

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 104

HON. CHARLES H. OLDER, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

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

Defendants.

183

No. A253156

REPORTERS' DAILY TRANSCRIPT
Tuesday, February 16, 1971

APPEARANCES:

For the People: VINCENT T. BUGLIOSI,
DONALD A. MUSICH,
STEPHEN RUSSELL KAY,
DEPUTY DISTRICT ATTORNEYS

For Deft. Manson: I. A. KANAREK, Esq.

For Deft. Atkins: DAYE SHINN, Esq.

For Deft. Van Houten: ~~RONALD KEITH, Esq.~~
MAXWELL KEITH, Esq.
For Deft. Krenwinkel: PAUL FITZGERALD, Esq.

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Official Reporters

LOS ANGELES, CALIFORNIA, TUESDAY, FEBRUARY 16, 1971

10:30 o'clock a.m.

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(The following proceedings were had in the chambers of the court, the Court and the court reporter and Mr. Larry D. Sheely, juror, being present:)

THE BAILIFF: This is Mr. Larry Sheely, Judge Older.

(The bailiff leaves the chambers of the court.)

THE COURT: I asked the reporter to be here because we have to take everything down.

I have your note. It was handed to me this morning, requesting at the earliest possible opportunity to discuss something with me.

MR. SHEELY: Yes, I think in fairness to everybody that I should be dismissed. I have some personal problems at home that won't allow me to concentrate on the case and give it my full attention.

I couldn't be fair to the People or defendants at this point. I have trouble remembering the testimony from this last week. This has not had any effect on the trial portion.

THE COURT: Something has come up since the penalty case?

MR. SHEELY: Just recently.

THE COURT: Can you tell me without going into any

1 great detail what the nature of the problem is?

2 MR. SHEELY: It is mainly my wife. She has been on
3 these tranquilizers and it's getting worse to the point
4 where the prescription is the strongest the doctor can
5 give her, and she has to take two.

6 She is only supposed to take one. She gets
7 so dopey, she cannot really take care of the kids like it
8 should be.

9 It is of great concern to me.

10 THE COURT: Does this have something to do with the
11 fact that you are on the jury?

12 MR. SHEELY: Yes, right, my absence from home. With
13 this in the back of my mind I just cannot concentrate on
14 what is going on, keep my mind on it.

15 THE COURT: Is there something that came up over
16 the weekend?

17 MR. SHEELY: No, no. It's just been getting
18 progressively worse, just, I guess, the last two or three
19 weeks it was really getting bad.

20 She comes up on the weekends to see me and she
21 is just trembling; she takes these tranquilizers until
22 she is just goofy, you know, and I cannot get it out of
23 my mind, you know, indirectly it is my fault, you know,
24 because I am not home, and I cannot concentrate.

25 The kids are not getting the care that they
26 should during the week. She says she is at her best when

1 we are together.

2 She brings the kids up and I see them.

3 THE COURT: Well, suppose if she were able to see you
4 more often.

5 MR. SHEELY: The problem is, when she takes these
6 tranquilizers she cannot drive, and it is getting her up
7 there and back, and all this. It's a great expense too.

8 The doctor bill has been building up. She has
9 been going to the doctor a couple of times a week.

10 I thought about it quite a bit, and that was
11 the only thing I could come up with, was to be dismissed.

12 I feel an obligation as far as the trial is
13 concerned but I also have an obligation to my family.

-a fls.

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1 THE COURT: Well, I know it's difficult.

2 MR. SHEELY: Very difficult.

3 THE COURT: Of course, we are getting down toward
4 the closing stages now; I cannot be exactly sure what day it's
5 going to end.

6 MR. SHEELY: I just don't want it to get to the point
7 where she will have a nervous breakdown or something and end
8 up in the hospital.

9 THE COURT: Well, I haven't had a chance to discuss
10 this with the doctor, have you?

11 MR. SHEELY: No, he wrote a letter a while back to the
12 Court.

13 THE COURT: I do recall that. I did not do anything
14 about it because you did not make any request at the time,
15 and --

16 MR. SHEELY: I considered it, but I did not know
17 if it was my position that I should proceed or what,

18 THE COURT: I did receive it. I don't recall now
19 exactly what it said, but I just put it in the file some-
20 where.

21 I felt at the time that if you had some problems
22 you wanted to raise you would make a request, otherwise I
23 would not do anything about it.

24 You have small children?

25 MR. SHEELY: I have two.

26 THE COURT: How old are they?

1 MR. SHEELY: Four and five. The oldest one starts
2 school in September.

3 THE COURT: Of course, if you are released I assume
4 you are going to go back to work. Who is your employer?

5 MR. SHEELY: Pacific Telephone.

6 THE COURT: She's not going to see you during the day
7 anyway. That is why I was asking whether suppose you saw her
8 every night --

9 MR. SHEELY: Well, I have three weeks of vacation
10 coming, and talked to my boss. I still have a week from last
11 year I haven't taken yet. I talked to him before and he said
12 as soon as this is over I can take that week right away be-
13 cause I haven't made arrangements to take this vacation. I
14 was going to take that week anyhow as soon as this is over,
15 as soon as I get out of here, and I will have that week,
16 anyhow, till things get back to normal.

17 In the evening, as far as her coming up to the
18 hotel, it's quite a hardship and great expense, her and the
19 kids and someone to bring her up.

20 Personally, I don't feel it would be of any
21 great benefit. It would just be prolonging it.

22 THE COURT: Has she been coming to see you on the
23 weekends?

24 MR. SHEELY: Yes, every weekend.

25 THE COURT: Well, all right, I will talk it over with
26 counsel, Mr. Sheely, before we start this morning, and I will

1 let you know.

2 MR. SHEELY: I think the main thing is I just cannot
3 concentrate on the case.

4 I am having trouble remembering the testimony of
5 just this last week.

6 THE COURT: Of course, that is a problem we all have
7 in a protracted trial.

8 All right, I will talk it over with the attorneys,
9 then, and let you know.

10 Thanks very much.

11 MR. SHEELY: Thank you.

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(The following proceedings occur in chambers.
All counsel present. Defendants absent.)

THE COURT: All counsel are present.

One of our regular jurors, Mr. Sheely, has
requested to be excused because of his wife.

I have talked with him this morning with the
reporter.

She apparently is under tranquilization from
her doctor and is not getting any better.

He has two children, ages 4 and 5, and he says
that problems at home have now reached the point where he
has difficulty concentrating during the trial and recalling
testimony, and so forth.

So, he is asking to be excused.

If any of you care to talk with him, I see no
reason why we shouldn't have him come back in chambers and
you can ask him any questions you like.

MR. KANAREK: If I may, your Honor, it is my
position that -- I ask for a mistrial on the grounds of
evidence being taken outside the presence of the defendants
without the defendants' permission.

The Penal Code provides that at every stage of
the proceedings the defendant has a right to be present.
And so, that is fundamental due process under the
Fourteenth Amendment and equal protection. Your Honor
taking evidence outside of his presence is a denial of that

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1 right, and I make a motion for a mistrial, a voir dire of
2 a juror when his life is at stake at this stage of the
3 proceedings.

4 MR. BUGLIOSI: It hasn't been done yet.

5 What are are you talking about?

6 MR. KANAREK: The Court has said that he has spoken
7 to the juror.

8 THE COURT: Yes.

9 I received Mr. Sheely's note and I had him come
10 down, with the reporter here, just five minutes ago, and
11 he told me what his problem was.

12 It will be on the record in your next copy of
13 the transcript.

14 MR. KANAREK: I refer your Honor to Marion vs. Beto,
15 which is a Court of Appeals case for the Fifth Circuit.
16 I have here only what is the U. S. Law Week, or some
17 syllabus summary of that case, wherein the Court makes the
18 point that the exclusion of one juror in the death penalty
19 case -- which I am sure we would all agree -- can be the
20 difference between life and death, and the improper
21 exclusion is a denial of due process and requires a fair
22 trial.

23 I offer for the Court's reading --

24 THE COURT: I haven't the faintest idea what you are
25 talking about, Mr. Kanarek.

26 We have a juror who has a personal problem. We

1 have had other jurors in the past in this trial with
2 personal problems and they have been excused.

3 Now, I am advising you of that fact. If you are
4 making a motion for a mistrial on that basis, it is denied.

5 MR. KANAREK: The motion is based on the Court taking
6 evidence on this very critical matter without informing
7 counsel.

8 THE COURT: You have stated your position. Your
9 motion is denied.

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1 MR. BUGLIOSI: For the record, I want to make one
2 statement.

3 I am sorry. Go ahead.

4 MR. KANAREK: May I offer this to the Court for the
5 Court's reading?

6 THE COURT: File it with the clerk in the usual course
7 and in the usual form, Mr. Kanarek.

8 MR. BUGLIOSI: With respect to the People's and the
9 defendant's position on jurors, I believe last week the
10 Court was wondering whether to release the jury, and the
11 People's position was we did not want them to be released,
12 we wanted them to remain sequestered.

13 I have been advised that it came out over the
14 radio and television that it was the prosecution that was the
15 one that opposed the jury being released from sequestration.

16 I am not going to point the finger at anyone,
17 although obviously it wasn't one of the prosecutors. I think
18 it was one of the defense attorneys, or it could be someone
19 else.

20 But I ask the Court again to admonish everyone
21 back here that these in-chambers discussions are not to be
22 released to the press because this could be harmful to the
23 prosecution. The spouses of the jurors could hear this over
24 the radio and television and then relate it to the jurors on a
25 weekend, and then the jury might be upset at the prosecution
26 and they might blame us for the continuing sequestration.

