

DISTRICT ATTORNEY
SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff-Respondent,

vs.

CHARLES MANSON, SUSAN ATKINS, LESLIE
VAN HOUTEN AND PATRICIA KRENWINKEL,

Defendants-Appellants.

NO.

1003

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HON. CHARLES H. OLDER, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

APPEARANCES

| | |
|---|---|
| For Plaintiff-Respondent: | THE STATE ATTORNEY GENERAL 600 State Building Los Angeles, California 90012 |
| For Defendant-Appellant Charles Manson: | IRVING KANAREK, Esq. |
| For Defendant-Appellant Susan Atkins: | DAYE SHINN, Esq. |
| For Defendant-Appellant Leslie Van Houten: | LESLIE VAN HOUTEN In Propria Persona |
| For Defendant-Appellant Patricia Krenwinkel: | PATRICIA KRENWINKEL In Propria Persona |

VOLUME 3

Pages 601 to 900

J. Hollombe, CSR
Murray Mehlman, CSR
Official Reporters
211 West Temple Street
Los Angeles, California 90012

1 MRS. LEHRMAN: Yes, I could not impose the death
2 penalty.

3 THE COURT: Have you thought about this matter for
4 some time before this case?

5 MRS. LEHRMAN: Yes. While I have been sitting here.

6 THE COURT: I am sorry, I didn't hear you.

7 MRS. LEHRMAN: While I have been within the jury panel.

8 THE COURT: Are your beliefs such that regardless of
9 what the evidence in the case shows you would automatically
10 refuse to impose the death penalty?

11 MRS. LEHRMAN: I'd feel like I cannot kill nor ask
12 anyone else to kill for me.

13 THE COURT: Well, I think I know what you are saying
14 but I want to be absolutely certain.

15 MRS. LEHRMAN: I could not ask anyone in any manner
16 to kill for me because I, myself, cannot kill. I cannot
17 and to me, ordering the death penalty, would literally be
18 killing.

13-1

1 Q (BY THE COURT:) Well, I understand that you
2 are opposed to the death penalty.

3 A That's right, sir.

4 Q But I have to go beyond that. There are people who
5 may not favor capital punishment but who are nevertheless
6 willing to consider it, and are unwilling to state in
7 advance that they would automatically refuse to impose
8 it regardless of the evidence.

9 This is what I am trying to find out.

10 A I couldn't -- I couldn't -- I couldn't vote the
11 death penalty.

12 Q Under any circumstances?

13 A Under any circumstances.

14 Q In other words, your mind is made up now?

15 A Yes, sir.

16 Q And so far as you are concerned, nothing
17 could change it?

18 A Nothing.

19 THE COURT: Do counsel wish to inquire?

20 MR. FITZGERALD: No, your Honor.

21 MR. REIMER: Pass, your Honor.

22 MR. KANAREK: Your Honor, in view of the
23 representations that the District Attorney's Office has
24 made, I would object to this lady being excused, because
25 this may become academic, her viewpoint, and it is my
26 motion that your Honor not excuse her in view of what the

1 District Attorney has stated.

2 THE COURT: Well, you will be excused, Mrs. Lehrman,
3 thank you very much.

4 MRS. LEHRMAN: Thank you.

5 THE CLERK: Erwin N. Virgil.

6 (Whereupon, Erwin N. Virgil took seat No. 12 in
7 the jury box.)

8
9 VOIR DIRE EXAMINATION OF ERWIN N. VIRGIL

10 BY THE COURT:

11 Q Mr. Virgil, have you heard and understood
12 everything that has been said in court since you came into
13 the case?

14 A Yes.

15 Q Would it be an undue hardship for you to serve
16 as a juror in this case, sir?

17 A My wife is an out-patient at the USC County
18 Hospital, so it might involve hiring a nurse.

19 Q Well, is this something that you might know
20 about in the next few days?

21 A Of course this is a condition she has had for
22 the past four years, your Honor, and she is an out-patient.

23 But she needs someone there to watch her to
24 see that she takes her medication, and I usually do that
25 at night and morning.

26 Q Are you the only one there to do that?

1 A I have two sons at home.

2 Q How old are they?

3 A One is 20; one is 18.

4 Q Are you asking to be excused because of the
5 situation?

6 A Not particularly so. It would be a hardship
7 to serve, your Honor, but I am not asking to be excused
8 for that particular reason.

9 But it would create a problem.

10 Q Well, I can see that it would. However, if you
11 are willing to serve, why, we can go on to something else.

12 A Well, I will have to check with my employer
13 in regards to being absent from the job so long.

14 Q By whom are you employed, sir?

15 A The City of Los Angeles Building Department.

16 Q Well, I don't think that would pose any
17 problem, unless you have some special duties that could not
18 be performed by someone else.

19 A They could be.

20 Q All right, sir, then I am going to ask you
21 the same two questions regarding the death penalty --

22 MR. KANAREK: Your Honor, if I may, we have arrived
23 at a stipulation, if it is agreeable with the Court, as
24 to this prospective juror.

25 MR. STOVITZ: Yes, your Honor, I checked with each
26 counsel. Due to the undue medical hardship of his wife --

1 THE COURT: Well, Mr. Virgil is not asking to be
2 excused. You have an offer to be excused, Mr. Virgil, by
3 counsel, if you want to be excused, but I am not going to
4 ask you to do it if you don't want to be.

5 MR. VIRGIL: I would greatly appreciate it, your
6 Honor.

7 THE COURT: Being excused?

8 MR. VIRGIL: Yes.

9 THE COURT: All right, sir, then you are excused by
10 stipulation of all counsel.

11 Is that right?

12 MR. KANAREK: That's correct.

13 MR. FITZGERALD: So stipulate.

14 MR. REINER: So stipulate.

15 MR. SHINN: So stipulate.

16 THE COURT: Thank you very much, Mr. Virgil.

17 THE CLERK: Mrs. Louella Thomasson, L-o-u-e-l-l-a,
18 T-h-o-m-a-s-s-o-n.

19 (Whereupon, Mrs. Louella Thomasson takes seat
20 No. 12 in the jury box.)

21
22 VOIR DIRE EXAMINATION OF MRS. LOUELLA THOMASSON
23 BY THE COURT:

24 Q Mrs. Thomasson, have you heard and understood
25 everything that has been said here in court since you
26 entered the case?

1 A Yes, I have.

2 Q Is there anything about this case or its
3 possible duration that would make this an undue hardship
4 as far as you are concerned?

5 A Yes, it would.

6 Q What is your situation?

7 A My husband and I just retired in March. He
8 worked 44 years at the same place, and we were expecting
9 to spend some time together, and after 65, six months is a
10 big hunk out of your life.

11 Q Your husband is retired now?

12 A Yes, he has high blood pressure and needs a
13 little bit of fussing over.

14 Q A little bit of what?

15 A Fussing over.

16 THE COURT: All right.

17 MR. FITZGERALD: We will stipulate.

18 MR. STOVITZ: So stipulated.

19 (All counsel stipulate.)

20 THE COURT: Very well, all of the attorneys have
21 agreed that you may be excused if you like, Mrs. Thomasson.
22 So thank you very much.

23 MRS. THOMASSON: I appreciate it. Thank you.

24 THE CLERK: Miss Louise M. Nevins. L-o-u-i-s-e,
25 N-e-v-i-n-s.

26 (Whereupon, Miss Louise M. Nevins takes seat

1 No. 12 in the jury box.)

2
3 VOIR DIRE EXAMINATION OF MISS LOUISE M. NEVINS
4 BY THE COURT:

5 Q Miss Nevins, have you heard and understood
6 everything that has been said in court since you came into
7 the case?

8 A Yes, I have.

9 Q Would serving on a jury in this case constitute
10 an undue hardship as far as you are concerned?

11 A Yes, it would, your Honor.

12 Q Why is that?

13 A I help to nurse a sister of mine who is
14 totally disabled and blind.

15 We will have to hire additional nurses if I
16 could not help.

17 THE COURT: I see.

18 MR. KANAREK: I will stipulate, your Honor.

19 (All defense counsel and both Deputies District
20 Attorney stipulate.)

21 THE COURT: By stipulation of all counsel, then,
22 Miss Nevins, you are excused, thank you.

23 MISS NEVINS: Thank you.
24
25
26

13A-1. 1

THE CLERK: Mrs. Edna M. McGrew; E-d-n-a.

2 M-c-G-r-e-w.

3 (Mrs. Edna M. McGrew takes seat No. 12

4 in the jury box.)

5 THE COURT: Mrs. McGrew, have you heard and
6 understood everything that has been said in court since
7 you came into the case?

8 A Yes, I have.

9 Q BY THE COURT: Are you willing to serve in
10 this case or would it constitute an undue hardship as
11 far as you are concerned?

12 A I am not willing to serve.

13 Q I beg your pardon?

14 A I am not willing to serve.

15 Q You are not willing to serve? Why?

16 A There are several reasons, but I can give you
17 a good one:18 I have to go to the doctor every week and
19 get shots for a blood condition;20 And I don't want my husband to find out he
21 can get along without me that long.22 Q I like the second reason better than the
23 first.

24 A I do too.

25 Q Is the medical problem something that will
26 go on for some time?

13a2.

1 A Well, it will.

2 Q Has this been going on for some time?

3 A Yes, since January.

4 Q That requires your presence at a doctor's
5 office?

6 A Once a week, yes.

7 MR. FITZGERALD: We will stipulate.

8 MR. BUGLIOSI: So stipulated.

9 THE COURT: On stipulation of all counsel, then,
10 Mrs. McGraw, you are excused.

11 MRS. MC GRAW: Thank you very much.

12 THE CLERK: Leonard J. Livingston. L-e-o-n-a-r-d.
13 L-i-v-i-n-g-s-t-o-n.

14 (Leonard J. Livingston takes seat No. 12 in
15 the jury box.)

16
17 VOIR DIRE EXAMINATION OF MR. LIVINGSTON
18 BY THE COURT:

19 Q Mr. Livingston, have you heard and understood
20 everything that has been said in court since you came into
21 the case?

22 A Yes, I have.

23 Q Are you willing to serve as a juror in this
24 case if you are selected?

25 A I was notified Wednesday evening that my
26 employment will be terminated as of the 31st of July.

13a3.

1 It would be necessary for me to search for
2 other employment.

3 The entire staff of the Los Angeles office
4 of the firm I work for is being discontinued.

5 Q What company is that?

6 A Engineering Management, Incorporated. They
7 are a San Francisco based firm, and they are closing the
8 Los Angeles office at that time.

9 THE COURT: I see.

10 MR. KANAREK: Stipulate, your Honor.

11 THE COURT: Are counsel willing to stipulate?

12 MR. FITZGERALD: We will stipulate.

13 (All counsel including the Deputies District
14 Attorney stipulate.)

15 THE COURT: On stipulation of counsel, then, you
16 are excused, Mr. Livingston.

17 THE CLERK: Darrel E. Newby. D-a-r-r-e-l; N-e-w-b-y.
18 (Darrell E. Newby takes seat No. 12 in the
19 jury box.)

20
21 VOIR DIRE EXAMINATION OF MR. NEWBY

22 BY THE COURT:

23 Q Mr. Newby, have you heard and understood
24 everything in court since you came into the case?

25 A Yes, sir, I have.

26 Q Are you willing and able to serve as a juror

13a-4,

1 in this case?

2 A Well, it would create a hardship on me, as
3 my employer, Hicon Manufacturing Company --

4 MR. FITZGERALD: I cannot hear the juror.

5 THE COURT: Turn the microphone up on the end and
6 speak.

7 MR. NEWBY: My employer informed me Friday, that I
8 would not get paid for my services after July 7th, and it
9 would create a financial situation to me, yes, sir.

10 THE COURT: Who is your employer, sir?

11 MR. NEWBY: Hicon Manufacturing Company in Monrovia.

12 Q BY THE COURT: How long have you been with
13 them?

14 A I have been with them three years, and it
15 would be impossible for me to meet my financial obligations
16 if I did serve on the jury for five or six months.

17 MR. FITZGERALD: We will offer to stipulate.

18 (All defense counsel indicate they will
19 stipulate.)

20 MR. STOVITZ: So stipulated, your Honor.

21 THE COURT: By stipulation of counsel, Mr. Newby,
22 you are excused, thank you.

23 MR. STOVITZ: I take it when Mr. Fitzgerald speaks
24 up like that, he has consulted with other counsel, is
25 that right?

26 MR. FITZGERALD: I have.

13a5.

1 THE CLERK: Sidney I. Rudberg. S-i-d-n-e-y.
2 R-u-d-b-e-r-g.

3 (Sidney I. Rudberg takes seat No. 12 in
4 the jury box.)

5
6 VOIR DIRE EXAMINATION OF MR. RUDBERG

7 BY THE COURT:

8 Q Mr. Rudberg, have you heard and understood
9 everything that has been said in court since you came into
10 the case?

11 A Yes.

12 Q Are you willing and able to serve as a juror
13 in this case?

14 A No, I am not able to.

15 Q What is your situation, sir?

16 A I have an apartment house; I have a five-
17 unit apartment, and it requires my continuous attention.

18 My wife is, you know, just a housewife, and she
19 has a bursitis condition which lays her low, on her knee,
20 it is crippling, and it comes up not knowing when.

21 Also personnel of Home Savings & Loan notified
22 me, while they notified the head of the department that
23 they would not be able to continue after a certain length
24 of time, and that is about a month.

25 That would be something like July 1st, and I
26 need that extra compensation in order to make this

13a6.

apartment house work out.

MR. FITZGERALD: We will offer to stipulate.

MR. KANAREK: So stipulated, your Honor.

MR. REINER: So stipulated.

MR. STOVITZ: So stipulated, your Honor.

THE COURT: By stipulation of counsel, Mr. Rudberg,
you are excused, thank you.

13B.

13-b-1
1 THE CLERK: Richard M. Shively; R-i-c-h-a-r-d,
2 S-h-i-v-e-l-y.

3 (Whereupon, Richard M. Shiveley takes seat No.
4 12 in the jury box.)

5 VOIR DIRE EXAMINATION OF RICHARD M. SHIVELY
6 BY THE COURT:

7 Q Mr. Shively, is that correct?

8 A That's correct.

9 Q Mr. Shively, have you heard and understood
10 everything in court since you came into the case?

11 A I heard most of it; I did not hear some of the
12 answers over here.

13 Q Is there any reason why you could not serve as
14 a juror in this case?

15 A Well, I am being transferred by Lockheed up
16 to the Palmdale area in about four days, and I am going to
17 have to be off this coming Thursday and Friday.

18 I think I requested that earlier in the day.

19 Secondly, I was told by Lockheed I would not be
20 paid beyond 20 days of jury duty.

21 This is my fifth week on jury duty now.

22 Q Are you being paid?

23 A Yes, I am being paid up until about Wednesday,
24 as I understand it.

25 Lockheed advised me that I was to advise the
26

13b2
1 Court that I had 20 days in which I could be paid; after
2 that I would be on my own.

3 Q Is it their policy --

4 A That is regulations, I read the regulation,
5 yes, sir; yes, sir.

6 Q Apparently they don't think much of our jury
7 system.

8 A Well, I just read their regulation, and I can
9 give you the person to check with, I guess, Industrial
10 Relations.

11 MR. FITZGERALD: We will offer to stipulate.

12 MR. STOVITZ: I take it, if I may, your Honor, if
13 your Honor asked whether or not it would be a personal
14 hardship for Mr. Shively to continue to serve if he was
15 only receiving \$5 a day pay from the County.

16 MR. FITZGERALD: Yes. We are not doing it for
17 Lockheed.

18 THE COURT: I would assume so.

19 MR. STOVITZ: That is so, Mr. Shively, that it would
20 be a financial hardship for you to continue?

21 MR. SHIVELY: Yes, it would, definitely.

22 MR. KANAREK: Your Honor, I would just like to find
23 out if this is Mr. Shively's fifth week, how is it he is
24 here, imposed upon beyond the normal month?

25 THE COURT: Well, he apparently was called on this
26 panel just before his 30 days ended, is that right?

1 MR. SHIVELY: That's correct.

2 MR. KANAREK: Thank you.

3 MR. STOVITZ: So stipulated, your Honor.

4 THE COURT: By stipulation of counsel, then,
5 Mr. Shively, you are excused.

6 THE CLERK: Melvin L. Stanton, M-e-l-v-i-n,
7 S-t-a-n-t-o-n.

8 (Whereupon, Melvin L. Stanton was seated in
9 seat No. 12 of the jury box.)

10

11 VOIR DIRE EXAMINATION OF MELVIN L. STANTON
12 BY THE COURT:

13 Q Mr. Stanton, have you heard and understood
14 everything here in court?

15 A Yes, your Honor.

16 Q Are you ready, willing and able to serve as a
17 juror in this case if you are selected?

18 A No, sir, I am not for several reasons.

19 I am not sure whether my employer will pay me
20 beyond my time period, and if they didn't I would not be
21 able to meet my obligations.

22 But furthermore, my wife is pregnant, and when
23 she was pregnant with our first child she was sick quite
24 often.

25 I think it would be too much for her if I was
26 gone six months.

1 Furthermore, I am a graduate student at Valley
2 State College. I anticipate graduating in February, and if
3 I got tied up here I would not get my degree.

4 Lastly, I am a member of the California
5 National Guard; I have my weekend obligations as well as
6 my summer camp coming up in three weeks.

7 THE COURT: You are a busy man.

8 MR. FITZGERALD: We offer to stipulate.

9 MR. STOVITZ: So stipulated.

10 THE COURT: By stipulation of counsel, Mr. Stanton,
11 you are excused. Thank you.

12 THE CLERK: Mrs. Rosemarie Sweeney. R-o-s-e-m-a-r-i-e,
13 S-w-e-e-n-e-y.

14 (Whereupon, Mrs. Rosemarie Sweeney was seated
15 in seat No. 12 in the jury box.)
16

17 VOIR DIRE EXAMINATION OF MRS. ROSEMARIE SWEENEY
18 BY THE COURT:

19 Q Mrs. Sweeney, have you heard and understood
20 everything in court since you came into the case?

21 A Yes, sir.

22 Q Are you able to serve in this case as a juror
23 if you are selected?

24 A I would be able to, but my husband is
25 presently laid off, and I don't think they would hold my
26 job open much longer; my last day was Friday.

1 Q I am sorry, I did not understand the last part.
2 You say your last day --

3 A -- was last Friday.

4 Q At your own job?

5 A Yes. They are paying me now but they won't
6 hold my job open for six months.

7 Q Your husband is presently unemployed?

8 A Yes, sir, he is laid off. He belongs to a
9 union; he is waiting for them to call him back.

10 MR. KANAREK: Stipulate, your Honor.

11 MR. FITZGERALD: We offer to stipulate.

12 MR. STOVITZ: So stipulated, your Honor.

13 THE COURT: By stipulation of counsel, Mrs. Sweeney,
14 you are excused. Thank you.

15 THE CLERK: Gloria G. McCullough. Is that Miss or
16 Mrs.?

17 MRS. MCCULLOUGH: Mrs.

18 THE CLERK: G-l-o-r-i-a; capital M-c capital
19 C-u-l-l-o-u-g-h.

20 (Whereupon, Mrs. Gloria G. McCullough was
21 seated in seat No. 12 in the jury box.)
22

23 VOIR DIRE EXAMINATION OF MRS. GLORIA G. MCCULLOUGH
24 BY THE COURT:

25 Q Mrs. McCullough, have you heard and understood
26 everything in court since you came into this case?

1 A Yes, I have.

2 Q Would it constitute an undue hardship on you to
3 serve as a juror in this case if you are selected?

4 A Not undue, sir, no, not undue; not any more,
5 sir, than anyone else, I'm sure.

6 Q I am going to ask you the same two questions,
7 Mrs. McCullough, regarding the death penalty.

8 I am sure you have had an opportunity now, from
9 the fact that I asked these questions on several different
10 days, to give careful consideration to the questions and
11 your answers to them.

12 First, do you entertain such conscientious
13 opinions regarding the death penalty that you would be
14 unable to make an impartial decision as to any defendant's
15 guilt regardless of the evidence developed during this
16 trial?

17 A Yes, sir, yes, sir.

18 Q All right, let me ask you some other
19 questions then to make sure that we understand exactly what
20 you are saying.

21 You will notice that this question that I direc-
22 ted to you is related to the first phase of the trial.

23 I explained to you last week how in a murder
24 trial if there is a conviction, a verdict of first-degree
25 murder, then there are two phases to the trial.

26 The first is the so-called guilt phase; and

1 then following such a verdict of first-degree murder, there
2 would be a penalty phase.

3 Now, this question is directed to the first
4 phase; it has nothing to do with whether you are willing
5 to impose the death penalty but is directed to whether
6 or not you would be able to reach an impartial decision as
7 to any defendant's guilt without regard to penalty.

8 Do you understand that?

9 A Yes, sir.

14-1.

1 THE COURT: And I take it from your answer, then,
2 that your opinions are such regarding the death penalty
3 that you would be unable to be impartial on the question
4 of guilt; is that right?

5 A Yes. This would always hover in my mind.
6 I would have it in the back of my mind.

7 THE COURT: Well, you might have it in the back of
8 your mind and still be impartial.

9 MRS. MC CULLOUGH: It is possible but I don't know
10 until the actual situation arises.

11 THE COURT: What is your present state of mind?
12 Do you feel that you could listen to the evidence in the
13 case and then decide the question of guilt based solely
14 on that evidence, or do you believe your opinions regarding
15 the death penalty are so strong that they would color and
16 influence your decision on the question of guilt so that
17 you would be unable to be impartial?

18 MRS. MC CULLOUGH: I might be able to come up with
19 an impartial decision on the first one, on this first
20 question that you are asking me. Of course, I have heard
21 the second one, and I will be unable to vote for the
22 death penalty because it would directly involve me.

23 THE COURT: Do you think that you might or that you
24 would be impartial on the question of guilt?

25 MRS. MC CULLOUGH: I could be, yes.

26 THE COURT: But I take it, then, that with respect

14-2,

1 to the second question, which is whether or not you would
2 automatically refuse to impose the death penalty, based on
3 your beliefs and opinions, that your answer is that you
4 would automatically refuse to impose it?

5 MRS. MC CULLOUGH: Yes. It's a longstanding
6 conviction.

7 THE COURT: I beg your pardon?

8 MRS. MC CULLOUGH: This has been a longstanding
9 conviction, and my presence in this court has just caused
10 me to reaffirm that in my own conscience.

11 THE COURT: Do you think that your mind is now
12 made up on that or do you believe that you could listen to
13 the evidence and then decide whether or not to impose the
14 death penalty or life imprisonment in case there is a
15 verdict of guilty as to any defendants?

16 MRS. MC CULLOUGH: I doubt it very much. I doubt
17 that.

18 THE COURT: You doubt what?

19 MRS. MC CULLOUGH: That I could vote for it. Even
20 after.

21 THE COURT: You have some mental reservation about
22 whether or not you could withhold your decision until
23 after you have heard the evidence and then decide?

24 A I would hate to go that far along in the
25 trial and then find out I couldn't do it.

26 THE COURT: Well, I know, I can understand how you

14-3. 1 would not want to do that, but what we are interested
2 in now is in what your present state of mind is.

3 A Well -- (pause).

4 THE COURT: You seem to have some hesitation.

5 MRS. MC CULLOUGH: Well, that hesitation comes only
6 because I would like to perform my duty but I do not really
7 think I could forget that I was dealing with the death
8 penalty and that the possibility would exist that I might
9 have to vote for it.

10 THE COURT: Of course, that possibility exists until
11 at least the guilt phase is over. You understand that
12 the question that I am asking you is not whether or not
13 you would like to vote for the death penalty. I don't
14 suppose there is anyone, and certainly not very many
15 people, who would like to vote the verdict of death
16 rather than life imprisonment.

17 That is not the question.

18 The question is whether you are able to
19 withhold your judgment on that question until after all
20 the evidence is in or whether you have now made up your
21 mind and you would automatically refuse to impose it
22 regardless of what the evidence is.

23 MRS. MC CULLOUGH: I think my mind is well made up
24 on that. I would automatically refuse to impose it.

25 THE COURT: And you have no question in your mind
26 but what that is now the case?

14-4.

1 MRS. MC CULLOUGH: Yes.

2 THE COURT: You would automatically refuse to impose
3 it?

4 MRS. MC CULLOUGH: Positively.

5 THE COURT: Without regard to what the evidence
6 was?

7 MRS. MC CULLOUGH: Without regard, because then I
8 would be directly involved in taking someone else's life,
9 which is basically what I was judging.

10 THE COURT: You have no mental reservation now; is
11 that right?

12 MRS. MC CULLOUGH: No.

13 THE COURT: I am not trying to put words in your
14 mouth. I simply want to hear from you, to the best of
15 your ability, your absolute belief.

16 MRS. MC CULLOUGH: To the best of my ability to
17 project myself, say, into that moment of time, I don't
18 think I could do it.

19 THE COURT: Well, do you have any question as to
20 whether you could do it?

21 MRS. MC CULLOUGH: I am afraid there are always
22 questions in someone's mind, until you get to the actual
23 situation.

24 As far as I know right now, I would find it
25 very difficult to vote for it. I would not want to vote
26 for it. I would be haunted by the idea if I did vote for

x14-5.
1492,

1 it. It is against many of my principles.

2 THE COURT: Well, I can understand what you are
3 saying, and I know that it is a very difficult decision
4 for anyone. I still feel that you have some reservation,
5 though, about whether or not you would be able to do that.

6 MR. KANAREK: Your Honor, if I may, most respect-
7 fully, I believe, at this time, I say this with the
8 greatest respect for the Court, the Court's question is
9 argumentative at this time, and this lady has very
10 candidly stated how she must view the situation, and I
11 think in view of recent case law that she is qualified to
12 be a juror from the standpoint of this particular
13 interrogation.

14 THE COURT: I don't mean to be argumentative with
15 you, Mrs. McCullough, but on the other hand, I must have a
16 clearcut expression of your opinion, and I sense that when
17 I ask you these questions you have some reservations.

18 In other words, it is not yet, at least in
19 my mind, unmistakably clear that you would automatically
20 refuse to impose the death penalty.

21 Now, if that is the case, Mrs. McCullough,
22 I would like you to clarify it.

23 MRS. MC CULLOUGH: I don't know how I can state it
24 except to say that I would automatically refuse to vote
25 the death penalty in this case.

26 THE COURT: Regardless of the evidence?

MRS. MC CULLOUGH: Regardless of the evidence.

14a.

4a-1

1 THE COURT: All right. Do counsel wish to inquire?

2 MR. FITZGERALD: No, your Honor.

3 MR. KANAREK: Your Honor -- (pause)

4 THE COURT: All right, then, gentlemen, I think we
5 are ready to go back into chambers.

6 MR. STOVITZ: Is your Honor going to excuse this
7 juror?

8 THE COURT: Are you asking that she be excused?

9 MR. STOVITZ: Counsel, I thought, were huddling as
10 to whether or not they wanted to inquire.

11 We would like to inquire very briefly on this
12 subject.

13 THE COURT: Very well.

14
15 VOIR DIRE EXAMINATION OF MRS. McCULLOUGH
16 BY MR. STOVITZ:

17 Q Mrs. McCullough, when you first sat down here
18 as a juror today you had been thinking about this since
19 last Tuesday, is that right?

20 A Yes, sir.

21 Q This feeling that you have concerning the
22 death penalty, has this been a feeling that you have had
23 for a long period of time?

24 A Oh, yes, sir.

25 Q And is this a conscientious feeling that you
26 have?

1 A Most certainly.

2 Q Is it also a religious feeling?

3 A Yes, that, too, is involved.

4 Q Would you say now that you do have or you do not
5 have a conscientious objection to the imposition of the
6 death penalty?

7 A I do have.

8 Q What?

9 A I do have, sir.

10 Q And this conscientious objection, is it against
11 the death penalty?

12 A Yes, it is against.

13 Q And would any evidence whatsoever that we would
14 produce in this case change your mind in that respect?

15 A No.

16 Q Are you certain of that?

17 A I am certain.

18 Q Have you thought about that since last
19 Tuesday?

20 A Yes, and many years before.

21 MR. STOVITZ: Thank you.

22 I submit, your Honor, that the challenge should
23 be granted by the People.

24 THE COURT: Very well. You are excused, Mrs.
25 McCullough. Thank you very much.

26 MR. FITZGERALD: We would like to object. We don't

1 feel that the juror's remarks taken as a whole can be
2 categorized as unambiguous within the purport of Wither-
3 spoon vs. Illinois, and also on the Due Process and Equal
4 Protection grounds.

5 THE COURT: Very well.

6 MR. KANAREK: And if I may, in view of the District
7 Attorney's representation that there is a question about
8 whether they are going to seek the death penalty, it sure
9 seems --

10 THE COURT: There has been no such representation.

11 MR. KANAREK: This is a fair implication, your Honor,
12 I would say.

13 It would seem like, in the interests of the
14 guilt or innocence phase, that this juror not be excused.

15 THE COURT: The juror is excused.

16 Thank you, Mrs. McCullough.

17 THE CLERK: Shall I call another juror?

18 THE COURT: Yes.

19 THE CLERK: Jose R. Martinez; J-o-s-e, M-a-r-t-i-n-e-z.

20 (Whereupon, Jose R. Martinez took seat No. 12
21 in the jury box.)

22
23 VOIR DIRE EXAMINATION OF JOSE R. MARTINEZ

24 BY THE COURT:

25 Q Mr. Martinez, have you heard and understood
26 everything that has been said in court since you came into

1 the case?

2 A Yes, I have.

3 Q Are you ready, willing and able to be a juror
4 in this case if you are selected?

5 A I am ready and able but not willing.

6 Q What is your situation, sir?

7 A I think it would impose a hardship, not on me
8 but on my wife who takes ^{care} of our three young children, ages
9 two months -- four months -- two years and four years.
10 She would have to assume, in addition to her chores, my
11 responsibilities in the home, and this is what would work a
12 great hardship on her. She doesn't drive a car.

13 Q She does not drive?

14 A No, she doesn't.

15 Q Where are you employed, sir?

16 A At the Bank of America.

17 I have no hardship in regard to income. They
18 will continue paying me as long as I serve on jury duty.

19 MR. FITZGERALD: We will offer to stipulate.

20 MR. STOVITZ: So stipulated, your Honor.

21 THE COURT: By stipulation of counsel, Mr. Martinez,
22 you are excused. Thank you.

23 MR. MARTINEZ: Thank you.

24 MR. STOVITZ: With the permission of Court, would
25 your Honor inquire whether the hardship would be in the
26 sequestering portion or merely the length of time that the

1 case would take?

2 THE COURT: Well, if you care to ask the question,
3 Mr. Stovitz, you may do so.

4 MR. STOVITZ: Fine. Thank you, your Honor.

5 Mr. Martinez, assume for the moment the jury was
6 not sequestered -- that means locked up -- once the evidence
7 began. Would that impose the same hardship?

8 MR. MARTINEZ: If that were the condition, I could
9 serve; but it is just the condition of being sequestered in
10 the hotel away from my family the entire length of the
11 trial that makes it hard.

12 MR. STOVITZ: Thank you, your Honor.

13 THE COURT: Thank you, Mr. Martinez.

14 THE CLERK: Howard F. Stucker; H-o-w-a-r-d,
15 S-t-u-c-k-e-r.

16
17
18 VOIR DIRE EXAMINATION OF HOWARD F. STUCKER
19 BY THE COURT:

20 Q Mr. Stucker, have you heard and understood
21 everything that has been said in court?

22 A Yes, sir.

23 Q What is your situation, sir? Are you able to
24 serve as a juror in this case?

25 A The sequestering part is the problem.

26 Q How is that?

1 A Because in connection with my work they would
2 not replace me.

3 I will put it this way: I would have my job
4 when I came back, but they would have to replace me during
5 my absence, which makes it a very awkward situation. I
6 am chief television engineer for a college.

7 Q For a college?

8 A Yes.

9 Q But you would be able to get your job back?

10 A Yes, sir.

11 Q Then where would the hardship be?

12 A It is from the college's viewpoint. I talked
13 to the personnel manager Friday about it.

14 Q We are concerned about you, sir.

15 A And in addition to that, being away from the
16 family for that long.

17 Q Do you have children?

18 A Yes, sir. Three.

19 Q What are their ages?

20 A 11, 8 and 5.

21 Q Are you asking to be excused?

22 A Yes, sir.

23 MR. FITZGERALD: We will offer to stipulate.

24 MR. STOVITZ: So stipulate, your Honor.

25 MR. KANAREK: So stipulate, your Honor.

26 THE COURT: All right. On stipulation of counsel,

1 Mr. Stucker, you are excused. Thank you.

2 MR. STUCKER: Thank you.

3 THE COURT: The Court will recess for 15 minutes.

4 (Whereupon, at 3:02 p.m. the Court took a
5 recess.)

6 THE COURT: The defendants and all counsel are
7 present.

8 THE CLERK: Shall I call a name, your Honor?

9 THE COURT: Yes, call the next name.

10 THE CLERK: MRS. Marian I. Terek; M-a-r-i-a-n,
11 T-e-r-e-k.

12 (Whereupon, Mrs. Marian I. Terek was seated in
13 seat No. 12 in the jury box.)

14
15 VOIR DIRE EXAMINATION OF MRS. MARIAN I. TEREK
16 BY THE COURT:

17 Q Mrs. Terek, have you heard and understood
18 everything in court since you came into the case?

19 A Yes, I have, your Honor.

20 Q Are you willing and able to serve as a juror
21 in this case if you are selected?

22 A Well, I would prefer not to.

23 Q Well, would it constitute an undue hardship
24 for some reason?

25 A Yes. My position is secure with the company
26 and I will be paid for it. However, they are holding a

1 promotion up for me pending the outcome of whether or not
2 I am released. If I am not released, then they will fill
3 it with someone else, and it isn't often that a woman is
4 given an opportunity to step into a gentleman's position.

5 Q What is the name of your employer?

6 A Xerox Data Systems.

7 Q Do I understand correctly that you would lose
8 your position?

9 A No, I would have another position, maybe not
10 the same desk, but they would have a position for me.
11 What I would lose would be the opportunity for the
12 promotion.

13 Q At this time?

14 A Yes.

15 MR. FITZGERALD: There will be an offer to stipulate,
16 your Honor.

17 MR. STOVITZ: So stipulated, your Honor.

18 THE COURT: By stipulation of counsel, Mrs. Terek,
19 you are excused. Thank you.

20 MRS. TEREK: Thank you very much.

21 MR. STOVITZ: Your Honor, if it would not be incon-
22 venient with the Court, may counsel, say Mr. Fitzgerald,
23 and I approach the bench concerning the filling of this
24 one juror's spot?

25 THE COURT: Very well.

26 MR. STOVITZ: Other counsel, of course, are

1 invited to come up to the bench.

2 (Whereupon, all counsel approached the bench
3 and the following proceedings occurred at the bench:)

4 MR. STOVITZ: All counsel are here now at the bench,
5 your Honor.

6 I remarked last Tuesday when we started to
7 select a jury and excused jurors for cause that what may
8 be cause to one juror would be no cause to another juror.

9 Now, of course, your Honor, losing a promotion
10 is very important to this woman. I would just think that
11 for the future, if we could handle the matters of hardship
12 in chambers so that the other jurors would not be able to
13 say: well, gee, if they excuse him for his three children,
14 why don't they excuse me for my five children? And so
15 forth.

16 We are going to have a little difficulty in
17 selecting the 12th juror if we keep on handling it in open
18 court.

19 We are going to have to go into chambers any-
20 way for the publicity questions, and I think we should
21 inquire further before we do stipulate to the excusing of
22 these jurors. Let them state what their situation is for
23 the record, and then if we could go into chambers, I will
24 appreciate it.

25 THE COURT: Well, of course, you gentlemen are
26 stipulating obviously to cases that are not hardship cases.

1 MR. STOVITZ: That is true.

2 THE COURT: So if you are going to stipulate to any-
3 one who doesn't want to be a juror, then there is no point
4 in going into chambers, we can find that out out here.

