned.

15 If the jury makes a finding of first degree murder
16 there is another additional, subsequent hearing held called
17 a penalty hearing and after the penalty hearing the jury
18 makes a decision of penalty, either the death penalty or life
19 imprisonment.

20 Now, if you will assume you are selected as a juror
21 in the case and the penalty hearing has been held and you are
22 in the jury room deciding the question of penalty, you are
23 voting on that question, now I will ask you this question: at
24 such a time would you automatically vote against the imposition
25 of the death penalty without regard to any evidence that might
26 be developed at the trial of this action before you?

27 A No.
28

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Q Thank you. Now, I will ask you another question.

Do you know of any reason that you could not be fair and impartial if you are selected as a juror to try this case?

A No.

Q And then I will ask you this last question which is substantially the same as the last question I just asked you.

Do you know of any reason at all in anything that might occur during the trial of the case that occurred at that time if it should occur, will upset you or disturb you, emotionally upset you so that you couldn't give your undivided attention and an open and free mind as a juror for the trial of this case?

A There is nothing that could divert it. But I do have --

THE COURT: Thank you. That is all I have to ask. Thank you.

The defendant may inquire.

BY MR. WEEDMAN:

Q Mr. Evans, I think you are about to add something to his Honor's question. Does that relate to your -- perhaps to a hardship, or what?

A No, I am ordered to appear in Small Claims Court on the 19th of this month.

I have been downthere to the clerk this morning and asked for a continuance. Whether that will be given I do not know.

17-2

1 Q Well, I do know that ordinarily nonappearance
2 in Small Claims wipes out the case depending on which side
3 you are on. I won't ask you about that.

4 But it could be that you would be out of court
5 if you don't show up. Is there a matter involved in that
6 small claims action which is of considerable financial
7 importance to you, Mr. Evans?

8 A Actually to me it doesn't make any difference.

9 Q Oh.

10 A To the point it is against me, and if it is proven
11 that I am wrong, well then my insurance company will pay.

12 Q Oh, I see. All right.

13 A But the answer is that I'm supposed to be there
14 at that time unless I can get a continuance.

15 Q I see. All right.

16 Mr. Evans, may I ask you what you do for a living?

17 A I am a steelworker.

18 Q Steelworker?

19 A Yes. Fabricated steel.

20 Q I notice a little lapel pin. What is that for?

21 A That is Moose.

22 Q Pardon?

23 A Moose.

24 Q Moose. All right, sir.

25 Have you had any prior criminal jury experience,
26 Mr. Evans?

27 A No, I haven't.

28 Q Is there a Mrs. Evans, and is she employed?

17-3

1 A Yes, she is.

2 Q What does she do?

3 A She is an insurance supervisor, Centinela Valley
4 Community Hospital.

5 Q Have you any close friends or relatives who are
6 in law enforcement?

7 A No.

8 Q Of course that includes the district attorney's
9 office, city attorney's office and so on.

10 A No one.

11 Q All right. With respect to the death penalty
12 Mr. Evans, are you perhaps one of those persons who for many
13 reasons feel that the death penalty isn't used enough with
14 respect to the crime problem in America?

15 A No.

16 Q Okay. Do you feel that with respect to this case
17 if it ever gets to a penalty phase, that you will consider the
18 district attorney's urging the death penalty, whatever evidence
19 he may produce in that connection, and our contentions that
20 obviously my client should not suffer the death penalty, you
21 will consider all those, won't you?

22 A That's right.

23 Q I take it as you sit there now you have no particu-
24 lar preference in the abstract for one penalty as against the
25 other penalty?

26 A That's right.

27 Q Okay. And particularly with respect to this case
28 I take it that you have no notion at all as to what might be

17-4

1 an appropriate penalty in this case?

2 A That's right.

3 Q All right. It is a rather obvious question.

4 As a matter of fact you have no notion at all
5 as to what the purported evidence in this case is at this
6 point?

7 A That's right.

8 Q All right.

9 Mr. Evans, some jurors very often suspect when
10 they come into a courtroom sort of have the notion that they
11 are just a kind of a cog in the wheel of legal machinery and
12 that this is sort of just a kind of formality. Just a sort
13 of step to make it look good on the way to a conviction.