1 THE COURT: The publicity orders are still in effect.

2 MR. BUGLIOSI: Right.

3 THE COURT: If anyone violates it and anyone has any
4 knowledge of it, I am prepared to take whatever action is
5 necessary.

6 MR. KAY: Knowledge and proof are two different
7 things.

8 THE COURT: That's right.

9 What is your desire, gentlemen? Does anybody
10 wish to talk with Mr. Sheely?

11 MR. SHINN: Your Honor, is that the man in the back
12 row, the man with the curly hair, the kind of young man?

13 MR. FITZGERALD: Yes. The young guy with the curly
14 hair.

15 THE COURT: He is in the back row. No. 11.

16 MR. KAY: Your Honor, along the lines of the jury
17 sequestration, I was thinking last week, since they are going
18 to be sequestered, maybe it wouldn't hurt to increase the
19 number of visits that their spouses could have. Like during
20 the week.

21 I couldn't see any harm in that.

22 THE COURT: I have already done that.

23 MR. FITZGERALD: There is apparently no agreement
24 amongst us as to a stipulation that he can be excused.

25 MR. KEITH: The only thing that concerns me, if he is
26 excused then other jurors may suddenly come up with similar

1 problems at home and want to be excused. It may create more
2 problem than it solves.

3 MR. KANAREK: I would oppose his being excused, your
4 Honor.

5 THE COURT: On what grounds?

6 MR. KANAREK: Pardon?

7 THE COURT: On what ground?
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1 MR. KANAREK: On the ground, your Honor, that we have
2 due process of law, and it has to be done in accordance
3 with the law.

4 THE COURT: What has to be done in accordance with the
5 law?

6 MR. KANAREK: His excuse and his replacement by an
7 alternate.

8 I point out to the Court, in the case of Mrs.
9 Hines, and I allege a violation of equal protection of
10 the law under the Fourteenth Amendment, I asked for a
11 hearing concerning Mrs. Hines who we believe, through no
12 fault of mine, I didn't hear her husband --

13 THE COURT: You are wasting time and, as usual, you
14 are not making much sense.

15 I don't know what point you are directing your
16 statements to. Whatever it is, it is unintelligible.

17 MR. KANAREK: There are certain procedures for
18 excusing a juror and it isn't done ad hoc by stating some-
19 thing.

20 It could be done by stipulation, but we are not
21 stipulating.

22 And I, therefore, oppose the juror being
23 excused.

24 MR. BUGLIOSI: The People will join with Mr. Kanarek
25 and oppose the juror being excused.

26 MR. KANAREK: In view of the Court's talking to him,

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1 I think we have a duty to have a hearing, and I make a motion
2 for a hearing in which we would like to interrogate, because
3 I think the state of mind of the juror, because of whatever
4 the Court has told him, could be affected.

5 THE COURT: You will know as soon as you get your
6 next volume of the transcript. It is on the record.

7 If you want to make another motion for a mistrial, Mr. Kanarek--
8 which I am sure you will -- go right ahead and do it.

9 MR. KANAREK: What would your Honor do if your Honor
10 were a lawyer and at a critical stage like this --

11 THE COURT: Sometime I will be glad to tell you, but
12 I am not going to do it now.

13 MR. KANAREK: I ask your Honor, I believe --

14 THE COURT: I will be glad to tell you about a lot
15 of things, Mr. Kanarek, but this isn't the time.

16 MR. KEITH: I might say that I have no objection to
17 the sequestration order being lifted and the jurors being
18 allowed to return home.

19 I appreciate what Mr. Bugliosi said about
20 his fears of their possibly being harassed or their being
21 the subject of over-much attention by maybe the press or
22 other interested people.

23 I think merely changing their telephone numbers
24 and making them unlisted would solve that problem, as it
25 has probably solved mine. I have changed my number and I
26 haven't had any problems.

1 Particularly, I make that observation in light
2 of Mr. Sheely's problems at home. I am sure all the other
3 jurors have similar problems.

4 THE COURT: All right. Very well.

5 MR. KANAREK: Your Honor, may I have a ruling on my
6 motion for a hearing?

7 THE COURT: You have had it.

8 Your motion for a hearing? Denied.

9 MR. KANAREK: Concerning Mr. Sheely, your Honor.

10 THE COURT: It is denied.

11 Anything further?

12 Very well. We will go back in the court.

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1 (The following proceedings were had in the
2 chambers of the Court, outside the presence of the jury and
3 the defendants, all counsel being present:)

4 THE COURT: I am going to have Mr. Sheely brought in
5 here and ask him some questions. Any of you who care to
6 may ask him some questions.

7 MR. KANAREK: Your Honor, I make a motion that this be
8 done in open court. We do not waive a public trial in this
9 regard.

10 THE COURT: It will be done in chambers, Mr. Kanarek.

11 MR. BUGLIOSI: I think the length of the penalty trial
12 is relevant to whether Mr. Sheely should be allowed to leave
13 or go on.

14 MR. KEITH: Speaking for myself, my own witnesses will
15 take two days.

16 MR. BUGLIOSI: How many witnesses are you going to call?

17 MR. KEITH: That is probably too great a time, but I
18 see what happens in this case, so it might be conservative.

19 MR. FITZGERALD: I have just my client and one other
20 witness.

21 MR. BUGLIOSI: That shouldn't take more than a day
22 and a half.

23 MR. FITZGERALD: Right.

24 MR. BUGLIOSI: Mr. Kanarek, do you wish to be heard,
25 sir?

26 MR. KANAREK: I have no comment, Mr. Bugliosi.

1 THE COURT: Do you have any kind of an estimate,
2 Mr. Kanarek?

3 MR. KANAREK: A lot depends upon what happens, your
4 Honor, as to --

5 As to these female defendants.

6 MR. MUSICH: What would be the maximum and minimum of
7 your estimates, Mr. Kanarek?

8 THE COURT: Well, you are under no compulsion to do so,
9 but will you indicate whether your clients intend to testify.

10 MR. KEITH: Yes, Patricia Krenwinkel intends to testify
11 my understanding is. Leslie Van Houten intends to testify as
12 well.

13 MR. BUGLIOSI: A week and a half or two ago both
14 Mr. Fitzgerald and Mr. Keith advised me that their clients
15 would testify, at least what they told me was that their
16 clients were going to implicate themselves in these murders.

17 They advised me of that a week and a half or two
18 ago, is that correct, Mr. Fitzgerald?

19 MR. FITZGERALD: Essentially correct.

20 MR. BUGLIOSI: Is that correct, Mr. Keith?

21 MR. KEITH: I don't know if I advised you that either
22 one was going to implicate themselves or herself in the
23 murder, but --

24 MR. BUGLIOSI: But they were going to testify?

25 MR. KEITH: -- they are going to testify.

26 MR. BUGLIOSI: You told me that a week and a half or

1 two ago.

2 MR. KEITH: Oh, yes.

3 MR. KANAREK: Your Honor, while we are in chambers,
4 your Honor, we have this witness, Mr. Charles Rich, who is
5 here from the State Prison and I would ask, and I do ask and
6 move, your Honor, that your Honor issue an order so that I
7 can confer with him and Mr. Manson at the convenience of the
8 Sheriff, in order to --

9 MR. KAY: Why does Mr. Manson have to be present?

10 MR. KANAREK: He is a witness. Do you mind if I speak
11 to the Judge?

12 THE COURT: Before you do anything, Mr. Kanarek, you
13 are going to have to do something about getting your requests
14 in order, because in the form in which it was presented I
15 denied it because there was no showing whatever.

16 The only reason I granted it and ordered Mr. Rich
17 to be brought down was on the basis of earlier declarations
18 you made at the beginning of the trial.

19 MR. KANAREK: It was in November, your Honor, and he was
20 sent back evidently inadvertently.

21 THE COURT: It was done with the understanding that
22 you would file something and incorporate that earlier
23 declaration.

24 MR. KANAREK: Certainly.

25 THE COURT: I assume the facts are still the same.

26 MR. KANAREK: Yes, your Honor.

1 THE COURT: That is what I had the clerk tell you,
2 but you did not seem to understand what he was saying.

3 MR. KANAREK: Well, this morning he indicated to me
4 that your Honor wanted a further declaration.

5 THE COURT: I didn't say that, I said incorporate
6 the earlier declaration.

7 MR. KANAREK: I would be glad to, your Honor, no
8 problem.

9 THE COURT: So there will be some showing to support
10 Mr. Rich's being present. Otherwise, I am going to send him
11 back to Folsom.

12 MR. KANAREK: Yes, your Honor, he is here and he still
13 would be here except the Sheriff on his own, I believe,
14 certainly I did not ask the Sheriff's Department for any
15 particular relief, and the Sheriff's Department sent him back
16 to Folsom.

17 I gather by talking to Mr. Welch it was an
18 inadvertency of some type, because then he was brought back
19 here.

20 I think your Honor can talk with the man that is
21 at the head of the jail. His name is Welch.

22 THE COURT: He was sent back when?

23 MR. KANAREK: He was first here in November and the
24 Sheriff's Department sent him back.

25 THE COURT: Of course they are not going to keep him
26 around for months.

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1 MR. KANAREK: But I don't believe your Honor ordered
2 it. I think it was just one of those things, that it's
3 sort of like Topsy, it just grew all of a sudden, it
4 happened.

5 But I will be glad to incorporate that, your
6 Honor.

7 My request at this time is, in order to make
8 use of this witness most effectively, I have to use a
9 person that Mr. Manson was in custody in prison somewhere
10 with, and I would ask your Honor to allow us to consult
11 together.