5 MR. STOVITZ: The point is that the very first time
6 that it came up out here today, I went to each counsel
7 quietly and asked them if they would stipulate; and in this
8 last case, Mr. Fitzgerald, thinking we would go along with
9 the stipulation --

10 MR. FITZGERALD: No. Mr. Bugliosi stipulated to me.
11 I wouldn't do it otherwise. I am not trying to embarrass
12 you guys.

13 MR. STOVITZ: Fine.

14 I would think that if your Honor would
15 inquire, then we could take it up further in chambers as
16 to exactly what the hardship is.

17 It may very well be that the woman or the man
18 wants to state something for the record but they are
19 embarrassed to say it outside in open court.

20 MR. KANAREK: Your Honor, I have no objection. In
21 fact, I would prefer that each and every juror be
22 interrogated outside the presence of the other jurors,
23 because I think that what they hear, after all -- the
24 trial isn't going on, but I would ask that your Honor's
25 interrogation concerning the death penalty, which is a very
26 vital matter, that that be held in camera, outside of the

1 presence of the other jurors. I think that is most
2 important. Rather than get a chain reaction from one juror
3 to the rest of the panel in connection with your Honor's
4 two questions.

5 THE COURT: Well, are you gentlemen willing to
6 stipulate that my questions to the prospective jurors
7 regarding hardship be done in chambers out of the presence
8 of the other prospective jurors?

9 MR. SHINN: I have no objection either way, your
10 Honor, in chambers or open court.

11 THE COURT: That is what Mr. Stovitz is suggesting.

12 MR. REINER: I will stipulate.

13 MR. FITZGERALD: And Mr. Kanarek is also suggesting --

14 THE COURT: Yes. I will take one thing at a time.
15 First, the question regarding hardship.

16 Is that agreeable?

17 MR. FITZGERALD: That is agreeable.

18 MR. KANAREK: Yes.

19 THE COURT: And Mr. Kanarek suggested that I ask
20 the Witherspoon questions on the death penalty in
21 chambers outside of the presence of the other prospective
22 jurors.

23 MR. FITZGERALD: I will agree to that also.

24 MR. SHINN: All right.

25 MR. STOVITZ: The only trouble with that, and we
26 don't object to it, just that we are going to have to be

1 playing the in-and-out-of-chambers game more often.

2 THE COURT: Well, I will take up the hardship
3 questions first with each of the new jurors. If there is
4 a hardship problem, he can be excused before I go on to the
5 Witherspoon question, and hopefully that can speed it up.

6 MR. KANAREK: And your Honor can ask the Witherspoon
7 questions at the same time that you are asking about the
8 publicity.

9 THE COURT: Yes. We will take it in order. First
10 the hardship questions and then the Witherspoon questions
11 and then the publicity questions.

12 MR. STOVITZ: I was just thinking, along that line,
13 once we are in chambers, and the juror is excused, what
14 would prevent the clerk from just calling the next name of
15 the juror and let the juror come into chambers once we
16 are there.

17 In other words, now we have 11 in the box. We
18 fill this 12th one. In chambers, if he is excused, just
19 call another juror while we are still in chambers.

20 THE COURT: I would prefer to do it that way.
21 Is that agreeable?

22 MR. KANAREK: Agreeable.

23 MR. REINER: I will join.

24 MR. KANAREK: I think if this is the only one, but
25 when six or seven or eight are filled, it is a different
26 story.

1 THE COURT: Then we will retire into chambers at
2 this time, gentlemen, and we will call on the next
3 prospective juror.

4 MR. BUGLIOSI: Could we have a discussion with the
5 Court in chambers for about two or three minutes before
6 the jurors are brought in on a very serious matter?

7 THE COURT: Very well.

8 (Whereupon, all counsel returned to their
9 respective places at counsel table and the following
10 proceedings occurred in open court:)

15-1.

1 (The following proceedings were had in
2 open court in the presence and hearing of the
3 prospective jurors:)

4 THE COURT: The Court will retire into chambers
5 at this time with counsel --

6 MR. KANAREK: And the defendants --

7 THE COURT: And the defendants.

8 (The following proceedings were had in the
9 chambers of the Court but of the presence and
10 hearing of the prospective jurors, all the defendants
11 and their counsel and the Deputies District Attorney
12 being present:)

13 THE COURT: The record will show all parties and
14 their counsel are present.

15 MR. STOVITZ: Your Honor, on this motion for
16 questioning of Linda Kasabian, the People felt that there
17 would be limiting argument if the matter was held in
18 open court.

19 Mr. Kanarek made statements for the record
20 that we were suppressing evidence and of course the
21 contrary is true. We have given them absolutely full
22 discovery.

23 Mr. Kanarek made statements that the State
24 is controlling her testimony, which is absolutely not
25 true, and we feel that if an objection is made and the
26 matter is argued outside the presence of the jury, that it

15-2.

1 gives counsel an opportunity to make full statements and
2 full arguments.

3 If the matter is heard in the presence of the
4 jury the defendants say what they want; they get before the
5 jury the white elephant that Mr. Kanarek speaks about,
6 and no matter what we can say or do we cannot remove this
7 white elephant.

8 We feel that in the future that if there are
9 objections of law that do not concern the jury, that it
10 would be best to take it outside of the presence of the
11 jury.

12 If it is a matter submitted on briefs, and
13 there is not to be any oral argument on it, the simple
14 word "Submitted," would suffice.

15 As your Honor heard and as your Honor reads
16 the transcript of today's proceedings, tomorrow, you will
17 see that the jury has now been somewhat contaminated with
18 Mr. Kanarek's assertions that the People are suppressing
19 the evidence, which of course is not true at all.
20 And we did not want to respond because we feel it would
21 not be proper to respond in the presence of the jury.

22 MR. FITZGERALD: Well, you did respond; I think there
23 was an accusation by Mr. Kanarek, your Honor, but I think
24 there was an equally strenuous statement on their
25 part.

26 MR. BUGLIOSI: The point is this, there is going to

15-3.

1 be further outbursts by Mr. Kanarok obviously, and Mr.
2 Shinn made some very inflammatory remarks also.

3 I objected in due time, to give the Court
4 an opportunity to bring the matter back in chambers. The
5 Court elected not to do so. As a result thereof some
6 very harmful, injurious remarks were made before the
7 entire jury panel which prejudices the People's right to
8 a fair trial.

9 I would ask the Court --

10 THE COURT: Well, Mr. Bugliosi, as a matter of
11 curiosity, would you tell me why you objected to the motion
12 in the first place?

13 It was perfectly obvious I had to grant it.
14 I can't imagine why you object to it.

15 MR. STOVITZ: We were not objecting, your Honor,
16 to your considering the motion. We were objecting to your
17 Honor's considering it in the presence of the jury.

18 THE COURT: No, I understand you were objecting to
19 the motion itself.

20 MR. STOVITZ: No, no.

21 THE COURT: We suffer from an abundance of conversa-
22 tion and talking.

23 I was going to rule on an obvious motion,
24 on an obvious point. There wouldn't have been any
25 problem.

26 MR. STOVITZ: We furnished counsel with a complete

15-4.

1 list of all of our witnesses. Any one of our witnesses
2 may be questioned by any of defense counsel upon making
3 arrangements with that witness.

4 Of course, as counsel knows, if the witnesses
5 do not want to talk to them, they cannot force them to
6 talk to them.

7 And we have not caused any witness to have
8 their lips sealed in any manner. The defense is perfectly
9 welcome to inquire of any one of the People's witnesses.
10 That is a great deal more than we can say of the defendants
11 or their witnesses.

12 MR. KANAREK: If I may just clear up one point --

13 MR. BUGLIOSI: If I may make one further point;
14 you have already made quite a few statements on the
15 record.

16 We would beseech the Court, on any issues
17 of law, we ask the Court urgently that these matters be
18 heard back in chambers.

19 I don't want Mr. Kanarek prejudicing the
20 People of the State of California's right to a fair
21 trial, and he did that today.

22 So I ask the Court in sincerity, and honesty,
23 and I beseech the Court, on issues of law, please let's
24 have these motions heard back in chambers, to preclude
25 Mr. Kanarek repeating what he did out there today,
26 which I find incredible and inexcusable.

15A.

15A.

MR. KANAREK: First of all, if I may, first of all, counsel does not concede the difference between accusation and legal argument. The words, suppression of evidence, are not done by way of accusation; if it turns out to be that way and he feels guilty about it, that is one thing, but the point is, your Honor, it is done by way of legal argument.

The point is that it is our position that a legal basis is there for our asking the relief for which we are asking, and the issue involved revolves around the suppression of evidence.

Now, the cases are clear --

THE COURT: Now, let's not get into the cases.

There is no evidence whatever that anybody is suppressing anything, and particularly not with respect to Miss Kasabian, other than your bald statement.

MR. KANAREK: By not granting the immunity, your Honor, if the immunity is granted --

THE COURT: All right, you said that now, and I know what you are saying and I understand what you are saying.

But there is no requirement that she be granted immunity or at any particular time.

MR. KANAREK: Are they just going to drop her?

THE COURT: I don't know what they are going to do with her.

MR. KANAREK: Because, your Honor, I would beseech --

15a2.

1 if I may use the prosecution's verb -- we beg the Court
2 to force the prosecution to make this election --

3 THE COURT: That is not what we are talking about
4 at the moment, Mr. Kanarek.

5 MR. KANAREK: Very well.

6 THE COURT: In any event I suggest that all counsel
7 refrain from statements such as made in the record. I
8 think you are hurting yourselves, and it is happening on
9 both sides.

10 In other words, as far as this motion is
11 concerned, it was perfectly clear to me that I had to grant
12 the motion with the condition that was put on it.

13 I did not really anticipate any argument on
14 either side.

15 It is self-evident what was going to happen.

16 MR. KANAREK: Except -- I don't want to belabor it,
17 except for the fact, your Honor, by the arrangement of the
18 District Attorney's Office there are many ways of skinning
19 a cat, and no matter which way you slice it it is still
20 balony.

21 THE COURT: Have you heard some evidence she is
22 keeping from you or any of the defendants other than her
23 own counsel, or her desire not to talk, I am talking about
24 Miss Kasabian, I would like to hear about it.

25 But so far all I have heard is statements.

26 MR. KANAREK: The circumstantial evidence, your Honor,

15a3,

1 is:

2 The prosecution is going to use her as a
3 witness. They are going to grant her immunity.

4 Whatthey are doing is, by their device of
5 not granting the immunity now, they are depriving us of
6 a fair trial because by this synthetic statement of --
7 I don't know, neither fish nor fowl, we cannot talk to her,
8 and I believe that if she was granted immunity that your
9 Honor would make the order, that no matter what her lawyer
10 said --

11 THE COURT: I cannot compel her to talk to you, Mr.
12 Kanarek, just like I cannot compel any witness to talk
13 to you before she testifies on the trial --

14 MR. KANAREK: But we can approach her without the
15 shield of her lawyer.

16 THE COURT: -- if she refuses to do so.

17 MR. KANAREK: Right, but I believe we have the
18 right to approach her as a human being. We are losing
19 perspective.

20 The fact she has a lawyer does not mean she is
21 shielded from the entire world.

22 They are using this attorney-client relationship
23 as a device for the prosecution, because they are afraid
24 the Mary Bruner thing is going to happen, your Honor,
25 and we have reason to believe that the same type of
26 suggestion is being used with this lady and her baby that

15a4.

1 was used with Mary Bruner in the Hinman case.

2 And the prosecution are sophisticated people --

3 MR. BUGLIOSI: May I make a statement: The issue is
4 where should the locus of this discussion be, in front of
5 the jury or back in chambers in front of the Court.

6 That to me is the sole issue, and I would
7 ask the Court earnestly henceforth please have these
8 discussions back in chambers.

9 The People don't wish to have their case
10 prejudiced any further by the outlandish, gratuitous
11 remarks of Mr. Kanarek.

12 THE COURT: I don't want either side in this case
13 to be prejudiced.

14 I would suggest that both sides show a little
15 more restraint before you make some of the statements that
16 you have been making.

17 MR. SHINN: May I make a short statement:

18 Why can't we bring Linda Kasabian here and
19 ask her in front of you whether or not she wants to talk
20 to us.

21 I think that should solve the whole problem.

22 MR. STOVITZ: Why don't you write her a letter?

23 THE COURT: We are not going to do that, Mr. Shinn.

24 Now, I want to get on with some other matters
25 here that are before the Court now.

26 MR. KANAREK: Just a very brief point, your Honor,

15a5.

1 we have not been able to talk to Linda Kasabian herself.
2 We have only spoken to Mr. Fleischman.

3 Now, Linda Kasabian, as I say, is a flesh
4 and blood human being. Why can't we sign in at the Sybil
5 Brand and have her brought out and say, "Linda, I have a
6 few questions I want to ask you; all I want you to do is
7 tell me the gospel truth."

8 Now, why do we have to be burdened with Mr.
9 Fleischman in between us when there is no rational, legal
10 reason for it, because she has been given immunity, your
11 Honor.

15B.

1 THE COURT: We have gone over this time and time
2 and time again. She is entitled to an attorney; she is
3 entitled to speak to an attorney, and that is what she is
4 doing apparently.

5 MR. KANAREK: Maybe if we see her vis-a-vis she
6 won't say that, your Honor, that is why we ask we be allowed
7 to talk to her face to face, and see if this is indeed her
8 position.

9 We believe that it is a position that is
10 imposed by an unholy alliance between the District Attorney's
11 Office and Mr. Fleischman.

12 THE COURT: Do you have anything to back that statement
13 up?

14 MR. KANAREK: Yes, the circumstances, circumstantial
15 evidence, a fingerprint, your Honor, or something, is much
16 stronger many times than eyewitness testimony.

17 The circumstances here speak louder than a
18 million bells.

19 The District Attorney is not granting the
20 immunity for no reason, except to hinder us in getting
21 evidence that has probative value.

22 There is no reason whatsoever, absolutely not
23 a reason, and that circumstance, your Honor --

24 THE COURT: How do you know there is no reason?

25 MR. KANAREK: Then we would ask your Honor through
26 the good services of the Court for them to explain any

1 reason why. She is a named defendant; we are going to
2 trial; what they are going to do is use some -- this device
3 of the immunity to keep us from talking to her, in
4 violation of the right to a fair trial and fair discovery
5 and fair conversation with her.

6 There can be no other reason, your Honor.

7 What reason could there be?

8 She is being tried for seven murders; she is
9 getting immunity.

10 The defendants are entitled to a fair trial,
11 not just in connection with this immunity aspect too,
12 your Honor.

13 MR. SHINN: Your Honor, they have her isolated
14 there; no one can talk to her. You send letters; all they
15 do is come back. They never get through, your Honor, I
16 don't understand this.

17 If she is a witness, she a witness, your Honor,
18 why do they isolate her.

19 Maybe she doesn't want to be isolated; maybe
20 her attorney wants to isolate her, I don't know.

21 THE COURT: All right, we have heard the arguments
22 now. I want to get on to something else.

23 Is there anything else before we call in the
24 next prospective juror?

25 MR. STOVITZ: No, your Honor, thank you very much
26 for hearing us.

1 THE COURT: Call the next prospective juror then.

2 THE CLERK: Who would that be?

3 THE COURT: You don't have one yet. We are still
4 trying to fill No. 12.

5 THE CLERK: You want the next one back in chambers,
6 Judge?

7 THE COURT: Yes. We have an empty seat, No. 12,
8 which we are still trying to fill.

9 THE CLERK: You want me to call one from the panel
10 outside?

11 THE COURT: That's right.

12 THE CLERK: All right.

13 MR. BUGLIOSI: Your Honor, may I make a motion to
14 have the statements of Susan Atkins returned to the People,
15 mark them as an exhibit.

16 She made some statements to Ronnie Howard,
17 and Virginia Graham; then there was another statement;
18 they were marked as exhibits. I think the Court still has
19 them.

20 May they then be returned to the People?

21 MR. KANAREK: The Court was going to make a study
22 and then determine what the Court's opinion was as to the
23 deletions.

24 THE COURT: They are in the possession of the clerk.

25 MR. BUGLIOSI: The Clerk has advised there has to
26 be a Court order before they are returned to the People.

1 THE CLERK: The next prospective juror is Harry
2 Levinthal, H-a-r-r-y; L-e-v-i-n-t-h-a-l,

3 (Harry Levinthal takes Seat No. 12 in the
4 jury box.)

5 THE COURT: We will take up this matter a little
6 later, Mr. Stovitz.

7
8 VOIR DIRE EXAMINATION OF MR. LEVINTHAL

9 BY THE COURT:

10 Q Mr. Levinthal, have you heard and understood
11 everything that has been said in court since you came into
12 the case?

13 A Yes, I have.

14 Q Would serving on this case, so far as you
15 are concerned, constitute an undue hardship?

16 A Yes, your Honor, it would.

17 Q Why is that?

18 A Well, I am presently laid off from my employ-
19 ment and I am hoping to be rehired shortly.

20 If I am not available they may not, I may
21 not have that opportunity.

22 Also I have a severe case of ulcers which in
23 this case they may not hold up under these conditions.

24 MR. STOVITZ: I think we are all agreed, your
25 Honor, on behalf of the prosecution and the defense that this
26 witness may be excused because of hardship.

1 THE COURT: Do all counsel so stipulate?

2 MR. FITZGERALD: So stipulate.

3 THE COURT: All right. Then, you are excused by
4 stipulation of counsel.

5 MR. KANAREK: So stipulated.

6 MR. SHINN: So stipulated.

7 MR. REINER: So stipulated.

8 MR. FITZGERALD: We are starting to get those
9 people your Honor feared were non-existent.

10 MR. STOVITZ: Ulcers exist even in a non-sequestered
11 jury.

12 THE CLERK: The next prospective juror's name is
13 David E. Dunlap, D-a-v-i-d; D-u-n-l-a-p.

14
15 (David E. Dunlap takes Seat No. 12 of
16 the jury box.)

17
18 VOIR DIRE EXAMINATION OF MR. DUNLAP

19 BY THE COURT:

20 Q Mr. Dunlap, have you heard and understood
21 everything in the case so far?

22 A Yes, sir.

23 Q Are you in a position where you could serve
24 as a juror in this case?

25 A It will be a hardship, your Honor.

26 Q Why is that?

1 A Well, my income terminates in two weeks, and
2 my employer said "If you are going six months, don't bother
3 to come back."

4 Q Who is your employer?

5 A McDonnell-Douglas. I am an engineer.

6 Q It is my understanding that they kept the
7 jurors on compensation regardless of how long they stayed?

8 A I was told by the Personnel Director when I
9 came on this tour of duty the company will only pay four
10 weeks. That is all I know.

11 The job situation in the aerospace industry is
12 ticklish as it is; in fact, I am kind of lucky to have a
13 job.

14 THE COURT: Any questions?

15 MR. FITZGERALD: No questions.

16 MR. SHINN: No questions.

17 MR. REINER: No questions.

18 MR. KANAREK: No questions.

19 MR. STOVITZ: I believe counsel will stipulate that
20 this juror may be excused.

21 MR. FITZGERALD: So stipulated.

22 MR. REINER: So stipulated.

23 MR. KANAREK: So stipulated.

24 MR. SHINN: So stipulated.

25 THE COURT: By stipulation of counsel, Mr. Dunlap,
26 you are excused, thank you.

MR. DUNLAP: I am sorry.

1 THE CLERK: The next prospective juror's name is
2 William D. Davis, W-i-l-l-i-a-m, D-a-v-i-s.

3 (Whereupon, William D. Davis was seated in
4 seat No. 12 in the jury box.)

5 THE COURT: Is the first name William?

6 THE CLERK: Yes, your Honor.

7
8 VOIR DIRE EXAMINATION OF WILLIAM D. DAVIS
9 BY THE COURT:

10 Q Mr. Davis, have you heard and understood
11 everything that has been said in this case since you
12 came in?

13 A Yes, I have, your Honor.

14 Q Are you in a position where you could serve as
15 a juror in this case if you were selected?

16 A Well, I could but I wouldn't especially like
17 to, but I could.

18 I mean, I would be fully paid during the time.
19 I really cannot claim undue hardship as far as that goes.

20 I really haven't anything to say that I cannot
21 serve, no.

22 Q Who is your employer?

23 A Pacific Lighting Service, gas company.

24 I wouldn't like to be away from my family for
25 six months, but then I wouldn't have any choice in the
26 matter.

15c2

1 Q Well, as I indicated to the other prospective
2 jurors on the weekends it will be possible to have your
3 wife come to stay with you if you like, or simply to see
4 you.

5 Do you have any children?

6 A I have two young boys.

7 Q They could also visit with you.

8 A Well, my wife doesn't want me to serve, but
9 again I have no choice in the matter.

10 Q I am going to ask you the same two questions
11 regarding the death penalty that I have asked the other
12 prospective jurors.

13 First, do you entertain such conscientious
14 objections regarding the death penalty that you would be
15 unable to make an impartial decision as to any defendant's
16 guilt, regardless of the evidence?

17 A No.

18 MR. KANAREK: Your Honor, may I object to the
19 Court's question on the grounds it is leading and
20 suggestive; it calls for a conclusion, and it -- it -- well,
21 I will base it on those grounds, your Honor; that the
22 question really suggests its own answer.

23 THE COURT: What answer does it suggest?

24 MR. KANAREK: Well, it suggests, your Honor, it
25 suggests an answer, no.

26 THE COURT: How do you arrive at that conclusion,

15c3

1 Mr. Kanarek?

2 MR. KANAREK: Because your Honor is differentiating
3 between the guilt or innocence phase and the penalty
4 phase, implicitly that is there.

5 Because the witness knows that the next
6 question is coming.

7 THE COURT: I am afraid I don't understand what you
8 are saying. Would you care to clarify that?

16

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

16-1

1 MR. KANAREK: Yes, your Honor.

2 The witness knows, your Honor, that in order
3 to get to the next question there must be a "no" to this
4 question, and so the witness certainly has heard what has
5 happened in the courtroom previously and, therefore,
6 it suggests to the witness that he answer no to this and
7 then he gets on to the next question.

8 THE COURT: Why should he be interested in getting on
9 to the next one?

10 MR. KANAREK: That is the point, your Honor. That
11 is why I would make the motion that the Court ask the
12 gentleman what his feeling is rather than couch it so that
13 it solicits a yes or no answer purportedly. Ask the
14 prospective juror: What is your state of mind in
15 connection with? Ask it that way and allow him to give an
16 essay type answer rather than just a yes or no.

17 THE COURT: Well, I am sure you are familiar with
18 Witherspoon and the various California Supreme Court cases
19 that have interpreted Witherspoon, and the questions that
20 must be asked and the answers that must be elicited, and
21 these questions not only have been approved in these
22 decisions but I would say required, and the answers must be
23 given with unmistakable certainty before a juror may be
24 excused.

25 An essay type answer, an ambling type answer,
26 by a prospective juror would not fulfill any of these

16-2
1 requirements in determining what his state of mind is on
2 these questions.

3 MR. KANAREK: Well, it is our belief, your Honor,
4 that you get a superficial clarity, that is, on the record
5 it may look like "yes" crystal clear or "no" crystal clear,
6 but it is superficial, without getting into the juror's
7 thinking process and his reasoning behind it; that we really
8 just have a bare record that doesn't really show what is
9 going on in the juror's mind.

10 THE COURT: Now, I think I had completed asking you
11 the first question and your answer was no to that; is
12 that right?

13 MR. DAVIS: That's right, your Honor.
14

15 VOIR DIRE EXAMINATION

16 BY THE COURT:

17 Q The second question is: Do you entertain such
18 conscientious opinions regarding the death penalty that you
19 would automatically refuse to impose it without regard to
20 the evidence developed during the trial?

21 A No.

22 MR. KANAREK: Your Honor, may I have the same
23 objection; also that it is ambiguous?

24 THE COURT: You may have a standing objection,
25 Mr. Kanarek, to all such questions I ask to any
26 prospective jurors.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

MR. KANAREK: Very well, your Honor.

Q BY THE COURT: And your answer to that question is no?

A That's right.

Q All right, sir.

Now, one of the reasons why we are having this examination or this portion of the examination in chambers, Mr. Davis, is to find out from you what, if anything, you have learned about this case from reading the newspapers, watching television, reading books, and so forth, and to learn further what opinion, if any, you may have formed as a result of being exposed to any information regarding the case.

Could you tell us, at this time, what you do know about the case and the defendants, and from what source you learned it?

A Well, most of what I have seen recently is the newsreel on the television. I have read the newspapers, especially the Times, that is the paper that I read.

I did read about the incident right after it happened and, of course, the events following, but I don't remember any specific incidents, dates, and mostly names.

However, generally, why, I have read most about the case. I don't know, I read the Times article, the story of the whole incident.

16-4

1 Q Have you lived in Los Angeles continuously
2 since last August?

3 A Yes. I have been here two and a half years.

4 Q Have you read any books about the case or about
5 any of the people in it?

6 A No books. Some magazines, Life magazine, but
7 that is about the extent of it. And, of course, television.

8 Q Have you read anything which purported to be a
9 statement made by any of the defendants in this case?

10 A A statement?

11 Q Yes. That is, any article which purported to be
12 a quotation of something that one or more of the defendants
13 may have said?

14 A Well, I don't quite really understand exactly
15 what you mean. In most of the articles I have read there
16 have been quotes that a defendant or one of them have said.
17 If that is what you are referring to, why, yes.

18 Q Do you recall what any of those quotes were
19 or any of those statements?

20 A Not specifically.

21 Q As a result of what you have learned about the
22 case since last August, have you formed any opinion as to
23 the guilt or innocence of the defendants?

24 A Well, the only thing I can say to that is
25 that as far as I am concerned there would have to be an
26 overwhelming amount of evidence for me to vote not guilty.

16-5

1 It would have to be completely overwhelming the evidence.

2 Q You mean by that that you have your mind fairly
3 well made up that the defendants are guilty?

4 A Well, in one word, yes; but again, I don't
5 know all of the evidence. But just from what I have read,
6 and of course, talking to people, suggesting.

16a-1

1 THE COURT: Do you wish to inquire, Mr. Fitzgerald?

2 MR. FITZGERALD: No, your Honor.

3 THE COURT: Mr. Reiner?

4 MR. REINER: No, your Honor.

5 THE COURT: Mr. Shinn?

6 MR. SHINN: No, your Honor.

7 THE COURT: Mr. Kanarek?

8 MR. KANAREK: No questions, your Honor.

9 THE COURT: Mr. Bugliosi?

10 MR. BUGLIOSI: Yes, your Honor.

11
12 VOIR DIRE EXAMINATION

13 BY MR. BUGLIOSI:

14 Q Mr. Davis, you say you already have an opinion
15 that these defendants are guilty?

16 A Yes.

17 Q That is based on what you have read in the
18 newspapers?

19 A Most basically, yes.

20 Q If you are selected as a juror on this case,
21 Mr. Davis, do you realize that you will have to base your
22 verdict -- in fact, the judge will so instruct you -- you
23 have to base your verdict solely on the evidence presented
24 in court from that witness stand under oath? Do you under-
25 stand that?

26 A I understand that.

Q Do you understand that you cannot base your verdict in any fashion whatsoever, even to the smallest degree, on what you have heard or read outside of this courtroom? Do you understand that?

A Yes, sir.

Q And would you be willing to do that, sir?

A I don't know if I would be willing. It would be awfully hard. I don't really know. I don't really know.

Q You tend to feel now that you would start the trial with the idea that these defendants were guilty?

A Basically, yes.

MR. BUGLIOSI: Thank you.

I think we would join.

MR. STOVITZ: That is, if the defendants are making an objection.

MR. BUGLIOSI: I am sure they will be.

MR. REINER: Excuse me. If I might just ask a couple of questions of the prospective juror, your Honor?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. REINER:

Q Mr. Davis, you indicated that in addition to the exposure that you have had on television and newspapers with regard to the case that you have also had conversations from time to time with various people relating to this

1 case; is that true?

2 A That's right.

3 Q In these conversations that you had, Mr. Davis,
4 have you had any conversations with any persons in the
5 Jury Assembly Room across the street in the Courthouse?

6 A No, I have not.

7 Q Have you heard other prospective jurors from
8 time to time discussing this pending case?

9 A No, other than just what is going to happen to
10 me and what is going on. Nothing specifically about the
11 case, no.

12 MR. REINER: Thank you. No further questions.

13 MR. FITZGERALD: On behalf of all the defendants,
14 we would challenge this juror for cause.

15 MR. BUGLIOSI: No objection.

16 MR. REINER: Yes.

17 MR. KANAREK: Join.

18 MR. SHINN: Join.

19 THE COURT: For actual bias?

20 MR. FITZGERALD: I am sorry. Yes. For actual bias.

21 THE COURT: All right. The challenge will be allowed
22 and you are excused, Mr. Davis. Thank you for being so
23 frank and honest with us.

24 MR. KANAREK: Thank you.

25 MR. DAVIS: You are welcome. They are deserving of a
26 fair trial regardless of my opinions.

1 MR. KANAREK: Thank you.

2 MR. STOVITZ: May I ask the Court to have the clerk
3 call another juror -- well, one of the bailiffs has gone
4 out.

5 MR. KANAREK: Your Honor, I must object. I
6 prefer to be under the orders of the Court, your Honor, and
7 not Mr. Stovitz. I say that with all sincerity, your Honor.

8 THE COURT: You say what?

9 MR. STOVITZ: What did I say to displease you,
10 Counsel?

11 THE COURT: Let's not have any bickering on the
12 record, gentlemen.

13 If you have something to say, Mr. Kanarek,
14 please put it directly so that I can understand it.

15 MR. KANAREK: Yes, your Honor. I don't think that
16 Mr. Stovitz -- well, there is the juror now.

17 THE COURT: All right. You can continue after this
18 gentleman has been examined.

19 THE CLERK: The prospective juror's name is
20 Joseph Camilli; J-o-s-e-p-h, C-a-m-i-l-l-i.

21
22 VOIR DIRE EXAMINATION

23 BY THE COURT:

24 Q Mr. Camilli, have you heard and understood
25 everything in the case since you came into it?

26 A I have, your Honor.

1 Q Do you think you would be able to serve as a
2 juror in this case without undue hardship?

3 A No, I can't. I am employed by a major aero-
4 space firm and at the present time they are having a great
5 reduction of personnel and it would be a hardship on myself
6 and them if I didn't get back to work.

7 Q Which company is that?

8 A North American Aviation, the Space Division.
9 Particularly with the failure of the Apollo XIII, your
10 Honor, it is required that I go back to work.

11 Q How long have you been with North American?

12 A 24 years.

13 Q Is this something that you have discussed with --

14 A I discussed it with my manager Friday.

15 Q Your manager?

16 A Yes. And he has stated that I was required
17 back at work.

16B1.

Q Did he give you any indication what would happen if you didn't come back and you served on the jury?

A No, he didn't.

With the reduction of personnel they are also, naturally, reorganizing their supervisors and management levels, and I am afraid if I am not back there they might reassign me to a lesser job when I get back.

Q Do you know whether they will continue your compensation while you are a juror?

Do you know what the policy is, Mr. Camilli?

A I did not discuss that with them, your Honor.

Q Are you asking to be excused, sir?

A I would like to.

MR. FITZGERALD: We will offer to stipulate.

MR. KANAREK: Stipulate, your Honor.

MR. STOVITZ: So stipulated on behalf of the People, your Honor.

MR. SHINN: Yes.

MR. REINER: Yes.

THE COURT: All right. Then, by stipulation of counsel, Mr. Camilli, you are excused. Thank you, sir.

MR. CAMILLI: Thank you very much.

THE COURT: Ask the clerk to call the next juror, please.

MR. KANAREK: Your Honor, the point that I was making is that, as a lawyer and as a citizen, I take exception to

16b2.
;2527

1 Mr. Stovitz telling the court personnel what to do, your
2 Honor.

3 MR. STOVITZ: I asked permission of the Judge to see
4 if I should go out and talk to the clerk to come back in
5 chambers, because I feel that the bailiffs that we have
6 in here are needed to guard the prisoners, Mr. Kanarek.

7 MR. KANAREK: I didn't hear any such request for
8 permission, your Honor. If there was a request for
9 permission, I apologize to Mr. Stovitz.

10 I didn't hear any request for permission. All
11 I heard was, to my ears, Mr. Stovitz seemed to make an
12 order, that he was giving an order.

13 THE COURT: Well, I suggest, Mr. Kanarek, that you
14 let the Court concern itself with anything that appears
15 to be an order from one of counsel. I think I am perfectly
16 capable of taking care of matters.

17 MR. KANAREK: Perhaps the Court was, you know,
18 doing something else and wasn't percipient to it.

19 THE COURT: I heard everything that was said.

20 MR. KANAREK: Very well, your Honor.

21 THE COURT: Would you sit down, please, sir.

22 THE CLERK: The prospective juror's name is Don L.
23 Dunton, D-o-n, D-u-n-t-o-n.
24
25
26

16b3.

VOIR DIRE EXAMINATION OF MR. DON L. DUNTON, NO. 12

BY THE COURT:

Q Mr. Dunton, have you heard and understood everything that has been said in the case since you came into it?

A Yes, I have.

Q Would you be willing and able to serve as a juror in this case?

A I have just one problem. Maybe two.

One is that I believe it will be a hardship on my wife. We have two young children, a boy that is two and a half and a girl that is eight and a half. I married rather late in life, and I feel that six months, if there were six months involved in it, would be too much out of my life to enjoy my family.

Q Are you employed, sir?

A Yes, I am.

Q Where do you work?

A I work for Pan American Airways.

Q Have you discussed this matter with your wife?

A Yes, I have, as far as the length of time is concerned.

Q Well, of course, that is an estimate. It is possible that it could go that long.

A Yes. I feel it is a bit risky to take it for

16b4.

1 that period of time.

2 Q Are you asking to be excused?

3 A Yes, I am.

4 Q On the basis of what you have said, Mr.
5 Dunton?

6 A Yes.

7 MR. FITZGERALD: May I ask a question or so, your
8 Honor?

9 THE COURT: Yes. Go ahead.

10
11 VOIR DIRE EXAMINATION

12 BY MR. FITZGERALD:

13 Q How old are you, Mr. Dunton?

14 A I am 48.

15 Q Is your wife employed outside of the home?

16 A No, she isn't. She is a housewife only.

17 Q I take it you won't have any problem getting
18 paid?

19 A No problem so far as the pay, that is correct.

20 Q Is there some reason, aside from that, that
21 you prefer not to sit on this jury?

22 A No. Just other than my family life. I feel
23 that that is more important than this.

24 MR. FITZGERALD: I have nothing further.

25 MR. STOVITZ: May I inquire, your Honor?

26 I am sorry. Mr. Reiner?

16b5.

1 MR. REINER: No questions.

2 MR. STOVITZ: Q Mr. Dunton -- I am sorry, Mr. Shinn?

3 MR. SHINN: I have no questions.

4 MR. STOVITZ: Mr. Kanarek?

5 MR. KANAREK: I have no questions, your Honor.

6 THE COURT: All right.

7
8 VOIR DIRE EXAMINATION

9 BY MR. STOVITZ:

10 Q Mr. Dunton, sir, you understand that you will
11 be sequestered, if the Court's ruling stands, only during
12 the actual hearing of the evidence and not during the
13 jury selection; do you understand that?

14 A That is correct. I realize that.

15 Q And you understand that the estimate that we
16 gave was merely the outside estimate so that if there were
17 people who were expecting a baby or if they were going to
18 take a trip, we wouldn't want to inconvenience them, anything
19 like that.

20 You understand that?

21 A I realize that.

22 Q And you realize that on Saturdays and Sundays
23 your wife would be able to bring the children down to see
24 you at the hotel and you would be able to visit with
25 them?

26 A Well, I still think that is an imposition upon

16b6.

1 her due to the fact that it takes, actually, a husband and
2 wife to raise the children, and I don't think that two
3 days a week is exactly proper for a wife to take care of
4 these two children, especially --

5 Q Outside of the sequestering, Mr. Dunton,
6 that is, the locking up of the jury during the taking of
7 the evidence, would it be a hardship for you to serve on
8 the jury?

