SUPERIOR COURT OF THE STATE OF CALIFORNIA ľ FOR THE COUNTY OF LOS ANGELES 2 DEPARTMENT NO. 106 3. HON. RAYMOND CHOATE, JUDGE 5 THE PEOPLE OF THE STATE OF CALIFORNIA. Plaintiff. 6 7 No. A+267861 CHARLES MANSON, 8 Q Defendant. 10 11 12 REPORTERS DAILY TRANSCRIPT 13 Wednesday, July 7, 1971 14 15 VOLUME 9 16 17 18 APPEARANCES: 19 For the People: JOSEPH P. BUSCH, JR., District Attorney STEPHEN R. KAY, 20 Deputy District Attorney 21 For Defendant Manson: IRVING A. KANAREK, Esq. 22 JURY SELECTION 23 24 25 26 27 MARY LOU BRIANDI, C.S.R. ROGER K. WILLIAMS, C.S.R. 28 Official Court Reporter

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LOS ANGLLES, CALIFORNIA, WEDNESDAY, JULY 7, 1971 9:55 A.M.

THE COURT: Mr. Gardner, why were you late this morning? JUROR NO. 7: I stopped over to Room 253 and I had a cup of coffee before I came over.

THE COURT: Well, the Court can't quite understand that unless you had forgotten you were supposed to be here at 9:30.

Most of the time the Court has other matters that delay it, and the Court realizes that that has been the pattern here, that other matters on the calendar has caused you to wait.

This morning, peculiarly enough, we were ready to proceed at 9:30 and couldn't do so because apparently you were having coffee. So make it your business to be on time.

All right, the record will show Mr. Manson to be present with Mr. Kanarek.

Mr. Steven Kay is present for the People this morning.

Mr. Manzella has called in and indicated that he is ill, and so we have Mr. Kay in place of Mr. Manzella for today.

Is there anyone of you who is in the box or beyond the rail who knows Mr. Kay, Steven Kay, who is a Deputy District Attorney?

Is there anyone in the box has been represented by Mr. Kay or any firm that he has been associated with?

I see no response, It is the defendant's peremptory challenge. MR. KANAREK: Thank and excuse Mr. Peterson. Thank 3 you, Mr. Peterson. THE COURT: Mr. Peterson, thank you very much. Is there any time left? 6 JUROR NO. 10; Oh, yes, there's over two weeks. THE COURT: Very well, would you report to Room 253 this 8 morning, please? JUROR NO. 10: Yes, I will. 10 THE COURT: The jury assembly room. 11 Call another name. 12 MR. KANAREK: Your Honor, I think in order to accommodate 13 Mr. Kay on a point, I think we should approach the bench. THE COURT: All right, you may. MR. KANAREK: Because he is unfamiliar and I think in 16 the interest of fair play --THE COURT: All right, fine. 18 19 20 21 22 23 24 25 26 27 28

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

MR. KANAREK: Your Honor, Mr. Kay has indicated to me that he -- that he would like to see my copy of the indictment, which I cannot represent that I have with me, because I don't -- I don't have it with the papers and he wants to see it.

So I certainly wish to accommodate him, and I wish the Court would allow him to look at the Court's copy.

THE COURT: Surely.

Off the record.

MR. KAY: May I see it, your Honor? I haven't seen it for quite some time. I just wanted to refresh my recollection on it.

THE COURT: Surely. The file is over in another courtroom, but here's a copy of the consolidated indictment.

(Whereupon, a discussion was had off the record.)
MR. KAY: Okay. That's fine, your Honor.

MR. KANAREK: Your Honor, while we are at the bench, I would like to challenge --

THE COURT: All right. Back on the record.

MR. KANAREK: Yes. I would like to challenge Mrs. Loudd, on the basis of 1073, Subsection 2, the publicity, your Honor.