14 I am sure that you do not feel that way, Mr. Evans.

15 A No, I do not.

16 Q I think that you understand quite clearly that
17 the mere fact that the district attorney charges my client
18 and brings him to trial is no evidence of his guilty?

19 A That's right.

20 Q All right.

21 You know that you are here to hear some evidence,
22 obviously. Common sense will tell you that.

23 A Right.

24 Q But you are not going to commit yourself to being
25 pushed or to be bulldozed into a position of being forced to
26 do anything, wouldn't that be a fair statement, Mr. Evans?

27 A Right.

28 Q All right.

1 Have you any quarrel with what you have heard
2 thus far about the law of circumstantial evidence?

3 A No, sir.

4 Q All right.

5 The law being of course that circumstantial evidence
6 is as good as direct evidence. That there are certain restric-
7 tions surrounding the use of circumstantial evidence.

8 I am sure you are prepared to analyze all those
9 matters and go to work for both sides in that regard?

10 A That's right.

11 Q Is there anything you may feel offended by with
12 respect to the work that defense counsel does?

13 A No.

14 Q Okay. So you, I am sure appreciate that not only
15 is every person entitled to their day in court but they are
16 entitled to an active defense?

17 A Right.

18 Q All right.

19 If you hear me objecting to certain portions of
20 proffered evidence you will understand that I am doing my
21 job as my training and my experience teaches me to defend my
22 client's rights?

23 A Right.

24 Q Just like I would for anyone that's accused?

25 A Yes, sir.

26 Q I am sure you appreciate that the district attorney's
27 office brings many matters before juries and some of which
28 succeed in convictions and some of which do not.

17-6

1 That wouldn't surprise you, that the district
2 attorney's office loses cases, would it, Mr. Evans?

3 A No, sir.

4 Q All right.

5 Mr. Evans, if during the course of this trial you
6 find yourself in even violent disagreement with my client's
7 lifestyle you might say to yourself, "Why? He is just another
8 one of those hippies."

9 Would you permit that alone to convict my client?

10 A No, sir.

11 Q Okay. In other words, my client is as entitled
12 to a fair trial here as anybody else. That is the American
13 way of doing things, isn't it, Mr. Evans?

14 A Right.

15 Q Okay. And finally I am sure that you appreciate
16 very well that this is not a personality contest between the
17 handsome Mr. Katz and myself. That this is a matter which
18 is going for your consideration, to come from up there in
19 that witness box and from whatever exhibits may be received
20 in evidence.

21 This case then is not going to come really from
22 Mr. Katz and it is not really going to come from me. We are
23 merely conduits, if you will, for the evidence in this case.

24 A Right.

25 Q And so you are not going to be rooting for either
26 side, and you are not going to be looking for what I have
27 termed before are hidden clues as to the way you should arrive
28 at a verdict?

29 A No, sir.

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Q You are going to take it from there and from the evidence and let the chips fall where they may?

A Right.

MR. WEEDMAN: All right. Thank you, Mr. Evans.

THE COURT: People.

MR. KATZ: Thank you, your Honor.

1 Q Mr. Evans, I warned the jury panel at the
2 outset that one would find Mr. Weedman quite charming.

3 MR. WEEDMAN: Not any more.

4 Q BY MR. KATZ: And as a result they might be
5 influenced or at least tempted to rule in favor of the defense
6 because Mr. Weedman is a good guy.

7 And I take it that you understand that whether
8 you like Mr. Weedman or not, or you like myself or not, that
9 is not the issue. The issue is the ascertainment of the truth,
10 isn't that right?

11 A That's right.

12 Q And I apologize for the haircut I got yesterday.
13 I don't think I should have gotten it.

14 But in any event we are not making light of it.
15 What we are trying to suggest is this: that you are going to
16 see a lot of witnesses and perhaps they belong to a lifestyle
17 we would not care to emulate. We may not approve of it. We
18 may not approve of the defendant's lifestyle as such.