12 I am just asking for an order so that the
13 Sheriff will bring him over and we can consult together
14 at the convenience of the Sheriff.

15 May I have that order?

16 THE COURT: Not at this time.

17 Mr. Fitzgerald and Mr. Keith both have indicated
18 that their clients intend to testify.

19 Now, what does that do to your estimate? I am
20 talking to you, Mr. Kanarek.

21 MR. KANAREK: A lot of it has to do with my consulting
22 with Mr. Rich and Mr. Manson together.

23 THE COURT: Let's not be absurd.

24 MR. KANAREK: That is not absurd.

25 THE COURT: Mr. Rich's testimony, based on your own
26 declarations, could not take but a very brief time.

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1 MR. KANAREK: Well, it isn't --

2 THE COURT: Obviously you are trying to be difficult,
3 Mr. Kanarek, and refuse to give any kind of an estimate,
4 which I suppose is your right.

5 MR. KANAREK: I do not wish to make a misrepresenta-
6 tion to the Court. I am not going to guess and just make
7 a statement.

8 THE COURT: Mr. Kanarek, all I can say is that you
9 are unbelievable.

10 MR. KAY: We've said that all along.

11 (Juror Sheely enters the room.)

12 THE COURT: Mr. Sheely, come in and sit down.

13 I asked you to come back with all counsel
14 present so you can tell them what you told me this morning
15 after I had asked you to come in here on the basis of your
16 written request, which was handed to the bailiff, and then
17 to me this morning.

18 Now, would you just describe what the problem
19 is so the various attorneys can understand.

20 MR. SHEELY: Well, my wife has been pretty nervous
21 since this has started and I have been gone and everything.
22 She has been taking these tranquilizers.

23 She just has been getting worse and worse,
24 and she cannot drive while she is taking the medication,
25 and she is to the point where the doctor won't give her any
26 stronger prescription -- I don't know if they don't have it

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1 stronger or he won't give her stronger -- but he told her
2 if she needs to, to take more than one.

3 When she takes two she gets all goofy.. She
4 cannot care for the kids or anything.

5 THE COURT: You have two children?

6 MR. SHEELY: Two boys, four and five, and I can't --
7 with this on my mind I just cannot keep my mind on the trial.
8 I don't think I could.

9 THE COURT: Your wife has been visiting you at the
10 hotel?

11 MR. SHEELY: Yes, she comes up on the weekends and
12 she comes up and she just trembles all week long.

13 She will take those tranquilizers.

14 THE COURT: You feel she is unable to properly care
15 for the children?

16 MR. SHEELY: Yes, among other things, yes.

17 THE COURT: This is bothering you?

18 MR. SHEELY: Very much.

19 I don't want -- it's got pretty bad just
20 recently, I don't know, maybe she's getting close to a
21 nervous breakdown or something like that.

22 I don't want to see her up in the hospital,
23 to create more problems.

24 THE COURT: You find it difficult to concentrate on
25 what is going on during the trial?

26 MR. SHEELY: Very difficult, very difficult.

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1 THE COURT: And you are requesting to be excused?

2 MR. SHEELY: Yes, I would request to be excused.

3 THE COURT: Does anyone care to ask Mr. Sheely any
4 questions?

5 MR. KANAREK: Your Honor, may I ask a question?

6 THE COURT: Yes.

7 EXAMINATION

8 BY MR. KANAREK:

9 Q Mr. Sheely, you said "among other things." What
10 do you mean?

11 THE COURT: What do you mean by that, Mr. Kanarek,
12 what is the question?

13 MR. KANAREK: Mr. Sheely mentioned his wife's illness
14 and said "among other things."

15 Q What are the other things, Mr. Sheely?

16 A I think about the other things --

17 THE COURT: We are not going into anything except what
18 he is talking about now.

19 MR. KANAREK: He used the words "among other things."

20 THE COURT: Put the question in a form I can under-
21 stand, Mr. Kanarek. I don't understand your question.

22 BY MR. KANAREK:

23 Q In connection with your answer when you used
24 the words "among other things," what did you mean?

25 THE COURT: That is what I am telling you, I don't
26

1 recall how he used it.

2 MR. KANAREK: May it be read to him?

3 THE COURT: No. Just reframe the question and tell
4 how he used it, otherwise we will go to something else.

5 BY MR. KANAREK:

6 Q You stated, Mr. Sheely, I didn't memorize it,
7 but I think words to the effect that your wife was nervous
8 and upset and you referred to your wife, and then you stated
9 this is why you wanted to be relieved and you stated "Among
10 other things."

11 Now, I'm asking you what did you mean by the
12 "among other things."

13 A I cannot remember just at this moment.

14 MR. KANAREK: May it be read to the juror?

15 THE COURT: Have you now told us your reasons for
16 requesting to be excused, Mr. Sheely?

17 THE WITNESS: Yes.

18 BY MR. KANAREK:

19 Q Mr. Sheely, may I ask you this, sir:

20 Assuming that the Court would allow you to go
21 home and have a Deputy Sheriff -- in other words, you are
22 sequestered now. Now I gather the problem is your being
23 in close proximity to your wife, right, is that correct?

24 A Caring for my wife and family.

25 Q Right. Now, if you, instead of sleeping at the
26 Ambassador Hotel, if a Deputy Sheriff or someone skin to

1 Mr. Murray or one of the deputies was at your home with
2 you, in other words, there --

3 THE COURT: We are not going into this, Mr. Kanarek,
4 so you can stop right there.

5 Anything further?

6 MR. KANAREK: Yes, your Honor, I have not finished.

7 THE COURT: You have.

8 MR. KANAREK: Well, then, your Honor, I would ask your
9 Honor --

10 THE COURT: If you have another question directly to
11 what he said --

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1 Q BY MR. KANAREK: What is the name of your wife's
2 physician?

3 A Dr. Thomas Spencer.

4 Q Where is he located?

5 THE COURT: That has nothing to do with it, Mr. Kanarek,
6 nothing whatever. You are not going to cross-examine this
7 juror and pry into his private affairs.

8 MR. KANAREK: Is your Honor foreclosing me from further
9 questions?

10 THE COURT: I certainly am.

11 MR. KANAREK: I do object. It is my position it is a
12 denial of fundamental due process.

13 MR. KAY: May I ask one question?

14 THE COURT: Yes.

15 Q BY MR. KAY: Does your wife's doctor feel she
16 will get better if you are home?

17 A Yes, he wrote a letter to the Court a while
18 back stating this.

19 MR. KEITH: In your opinion, Mr. Sheely, is your wife's
20 nervousness and anxiety primarily due to your absence from
21 the home or is there some other cause?

22 A That is the cause.

23 Q Are there any friends or close relatives that
24 might be able to stay with your wife?

25 A My sister was staying with her but her husband
26 got hit by a cement truck. He is in the hospital with a

1 fracture.

2 This has just been recently and this also has
3 created another hardship on her.

4 You see, she cannot drive because she is taking
5 the tranquilizers; well, she says she lives off these
6 tranquilizers.

7 Q BY MR. KEITH: How long has it been since you
8 noticed this problem?

9 A I didn't know anything about it. She kept it
10 from me. But ever since the second month of this trial. She
11 has not said anything.

12 Q Did your wife request that you request that you
13 be excused?

14 A You mean right now?

15 Q Yes, has she requested it?

16 A Oh, yes, sure, she wants me to come home.

17 Q BY MR. BUGLIOSI: Does she work?

18 A No.

19 Q She is a housewife?

20 A Right, a housewife.

21 MR. KANAREK: Mr. Sheely, when did she first tell you
22 about this?

23 THE COURT: All right, gentlemen, I heard all I need.

24 MR. KANAREK: Your Honor is foreclosing me?

25 THE COURT: Thank you very much, Mr. Sheely, you can
26 go back up to the jury.

1 MR. KANAREK: Mr. Sheely, thank you very much, sir.

2 (Mr. Sheely leaves the chambers of the Court.)

3 THE COURT: All right, anybody care to stipulate?

4 MR. KANAREK: No, your Honor, it is my position --

5 THE COURT: I am not interested in your position.

6 Do you want to stipulate or not?

7 MR. KANAREK: No, your Honor.

8 THE COURT: I find good cause based upon Mr. Sheely's
9 statements that he should be excused as a juror in this case
10 and he will be excused and we will select another juror from
11 the remaining alternate jurors by lot.

12 MR. BUGLIOSI: It's too late now, but I mean the whole
13 trial was working an enormous hardship on all these jurors
14 and I'm sure they have enormous problems.

15 We are right down to the end of the trial now,
16 I just don't see why Mr. Sheely should be excused.

17 It's a problem, no question about it.

18 I imagine if we were to interrogate the other
19 jurors they all would have somewhat similar problems.

20 THE COURT: All right, gentlemen.

21 MR. KANAREK: Your Honor, may I -- your Honor has
22 ruled, your Honor will not allow me to make any argument to
23 the Court?

24 THE COURT: Let's proceed in open court.

25 MR. FITZGERALD: We will select an alternate in open
26 court?

1 THE COURT: Oh, yes.

2 MR. FITZGERALD: By lot?

3 THE COURT: Oh, yes.

4 (Recess.)

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1 (The following proceedings were had in the
2 chambers of the court, the Court, Mr. Sheely and the
3 court reporter only being present:)

4 THE COURT: All right, I had Mr. Sheely brought back
5 into chambers for a moment, following our conference with
6 all counsel, to tell you that I have decided to excuse you,
7 Mr. Sheely, on the basis of your statements regarding your
8 wife's condition and its effect on you.