9 A No, no, not if I wasn't sequestered, no.

10 Q How long have you lived in Los Angeles?

11 A I have lived here since 1959.

12 MR. STOVITZ: I have nothing further. No further
13 questions.

14 May we have just a moment, your Honor, to
15 confer?

16 THE COURT: Yes.

17 (All counsel confer.)

18 MR. STOVITZ: Your Honor, after conference with
19 all counsel concerned, we will stipulate to the excuse of
20 Mr. Dunton, if it is agreeable with the Court.
21

17fol.

17-1

1 THE COURT: Very well, then. Upon stipulation of
2 all counsel, Mr. Dunton, you are excused, thank you.

3 MR. DUNTON: Thank you.

4 THE COURT: call the next juror, please.

5 MR. FITZGERALD: I notice that the time is 4:10, your
6 Honor.

7 Is your Honor inclined for tomorrow morning's
8 proceedings to call over another panel, or do you want to
9 exhaust this panel? What is the Court's pleasure?

10 THE COURT: I want to find out how many we have
11 remaining in the panel. It seems the last time I looked
12 when we were out there there were quite a few. It only
13 takes 15 or 20 minutes to get a new panel.

14 THE CLERK: The prospective juror's name is Ardis
15 Henderson, A-r-d-i-s; H-e-n-d-e-r-s-o-n.

16 (Whereupon, Ardis Henderson was seated in
17 seat No. 12 in the jury box.)

18
19 VOIR DIRE EXAMINATION OF ARDIS HENDERSON
20 BY THE COURT:

21 Q Mr. Henderson, I notice that pin, is that a
22 North American pin?

23 A Right.

24 Q Have you heard and understood everything that
25 has been said in the case since you came into it?

26 A Yes, I have.

172

1 Q Would you be willing and able to serve as a
2 juror in this case if you were selected?

3 A For a couple of reasons I would not.

4 Q You would not? And what is that?

5 A One, religious reasons, my belief about the --

6 Q -- about the death penalty?

7 A -- yes.

8 Q I really wasn't asking you that question yet,
9 but I appreciate the answer.

10 What was the other matter?

11 A Well, one, that I am not employed at North
12 American. The work I do is what I can pick up, demolition,
13 painting. While I am here I cannot get that work.

14 Q You say you are not now employed by North
15 American?

16 A No.

17 Q You are self-employed?

18 A Yes.

19 Q You work for yourself all alone?

20 A Right.

21 Q So you are dependent on your own labor for your
22 income, is that right?

23 A That's correct.

24 Q Do you have a family, sir?

25 A Yes, I have.

26 Q Any children?

1 A Threa.

2 Q What are their ages?

3 A 13 to 8.

4 MR. FITZGERALD: We offer to stipulate.

5 MR. REINER: So stipulate.

6 MR. SHINN: So stipulate.

7 MR. KANAREK: So stipulate.

8 MR. STOVITZ: So stipulate.

9 THE COURT: Very well, by stipulation of all counsel,
10 then, Mr. Henderson, you are excused. Thank you very much.

11 MR. HENDERSON: Thank you, your Honor.

12 MR. STOVITZ: Before we call in the next juror, your
13 Honor, it is 4:12 or 4:13, we were served with additional
14 points on this motion to dismiss today, including some
15 newspaper articles, including a summary of the testimony
16 at the motion for change of venue.

17 I take it this is all that counsel is going
18 to offer on the motion to dismiss based upon the articles
19 in the Rolling Stone.

20 Is that right, Mr. Fitzgerald?

21 MR. FITZGERALD: Yes, it was a joint motion on behalf
22 of all of the defendants, and I added the further declaration
23 because it was my understanding this was the last day to
24 file a declaration with respect to the motion to dismiss.

25 MR. STOVITZ: In that regard, your Honor, the People
26 do not feel it is necessary to answer that.

1 I may just say that there is one newspaper
2 article that I don't see within this, and that was the one
3 in the Long Beach Telegraph.

4 But perhaps counsel just wants to have the
5 Los Angeles Times, because that is the one that was the
6 most widely circulated newspaper.

7 But in any event we have no legal arguments to
8 offer. Your Honor may take judicial knowledge of the
9 films and exhibits on a motion for change of venue.

10 Is that your offer, Counsel?

11 MR. FITZGERALD: Yes.

12 MR. STOVITZ: It is part of the record, and under the
13 Evidence Code, your Honor can take judicial notice of it.

14 So we have no additional points and authorities
15 of evidence on the motion to dismiss.

16 THE COURT: All right. I have not yet seen the
17 latest papers filed by the defendants, but --

18 Do you have these, Mr. Darrow?

19 THE COURT: I don't need them this moment, but I
20 will read them as soon as I can, and do the defendants wish
21 to argue the motion or submit it, or how do you care to
22 handle it?

23 MR. STOVITZ: This will be taken up on Wednesday.
24 I take it?

25 MR. FITZGERALD: I would like to address myself to
26 one point in argument:

1 Your Honor from the bench the other day
2 indicated your Honor felt, arguendo, that there was an
3 insignificant showing of prejudice.

4 I want to argue that issue.
5 other than that I don't have any further
6 arguments.

7 THE COURT: You will be given any opportunity you
8 want for further argument.

9 We will set up a schedule for it.

17a.1.

1 MR. FITZGERALD: 10 minutes at the most.

2 MR. BUGLIOSI: Is this on the motion to dismiss?

3 MR. FITZGERALD: To dismiss.

4 MR. BUGLIOSI: Or with respect to Mr. Stovitz.

5 MR. FITZGERALD: No, this is just on the motion to
6 dismiss the indictment.

7 We have nothing further on the issue of Mr.
8 Stovitz.

9 MR. BUGLIOSI: I just wanted to add one further
10 point with respect to the contempt issue of Mr. Stovitz.

11 I assume that the Court is either going to
12 apply or not apply Section 166, Subdivision 6.

13 Is that the contempt section?

14 THE COURT: Are you talking about the Penal Code?

15 No, this Court does not hear these; they are
16 misdemeanors; the Municipal Court has jurisdiction.

17 That would be a civil contempt.

18 MR. BUGLIOSI: I will call the Court's attention to
19 166.66, the analogy, wilful disobedience to a Court order.

20 I would argue on behalf of Mr. Stovitz that
21 what he did was negligent --

22 THE COURT: I am not asking either side to make their
23 argument.

24 I am simply trying to look ahead and see what
25 sort of procedure we should set up for it.

26 ~~MR. STOVITZ: That is why I was bringing it up now.~~

1 MR. STOVITZ: That is why I was bringing it up now,
2 because based on the declaration filed today, based on
3 the documents filed today, the People will not have any
4 additional evidence on the motion to dismiss.

5 THE COURT: I will go ahead then and read and
6 consider everything that has been filed on both sides.

7 Since I have not seen the latest papers, I am
8 not sure how that evolves, but you should be ready for
9 further argument, if any, and a decision within the next
10 week at the most, hopefully sooner.

11 MR. KANAREK: Your Honor, in that connection we would
12 ask the Court, in connection with this motion, to take
13 judicial notice of what has happened in your Honor's
14 chambers, as well as in the courtroom, perhaps, because
15 what we are really talking about when we talk about this
16 motion is the effect of this publicity upon the state of
17 mind of the prospective jurors.

18 The testimony that speaks more eloquently than
19 I ever could as to how impossible it is -- as I say, we
20 can go through with this trial, but we ask the Court to
21 take judicial notice of the testimony of the prospective
22 jurors.

23 We would ask the Court to defer -- to defer
24 ruling on it and allow the evidence to be cumulative --
25 maybe that is not the best word -- to have added, allow
26 evidence to be added as each juror testifies on behalf of

1 this motion, to dismiss, because I don't think we can
2 ever get a fair and impartial jury in this case because of
3 what the prosecution has done.

4 And so we would ask your Honor to leave it
5 open in that sense of the word until such time in the
6 future, that is, in the foreseeable future, that the Court
7 or counsel wishes to make argument, after we have further
8 testimony from the prospective jurors.

9 Because that is where the heart of it is,
10 your Honor.

11 THE COURT: You may argue that testimony at the time
12 if you like.

13 MR. KANAREK: But we would ask your Honor to hold
14 this motion open so that your Honor and all of us could
15 have the benefit of hearing what these jurors are going to
16 say.

17 THE COURT: Hold it open for how long?

18 MR. KANAREK: Certainly there is nothing to be lost
19 by holding it open, say, for a couple of weeks until your
20 Honor hears from substantially more jurors.

21 Because, what is the use of having a trial
22 that is going to be reversed.

23 THE COURT: In the first place, it is not your
24 motion, Mr. Kanarek.

25 MR. FITZGERALD: It is a joint motion. I have no
26 objection to your Honor taking the matter under submission

1 until the conclusion of the jury selection.

2 On the other hand we can resubmit the motion
3 based on any additional information that might be revealed
4 by prospective jurors.

17B.

17b-1

1 MR. STOVITZ: We would ask for an early ruling.
2 We anticipated a ruling this Wednesday, but certainly we
3 would have no objection to going over to Friday.

4 THE COURT: Well, I propose to rule on the motion
5 within the next week, that is all I can say at the moment
6 until I have seen the most recent file of papers.

7 MR. FITZGERALD: I think we are talking about two
8 motions, and we are getting a little confused.

9 THE COURT: I am talking about the motion to dismiss.

10 MR. FITZGERALD: The motion to dismiss. I don't ask
11 that the matter of Stovitz's contempt be deferred.

12 I want to get him out of Mr. Kanarek's Sword of
13 Damocles.

14 THE COURT: And Mr. Darrow, we won't have time for
15 our next prospective juror. Would you please keep the
16 name out.

17 MR. BUGLIOSI: Would the Court instruct the clerk to
18 return those items of testimony to the People?

19 MR. KANAREK: I need them, your Honor.

20 MR. BUGLIOSI: They are available for discovery. You
21 may look at them, but they are in evidence right now and the
22 Court apparently has no further use for them.

23 We would like to have them back.

24 MR. KANAREK: We would like to have them copied, your
25 Honor.

26 THE COURT: You are not going to do it when they are

7b2
1 in the custody of the clerk, Mr. Kanarek, the only way you
2 can have them copied is when they are in the custody of
3 the People.

4 They are asking to have them back and then you
5 may complete your recovery by inspecting your copy.

6 As long as they are in the custody of the
7 clerk they are sealed and no one gets to look at them.

8 MR. BUGLIOSI: Has there been a court order to that
9 effect now?

10 THE COURT: If you will sit down just a moment,
11 gentlemen, let's finish up with our business.

12 Now, what is the motion?

13 MR. BUGLIOSI: A motion to have the documents returned
14 to the People, your Honor, that is, Miss Atkins' statements
15 to Ronnie Howard and Virginia Graham, and also a statement by
16 Diana Lake to the Los Angeles Police Department.

17 THE COURT: All right, those statements are ordered
18 returned to the prosecution.

19 MR. KANAREK: There is an exhibit No. A, Susan
20 Atkins' story of two nights of murder.

21 MR. BUGLIOSI: No, no --

22 THE COURT: Anything further?

23 MR. KANAREK: Yes, we do have a motion to dismiss
24 based on Mr. Manson's being denied a speedy trial.

25 MR. STOVITZ: Submitted, your Honor.

26 THE COURT: I am not going to take it up this

17b3
1 afternoon. It is already 4:22.

2 Do you wish to raise that at the same time as
3 your other motion to dismiss? You may do that, Mr. Kanarek.

4 MR. KANAREK: Yes, your Honor.

5 THE COURT: Is that agreeable?

6 MR. KANAREK: Yes, your Honor. Our position is
7 that Mr. Manson --

8 THE COURT: If that is agreeable we will take it up
9 at that time.

10 MR. MANSON: Would you tell the Judge this is why
11 they took the pro per away, because Judge Kaene made a
12 wrong ruling and would not let me finish filing the motion.

13 MR. KANAREK: What Mr. Manson says is true, your
14 Honor.

15 THE COURT: You can bring all of that up if you wish
16 to make your motion, at the same time as the other motion
17 to dismiss, is that agreeable?

18 MR. KANAREK: Certainly, your Honor.

19 THE COURT: All right.

20 MR. STOVITZ: Are we going back in open court now?

21 THE COURT: Yes.

22 (The following proceedings were had in open
23 court in the presence and hearing of all the prospective
24 jurors.)

25 THE COURT: All parties and their counsel are
26 present.

Anything further, gentlemen, before we

adjourn?

MR. STOVITZ: Nothing further.

MR. FITZGERALD: Nothing further, your Honor.

THE COURT: Very well, we will adjourn then until 9:45 tomorrow morning, ladies and gentlemen.

(Whereupon, an adjournment was taken at 4:25 p.m. to reconvene at 9:45 a.m., Tuesday, June 23, 1970.)

1 LOS ANGELES, CALIFORNIA TUESDAY, JUNE 23rd, 1970

2 9:50 A.M.

3 - - -

4 THE COURT: People vs. Charles Manson, Susan Atkins,
5 Patricia Krenwinkel and Leslie Van Houten.

6 The defendants and all counsel are present.

7 Gentleman, are you ready to resume our
8 examination of the prospective jurors in chambers?

9 MR. STOVITZ: Yes, your Honor.

10 MR. KANAREK: Yes, your Honor.

11 In connection with the motion to dismiss,
12 your Honor, we would offer Mr. Manson as a witness in
13 connection with that motion at the Court's convenience,
14 when the Court wishes to hear that.

15 THE COURT: As I indicated to you yesterday, Mr.
16 Kanarek, and you agreed to it, that motion will be heard
17 along with the joint motion of counsel to dismiss as
18 soon as I have completed reading the papers that have
19 been filed.

20 MR. KANAREK: Very well, your Honor.

21 MR. STOVITZ: Also, your Honor indicated last week
22 that yesterday was the last day for submitting any
23 evidence or any points and authorities so this matter
24 can be terminated at some reasonable time.

25 I have no objection if your Honor wants to
26 vary that order.

1 THE COURT: Well, I expect to be able to rule on
2 the motion within the next week, hopefully sooner.

3 Is there anything further, then, gentlemen,
4 before we retire to chambers?

5 (No response.)

6 All right, we will go into chambers then
7 with counsel and the defendants, and I will ask Mr. Darrow
8 to send in the next prospective juror.

2fol.

9 (The following proceedings occurred in
10 chambers, all counsel and defendants being
11 present:)

2-21.1

THE CLERK: The name of the prospective juror is
Mrs. Alice L. Allman. A-l-i-c-e. A-l-l-m-a-n.

THE COURT: Good morning, Mrs. Allman.

MRS. ALLMAN: Good morning.

THE COURT: The record will show that all parties
and counsel are present.

INX.

VOIR DIRE EXAMINATION OF MRS. ALLMAN
BY THE COURT:

Q Mrs. Allman, we have asked you to come into
chambers so that the Court and the attorneys could
ask you various questions, and before we get into some
of the questions I want to ask you first whether or not
you are willing and able to serve as a juror in this
case if you are selected?

A Well, I don't really think I could.

Q Why is that?

A Well, partly because of my job.

Q Keep your voice up, please.

A Partly because of my job and partly because
of the way I feel about the death sentence.

Q Well, with regard to your employment, where
do you work?

A Mt. San Antonio College.

Q What is there about your employment that
would create a problem?

A Well, I am secretary to the Director of

1 Instruction, and when I asked to serve, you know, to be
2 on Jury duty, they arranged my time so I could serve when
3 it best suited the college to release me, because there
4 are only two people in the office, and during the time
5 that my employer is gone then I am in charge of the office,
6 during vacation time; and during the winter months, my
7 schedule is very heavy because I am at many meetings
8 where I take minutes.

9 THE COURT: Would any of counsel like to question
10 Mrs. Allman about her hardship problems?

11 MR. STOVITZ: May I just ask this, your Honor?

12 THE COURT: Yes.
13

14 VOIR DIRE EXAMINATION OF MRS. ALLMAN

15 BY MR. STOVITZ:

16 Q Are you asking to be excused, Mrs. Allman,
17 because of this hardship due to your work?

18 A Yes.

19 Q Is there anyone at all that could replace
20 you at your employment if you were to serve on this
21 jury? Say it would take about a month for jury selection
22 and approximately five months for the trial.

23 A During the month of July my supervisor is
24 on vacation, so they expect me to be there because I
25 am in charge of the office during that time.

26 Then during the winter months -- I have been

1 doin g the same job, well, I am starting my twelfth
2 year -- at these particular meetings I take the
3 minutes, and it would be difficult for someone to go
4 in there not knowing, you know, not being trained.

5 MR. STOVITZ: I have no further questions, your
6 Honor.

7 THE COURT: Anyone else?

8 MR. FITZGERALD: No, I have nothing.

9 MR. REINER: No.

10 MR. FITZGERALD: There will apparently not be
11 a stipulation, your Honor.

12
13 VOIR DIRE EXAMINATION OF MRS. ALLMAN

14 BY THE COURT:

15 Q Now, Mrs. Allman, I did ask the other
16 prospective jurors some questions regarding the death
17 penalty, and I want to ask you the same questions.

18 The first question is directed toward the
19 so-called first phase or guilt phase of the trial, as
20 I explained yesterday in court, and that question is
21 this:

22 Do you entertain such conscientious opinions
23 regarding the death penalty that you would be unable
24 to make an impartial decision as to any defendant's
25 guilt regardless of the evidence developed during the
26 trial?

1 A Yes, I do.

2 Q Do you feel that because of your opinions
3 regarding the death penalty that you could not be impartial
4 on the question of guilt?

5 A I could be very impartial as far as the guilt
6 but as far as the death penalty, I could never cast a
7 vote for the death penalty.

8 Q But you could be impartial as far as
9 deciding whether a defendant is guilty or not guilty?

10 A Right.

11 Q Even though you apparently have strong feelings
12 about the death penalty?

13 A Yes, sir.

14 Q Then, a second question is directed to the
15 penalty phase of the trial, and it is this:

16 Do you entertain such conscientious opinions
17 regarding the death penalty that you would automatically
18 refuse to impose it without regard to the evidence during
19 the trial?

20 A Yes, that's right, and this stems from, I
21 think, more from my religious background than anything;
22 and I made this decision a long time ago, and I have also
23 had to make this decision since I have been on this tour
24 of duty in another case.

25 3.
26

3-1

1 Q (THE COURT): Were you excused in a case for
2 this reason?

3 A Yes, sir.

4 Q I want to be absolutely clear that I understand
5 you.

6 Is your mind now made up so that regardless of
7 what the evidence in the case shows you would automatically
8 refuse to impose the death penalty?

9 A Yes, sir.

10 Q Do you have any mental reservation about that
11 at all?

12 A Not at all.

13 THE COURT: Do you wish to inquire, Mr. Fitzgerald?

14 MR. FITZGERALD: May I?

15
16 VOIR DIRE EXAMINATION OF MRS. ALICE L. ALLMAN

17 BY MR. FITZGERALD:

18 Q In other words, you would never in any case ever
19 impose the death penalty, is that correct?

20 A No, sir, I would not.

21 Q Let's take a hypothetical situation. Let's
22 say, for example, Adolph Hitler were on trial for the death
23 of six or eight or ten million people. Do you think in a
24 situation like that you could impose the death penalty?

25 MR. BUGLIOSI: I object to that question --

26 MRS. ALLMAN: I could not.

1 MR. BUGLIOSI: There is an objection.

2 THE COURT: I think the objection is good. It will
3 be sustained.

4 MR. FITZGERALD: May I have permission to argue that?

5 There is case law in California quoted with
6 approval by the California Supreme Court in regard to a
7 hypothetical question involving the murder of the President
8 of the United States and/or his children.

9 I don't see this is a much different situation.

10 THE COURT: Well, it is quite a bit different.

11 MR. FITZGERALD: Not in principle. It might be in
12 application.

13 THE COURT: Well, the objection has been sustained.

14 Go ahead and ask some other questions if you care
15 to.

16 MR. FITZGERALD: I will pass. I have no further
17 questions.

18 MR. REINER: Nothing further.

19 THE COURT: Mr. Shinn?

20 MR. SHINN: No questions.

21 THE COURT: Mr. Kanarek?

22 MR. KANAREK: No questions.

23 MR. STOVITZ: We have no questions.

24 We ask that the Court excuse this juror for
25 cause, because of actual bias.

26 MR. REINER: We will oppose that motion.

1 MR. REINER: I oppose.

2 MR. SHINN: I oppose.

3 MR. KANAREK: I oppose, your Honor.

4 THE COURT: On what ground is it opposed?

5 MR. KANAREK: I oppose it, your Honor, on the grounds
6 that we are depriving ourselves of a good, competent juror,
7 and the District Attorney has -- I don't know how to couch
8 it -- maybe we have to look at the record -- but the
9 District Attorney has indicated very strongly, certainly
10 that is true, that there will be no request for the death
11 penalty here.

12 THE COURT: There has been no such indication that I
13 have heard.

14 MR. STOVITZ: On the contrary.

15 MR. KANAREK: Your Honor, I would refer to the
16 colloquy --

17 THE COURT: Never mind that. What I want to know
18 from you, Mr. Kanarek, is on what ground are you opposing
19 the challenge?

20 MR. KANAREK: I oppose the challenge on the ground
21 that it denies the defendant a fair trial, a fair jury
22 panel on the guilt or innocence phase, and therein denies
23 him due process under the 14th Amendment, and a right to a
24 fair trial which he is guaranteed, because we are
25 artificially imposing upon this trial (sic) people who are
26 capable of very objective analysis for guilt or innocence

3-4
1 for the benefit of the prosecution on the death penalty,
2 and we have a remedy; there is a remedy wherein the
3 prosecution's viewpoint could be protected and the defendant
4 could be given a fair trial on guilt or innocence.

5 This is the essence of my objection, your
6 Honor.

7 THE COURT: Very well.

8 MR. REINER: May I be heard, your Honor?

9 THE COURT: All right.

10 MR. REINER: The basis of our objection is perhaps
11 similar to Mr. Kanarek's. I wish to state it briefly.

12 The prospective juror has indicated she could
13 decide the guilt phase of this trial without in any way
14 being affected by the prospective death verdict, therefore
15 we move she is not unqualified.

16 THE COURT: That is repetitive of what Mr. Kanarek
17 was just saying.

18 MR. REINER: I wasn't certain. I wanted to state it
19 in one or two questions, that my position be clear; that we
20 should perhaps have two juries, in a bifurcated trial.

21 THE COURT: The challenge will be allowed. Mrs. Allman
22 is excused for cause.

23 Thank you, Mrs. Allman.

24 MR. STOVITZ: With the permission of the Court,
25 your Honor.

26 THE COURT: Yes.

1 MR. STOVITZ: I don't know whether these people
2 who are right outside of this door realize we are having
3 proceedings here; would the bailiff just check to see if
4 there are people here and ask them to carry on their
5 conversation somewhere else.

6 It does distract.

7 THE COURT: Very well.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

3a.

1 MR. KANAREK: Your Honor, if I might make argument:

2 I have just checked with Mr. Fitzgerald to
3 refresh my recollection. He tells me that we do --

4 THE COURT: On what subject, Mr. Kanarek?

5 MR. KANAREK: The subject matter is, your Honor,
6 separate trial on guilt and innocence, and on the death
7 penalty.

8 As I understand it, Mr. Fitzgerald I believe
9 refreshed my recollection, that we do have a motion to
10 that effect before the Court.

11 THE COURT: To what effect?

12 MR. KANAREK: To the effect for separate juries
13 on the guilt and innocence phase and on the death penalty,
14 if there is a guilty verdict.

15 THE COURT: I know of no such motion.

16 MR. FITZGERALD: I believe we made a motion to
17 have two juries, one for guilt and innocence, and the
18 other for penalty.

19 Your Honor suggested that that motion was
20 probably premature and should be raised again at the
21 conclusion of the guilt phase.

22 THE COURT: I do recall something to that effect,
23 yes.

24 MR. KANAREK: It would seem most useful, your
25 Honor, to decide that motion now, because if your
26 Honor decides that motion we could have perhaps less

1 difficulty in selecting jurors, if it is possible to
2 select a jury at all in this case, and by your Honor
3 allowing the guilt or innocence phase to be separate,
4 that is a separate jury panel, we would not have to go
5 into this about the death penalty.

6 MR. STOVITZ: May I be heard, your Honor. Is your
7 Honor familiar with the three latest cases that have
8 decided this very issue, that 190 of the Penal Code encompasses
9 one jury to hear both phases of the trial, three recent
10 California Supreme Court cases are right on that same
11 point.

12 THE COURT: Unless good cause is shown for a
13 separate jury.

14 MR. STOVITZ: Yes, and I cannot see any reason
15 why the jury cannot be fair.

16 THE COURT: Well, certainly it is highly desirable
17 that the jury that decides the penalty has heard the
18 evidence on the guilt phase.

19 It would be a highly unusual circumstance,
20 in my opinion that would warrant a separate jury on the
21 penalty phase.

22 Sometimes it is made necessary by reason of
23 the reversal on appeal of the penalty phase, where a
24 case comes back several years after the original case
25 was tried and there is a reversal on the penalty phase,
26 and there is no possibility of getting the original

1 jury, so we set the jury panel for the penalty only..

2 But for the ordinary case that is not the
3 case.

4 The motion will be denied.

5 MR. REINER: May I be heard briefly on that?

6 I submit there is good cause for two juries
7 rather than one because the substantial number of jurors
8 vary between 25 to 50 per cent in most death penalty
9 cases who indicate they cannot impose the death penalty.

10 THE COURT: I don't agree with that figure at
11 all. I think that figure is extremely high.

12 MR. REINER: It does run as high as 50 per cent in
13 some cases.

14 THE COURT: I have never seen that.

15 MR. REINER: At any rate the number of persons who
16 indicate they could not impose the death penalty, a
17 substantial number of prospective jurors otherwise
18 qualified are disqualified.

19 MR. KANAREK: I join in that argument, if I may.

20 THE COURT: Very well, the motion will be denied.

21 Now, would you bring in the next prospective
22 juror.

23 MR. STOVITZ: This is still Juror No. 12, is that
24 right, your Honor -- I mean sitting in the box.

25 THE COURT: This is still seat No. 12.
26

(Mrs. Alonzo enters the Court's chambers.)

THE REPORTER: Please state your name for the record.

MRS. ALONZO: Mercy Alonzo.

4-1

1 MR. STOVITZ: May the clerk read the name off of the
2 ticket, please, with permission of the Court?

3 THE COURT: I am asking the juror her name now,
4 Mr. Stovitz.

5 MR. STOVITZ: Sometimes the names are different on the
6 ticket.

7 THE COURT: What is your last name?

8 MRS. ALONZO: Alonzo, A-l-o-n-z-o.

9 THE COURT: A-l-o-n-z-o?

10 MRS. ALONZO: Yes.

11 THE COURT: Is that Miss or Mrs.?

12 MRS. ALONZO: Mrs.

13 VOIR DIRE EXAMINATION

14 BY THE COURT:

15 Q Mrs. Alonzo, if you were selected as a juror in
16 this case would you be willing and able to serve?

17 A I can't, your Honor. I have a child three years
18 old and I couldn't possibly be away for six months from him.

19 Q The child is living with you?

20 A Yes. My husband and I are separated and he is
21 with me.

22 Q Do you live with anyone else?

23 A My mother.

24 THE COURT: Do you wish to inquire?

25 MR. FITZGERALD: No, your Honor.
26

1 We will offer to stipulate, your Honor.

2 MR. STOVITZ: We will so stipulate.

3 THE COURT: All right. By stipulation of counsel,
4 you are excused, Mrs. Alonzo. Thank you.

5 (Mrs. Alonzo leaves the chambers.)

6 MR. STOVITZ: The reason for the request, your
7 Honor, is that many times the names on the tickets are
8 different than the juror's actual name. That is why I
9 asked your Honor to have the clerk read the name on the
10 ticket. They have misspellings sometimes and the jurors
11 do have different names sometimes.

12 THE COURT: I have yet to see such an instance, but
13 you may be right.

14 MR. FITZGERALD: In any event, we would be interested
15 in the juror's true name and not the name on the ticket.

16 MR. STOVITZ: We would like to have the name that
17 the clerk pulls out of the box rather than somebody
18 walking in.

19 (Another prospective juror enters chambers.)

20 THE CLERK: The name of the prospective juror is
21 Max M. Gerth, M-a-x, G-e-r-t-h.

22
23 VOIR DIRE EXAMINATION OF MAX M. GERTH

24 BY THE COURT:

25 Q Is that your true name, sir?

26 A Yes, sir.

4-3
1 Q Mr. Gerth, if you were selected as a juror in
2 this case, would you be willing and able to serve?

3 A Yes, sir.

4 Q The reason why we have asked you to come into
5 chambers is so that the Court and the attorneys may ask you
6 some questions regarding what you know about the case and
7 any opinions you may have formed about it and your views
8 regarding the death penalty without all of these matters
9 being revealed to the other prospective jurors.

10 A Yes, sir.

11 Q Now, let me start out first with the questions
12 regarding the death penalty that I have asked the other
13 prospective jurors.

14 First, do you entertain such conscientious
15 opinions regarding the death penalty that you would be un-
16 able to make an impartial decision as to any defendant's
17 guilt regardless of the evidence in the case?

18 A No, sir.

19 Q And secondly, Mr. Gerth, do you entertain such
20 conscientious opinions regarding the death penalty that
21 you would automatically refuse to impose it without
22 regard to the evidence developed in the case?

23 A No, sir.

24 Q Have you lived in Los Angeles, Mr. Gerth,
25 continuously since last August?

26 A In Downey for 30 years.

4
1 Q Did you learn about the killings that are the
2 subject matter of this case about the time that they
3 occurred last August, sir?

4 A I believe so, yes, sir.

5 Q And how did you learn about that, Mr. Gerth?
6 From the newspapers?

7 A I believe the newspapers, and television.

8 Q Are you a regular reader of the newspapers?

9 A That I am.

10 Q Do you subscribe to a newspaper?

11 A Not subscribe but I buy the Times and the
12 Herald Express Daily; also several magazines.

13 Q Would you tell us, to the best of your ability,
14 what you have learned about this case from whatever
15 source?

16 MR. STOVITZ: May we break it down, with the permission
17 of the Court, as to when the crime first occurred and then
18 after the defendants first were arrested, which was
19 approximately December the 2nd, or thereabouts, rather than
20 having a narrative, if your Honor please?

21 THE COURT: Well, I don't know how we are going to
22 break it down.

23 MR. STOVITZ: Well, your Honor --

24 THE COURT: You ask your questions, Mr. Stovitz, when
25 you get the opportunity, and I will ask mine.

26 MR. STOVITZ: Yes, sir.

5
1 Q BY THE COURT: Can you tell us, to the best
2 of your ability, what you have learned about the case,
3 Mr. Gerth?

4 A There were several people murdered or killed in
5 some estate in Beverly Hills and there seemed to be no
6 rhyme or reason for the slaying. It seemed to be a, well,
7 sort of a maniacal deal. There was no rhyme or reason to
8 it.

9 And after a period of time, several people were
10 accused of it through somebody's evidence in the case that
11 was associated with them.

12 Q Would that have been a statement by one of the
13 defendants that you read or heard?

14 A I read or heard that one of the so-called
15 Family had told the story of the killings.

16 Q Do you remember which person that was?

17 A I think that was Kasabian. I think that was
18 her name.

19 Q Have you followed this case in the newspapers
20 regularly, Mr. Gerth?

21 A I have read the headlines and that but I haven't
22 delved too deeply into the details.

4A.

1 Q Do you listen to the -- watch the television
2 news programs? -

3 A Yes, sir.

4 Q And have you seen and heard about the case
5 on TV, Mr. Gerth?

6 A If it happened to be on the newscast, yes,
7 sir.

8 Q Have you read about it in any magazines or
9 books?

10 A There have been articles in various publica-
11 tions at times.

12 Q Now, as a result of what you have learned
13 about the case, Mr. Gerth, have you formed any opinions
14 at this time regarding the guilt or innocence of any of
15 the defendants in this case?

16 A Frankly, I believe they are guilty, yes, sir.

17 Q Is that based upon what you have read and
18 heard?

19 A Read and heard, and the fact that they are
20 now charged by the State, and so forth. If there wasn't
21 a preponderance of the evidence, they wouldn't be
22 here.

23 Q Well, do you understand --

24 A It is a mighty serious charge.

25 Q Yes, there is no question about that.

26 Do you understand that merely because a person

1 is charged with a crime is no evidence that he is guilty?

2 A That is the law, yes, sir.

3 Q Do you recall the other day that I told the
4 prospective jurors that in a criminal case a defendant
5 starts out with a presumption of innocence?

6 A Yes, sir.

7 Q And he doesn't have to prove anything, he is
8 presumed to be innocent, and the burden is on the State
9 to prove his guilt beyond a reasonable doubt.

10 A Yes, sir.

11 Q Do you think that you would be able to give
12 the defendants the presumption of innocence in this case
13 and compel the State to prove their guilt beyond a
14 reasonable doubt?

15 A If I was selected on the jury I believe I
16 could, yes, sir.

17 Q Well, if you were selected, you would be
18 given that instruction.

19 A I could follow the instruction, yes, sir.

20 Q And you would be willing to follow that
21 instruction?

22 A I would.

23 Q Do you think you would be able to put to one
24 side of your mind everything that you now know about the
25 case and decide the case solely on the evidence that
26 came out during the trial?

1 A Yes, sir.

2 Q Would you be willing to follow all of the
3 instructions of the Court regarding the law even though
4 your own opinion as to what the law is or should be might
5 be different?

6 A Yes, sir.

7 Q Do you know of any reason why you could not
8 be an impartial juror?

9 A No, I do not.

10 THE COURT: Do you wish to inquire, Mr. Fitzgerald?

11 MR. FITZGERALD: No, your Honor.

12 THE COURT: Mr. Reiner?

13 MR. REINER: No, your Honor.

14 THE COURT: Mr. Shinn?

15 MR. SHINN: No, sir.

16 THE COURT: Mr. Kanarek?

17 MR. KANAREK: No.

18 THE COURT: Mr. Stovitz?

19 MR. STOVITZ: Yes, your Honor.

20

21 VOIR DIRE EXAMINATION OF MR. GERTH

22 BY MR. STOVITZ:

23 Q Mr. Gerth, you stated that "Frankly I
24 feel they are guilty."

25 Is that an opinion that you have drawn
26 from what you have read in the newspapers and watching it

1 on television or somebody told you things?

2 A Television and newspapers.

3 Q You, yourself, know nothing about the evidence?
4 From your own personal view?

5 A No, sir.

6 MR. KANAREK: Just a minute. I will object to that,
7 your Honor. I will object to that question.

8 May I have that question read back, your
9 Honor, please?

10 THE COURT: Yes.

11 (The record was read by the reporter.)

12 MR. KANAREK: Does he mean by a view of the scene
13 or does he mean by reading a confession, if that is
14 evidence?

15 THE COURT: I will sustain the objection on the
16 ground that it is ambiguous. Reframe the question.

17 MR. STOVITZ: Q: Mr. Gerth, do you know anything
18 about the individual facts of the case yourself by actually
19 going to it and talking to the witnesses, or anything
20 of that nature?

21 A No, sir.

22 Q Now, as you look at Mr. Manson here in the
23 chambers sitting some 12 feet from you, Mr. Gerth, if the
24 Court were to tell you that Mr. Manson is presumed to
25 be innocent, could you follow that instruction?

26 A If I was instructed to?

1 Q Yes.

2 A Yes, sir.

3 Q Would you be able to lock out everything that
4 you have read in the newspapers and everything that you
5 heard on television and everything that you heard on
6 the radio --

7 A Yes, sir.

8 Q -- and everything that you have read in the
9 magazines?

10 A Yes.

11 Q And follow that presumption of innocence
12 right into the jury room?

13 MR. KANAREK: I object, your Honor, on the grounds
14 that it is calling for a conclusion, and an improper
15 foundation.

16 THE COURT: Overruled.

17 MR. STOVITZ: Q. What is your answer, sir?

18 A Would you please repeat that question?

19 MR. STOVITZ: Yes.

20 Q Would you be able to follow right into the
21 jury room with that presumption of innocence?

22 A Yes, sir.

23 Q And after you started to deliberate on this
24 case, would you be able to consider only the evidence that
25 was introduced by way of witnesses and by way of exhibits
26 in this trial?