THE COURT: The Court denies the challenge. The Court finds that she can set aside whatever opinion that she may have formed, can set aside whatever information she may have acquired -- although it doesn't seem to be much, from the way

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she reacted yesterday. But whatever she -- whatever information she may have acquired and may remember, the Court believes that she is intelligent enough and capable enough to set axide those things, and to be fair and impartial.

MR. KANAREK: And the same with -- under 1073, Subsection 2, your Honor, with regard to Mr. Middlebrook, your Honor.

THE COURT: Mittleman, you mean?

MR. KANAREK: Yes, Mittleman; right.

THE COURT: Yes. The Court believes that Mr. Mittleman is capable of setting aside whatever he may have heard, seen or read, and whatever opinions he may have formed.

And the Court believes that he will be fair and impartial, in spite of whatever publicity he may have heard, seen or read in connection with the case, whatever opinions he may have formed.

And the Court denies that challenge.

MR. KANAREK: I see. And the same with regard to Mr. -- to Mrs. Wellington, your Honor. Is that the name?

THE COURT: Mrs. Wellington, yes. The Court makes the same finding in effect to her, and denies the --

MR. KANAREK: 1073, Subsection 2 challenge on it, because of the publicity, your Honor.

THE COURT: Yes. The Court denies the challenge.

MR. KAY: All right.

MR. KANAREK: Thank you, your Honor.

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

THE COUNT: Would the Clerk select another name? 1 THE CLERK: Emilio J. Rico; E-m-i-1-1-o; last name, 2 R-i-c-o. THE COURT: Mr. Stogall, do you have the microphone? Oh, fine. I see Mr. Gardner has it there. 5 Would you pass it down to Mr. Rico. please? б 7 VOIR DIRE EXAMINATION OF 8 EMILIO J. RICO 9 BY THE COURT: 10 11 Q lir. Rico, were you present during the Court's explanation of the nature of this case, and the Court's 12 questioning of a prospective juror? 13 Yes, sir. A . 14 $\mathbf{2}$. And --15 Yes, sir. A 16 17 -- would your answers be any different than the 18 answers that that prospective juror gave to the questions 19. of a general nature? 20 A I believe so. 21 That they would be the same? $^{\circ}$ 22 A Yes, sir. 23 Would there be any hardship to you, were you Ų. 24 caused to serve as a juror in this case? 25 A Uh == no, sir. 26 Meither financial nor personal; is that correct? Q. 27 A No, sir. 28 All right. It is correct, then, that you would Ω

you could not thereby be impartial in determining the question of guilt or innocence. A No, sir.

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| Q . | Or de | you h | ave such | views | concern: | ing ti | he death |
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| penalty | that you | would | automati | cally, | because | of y | our views |
| | ing the d | | | ęfuse t | impos | a the | penalty |

- A. No, sir.
- Q Or on the other hand, would you automatically impose the death penalty upon a conviction of murder of the first degree, without regard to the evidence?
 - A No. sir.
 - Q Automatically do that?
 - A No. sir.
- Are your views concerning the death penalty such that you would never vote to impose it?
 - A. No.
- You would view the evidence to determine whether or not in your judgment and in your absolute discretion you would impose the death penalty or life imprisonment should there he a conviction of murder of the first degree, is that correct?
 - A Yes, sir.
- Q Can you think of any reason whatever why you could not be fair and impartial in this case?
 - A No, sir, I don't.
- THE COURT: All right. Do you gentlemen wish to question? Mr. Kamarek.
 - NR. KANAREK: Thank you, your Honor.