9 So I will excuse you as soon as the jury goes
10 back into the box, and then we will select another juror.

11 Now, it is extremely important that you do not
12 discuss with anyone what has gone on during the course of
13 the trial in connection with your services as a juror until
14 the trial is finally concluded, and by concluded I mean
15 after the jury has returned a verdict, if they do return
16 a verdict, on the penalty phase.

17 So for the record I am going to put it in the
18 form of an order that you, following your excusal, are not
19 to discuss with anyone any of the aspects of your services
20 as a juror in this case, and that includes comments about
21 whether you liked it or did not like it or what occurred
22 in the deliberations or anything at all.

23 Do you understand, sir?

24 A Correct.

25 THE COURT: And I am sure you can appreciate the
26 reasons for it.

1 A Sure.

2 THE COURT: Of course, once the jury has returned a
3 verdict or they are discharged after the penalty phase,
4 then you are free to discuss any aspect of the case you
5 want to with anybody.

6 However, you are under no compulsion to do so.
7 If you are bothered by anybody, newsmen, lawyers or anybody
8 else you are under no duty to discuss the case with anybody
9 even when you are finally permitted to do so.

10 MR. SHEELY: Thank you.

11 THE COURT: And I do want to thank you. I will thank
12 you again in open court, but I do want to thank you again
13 for your service in this case.

14 I know it's a great sacrifice for you as well
15 as all of the other jurors, and on behalf of the County and
16 the State I certainly do thank you for your valuable public
17 service.

18 MR. SHEELY: I am sorry I could not finish.

19 THE COURT: Well, these things happen, and no one can
20 predict them and your place is now at home rather than on
21 this jury.

22 MR. SHEELY: Thank you.

23 THE COURT: Fine, thank you.

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1 (The following proceedings occur in open court.
2 All counsel, jurors and defendants present.)

3 THE COURT: All parties, counsel and jurors are
4 present.

5 MR. KANAREK: May we approach the bench, your Honor?

6 THE COURT: At the request of Mr. Sheely, one of our
7 regular jurors, for personal reasons, the Court has decided
8 there is good cause for his request to be excused and he
9 will be excused at this time.

10 I want to personally thank you, Mr. Sheely, for
11 your valuable public service in this case.

12 It has been a long trial and a difficult one, and
13 on behalf of the County and the State, I wish to thank you
14 sincerely for your service in this case.

15 You will now be excused.

16 (Mr. Sheely leaves the courtroom.)

17 THE COURT: The clerk will draw the name of the next
18 juror by lot from the remaining alternate jurors.

19 THE CLERK: Mrs. Victoria Kampman.

20 MRS. KAMPMAN: May I talk to you, Judge, first?

21 THE COURT: No, ma'am, I am afraid not.

22 The clerk will swear the juror.

23 THE CLERK: Would you raise your right hand, please.

24 You do solemnly swear that you will well and truly
25 try the cause now pending before this Court and a true
26 verdict render therein according to the evidence and the

1 instructions of the Court, so help you God?

2 MRS. KAMPMAN: I do.

3 THE COURT: Would you take seat No. 11, please,
4 Mrs. Kampman,

5 MR. KANAREK: May I approach the bench?

6 THE COURT: Just a moment.

7 MRS. KAMPMAN: I am dizzy.

8 THE COURT: The Court will recess at this time.

9 Sit down.

10 (The following proceedings occur in chambers.

11 All counsel present. Defendants absent.)

12 THE COURT: Someone requested a conference in
13 chambers?

14 MR. BUGLIOSI: Yes.

15 The reason that I wanted to come back earlier,
16 your Honor, it is too late now, of course, but I think we
17 can think about this throughout the remainder of the trial.

18 Bringing in an alternate juror -- Mr. Musich
19 mentioned it to me and it is an obvious thing -- the alter-
20 nate did not deliberate in any of the seven days of
21 deliberation on guilt or innocence, which is all the more
22 reason why we should keep the original jurors.

23 It is extremely dangerous to bring in an alter-
24 nate at this point since they did not participate in any of
25 the discussions on guilt or innocence.

26 This particular juror here, your Honor, apparently

1 wanted to talk to the Court -- I don't know what it is -- but
2 I think the Court should talk to her. It is just another
3 request by a juror to talk to the Court. We don't know what
4 she is going to say.

5 THE COURT: Of course I will talk to her, but I wasn't
6 going to do it at that particular moment.

7 She apparently wasn't feeling well.

8 I thought she wanted to talk about procedure.
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1 MR. BUGLIOSI: Apparently she didn't want to be sworn
2 in. I didn't know that, but apparently she didn't want to
3 serve as a juror.

4 THE COURT: Is that all you had?

5 MR. BUGLIOSI: Well, I think before we proceed any
6 further, I am asking the Court to talk to her.

7 MR. KANAREK: May the record reflect, and I offer to
8 be sworn, that the exact point that Mr. Bugliosi brought to
9 the Court -- Mr. Fitzgerald will verify it, and I think Mr.
10 Keith and Mr. Shinn, and I offer to be sworn -- when I
11 asked to approach the bench and your Honor walked over my
12 request, that is the point that I was going to make to the
13 Court.

14 THE COURT: I had you gentlemen in here for a
15 conference just before we resumed --

16 MR. KANAREK: Your Honor foreclosed me from any
17 further matters in connection with Mr. Sheely. In fact,
18 you told me that we were off the record.

19 THE COURT: Mr. Kanarek, don't interrupt me.

20 MR. KANAREK: Yes.

21 THE COURT: You have been doing it all during the
22 trial. Don't do it any more. You were given an opportunity
23 to question Mr. Sheely until it was obvious that your question
24 were going to get off into some personal matters that had
25 no relevance whatever to the inquiry.

26 If you are trying to tell me now that you were

1 about to say something else, you were given every oppor-
2 tunity.

3 MR. KANAREK: Your Honor did not allow us to make
4 argument. Your Honor ended the hearing.

5 THE COURT: The only one that was doing any talking
6 was you, Mr. Kanarek, and that had gotten to the stage that
7 your examination frequently does where it is unintelligible
8 and irrelevant.

9 All right.

10 Did Mrs. Kampman indicate upstairs that she
11 wasn't feeling well, Mr. Murray?

12 THE BAILIFF: No, not to me.

13 I hadn't seen her until she was brought back
14 into the box.

15 THE COURT: No indication that she wasn't feeling
16 well?

17 THE BAILIFF: No.

18 MR. BUGLIOSI: As soon as she is able, can she be
19 brought into court for a discussion with the defense
20 attorneys and the prosecutors and the Court?

21 THE COURT: I don't know. I am going to think about
22 it.

23 Where is she now?

24 THE BAILIFF: In the jury box.

25 THE COURT: Is she still out there?

26 THE BAILIFF: Yes, your Honor.

1 THE COURT: Take her up there and let her lie down.

2 MR. KANAREK: May the record reflect that she fainted
3 immediately after being sworn in, she fainted and appeared
4 to collapse.

5 I think that is a fair statement, your Honor,
6 and I offer to be sworn on that.

7 MR. KAY: Nobody is disputing that.

8 THE COURT: All right.

9 Well, the court is now in recess.

10 When she is ready to proceed, why, we will
11 proceed.

12 You gentlemen are excused.

13 MR. KANAREK: I make a motion for a mistrial, your
14 Honor.

15 THE COURT: Denied.

16 (Whereupon, at 11:45 o'clock a.m. the court
17 was in recess.)
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1 LOS ANGELES, CALIFORNIA, TUESDAY, FEBRUARY 16, 1971

2 2:05 o'clock p.m.

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4 (The following proceedings were had in the
5 chambers of the court, outside the hearing of the jury,
6 all counsel being present:)

7 THE COURT: All counsel are present.

8 Mr. Kanarek, where were you at 1:45?

9 MR. KANAREK: Yes, your Honor, I was in Department
10 174 at 1:30 and the judge did not take the bench exactly
11 at 1:30 and immediately, your Honor, when that was over I
12 came right over here and called the court to inform him I
13 was going to be late.

14 THE COURT: What department was that?

15 MR. KANAREK: Pardon me, 74, I'm sorry, your Honor.

16 THE COURT: All right. Do I understand someone has
17 something to take up?

18 MR. BUGLIOSI: Yes, your Honor. People would make a
19 motion to have the Court vacate its order excusing juror
20 Sheely and reinstate juror Sheely as a regular juror for
21 two reasons.

22 No. 1, the alternate juror, I think her name is
23 Kampman.

24 THE JUDGE: Kampman.

25 MR. BUGLIOSI: No. 1, she does not desire to serve,
26 and the record should reflect --

1 THE COURT: How do you know that?

2 MR. BUGLIOSI: She very reluctantly raised her right
3 hand.

4 THE COURT: She obviously was not feeling good at
5 that point; that was a physical matter.

6 I don't have any idea what her state of
7 mind is.

8 She did take the oath.

9 MR. BUGLIOSI: I think it was fairly obvious she wanted
10 to talk to the Court, and she did not want to raise her hand.

11 No. 2, we are in the penalty trial now and
12 very shortly she is going to have to make an enormous,
13 extremely serious decision on whether these defendants should
14 receive life or death, and if she fainted after taking the
15 oath, a fortiori she is not in any physical and/or emotional
16 condition to face the enormous responsibility that she is
17 going to have to face.

18 So because she does not desire to serve -- I
19 think -- at least we can voir dire her on that -- it seems
20 to me she does not want to serve.

21 No. 2, her physical health, we would ask the
22 Court to vacate its original order which the Court
23 certainly has the authority to do.