1 A Yes.

2 Q Searching your own personal opinion, sir,
3 do you want to serve on this jury?

4 A Frankly, no, sir.

5 Q Searching your own personal opinion, sir,
6 you realize that you are under oath?

7 A Yes.

8 Q Would you in any way attempt to deceive the
9 Court by any of your answers?

10 MR. KANAREK: I object to that as insulting and
11 argumentative, your Honor.

12 MR. STOVITZ: I will reframe the question.
13 It was poorly worded.

14 THE COURT: All right.

15 Q BY MR. STOVITZ: I meant to say this, Mr.
16 Gerth:

17 If the Court were to ask you to promise him
18 that you would decide this case only on what the witnesses
19 testified to and only on the actual exhibits received in
20 evidence, could you fulfill that promise?

21 A Yes, I could.

22 Q Do you hesitate in any way in answering that
23 question?

24 A No.

25 Q Now, the young ladies sitting right next to
26 you, you have seen them in the courtroom, Mr. Gerth?

1 A Yes, sir.

2 Q If the Court were to instruct you that they
3 are presumed to be innocent, Mr. Gerth, could you follow
4 that instruction?

5 A Yes, sir.

6 Q Regardless of what you have read, saw or
7 heard in any of the news media; is that right, sir?

8 A Yes, sir.

9 Q Does that include also the original crime
10 story, in other words, the original crime that happened
11 back in August of last year, could you put out everything
12 you have read about that?

13 A Yes, sir.

14 4B.
15
16
17
18
19
20
21
22
23
24
25
26

4B-1

1 Q Do you know whether these so-called -- we call
2 them victims for lack of a better expression; we don't want
3 to name all the people -- the victims of the homicides,
4 do you know how many were killed?

5 A I believe there were six; six or seven.

6 Q If you were to learn that there were seven,
7 would you follow the evidence in the trial?

8 A Yes, sir.

9 Q Do you know how they were killed; that is, by
10 hanging, stabbing, shooting, poisoning? Do you know how
11 they were killed, Mr. Gerth?

12 A Offhand, I don't remember, no.

13 Q Suppose you heard in the trial that they were
14 killed by means of "Z." Would you follow that evidence
15 and not decide from what you read in the newspaper?

16 MR. KANAREK: I will object to that question as
17 ambiguous. I don't know what "Z" means, your Honor.

18 MR. STOVITZ: A special type of poison.

19 THE COURT: I think the question is ambiguous,
20 Mr. Stovitz.

21 MR. STOVITZ: All right. Fine.

22 Q If you heard that the victims were strangled
23 to death, would you follow that evidence in the courtroom
24 and disregard what you might have read in the newspapers?

25 A Yes, sir.

26 MR. STOVITZ: Thank you. I have no further questions.

Oh, yes. I am sorry.

Q The Rolling Stone. Have you ever heard of a publication known as The Rolling Stone?

A No, I haven't.

MR. REINER: Your Honor, may I ask a couple of questions?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. REINER:

Q Mr. Gerth, you do understand that each defendant is presumed to be innocent; is that true?

A What is that?

Q I say, you do understand that each of these defendants are presumed to be innocent?

A Yes.

Q However, as you sit here, you don't really believe that they are innocent, do you, sir?

A I believe now, after I have been instructed by the court, that they are innocent until proved guilty beyond a reasonable doubt.

Q Do you mean by that to say that you have learned since his Honor spoke to you that as a matter of law they are presumed to be innocent whether they are or not at this particular point?

A Yes. As far as the Court goes.

3
1 I was asked my personal opinion, I presume,
2 before, and that is what I gave at that time.

3 Q Now, at this time, Mr. Gerth, as you sit there,
4 irrespective of whether the law says you must presume them
5 to be innocent if you were to sit as a juror, as to your
6 personal opinion right now as to whether, in fact, they are
7 guilty or innocent, it is your personal opinion, isn't it,
8 that they are guilty?

9 A That is what it was, yes.

10 MR. REINER: Nothing further.

11 THE COURT: Anything further?

12 MR. STOVITZ: Nothing further, your Honor.

13 MR. FITZGERALD: No questions, your Honor.

14 MR. KANAREK: No, your Honor.

15 MR. SHINN: No.

16 THE COURT: Would you then go back to the courtroom,
17 Mr. Gerth?

18 MR. GERTH: Yes, sir.

19 (Mr. Gerth leaves the chambers.)

20 MR. FITZGERALD: We will challenge this juror for
21 cause, your Honor, on the grounds of actual bias in that
22 he has been exposed to extensive prejudicial pretrial
23 publicity.

24 Again, your Honor, I might point out that in
25 the American Bar Association minimum standards they suggest
26 that a prospective juror who has been exposed to and

b4

1 remembers reports of highly significant information such as
2 the existence or contents of a confession or other
3 incriminating matters that may be inadmissible in evidence
4 or substantial amounts of inflammatory material shall be
5 subject to challenge for cause without regard to his
6 testimony as to his state of mind.

7 I think this juror has indicated that he has
8 been exposed to some highly significant, inflammatory and
9 prejudicial information that may be inadmissible in evidence.

10 And I think also he has indicated that, at
11 best, his state of mind is equivocal and ambiguous; his
12 personally-held opinion is that the defendants are guilty.

13
14
15
16
17
18
19
20
21
22
23
24
25
26

THE COURT: Does anyone else wish to be heard?

MR. REINER: Yes, your Honor, our position would be that where a prospective juror has indicated that he has a personal belief in the guilt of the defendants, that any promises on his part that he would try to put aside that personal belief and follow the instructions of the Court would be ineffective to qualify him as a juror.

MR. KANAREK: Join Mr. Fitzgerald's and Mr. Reiner's comments, your Honor.

MR. SHINN: Join.

MR. STOVITZ: Submit the matter.

MR. KANAREK: And challenge, of course.

THE COURT: I am going to allow the challenge in this case.

MR. KANAREK: Thank you, Judge.

THE COURT: Mr. Max Gerth will be excused for cause.

(Prospective juror enters the courtroom.)

THE COURT: Good morning.

THE CLERK: The prospective juror's name is Elmer Dow Troxcil, E-l-m-e-r, middle name D-o-w, last name T-r-o-x-c-i-l.

VOIR DIRE EXAMINATION OF ELMER DOW TROXCIL

BY THE COURT:

Q Mr. Troxcil, if you were selected as a juror in this case would you be willing and able to serve, sir?

-2
1 A No, sir.

2 Q Why is that?

3 A Well, I lost \$150 a week by being here.

4 I have completed five weeks already at the
5 loss of about \$600 or seven.

6 Q Who is your employer?

7 A Safeway Stores. Now, they do pay me for 40
8 hours, my weekly pay is \$300 a week for the work I do per-
9 form, and they pay me \$146 which is a terrific loss and I
10 cannot stand it.

11 Q Are you married?

12 A Yes, I am.

13 Q Do you have any children?

14 A Grown children.

15 Q How long have you been with Safeway?

16 A 23 years.

17 MR. FITZGERALD: We offer to stipulate this juror may
18 be excused.

19 MR. REINER: So stipulated.

20 MR. SHINN: So stipulated.

21 MR. KANAREK: So stipulated.

22 MR. BUGLIOSI: So stipulated.

23 THE COURT: By stipulation of counsel you are excused,
24 Mr. Troxcil. Thank you.

25 MR. TROXCIL: Thank you.

26 (Another prospective juror enters the courtroom.)

-3
1 THE COURT: Good morning, sir.

2 THE CLERK: This prospective juror's name is Henry J.
3 Cabrera, H-e-n-r-y, C-a-b-r-e-r-a.

4 VOIR DIRE EXAMINATION OF HENRY J. CABRERA

5 BY THE COURT:

6 Q Mr. Cabrera, if you were selected as a juror
7 in this case would you be willing and able to serve?

8 A I don't think so.

9 Q What is your situation?

10 A My employer will compensate me for only 25
11 days on jury duty.

12 Q Who is your employer?

13 A General Dynamics, Pomona.

14 Q Have you discussed this with someone there?

15 A Yes, I asked the time audit department.

16 That is their policy. Beyond that I would not
17 be able to meet my obligations.

18 Q Are you married, sir?

19 A Yes, sir.

20 Q Do you have any children?

21 A Yes.

22 MR. FITZGERALD: We offer to stipulate that the juror
23 may be removed.
24

25 MR. REINER: So stipulated.

26 MR. SHINN: So stipulated.

1 MR. STOVITZ: So stipulated.

2 MR. KANAREK: So stipulated.

3 THE COURT: By stipulation of counsel you are excused,
4 Mr. Cabrera, thank you.

5 MR. CABRERA: Thank you, sir.

6 MR. KANAREK: Before your Honor calls another
7 witness (sic), may I make just a legal argument?

8 THE COURT: Before you make the argument, would you
9 mind telling me on what subject you are arguing?

10 MR. KANAREK: The subject, your Honor, is on due
11 process and equal protection as to the excusal (sic) of
12 jurors, prospective jurors, by virtue of the prosecution's
13 structuring a case, deliberately structuring a case with
14 cumulative evidence.

15 We have reason to believe it is just cumulative
16 evidence, so that the trial will be -- so that they
17 deliberately make the trial long so that they can get the
18 kind of jurors they want on the case.

19 MR. STOVITZ: I will tell you what, your Honor, if
20 Mr. Kanarek agrees not to make any objections throughout the
21 entire case we will cut our estimate of trial from 60 court
22 days to 20 court days.

23 THE COURT: If you will stop making statements like
24 that, Mr. Stovitz, it will cut it down even more.

25 I still don't know, are you making a request, a
26 motion, an objection?

1 MR. KANAREK: What I am asking --

2 THE COURT: State it, whatever it is.

3 MR. KANAREK: I am asking the Court to make a
4 finding of denial of due process, and denial of equal
5 protection because we are eliminating in this jury, from
6 the prospective jury people who, some of them, appear to be
7 people who would make good jurors, and this is done by
8 virtue of the prosecution's estimate of this trial, and
9 based upon what we believe to be just their intent to use
10 cumulative evidence.

11 Now, it is our position that at this point,
12 because of what has happened, and we make a motion that the
13 prosecution make an offer of proof to the Court so that we
14 can analyze legally as to whether or not their statements
15 have any merit as far as the length of this trial is
16 concerned, because the Court, in its discretion, after
17 listening to this offer of proof, can make certain deter-
18 minations, and it will allow us to keep some of these
19 jurors who are being eliminated because of this hardship.

20 And I make the motion that the prosecution make
21 this offer of proof because I don't believe that their offer
22 of proof will sustain a trial as long as they have
23 indicated, because from viewing the evidence, from having
24 some knowledge of what the evidence is, it is our position
25 that it is painfully cumulative -- painfully.

26 THE COURT: All right, your motion is denied,

1 Mr. Kanarek.

2 Let's bring in the next prospective juror.

3 (Prospective juror enters the room.)

4 THE COURT: Good morning, sir.

5 PROSPECTIVE JUROR: Good morning.

6 THE CLERK: The prospective juror's name is James
7 George. J-a-m-e-s, G-e-o-r-g-e.

8
9 VOIR DIRE EXAMINATION OF JAMES GEORGE

10 BY THE COURT:

11 Q Mr. George, are you willing and able to serve
12 as a juror in this case if you are selected, sir?

13 A No, sir.

14 Q Why not?

15 A It would be a hardship on me, sir.

16 Q Why?

17 A Well, it would be a hardship for financially
18 and mentally. I think the biggest thing is the mentally,
19 I don't think I can be sequestered for 30 days, let alone
20 six months or maybe a year.

21 I could not take that at all.

22 Q You say a year?

23 A I heard that on the news today, possibly a
24 year.

25 Do you know how long it will be, sir?

26 Q I can assure you it is not going to be a year.

1 Very likely it is going to be less than six months.

2 A Well, I could not take 30 days of it, plus the
3 fact financially -- I couldn't.

4 Q What is your business or occupation?

5 A Internal Revenue Service, revenue officer.

6 Q You work for the Government?

7 A Yes.

8 Q Well, the Government would pay you while you
9 were serving as a juror.

10 A That is not the answer I got.

11 Q From whom?

12 A From the District Director. They said possibly,
13 but they could not give me a definite answer.

14 But that is not my hardship. It is not the pay
15 there.

16 I am not trying to be funny, I am serious. Any
17 one of you sitting here and serving, and get behind closed
18 doors for six months, I can realize what it is. I am not
19 a young fellow any more. I don't need it.

20 Q How old are you, Mr. George?

21 A 57, I've got three years to retirement.

22 I am up for promotion. This would kick it out.

23 Q How do you know that?

24 A How do I know that?

25 Q Yes.

26 A Well, just common sense would tell me this.

1 If there is an opening, certainly they won't promote a man
2 that would be unavailable to the job for -- how long do you
3 say, six months, sir?

4 Q That is the outside estimate.

5 A This is my belief.

6 Q Have you ever served on a jury before?

7 A Never.

8 THE COURT: Any questions, Counsel?

9 MR. REINER: Stipulate that the juror may be excused.

10 MR. FITZGERALD: We offer to stipulate.

11 MR. KANAREK: We stipulate.

12 MR. SHINN: Stipulate.

13 MR. STOVITZ: May we ask one question with the Court's
14 permission?

15 THE COURT: All right.

16
17 VOIR DIRE EXAMINATION

18 BY MR. STOVITZ:

19 Q Mr. George, if the jury was not sequestered,
20 that means locked up, during the taking of the evidence,
21 would you be able to serve on this jury?

22 A That is possible.

23 Q In other words, your promotion business might not
24 stop you from serving?

25 A The biggest part was being sequestered. I
26 could not take it; that above anything else.

My right frame of mind would not be with me.

1 MR. STOVITZ: We also stipulate, your Honor.

2 THE COURT: All right, you are excused by stipulation
3 of counsel.

4 MR. GEORGE: Thank you.

5 THE COURT: Let's bring in the next prospective juror.

6 MR. KANAREK: Before that happens I would like, while
7 this evidence is fresh in our minds, I think this man spoke
8 most eloquently.

9 THE COURT: Do you have a motion or objection,
10 Mr. Kanarek? If so, state it.

11 MR. KANAREK: My motion may be premature in view of
12 the fact we made it previously.

13 THE COURT: Just state it.

14 MR. KANAREK: The motion is, your Honor, that you do
15 away with the sequestering because some people may want to
16 be on this jury, so they may not be completely candid with
17 the Court.

18 But the actual state of mind, I think, of any
19 person in our free society is going to be that of the gentle-
20 man who just spoke, your Honor.

21 THE COURT: Bring in the next juror.

22 (Prospective juror enters the room.)

23 THE COURT: Good morning. Would you state your name,
24 please.

25 THE PROSPECTIVE JUROR: Horace C. Bell, H-o-r-a-c-e,
26 middle initial C, B-e-l-l.

VOIR DIRE EXAMINATION OF HORACE C. BELL

BY THE COURT:

Q Mr. Bell, if you were selected as a juror in this case would you be willing and able to serve?

A No, sir, I would not.

Q What is your situation, sir?

A My job only has given me permission to exceed 15 days over the normal 30 days allotted for jury duty.

Q Who is your employer?

A Ameron.

Q What type of business is that?

A They construct some pipe. I work in data processing; I work as a computer operator.

Q How long have you been employed?

A Approximately four months.

Q Do you have any family?

A No, presently me and my wife is separated.

Q How long have you been on jury service now?

A Approximately two weeks and two days.

Q And do I understand correctly that your employer has told you that you would be only paid an additional 15 days after your 30 days were up?

A That's correct.

MR. FITZGERALD: We offer to stipulate that this juror may be excused.

MR. REINER: Same stipulation.

1 MR. SHINN: So stipulated.

2 MR. KANAREK: So stipulated, your Honor.

3 THE COURT: Very well, then, by stipulation of counsel
4 you are excused, Mr. Bell, thank you.

5 MR. REINER: Does the Court wish to take its morning
6 recess at this time?

7 THE COURT: Yes, I think we will take our recess at
8 this time for 15 minutes, then.

9 (Whereupon, at 10:47 a.m. a recess was taken
10 for 15 minutes.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

6-1.

(The following proceedings occur in chambers:)

THE COURT: The record will show all of the defendants and their counsel are present.

MR. BUGLIOSI: Your Honor, I believe that Mr. Stovitz made a statement outside to the effect that when one of us was here we can proceed, that it isn't necessary for both of us to be here.

I am sure he will be here shortly, your Honor. I don't know where he is right now.

THE COURT: All right.

Let's bring in the next prospective juror.

(A prospective juror enters chambers.)

THE CLERK: The prospective juror's name is Roy K. Rogers; R-o-y, R-o-g-e-r-s.

THE COURT: Good morning, Mr. Rogers.

MR. ROGERS: Good morning, sir.

VOIR DIRE EXAMINATION OF MR. ROGERS

BY THE COURT:

Q If you were selected as a juror in this case, Mr. Rogers, would you be willing and able to serve?

A Well, I'd be willing but after 30 more days my company will not pay me anymore, so I could not very well afford it.

Q What company do you work for?

A Chrysler Corporation.

INX.

6-2.

1 Q Chrysler?

2 A Yes.

3 Q Have you already discussed this matter with
4 them?

5 A Yes. Sixty days in the calendar year is
6 all they will pay. Each calendar year, sixty days.

7 Q Is that something in the Union contract?

8 A Yes.

9 Q Is that specifically referring to jury
10 service?

11 A Yes. I checked with the employment office.
12 I have 30 more -- well, it will be 30 more days. I have
13 been on jury service 30 days. There will be only 30 more
14 days.

15 MR. FITZGERALD: We will offer to stipulate,
16 your Honor.

17 MR. BUGLIOSI: So stipulate.

18 MR. KANAREK: So stipulate, your Honor.

19 MR. SHINN: So stipulated.

20 MR. REINER: Yes.

21 THE COURT: Then, by stipulation of counsel, Mr.
22 Rogers, you are excused. Thank you.

23 MR. ROGERS: Thank you.

24 (Mr. Rogers leaves the chambers.)

7.

7-1.

(A prospective juror enters the room.)

THE CLERK: Just have a seat in the chair there.

THE COURT: Good morning.

THE CLERK: The prospective juror's name is Edward E. Austin. E-d-w-a-r-d, A-u-s-t-i-n.

VOIR DIRE EXAMINATION OF MR. AUSTIN

BY THE COURT:

Q Mr. Austin, if you were selected as a juror in this case would you be willing and able to serve?

A No, sir.

Q What is your situation?

A I am self-employed with a partner. I operate 2500 acres of citrus, north of Bakersfield.

My partner is a very capable farm manager, but we have different objectives, and we are in the process of dissolving that partnership and setting up separate operations.

So in the next few months I would spend, I think, a good chance of a substantial loss if I wasn't the negotiations to allocate assets and to arrange my own operation.

Q You think you might find that your mind was preoccupied with other things if you were serving on a jury under those conditions?

A Yes, I think so.

7-2.

1 MR. FITZGERALD: We will offer to stipulate this
2 juror may be excused.

3 MR. REINER: So stipulated.

4 MR. STOVITZ: So stipulated.

5 MR. SHINN: So stipulated.

6 MR. KANAREK: So stipulated.

7 THE COURT: By stipulation of counsel, Mr. Austin,
8 you are excused. Thank you.

9 MR. AUSTIN: Thank you.

10 (Another prospective juror enters room.)

11 THE CLERK: The prospective juror's name is
12 Evelyn M. Liston. E-v-e-l-y-n. L-i-s-t-o-n.

13
14 VOIR DIRE EXAMINATION OF MRS. LISTON

15 BY THE COURT:

16 Q Is that Mrs?

17 A Yes.

18 Q Mrs. Liston, if you were selected as a juror
19 in this case would you be willing and able to serve?

20 A It would be a hardship, your Honor.

21 Q Why is that?

22 A Well, in the first place my job is -- it only
23 pays for the month.

24 I have a mother with a cardiac condition who
25 has been in the hospital lately, and I am babysitting with
26 my ten-month old granddaughter while my daughter works.

7-3.

Q Are you employed outside of the home?

A Yes, I work. She works four to twelve, and then I work.

Q Is your mother living with you?

A No, but she had someone staying with her, but I had to go put her in the hospital twice, you know, so I have to be available.

MR. FITZGERALD: We offer to stipulate this juror may be excused.

MR. REINER: So stipulated.

MR. SHINN: So stipulated.

MR. KANAREK: So stipulated.

MR. STOVITZ: So stipulated.

THE COURT: By stipulation of counsel then, Mrs. Liston, you are excused, thank you.

MRS. LISTON: Thank you, sir.

THE COURT: According to the Supreme Court we can now have a criminal jury of at least six, according to the decision handed down yesterday. I am not sure whether that is applicable in California.

MR. STOVITZ: There are cases where a juror gets sick and if all counsel agree that less than 12 may serve, that constitutes a waiver.

THE COURT: Of course that is true in civil cases under Section 194 of the Code of Civil Procedure.

MR. STOVITZ: Yes, they do it in criminal cases

7-4.

1 also.

2 MR. FITZGERALD: You and I tried one with 10
3 jurors, do you remember?

4 MR. BUGLIOSI: Yes.

5 (Prospective juror enters the room.)

6 THE CLERK: The prospective juror's name is
7 Alfred M. Covarrubias. A-l-f-r-e-d. C-o-v-a-r-r-u-b-i-a-s.
8 We have one more prospective juror, your
9 Honor.

10 THE COURT: Mr. Covarrubias, if you were selected
11 as a juror in this case would be willing and able to serve?

12 A No, I would not.

13 Q What is your situation, sir?

14 A Well, any further service would create a
15 hardship due to the fact that my company only pays for
16 20 days and I have a family of six.

17 Q What company do you work for?

18 A McDonnell- Douglas.

19 Q They only pay a total of 20 days jury duty?

20 A Yes, they do, I have the Union agreement book
21 on me that so states.

22 Q Would you receive any compensation from any
23 other source, like, for example, the Union itself?

24 A No, I would not, and furthermore I feel that
25 my duodenal ulcer is starting to act up on me and I have
26 gone back on medication.

8.

8-1
1 MR. KANAREK: I didn't hear that last portion, your
2 Honor.

3 MR. COVARRUBIAS: My duodenal ulcer --

4 THE COURT: We will have it read back.

5 (Whereupon, the record was read by the reporter.)

6 MR. KANAREK: Thank you, your Honor.

7 MR. FITZGERALD: We will offer to stipulate that this
8 juror may be excused, your Honor.

9 THE COURT: Do all counsel stipulate?

10 MR. SHINN: So stipulate.

11 MR. STOVITZ: So stipulated, your Honor.

12 MR. KANAREK: So stipulate.

13 MR. REINER: Stipulate.

14 THE COURT: By stipulation of counsel, Mr. Covarrubias,
15 you are excused.

16 MR. COVARRUBIAS: Thank you.

17 MR. KANAREK: Thank you.

18 (Mr. Covarrubias leaves the chambers.)

19 MR. REINER: Your Honor, it is my understanding that
20 the prospective jurors have to be selected by lot, and if
21 we are down to the last one then we have to call additional
22 jurors.

23 I have no objection, your Honor.

24 THE COURT: They have been selected by lot, and
25 by lot the next juror is the last.

26 MR. FITZGERALD: Okay.

1 MR. KANAREK: I believe there is case law.

2 MR. REINER: I have no objection. I am willing to
3 waive that.

4 MR. KANAREK: I believe Mr. Reiner is correct, your
5 Honor. There is a case, at least, that says you have to
6 pick it from at least two. There is no lot when there is
7 one left. You have to have at least two there or else there
8 is no element of chance.

9 THE CLERK: Are you ready for the next one, your Honor?

10 THE COURT: Yes.

11 (Whereupon, another prospective juror enters
12 the chambers.)

13 THE CLERK: Your Honor, do you wish me to order
14 another panel at this time?

15 THE COURT: Not at this time.

16 THE CLERK: The name of the prospective juror is
17 Mrs. Lee Brodsky, L-e-e, B-r-o-d-s-k-y.

18
19 VOIR DIRE EXAMINATION OF MRS. LEE BRODSKY
20 BY THE COURT:

21 Q Mrs. Brodsky, would serving on a jury in this
22 case constitute an undue hardship in your opinion, or would
23 you be willing to serve?

24 A Yes, it would be, because my husband has a
25 heart condition and he has to have shots twice a week,
26 which I give him.

1 Q You give him the shots?

2 A Yes, for his blood. It keeps it thin.

3 Q I beg your pardon?

4 A It keeps his blood thin; Heparin shots.

5 Q And you personally give him the shots?

6 A Right. So that he doesn't have to go to the
7 doctor all the time.

8 MR. FITZGERALD: We will offer to stipulate that this
9 juror may be excused.

10 MR. STOVITZ: May we just ask one question?

11 THE COURT: Yes.

12
13 VOIR DIRE EXAMINATION

14 BY MR. STOVITZ:

15 Q If you were not sequestered, if you were not
16 locked up at night, could you give those shots in the
17 evening?

18 A Yes, I could give them in the evening. Yes.
19 That is when I give it to him is after work.

20 Q In other words, you are thinking about the
21 fact that you have to be sequestered for six months and
22 during that six months you would have to hire someone?

23 A Yes. He would have to go to the doctor all the
24 time to get them.

25 Q And is this a heart condition he has had for
26 some time?

1 A Yes, sir.

2 MR. STOVITZ: We have no objection.

3 THE COURT: By stipulation of counsel, then,
4 Mrs. Brodsky, you are excused.

5 (Whereupon, Mrs. Brodsky leaves the chambers.)

6 THE COURT: Before I call over the next panel,
7 gentlemen, do you want to discuss informally the question
8 of this sequestration? I think it might be well to discuss
9 among ourselves the pros and cons.

10 I am not prepared at the moment yet to change
11 my decision but I am certainly willing to listen to the
12 pros and cons.

13 MR. STOVITZ: Do you want to go around the room on
14 this, or do you want to hear from the People first, or the
15 defense first, your Honor?

16 THE COURT: I view this as simply an informal
17 discussion at the moment so I don't think it makes much
18 difference what order we take.

19 MR. SHINN: May I ask one question, your Honor?

20 THE COURT: Yes.

21 MR. SHINN: What is the Court's idea or reason for
22 this sequestering of them?

23 THE COURT: Well, there are several reasons. One is
24 to avoid any distractive influences on the jurors,
25 including any harrassment or possible harrassment.

26 MR. SHINN: That is the main reason, that your Honor

1 feels that there may be a possibility of harrassment by
2 some of the friends of the defendants?

3 THE COURT: I don't know by whom. It could be anybody.

4 MR. SHINN: It could be anybody, but I believe that
5 it is inferred that way; is that correct, your Honor?

6 THE COURT: Not necessarily.

7 MR. SHINN: That is the only reason that the Court
8 feels?

9 THE COURT: No, that is not the only reason.

10 The other reason is to insulate the jury from
11 the trial publicity, which, as we already know from the
12 newspapers and television -- and the trial hasn't started
13 yet -- there has been a considerable amount of publicity.

14 MR. SHINN: Wouldn't it be difficult, in view of the
15 fact that the Court has said that on weekends the family
16 could visit, that they could bring in newspapers?

17 THE COURT: No. They won't bring in any newspapers,
18 not if they are sequestered. The newspapers would be
19 censored of any material relating to the trial.

20 MR. SHINN: That is a very difficult thing to
21 control, publicity, because the relatives of the jurors are
22 going to talk.

23 THE COURT: I am not concerned about them talking to
24 their own family. I think if they agreed not to, they
25 wouldn't. But the problem is inadvertent exposure to
26 trial publicity.

8a-1.

1 MR. STOVITZ: Your Honor, on behalf of the People,
2 I have looked at 1121 of the Penal Code which gives your
3 Honor the right to sequester this jury, and it is a
4 question of discretion, and in weighing your Honor's
5 decision, you have to balance both ends.

6 I can see certain good coming from sequestering
7 a jury, and if your Honor and all counsel were willing
8 to work eight hours a day during the trial instead of
9 four hours a day, I could see the equal hardship being
10 shared by all of us. We will certainly shorten the
11 trial by one-half the estimate.

12 The good to come of sequestering the jury
13 is what your Honor said, insulating them against
14 publicity, and also against possible influence by friends
15 or family, or in any way influencing their verdict other
16 than by the evidence. They would certainly concentrate
17 more on the evidence if they were sequestered.

18 However, I do not see any danger to the jury.
19 In the Sirhan case it was a matter of national emergency
20 almost because of what had happened in Dallas. I don't
21 think that this jury has anything to fear from either
22 pro-prosecution friends or friends of the defendants.
23 I think in balancing both sides, that is,
24 the fact that we want to secure a jury that would be a
25 cross-section of the country or of our community, anyway,
26 also dealing with the hardship of the jury, that it would

8a2.

1 have to be some kind of a strange type of person who would
2 want to give up his friends, his family, any kind of
3 social clubs, any kind of hobbies, and isolate themselves
4 for six months -- and it might very well be six months;
5 it might be less, but the maximum would be six months --
6 would give us a strange type of juror, not the cross-
7 section of the community; and speaking on behalf of the
8 People, your Honor, we would ask your Honor to exercise
9 your discretion in not sequestering the jury.

10 We feel that it would give both the defendants
11 and the People a better juror, and that better juror would
12 be able to heed the Court's admonition.

13 Now, if anything happens during the trial
14 like, for instance, I received "crank" phone call during
15 the middle of the night --

16 MR. BUGLIOSI: We don't know whether it was a crank
17 phone call.

18 MR. STOVITZ: I have an unlisted phone number. I
19 immediately called the phone company to find out whether
20 or not any other messages like that were received, and
21 none of them were received. It is unusual that they
22 single out one person.

23 MR. BUGLIOSI: Tell the Court.

24 MR. STOVITZ: It's all right. It is not necessary.

25 The jurors might receive crank phone calls.
26 I remedied it by merely changing my phone number.

8a3.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Now, these things do happen, your Honor, but I think that the pretrial publicity that the jury has been exposed to, this jury can put that aside. If the jury can put that aside, they can put aside anything that they might casually see or overhear during the trial, because they will be following the evidence daily and they will be able to listen to the evidence and abide by the evidence.

MR. BUGLIOSI: I want to say one thing, your Honor. I am in favor of not sequestering the jury for the reasons set forth by Mr. Stovitz.

However, I am very concerned about harassment and direct and implied threats by friends of the defendants. This has already taken place.

THE COURT: Of course, we don't know whether any such are going to occur, whether they would be friends or not.

9fol.

9-1. 1 MR. BUGLIOSI: We already have information that it
2 has, your Honor.

3 THE COURT: Cases which attract attention also
4 attract fanatics who have no connection whatever with any
5 of the parties.

6 MR. BUGLIOSI: That is true. We have evidence of
7 the Family --

8 THE COURT: I have received letters personally,
9 for example, not threatening in any way, but obviously
10 from people who, let's say, are of peculiar views.

11 I am talking now about letters from other
12 states that have no connection with any of these people,
13 apparently, they are not threatening letters, but they
14 just show that cases of publicity attract people of
15 diverse views.

16 MR. BUGLIOSI: That is very true, your Honor, but
17 members of the Family have already made implied threats to
18 several prosecution witnesses. We have evidence of that.

19 MR. KANAREK: Your Honor, we would ask if counsel
20 has any such thing, rather than make gratuitous statements,
21 that he file papers with the Court under oath, and that
22 there be the proper procedures in re contempt, or some
23 other type of procedure rather than make statements that
24 we believe to be absolutely unfounded.

25 MR. STOVITZ: Mr. Shinn has personal knowledge of
26 this, Counsel.

1 MR. SHINN:- Your Honor, let me speak, since my
2 name was mentioned.

3 Mr. Stovitz says I have personal knowledge
4 of this. If Mr. Stovitz would go into more details --

5 THE COURT: I did not ask for this --

6 MR. SHINN: I have no personal knowledge of any
7 of this.

8 THE COURT: I did not ask for this for this purpose.
9 This is not for the purpose of the issue of whether or not
10 there have been any threats. That is not my purpose.

11 MR. SHINN: He implied I knew of these threats,
12 your Honor. I know of no threats, your Honor.

13 THE COURT: All right, I take your word for it, Mr.
14 Shinn.

15 MR. SHINN: I don't know why he mentioned my name
16 like that, your Honor.

17 THE COURT: I have no idea.

18 MR. FITZGERALD: I might say that with a good deal of
19 thought, I am reluctantly in favor of having the jury
20 sequestered. ✓

21 I thought about it long and hard. I am very
22 concerned that we are going to get a peculiar kind of jury,
23 as Mr. Stovitz points out.

24 But I don't trust the media. These jurors, ✓
25 if they are not sequestered, are going to be subjected to
26 a tremendous amount of pressure.

1 These television stations will set up
2 television transmitting units right outside their house;
3 they will photograph them on their way to work.

4 They are going to have to fight their way
5 into this courtroom every morning the way we gentlemen
6 have to fight our way into the courtroom.

7 THE COURT: No, they won't have to do that. We
8 can arrange for a central rendezvous point, for example,
9 the County Court House, have them bussed here and bussed
10 back.

11 I am not concerned during the day. If not
12 sequestered they will be constantly escorted by the
13 Sheriff's Deputies during the daytime.

14 It is the after hours, driving to and from
15 work, and being at home, being subject to phone calls.

16 MR. FITZGERALD: And from time to time during the
17 course of this case we are going to conduct matters outside
18 of the presence of the jury; the jury will be upstairs and
19 we will be in the courtroom.

20 These matters will be broadcast on the media,
21 television, on the radio, in the newspapers.

22 The newspapers and television have a habit
23 of repeating allegations and accusations. They have a
24 habit of pointing out that witnesses have at one time
25 testified pro, and are now testifying con, and so forth
26 and so on.

1 I think there is an amazing amount of
2 inadmissible evidence in the media that these jurors are
3 just going to be bombarded with.

4 I don't think a conscientious juror can
5 prevent himself from being exposed to this kind of media
6 exposure.

7 And certainly it presents a real imposition,
8 it imposes a real imposition on the juror's family.

9 I think the only safe way not to see anything
10 on television about this case would be for the juror's
11 entire family not to watch television, and that is a
12 tough thing to ask any juror's family to do, or to no
13 longer subscribe to the papers.

14 THE COURT: Well, these are all the things that I
15 personally have been thinking about since the case was
16 first assigned to me.

17 It is hard to tell from this present panel.
18 Now, we started out with a fairly high percentage of people
19 who were willing to serve. We got to chair No. 12 and
20 there have been something like 31 or 32 in a row that
21 have claimed hardship. It is hard to tell whether that
22 is typical or whether it is simply the result, for example,
23 of this panel having already served a substantial period
24 of time.

25 Maybe they are just tired already and they
26 want to go home. I don't know.

1 MR. BUGLIOSI: I would like to make one suggestion,
2 your Honor, that we lower the estimate of the trial.

3 I have never said, personally I have never
4 said six months. I have said a couple of years if Mr.
5 Kanarek acts the way he has in the past, and I say the
6 same thing now, three or four years, depending on how
7 the Court controls Mr. Kanarek.

8 Thus far Mr. Kanarek has not been asking
9 questions of prospective jurors, et cetera. It seems
10 like we are going to go rather smoothly.

11 THE COURT: Thus far Mr. Kanarek has not presented
12 any problems to me as far as I am concerned.

13 MR. BUGLIOSI: Thus far.

14 THE COURT: He has conducted himself in all respects
15 in a professional manner, and I have nothing to say about
16 any of you, for that matter, and I assume that it will
17 continue.

18 But Mr. Bugliosi, the statement that you made
19 and the statements that you made in court and to the media
20 have contributed very materially to this apparent belief
21 of the jurors that it will last more than six months.

22 9A.
23
24
25
26

9a-1

1 MR. BUGLIOSI: There is no question about it.

2 THE COURT: This has not been anything that the
3 defendants have said.

4 MR. BUGLIOSI: There is no question that this trial
5 could last a couple of years if Mr. Kanarek is up to his
6 old tricks, no question at all.