| 1 | VOIR DIRE EXAMINATION |
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| 2 | BY MR. KANAREK: |
| 3 | Mr. Rico, may I ask you, sir, by whom are you |
| 4 | employed? |
| 5 | A Alcoa Aluminum. |
| ·6 | And you've checked with them and they're going to |
| 7 | ban Aons |
| 8 | A. Yes, sir. |
| 9 | A Now, directing your attention, Mr. Rico, to the |
| 10 | subject matter that you know - so far you know of concerning |
| H | this case. |
| 12 | Have you ever been on a jury wherein this subject |
| 13 | matter was before the jury? |
| 14 | A No, sir. This is my first time on any jury. |
| 15 | Q Do you have any friends or relatives that are |
| 16 | in any type of law enforcement work, either public or private? |
| 17 | A. No, sir. |
| 18 | Q By private, you know, I mean plant guards, maybe a |
| 19 20 | plant guard? |
| | A No, none whatsoever. |
| 21; 22 | Q At the aluminum company or something like that? |
| 23 | A No. |
| 25 24 | Well, they're just nodding acquaintances, I don't |
| 25 | know their family or nothing like that. I've been working |
| 26 | there 18 years, so as I pass by, I know them by name or some- |
| 27 | thing, the guards that work there. |
| 28 | Q Now, I don't know if personally you have |
| | experienced in your lifetime any racial prejudicial; have you, |

improper question for challenge for cause.

THE COURT: It sounds like an improper question. Let him finish.

part of what we have to judge in a criminal case is the intent, the thinking of the person, and recognizing that you and I, all of us here that are on this jury, have never had the misfortune of suffering in such captivity for these numbers of years.

Do you think that you could analyze a person who has had that background different from the rest of us and give that person a fair trial and find him not guilty despite a campaign by the District Attorney's Office to find him guilty?

MR. KAY: Your Honor, that's an improper question and —
THE COURT: Mr. Kanarek, the Court believes it is an
improper question and will caution you to direct your
questions to the jury on a more proper frame and a more
proper manner. The objection is sustained.

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27 28 MR KANAREK: Well ---

THE COURT: You're not arguing, you are questioning.

MR. KANAREK: I understand, your Honor.

BY MR. KANAREK: What I -- may we pose this question, Û Mr. Rico:

You've heard in this courtroom, and all of us have heard about circumstantial evidence. This is one of the matters that will be before the Court.

- Yes, sir.
- Now, are we in agreement that circumstantial evidence may be used to acquit and find someone not guilty just as much as it may be used by the prosecution?
 - Sure.
 - I gather we have no quarrel with the principle --
 - No quarrel, no quarrel.
- May we ask you this, is there any reason -- is there any reason, if circumstances that come before you indicate a campaign of persecution of Mr. Manson by law enforcement, by police officers and the District Attorney's Office, if these circumstances are presented to you, and the Court allows the circumstances to be brought before you, is there any reason that you wouldn't consider those circumstances in deciding this case?

MR. KAY: Well, your Honor, I'm going to object, asking the juror to prejudge the evidence and an improper question.

THE COURT: Sustained.

BY MR. KANAREK: May we ask you this, Mr. Rico. First, were you able to listen previously -- I don't

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 want to belabor it and we want to proceed as speedily as possible.

I'm sure you heard previous discussions with previous prospective jurors between direct evidence and circumstantial evidence?

- A Yes, sir.
- And having in mind what you have heard concerning circumstantial evidence, is there any reason -- is there any reason that you can think of why you couldn't use circumstantial evidence which revolves around the conduct of law enforcement people, prosecutors, police officers, in acquitting Mr. Hanson if you deem that evidence to so indicate?
- A No, mir. All circumstantial evidence I would weigh and judge the way I think, how I feel, or how it was presented to me, regardless if it is the prosecution or Mr. Manson or what.
- Now, having in mind -- having in mind -- having that
 -- that -- what has transpired in this courtroom to date, if
 we had the opportunity to repeat it, which we aren't going
 to do, the various questions that have been -- that you have
 heard, everything that you have heard from the Court and the
 lawyers, can you think of anything that you would like to say
 concerning your state of mind, recognizing that what we are
 after in this jury selection are 12 judges, 12 separate
 judges?

Is there anything that you can think would be significant that all of us should hear concerning your state of mind?

Uh, not -- I believe I am about the same as the rest of these people in their questions and their answers about -- I'd answer about the same. The way I see is Mr. Manson is innocent until they prove he is guilty, whether it is circumstantial evidence or direct evidence. It has got to be proven to me that he is guilty beyond any reasonable doubt.