24 I don't know of any case directly in point but
25 the case of People vs. von Bagenthal, 8 Cal. App. 2d 412,
26 the Appellate Court by necessary implication indicated that

1 if a juror has been excused but has not yet been released
2 out to the public, so to speak, so the juror has not had
3 a chance to discuss the case with family or friends and other
4 lay people, it is not too late to vacate the order.

5 That seems to be the implied holding of von
6 Bagenthal.

7 Apparently this juror, Mr. Sheely, has not been
8 formally released. Apparently he is still within the
9 jurisdiction of the Sheriff.

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1 Again, I reiterate to the Court that no matter
2 what alternate juror we end up with, that juror did not sit
3 during the seven days of deliberation when each juror looked
4 over the evidence in great detail, and it is placing an
5 enormous burden on the alternate juror that did not sit
6 in the deliberations as to the guilt or innocence discussing
7 it with their co-jurors.

8 I would say that it is unfair to both sides,
9 and I would think that only if there are extremely grave
10 circumstances should a juror be excused at this very late
11 date.

12 Mr. Sheely has been with us for seven or eight
13 months. We are at the end of the tunnel. I don't think
14 there is any question about it.

15 THE COURT: What does that statement mean?

16 MR. BUGLIOSI: At the end of the tunnel?

17 THE COURT: Yes.

18 MR. BUGLIOSI: Meaning that we are almost at the end
19 of the trial. And as long as they have been with us eight
20 months --

21 THE COURT: How do you know that?

22 I can't get any estimate out of Mr. Kanarek or
23 Mr. Shinn.

24 THE COURT: You gave an estimate?

25 MR. SHINN: Yes, your Honor. About two days. Two or
26 three days.

1 MR. BUGLIOSI: Mr. Fitzgerald says a day or two. Mr.
2 Keith says a day and a half or two. The People don't have
3 any rebuttal.

4 All we have is Mr. Kanarek, and I don't think he
5 is going to take more than a week.

6 The Court can exercise a certain amount of
7 discretion in foreclosing Mr. Kanarek from making unreasonable
8 examination of some of these witnesses.

9 Linda Kasabian apparently is going to be called
10 by Mr. Kanarek. I think the scope of inquiry by Mr. Kanarek
11 should be very, very limited.

12 THE COURT: Well, we don't have to get into that now.

13 MR. BUGLIOSI: Well, I am just trying to give the Court
14 an idea. I don't think we are going to be here for more than
15 two or three weeks.

16 I am not just saying that now to have the Court
17 vacate its ruling. I have always said that. In two or three
18 weeks we should be through.

19 THE COURT: That is a long time.

20 MR. BUGLIOSI: Well, it just doesn't sound like good
21 cause to me, your Honor.

22 THE COURT: There is no question but what it is good
23 cause, Mr. Bugliosi. I don't think we have to waste any
24 time on that.

25 The man's wife is ill, she is under a doctor's
26 care, and it is affecting him. He said so. I believe him.

1 MR. BUGLIOSI: Right.

2 THE COURT: That is good cause.

3 MR. BUGLIOSI: Right.

4 My point, Judge, is that if you were to voir dire
5 any one of these jurors, they would probably have something
6 similar to that, marital problems with their spouses, that
7 is affecting them.

8 THE COURT: The same thing affects different people
9 differently.

10 MR. MUSICH: It has to affect them to the extent that
11 they can't be a fair and impartial juror and do their duty
12 during the course of the trial.

13 If it doesn't affect them to that extent, it is
14 not good cause.

15 I hope that is the reason for the Court's ruling.

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1 THE COURT: Of course, that is what he just said.
2 He just said that.

3 I am thinking very seriously of removing the
4 sequestration order.

5 MR. KAY: That would solve Mr. Sheely's problem.

6 THE COURT: Maybe it would and maybe it wouldn't, I
7 don't know.

8 MR. KAY: Maybe we could --

9 THE COURT: The prosecutors are doing an awful lot of
10 deciding for Mr. Sheely.

11 MR. KAY: Maybe we could ask him about that.

12 THE COURT: I certainly wouldn't remove it just to
13 retain him if I didn't think there were some other good
14 reasons for it.

15 MR. KAY: But if the Court does remove sequestration,
16 I think that is a factor that the Court should consider as
17 to whether or not Mr. Sheely then has good cause. That
18 would be a new factor, I would think, for the Court to
19 reconsider, because probably he would go to his job eight
20 hours a day anyway, even if you released him. So, he
21 wouldn't be with his wife all the time then, but he would
22 be there at night or whatever.

23 MR. BUGLIOSI: Right.

24 THE COURT: Does anyone else wish to be heard?

25 MR. KEITH: No, your Honor.

26 MR. KANAREK: Is there a motion before the Court,

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1 any actual motion, your Honor?

2 THE COURT: I think Mr. Bugliosi said he was moving
3 for an order to vacate the order excusing Mr. Sheely; is
4 that right?

5 MR. BUGLIOSI: Yes, your Honor.

6 MR. KEITH: I will oppose, for the record, Mr.
7 Bugliosi's motion.

8 MR. KANAREK: My position is, your Honor, that your
9 Honor must grant a mistrial at this point.

10 We can go on with this charade type of procedure--

11 THE COURT: Get to the point, Mr. Kanarek, because I
12 am not going to waste a lot of time listening to you. Get
13 to the point.

14 MR. KANAREK: The point is this --

15 THE COURT: Are you making a motion?

16 MR. KANAREK: Yes.

17 THE COURT: State it.

18 MR. KANAREK: I make a motion, your Honor, for a
19 mistrial.

20 THE COURT: On what ground?

21 MR. KANAREK: On the ground, your Honor, that --

22 THE COURT: I don't want a lot of argument. Just
23 state the ground.

24 MR. KANAREK: On the ground that the defendant Manson
25 is being denied a fair penalty phase by what has occurred.

26 Your Honor has removed Mr. Sheely.

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1 THE COURT: What do you mean by what has occurred?
2 Be specific.

3 MR. KANAREK: By your Honor removing Mr. Sheely with-
4 out the showing of good cause, not allowing us to have a
5 full hearing.

6 THE COURT: You have already made that motion. It is
7 denied.

8 Ask Mr. Sheely to come down, please.

9 Don't just repeat motions, Mr. Kanarek. You
10 waste the Court's time doing that.

11 MR. FITZGERALD: I checked with the Clerk, I wanted
12 to be clear and I checked with the Clerk, and the Clerk has
13 informed me that the removal of Mr. Sheely is in the minutes.

14 And also in the minutes are the swearing in of
15 the alternate juror.

16 It is my contention that the Court has lost
17 jurisdiction.

18 THE COURT: The minutes --

19 MR. KANAREK: I join with Mr. Fitzgerald.

20 THE COURT: Don't interrupt me.

21 The minutes have not been entered, have they?

22 THE CLERK: Not until the end of the day.

23 MR. FITZGERALD: You told me that they were.

24 MR. GLERK: I haven't made them up.

25 In my rough copy I have made them up.

26 THE COURT: We won't have any colloquy about that. That
is a matter for the record.

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MR. FITZGERALD: I think we should have some colloquy.

THE COURT: We are not going to, Mr. Fitzgerald.

MR. FITZGERALD: I am objecting on jurisdictional grounds. I think the Court has lost jurisdiction at this point; he has been removed.

MR. KANAREK: I join with Mr. Fitzgerald and oppose Mr. Bugliosi's motion, your Honor.

(Mr. Sheely enters the courtroom.)

THE COURT: Sit down, Mr. Sheely.

I brought you back in here with all counsel present to go over a matter with you.

First of all, since you were excused this morning what have you done and where have you been?

MR. SHEELY: I went back to the hotel and started packing.

THE COURT: Have you been with the jury the whole time?

MR. SHEELY: No, no, I was separate from the jury.

I went back to the hotel and started packing, and we went down and ate lunch.

THE COURT: When you say "we"?

MR. SHEELY: Murray and Ann Orr.

THE COURT: You have been in the custody of the bailiffs all this time.

MR. SHEELY: Yes.

THE COURT: Have you talked to anyone who has not been a juror or a bailiff?

1 MR. SHEELY: The waitress at the hotel.

2 THE COURT: But not about the case.

3 MR. SHEELY: Not about the case.

4 THE COURT: Did you talk to anybody about the case at
5 all?

6 MR. SHEELY: No.

7 THE COURT: All right. Now, one of the things that
8 I have under consideration, I have not made any decision
9 one way or the other, is the possibility of removing the
10 sequestration order for the jury so you would be permitted to
11 go home during the balance of the trial, although in all
12 probability you will be sequestered during the actual
13 deliberation phase of the penalty at the end of the penalty
14 phase, although that is not certain either.

15 But in all probability I would think that I
16 would want the jury sequestered during the deliberations.

17 Now, if you were permitted to go home every day
18 and spend the night with your family, would that solve your
19 problem?

20 Before you answer, let me point out one thing to
21 you:

22 While we do have four alternate jurors, or did
23 before Mrs. Kampman was called in this morning to replace
24 you, none of those alternate jurors participated in the
25 deliberations during the guilt phase which led up to the
26 verdicts and convictions, so that if a regular juror is

1 excused now and replaced with an alternate juror, that
2 alternate juror would not have participated, regardless of
3 which alternate, he would not have participated in the
4 deliberations at the end of the guilt phase with respect to
5 it.

6 So he would be in a different position with
7 respect to the remaining jurors.

8 Now, another thing that you should bear in mind,
9 of course, is that even if you are excused and you go home,
10 you have a job to go to, you told me this morning you were
11 with the Pacific Telephone, so you are only going to be with
12 your family during the evening and early morning.