7 THE COURT: Well --

8 MR. BUGLIOSI: I don't think Mr. Kanarek is going to
9 change his M.O.

10 THE COURT: Your statements are inconsistent. You
11 ask in one breath we lower the estimate; then you make
12 these statements which in my opinion are fantasy as to the
13 length of the trial.

14 MR. BUGLIOSI: If a human being had wings, he could
15 fly, so I use the word "if."

16 I say if Mr. Kanarek is acting as he has been
17 acting for 15 or 20 years --

18 THE COURT: Why don't you forget about Mr. Kanarek?

19 MR. BUGLIOSI: That is why I made these statements,
20 and I made them in good faith, and I made a good offer of
21 proof, your Honor.

22 THE COURT: I am not going to permit any counsel to
23 unduly delay the trial.

24 MR. BUGLIOSI: That is why I use the word "if."

25 THE COURT: On the other hand, all counsel may try
26 their cases in a manner they want to within the ethical and

1 professional requirements.

2 MR. STOVITZ: What Mr. Bugliosi is trying to say is,
3 we make an estimate of five minutes direct examination for
4 a witness and then say 15 minutes cross-examination; and
5 then we went on and said one-day cross-examination because
6 we knew of the character of the attorney in the case.

7 Now, if the character of the attorney in the
8 case were to change whereby he would be reasonable like
9 other attorneys in the case, then the 15-minute cross-
10 examination would be reasonable for a five-minute direct
11 witness.

12 Now, we have many, many witnesses to establish
13 little points in the case, but we have seen transcripts
14 where a victim on a child molesting case was examined for
15 three or four weeks, and we have seen --

16 MR. BUGLIOSI: -- by Mr. Kanarek.

17 MR. STOVITZ: -- we have seen cases where a police
18 officer who had merely seen the dropping of a marijuana
19 cigarette, has been cross-examined for three full weeks.

20 If this person continues to act the way he has
21 in the past, that estimate was the one we gave originally.

22 However, if this attorney is willing to comport
23 to the reasonable standards of cross-examination in a trial,
24 we can estimate the People's case to be 40 days instead of
25 60 days, 40 days of direct examination is all we would
26 require.

2a-3

1 MR. BUGLIOSI: I had not finished what I was going
2 to say. Perhaps we can lower the estimate for the new
3 panel, lower the estimate of trial now to about four months.

4 And then also advise the jury, as I think the
5 Court already has, that this would be just during the period
6 of taking of evidence and during jury deliberations,
7 therefore, they probably would only be sequestered for a
8 period of three months.

9 I think you should take a shot at one more
10 panel with the statement that the attorneys have conferred
11 together and they have lowered the estimate from six months
12 down to four months, and then also advised the jury that
13 it will only be three months of actual sequestering, and
14 this might help.

15 Three months, as opposed to six.

16 MR. SHINN: Your Honor, I think we should hear from
17 Mr. Kanarek and hear his estimate of the time of trial.

18 The District Attorneys gave their view; have
19 Mr. Kanarek give his view.

20 THE COURT: He has not estimated. He is perfectly
21 free to state it.

22 MR. KANAREK: The only statement I have to make is,
23 the District Attorney has denied Mr. Manson a fair trial.

24 They denied him a fair trial by cooperating with
25 the Los Angeles Times from the very beginning in this case,

26 They have misconducted themselves in so many ways

9a-4
1 that this Court, I say it in the greatest good faith,
2 has no alternative but to dismiss this case.

3 This case, your Honor, Mr. Manson must be
4 allowed his freedom because of what the prosecution has
5 done in this case.

6 Sheppard vs. Maxwell, Strobil vs. California,
7 the Billie Sol Estes cases, they indicate very clearly,
8 they show, there's no question about it, no matter what
9 happens in this case, Mr. Manson must go free.

10 THE COURT: You made a motion to dismiss, yesterday,
11 and you and I agreed at that time in chambers your motion
12 would be heard along with your other motions to dismiss.

13 Now, let's retain that. You will have an
14 opportunity to argue it.

15 MR. KANAREK: Very well, your Honor.

B 16 THE COURT: At the same time the Court hears argument
17 on the other motions, so let's not get into that at this
18 time.

19 MR. KANAREK: If I may say this to this Court --

20 MR. STOVITZ: The question was asked of Mr. Kanarek
21 how long he thinks the trial would last, and he is telling
22 us how to do something, I don't know what.

23 MR. KANAREK: Your Honor, if I may say this to the
24 Court, and I say it, I ask if we really want to shorten this
25 trial, the District Attorney can make, and I make a motion
26 again if I may in response to the Court, because, in other

9a-5
1 words, as a lawyer for me to sit here and just skyhook a
2 number --

3 THE COURT: You are under no obligation to make any
4 estimate, Mr. Kanarek, but Mr. Shinn suggested that you
5 should be given an opportunity, and this is your opportunity.

6 MR. KANAREK: May I state this, I would do this,
7 I think we should proceed, we should analyze and we should
8 base our result upon analysis and reason.

9 Let the prosecution make their offer of proof.
10 I will even be agreeable to this offer of proof, to it
11 being sealed; that the Court order the County Clerk have
12 the reporter seal it, and then when they make their offer
13 of proof as to what each of these witnesses is going to testi-
14 fy to we may arrive at stipulation after stipulation and
15 cut this trial down to maybe a week.

16 Now, I am saying this. This way we won't be
17 imposing on the jurors; we won't be imposing on anyone
18 except ourselves as lawyers and as the Judge.

19 With this offer of proof your Honor could then
20 determine with a fair precision as to whether or not this
21 evidence, one, is cumulative.

22 I believe the prosecution is going to pile
23 gore upon gore as they do in these types of cases.

24 And I think that your Honor, we could siphon
25 off the wheat from the chaff and we would find out that this
26 trial is -- the fact situation here does not require any

9a-6
1 such duration of time, is my first blush response.

2 And I would ask the Court to order them to make
3 an offer.

4 THE COURT: I am not going to make such an order,
5 Mr. Kanarek.

6 Now, do you want to state an estimate or not?

7 MR. KANAREK: I honestly cannot, your Honor.

8 THE COURT: Fine.

9 Let's get back to the discussion of the point.

10 MR. FITZGERALD: Is there some way to pre-screen the
11 panel? Maybe it is not agreeable with other counsel.

12 We might be able to work out something where
13 we can have some agent of the Jury Commissioner to screen
14 the jurors so we get jurors over here who don't have a hard-
15 ship problem.

16 MR. BUGLIOSI: It is a good idea, but it is a
17 dangerous thing on appeal.

18 THE COURT: It is dangerous.

19 One thing that might expedite things, and it
20 is a procedure I follow in other cases, is when the panel
21 first arrives and after the preliminary remarks and
22 introductions, and so forth, I usually ask the entire
23 panel, not just the 12 in the jury box, if there are any of
24 them who think it would be an undue hardship, and then screen
25 those out right away.

26 Usually there are very few, and it only takes a

9a7
1 matter of minutes.

2 The reason I did not do it in this case, the
3 panel is much larger than the ordinary case.

4 Secondly, I anticipated the percentage of hard-
5 ship cases would be much larger simply because of the longer
6 time, so I thought, get 12 in the box first and screen them
7 one at a time as they came in after that, on the basis of
8 challenges.

9 MR. STOVITZ: We have no objection to that. I think
10 we are going to have to do a lot by trial and error.

?
11 I thought by coming into chambers thereby one
12 juror won't be able to hear what the others' excuses are --
13 but it seems that did not help us solve the situation either.

14 THE COURT: When we call over a new panel, we might
15 follow that procedure at the outset, finding out by a
16 show of hands how many hardship cases there are.

17 MR. STOVITZ: Bring them up to the bench individually
18 and question them.

19 THE COURT: At least then you know who is not
20 complaining about hardship.

9-C.

1 MR. FITZGERALD: I think that is a good idea.

2 THE COURT: Then we can bring them in individually,
3 just like we are doing now, those who do raise their hands.

4 At least you will have an indication of how
5 many are not complaining hardship.

6 And it won't take long to excuse those who
7 have a legitimate reason by stipulation, if you want to
8 do it that way.

9 MR. REINER: That is agreeable.

10 MR. STOVITZ: That is agreeable to the People.

11 MR. SHINN: I think the Court should at the beginning
12 find out what the hardship is.

13 THE COURT: Well, this is subjective, Mr. Shinn, I
14 assume when people stipulate, you are stipulating because
15 you don't want a juror who does not want to serve?

16 MR. FITZGERALD: That is correct.

17 THE COURT: I don't want to set any objective
18 standards of hardship, and I already told you that I don't
19 intend except under the most compelling circumstances to
20 excuse anybody for hardship.

21 As far as I am concerned they are all qualified
22 jurors until they are disqualified for some showing of
23 cause, and it would take a strong case for me to excuse
24 one.

25 MR. STOVITZ: Is that agreeable with you, Mr. Shinn?

26 MR. SHINN: That is agreeable.

1 THE COURT: Because both sides have an identical
2 interest; you both don't want jurors who don't want to
3 serve.

4 So I am not prepared to change my opinion
5 about the sequestration of the jury at this time. I
6 think we should go through another panel or two, at least,
7 because I have a very strong suspicion of what we have
8 out here is a panel that already served a good portion of
9 their 30 days, and they are probably ready to go home.

10 I think if we got a fresh panel it might
11 very well change.

12 MR. STOVITZ: Talking about going home, your Honor,
13 I heard something yesterday about this Court would not
14 be in session Thursday afternoon, is that correct?

15 THE COURT: Well, that 's right because I am
16 informed by Mr. Shinn and Mr. Kanarek that Mr. Manson
17 and Miss Atkins have to be in Santa Monica on Thursday
18 afternoon.

19 It is a problem of logistics, getting the
20 defendants back and forth. I don't see how we can get
21 them back here. I don't know how long the proceeding will
22 take, but I don't see how we can get them back in time
23 to have an afternoon's session.

24 MR. STOVITZ: July 4th, I believe is on a Saturday.
25 Is your Honor thinking in terms of working on July 3rd?

26 THE COURT: It is not a legal holiday, is it?

1 MR. STOVITZ: No, it is not a legal holiday, I
2 was just wondering, sometimes people have these plans
3 ahead of time.

4 THE COURT: I am planning to work.

5 MR. STOVITZ: All right.

6 MR. SHINN: I believe they celebrate the holiday
7 on Friday, not on Saturday. Companies let them off on
8 Friday, too, your Honor, long weekends, to take a rest.

9 THE COURT: Any further thoughts?

10 MR. REINER: Yes, your Honor, for the Court's
11 consideration I would join with Mr. Fitzgerald in indicating
12 though I am reluctant to insist the jury be sequestered,
13 I would at least urge on the Court that the jury be
14 sequestered to isolate them from the effect of publicity.

15 I am thinking very much in terms of the
16 Kirschke case. I recall the headline, "Bloody clothes
17 suppressed." A three-word headline which took up half
18 the front page.

19 That jury, any member of that jury driving
20 home could have seen that headline as I did from his car.
21 The bloody clothes, such as they were, were not introduced
22 into evidence.

23 But there was a little question in my mind,
24 that substantially all, if not all, twelve jurors were
25 informed of that fact one way or another during the
26 course of the trial.

1 For that reason, I don't think that a person,
2 no matter how conscientious they are, could possibly
3 isolate themselves from the information that would come to
4 them from the media. That is why I am, though reluctant
5 as I am to, that is why I suggest they be sequestered; I
6 do so.

7 MR. STOVITZ: The suppression of the clothes
8 in the Jack Kirschke case took place before the evidence
9 was presented, so even if that took place here the jury
10 would be exposed to that headline.

11 You can never anticipate what is going to
12 happen. I was once prosecuting a case in which a lawyer
13 was a defendant, and as we were coming out of court one
14 afternoon, great big headlines that the lawyer was indicted
15 on the black market baby scandal.

16 Of course the lawyer went in and asked for
17 a mistrial, et cetera.

18 We cannot anticipate everything. The publicity
19 has already taken place, and I read in the paper since the
20 beginning of this trial, and it is very little --

21 THE COURT: We are not in the evidence phase yet.

22 MR. STOVITZ: But that evidence that the papers
23 will report will be the evidence the jurors themselves
24 hear.

25 THE COURT: Not necessarily.

26 MR. STOVITZ: Now there may be in-chamber conferences

1 that take place during the trial, and if your Honor
2 admonishes, just as we did on certain items of evidence
3 that happened here in this case, admonishes us not to
4 discuss this with the newspaper media, I think we can
5 abide by your Honor's rule, and I think that can be
6 prevented from getting into the newspaper or on television.

7 So thereby the news media would just go by
8 the evidence.

9 MR. FITZGERALD: The Associated Press bought a
10 copy of the transcript in the Sirhan case. Every day they
11 talked to the reporters in this case about things in
12 connection with the record. They had to seal the
13 transcription of the trial.

14 MR. STOVITZ: I think we can cover the publicity;
15 I don't think the publicity is going to affect the jurors,
16 if they are not affected already, I don't think they have
17 been.

18 We have gone through sixty jurors, and three
19 or four of them have been open about it, and the others
20 have frankly told you what the effect of the publicity has
21 been.

10fol.

0-1

1 MR. BUGLIOSI: I would also again suggest a revised
2 estimate of three or four months for the trial.

3 THE COURT: The estimate that I gave, gentlemen, was
4 yours. I have no estimate. I know nothing about the case.

5 MR. BUGLIOSI: There was an estimate that I made with
6 Mr. Reiner and Mr. Fitzgerald, and I think they agreed with
7 me. This was before Mr. Kanarek got into the case. Then,
8 when I heard that Mr. Kanarek would be on the case, of
9 course, I made other statements. But if he acts like
10 Mr. Stovitz was saying, like other attorneys, I think this
11 trial will last three or four months. I don't think it
12 will last a half a year.

13 I am very close to the evidence, your Honor.
14 I have been working with the case for several months.

15 THE COURT: I suggest that between now and this
16 afternoon, gentlemen, that you each again reassess your
17 estimates in the case.

18 I will tell the panel frankly. If you disagree,
19 I will give them both estimates and let them decide for
20 themselves.

21 MR. STOVITZ: Mr. Bugliosi and I have gone over the
22 list of witnesses and we have attributed a certain amount of
23 time to each witness, and we feel that 40 court days is
24 the maximum that the people's case will take.

25 THE COURT: That doesn't mean much to a juror. He
26 doesn't know what that means.

MR. STOVITZ: That is two months for our case, your

10a
1 Honor.

2 THE COURT: Why don't you think about it this
3 afternoon and give me your estimates in weeks and months,
4 and I will so inform the panel. If your estimates
5 disagree, why, so be it. They disagree.

6 MR. STOVITZ: There may be motions to suppress
7 evidence, but we feel that those motions will take a very
8 short period of time, with reasonable attorneys they will,
9 there will be an objection for the record and a statement
10 of the offer of proof, and you can rule on it.

11 MR. REINER: I might say at this point, your Honor,
12 that we will make our objection for the record and then
13 proceed. That doesn't mean that our objections won't have
14 merit. Some of the discussion might take a substantial
15 period of time.

16 MR. STOVITZ: On the contrary, Mr. Reiner. If the
17 objections are good, his Honor will rule accordingly.

18 THE COURT: Nobody is being bound by what is being
19 said in here now. This is an informal discussion. We
20 were talking about jury sequestration.

21 MR. STOVITZ: I have gone through many trials, your
22 Honor, where there have been, maybe, one or two objections
23 by either side throughout the entire case and we have pro-
24 ceeded just with the evidence. So it depends.

25 MR. BUGLIOSI: We have to get together, the prosecution
26 will get together with the defense, per the Court's

103
1 suggestion, and see if we can't attempt to come up with a
2 new revised estimate as to the length of trial.

3 THE COURT: All right.

4 I will call over a new panel, then, for this
5 afternoon, and along with our discussion -- I take it every-
6 body is agreeable that I should attempt to screen out the
7 hardship cases first after my initial remarks concerning
8 the parties and the nature of the case?

9 MR. KANAREK: No, your Honor.

10 I would ask your Honor to interrogate each
11 juror, for this reason, your Honor. It isn't going to take
12 that much time.

A 13 THE COURT: What I am saying, Mr. Kanarek, is that
14 instead of taking the jurors one at a time and attempting
15 to fill up the 12 seats, we can simply get an expression
16 from the entire panel at the outset, after the introductory
17 remarks, as to those who think it would be an undue hardship,
18 and then we can come into chambers and bring each of those
19 persons in one at a time and question them.

20 MR. KANAREK: I think that the Witherspoon case
21 impliedly decries that. That is what happened in
22 Witherspoon, the Judge in Illinois said, "Everybody
23 against the death penalty raise your hand."

24 THE COURT: I am not talking about the death penalty.

25 MR. KANAREK: It is the same principle. We have a
26 jury system based upon lot, and there is the theory --

0-4
1 THE COURT: This can be by stipulation. You don't
2 have to stipulate.

3 I am talking about excusing jurors for hardship
4 on the basis of stipulation of counsel, that is all.

5 MR. KANAREK: What I am saying is that in some of these
6 cases it could be a marginal hardship, and the hardship is
7 a subjective thing, your Honor.

8 THE COURT: Then don't stipulate if you have any
9 objection, Mr. Kanarek.

10 MR. KANAREK: Very well.

11 MR. STOVITZ: So we understand each other, is it your
12 Honor's intention, assuming that 60 jurors come over this
13 afternoon, to ask those jurors, to tell the jurors that the
14 length of trial will be X number of days --

15 THE COURT: Yes. First I will describe the case to
16 them, the defendants and the charges, and your estimates
17 of time, and tell them that it is the intention of the
18 Court to sequester the jury, and explain what that means
19 to them. Then ask how many of them believe as to them it
20 would constitute an undue hardship to serve on a jury in
21 this case.

22 MR. STOVITZ: Assume that ten jurors raise their
23 hands, your Honor. It is your Honor's intention to then
24 take each of those jurors into chambers or ask each of the
25 jurors to come forward and explain the hardship to your
26 Honor in open court?

THE COURT: I would think that it would be better to bring them into chambers.

MR. REINER: I agree.

MR. STOVITZ: That is agreeable to you, Mr. Fitzgerald?

MR. FITZGERALD: It is agreeable.

MR. STOVITZ: It is agreeable to the People.

Mr. Shinn?

MR. SHINN: Agreeable.

MR. STOVITZ: And it is not agreeable to you, Counsel?

MR. KANAREK: Before I answer, may I say this to the Court?

I believe, your Honor, that one way of avoiding this would be to perhaps not emphasize it.

I think if your Honor didn't -- your Honor, in other words, take each juror as he or she sits before your Honor, and instead of announcing it en masse in court, talk to them, say that we really don't know, that this trial could be less, it could be about this or that, instead of pinpointing some figure and polarizing the thought of the jurors on one number.

I think that your Honor, over your desk, could indicate to them that it may be a lot shorter, and maybe we can then get some people who are not going to make up their mind by a chain reaction out there in the courtroom,

10-6
B
1 and I think it would be more fruitful if we left it
2 indefinite.

3 THE COURT: I can't mislead them, Mr. Kanarek.
4 There is no point in telling them it is going to be a two-
5 month trial if we all know it is going to be four months or
6 more.

7 MR. KANAREK: It may well be much shorter, your
8 Honor.

9 THE COURT: That is possible.

10 MR. KANAREK: The prosecution, they are the ones
11 that have the evidence, your Honor.

12 Now, I think your Honor could convey this, as
13 I say, across your Honor's desk, to each individual juror,
14 instead of crystalizing a time and in that way we get this
15 chain reaction.

16 I think we could eliminate the chain reaction
17 by your Honor conferring with the jurors in our presence,
18 and it may be that some of the jurors would be willing to
19 serve if we don't pinpoint it and hammer on it and pick a
20 number and polarize their thinking.

21 THE COURT: We can simply continue the way we are
22 continuing, which would be to try to fill up the 12th
23 seat and bring them in one at a time. Actually, it
24 amounts to about the same thing.

25 MR. KANAREK: Right. Then, your Honor, we may get
26 some people that your Honor's consulting with would bring

1 about a good result.

2 MR. STOVITZ: We will abide by whatever your Honor
3 feels just in the matter.

4 THE COURT: Again, no one is under any obligation to
5 stipulate to excusing any juror for hardship, and since
6 we are doing it in chambers, no juror is going to know
7 whether you stipulated or not, so no prejudice can result
8 to any party by not stipulating. I think that is a simple
9 answer.

10 MR. KANAREK: We would welcome your Honor and move
11 your Honor not to mention the hardship, and maybe there
12 won't be any. That is, not to mention it en masse, your
13 Honor.

14 THE COURT: I am going to have to tell them what the
15 estimate is.

16 MR. BUGLIOSI: Is Mr. Kanarek suggesting -- and if he
17 is suggesting, I think it has merit -- is he suggesting
18 that instead of saying four months or six months, is he
19 saying that we tell them between three and six months, or
20 between four and six months?

21 Is this what you are suggesting, Mr. Kanarek?

22 MR. KANAREK: or perhaps somewhat less.

23 MR. BUGLIOSI: I think that has some merit, because
24 we really don't know how long it is going to last.

25 My estimate is between three and four months.
26 It could last six months. Perhaps the prospective jurors

1 could be told between three and six months, as opposed to
2 just saying six months, your Honor.

3 THE COURT: Well, you have two hours to think about it
4 before we resume, gentlemen. Give me your estimates at
5 that time, and then we will proceed.

6 MR. STOVITZ: Does your Honor want us to go out in
7 the courtroom?

8 THE COURT: No. We can recess from here. 2:00 p.m.,
9 gentlemen.

10 (Whereupon, at 11:56 a.m. a recess was taken
11 to reconvene at 2:00 p.m., same day.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

11-1.

LOS ANGELES, CALIFORNIA

TUESDAY, JUNE 23, 1970

2:06 P.M.

- - -

(The following proceedings were had in the chambers of the Court outside of the presence and hearing of the prospective jurors, all counsel but no defendants being present.)

THE COURT: The record will show all counsel are present. I just wanted to discuss with you gentlemen before we start again the procedure I propose to follow, subject to any comments that may be made with respect to the new panel that has been called over.

We have 48 on the panel, and in line with our conversation before lunch I would ask the clerk to call the next prospective juror for the No. 12 seat, and then give some introductory remarks regarding the nature of the case, introduce the parties and their counsel.

I will give some general instructions regarding this case, and murder cases, and some introductory remarks leading up to the Witherspoon questions without actually putting the questions to them at this time, and then retiring into chambers with counsel and the parties and starting with the prospective juror in the No. 12 seat, ascertain whether or not it would be an undue hardship for him or her to serve, and proceed with our voir dire in chambers until such time as we have someone

1 in the No. 12 seat.

2 MR. STOVITZ: I think there are still two on the
3 regular panel that have not been questioned.

4 THE COURT: That's right, I think three; but they
5 have been asked the Witherspoon question, and they have
6 agreed to serve.

7 MR. STOVITZ: Yes.

8 THE COURT: So it would simply be voir dire in
9 chambers as to them on publicity.

10 MR. STOVITZ: Yes.

12.

12-1

1 THE COURT: Now, is that agreeable with everyone?

2 MR. STOVITZ: Yes, your Honor.

3 MR. KANAREK: Yes, your Honor. Except that I would
4 like to inform the Court that in lieu of a subpoena, your
5 Honor, I was at the office of Mr. Goodwin, the Jury
6 Commissioner, and he has agreed to come over, so that his
7 work is not interfered with and your Honor's conducting of
8 the case is not interfered with.

9 We wish to interrogate Mr. Goodwin in connection
10 with the way that these particular jurors for this case
11 have been chosen.

12 Your Honor, we believe that there have been
13 special procedures set up for this case which violate
14 Mr. Manson's right to equal protection and due process.
15 That is, this case is not treated, we believe, like any
16 other case, and it is our position that this case should be
17 treated like any other case, and that if you are going to
18 have a true choice by lot, that this should be done in
19 this case just like it were an ordinary Superior Court
20 case going out where there wasn't the notoriety that has
21 been attached to this case.

22 Mr. Goodwin indicated to me that he would be
23 at the Court's -- in order that he not just sit here and
24 cool his heels -- that he would accommodate the Court and
25 our position by being in touch with the Clerk, if that
26 were agreeable with your Honor, in lieu of subpoenaing him

1 for a time precisely, because it is our position that there
2 have been special procedures and we wish the Court to be
3 advised of them.

4 THE COURT: Is this in the nature of a challenge to
5 the panel?

6 MR. KANAREK: Well, of a special nature.

7 It is our belief that there has been an
8 illegal weeding out, or whatever these procedures may be,
9 that should be done by a judicial officer and not by the
10 Jury Commissioner's office.

11 THE COURT: The Code provides for certain ways of
12 challenging a jury or individual jurors, panels or
13 individual jurors.

14 MR. KANAREK: Correct. Right.

15 It is our belief, your Honor, that the
16 particular procedures that have been set up for this case
17 are violative of equal protection and due process, and
18 that the procedures for this case have been and are
19 different than if this were just, say, another case in your
20 Honor's court where your Honor calls for the panel, and
21 it is this differentiation and this difference that we
22 believe violates Mr. Manson's right to a fair trial.

23 MR. STOVITZ: Submit it, your Honor.

24 MR. KANAREK: So we want Mr. Goodwin here for
25 testimony to show exactly what procedures have been done in
26 connection with this case, and we believe that your Honor

1 should hear this, and we think that your Honor could well
2 be convinced that this artificial procedure or this
3 special procedure for this case was improper. You just
4 can't do that.

5 This is just another case, no matter that
6 Mr. Bugliosi says it is the "crime of the century" or not.

12A.

1 MR. BUGLIOSI: When did I say that?

2 THE COURT: Are you prepared to make an offer of
3 proof on this?

4 MR. KANAREK: As your Honor knows, as a lawyer,
5 I can't make an offer of proof without being able -- I am
6 not going to make a misrepresentation to the court, but
7 what I am saying is that you can't take the deposition of
8 the Jury Commissioner; so the only way we have of doing it --
9 I can't make an offer -- just the same way I can't make
10 an offer of proof on Linda Kasabian, she is incommunicado,
11 we can't get to her -- in the same sense of the word, the
12 Jury Commissioner -- in fact, the law provides for these
13 types of examinations --

14 THE COURT: What types of examinations?

15 MR. KANAREK: Of jury commissioners.

16 THE COURT: Where does it so provide?

17 MR. KANAREK: Well, it provides for it -- it certainly
18 implicitly provides for it by, for instance, this
19 Louisiana case, the United States Supreme Court in the
20 case that came out of Louisiana -- the name eludes me
21 for the moment -- wherein the Court went into great
22 detail as to the examination of the jury commissioners
23 in connection with the procedures that went on in the
24 jury commissioners' office in New Orleans; and the law
25 provides that the jury commissioners should be examined.

26 This is the way you determine whether or not

1 there has been a violation of law in the choice of the
2 people that come over.

3 What use is it, your Honor, for us to go through
4 the detail of examining these jurors if there has been
5 an illegal segregation or an illegal manipulation, or
6 whatever it may be.

7 THE COURT: Do you have some reason to believe that
8 there has been?

9 MR. KANAREK: As I say, I can't make an offer of
10 proof, but I believe that the Jury Commissioner has made
11 some particular procedures in connection with this case.

12 THE COURT: What is the basis for this belief; that
13 is what I am trying to find out?

14 MR. KANAREK: Well, your Honor, the basis for this
15 belief is -- as I say, that it has nothing to it that I
16 can make a true offer of proof about but, as I say, I
17 believe that the Jury Commissioner has made special
18 procedures for this case.

19 THE COURT: Well, the Code provides for the manner
20 and the grounds upon which a jury panel may be challenged.
21 In addition, there have been challenges, not Code challenges
22 as such but challenges on due process grounds, where there
23 has been discrimination in the selection of jurors or
24 the systematic exclusion of certain classes of jurors.

25 It is my understanding that counsel were
26 attempting to stipulate to the record in other proceedings

1 where such due-process questions have been raised as .
2 to the manner in which jurors may or may not have been .
3 discriminated against or systematically excluded under the
4 procedures in Los Angeles County, and that you were going
5 to submit it on that if you were able to agree.

13.

13-1

1 MR. KANAREK: Yes, your Honor, certainly, up to the
2 point of picking the path, and with that stipulation --
3 we are working on it, hopefully we will be able to stipulate
4 to those transcripts.

5 THE COURT: Is this something in addition?

6 MR. KANAREK: Yes, your Honor, it is our belief --
7 now, let's take a situation where the panel, that is now
8 before the Court as a result of the majority of the
9 Superior Court judges putting their John Hancock's on this
10 paper, there now supposedly is a panel from which we are
11 choosing these prospective jurors.

12 It is our belief that what the Jury
13 Commissioner has done with that panel specifically for this
14 case is such that it is violative of due process and equal
15 protection.

16 In other words, the Jury Commissioner in trying
17 to be helpful quote "helpful" unquote, is violating
18 Mr. Manson's rights that this jury really be by lot.

19 In other words, there gets to be --

20 THE COURT: From what I understand from what you
21 said, this is pure surmise on your part; in fact, it isn't
22 even that. All you are saying is if it happened it is
23 wrong, but you have nothing on which to base any contention
24 that it happened.

25 MR. KANAREK: Well, because I do not have the power
26 to take the deposition of the Jury Commissioner.

13-2

1 In other words, I cannot as a lawyer make a
2 misrepresentation --

3 THE COURT: Is there any reason, Mr. Kanarek, why
4 this could not be heard at the same time as your challenge
5 to the panel?

6 MR. KANAREK: Except for this reason, due to the
7 economy of time, we are talking about -- if your Honor
8 perceives that what the Jury Commissioner is doing is
9 wrong, your Honor could make the order, "Let's just put
10 them in the wheel and pick them out one by one instead of
11 any kind of screening," or whatever the Jury Commissioner
12 is doing to try and be helpful.

13 Because I think this is violative of
14 Mr. Manson's rights. After all, Mr. Manson comes from a
15 class of people --

16 MR. STOVITZ: Can't we set this down for a hearing?
17 It seems to me this is most time-consuming.

18 THE COURT: Indeed it is. Apparently there is no
19 basis for what you are saying. You have no knowledge of a
20 basis.

21 MR. STOVITZ: Let's set it down for 9:00 o'clock
22 Friday morning, ask Mr. Goodwin to come over; if
23 Mr. Kanarek will ask him that question I'm sure Mr. Goodwin
24 could answer the question or bring the Deputy over who
25 could answer the question.

26 THE COURT: Is that agreeable?

13-3

1 MR. KANAREK: Certainly it's agreeable.

2 As I say, that is why I did not hit Mr. Goodwin
3 with a subpoena, because I don't want to interfere with his
4 job.

5 THE COURT: All right, let's set it down for Friday
6 morning at, let's see, that is what date, June 26th,
7 at 9:00 a.m.

8 MR. KANAREK: Certainly.

9 THE COURT: Will you arrange to have Mr. Goodwin
10 present at that time?

11 MR. KANAREK: I believe he indicated he would come
12 when your Honor's clerk -- I would be glad to but I think
13 the force of your Honor's clerk -- he and I have a very
14 good --

15 THE COURT: I cannot order him to come over here. He
16 is not before me.

17 MR. KANAREK: I understand that. He will cooperate.

18 I was just in his office. He indicated he will
19 accommodate us and the Court.

20 THE COURT: All right. Well, Mr. Darrow, will you
21 call over there sometime today and see if he can be present
22 here on Friday at 9:00 o'clock.

23 THE CLERK: 9:00 o'clock, your Honor?

24 THE COURT: Yes.

25 All right, then, is there anything further,
26 gentlemen, before we go back into court? I assume from any

3-4
1 lack of objection that you are in agreement with the
2 proposed course I intend to take with the new panel.

3 MR. KANAREK: Certainly, your Honor.

4 MR. FITZGERALD: I have something to say about the
5 observations Mr. Kanarek has made.

6 If Mr. Kanarek demonstrates some irregularity
7 in the selecting of the jury panel for this particular case,
8 People vs. Manson, et al., we may have to start all over
9 again, in which case maybe we ought to set it for 9:00
10 o'clock tomorrow morning or something, so that in the
11 event we do have to get rid of these panels, we would waste
12 less time and effort.

13a-1.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

MR. STOVITZ: I think the proof is in the pudding. The first sixty jurors that came over here seemed to me to be typical of all the jurors I ever looked at or questioned in a criminal trial.

They were people who had served on juries before, from all different walks of life.

I think there were five or six Negroes, five or six Mexican-Americans, women and men, old and young.

THE COURT: Well, if someone had some basis upon which to make any contention or suggestions as to irregularity, I would agree, Mr. Fitzgerald.

Apparently there is just nothing more than a mere possibility not based on any fact. It may turn out that Mr. Kanarek is right, but apparently it would be a pure accident if it does.

MR. SHINN: Maybe he will elaborate a little further as to where he got the information.

THE COURT: He doesn't have any. I just asked him.

MR. KANAREK: I cannot make a representation to the Court, your Honor, because when I make an offer of proof I want it to be a true offer of proof and I cannot make that representation.

THE COURT: We will have Mr. Goodwin come on over on Friday then at 9 o'clock and you can ask him these questions.

MR. KANAREK: Very well, thank you.

1 THE COURT: In the meantime we will proceed now
2 as I indicated to you.

3 MR. BUGLIOSI: On a revised estimate -- I have not
4 spoken to Mr. Kanarek -- but I have spoken to Mr. Shinn,
5 Mr. Reiner and Mr. Fitzgerald, we seem to think that a
6 new estimate would be three to five months for the trial
7 itself, excluding voir dire.

8 So that period of being sequestered would be
9 from three to five months.

10 THE COURT: It hasn't changed very much.

11 MR. FITZGERALD: I am more on the three side.

12 MR. BUGLIOSI: We are away from the half year
13 sound.

14 THE COURT: That is after the jury is sworn, three
15 to five months.

16 MR. BUGLIOSI: Yes.

17 THE COURT: Are you in agreement with that
18 estimate?

19 MR. KANAREK: What I am saying, I would tend to
20 believe it is less, but in the interest of expediting
21 the trial I certainly would not impede it by trying
22 to make some special estimate.

23 THE COURT: I am not intending to hold anybody to
24 these estimates. It is simply for the purpose of
25 informing the prospective jurors.

26 MR. KANAREK: Very well.

1 THE COURT: All right, then, I will inform them
2 that it is the best estimate of counsel that it will be
3 between three and five months after the jury is selected.

4 MR. STOVITZ: Thank you.

5 MR. KANAREK: Could your Honor do that with the
6 individual jurors in chambers, rather than have them
7 dwell upon it out there.

8 I think, your Honor, by giving the possible
9 period here when he is directly across from them at your
10 desk, that in speaking with them your Honor may get people
11 who are willing to accept this rather than have them dwell
12 upon that for hours out there while they are waiting to
13 be called.

14 I think it would expedite it, having your
15 Honor discuss it with them, and indicate that this could
16 be much less.

17 It might be just a month and a half. There
18 may be aspects of the prosecution's case that are such
19 that could be way less than that.

20 THE COURT: Well, I think I'd better inform them
21 in open court.

22 I want them to dwell on it. I want them when
23 they answer the questions to have their minds made up.

24 MR. KANAREK: Very well.

25 (The following proceedings were had at
26 2:26 p.m. in open court in the presence and hearing

1 of all the prospective jurors, all defendants and their
2 counsel with the two Deputies District Attorney being
3 present.)

4 THE COURT: People vs. Charles Manson, Susan
5 Atkins, Patricia Krenwinkel and Leslie Van Houten.

6 All parties and their counsel are present.

7 Mr. Clerk, will you call the next name.

8 THE CLERK: Shall I swear the jury panel?

9 THE COURT: Yes.

10 THE CLERK: Will all prospective members of the
11 jury who just arrived please stand.

12 Will you please raise your right hand.

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

18 (All of the members of the panel answer
19 "I do.")

20 THE CLERK: Ramon A. Haaswyk.

21 Would you pronounce that name for us, sir?

22 MR. HAASWYK: Haaswyk.

23 THE CLERK: Thank you.

24 (Ramon A. Haaswyk takes Seat No. 12 in
25 the jury box.)
26

1 THE COURT: Ladies and gentlemen, my remarks will
2 be directed not only to Mr. Haaswyk sitting in the jury
3 box, but also to all of the members of the jury panel
4 sitting in the courtroom.