19 But again unless it is relevant to the issue in
20 question before the trier of facts, which would be you,
21 you are not going to consider it, isn't that fair?

22 A That is fair.

23 Q I take it you have asked yourself the question as to ^{Godent}
24 the other prospective members of the panel as to whether or not
25 if called upon to vote death or life, you could meet that
26 issue squarely on based upon your application of common sense,
27 based upon the application of your conscience and after a
28 consideration of all the evidence in this case; is that correct?

1 A That is correct.

2 Q You ^{properly} probably answered the question in the
3 affirmative, namely that if in your conscience the evidence
4 warranted the return of a capital verdict you could bring
5 yourself to vote that; is that correct?

6 A That's correct.

7 Q And with reference to circumstantial evidence,
8 Mr. Evans, do you have any quarrel with the rulings of law
9 concerning circumstantial evidence which have been discussed
10 in your presence?

11 A No, I do not.

12 Q All right. I take it you wouldn't require the
13 People to produce a body or an eyewitness to the killing
14 before voting guilty so long as we met our burden of proof;
15 isn't that correct?

16 A That's correct.

17 Q As Mr. Weedman so correctly stated and his Honor
18 so often stated, direct and circumstantial evidence are treated
19 equally under the law and each is entitled to whatever
20 convincing weight it may carry; you appreciate that?

21 A Yes.

22 Q So that we may predicate a conviction, whether it
23 is for murder, petty theft, arson, rape, what have you, based
24 wholly on circumstantial evidence; you appreciate that?

25 A Yes.

26 Q Is there any reason you can think of as you sit
27 here now why you couldn't give both sides a fair trial?

28 A No, there is not.

1 MR. KATZ: Thank you, sir.

2 Pass for cause,

3 THE COURT: Thank you.

4 Now, I believe it is defendant's peremptory,
5 gentlemen.

6 MR. WEEDMAN: Yes, your Honor.

7 We will thank and excuse Mr. Knecht.

8 THE COURT: All right.

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THE CLERK: Mrs. Judy H. Shima, S-h-i-m-a.

JUDY H. SHIMA

BY THE COURT:

Q Now, lady, you came here with the second group of jurors; isn't that right?

A Yes, sir.

Q Have you heard everything I have said since you arrived in the courtroom?

A Yes, I have.

Q Did you hear me read the charge that has been filed against the defendant?

A Yes, sir.

Q Now, I will ask you please to assume that you have been selected as a juror in this case and sworn to act as a juror and the case has been tried and you have been sent to the jury room to decide the case. At that time the jury could make a finding of not guilty, and would conclude the case entirely.

The jury also, or on the other hand, could make a finding of guilty as charged. If the jury finds the defendant guilty, then the jury must set the degree; it would be a situation of murder first degree or murder second degree, which the jury would make that finding.

If the jury makes a finding of second degree murder, then the jury is discharged, because that is the end of their duties.

If, however, the jury makes a finding of murder first degree, then another subsequent, additional hearing must

18-2 1 be held, at the end or conclusion of which the jury finds on
2 the penalty. The penalty would be either the death penalty
3 or life in prison; that's in the hands of the jury.

4 Now, if you will assume, please, that we have held
5 a penalty hearing and the jury has gone back to the jury room
6 to decide on penalty and you are voting or about to vote on
7 penalty, now I will ask you this question: at that time would
8 you automatically vote against the imposition of the death
9 penalty without regard to any evidence that might be developed
10 at the trial of this case before you?

11 A Yes, sir, I would.

12 Q The answer is --

13 A Yes.

14 Q -- you would?

15 All right, I will ask you again: is there any
16 question at all in your mind that you would absolutely and
17 automatically vote against the death penalty?

18 That is positive in your mind?

19 A Yes, sir.

20 THE COURT: I think this lady has presented for cause
21 disqualification to excuse.

22 MR. KATZ: Yes, your Honor; it appears clear.

23 THE COURT: Very well.

24 I will excuse you, thank you, lady.

25 I will make a finding that for cause exists for
26 the excusing of the juror under the Witherspoon case as well as
27 under sections 1073.2 and 1074.8 of the Penal Code.