13 MR. SHEELY: I made arrangements with my boss to have a
14 vacation immediately after I got out.

15 THE COURT: Of course that would make a difference,
16 but if that could be delayed to the end of the penalty
17 phase, then there wouldn't be much difference between being
18 on the jury and unsequestered and going back to your job.

19 MR. SHEELY: I would be allowed to go home weekends,
20 too?

21 THE COURT: Oh, yes, there wouldn't be any more
22 sequestration for any of the jurors if the order is made,
23 unless I decided to sequester the jury again after the
24 arguments and instructions, only for the deliberation phase
25 of the penalty case.

26 Do you understand what I am saying?

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1 MR. SHEELY: Right.

2 THE COURT: But until that time all the jurors would
3 just go home every night and come back the next day.

4 MR. SHEELY: I see. When would this be effective?

5 THE COURT: Well, I'm going to have to make up my
6 mind here pretty quick.

7 I would say sometime in the next day or so.

8 MR. SHEELY: If it were in the next day or so, that
9 would solve my problem.

10 THE COURT: It means you would have to defer your
11 vacation for probably several weeks, but other than that
12 I don't see you'd be in any different position than if
13 you just went off the jury entirely and went back to work,
14 right?

15 MR. SHEELY: I have no objection to that.

16 THE COURT: I am not -- if I make the order releasing
17 the jury from sequestration -- I want you to know I am not
18 doing it just because of you.

19 MR. SHEELY: Right.

20 THE COURT: That is one consideration, but I have had
21 the matter under consideration for a week or so now, as the
22 attorneys know, because I mentioned it to them last week.
23 This is long before I knew you had any problem.

24 MR. SHEELY: Well, say for instance I was to go ahead
25 and stick around and you decided not to release the jury;
26 that they would be sequestered still.

THE COURT: No. I won't ask you to stay until I have

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1 made that decision. In other words --

2 MR. SHEELY: I see.

3 THE COURT: On the basis of what you told me this
4 morning, unless you have changed your mind --

5 MR. SHEELY: No.

6 THE COURT: I was persuaded this morning by what you
7 told me that you had good cause to be excused.

8 Of course I would like very much, if it isn't
9 necessary for the reasons already mentioned, the fact that
10 you have been on the regular jury during the guilt phase --

11 MR. SHEELY: I would be agreeable to that as long as
12 there is no sequestration.

13 THE COURT: Well, all right. Then may I ask that you
14 remain with the jury until I have made that decision. I
15 will make it in the next -- I will probably make it this
16 afternoon, certainly no later than tomorrow.

17 MR. SHEELY: All right.

18 THE COURT: Thanks very much, Mr. Sheely, I appreciate
19 your coming back and I wanted to explain why you were asked
20 to come back this afternoon.

21 MR. SHEELY: Okay, thank you.

22 THE COURT: The matter was still under consideration.

23 (Mr. Sheely leaves the chambers of the court.)

24 MR. BUGLIOSI: Does the Court want some time to itself
25 to contemplate?

26 It is a big decision.

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1 THE COURT: Does anyone wish to be heard on the matter
2 of sequestration?

3 MR. BUGLIOSI: The People withdraw our objection to
4 the sequestration withdrawal.

5 MR. FITZGERALD: I made the motion to sequester this
6 jury originally, and I am going to stick with it.

7 I am opposed to allowing the withdrawal of the
8 sequestration. I think it will be catastrophic if it
9 happens.

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1 THE COURT: In what way?

2 MR. FITZGERALD: I think they will be harassed and
3 intimidated by the media.

4 I think they are going to be exposed to devas-
5 tating trial publicity.

6 We have gone this far, protected them and
7 insulated them.

8 MR. KAY: Of course last week when we objected you
9 said you had no objection.

10 MR. FITZGERALD: I did not, Mr. Kay.

11 MR. KAY: Are you sure about that?

12 MR. FITZGERALD: I am positive. I did not say
13 anything.

14 I see the problem. I am sympathetic with the
15 jurors, but I did not create this publicity to begin with;
16 somebody else created this publicity and made the sequestra-
17 tion necessary.

18 It is not my problem; it is not my fault.

19 MR. KANAREK: I join with Mr. Fitzgerald's comments
20 and I would like to point out to the Court Cooper vs.
21 Superior Court where the Supreme Court makes the point
22 that things which happen at a certain time in a trial,
23 which might be okay at some other time, at certain critical
24 times are prejudicial.

25 I submit at this time, your Honor, at this time
26 in history so to speak, as far as this case goes, for your

1 Honor to remove the sequestration is an act which is such
2 that the Defendant Manson would be denied a fair trial,
3 and I do oppose, based upon the due process clause of the
4 Fourteenth Amendment, the equal protection clause of the
5 Fourteenth Amendment, Mr. Manson's right to a fair trial
6 under California law, I do oppose removing the sequestration
7 at this time.

8 THE COURT: Well, I'm certainly glad to hear you say
9 that, Mr. Kanarek, because you have told me so many times
10 during this trial that the sequestration was ineffective
11 and useless, that I am delighted to find that you have
12 changed your mind.

13 MR. KANAREK: I have asked for a voir dire, your
14 Honor.

15 I don't claim to be omniscient. I am not
16 a mind reader. That is what we have hearings for; that
17 is why we have trials.

18 I have asked for hearings to talk to the people
19 to see if they have heard or if anything has affected their
20 mind.

21 I cannot make up evidence, your Honor, that
22 is what I asked for, I have asked for voir dire time after
23 time.

24 I have said I believe that in certain situa-
25 tions that it would be humanly impossible with mass
26 communications what they are, with the conjugal visits

1 what they are, conjugal visits were, I think, even mentioned
2 today, perhaps, I think, by the prosecution, I'm not sure.

3 But the point is, there are these factors that
4 we are dealing with, of flesh and blood people, and the only
5 way you can find things out, that is why we have voir dire
6 hearings.

7 Your Honor has refused repeatedly to have a
8 voir dire hearing. That, I think, is the point.

9 I think your Honor will agree with me, I hope
10 your Honor will agree with me that this is what I have asked
11 for, is hearings to determine their state of mind from time
12 to time, and your Honor has refused those hearings.

13 I say, your Honor --

14 THE COURT: Let's not prolong it, I know what you
15 said and you know what you said, Mr. Kanarek. We don't have
16 to go over it again.

17 MR. KANAREK: If I may very briefly, I think a mistrial,
18 your Honor --

19 THE COURT: I don't want to hear any more.

20 MR. KANAREK: Very well, your Honor.

21 THE COURT: Motions do not get any better by repeating
22 them a dozen times.

23 MR. KANAREK: The purpose is to convince the Court,
24 your Honor.

25 THE COURT: Well, I'm going to let you gentlemen go
26 back out. I want to do a little reading myself and thinking

1 about the problem.

2 As far as Mr. Sheely is concerned I can find
3 no reason why that order should not be vacated if there
4 were a change and the jury were released from sequestration.

5 MR. KANAREK: Your Honor, Mr. Manson is in jeopardy
6 in connection with Mrs. --

7 Certainly we can argue that he is in jeopardy
8 in connection with the lady who is sworn in as the alternate
9 juror. He is in jeopardy in connection with that.

10 THE COURT: He has been in jeopardy for quite a while.

11 MR. KANAREK: I understand that, your Honor, that is
12 why we have due process, your Honor, your Honor made an
13 order and swore in a new juror. At the present time it is
14 my believe your Honor is without jurisdiction.

15 THE COURT: That has been said now; you don't have
16 to repeat that either.

17 All right, gentlemen, I will let you know
18 when I am ready to make my decision.
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1 (The following proceedings occur in chambers.
2 All counsel present. Defendants absent.)

3 THE COURT: All counsel are present.

4 Well, gentlemen, I have given the matter as much
5 thought as I can. I have concluded that the jury should be
6 released from sequestration.

7 That Mr. Sheely, in light of what he stated here
8 in chambers in front of you gentlemen, that he would be able
9 to proceed in that event, should remain as a regular juror,
10 and the order excusing him should be vacated.

11 I think also that since many of these jurors have
12 accumulated quite a bit of personal items, and so forth,
13 in their hotel rooms, that they should have an opportunity
14 to get all of their personal property and effects out of
15 the room tomorrow and get settled at home again. So, I
16 would propose to recess until Thursday morning to give them a
17 day to go back and meet their families again and get
18 straightened around.

19 MR. BUGLIOSI: For the record, your Honor, I heard that the
20 alternate juror, Mrs. Kampman, was examined by some doctor
21 and that the doctor concluded that apparently she would not
22 be able to serve because of health reasons.

23 If the Court has information on that, I think
24 that should be in the record.

25 THE COURT: I don't know anything about a doctor.
26 The male nurse in the Hall of Justice Jail Clinic took her

1 blood pressure. She has high blood pressure at the moment.
2 I don't know anything about any doctor.

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1 MR. BUGLIOSI: I heard from someone that there was
2 a danger of heart attack if she were going to serve on the
3 jury, but I guess that was erroneous information.

4 THE COURT: What is the source of your information,
5 Mr. Bugliosi? You know something I don't know.

6 I just talked to the male nurse here not 15
7 minutes ago.

8 MR. KAY: You must have first-hand information then.

9 MR. KANAREK: I move for an evidentiary hearing,
10 your Honor. This is all hearsay and without sworn testimony
11 we cannot tell anything.

12 I move for an evidentiary hearing concerning this
13 lady's purported condition and even if that were so, we have
14 other alternates.

15 THE COURT: That is something that I will be concerned
16 with, Mr. Kanarek, her physical condition, and if she
17 requires medical assistance I assure you she will get it.