5 The defendants in this case have been charged
6 in an indictment as follows:

7 The defendants Charles Manson, Susan Atkins
8 and Patricia Krenwinkel have been charged with seven counts
9 of murder and one count of conspiracy to commit murder.

10 All of these events are alleged to have
11 occurred in August of 1969.

12 The defendant Leslie Van Houten has been
13 charged with two counts of murder and one count of con-
14 spiracy to commit murder, and these events also are
15 alleged to have occurred in August, 1969.

14.

14-1
1 To all of these charges the defendants have
2 entered pleas of not guilty.

3 Mr. Charles Manson is being represented by
4 his attorney, Mr. Irving Kanarek.

5 Mr. Manson, would you stand up, please, and
6 face the prospective jurors.

7 (Defendant Manson rises and faces the prospec-
8 tive jurors.)

9 THE COURT: Thank you.

10 Mr. Kanarek, would you stand up, please?

11 (Mr. Kanarek rises and faces the prospective
12 jurors.)

13 THE COURT: Do any of you know either Mr. Manson or
14 Mr. Kanarek? If the answer to any question is yes, would
15 you kindly raise your hand?

16 Miss Patricia Krenwinkel is being represented
17 by her attorney, Mr. Paul J. Fitzgerald.

18 Miss Krenwinkel, would you stand up, please,
19 and face the prospective jurors?

20 (Defendant Krenwinkel stands and faces the
21 prospective jurors.)

22 THE COURT: Thank you.

23 Mr. Fitzgerald, would you please stand.

24 (Mr. Fitzgerald stands and faces the
25 prospective jurors.)

26 THE COURT: Do any of you know Miss Krenwinkel or

4-2

1 Mr. Fitzgerald?

2 Miss Susan Atkins is being represented by her
3 attorney, Daye Shinn.

4 Miss Atkins, would you stand, please, and face
5 the prospective jurors?

6 (Defendant Atkins stands and faces the
7 prospective jurors.)

8 THE COURT: Thank you.

9 Mr. Shinn, would you please stand.

10 (Mr. Shinn stands and faces the prospective
11 jurors.)

12 THE COURT: Thank you.

13 Do any of you know Miss Atkins or Mr. Shinn?

14 And Miss Leslie Van Houten is being represented
15 by her attorney, Ira Reiner.

16 Would you please stand, Miss Van Houten, and
17 face the prospective jurors.

18 (Miss Van Houten stands and faces the
19 prospective jurors.)

20 THE COURT: Thank you. Mr. Reiner, would you stand,
21 please?

22 (Mr. Reiner stands and faces the prospective
23 jurors.)

24 THE COURT: Thank you.

25 Do any of you know Miss Van Houten or Mr. Reiner?

26 The People of the State of California are being

14-3
1 represented by Deputy District Attorneys Mr. Aaron Stovitz
2 and Mr. Vincent Bugliosi.

3 Would you gentlemen please stand.

4 (Mr. Stovitz and Mr. Bugliosi stand and face
5 the prospective jurors.)

6 THE COURT: Thank you.

7 Do any of you know Mr. Stovitz or Mr. Bugliosi?

8 You have heard the charges which have been
9 filed against the defendants. Mr. Haaswyk, do you feel
10 that by reason of the charges which have been filed against
11 these defendants you would be unable to give any defendant
12 a fair trial?

13 MR. HAASWYK: No.

14 THE COURT: A defendant in a criminal action is
15 presumed to be innocent until the contrary is proved,
16 and in case of a reasonable doubt as to his guilt, he is
17 entitled to an acquittal. This presumption places upon the
18 State the burden of proving a defendant guilty beyond a
19 reasonable doubt.

20 Do you believe that you would be able to follow
21 the Court's instructions and give to each defendant that
22 presumption of innocence?

23 MR. HAASWYK: Yes.

24 THE COURT: It is the exclusive province of the jury
25 to determine the facts in the case and to consider and
26 weigh the evidence for that purpose; on the other hand, it

4-4
1 is the duty of the Court to instruct the jury on the law
2 applicable to the case, and it is the duty of the jurors
3 to follow the law as the Court instructs them.

4 Do you think that you would be able to follow
5 these instructions?

6 MR. HAASWYK: Yes, I do.

7 THE COURT: Do you believe that you would be able to
8 follow these instructions even though your own opinion as
9 to what the law is or should be may be different from the
10 instructions that the Court gives you?

11 MR. HAASWYK: Yes.

12 THE COURT: Mr. Haaswyk, do you know of any reason
13 why you could not sit as a fair and impartial juror in this
14 case?

15 MR. HAASWYK: I don't know of anything. It may be a
16 hardship for me to stay for the trial, I guess, because of
17 my work.

18 THE COURT: I will talk to you about that a little
19 bit later.

20 Aside from that, Mr. Haaswyk, do you know of
21 any reason why you could not be a fair and impartial juror
22 if you sat as a juror in this case?

23 MR. HAASWYK: No.

24 THE COURT: In a case such as murder in which the
25 offense charged may be punishable by death, the Court is
26 required to ascertain if any prospective juror entertains

1 any such conscientious opinions regarding the death penalty
2 that he would be unable to make an impartial decision as to
3 any defendant's guilt or if by reason of such conscientious
4 opinion he would automatically refuse to impose the death
5 penalty regardless of the evidence in the case. If any of
6 you hold such conscientious opinion the law provides that
7 you will not be permitted nor can you be compelled to
8 serve as a juror in this case.

9 At the outset of the trial, the Court has no
10 way of knowing whether you will be called upon to determine
11 the issue of penalty since that will depend upon what your
12 verdict is on the question of guilt.

13 The defendants, as you have previously been
14 informed, are charged with the crime of murder. In
15 arriving at a verdict in this case as to whether any
16 defendant is guilty or not guilty, you must not consider the
17 question of penalty or punishment since, under our law,
18 if there is a verdict of murder in the first degree, the
19 question of penalty would be decided in another separate
20 proceeding. If the verdict is not guilty, or of some
21 offense less than murder in the first degree, then there
22 would be nothing further for the jury to decide, and the
23 penalty in that case would be determined by the Court.

24 The law imposes neither life imprisonment nor
25 death in a murder case, but where the verdict is murder in
26 the first degree, it leaves to the absolute discretion of

1 the jury which of those two alternatives should be selected,
2 and the law provides no objective standards by which the
3 jury is to reach that decision but, as I say, leaves it
4 entirely in the discretion of the jury.

5 Later on I will put to each of you some-
6 specific questions regarding your opinions on the death
7 penalty, but I give you this introductory statement simply
8 for the purpose of letting you think about these matters
9 so that you will be able to answer in all frankness and
10 after considering them when the specific questions are put
11 to you later on.

12 The attorneys for both sides will be permitted
13 to examine the prospective jurors to determine if there is
14 any legal cause why any of you should not sit as trial
15 jurors in this case and to insure that both sides have a
16 fair and impartial jury.

17 A portion of this examination will be conducted
18 in the Court's chambers and we will, at this time -- that is,
19 counsel and the parties and the Court will -- retire to
20 chambers, and then I will ask the bailiff to bring in
21 Mr. Haaswyk.

B

14B.1.

(The following proceedings were had in chambers, all counsel and the defendants being present:)

(Prospective Juror Ramon A. Haaswyk is brought into chambers.)

INX.

THE COURT: Please sit down there.

MR. HAASWYK: Thank you.

THE COURT: The record will show all parties and their counsel are present.

VOIR DIRE EXAMINATION OF MR. HAASWYK

BY THE COURT:

Q Mr. Haaswyk, I intended to mention and I overlooked that the estimate by the attorneys in this case of the length of the trial is somewhere between three and five months after the jury is selected, and the Court intends to sequester the jury, which means that instead of being permitted to go home every night, you would go to a hotel.

You would, however, be permitted, if you are married, to have your wife visit you on the weekends.

Now, knowing all of these things, Mr. Haaswyk, do you believe that you would be willing and able to serve as a juror in this case?

A No, I don't think so.

Q What is your situation?

14b2.

1 A Well, I don't think so because of my work.

2 MR. STOVITZ: Would you ask the prospective juror
3 to please speak a little louder, your Honor?

4 THE COURT: Yes. Please speak up.

5 MR. HAASWYK: I think because of my work I won't
6 be allowed to. It might jeopardize my work.

7 THE COURT: What type of work do you do?

8 A I am electronic technician for TRW.

9 Q TRW?

10 A Yes, Semi-Conductors. TRW Semi-Conductors.

11 Q Do you know whether or not your company policy
12 is to continue your compensation if you are selected as
13 a juror?

14 A I have leave for only a month.

15 Q Did you discuss with anyone at the company
16 what would happen if you were a juror and you were out
17 longer than a month?

18 A I asked about it and they told me that they
19 wouldn't let me. I would have no chance. They couldn't
20 afford to let me out for that long. That is what I was
21 told.

22 Q They couldn't afford to let you out?

23 A That is what they said.

24 Q I don't suppose any company likes to lose
25 their employees.

26 A I guess not.

1 Q For jury service. But do you know what the
2 policy of the company has been in the past with respect to
3 other employees who were put on juries for a period longer
4 than a month?

5 A I do not know. I have no idea.

6 Q Is there any other reason why you would be
7 unable to or unwilling to serve on this jury?

8 A Because of my family life.

9 Q Are you married?

10 A Yes.

11 Q Do you have children?

12 A Yes, I have two children.

13 THE COURT: Any questions, Mr. Fitzgerald?

14 MR. FITZGERALD: Yes, sir.

15

16 (VOIR DIRE EXAMINATION OF MR. HAASWYK)

17 BY MR. FITZGERALD:

18 Q Are you worried about the economics of it,
19 about not being paid; is that it?

20 A Yes.

21 Q You are afraid that your firm won't pay you;
22 is that it?

23 A Right.

24 Well, I have a chance that I could lose my
25 job. In other words, I might be replaced by somebody else.

26 Q What sort of a position do you hold?

1 A I am an electronics technician. But because
2 of the employment situation these days, you know, the
3 lack of employment, it isn't too good, there aren't too
4 many jobs, there are too many electronic technicians.
5 walking around.

6 Q How long have you been employed there?

7 A Four years now.

8 Q They are not likely to lay you off, are they?

9 A I don't know.

10 Q That is a fear of yours?

11 A Yes. I was told by my supervisor that he
12 cannot let me stay any longer than one month.

13 Q Did he tell you what he would do if you stayed
14 more than one month, Mr. Haaswyk?

15 A No, he didn't.

16 Q What did you think he had in mind?

17 A Well, I think the type of work has to be
18 finished. It couldn't be delayed for too long a time.

14C.

4c-1
1 MR. FITZGERALD: We will stipulate that the juror may
2 be excused.

3 THE COURT: Do all counsel stipulate?

4 MR. KANAREK: So stipulate.

5 MR. REINER: Yes.

6 MR. SHINN: Yes.

7 MR. STOVITZ: So stipulate.

8 THE COURT: By stipulation of counsel, Mr. Haaswyk,
9 you will be excused. Thank you.

10 (Mr. Haaswyk leaves the chambers and a new
11 prospective juror comes in.)

12 THE CLERK: The prospective juror's name is
13 Mrs. Susie D. Griep; S-u-s-i-e, G-r-i-e-p.

14
15 VOIR DIRE EXAMINATION OF MRS. SUSIE D. GRIEP
16 BY THE COURT:

17 Q Mrs. Griep, the attorneys in this case have
18 estimated that this trial will take between three and five
19 months after the jury is selected, and it is my intention to
20 sequester the jury, which means that instead of being
21 permitted to go home every night you will be kept in a hotel
22 room along with the other jurors. You will, however, be
23 permitted to visit with your husband on the weekends.

24 Is there any reason, Mrs. Griep, why you would
25 not be willing or able to serve as a juror in this case?

26 A No. It would be inconvenient.

14c2

1 Q I am sure it would be inconvenient to everyone,
2 but I take it, then, there is no undue hardship so far as
3 you are concerned, Mrs. Griep, you would be willing to
4 serve if you are selected?

5 A Yes.

6 Q Now, I gave you some preliminary remarks
7 regarding the death penalty when I was on the bench, and
8 I want to put to you now the questions that I referred to.

9 You will notice that the first question is
10 directed to what is called the guilt phase or the first
11 phase of a murder trial.

12 In a murder trial, if the verdict is guilty of
13 murder in the first degree, then there is a second phase
14 which is called the penalty phase, and ordinarily the same
15 jury will then sit in the second phase and determine which
16 of the two alternatives, that is, life imprisonment or
17 death, is the appropriate punishment in that case.

18 Now, my first question is directed to the first
19 phase, the guilt phase, and the question is this: Do you
20 entertain such conscientious objections regarding the
21 death penalty that you would be unable to make an impartial
22 decision as to any defendant's guilt regardless of the
23 evidence in the case?

24 A I don't believe so.

25 Q You don't believe that you would be able to
26 make an impartial decision?

14c3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

A Yes.

Q Do you have some question in your mind?

A Well, I have never been confronted with the death penalty in making a definite decision so I haven't made up my mind what I would do.

Q You see, what we are trying to find out now is do you have any feelings one way or the other about the death penalty?

A No, neither way.

Q You are not unalterably opposed to it, and I take it you are not -- well, you tell me, do you feel, for example, that you would always impose the death penalty in a murder case regardless of the evidence?

A No.

Q In other words, you are not prepared to make your mind up until you hear the evidence; is that right?

A I guess that would be the way to put it.

Q There are, of course, some people whose opinions regarding the death penalty are such that they might or they could render an impartial decision as to guilt and yet they might not be willing to impose or to vote the death penalty if the verdict was guilty.

Do you understand what I am saying?

A Yes.

Q And my second question is devoted to the second phase, the penalty phase of the trial, and it is this:

1 Do you entertain such conscientious opinions regarding the
2 death penalty that you would automatically refuse to impose
3 it without regard to the evidence developed during the
4 trial?

5 A No, I don't believe so.

15-1.

1 Q BY THE COURT: All right, now, have you
2 lived in the County of Los Angeles continuously since last
3 August?

4 A Yes.

5 Q When these events occurred?

6 A Yes.

7 Q That is, the killings?

8 MR. STOVITZ: With the permission of the Court it
9 is very, very difficult to hear the juror from here.

10 THE COURT: All right, would you keep your voice
11 up, please.

12 MRS. GRIEP: I'm nervous.

13 Q BY THE COURT: All right, there is no need
14 to be nervous.

15 When did you first learn about this case,
16 that is, when did you first hear or read about some
17 killings that are related to this case?

18 A I presume shortly thereafter, over the radio --
19 I don't know. I don't know when I heard it.

20 Q Do you subscribe to a newspaper?

21 A Yes.

22 Q Which newspaper?

23 A The Wall Street Journal and the Long Beach
24 Independent Press Telegram.

25 Q Do you live in Long Beach?

26 A Yes.

1 Q Do you read the Times?

2 A No.

3 Q Are you a regular reader of a newspaper?

4 A Yes, I listen to the radio, I get most of
5 my news from the radio.

6 Q Do you watch television?

7 A Yes.

8 Q Would you say that you have more or less
9 followed the stories in the newspapers concerning this
10 case since last August?

11 A Very lightly; I'm not interested, very little,
12 I am not interested.

13 Q When you see an article in the newspaper which
14 appears to be about this case, do you usually read the
15 article in detail?

16 A No, scan it, possibly read the first paragraph.

17 Q Do you watch any television or have you
18 watched any television program or newscast which discussed
19 this case or the defendants?

20 A No, I don't believe I have.

21 Q Have you heard about the case on the radio?

22 A Yes, just about what everybody has heard.

23 Q Would that be on news programs on the radio?

24 A On news I listen to KNX, that is news all
25 day.

26 Q Have you learned about the case or any of the

1 parties from any other source?

2 Have you read any books or magazines about it?

3 A I think I saw something in a magazine but I
4 cannot quote the source.

5 Q Do you remember what it was, what the substance
6 of it was?

7 A No, generally what happened.

8 Q Have you ever read or heard anything which
9 purported to be a statement made by any of the defendants
10 in the case about the case?

11 A I suppose I have.

12 Q Well, do you know whether you have?

13 A I cannot recall any.

14 Q As a result of what you have learned about the
15 case, Mrs. Griep, have you formed any opinions as to the
16 guilt or innocence of any of the defendants?

17 A I think I have, yes.

18 Q You think you have?

19 A Yes.

20 Q And what opinions have you formed?

21 A Well, it seems to me there is a preponderance of
22 guilt.

23 I don't know, I did not pay that much
24 attention, but it looks to me like there is guilt.

25 MR. KANAREK: May I have the last answer read back,
26 your Honor?

1 THE COURT: Very well.

2 (Whereupon the reporter reads the record
3 as follows:

4 "Well, it seems to me there is a preponderance
5 of guilt.

6 "I don't know, I did not pay that much
7 attention, but it looks to me like there is guilt.")

8 MR. KANAREK: Thank you.

9 Q BY THE COURT: And what is that opinion based
10 on, Mrs. Griep?

11 A Just the over-all picture, as I say, I just
12 haven't taken that great an interest in the case -- hearsay.

13 Q Is this from conversations you may have had
14 with other people about the case?

15 A Conversations and reading and --

16 Q If you were selected as a juror in this case
17 do you think that you would be able to put aside everything
18 that you have learned about the case up until now and
19 decide the case solely on the evidence that came out
20 during the trial?

21 A I believe I could.

22 Q Now, you heard me say to all of the prospective
23 jurors that in a criminal case every defendant is presumed
24 to be innocent.

25 Do you recall that?

26 A Yes, I recall that.

1 Q And that the burden is on the State to prove
2 his guilt beyond a reasonable doubt?

3 A Yes.

4 Q Would you be willing if you were selected
5 as a juror in this case to give each of the defendants
6 that presumption of innocence, and require the State to
7 prove their guilt beyond a reasonable doubt before you
8 would vote for a guilty verdict?

9 A Yes, I would because I don't know that much
10 about it.

11 Q Would you be willing to follow all of the
12 Court's instructions, even though they might differ
13 with your own ideas as to what the law is or should be?

14 A Yes.

15 THE COURT: Mr. Fitzgerald.

16 MR. FITZGERALD: Thank you, your Honor.

17
18 VOIR DIRE EXAMINATION OF MRS. GRIEP

19 BY MR. FITZGERALD:

20 Q I take it you own a radio?

21 A Yes.

22 Q Is that a radio in your home that you frequently
23 listen to?

24 A Yes.

25 Q Are you employed outside of the home?

26 A No.

1 Q And I take it you also own a television
2 set?

3 A Yes.

15a.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

15a-1

1 Q Do you watch any particular newscasts,
2 usually?

3 A No, we don't watch the news on television.

4 Q At all?

5 A Once in a while, once in a while.

6 Q Now, in the Long Beach newspaper there has been
7 a considerable amount of publicity in connection with this
8 case, hasn't there?

9 A I don't know. I should clarify one thing, we
10 were taking the Herald up until, oh, I guess three or four
11 months ago, the Herald Examiner.

12 Q Have you seen publicity in the Herald in
13 connection with this case?

14 A Somewhat.

15 Q Now, when you read newspaper articles in
16 connection with this case, and I take it you did read some
17 newspaper articles, did you not, maybe not every one, but
18 you did read some?

19 A Some, I got enough to get the story.

20 Q Pardon me?

21 A I got enough to get the story and I did not
22 delve into it beyond that.

23 Q When you say "the story," what are you referring
24 to, "enough to get the story"?

25 A Just what happened.

26 Q In what sense, what happened; what do you mean?

15a2

1 Do you mean how they were killed or who killed them or both?

2 A No, just what happened, the crime.

3 I don't believe I followed it much since there
4 have been arrests.

5 Q Tell us as best you can in your own words what
6 the story is.

7 A To repeat to you what happened that I know about?

8 Q Yes, would you, please.

9 A Or what I have heard about.

10 Well, let's see, there was about three or four
11 people in a home in, I imagine, an area where the houses are
12 not too close together, in one of the nicer areas of town,
13 and they were killed.

14 And then there was one in the car that was
15 killed.

16 And it seemed like there was somebody in the
17 servant's quarters that was not killed.

18 And there was Doris Day's son, I think, was
19 supposed to have been -- he was involved, that they thought
20 he lived there still.

21 And Sharon Tate is the name of one of them, one
22 of the victims, and that is about all I know. I just don't
23 follow it.

24 Q Is that the whole story that you know?

25 (No response.)

26 Did you learn at some time who killed them?

15a3

1 A Yes, but now I don't recall reading about that.
2 This was just conversation with friends. I
3 don't know where I got that information.

4 Q I take it you don't know Charles Manson or any
5 of the other defendants personally?

6 A No.

7 Q Do you know anybody else who knows them
8 personally?

9 A No.

10 Q So what have you heard in connection with the
11 story of who killed them?

12 A Well --

13 Q We would appreciate it if you would be just as
14 honest as you possibly can.

15 A Well, I am. I feel kind of stupid that I have
16 not been following it, but I am just not interested enough.

17 Q Well, who do you suppose killed Sharon Tate, if
18 anybody?

19 A Well, I understand or I have heard that there is
20 a Family, and Charles Manson supposedly is the head of the
21 Family and they lived up in the desert some place or in the
22 Valley, and that is all I know that I can recall.

23 I have surely read more about it but I just
24 don't recall.

25 Q How do you connect Charles Manson and the
26 others with the killing itself in your mind?

15a4

1 What sort of an association between the two
2 do you have in your mind?

3 A Didn't one of the girls tell the story?

4 Q Did you hear something that purported to be a
5 story one of the girls told?

6 A That is what I recall.

7 Q And do you recall a rough outline of the story
8 or anything like that?

9 A From what I have said -- candles by the body.

10 Q In other words, the information about somebody
11 being shot outside in the car or somebody being killed out-
12 side in the car, and some people being killed in the house,
13 you got from a story of one of the girls?

14 A No, that would have been in the initial -- I
15 mean, that would be public information.

16 Q What did you get out of the story of one of the
17 girls?

18 A I don't know, I just understand that there has
19 been one that has told the story and then changed her mind --
20 or am I talking about another case? I don't know.

21 Q No, you are probably talking about this case,
22 but we would like to know what the story was that you
23 heard.

24 A I'm sorry, I cannot --

25 Q Did that person say they did it or that they
26 were connected with it in some way?

1525

1 A I can't -- I cannot specifically -- I just don't
2 recall.

3 Q At the time you heard of that story did you
4 think it was true?

5 A I think I did, yes.

6 Q And I take it you still think it was true?

7 A I guess, yes, I don't know.

8 Q And when you answered the Judge's questions
9 you said that you could follow the law?

10 A Yes, I have done that already.

11 Q And you said you could be fair?

12 A Yes, I think I can.

13
14
15
16
17
18
19
20
21
22
23
24
25
26

15B-1

1 Q But you have already made up your mind, haven't
2 you?

3 A I have that impression that there is guilt
4 involved, yes.

5 Q And wouldn't it be natural for you when you
6 view the evidence to say to yourself, "Well, I've got to be
7 convinced they are not guilty"?

8 A It would seem that way, wouldn't it?

9 Q I am kind of asking you. Do you feel you would
10 engage in that sort of an analysis?

11 A I don't think I would -- I don't think I would.

12 MR. FITZGERALD: I have no questions.

13 THE COURT: Anything further?

14 MR. REINER: No questions.

15 MR. SHINN: No questions.

16 THE COURT: Mr. Kanarek?

17 MR. KANAREK: Yes, just one question.

18

19 VOIR DIRE EXAMINATION OF MRS. GRIEP

20 BY MR. KANAREK:

21 Q Have you ever had the experience, Mrs. Griep,
22 of not remembering something and then having an occurrence
23 or a statement made where everything that you previously
24 had not remembered all of a sudden snaps into place, and
25 you remember a whole body of words or a whole story that
26 had been -- which you might say be memory of your mind?

17b2

1 A Yes.

2 Q Is any connection with what you read in this
3 case -- I will withdraw that.

4 May I just ask you, you live in the Long Beach
5 area?

6 A Yes.

7 Q How is it that -- would you tell us how you
8 were called for jury duty in this case?

9 Were you called to the Central District or were
10 you called to the Long Beach Courthouse?

11 MR. BUGLIOSI: I object, your Honor, as beyond the
12 scope of the limits of this voir dire hearing.

13 THE COURT: I'm not sure the answer would enlighten
14 us on any subject that is relevant.

15 MR. KANAREK: I will withdraw it at this time.

16 THE COURT: Any further questions?

17 MR. STOVITZ: May I?

18

19 VOIR DIRE EXAMINATION OF MRS. GRIEP

20 BY MR. STOVITZ:

21 Q Have you heard of a publication known as The
22 Rolling Stone?

23 A I have heard of a group.

24 Q A magazine or newspaper that comes out twice a
25 month.

26 You have not heard of that?

1 A No.

2 Q Mrs. Griep, you tell us that you once heard
3 that one of the girls made a statement implicating the
4 others, isn't that right?

5 A Yes, I'm confused with this other trial. Isn't
6 there another -- Hinman, isn't that right?

7 Q Did you read about the Hinman case in the
8 newspapers?

9 A No, I don't know anything about that one.

10 Q All right, now, assume for the moment that
11 during the trial you find out in your own mind that you did
12 in fact read the story about one of the girls implicating
13 the others, and this girl doesn't testify as a witness.

14 Do you think that you can separate that from
15 your mind and forget completely that you read about that
16 in the newspapers and just go by the evidence in this case?

17 MR. KANAREK: I will object to that, your Honor, as
18 conjecture and unfair voir dire, because that question is
19 based upon a postulate that none of us can know.

20 It is ambiguous; we don't know what person he
21 is speaking of.

22 I believe it is unfair voir dire in the context
23 of these proceedings.

24 THE COURT: Did you understand the question?

25 THE WITNESS: Would you repeat it, please?

26 THE COURT: The reporter will read it back to you.

1 (Whereupon, the reporter reads the pending
2 question as follows;

3 "Q All right, now, assume for the
4 moment that during the trial you find out in
5 your own mind that you did in fact read the
6 story about one of the girls implicating the
7 others, and this girl doesn't testify as a
8 witness.

9 "Do you think that you can separate
10 that from your mind and forget completely
11 that you read about that in the newspapers
12 and just go by the evidence in this case?")

13 MRS. GRIEP: I understand the question.

14 THE COURT: I will overrule the objection. You
15 may answer.

16 MRS. GRIEP: Yes, I think I could.

17 Q BY MR. STOVITZ: Now, you understand that under
18 our system of justice you are only supposed to get the
19 evidence from the witnesses and from the exhibits that you
20 see in court.

21 Do you understand that?

22 A Yes.

23 Q In other words, it is not like our little towns
24 when we started selecting juries 200 years ago.

25 It is a big city and you are not supposed to
26 know anything about the case other than what you hear from

1 the witnesses and from the exhibits.

2 Do you understand that?

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

15C-1.

1 MR. KANAREK: I'll object to that, your Honor, the
2 implication is in a small town in California you could
3 not get a fair trial.

4 I will object to that as unfair voir dire
5 and as a misstatement in fact of what is presently the
6 situation in many small towns in California.

7 MR. BUGLIOSI: I think Mr. Kanarek --

8 THE COURT: Do you understand the question, Mrs.
9 Griep?

10 MRS. GRIEP: I forgot.

11 MR. STOVITZ: May I re-ask the question then?

12 THE COURT: All right.

13 Q BY MR. STOVITZ: If you were selected as a
14 juror in this case you would have to give your promise to
15 the Court to be guided solely by the evidence that you
16 hear in this case and not whatever you might have read or
17 might have seen or might have heard on the radio?

18 A Right.

19 Q You understand that promise?

20 A Yes.

21 Q That is for the benefit of the People as well
22 as the defendants, you understand that?

23 A Yes.

24 Q If you gave that promise would you be able
25 fulfill that promise to the full of the law?

26 A Yes.

15c2.

1 MR. KANAREK: That is calling for a conclusion,
2 your Honor. I don't believe that the witness --

3 I object on those grounds.

4 THE COURT: Overruled. You may answer.

5 MRS. GRIEP: Yes, I would.

6 Q BY MR. STOVITZ: So, too, if you ever
7 remembered reading something in a Long Beach paper about
8 other incidents connected with the so-called killings,
9 that you would be able to completely forget that and just
10 follow the evidence?

11 A Yes.

12 MR. STOVITZ: I have no further questions.

13 THE COURT: Anything further?

14 All right, I will ask you then to go back out
15 into the courtroom, Mrs. Griep, and we will take our
16 recess.

17 MR. STOVITZ: Before your Honor does that --

18 Your Honor, the previous jurors have been
19 asked one concluding question, all of the jurors or sub-
20 stantially all of the jurors were asked ^a question concerning
21 their obligation to the Court.

22 Would your Honor care to ask that question.

23 THE COURT: You mean about admonishing them not to
24 talk to anyone else.

25 MR. STOVITZ: Yes.

26 THE COURT: Yes.

k5c3,

1 Mrs. Griep, I am going to ask you not to discuss
2 what went on in here in chambers with anyone else, either
3 prospective jurors, your husband or any newsmen or anybody.

4 Do you promise to refrain from discussing it
5 with anybody?

6 MRS. GRIEP: I certainly will.

7 THE COURT: All right, thank you. You may go back
8 into court.

9 For the time being she will go into Seat No. 12.

10 We will take a -- well, let's hear the challenge.

11 MR. FITZGERALD: The defendants will challenge this
12 juror for cause, for actual bias.

13 I think that when we examine the totality of
14 her remarks, it would be difficult for her to be fair in
15 determination of guilt or innocence.

16 MR. REINER: Join.

17 MR. SHINN: Join.

18 MR. KANAREK: Join.

19 MR. STOVITZ: Submit the matter, your Honor.

20 THE COURT: All right, I am going to allow the
21 challenge.

22 Mrs. Griep will be excused for cause.

23 MR. KANAREK: Thank you, your Honor.

24 (Whereupon at 3:05 p.m. a recess was taken.)
25
26

16-1

1 (The following proceedings occur in chambers,
2 all counsel and defendants being present.)

3 THE CLERK: Shall I call the next name, your Honor?

4 THE COURT: Yes. Call the next prospective juror.

5 The record will show all parties and counsel,
6 and the People's counsel, are present.

7 (A prospective juror enters the chambers.)

8 THE COURT: Good afternoon.

9 MRS. CRITCHER: Good afternoon.

10 THE CLERK: The name of the prospective juror is
11 Mrs. Audrey J. Critcher; A-u-d-r-e-y, C-r-i-t-c-h-e-r.

12
13 VOIR DIRE EXAMINATION OF MRS. AUDREY J. CRITCHER
14 BY THE COURT:

15 Q Mrs. Critcher, the attorneys have estimated that
16 this case will probably take between three and five months
17 after the jury is selected until it is completed, and my
18 intention is to sequester the jury after the jury is
19 selected, which means instead of being permitted to go home
20 each night the jurors will be residing in a hotel.

21 A Yes.

22 Q Now, from what you now know about the case, do
23 you believe that you could serve as a juror in this case?

24 A Well, it would be a hardship. My husband and I
25 are both unemployed at the present time, and I may have
26 to ask to be excused from jury duty if he is not successful

16-2

1 in getting a position soon.

2 I think it would make it very hard for me, you
3 know, to be kept overnight.

4 MR. KANAREK: I didn't get the last three or four
5 words.

6 MRS. CRITCHER: I said it would make it very hard
7 if I were to be confined each night.

8 MR. KANAREK: Thank you.

9 Q BY THE COURT: How soon might you know about
10 your husband's employment?

11 A Well, he has been unemployed since April. He
12 works in aerospace, so I couldn't say. There is a pretty
13 hard situation right now.

14 Q Are you presently seeking employment outside
15 the home, Mrs. Critcher?

16 A Yes, I am. I was recently laid off also from
17 the Government.

18 THE COURT: Do you wish to inquire, Mr. Fitzgerald?

19 MR. FITZGERALD: Yes, sir.

20 Q Do you have any children?

21 MRS. CRITCHER: Just one son, grown.

22 MR. FITZGERALD: I have nothing further.

23 MR. REINER: No questions.

24 MR. STOVITZ: I take it that the \$5 a day plus
25 mileage in no way help compensate you for your expenses?

26 MRS. CRITCHER: No, I'm afraid it wouldn't.

1 MR. STOVITZ: We have no further questions.

2 MR. FITZGERALD: We offer the stipulation.

3 MR. SHINN: So stipulate.

4 MR. KANAREK: So stipulated.

5 MR. REINER: Yes.

6 MR. STOVITZ: So stipulated.

7 THE COURT: By stipulation of counsel, then,

8 Mrs. Critcher, you are excused. Thank you.

9 MRS. CRITCHER: Thank you.

10 (Mrs. Critcher leaves the chambers and another
11 prospective juror enters.)

12 THE COURT: Good afternoon, sir.

13 THE CLERK: The prospective juror's name is Julian
14 E. Chavez; J-u-l-i-a-n, C-h-a-v-e-z.

15

16

17

18

19

20

21

22

23

24

25

26

16a.

VOIR DIRE EXAMINATION OF MR. CHAVEZ

BY THE COURT:

Q Mr. Chavez, the attorneys have estimated that this case will take approximately three to five months to try after the jury is selected, and it is my intention that the jury will be sequestered, which means that after the jury is finally selected, instead of being permitted to go home every night the jury will be residing in a hotel.

A Yes.

Q Do you think that you would be willing and able to serve if you were selected as a juror in this case?

A Well, it would be an inconvenience.

Q Well, I am sure it would be an inconvenience for anybody to be a juror for that period of time, but is there any unusual hardship that would result from your service?

A Yes, there would be.

Q What is your situation, sir?

Are you employed?

A I am going through a divorce right now. My wife left me and she left me with three kids, and I have their sole support.

Q And you have to take care of them?

A Yes, I do.

1 Q How old are they?

2 A Fourteen, twelve and ten. . . .

3 Q Do you work during the daytime?

4 A Well, I am on vacation right now.

5 Q Are you sure this is a vacation for you while
6 you are on jury duty?

7 A No. It is just that we have a 13-week
8 vacation plan at work, and I was waiting for them to get
9 out of school. I have to get a place to live. So, when
10 they called me down, I just figured, well, I can go 30
11 days. They just got out of school this last Friday.

12 Q And they are living at home with you?

13 A Yes. Well, I am living with my mother right
14 now.

15 I have a lot of things that I have to do before
16 they start school. I have to find out what location I
17 am going to be at.

18 Q You realize that it will take several weeks,
19 undoubtedly, to select a jury in this case, and during
20 that period of time you will not be sequestered, it is
21 only after the jury is selected.

22 Do you understand what I am saying?

23 In other words, for the next, well, let's
24 say two or three weeks, while the jury is being selected,
25 Mr. Chavez, you would of course, be permitted to go home
26 every night. It is only after the jury is selected and the

1 jury is sworn and the trial begins that the jury will
2 then be sequestered.

3 Would that make any difference?

4 A Well, it would because -- well, my father,
5 this last year, he had an accident, he came down with
6 Parkinson's Disease, so he is under treatment right now
7 and I have to move out of the house because of his
8 high nervousness that he has.

9 I don't know if you are acquainted with
10 Parkinson's Disease or not. It is a situation where when
11 you have three teenagers -- not three teenagers, one --
12 it is an uncomfortable situation, and I have to be --

13 Q So you have to find your own home?

14 A Yes.

15 Q And then move your children in there?

16 A Yes. And that is difficult enough with
17 renters. They don't want to rent to children.

18 And that is going to be --

19 Q Who will take care of the children at night
20 if you were sequestered?

21 A Well, that is another thing. I'd have to find
22 myself a woman to take care of my kids while I am going
23 to work.

24 MR. FITZGERALD: We will offer to stipulate that
25 this juror may be excused.

26 MR. REINER: May I ask a question of Mr. Chavez?

1 MR. CHAVEZ: Yes.

2 THE COURT: Yes.

3
4 VOIR DIRE EXAMINATION OF MR. CHAVEZ

5 BY MR. REINER:

6 Q Mr. Chavez, you appreciate that if you are
7 selected as a juror in this case you could not be served
8 by your wife for at least the next six months, sir?