28 That is the finding.

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THE CLERK: William Thomas, Jr.

WILLIAM THOMAS, JR.

BY THE COURT:

Q Now, gentleman, turning to you, the new juror, have you heard everything that I have said since you have come here with the second group of jurors?

A Yes, I have.

Q And you have heard me read the charge that has been filed against the defendant?

A Yes.

Q I will ask you to please assume you have been accepted and sworn in to try this case as a juror, the case has been tried and the jury has gone out to make a finding of guilty or not guilty.

Now, at that time the jury could make a finding of not guilty and that would conclude the case entirely. The jury could make a finding of guilty and if the jury makes a finding of guilty then it must make a finding of degree, guilty first degree, guilty second degree; that's up to the jury.

If the jury makes a finding of guilty second degree murder, then at that time the jury is excused because there is no further work for the jury.

However, if the jury makes a finding of guilty first degree murder, then the court holds a further hearing and at the conclusion or end of the further hearing, which is called the penalty hearing, the jury goes back to the jury room and finds on the penalty, which would have to be either

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1 a finding of the death penalty or life imprisonment.

2 Now, will you please assume that we have held a
3 penalty hearing, you are back in the jury room voting on the
4 question of penalty and I will ask you this question: at that
5 time would you automatically vote against the imposition of the
6 death penalty without regard to any evidence that might be
7 developed at the trial of this case?

8 A Yes, I would.

9 Q The answer is yes, you would; that is your answer?

10 A That is correct.

11 Q I will ask you again in a little more positive
12 fashion: is there any question at all in your mind that you
13 would vote against the death penalty at such a time?

14 A No, there is not.

15 THE COURT: Thank you.

16 Gentlemen, I think that --

17 MR. KATZ: Yes, your Honor.

18 THE COURT: Cause exists here. I will excuse you and
19 thank you very much.

20 I make a finding that the for cause exists for the
21 excusing of the juror under the Witherspoon case and also under
22 sections 1073, subdivision 2 and 1074, subdivision 8 of the
23 Penal Code.

24 You can call another juror, Mr. Clerk.

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THE CLERK: F. Royer, R-o-y-e-r, Umsted; U-m-s-t-e-d.

First name is spelled initial F; middle name is R-o-y-e-r.

THE COURT: Now we do have one juror left.

THE CLERK: We do have one.

THE COURT: Tell them to send in some more.

F. ROYER UMSTED

BY THE COURT:

Q Now, you came in with the second group of jurors; isn't that right?

A Yes, sir.

Q And you have heard everything I have said since you have been here, since the second grouping of jurors arrived in the courtroom?

A Yes, sir.

Q Did you hear me read the charge that has been filed against the defendant?

A Yes, sir.

Q I will ask you to assume that you have been selected as a juror in this case, sworn to try the case as a juror and we have tried the case and you have gone to the jury room with the jurors for a finding of either guilty or not guilty.

Now, if the jury should make a finding of not guilty the case at that moment is concluded entirely, there will be no further steps of any kind, the case is over.

On the other hand, if the jury makes a finding of guilty as charged, then the jury would have to make a finding

1 of degree, either first degree or second degree.

2 Now, if the jury makes a finding of second degree,
3 then the jury is discharged, the case is concluded at that
4 juncture, murder second degree.

5 On the other hand, if the jury makes a finding
6 of first degree murder then a further penalty hearing would be
7 held and at the conclusion of the penalty hearing the jury
8 would go back to the jury room to decide on penalty, which
9 would either be the death penalty or life imprisonment.

10 Now, if you will assume that we have held a penalty
11 hearing and the jury is voting on the question of penalty,
12 I will ask you this question: at that time would you automati-
13 cally vote against the imposition of the death penalty without
14 regard to any evidence that might be developed at the trial of
15 this case?

16 A Yes, sir.

17 Q The answer is "Yes"?

18 A Yes, sir.

19 Q I will ask you in a more positive form: is there
20 any question at all in your mind that you would vote against the
21 imposition of the death penalty in such an instance as this?