18 MR. KANARK: She is presently part of the regular
19 jury hearing the penalty phase, your Honor.

20 THE COURT: Anything else, gentlemen, before we
21 bring the jury down.

22 MR. BUGLIOSI: We are going to recess right now, then?

23 THE COURT: Yes, I think once I make the announcement,
24 their minds will be elsewhere.

25 MR. KAY: I can imagine.

26 THE COURT: Mrs. Kampman is able to come down all right

9-2

1 THE BAILIFF: Yes.

2 MR. KANAREK: Your Honor is not granting a hearing as
3 to her alleged physical condition?

4 THE COURT: If she is ill, Mr. Kanarek, we will have
5 medical attention for her.

6 What would you propose, we get in 12 doctors
7 and have a medical conference?

8 If she does not feel good all she has to do is
9 say so and we will have her examined.

10 MR. KANAREK: Then I gather your Honor is not going
11 to grant a hearing at this time with regard to her
12 physical condition.

13 THE COURT: I am not.

14 MR. KANAREK: I make a motion for a mistrial in
15 connection with what your Honor is doing as to the
16 sequestration.

17 THE COURT: The motion will be denied.

18 MR. FITZGERALD: I would like to join in that motion.

19 Also I want to make sure that the record
20 reflects that I am objecting to your Honor vacating the
21 order with regard to Mr. Sheely.

22 My contention is the Court has lost jurisdiction.
23 You are simply placing a juror back in who has no standing
24 whatsoever.

25 The defendants have been denied a right to
26 trial by jury of 12 people. He has been dismissed.

9-3

1 THE COURT: Before you get dramatic, Mr. Fitzgerald,
2 let's review the facts.

3 You heard the gentleman's statement. Now, if
4 you want to ask him some more questions as to what he did
5 this morning after I excused him, if you don't believe what
6 he said, which was that he has been in the custody of the
7 bailiff --

8 MR. FITZGERALD: I believe that.

9 THE COURT: -- the entire time --

10 MR. FITZGERALD: I believe that.

11 THE COURT: -- except he said he talked to a
12 waitress at lunch about a matter not involving this case.

13 Apart from that he has been with the jury and
14 the bailiffs the entire time; in fact, he hasn't been with
15 the jury. I believe he's been kept separately.

16 MR. FITZGERALD: I agree, I agree with that.

17 THE COURT: No minute order has been entered, no
18 order has been entered, nothing has occurred, no evidence
19 has been taken since then, nothing has occurred in front
20 of the jury since then.

21 MR. FITZGERALD: If you don't want to let me be heard
22 about the minutes.

23 But the fact that it isn't in the minutes happens
24 to be the peculiar way your Honor's Clerk takes minutes.

25 Your Honor's Clerk informed me he does not
26 enter things in the minutes until the end of the court's day.

1 THE COURT: That is the way things are done.

2 MR. FITZGERALD: Not in any other court I have ever
3 been in.

4 THE COURT: That is the way it happens in the Superior
5 Court of this county.

6 The minutes are entered down in the Clerk's
7 office.

8 MR. FITZGERALD: The situation is analogous to a jury
9 bringing in a verdict of not guilty.

10 Once the verdict is recorded the Court loses
11 jurisdiction to change the result or let the jury redeliber-
12 ate.

13 I think it is the same thing.

14 This happened at 11:40 this morning. Your
15 Honor released Mr. Sheely and swore in the alternate juror.

16 Now, when I talked to your Clerk during the noon
17 hour he had it all written out on a sheet of yellow paper.

18 Now, if he wants to delay that for four years,
19 and not put it in the minutes, it seems to me that is just
20 some sort of a form or substance.

21 In fact the matter happened. There was plenty
22 of time to have it recorded in the minutes of the court,
23 and the Court --

24 Could your Honor then reverse himself tomorrow
25 morning and the following morning? Once the magic words
26 are said, these are one of the few areas in the law --

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1 THE COURT: I don't agree with you, Mr. Fitzgerald.
2 I don't think there are any such magic word situations like
3 this. We are not dealing with verdicts.

4 MR. FITZGERALD: The way the record looks, like you
5 bargained away sequestration in order to save Mr. Sheely.

6 THE COURT: You know better than that because I talked
7 to you about this subject last week.

8 MR. FITZGERALD: I know you talked to us, you said you
9 would not make a decision that is rash and you wanted our
10 feelings and you encouraged discussions.

11 THE COURT: Mr. Sheely's situation is one of the
12 factors that I am considering today because it is a factor,
13 certainly, no question about it.

14 Mrs. Kampman's physical condition is another factor
15 I am considering along with other factors, the same factors
16 I considered last week. I am not bargaining anything away.

17 MR. BUGLIOSI: With respect to the Court saying
18 Mrs. Kampman's physical condition is a factor, because of
19 that and because of the issue on appeal, it seems to me it
20 might be advisable to have someone examine her just for the
21 record to show that apparently she does have high blood
22 pressure.

23 THE COURT: What does that have to do with it?
24 If she is ill, she is ill. We can't change that.

25 It may well be she won't be able to serve at all,
26 I don't know.

1 MR. BUGLIOSI: The Court indicated this was a factor
2 the Court took into consideration.

3 I am saying for an appeal it might be --

4 THE COURT: The fact that she was under some indis-
5 position, if that phrase is more melodious to your ears,
6 Mr. Bugliosi, it seems she was feeling light-headed in court
7 this morning.

8 MR. BUGLIOSI: And she did pass out.

9 THE COURT: That is what we are talking about, isn't
10 it?

11 MR. BUGLIOSI: Does the record reflect that she did
12 pass out?

13 MR. SHINN: May I make a motion?

14 MR. BUGLIOSI: I just asked a question here.

15 Does the record reflect that she passed out in
16 court?

17 MR. FITZGERALD: I don't think so.

18 MR. BUGLIOSI: May the record so reflect that she passed
19 out in court?

20 MR. FITZGERALD: Why don't you give a more accurate
21 description? I will defer to you.

22 MR. BUGLIOSI: Why don't you try it?

23 MR. FITZGERALD: As she was being sworn she apparently
24 said something to the Court, the effect of which was, "I am
25 dizzy."

26 THE COURT: I did not hear that. What she said to me

1 that I heard was, "May I speak with you, your Honor?"

2 I thought she wanted to talk about some matter of
3 procedure, and I said, "No, I'm afraid not."

4 And I told the clerk to go ahead and swear her.

5 I did not realize she was talking about a physi-
6 cal condition. She had just come down with the jury.

7 MR. FITZGERALD: The reporter has it.

8 THE COURT: Perhaps so, but I did not hear it.

9 MR. FITZGERALD: Whereupon, my recollection is that
10 she was a little teetery, she started to sway a little,
11 whereupon assistance was immediately provided by two deputy
12 sheriffs and she was seated, whereupon she almost collapsed.
13 She went limp in the chair.

14 MR. BUGLIOSI: She did faint, is that correct?

15 MR. FITZGERALD: And I saw one of the bailiffs give
16 her an ammonia cassette -- smelling salts -- to revive her
17 and she appeared to be unconscious, yes.

18 MR. BUGLIOSI: People concur with Mr. Fitzgerald's
19 appraisal of what he saw.

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1 MR. KAY: Also, that she appeared to be unconscious
2 for a number of minutes.

3 MR. KEITH: A number of minutes is going a little
4 far, but she was unconscious.

5 MR. KAY: Two or three.

6 MR. KANAREK: There is no question about it, the
7 record reveals that she was sworn in, she did utter the
8 words after the clerk gave her the oath. She was sworn
9 in and it was only after she was sworn in that --

10 THE COURT: I am sure, Mr. Kanarek, that if she had
11 remained as a regular juror that you would claim that she
12 didn't understand the oath that was given to her.

13 MR. KANAREK: Well, your Honor, the fact of the
14 matter is that sometimes things happen and you just have
15 to declare a result.

16 And it seems like in this case everybody would
17 be better served if we declared a mistrial as to this
18 penalty phase rather than proceed.

19 THE COURT: Save your breath, Mr. Kanarek.

20 MR. KANAREK: And I do make that motion.

21 THE COURT: All right, gentlemen, then we will
22 resume in court and I will inform the jury.

23 I might as well read the admonition that I am
24 going to give them to you here so that if you have any
25 comments you can make them now.

26 I will give them this admonition today

1 after I let them know that they are going to be able to go
2 home:

3 Do not converse with anyone or form or express
4 any opinion regarding penalty until that question is finally
5 submitted to you.

6 Do not visit the scene of any of the crimes for
7 which the defendants have been convicted.

8 Do not read, watch or listen to any news
9 media presentation relating to this case, or allow yourself
10 to be influenced in your decision in this case by anything
11 except the evidence introduced during this trial, in
12 accordance with the Court's instructions to you.

13 Do not converse with anyone on any aspect of
14 your service as a juror in this case.

15 This admonition includes, of course, conversation
16 to members of the news media, friends, neighbors, your
17 families, as well as any other person.

18 Does anybody have any comments or additions,
19 subtractions, changes?

20 MR. FITZGERALD: Well, I don't want to waste my time
21 or yours, but I suggest -- and I know what your Honor's
22 position is -- that you had better order the media to leave
23 them alone because if you don't they will camp on their
24 doorstep.

25 MR. BUGLIOSI: I would agree with Mr. Fitzgerald.

26 Although the Court perhaps doesn't have any power

1 over the media, certainly an urging by the Court might have
2 some value.