9 MR. STOVITZ: You couldn't be served with divorce
10 papers.

11 MR. CHAVEZ: They already gave me the divorce papers.
12 I have a couple of more months to go.

13 MR. REINER: There are still OSC's. What about
14 that.

15 MR. CHAVEZ: I don't know what she is going to do.

16 MR. REINER: Would it be at all attractive to you
17 to be immune from service for about six months?

18 THE COURT: Three to five.

19 MR. REINER: Yes, three to five.

20 MR. FITZGERALD: We will renew our offer to
21 stipulated.

22 MR. STOVITZ: We will so stipulate.

23 MR. REINER: Yes, we will stipulate.

24 THE COURT: Do all counsel join?

25 MR. SHINN: Join.

26 MR. KANAREK: Join.

1 THE COURT: All right. By stipulation of counsel,
2 then, Mr. Chavez, you are excused. Thank you.

3 MR. CHAVEZ: Thank you.

4 (Mr. Chavez leaves the chambers and another
5 prospective juror enters.)

6 THE COURT: Good afternoon, sir.

7 THE CLERK: The prospective juror's name is Herman
8 C. Tubick; H-e-r-m-a-n, T-u-b-i-c-k.

9
10 VOIR DIRE EXAMINATION OF MR. TUBICK

11 BY THE COURT:

12 Q Mr. Tubick, the attorneys have estimated that
13 this case will probably take between three and five
14 months to try after the jury is selected.

15 That will probably take two to three weeks.

16 It is my intention that the jury will be
17 sequestered after the jury is selected during the balance
18 of the trial, which means that instead of being permitted
19 to go home every night as you are now, you would be residing
20 in a hotel.

21 A Yes, sir.

22 Q Knowing all these things and what you do know
23 about this case, do you believe that you would be willing
24 and able to serve as a juror in this case if you were
25 selected?

26 A Yes, sir.

INX.

1 Q Now, I mentioned to you and the rest of the
2 prospective jurors some preliminary matters regarding murder
3 cases in general and their opinions regarding the death
4 penalty in particular.

5 Now, I am going to put to you the two specific
6 questions that I referred to while I was on the bench.

7 To refresh your recollection, first, in a murder
8 case, if there is a verdict of murder in the first degree,
9 which carries with it a penalty of either life imprisonment
10 or death, then there is a second phase during which
11 the jury determines which of those two alternatives,
12 life imprisonment or death, should be imposed.

13 Now, the law provides that if you have such
14 conscientious opinions regarding the death penalty that
15 either you are unable to make an impartial decision as
16 to guilt, that is, during the first phase, or you would
17 automatically refuse to impose the death penalty, that is,
18 during the second penalty phase, then you will neither
19 be permitted nor compelled to serve as a juror.

20 So, my first question, then, is do
21 you entertain such conscientious opinions regarding the
22 death penalty that you would be unable to make an impartial
23 decision as to any defendant's guilt regardless of the
24 evidence developed during the trial?

25 A No, sir.
26

17-1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Q BY THE COURT: And the second question is, do you entertain such conscientious opinions regarding the death penalty that you would automatically refuse to impose it without regard to the evidence developed during the trial?

A No, sir.

Q Have you lived in Los Angeles County continuously since last August?

A Yes, sir.

Q Now, the killings that brought about this case occurred last August. Did you first learn about them about that time?

A Oh, I have heard of it there, in my work, I am a mortician there, just what I hear people saying is about all.

Q What part of the County do you live in?

A Los Angeles, Monterey Park.

Q Do you subscribe to a newspaper?

A No, sir.

Q Do you watch TV?

A Yes, sir.

Q Have you seen anything on TV about the case or any of the defendants?

A No, sir.

Q Do you listen to the radio?

A Yes, sir.

Q Did you learn anything about the case from the

17-2

1 radio?

2 A No, sir, I have not.

3 Q Have you read any magazines or books about the
4 case?

5 A No, sir, I have not.

6 No, in my work I really am very much taken
7 care of there, because I work mortuary work there. I am
8 taken care of all day long there.

9 I haven't much time for anything at all except
10 maybe sports, football games, basketball games, baseball
11 games, something like that I watch on TV.

12 Q Is this a business that you own?

13 A No, sir, I am employed by Rose Hills Mortuary
14 in Whittier.

15 I have five services every day, five or six
16 services every day.

17 Q What is the nature of your work?

18 A Funeral director, embalming.

19 Q Well, then, I take it from what you say you
20 know very little about this case?

21 A Yes, sir, I don't know much, if anything, about
22 it at all.

23 Q Do you know the names of any of the people that
24 were killed?

25 A No, sir.

26 Q Have you read anything about any of the

17-3

1 defendants?

2 A No, sir, I have not.

3 Q Did you know any of their names before you came
4 in here today?

5 A No, sir, just what I heard, some relations at
6 services there, I heard people mention Mr. Manson or some-
7 thing like that. That is about all.

8 Q Where was this that you heard that?

9 A When I conduct the funeral services at the
10 mortuary, at the chapel in Rose Hills.

11 Q Was this just conversation?

12 A Just bystanders, standing around during the
13 service.

14 Q But did you hear anything in particular being
15 said, or just the name mentioned?

16 A No, sir, just the name mentioned.

17 Q Aside from that you cannot remember anything
18 else that you might have learned about the case?

19 A No, sir, not a thing.

20 Q Have you formed any opinions about the guilt or
21 innocence of any of the defendants in the case?

22 A No, sir, I have not.

23 THE COURT: Any questions, Mr. Fitzgerald?

24 MR. FITZGERALD: Yes, thank you, your Honor.
25
26

17-4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

VOIR DIRE EXAMINATION OF MR. HERMAN C. TUBICK

BY MR. FITZGERALD:

Q Are you familiar with the name Sharon Tate?

A No, sir, I am not.

Q You never heard of Sharon Tate?

A No, sir.

Q You have never seen the name in print either?

A No.

Q You have heard the name Charles Manson?

A I have heard the name Charles Manson.

Q And that was in discussion with some other people?

A Yes, sir.

Q Did those people purport to know personally Mr. Manson?

A No, sir.

Q What can you recall anybody saying about Mr. Manson?

A Oh, they just related if I heard anything about the Manson case, and about when the trial was going to take place.

It was just heard from the outside there, the people going in and out of the chapel.

Q When you heard the name or the title, the Charles Manson trial, what did you think Mr. Manson was charged with?

7-5

1 A I did not know at that time, sir.

2 Q And when did you first learn, if you ever did?

3 A Well, all I heard about it was just when I
4 came into the court today.

5 MR. FITZGERALD: I have nothing further.

6 THE COURT: Mr. Reiner?

7

8 VOIR DIRE EXAMINATION

9 BY MR. REINER:

10 Q Mr. Tubick, prior to coming to court today you
11 had, of course, heard of Mr. Manson?

12 A Yes, sir.

13 Q And you had heard of him in connection with the
14 killing of Sharon Tate or other persons, is that correct?

15 A Just I heard the name Manson. I did not know
16 what he was connected with.

17 Q Were you in the Greater Los Angeles area last
18 August?

19 A Yes, sir.

20 Q Do you recall the public attention that was
21 given to certain killings that occurred in the Benedict
22 Canyon area, that is the home of Sharon Tate?

23 A I just heard about it, that was all.

24 Q And did you hear the next evening of certain
25 other killings at the La Bianca residence?

26 A Just what I heard from the other people, yes,

17-6
1 sir.

2 Q What did you hear at that time from other people
3 of those killings that occurred on those two evenings?

4 A Well, just that it was a terrible killing, and
5 so on, like that there.

6 People did not understand why this thing went
7 on.

8 Q At the time from conversations that you had
9 with other persons, or any newspaper accounts that you may
10 have read, or from any other source you were aware, were
11 you not, that these people had been stabbed?

12 A No, sir.

13 Q Were you aware at all of how they met their
14 death?

15 A No, sir.

16 Q But you were aware that there had been a large
17 number of killings on Easter week?

18 A Yes, sir.

19 Q And sometime later it came to your attention
20 that Mr. Manson had been arrested and charged with these
21 killings, is that true?

22 A Yes, sir.

23 Q And also that certain other persons, certain
24 girls had been arrested and charged with these killings
25 with him, is that true?

26 A Yes, sir.

1 Q And all of this was prior to coming to
2 court?

3 A Yes, sir.

4 Q And the conversation that you had with other
5 persons and newspaper accounts that you may have read and
6 from any other source, you had heard the girls referred to
7 Mr. Manson's Family, had you not?

8 A Yes, sir.

9 Q And in conversations or from any other source
10 had you heard of or learned of a certain purported
11 confession by one of the girls that was published in the
12 newspaper?

13 A No, sir, I have not.

14 Q Had you heard of any books that had been
15 written about this case?

16 A No, sir.

17 Q Had you had occasion to look at any magazines
18 dealing with this case or any of the persons in it?

19 A No, sir.

20 Q Do you ever watch television?

21 A Yes, sir.

22 Q Do you watch television in the evening?

23 A Yes, sir.

24 Q Is there any particular newscaster that you
25 watch more than the other casters?

26 A No, sir, I don't.

17-8

1 Q Do you watch the news on television from time
2 to time?

3 A No, sir.

4 Q Did you ever watch the news on television?

5 A No, sir.

6 Q Did you ever listen to the news on radio?

7 A No, sir.

8 Q Do you subscribe to a newspaper?

9 A No, sir.

10 Q Do you ever read the newspaper?

11 A Yes, sir.

12 Q From reading the newspaper you have read from
13 time to time accounts of this case and persons in it, have
14 you not?

15 A No, sir, as far as I go with the news, I go
16 as far as the sport page and the obituary columns.

17 Q Well, since last August, these last ten months,
18 have you read a single account of this case, the victims
19 or any persons connected with this case in any newspaper?

20 A No, sir, I have not.

21 Q Have you seen even a headline connected with
22 this case or the persons in it since last August?

23 A I have seen a headline, yes.

24 Q What sort of headlines have you seen, to the
25 best of your recollection?

26 A I remember seeing Mr. Manson's name on the

17-9

1 headlines.

2 Q You have not?

3 A I have.

4 Q And in what context do you recall seeing his
5 name in the headline?

6 A Well, just Mr. Manson was arrested.

7 Q And these conversations that you had with other
8 persons, were you referring to co-workers?

9 A No, the public.

10 Q Oh, I see.

11 Then would it be a fair statement to say that
12 the persons whom you overheard speak, or the person with
13 whom you directly had conversations would be a cross-
14 section of the clientele that would come to your particular
15 establishment?

16 A Yes, sir.

17 Q And would it be a fair statement to say that
18 most of the people who had come to your establishment in
19 the course of business evidenced at least some familiarity
20 on their part if not on your part with the facts of the
21 case?

22 A Well, they wouldn't state any facts or anything
23 like that there, sir, just the conversation I heard among
24 the other people there.

25 Q Well, did this conversation generally take the
26 form of indicating that Mr. Manson and the certain other

7-10

1 girls who have been charged as defendants had committed
2 these killings, would that be a fair statement of the
3 conversation?

4 A Yes.

5 Q And did this sort of conversation occur with
6 any regularity over these last few months with the cross-
7 section of customers that had come to your establishments?

8 A No, sir.

9 Q Well, with what degree -- strike that.

10 How frequently did you overhear persons dis-
11 cuss the facts of this case or at least their impression of
12 the facts of this case?

13 A Oh, I have heard about, oh, once or twice a
14 day there, because I have five services every day and some
15 of the people would bring up this Manson case.

16 I would not get in on the conversation because
17 I don't get in with the clientele that much to speak to
18 them personally.

19 Q Then would it be a fair statement to say that
20 at least once or twice a day of the five services per
21 day that you hold, you would overhear other people dis-
22 cussing this case?

23 A Yes, sir.

24 Q And that would be on a daily basis since the
25 killings occurred?

26 A Yes, sir.

17-11 1 Q And the general tenor of the discussions that
2 you would overhear related to Mr. Manson's involvement in
3 these particular killings?

4 A Yes.

5 Q And the involvement of the other defendants as
6 well?

7 A Yes.

8 Q And the general tenor of these discussions,
9 these other persons had among themselves, was to the effect
10 that Mr. Manson in all probability was guilty of these
11 killings?

12 A Well, they would be pro and con on it. Some
13 would say yes and some would say no.

14 Q It would be a fair statement to say that the
15 overwhelming majority of persons who had discussed this,
16 that you had overheard, indicated that their belief was
17 Mr. Manson was guilty.

18 A Yes.

19 Q And that related also as well to the other
20 defendants in this case, the girls?

21 A Yes.

22 MR. REINER: No further questions.

23 THE COURT: Mr. Kanarek?

24 MR. KANAREK: No questions.

25 THE COURT: Mr. Stovitz.
26

VOIR DIRE EXAMINATION OF MR. TUBICK

BY MR. STOVITZ:

Q Is Rose Hills -- is that the name of the company you work for?

A Yes, sir, Rose Hills.

Q Do you know whether a young boy by the name of Steven Parent was buried there?

A I cannot recall offhand, sir, as I say, we have five services every day, we average 12 to 14 services every day now.

Q If it were to come to pass, now I'm not saying that he was, because as far as I know his folks were from El Monte, and there is another funeral burial grounds north of El Monte, is that right?

A Yes, sir, Forest Lawn.

Q Is there a Forest Lawn in El Monte?

A Yes, sir.

Q Now, have you ever heard of a magazine or publication known as The Rolling Stone?

A No, sir.

Q Are you married, sir?

A Yes, sir.

Q Have you ever discussed the facts of this case with your wife?

A No, sir.

Q Do you have any children, sir?

1 A Yes, sir.

2 Q How old are they?

3 A One is 37 and the youngest is 23.

4 Q Did you ever discuss the facts of this case
5 with your children?

6 A No, sir, they are both in the convent and they
7 are away from home.

8 Q I take it they are girls?

9 A Yes, sir.

10 MR. STOVITZ: I have no further questions.

11 THE COURT: Mr. Reiner?

12 MR. REINER: Your Honor, I might ask one additional
13 question.

14 THE COURT: All right.

15
16 VOIR DIRE EXAMINATION (Resumed)

17 BY MR. REINER:

18 Q Mr. Tubick, would it be a fair statement to
19 say that your clientele is drawn from the Greater
20 Los Angeles area?

21 A From Los Angeles County, yes, sir.

22 Q And without emphasis on any particular area
23 of the city, would that be true?

24 A Yes, sir.

25 MR. REINER: No further questions.

26 THE COURT: Mr. Tubick, I don't understand some of the

1 answers that you gave.

3 VOIR DIRE EXAMINATION (Resumed)

4 BY THE COURT:

5 Q You say that these conversations occurred
6 between people who were attending the services, is that
7 right?

8 A Yes, sir.

9 Q Now, were you actually participating in the
10 conversations?

11 A No, sir.

12 Q Or were you standing next to these people for
13 some period of time?

14 A Oh, yes, sir, because I have to pass out these
15 memorial cards and ask the people to register their votes.(sic)

16 Q Were you actually following the conversations
17 between the groups?

18 A No, sir.

19 Q Just fragments?

20 A Just fragments here and there.

21 Q Do you mean to say you could tell from these
22 fragments that these people who were saying that
23 Mr. Manson, or any of the other defendants, were probably
24 guilty, or more likely to be guilty than innocent?

25 A Yes, sir.

26 Q You could tell that from fragments of the

1 conversation?

2 A Well, they would come out and say they were
3 guilty, yes, sir.

4 Q You definitely recall that?

5 A Yes, sir.

6 Q Did this happen on more than one occasion?

7 A Yes.

8 Q Do you remember exactly what was said?

9 A Not exactly, no, sir.

10 Q Did any of these people indicate the basis for
11 their opinions?

12 A No, sir.

13 Q Did you, on the basis of these fragments of
14 conversations form any opinions of your own as to the guilt
15 or innocence of any of the defendants?

16 A No, sir.

17 Q Now, if you were selected as a juror in this
18 case, Mr. Tubick, do you believe that you could put aside
19 whatever you have heard or learned about this case, and
20 decide the case solely on the basis of the evidence that
21 comes in during the course of the trial?

22 A Yes, sir.

23 Q And would you promise the Court to do so?

24 A Yes, sir.

25 Q Would you follow the Court's instructions on the
26 law even though those instructions might differ from your

1 own opinion as to what the law is or should be?

2 A Yes, sir.

3 Q Do you promise the Court that you will do that?

4 A Yes, sir.

5 THE COURT: Any further questions?

6 MR. STOVITZ: May I inquire one further?

7
8 VOIR DIRE EXAMINATION (Resumed)

9 BY MR. STOVITZ:

10 Q Mr. Tubick, is that spelled T-u-b-i-c-k?

11 A Yes, sir.

12 Q If you were selected tentatively as a juror
13 would you be able to refrain from listening to anything
14 on TV, reading anything in the newspapers, or going back
15 and reading anything in magazines on this case so that your
16 mind will pay attention solely to the evidence?

17 A Yes, sir.

18 MR. STOVITZ: I have nothing further.

19 MR. KANAREK: If I may, your Honor.

20 THE COURT: All right.

21
22 VOIR DIRE EXAMINATION

23 BY MR. KANAREK:

24 Q Mr. Tubick, during this period of time that
25 the Court has indicated that you might be sequestered, kept
26

1 away from your family, is Rolling Hills going to pay you?

2 A I really don't know, sir.

3 Q You don't know whether they will or will not
4 pay?

5 A Yes.

6 Q You haven't discussed it with the people at the
7 mortuary?

8 A I have not discussed it, no, sir. I don't
9 know what setup they have there about jury duty.

10 Q Do you have any income, Mr. Tubick, other than
11 in your work at Rose Hills?

12 A Yes, sir.

13 Q What is that income?

14 A My wife is a manager of apartments.

15 Q Does she get more than room and board?

16 A Yes, sir.

17 Q Do you mind stating what that income is?

18 THE COURT: That is an imposition.

19 MR. KANAREK: Very well, your Honor.

20 THE COURT: Mr. Tubick, I am going to ask you to
21 refrain from discussing with anybody else, including the
22 other prospective jurors, your wife or anybody, what has
23 been said back and forth in here today.

24 Will you do that?

25 MR. TUBICK: Oh, yes.

26 THE COURT: All right. Thank you.

(Mr. Tubick leaves the chambers of the court.)

MR. REINER: Your Honor, there will be a challenge for cause, actual bias.

MR. BUGLIOSI: We oppose the challenge.

MR. KANAREK: I join in the challenge, your Honor.

MR. SHINN: I join in the challenge.

MR. FITZGERALD: I join in the challenge, your Honor.

THE COURT: Do you wish to argue?

MR. FITZGERALD: We will join and submit it.

THE COURT: The challenge will be disallowed.

MR. KANAREK: Your Honor, I believe the gentleman may not be aware of the hardship aspect. He does not know, your Honor, whether or not Rose Hills will pay him.

MR. STOVITZ: I submit anybody who works for a mortuary sees hardship every day, your Honor.

MR. FITZGERALD: Well, he is willing to serve.

THE COURT: Well, he was advised, Mr. Kanarek, of the length of the trial, the fact he would be sequestered, it is apparent from that he does not want to be at work.

He said he doesn't know whether he will be paid or not, so we are not aware of a contingency there.

MR. KANAREK: Yes, your Honor, but if he is not paid, it might affect his state of mind; then he may have discomfiture which will redound to the detriment --

THE COURT: Well, he may, but he has not expressed

1 any such discomfiture. In fact, he expressed willingness
2 to serve.

3 Now, we still have by my notes three persons
4 in the jury box who have not yet been examined in
5 chambers as to pretrial publicity.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

16-1.

MR. REINER: Which three are those, your Honor?

THE COURT: Mr. Reynolds, Mr. Nelson and Mrs. Eva Cohen.

MR. REINER: Yes.

Do your notes coincide?

MR. FITZGERALD: Yes.

THE COURT: Then we will call in Mr. Reynolds at this time. He is sitting --

MR. FITZGERALD: Juror No. 2.

THE COURT -- in No. 2 seat in the box.

(Whereupon prospective juror Reynolds is brought into chambers.)

THE COURT: Good afternoon, Mr. Reynolds.

MR. REYNOLDS: Good afternoon.

VOIR DIRE EXAMINATION OF MR. LAWRENCE REYNOLDS
BY THE COURT:

Q Mr. Reynolds, the reason why we have asked you to come in here is because the Court and the attorneys are interested in finding out what you may have learned about this case or any of the defendants over the months since the killings occurred, and what, if any, opinions you may have formed regarding the defendants.

Would you tell us, sir, what you have learned?

First, have you lived in Los Angeles County continuously since last August when the killings occurred?

16-2.

1 A Yes. I have lived here since '53.

2 Q And what part of the County do you live in?

3 A I live in the South Bay District.

4 Q Do you subscribe to any newspaper?

5 A Oh, I think it is -- there is one South
6 Bay newspaper, but I really, candidly, I read the
7 paper every now and then. I am a professional photographer
8 and I am interested mainly in periodicals and magazines,
9 and I really don't bother with the papers that much.

10 But I do remember reading about it, that they
11 were accused of the killings.

12 Q That they were what?

13 A That they were accused.

14 Q The defendants, you mean?

15 A Yes. But, I mean, as far as details, I even
16 forgot when it happened, except when you mentioned this
17 morning that it was the month of August of last year.

18 / Q Do you regularly read the Los Angeles Times?

19 A Not really. They charge too much. / I buy it
20 if, well, like when I have been coming to court, I bought
21 a couple of Times papers, but I don't subscribe to it.

22 Q Do you read it on a regular basis?

23 A No, I wouldn't say that.

24 Q Have you read any newspaper on a regular
25 basis since last August?

26 A Well, I can't really say on a regular basis

16-3.

1 because I really don't.

2 Q Do you watch TV?

3 A Very seldom. I have been working on my
4 Master's Degree so that has taken up pretty much all of
5 my time.

6 Q Do you listen to the radio?

7 A Yes. KHJ and a few of the other Pop Art
8 stations.

9 Q Have you heard anything about this case on
10 the radio?

11 A Well, just the news reports about the various
12 things, you know, that have been happening since the
13 jury selection started.

14 Q This would be within the last week?

15 A Yes. The last week, yes, that's right.

16 Q Prior to that, had you heard anything about
17 the case on the radio?

18 A Well, I may have, but I just don't remember
19 it because, I mean, it is not something that I am currently
20 concerned with, so I just hear it in passing.

21 Q Did you have any special interest in reading
22 about the case at any time?

23 A Well, I think at the time there was quite a
24 bit of publicity, if I remember correctly, and I think
25 I did read several --

26 Q What time are you referring to?

1604?

1 A Last year.

2 Q You mean when the killings first were
3 discovered?

4 A Yes; and I read a few articles about it.
5 I can't even remember what the articles were.

6 I can remember that they were about the killings
7 and the fact that Mr. Manson and the three ladies were
8 accused, but that is about it.

9 Q Did you ever read or hear anything which was
10 represented to be a statement by any defendant in the
11 case?

12 A I may have but I just don't recollect. I mean,
13 I couldn't remember an exact statement or anything, or
14 as far as even what they might have said.

15 Q As a result of whatever you have learned
16 about the case, have you formed any opinion as to the
17 guilt or innocence of any of the defendants?

18 A Well, that is a loaded question, but I don't
19 know. I try. I have been on two criminal cases and,
20 I mean, you know, you try to keep an open mind as much
21 as possible, but I don't know, it is just, the fact that
22 they have been accused, I mean, I realize that they
23 aren't guilty just because of the fact that they are
24 accused, but still it lurks in back of your mind: Why
25 are they completely innocent if they are accused?

26 I mean, it is just something, I would try not

16-5.

to take it into consideration, but it is, you know, still
lurking back there.

18a.

18a-1.

1 Q Well, it is not unnatural for anyone to think
2 that perhaps there was some cause for a person's arrest;
3 but do you understand that that cause may be something
4 far removed from guilt?

5 A Yes, sir.

6 Q Now, as I mentioned out in open court,
7 in any criminal case -- and you must recall this from
8 your service as a juror in criminal cases -- that every
9 defendant is entitled to a presumption of innocence. He
10 starts out with that presumption when the trial begins.

11 A Yes.

12 Q And that presumption remains until such time
13 as the People -- not the defendant, but the People -- have
14 proved the defendant's guilt beyond a reasonable doubt.

15 Do you understand that?

16 A Yes, sir.

17 Q The defendant has no burden, he is not required
18 to take the stand or offer any proof in his own defense,
19 the burden is all on the People's side.

20 Do you understand that?

21 A Yes, sir.

22 Q Now, are you willing, if you are selected as
23 a juror in this case, to give each of the defendants
24 that presumption of innocence?

25 A Yes, sir, I believe I would be.

26 Q And to base your verdict solely on the evidence

Ex18a2. 1

in this trial?

2

A Yes, I believe I would.

3

4

5

Q Do you think you can put aside anything you may have learned about the case and decide the case solely on the evidence in this case?

6

7

A Well, let me put it this way: I would to the best of my ability.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

Q Do you have any question about your ability?

A No. But maybe I should phrase that another way. To the best of my -- I would do it to the best of my ability, and I don't have any question about my ability.

Q Would you require the People to prove the guilt of any defendant beyond any reasonable doubt before you would vote a guilty verdict?

A Yes, because that is what the law states.

Q Would you follow the instructions of the Court as to the law even though your own opinion might differ as to what the law is or should be?

A Yes, sir.

Q Do you feel in your own mind that you are impartial on the question of guilt or innocence of any of the defendants?

A I would try my best to be impartial.

In other words, like I say, to the best of my ability, I will try to be impartial.

1 MR. KANAREK: May the record reflect, your Honor,
2 that this witness, the prospective juror, hesitated
3 perhaps some five seconds before beginning his answer.

4 Is that a fair statement, your Honor?

5 THE COURT: He appeared to be thinking before he
6 answered.

7 MR. KANAREK: Thank you.

8 THE COURT: Q. Do you have any feeling at all --
9 sometimes these things are hard to articulate -- do you
10 have any feeling at all that maybe the defendants are
11 starting off with one or two strikes against them as far
12 as you are concerned?

13 A I don't believe so.

14 Q Let's put it another way. Suppose you were
15 one of the defendants, would you be willing to have a
16 person in your present frame of mind sit on your jury?

17 A I believe I would, yes.

18 THE COURT: Any questions, Mr. Fitzgerald?

19 MR. FITZGERALD: Yes, your Honor.

20
21 VOIR DIRE EXAMINATION OF MR. REYNOLDS

22 BY MR. FITZGERALD:

23 Q You actually think the defendants are guilty;
24 right?

25 A No, sir.

26 Q You don't think they are guilty?

1 A No, that is not what I said.

2 I said that in the back of your mind, I mean,
3 in every person's mind, you have the feeling that, you
4 know, where there is smoke there is fire. I mean, this is,
5 you know --

6 Q Well --

7 A Let me finish, though.

8 Q Let's talk about your mind.

9 A Okay.

10 You know the fact that they have been accused
11 of the crime does not mean that they are guilty, and I
12 don't think they are guilty, but it is just an idiom of
13 our society, you know, that where there is smoke there is
14 fire, and consequently, I have been raised in this way,
15 and you still have that feeling in the back of your mind,
16 no matter how much you try to push it out.

17 MR. KANAREK: Your Honor, may I have the last complete
18 answer of the witness -- or of the prospective juror, rather,
19 read back?

20 THE COURT: Very well. Read the answer.

21 (The record was read by the reporter.)

22 MR. KANAREK: Thank you.

23 MR. STOVITZ: May the record show that the witness
24 answered in a loud voice, loud enough for me to hear sitting
25 in the farthest portion of the room, and I think counsel
26 was just asking for the record to be read for emphasis and

1 for nothing else.

2 THE COURT: Well, in anyevent, it was read.

3 MR. KANAREK: I don't understand that, your Honor.

4 THE COURT: It is not necessary that you understand
5 it, Mr. Kanarek.

6 MR. SHINN: Your Honor, I believe the noise from
7 the air conditioner is more loud here than over there and
8 it interferes with our hearing.

9 THE COURT: That might be.

10 18fol1.

18B-1

1 Q BY MR. FITZGERALD: This idiom or idea that
2 lurks in the back of your mind, Mr. Reynolds, is that
3 related to the fact that the defendants have been accused
4 of a crime or is it in any way related to the fact that they
5 have been accused and there has been a certain amount of
6 publicity in connection with their case?

7 A Yes, I would say so.

8 Q Could you expand on that a little bit?

9 THE COURT: The answer is ambiguous because the
10 question was put in an alternative form.

11 Read that question again. It was put in
12 an "or was it this or that" form, and you said "yes,"
13 rather than indicating which of the alternatives.

14 (The record was read by the reporter.)

15 MR. REYNOLDS: I would say because of the fact that
16 they have been accused, because I really haven't read that
17 much publicity about the case. I may have read it at the
18 time but I was unconcerned with it because of my concern
19 with obtaining my Master's degree. So, consequently, it
20 passed.

21 Q BY MR. FITZGERALD: Do you consider yourself
22 informed on current events?

23 A No, sir, I don't, except in the field of
24 photography, I do.

25 Q As a photographer, Mr. Reynolds, I take it
26 that you regularly read Life magazine; is that correct?

18b2

1 A No, I don't.

2 Q Did you read anything in Life magazine in
3 connection with this case?

4 A I may have. What I read, I don't even remember
5 whether it was from the Times, from the South Bay Daily
6 Breeze, or whatever.

7 Q You knew who Charles Manson was, didn't you?

8 A Yes.

9 Q And how did you know who Charles Manson was?

10 A I remember that from the original statements
11 in -- was it August of last year? -- in whatever newspaper
12 it was that I read it in.

13 Q Well, who is Charles Manson, based on what you
14 know from what you read or heard?

15 A He was accused in the slayings of the Tate-
16 La Blanca.

17 Q And what evidence is there that you know of
18 that Mr. Manson is connected with this offense in any way?

19 A I don't know of any evidence.

20 Q You don't know, in other words, what connects
21 Mr. Manson or anyone else with the commission of those
22 offenses?

23 A Yes, sir, that is correct.

24 Q Simply the fact that they have been accused;
25 is that all?

26 A Yes.

18b3

- 1 Q Do you also watch TV?
- 2 A Very seldom.
- 3 Q Do you have a television set in your home?
- 4 A Yes, we do.
- 5 Q Are you married?
- 6 A Yes.
- 7 Q Does your wife watch television?
- 8 A She watches the daytime serials but she is
- 9 much too busy taking care of her little boys, usually.
- 10 Q Does she ever watch news programs on television?
- 11 A I would say no.
- 12 Q Does she ever discuss with you what she watches
- 13 on television?
- 14 A Very seldom.
- 15 Q Does she ever discuss with you what she reads
- 16 in the newspaper, if she reads the newspaper?
- 17 A Only things that occur locally, because we were
- 18 both raised in the South Bay area, and, you know, like say
- 19 a girl friend she had in high school got married, she will
- 20 say, "Hey, one of my girl friends got married." That is
- 21 about it. Things locally. We don't get into big long
- 22 drawn-out discussions on current events.
- 23 Q What are you working on your Master's in?
- 24 A Photography.
- 25 MR. FITZGERALD: That is all.
- 26 THE COURT: Mr. Reiner?

8b4
1 MR. REINER: Does the Court want to take the after-
2 noon recess at this time?

3 THE COURT: Well, it is that time.

4 We will go back into the court, then, and I
5 will adjourn for the afternoon.

6 MR. STOVITZ: Does your Honor want to admonish this
7 prospective juror?

8 THE COURT: Yes.

9 Mr. Reynolds, the attorneys will want to
10 question you again tomorrow morning when we resume.

11 In the meantime, and for the balance of the
12 trial, I would instruct you not to converse with your wife
13 or any of the prospective jurors or anyone about any of
14 the things that have been discussed in here today.

15 Will you follow that?

16 MR. REYNOLDS: Yes, sir.

17 THE COURT: All right. Fine. Thank you, sir.

18 MR. REINER: Your Honor --

19 MR. FITZGERALD: You may be excused, Mr. Reynolds.

20 (Mr. Reynolds leaves the chambers..)

21 MR. REINER: Your Honor, when we return to the
22 courtroom could the Court inform the prospective jurors
23 of the three to five-month trial estimate so when they get
24 home they can make inquiries during the evening?

25 THE COURT: Yes. I inadvertently failed to mention
26 that when I was giving the remarks before.

18b5

1 MR. FITZGERALD: Also, we wonder if at the conclusion
2 of the session this afternoon we might be able to, all the
3 defendants, meet jointly for a very brief period of time,
4 no longer than about five minutes.

5 THE COURT: Yes.

6 Where can that be arranged?

7 THE BAILIFF: In the lockup.

8 THE COURT: All right.

9 MR. KANAREK: Your Honor, I would like to make one
10 just brief point in connection with Mr. Tubick.

11 I refer your Honor to the answers that
12 Mr. Tubick gave wherein he spoke of the guilt of Mr. Manson
13 as far as what he had heard and his state of mind is
14 concerned.

15 MR. STOVITZ: Submit it, your Honor.

16 THE COURT: He didn't say anything about his state of
17 mind. He said he heard other people say that.

18 MR. SHINN: He is not talking about the last one, your
19 Honor, but the one before that.

20 MR. KANAREK: The prospective juror, the one before
21 that.

22 THE COURT: I already ruled on that. I recall his
23 statements very clearly.

19 24 (The following proceedings were had in open
25 court in the presence and hearing of all the prospective
26 jurors, all defendants and their counsel being present; both

Deputies District Attorney also being present.)

THE COURT: All parties and their counsel are present.

Ladies and gentlemen, before we adjourn for today I wanted to tell you, I inadvertently forgot to mention it to you earlier, the attorneys in the case have estimated, their best estimate, that this case may take anywhere from three to five months to try.

This will be following the selection of the jury which is estimated to take perhaps two to three weeks.

It is the intention of the Court to sequester the jury after the jury has been selected, which means instead of being permitted to go home each night you would reside in a hotel.

This, of course, means you would be out of direct communication with your wives and families, but you would be permitted to have your wife or husband, as the case may be, visit with you on the weekends at your own expense at whatever hotel you are staying.

So I just wanted to give you that information so you could be considering that overnight.

We will adjourn at this time until 9:45 tomorrow morning.

I would admonish all of you not to converse among yourselves or with anyone else on any subject relating to this case, the subjects as you now know them,

1 or to form or express any opinion regarding this case until
2 it is finally submitted to those of you who are selected as
3 trial jurors.

4 9:45 tomorrow morning.

5 (Whereupon, an adjournment was taken to
6 reconvene at 9:45 a.m., Wednesday, June 24, 1970.)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1-1
1 LOS ANGELES, CALIFORNIA, WEDNESDAY, JUNE 24, 1970

2 9:45 A.M.

3 ---O---

4 THE COURT: People versus Charles Manson, Susan
5 Atkins, Patricia Krenwinkel and Leslie Van Houten.

6 All parties and their counsel are before the
7 Court.

8 Is there anything that counsel wishes to take
9 up before we resume our examination of the prospective
10 jurors?

11 MR. KANAREK: Yes, your Honor, may I address the
12 Court.

13 I have been served with a purported notice of
14 motion to order me off the case --

15 MR. STOVITZ: Your Honor, may we take that up outside
16 of the presence of the jury?

17 MR. KANAREK: Not at all. Counsel goes to the press --
18 your Honor, I make my motion again that the Attorney
19 General of the State of California handle this case.

20 These people --

21 MR. BUGLIOSI: Your Honor, this is a question of law.
22 Can it be discussed back in chambers?

23 MR. KANAREK: There is no question of law, your
24 Honor. There is no question of law, your Honor; your Honor
25 has ruled.

26 He is interfering with my conduct of the

1 defense of this case. He has filed a motion to vacate
2 your Honor's order of June 10th, denying the People's
3 motion of hearing on the appearance of I.A. Kanarak,
4 Attorney, as attorney of record for Manson.

ow in 5 It is evading Mr. Manson's right to effective
6 counsel under the Sixth Amendment of the United States
7 Constitution.