22 A No.

23 THE COURT: Thank you.

24 I think that there is cause there, gentlemen?

25 MR. KATZ: Yes, I agree, your Honor.

26 THE COURT: Without going further in the matter, I think.

27 I excuse you.

28 I find that cause exists under the Witherspoon case

1 as well as under the code section, 1073, subdivision 2,
2 and 1074, subdivision 8.

3 Now we are down where we have one juror left.
4 I have called for another complement of jurors.

5 I guess we will take a short recess until they
6 come.

7 I will ask the jury not to discuss the case or
8 come to any opinions. We will proceed in a few minutes.
9 Thank you.

10 (Recess.)

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(Conference in chambers with both
counsel and the defendant not
reported.)

THE COURT: Now, gentlemen, in People against Grogan we
have new jurors here in the courtroom.

And I might say, ladies and gentlemen, I am
prepared to call a new juror from among you.

Well, I think we can get to that point. Let's
swear the jurors to answer questions.

THE CLERK: Will the prospective jurors please stand and
raise your right hands to be sworn.

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

(The prospective jurors answer in the
affirmative.)

THE CLERK: Thank you. Would you be seated, please.

THE COURT: All right.

THE CLERK: Called as prospective juror No. 10, please,
Carl H. Jaeger, J-a-e-g-e-r.

THE COURT: Thank you.

You be seated:

Now, I am talking to the new juror whose name has
just been called and I am talking to every one of you folks in
the courtroom who are jurors.

It will become necessary for me to speak to the
new juror in the jury box as well as every one of you folks in

19-2

1 the courtroom here, advising you as to the nature of this
2 action, the defendant, the lawyer for the defendant, the lawyer
3 for the People, and go over many problems, advise you as to
4 certain fundamental principles of law and other matters
5 pertaining to this action, as well as asking you a number of
6 questions in addition to the statements that I will be giving
7 to you. That will take a little time. It will take at least,
8 I think, 40 minutes.

9 I don't talk too fast. I speak slowly and that
10 adds a little time to it. I do it deliberately, I might say,
11 not that I have to. I speak slowly by nature.

12 Now, to attempt to do that now will run us way after
13 the closing time. And the hours of the court are from 9:30 in
14 the morning till 12 o'clock noon. And unless some emergency
15 or I have to change the hours, from 2 o'clock in the afternoon
16 until 4 o'clock in the afternoon. Those are the court hours.

17 And I might say -- and I don't know if I have told
18 this to our jurors that are in the jury box, but unless there
19 is some kind of an emergency, you may rely very religiously on
20 those hours.

21 I try to start as promptly as I can. Sometimes we
22 can't do it. The district attorney and defense counsel for
23 reasons that they can't always control or can't control, may
24 for a few moments have to be in some other court over in the
25 criminal court building at Temple and Broadway. And they advise
26 me of it. They may be held up.

27 But you don't need to assume they will be held up.
28 They are very prompt, both of them and very diligent. I am

1 saying the situation could arise.

2 But I am asking all jurors, and I will be with you,
3 I will be here ready to open court at 9:30. As a matter of
4 fact I am here a long time prior to 9:30.

5 But I ask you to be here at 9:30. If we have to
6 wait I will be waiting along with you. I am not saying you
7 have to assume you have to wait. It is simply a contingency
8 that might arise.

9 So I will ask you then, we will go over until 9:30
10 tomorrow morning. I will ask all jurors in the courtroom,
11 please be here promptly at 9:30 tomorrow.

12 And while I have not discussed the case with you
13 folks in the back of the courtroom, do not discuss the case
14 or anything about it or discuss it with anyone or amongst
15 yourselves, or any person or persons. Come to no conclusion
16 with respect thereto. And if you will, please, return right
17 here, ladies and gentlemen, right here to this courtroom,
18 Department 52, so that we may start promptly at 9:30 tomorrow.

19 We will recess till 9:30 tomorrow. Thank you very
20 much.

21 Thank you, gentlemen.

22 (An adjournment was taken to Friday,
23 July 9, 1971, at 9:30 a.m.)
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