3 MR. MUSICH: It can't do any harm.

4 MR. BUGLIOSI: Yes, it can't do any harm, for whatever
5 it is worth, I think, if the Court addresses the media.

6 MR. KANAREK: I agree that it can't do any harm.
7 I do join in that request.

8 But I ask that your Honor issue -- pardon me --
9 I ask that your Honor issue an order wherein your Honor is
10 ordering the media not to.

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1 I believe your Honor has plenty of authority to
2 do that based upon Shepard vs. Maxwell, and Redeau vs.
3 Louisiana, and the Billy Sol Estes case.

4 THE COURT: I don't think there is anything in those
5 that says that, Mr. Kanarek.

6 MR. KANAREK: If your Honor --

7 THE COURT: Controlling the source is one thing but
8 controlling the media is another.

9 MR. KANAREK: Well, controlling the media, this is
10 where the contempt lies, your Honor.

11 Your Honor has the contempt power.

12 THE COURT: I am not necessarily disagreeing with what
13 you are saying in the abstract. All I am saying is that
14 I don't think the Court, at this juncture, has the power.

15 In any event --

16 MR. KANAREK: What harm would there be to making your
17 order and letting those Spring Street lawyers come in here
18 and say that what your Honor is doing is illegal? What harm
19 is there, if we want to preserve it? Let them prove to the
20 Court that it is illegal.

21 Why should your Honor begin with the fact that it
22 is illegal?

23 I think your Honor has the power --

24 THE COURT: I will tell you. I will give consider-
25 ation to this. I have thought of it many times.

26 Why don't you draft a proposed form of order to

1 the media, because I obviously can't put it in generalized
2 form. It has to be carefully worded, and I will carefully
3 consider any carefully-worded draft.

4 MR. KANAREK: But the point is that your Honor is
5 going out there right now.

6 THE COURT: This doesn't have to be done today.
7 It can be done tomorrow.

8 MR. KANAREK: Tomorrow will be too late, your Honor.

9 THE COURT: No. They are not going to be released
10 tonight. They are not going home tonight.

11 They are not going to be released until tomorrow.
12 The order removing sequestration will be effective tomorrow.

13 MR. KANAREK: At what time tomorrow?

14 THE COURT: Tomorrow morning.

15 MR. KANAREK: Well, your Honor, if we are recessed until
16 Thursday, how will the media be here to be personally
17 informed?

18 You see, how are they going to be informed, as
19 a mechanical matter, your Honor?

20 I gather they are going to be released physically
21 tomorrow morning from the Ambassador Hotel; is that correct?

22 THE COURT: That's right.

23 MR. KANAREK: Then the media, in that interim period,
24 would not be under any order.

25 Now, I think that just like your Honor can order
26 a witness back, I think your Honor has the power to talk to

1 those people that are in the courtroom there and order
2 them, under the power of contempt of court, have them stand
3 up, each one of them, and have them enunciate their names,
4 and say: I order you to stay away from these jurors.

5 If that order is invalid, let them try to violate
6 it or violate it, and then let's see if your Honor may be
7 convinced that there is ample authority for it.

8 I think that if you balance the equities here --
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1 THE COURT: Again, Mr. Kanarek, I appreciate your
2 interest and zeal in this matter, and I can assure you that
3 I have given the same problem a lot of thought throughout
4 the course of this trial and in other trials.

5 To my knowledge, no court in California -- for
6 that matter, the United States -- has ever successfully
7 issued such an order.

8 MR. KANAREK: Can't you order them away physically,
9 to stay away from the jurors, your Honor?

10 In other words, if we can't talk to the jurors,
11 your Honor can certainly make the order that they stay
12 physically removed.

13 THE COURT: I think the contempt power would remain
14 if they attempted in any way to interfere with the orderly
15 progress of the trial by harassing a juror or doing any one
16 of a number of things that they could do without the
17 necessity of any other order.

18 MR. KANAREK: What harm would there be, your Honor, in
19 ordering the people in the courtroom --

20 THE COURT: You prepare an order, Mr. Kanarek, along
21 the lines that you are talking about and I promise you that
22 I will give it careful consideration.

23 MR. KANAREK: I will prepare an order but by that time
24 it will be Thursday morning.

25 I am saying right now that those people in the
26 courtroom your Honor can verbalize the order to them to stay

1 away from the jury.

2 THE COURT: What I have done, in effect, is to order
3 the jurors to stay away from them.

4 MR. KANAREK: It should be bilateral.

5 MR. BUGLIOSI: The Court doesn't have to issue an
6 order now. You can ask these people to stay away from the
7 jurors. On Thursday morning, if the Court decides to issue
8 an order, you can order them at that time.

9 MR. KANAREK: Yes, you can ask them.

10 MR. BUGLIOSI: Right now you can ask them just for
11 their cooperation.

12 THE COURT: I don't think I will do anything right now,
13 gentlemen.

14 MR. KANAREK: I can see no harm in your Honor ordering
15 them to stay away, and, as a practical matter, it will have
16 an effect because those people think they are immune from
17 the law, your Honor, and if your Honor did it, I think
18 there are numbers of them that would stay away, great
19 numbers.

20 I think they all would, as a practical matter,
21 because they are not interested in probably going to jail
22 for five days.

23 MR. MUSICH: It might help the jurors themselves to
24 advise them that if they were to be talked to, not harassed
25 but questioned, by a newspaper man, to say: Well, you
26 know, I was told not to say anything, and you were told not

1 to say anything.

2 MR. KANAREK: Yes. Both of them were told.

3 The prosecution agrees with us.

4 I don't see any harm in it.

5 MR. MUSICH: I can't see any harm in it.

6 I think that the press are aware that they are
7 over at the hotel, and they have already tried to get shold
8 of Mr. Sheely.

9 THE COURT: I don't understand what you are saying.

10 MR. BUGLIOSI: They called him at home.

11 MR. MUSICH: Yes. The press was even looking for
12 Mr. Sheely.

13 MR. BUGLIOSI: His wife got several phone calls from
14 members of the press already.

15 I don't know who told me that.

16 Who told me that?

17 THE COURT: All right, gentlemen.

18 MR. KANAREK: Will your Honor so order the press, the
19 mass media, the members of the mass media?

20 THE COURT: No, I will not make any such order at
21 this time.

22 MR. KANAREK: Then I make a motion for mistrial. May
23 I make a motion for a mistrial?

24 MR. FITZGERALD: Join.

25 MR. KANAREK: May I have a ruling on that?

26 THE COURT: Denied.

11-1

1 (The following proceedings were had in open court
2 in the presence and hearing of the jury, all defendants and
3 all counsel being present:)

4 THE COURT: All parties, counsel and jurors are present.

5 Ladies and gentlemen of the jury, I have some good
6 news for you.

7 After conferring at length with counsel today I
8 have decided to vacate the order sequestering the jury.

9 This means that you will be permitted to go home
10 tomorrow and the Court will recess until Thursday morning,
11 the day after tomorrow.

12 Sometime tomorrow you will be informed as to
13 where the jury will assemble each day for transportation to
14 and from court.

15 This morning Mr. Sheely was excused as a juror,
16 and after further consultation with Mr. Sheely and all
17 counsel that order excusing Mr. Sheely is vacated.

18 Mr. Sheely will remain as a regular juror, and
19 Mrs. Kampman will remain as an alternate juror.

20 There is one other aspect of the case before
21 I excuse you for today that I want to make sure that you
22 fully appreciate, although I think you certainly do by this
23 time, and that is the question of conversations with other
24 people regarding the case until you are finally excused,
25 permitting yourselves to be influenced now that you are going
26 home, by other things, news media, conversations with well-
meaning friends, neighbors, families, and so forth.

1 It may not be as easy as it seems when you are
2 sequestered to avoid these things, but it is equally, if
3 not more, important now than it has been.

4 So I am going to read to you an expanded version
5 of the admonition you have been hearing now for about eight
6 months. I am sure you can recite it by heart if I ask you
7 to, but this is a little different version, and part of it is
8 also directed to the news media and I hope they will stay
9 long enough to hear it.

10 Do not converse with anyone or form or express
11 any opinion regarding the penalty until that question is
12 finally submitted to you.

13 Do not visit the scene of any of the crimes for
14 which the defendants have been convicted.

15 Do not read, watch or listen to any news media
16 presentation relating to this case, or allow yourselves to
17 be influenced in your decision in this case by anything
18 except the evidence introduced during this trial, and then
19 only in accordance with the Court's instructions to you.

20 Do not converse with anyone on any aspect of
21 your service as a juror in this case, and this goes to
22 things other than the evidence and other than the penalty
23 itself.

24 This would include such things as your
25 deliberations during the guilt phase or your complaints or
26 criticisms of the way the case has been handled or the

1 personnel involved, any of the aspects of the case other
2 than the things I have already mentioned.

3 This admonition includes, of course, conver-
4 sations with members of the news media, friends, neighbors,
5 your family as well as any other persons.

6 And finally the Court urges the news media
7 representatives not to try to contact any of the jurors or
8 their families.

9 The jurors are under an express order of the
10 Court not to discuss any aspect of the case with anyone, and
11 you only make their jobs more difficult if you try to get
12 around that order.

13 We will recess at this time, ladies and gentlemen,
14 as I say, until Thursday morning, the exact time and place
15 where you are to meet will be given to you tomorrow and
16 I know you will be glad to get back to your families.

17 If what I have said regarding your going home is
18 not explicitly clear, let me repeat it once more.

19 The order will be vacated effective tomorrow
20 so you will remain sequestered tonight.

21 The reason we are recessing tomorrow is to give
22 you an opportunity to get personal effects home and get
23 settled again before you have to come back.

24 So I will see you Thursday.

25 (Whereupon, an adjournment was taken to
26 reconvene Thursday, February 18, 1971.)