8 The only body that can prosecute this case --
9 I know Evelle Younger is running for Attorney General of
10 the State of California, your Honor -- the only possible
11 body that can prosecute this case without making me the
12 defendant is the Attorney General of the State of
13 California, and we actually have before this Court a motion
14 that the Attorney General enter this case so that we can
15 proceed with dignity; so that we can proceed with the issues
16 before the Court.

2-1.

1 THE COURT: Well, we are not going to take up this
2 latest People's motion at this time.

3 Mr. Kanarek, I will discuss the procedure that
4 we will follow with respect to that motion in chambers
5 when counsel are present.

6 Is there anything else before we go into
7 chambers?

8 Very well. I will ask counsel and the parties
9 to come into chambers and then the bailiff will bring in
10 Mr. Reynolds for some additional questions.

11
12 (The following proceedings occur in
13 chambers, the defendants and all counsel being
14 present.)

15 MR. REINER: Your Honor, before the prospective
16 juror is brought into chambers --

17 THE COURT: We have something to take up before Mr.
18 Reynolds is brought in.

19 THE BAILIFF: Yes, sir.

20 THE COURT: Is everyone present?

21 The record will show that all parties and
22 counsel are present.

23 Mr. Reiner, did you have something?

24 MR. REINER: Yes, your Honor.

25 Mr. Kanarek, in argument before the Court
26 a moment ago, I believe, inadvertently indicated his

2-2.

1 representation -- strike that -- his conduct of the
2 defense was being interfered with.

3 I am not addressing myself to whether or
4 not it was or was not interfered with, but I think there
5 was the inadvertent implication that Mr. Kanarek was
6 conducting the defense in opposition to the defense of
7 an individual. I think some of the prospective jurors
8 may have obtained that impression.

9 I request that the Court indicate to the
10 jurors that there are separate defendants and separate
11 attorneys and that each attorney is representing an
12 individual defendant rather than conducting the defense
13 of the defendants all together.

14 MR. STOVITZ: Your Honor, with respect to the motion
15 we filed today, we gave each attorney a copy of the
16 motion --

17 THE COURT: Just a minute, Mr. Stovitz. Let's
18 take up one thing at a time.

19 With respect to Mr. Reiner's statement, I
20 find no necessity for any further comments to the
21 prospective jurors. They are fully aware that each
22 defendant is separately represented by counsel. I
23 found nothing in what was said by Mr. Kanarek that
24 indicated anything to the contrary.

25 All right, Mr. Stovitz.

26 MR. STOVITZ: In connection with that motion, your

3.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Honor, I served each of the defendants with a copy of this. I told each of the defendant's counsel that we intended to take this matter up in chambers outside of the presence of the public.

We did not want the matter for the public; that your Honor could rule on it.

We have the books here of the cases that we have cited in the brief.

I attempted to present to Mr. Kanarek, as a matter of courtesy, Xerox copies of these cases so that he would not have to go to the library and find them himself.

He walked away from me.

I, at this time, tender these Xerox copies of the cases, putting them on the Court's desk.

THE COURT: Don't put them on my desk. I will read them myself at the appropriate time.

So far as your relations with Mr. Kanarek is concerned, that is something else.

2A.

2a-1

1 MR. STOVITZ: I again want to tender them through the
2 clerk to Mr. Kanarek. I will not attempt to address him
3 directly any further throughout the trial. I think his
4 turning his back to me was a most discourteous type of
5 conduct.

6 May I give them to the clerk as the depository?

7 THE COURT: We are not going to act as a depository for
8 anything.

9 MR. STOVITZ: May I then, with the Court's permission,
10 give you the books?

11 THE COURT: I don't want the books now, Mr. Stovitz.

12 You have cited your authorities, have you not?

13 MR. STOVITZ: Yes, your Honor, but the books are not
14 available in this building. They have to either be
15 obtained from the Law Library or from --

16 THE COURT: You may give them to the clerk then and
17 I will take the matter up later.

18 MR. STOVITZ: I will leave them up here on the file
19 cabinet for the moment.

20 THE COURT: What is the ground for this new motion?

21 MR. STOVITZ: The new motion, your Honor, is that --

22 THE COURT: I have read your motion but I still
23 don't understand why you are making the motion to vacate
24 the previous order.

25 MR. STOVITZ: At the time of the previous order, your
26 Honor, it was indicated by the Court that there was no

1 authority for acting, for holding the hearing.

2 THE COURT: That is not what the Court stated. I
3 have never had any question but what I had the authority to
4 hold a hearing.

5 What I said, Mr. Stovitz, was that I was not
6 going to hold a hearing.

7 The reason for not holding the hearing was
8 because there was no authority, the Court had no power to
9 grant your motion to refuse Mr. Kanarek's substitution.

10 MR. STOVITZ: We feel that the authority cited in
11 this new brief would show the Court that it does have the
12 authority to remove a counsel who has acted in an obstructive
13 manner to the evasion of the administration of justice,
14 and that your Honor does have authority to hold the hearing.

15 Now, of course, it would still be a matter for
16 your Honor's discretion after holding the hearing as to
17 whether or not that would constitute an invasion of the
18 administration of justice. However, this is the reason that
19 we are taking this matter up so painstakingly.

20 THE COURT: Do you have any authority, Mr. Stovitz,
21 for the proposition that a trial court may, on the basis of
22 something an attorney has done in some other proceeding,
23 refused to permit him to represent a party in the pending
24 case before the Court?

3-21. 1

2 MR. STOVITZ: There is no authority in the sense
3 that it is on all fours, but the cases that we have cited
4 in this latest brief, your Honor, show that Courts
5 traditionally have the authority to block the substitution
6 of an attorney from coming into the case, as well as
7 the Court has the inherent authority at any time during
8 the proceedings to remove an attorney who he has been
9 forewarned works for the obstruction of justice and not
10 for the due administration of justice.

11 We would not like to argue it at this time;
12 we would like to submit the brief, submit the cases to
13 the Court, have your Honor set a date for, perhaps Friday,
14 before the resumption of the jury, to rule on it.

15 We do not intend to argue it at any length.
16 We merely want your Honor to be aware of the latest
17 authorities that we were able to find.

18 Most of them are out of the State of California.
19 Most of them are Federal cases, but we feel that the rule
20 is pertinent right here.

21 THE COURT: All right.

22 Well, let me state for the record, so we will
23 be absolutely clear:

24 I have never had any doubt, and I have no
25 doubt now, of the Court's right to hold a hearing on
26 the question, so if you are attempting to create some
kind of record for yourself on the basis of the Court's

1 failure to exercise its discretion when it had discretion,
2 you are wasting your time because I understand that I
3 have such discretion and I have exercised it.

4 And my exercise of that discretion was the
5 order I made not to hold the hearing.

6 MR. STOVITZ: We feel that your Honor in ruling
7 on the People's motion so quickly --

8 THE COURT: I am not ruling on your motion now.
9 I am just telling you, if that is the basis for the --

10 MR. STOVITZ: No, no, the previous motion, your
11 Honor.

12 It appeared there was a written motion filed.

13 Mr. Bugliosi presented an argument somewhere
14 between 45 and 50 minutes.

15 Although your Honor may have been considering
16 your Honor's ruling while Mr. Bugliosi was talking, maybe
17 your Honor had done previous research on the point, I
18 don't know --

19 THE COURT: I assure you I have, and yet have to
20 find any authority which would in any way support it.

21 MR. STOVITZ: This is the reason for the latest
22 brief. This is the reason for bringing these books up
23 and we would only ask your Honor to read again our
24 position.

25 THE COURT: I will consider your authorities.

26 MR. STOVITZ: And set a date for the decision and

1 we do not intend to make any comments to the Press.

2 We did not intend to make any comment to the
3 jury. This is purely Mr. Kanarek's manner of getting
4 things out before the public.

5 MR. BUGLIOSI: Your Honor, on behalf of the
6 prosecution, I would ask the Court to instruct Mr. Kanarek
7 right now to cease and desist from arguing issues of
8 law in front of the jury.

9 He did it again today. The Court eventually
10 ruled that this matter had to be heard back in chambers,
11 but after Mr. Kanarek already had his say in court in
12 front of the jury.

13 I think this prejudices the prosecution's
14 right to a fair trial.

15 I would ask the Court to instruct Mr. Kanarek
16 never to discuss questions of law in front of the jury.

17 If the Court does not do it, he is going to
18 continue making these inflammatory statements in front
19 of the jury to the prejudice of the prosecution.

20 THE COURT: Well, I would ask both sides to refrain
21 from attempting to argue the merits of any motion until
22 the Court has had an opportunity to determine whether
23 it is a motion that should be heard in front of the jury
24 or prospective jury, or something that should be heard
25 outside of their presence.

26 So far both sides have been guilty of that

1 in this case.

2 I will set this down for a hearing on Friday
3 morning. As I recall, we are having Mr. Goodwin over here --

4 THE CLERK: He will be here, your Honor.

5 THE COURT: So we will set this motion down for
6 a hearing on Monday morning at 9:45.

7 MR. REINER: Your Honor, may I inquire what time
8 is the matter involving Mr. Goodwin to be heard on
9 Friday?

10 THE COURT: 9 o'clock. All right. Anything further,
11 gentlemen, before we call in Mr. Reynolds?

12 MR. REINER: Nothing further.

13 THE COURT: All right.

14 MR. FITZGERALD: This is our last juror?

15 THE COURT: Not the last one for chambers voir dire.
16 There are two others, according to my notes, Mr. Nelson
17 and Mrs. Cohen.

18 MR. REINER: That's right.

19
20
21
22
23
24
25
26
3a.

3z-1

(Prospective juror enters the room.)

THE COURT: Good morning, Mr. Reynolds.

THE CLERK: The Court has the juror's name, is that correct?

THE COURT: Yes, Mr. Reynolds was in here yesterday.

I think Mr. Reiner was about to commence with some questions.

MR. REINER: That's correct.

THE COURT: Go ahead, Mr. Reiner.

VOIR DIRE EXAMINATION OF LAWRENCE REYNOLDS

BY MR. REINER:

Q Mr. Reynolds, you do recall that day last August when these killings occurred, the Tate killings, is that true?

A I don't remember the date. I remember it was in the month of August because he did state at the beginning of the trial --

Q You do recall a day, whether it be last August or not, when you first heard that there had been certain killings at the Tate residence, is that true?

A Yes.

Q And then the very next day do you recall hearing that there had been additional killings at the La Bianca residence -- I might add, additional and similar killings?

3a2
1 A I could not say whether it was the next day,
2 but it was within, I would say, a short period of time
3 that I did, yes.

4 Q Now, at that time it did not occur to you that
5 perhaps some day you might be sitting on a jury involving
6 those particular killings?

7 A No, it did not.

8 Q It wasn't until very, very recently that the
9 prospect of this occurred to you for the first time?

10 A Yes, last Tuesday.

11 Q At the time that you first heard about these
12 killings, then, there was no reason why you would attempt
13 to shut off your mind from hearing any information that
14 might come to you, is that correct, with regards to these
15 killings?

16 A Well, not because of the fact that I thought I
17 might be on the jury, but I did not ponder on it a lot
18 because my interest lay in other fields, and I was rather
19 pressed at that time, because I was working on my Master's;
20 I work at the museum, and I work part-time for the Parks
21 & Recreation Department.

22 Q But at the very beginning certainly at least
23 you were aware of some of the news reports regarding these
24 killings, is that true?

25 A Yes, I would say so.

26 Q And you knew that it involved Sharon Tate, an

3a3
1 actress?

2 A Yes.

3 Q And a man by the name of Jay Sebring?

4 A It does strike a note but not — I don't
5 remember the name.

6 Q And some time later it came to your attention
7 one way or another that Charles Manson and certain other
8 persons had been arrested in connection with these
9 killings, is that true?

10 A Yes.

11 Q Prior to that time the name Charles Manson had
12 no meaning to you, you never heard of it?

13 A No, sir.

14 Q It was only at that time and since then that
15 you have come to know of the name of Charles Manson?

16 A Yes.

17 Q And you have seen his picture and enough
18 publications so that prior to coming to court and seeing him
19 in person you would recognize his likeness, is that true?

20 A His basic likeness, I would say.

21 I did not pay that much attention to it.

22 Q Would it be a reasonable statement at least from
23 your experience as a professional photographer, that you
24 have seen just a multitude of photographs of Charles Manson
25 and the girls connected with this case in a multitude of
26 periodicals?

1 A Would you repeat that?

2 MR. REINER: All right, strike the question.

3 You indicated that as a professional photographer
4 it was your custom and habit to look at magazines that
5 contain photographs, is that true?

6 THE WITNESS: Not magazines that contain photographs
7 as a general field, but mainly dealing with techniques of
8 photography, such as trade publications, professional
9 photographer news, Time-Life series of photography.

10 Q BY MR. REINER: Now, Mr. Reynolds, getting
11 as much to the point as I possibly can, prior to coming
12 here as a prospective juror you were familiar with the
13 likeness of Mr. Manson through various photographs in
14 which you observed him, is that true?

15 A Yes, I would say that is true.

16 Q And that would apply generally to these girls
17 as well?

18 A Well, I did not recognize them, because like I
19 said, I did not pay that much attention.

20 But I would recognize them now that I have seen
21 them in court.

22 Q You do own a television set?

23 A Yes, we do.

24 Q You don't watch the evening news with any
25 degree of regularity?

26 A No.

1 Q But you do watch the evening news from time to
2 time?

3 A Basically, whenever I have the time is what it
4 boils down to.

5 Q Well, surely you have seen Mr. Manson and these
6 girls from time to time on the evening news, haven't you?

7 A I may have.

8 Q And surely you have seen the reports on the
9 evening news or heard reports on the radio regarding
10 Mr. Manson, these girls, and perhaps any other person
11 connected with this case, haven't you?

12 A I may have.

13 Q In connection with these reports that you have
14 seen and heard, certain alleged facts relating to this case
15 have come to your attention, whether these facts be accurate
16 or inaccurate.

17 Isn't that true?

18 A Well, could you rephrase that a little
19 differently because, I mean, I could say yes, they have,
20 but if you were to ask me what facts, I could not tell you
21 because I am not that familiar with the case or the parts
22 of the case.

23 Q Well, you do know that these girls are part of
24 the so-called Family of Charles Manson, true?

25 A Yes, I believe that was brought out in the
26 papers.

1 Q All right, and this word, "Family," was not
2 used in perhaps the same context that you would use that
3 term, is that correct?

4 A I believe so.

5 Q That this term, "Family," referred to a commune
6 type relationship between people who were not otherwise
7 related, is that true?

8 A Yes.

9 Q And the commune was made up predominantly of
10 Mr. Manson and a fairly large number of girls, to your
11 best information?

12 A Yes, I would say so.

13 Q And at least at certain times they lived at the
14 Spahn Ranch?

15 A Yes, I do remember that the Spahn Ranch was
16 mentioned.

17 Q Prior to the time that Mr. Manson was arrested
18 you had never heard of the Spahn Ranch, had you?

19 A No, sir, I had not.

20 Q Now, you had heard of the Spahn Ranch?

21 A Yes.

22 Q And you know it was a place where Mr. Manson
23 and his family lived for a time?

24 A Yes.

25 Q And had you heard or read of speculations in
26 the newspaper that these girls in the Family believed that

1 Charles Manson, was Jesus Christ?

2 A No.

3 Q You have never heard that speculated upon in
4 the media at all?

5 A No, sir.

6 Q Do you recall reading or hearing from any
7 source whatsoever that the word "Pig" was scrawled on the
8 wall or door or some part of the home of the Tate residence
9 in blood?

10 A I don't remember the particulars.

11 Q Do you remember that?

12 A No, I don't.

13 Q Do you remember hearing that any word or words
14 were scrawled on the wall or door of the Tate residence in
15 blood?

16 A No, sir.

5 4-1.

1 Q In addition to working, you are also going
2 to school; is that correct?

3 A Correct. Well, I am not now. I just got
4 my teaching credential.

5 Q And you say from time to time you have had
6 conversations with friends and acquaintances about various
7 matters; is that true?

8 A Yes.

9 Q Now, in these last few months, when this
10 matter was receiving so very much publicity, did you ever,
11 on any occasion, discuss any aspect of this case with
12 any person, no matter how trivial?

13 A Not from my recollection.

14 Q In your comings and goings over the last
15 few months, when this case has been receiving so very much
16 publicity, Mr. Reynolds, have you ever overheard any other
17 person at any time discuss anything having to do with
18 this case, no matter how trivial, sir?

19 A I may have.

20 Q Do you have any recollection of it?

21 A No, I don't.

22 I can't even remember who it was, but I do
23 remember somebody discussing something about it.

24 Q Do you remember a person discussing something
25 about this case?

26 A No, I don't.

4-2.

1 Q When you say you do remember somebody, were
2 you referring in your own mind to some particular person?

3 A Well, yes, but I can't remember who they
4 are.

5 Like I say, these last few months have been
6 very hectic for me and I have been thoroughly engrossed
7 in my work.

8 MR. REINER: All right. I have no further questions.
9 Thank you.

10 THE COURT: Mr. Shinn?

11 MR. SHINN: Yes, sir.

12
13 VOIR DIRE EXAMINATION OF MR. REYNOLDS

14 BY MR. SHINN:

15 Q Mr. Reynolds, yesterday the Judge asked your
16 opinion as to whether or not you felt, after reading and
17 listening to all the publicity in this case, I believe
18 the Judge asked you whether or not, in your opinion, you
19 felt they were guilty or innocent.

20 Do you recall that question yesterday?

21 A Yes, I do.

22 Q And I believe your answer yesterday was that,
23 I mean, over-all, you had some doubts in your mind,
24 correct, as to the guilt or innocence?

25 A To the best of my ability, I would try to
26 keep an open mind.

4-3.

1 Q Yes, but I believe you stated that there was
2 something behind your mind, that lurked behind your
3 mind, that made you feel that since they were arrested
4 or accused that you felt they were somewhat guilty.

5 Isn't that what you tried to say to the
6 Court -- I mean to the Judge -- yesterday?

7 A Well, not that strongly.

8 Q Well, you mentioned the words, "But it lurks
9 in the back of my mind."

10 Do you remember that, sir?

11 A Well, that would be in any case, whether it
12 would be this case or in a case where somebody got a
13 traffic violation for doing, you know, 90 on the Freeway,
14 and says, "Well, I am not guilty." You ask, "Well,
15 why would he stop him?"

16 Q But I am talking about this case now, Mr.
17 Reynolds.

18 Do you feel now as you sit there that you have
19 some doubts as to their innocence?

20 A Basically, if you were to boil it completely
21 down, I would say yes.

22 Q Then, don't you think, sir, with this in
23 your mind, don't you think that there may be a possibility.
24 I mean subconsciously later, that would affect your
25 decision in the matter?

26 A I really couldn't say.

4-4a

I mean, to the best of my ability, I would, you know, not prejudge anybody, and I would wait until all of the evidence is given and then re-weigh the evidence.

4a.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

4a-1

1 Q I know you are saying that to me, Mr. Reynolds,
2 but I am just concerned about this little thing behind
3 lurking in your mind that you have doubts. I hear you say
4 that you would erase everything in your mind, but it is
5 very difficult, Mr. Reynolds --

6 A Yes.

7 Q -- is it not?

8 A Yes.

9 Q To be perfectly honest, you may subconsciously,
10 when you come to the point where you have to decide the
11 guilt or innocence of the defendants, don't you think this
12 may subconsciously affect your decision?

13 A It might.

14 Q There is a possibility of that?

15 A Yes, there is a possibility of that.

16 MR. SHINN: I have nothing further.

17 THE COURT: Any questions, Mr. Kanarek?

18 MR. KANAREK: No questions, your Honor.

19 THE COURT: Mr. Stovitz?

20
21 VOIR DIRE EXAMINATION

22 BY MR. STOVITZ:

23 Q Mr. Reynolds, have you ever heard of a
24 publication known as The Rolling Stone?

25 A A publication known as The Rolling Stone?

26 Q Yes.

1 A No, sir.

2 Q Are you up on various publications that are
3 printed outside of Los Angeles County as well as the ones
4 printed in Los Angeles County?

5 A In the photography field, yes.

6 Q But you have never heard of such a publication;
7 is that right?

8 A No.

9 Q All right.

10 Now, I believe you told us that it would be a
11 great inconvenience for you to serve on this jury; is that
12 right, Mr. Reynolds?

13 A It wouldn't be a financial inconvenience
14 because my company would pay me full time whether I am on
15 jury duty for six days or six years. It is unlimited.

16 Q But it would be personally inconvenient,
17 would it?

18 A Yes. I imagine it would be to anybody.

19 Q Nevertheless, Mr. Reynolds, you are willing to
20 serve on this jury?

21 A Yes.

22 Q Now, if you were chosen to serve on this jury,
23 sir, you know that you are going to have to give a promise
24 to the Court to base your verdict solely on the evidence
25 and the exhibits and the instructions of law that you hear
26 in this court and nowhere else; do you understand that, sir?

1 A Yes.

2 Q That goes as far as whether or not you have read
3 anything about the initial deaths that occurred back in
4 August of '69 or whether you might have read or seen any-
5 thing about the arrests of the defendants starting with
6 December of '69.

7 You understand that, sir?

8 A Yes, sir.

9 Q You do recall that there were many, many
10 things written up in the papers when the deaths first were
11 announced and the suspects were unknown. You do recall
12 that?

13 A Yes.

14 Q And you understand that the defendants are
15 here, as defendants in any criminal case, that they are
16 merely accused of this crime, and that the accusation is
17 no evidence of guilt.

18 You understand that?

19 A Yes.

20 Q Do you think that you would be able to fully
21 abide by all of the Court's instructions involving this
22 case?

23 A I would try to the best of my ability.

24 Q If you were to take an oath as a juror to
25 decide this case solely on the evidence that you hear in
26 this case, Mr. Reynolds, would you be able to abide by that

oath?

A Yes, I believe that I would.

MR. STOVITZ: Thank you.

I have no further questions, your Honor.

THE COURT: Mr. Reynolds --

MR. REINER: Excuse me, your Honor. Before the Court asks questions of Mr. Reynolds, there are a few questions that I wish to ask additionally, if I may, before the Court finishes.

THE COURT: Additional questions?

MR. REINER: Yes.

THE COURT: All right.

VOIR DIRE EXAMINATION

BY MR. REINER:

Q Mr. Reynolds, you indicated that apart from your attempt to follow the Court's instructions that previously it has been your attitude and belief that where there is smoke there is fire; that is, where a person has been charged with a crime, there is, at least in your mind, the likelihood that they are guilty.

Would that be a fair statement, Mr. Reynolds?

A No, I wouldn't say so.

Q Would you restate that so as to fairly indicate your state of mind prior to coming to court today -- or yesterday?

1 A I am just trying to think how to put it.

2 Q Perhaps I might ask the question this way, sir:
3 Yesterday you said that where there is smoke there is fire.
4 What did you mean by that, sir?

5 A Well, I made that statement in reference to
6 the fact that even though you keep an open mind about it,
7 it is always lurking, you know, the thought, "Well, why
8 would they even be here if they weren't involved?"

9 Q So, the mere fact that they are here is something
10 that -- at least prior to yesterday or today -- is something
11 that would lurk in the back of your mind as suggesting
12 their guilt; is that correct?

13 A Yes.

14 Q Now, you indicated a moment ago that sort of
15 analysis would apply even to a traffic violation; is that
16 correct?

17 A Yes.

18 Q Now you do appreciate, do you not, Mr. Reynolds,
19 that traffic violations are given out much more carelessly,
20 say, than murder indictments?

21 A Oh, certainly.

22 Q So if it be likely that a person who receives
23 a traffic ticket is guilty in your mind, it would be
24 infinitely more likely that a person who has been indicted
25 for murder would also be guilty; is that true?

26 A Not wholly.

4B.

1 Q In what way would it not be true, Mr. Reynolds?

2 A In other words, I wouldn't, as you are saying,
3 the amount of guilt I might think about in a traffic
4 violation wouldn't multiply up to the amount of guilty
5 say, in a murder charge.

6 Q Well, do you think it is more likely that
7 a person may be given an unjustified traffic ticket than
8 a person may be unjustifiably indicted for murder, sir?

9 A No. I would say it would be a lot more on
10 the traffic ticket end.

11 Q What do you mean by a lot more?

12 A Well, unjustifiably given a traffic citation
13 rather than unjustifiably charged with murder.

14 Q I see.

15 So, the likelihood of a person who is charged
16 with a traffic ticket of being innocent is much greater
17 than the likelihood of a person charged with murder being
18 innocent; is that true?

19 A Basically.

20 Q And with respect to a traffic ticket, you
21 also believe that any person who has been charged with
22 a traffic violation is as at least probably guilty?

23 A No, I wouldn't say so.

24 Q A moment ago you did. Why do you now believe
25 that perhaps that is not so?

26 A Well, the statement that I made a moment ago --

4b2.

1 THE COURT: Let's not characterize his testimony.
2 He is perfectly capable of answering the question for
3 himself.

4 Now, I caution you, Mr. Reynolds, because
5 these things are difficult to articulate, don't just
6 accept a statement made by me or by any of the attorneys
7 that does not truly reflect your state of mind. Struggle
8 as much as you have to truly express what you are
9 thinking, because it is important to everyone.

10 Don't just adopt somebody's statement because
11 it is an easy way to answer the question.

12 MR. REYNOLDS: Yes, sir.

13 MR. REINER: I will withdraw the question.

14 Q Did you state a moment ago that even in a
15 traffic ticket situation that you thought that the person
16 was probably guilty or else they would not have been
17 given the traffic ticket?

18 MR. STOVITZ: That is objected to, your Honor. It is
19 immaterial.

20 I think the record will speak for itself,
21 and I believe that the juror's answer was that when stopped
22 for a traffic ticket, right away he thinks, "Why are they
23 stopping me?"

24 MR. REINER: May I have a response to the question,
25 your Honor?

26 THE COURT: Overruled. You may answer.

4b3.

1 MR. REYNOLDS: Well, let me make one statement that
2 I think will clear up the whole line of questioning.

3 There is a small doubt in my mind about the
4 innocence of the accused.

5 MR. REINER: Q. In any case or in this case?

6 A In this case.

7 Q I see.

8 And this doubt of yours, Mr. Reynolds, is
9 that based upon the fact that they are standing here as
10 defendants indicted for murder?

11 A Basically, yes.

12 Q Now, is ^{it} also based in part upon the fact that
13 you have heard of these defendants in connection with this
14 particular case previously?

15 A Well, I wouldn't say so because previously
16 I hadn't heard much about it, and just when there was
17 a large amount of sensationalism going on, and I don't
18 remember that much about it.

19 MR. REINER: Nothing further.

20 MR. STOVITZ: Nothing further.

21 MR. BUGLIOSI: I have a question, your Honor.

22 THE COURT: Yes.

23
24 VOIR DIRE EXAMINATION OF MR. REYNOLDS
25 BY MR. BUGLIOSI:

26 Q This doubt about the innocence of the defendants

4. 1 in this case, Mr. Reynolds, is that based upon what you
2 have heard or read about the case, or is it based upon
3 the fact that they are merely charged with these crimes?

4 A I'd say kind of combination of both.

5 Q But you are positive that you will be able
6 to base your verdict only on the evidence presented in
7 court and not be influenced by anything that you have
8 read or heard outside of court; is that correct?

9 A Yes, sir.

10 Q Are you positive about that?

11 A Yes.

12 Q And you promise the Judge that you will do
13 that?

14 A Yes, sir.

15 MR. BUGLIOSI: No further questions.

16 THE COURT: Anything further?

17 MR. REINER: Nothing further, your Honor.

18 MR. SHINN: Nothing further.

19 MR. FITZGERALD: No questions.

20 THE COURT: All right. Thank you, Mr. Reynolds.

21 I will ask the bailiff to take you back out
22 into the courtroom.

23 MR. KANAREK: Thank you, Mr. Reynolds.

24 (Mr. Reynolds leaves the chambers.)

25 MR. FITZGERALD: We will interpose a challenge
26 against Mr. Reynolds, your Honor, on the grounds of

5. 1 actual bias in that he has been exposed to prejudicial
2 publicity; and further, that his state of mind is
3 ambiguous and equivocal, but it appears that he has a
4 predisposition towards guilt.

5 MR. SHINN: Join.

6 MR. REINER: Join.

7 MR. KANAREK: Join, your Honor.

4C.

4C-1

1 MR. STOVITZ: We will oppose the challenge, your
2 Honor. We feel that this juror has been very frank and
3 honest and he has told us that he has this traditional view,
4 aside from anything that he read in the case.

5 There are some people who are suspicious, so to
6 speak, when they come and sit on the jury, they ask them-
7 selves, "Why are they here if they are not guilty?"
8 On the other hand, there are some people that are, say,
9 from Missouri, and everything must be proven to them
10 before they believe anything.

11 This is just the makeup of this man, your Honor,
12 and he has stated under oath that he has not been influ-
13 enced by anything that he has read in the papers and that
14 he would be able to abide by the Court's oath, the oath
15 that he has taken in court.

16 I, therefore, feel, your Honor, that this juror
17 is not biased or prejudiced by any publicity about this
18 case.

19 MR. BUGLIOSI: I think that the majority of people
20 in our society, your Honor, probably subscribe to the idiom
21 where there is smoke there is fire, and certainly the
22 majority of the people in our society should not be
23 excluded from serving on a jury just because they are
24 frank enough to state the idiom.

25 I think that this man clearly said, your
26 Honor, that he would base his verdict only upon what he

4c2
1 hears in court, and we would respectfully oppose the motion
2 to have him excused for cause.

3 THE COURT: Well, I believe Mr. Reynolds was speaking
4 sincerely and honestly. I believe that when he answered
5 the Court's questions and counsels' questions as to whether
6 or not he could put these matters to one side and base his
7 decision solely on the testimony in the case, he sincerely
8 meant it, and I do not find any actual bias on his part,
9 notwithstanding the fact that he has indicated that, at
10 least up until now, he has been, perhaps, suspicious or
11 had some doubt as to why the defendants are present.

12 I think that is a natural reaction. I think
13 most people have it. I think any person that knows a person
14 has gone through a Grand Jury proceeding and has been
15 indicted would at least wonder why the person is indicted.
16 That is not the same as equating that with guilt.

17 MR. KANAREK: Before your Honor rules, may I make a
18 statement?

19 THE COURT: I think on the basis of the intensive
20 questioning of Mr. Reynolds, he sincerely believes that he
21 can be objective and base his decision solely on the
22 evidence in the case.

23 MR. KANAREK: May I just make a point to the Court?

24 THE COURT: Yes.

25 MR. KANAREK: Your Honor, he indicated -- he stated
26 that he has some doubt. He said that he has -- I forget

2-3
1 the exact words -- but a doubt. He couched it as being a
2 minimal doubt. Your Honor, no doubt, remembers that.

3 Now, I think that if you couple that with the
4 fact that, as a matter of law, because of the language in
5 Aranda and Bruton, regardless of his verbalizing that he
6 will put it aside, I think our case law indicates clearly
7 that these types of things cannot be put aside. Our
8 appellate courts state that no matter how well intentioned,
9 you can't stop thinking of the white elephant just because
10 you are told not to.

11 THE COURT: But in this case his doubt that he
12 expressed was not based on any statement made by any
13 defendant and was not based upon -- at least not wholly --
14 any pretrial publicity. As a matter of fact, he has been
15 exposed, apparently, to relatively little publicity. It
16 was simply a doubt that he has or would have in any case,
17 as he put it.

18 MR. KANAREK: But, your Honor, I think we must not
19 apply a different test in this case than we would apply in
20 any other case that came to your Honor's court, and I
21 submit that a potential juror that came on a case where
22 there wasn't the publicity, that came through your Honor's
23 court with what this man has stated, that he would be
24 stipulated to by everybody as not being one who should
25 hear the case and that --
26

5-1.

1 THE COURT: Well, that, of course, is speculation
2 and I am not applying any different rules in this case
3 than I apply in any other case.

4 We are not now talking about stipulation;
5 we are talking about a challenge for cause.

6 MR. KANAREK: I am just using that by way of
7 argument, your Honor.

8 I think that if this man indicated that he
9 knew what he says he knows about this case in any other
10 case, I believe that would be sufficient showing of
11 actual bias and we cannot change our standards because
12 of the fact that there has been publicity in this case.

13 THE COURT: Those standards have not been changed
14 as far as I am concerned.

15 Yes, Mr. Shinn.

16 MR. SHINN: This man is a very educated man. He has
17 a Master's Degree. I believe if we take his total
18 statements and his answers that he gave to counsel and
19 to the Judge, your Honor, I think it would lean towards
20 prejudice, your Honor, because he was honest.

21 He says, "Yes, that may affect my position
22 later, my subconscious mind may affect my position whether
23 or not the defendants are guilty."

24 THE COURT: Those things are always a possibility.
25 But you are talking about sheer speculation.

26 He also answered directly and sincerely and

1 honestly, in my opinion, that he is able to put these
2 things out of his mind and decide the case solely on
3 the evidence.

4 MR. SHINN: Like Mr. Kanarek says, you ask a
5 majority of the jurors and they will say that; maybe a
6 few will say no, but the majority will say "Yes, I will
7 wipe it out of my mind."

8 THE COURT: Well, I find no actual bias on the
9 part of this juror, and the challenge is disallowed.

10 Would you ask Mr. Freddie Nelson to come in.

11 MR. KANAREK: Before your Honor does that I have
12 a request of the Court, your Honor.

13 When more than one attorney represents a
14 litigant before the Court I think the practice is that
15 only one attorney can do any little job of work.

16 For instance if Mr. Bugliosi decides he
17 is going to interrogate a particular juror, that is all
18 right; or if Mr. Stovitz decides he is going to.

19 But it is dilatory, your Honor, and, forgive
20 the expression, obstructionist for both of the prosecution
21 lawyers to ask questions and go back and forth.

22 Now, I think that I would make a motion that
23 your Honor --

24 THE COURT: Mr. Kanarek, you let me worry about
25 that.

26 So far the questions have been well within

1 bounds, and I have no cause so far to complain of any
2 counsel, defense or prosecution, on the questions being
3 dilatory.

4 We are not now of course at the trial,
5 examining witnesses in front of the jury, so I am not
6 going to foreclose either of the prosecutors from asking
7 questions during this chambers voir dire; after all we
8 are trying to get the prospective jurors' state of mind,
9 and I am permitting you gentlemen to ask questions freely
10 and to come back and ask questions again. We are not
11 following any set procedure in here. This is relatively
12 informal, and for the reason that we want to bring out
13 to the best of our ability what the prospective juror's
14 state of mind is.

15 During the course of the trial things will
16 be more formalized.

17 Let's bring in the next prospective juror,
18 Mr. Freddie Nelson.

19 MR. REINER: Before the prospective juror comes in,
20 does your Honor want us to examine the juror before or
21 after the recess?

22 THE COURT: Well, we were a little late in starting
23 so I believe we will at least commence with Mr. Nelson
24 before the recess.

25 (Prospective Juror enters the chambers of
26 the court.)

1 THE COURT: Good morning, Mr. Nelson.

2 MR. NELSON: Good morning, sir.

3 THE COURT: Sit down, please.

4
5 VOIR DIRE EXAMINATION OF MR. FREDDIE NELSON

6 BY THE COURT:

7 Q I believe that I had put the two questions
8 to you regarding the death penalty in open court, did I
9 not?

10 A Yes, sir.

11 Q And the reason that we have asked you to come
12 in here, Mr. Nelson, is so that we can ascertain what
13 if anything you have learned about the case over the past
14 months, from the news, television, radio or whatever, and
15 whether or not you have formed any opinions on the basis
16 of what you have learned as to the guilt or innocence of
17 any of the defendants.

18 So first would you tell us in your own
19 words what, if anything, you have learned about the case?

20 A In my own words -- the only thing that I know
21 about the case is just news flashes.

22 I subscribe to a daily newspaper.

23 Q Which paper is that?

24 A The Los Angeles Times, but I never read the
25 headlines. The most I read are just the Sports Sections or
26 human interest stories, sir.