And are we in agreement that this is the protection that all of us have against the arbitrary use of power, power of state in these United States that we live in?

- Yes, sir.
- And is there any reason -- for instance, let's say that someone that was near and dear to you, near and dear to any one of us was sitting where Mr. Manson was sitting, would you welcome that person being judged with the state of mind, with the thinking, with the judicial temperament that you have at this point?
 - Yes, sir.

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| o, | There's no reason why |
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| A | No reason. |
| Q | why you couldn't be i |

o -- why you couldn't be fair and impartial in this case; --

A No.

Q -- is that correct?

A Yes, sir.

MR. KANAREK: Thank you very much.

THE COURT: Mr. Kay?

MR. KAY: Thank you.

Good morning, ladies and gentlemen. Mr. Manzella, I just talked to him on the phone, and he's going to be in this afternoon. He has a very bad cold, and he has two little girls that kept him up all night. But he will be back this afternoon.

VOIR DIRE EXAMINATION

BY MR. KAY:

Now, Mr. Rico, before you came into this courtroom and sat in the box as a prospective juror, have you thought about the death penalty?

A Yes, sir, I have.

And is it clear in your mind that you can conceive of certain facts -- if they came out in evidence, and if you found the defendant guilty of first degree murder -- that you feel you could impose capital punishment on a defendant?

A Yes, sir. I -- if -- if it warranted it, I think
I -- I'm pretty sure I could vote for the death penalty.

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Okay. And you have thought about that?

A Yes, sir. I have been thinking about it all this time I've been sitting out there.

Now, would you, as you are sitting there now, do you feel any -- let me put it this way: Judge Choate will instruct you on the guilt phase of the trial that you are not to consider sympathy for a defendant or passion or prejudice against him; do you understand that?

A Right, sir.

Q All right. Do you feel that you would consider any sympathy for Mr. Manson, because of the fact that he's already under a death sentence?

A No, I wouldn't take that into consideration whatsoever.

In other words, you'd consider this case on its own merits?

A On its own merits.

Now, have you -- now, you realize that the burden of proof, the legal burden of proof on the prosecution is that we must prove a defendant guilty beyond a reasonable doubt; do you understand that?

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A Righti

Now, do you feel that because this is a murder case, because the prosecution — if there is a first degree murder conviction — will definitely ask for the imposition of the death penalty, do you feel that you would hold the prosecution to any higher standard than proving the defendant's guilt beyond a reasonable doubt?

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In other words, would you hold us to the burden of proving Mr. Manson guilty to an absolute certainty, or beyond a shadow of a doubt?

It would have to be beyond a shadow of a doubt. in my judgment, before --

Well, you understand that that is not the burden? In other words, that is a higher burden. The prosecution has a burden of proving a defendant guilty beyond a reasonable doubt.

A Right.

Now, beyond a shadow of a doubt is up here 3 (indicating). I mean --

Well, I would have to see the crime, if it would be beyond a shadow of a doubt.

That's right. And we would have to have a motion picture camera of it?

Ă Right, right.

So in other words, would you -- would you be satisfied in your own mind, as far as establishing the guilt of a defendant, if the prosecution proved -- merely proved the defendant guilty beyond a reasonable doubt?

Right.

So once we meet that burden, --Q

Å Right,

-- that's all right with you? Q

Right.

Now, can you think of any reason at all why you could not sit on this jury?

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| ŀ | A No, none whatsoever. |
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| 2 | Q All right. Now, I take it that although I was |
| 3 | not here yesterday, you were here when Mr. Manzella was asking |
| 4 | some of his questions? |
| 5 | A Yes, mir. |
| 6 | · Q All right. Now, one of the questions I know he's |
| 7 | concerned about is the question about circumstantial evidence. |
| 8 , | Now, do you think in your own mind that you understand what |
| 9 | circumstantial evidence is, |
| 10 ; | A Yes, sir. |
| 11 | o as opposed to direct evidence? |
| 12 | A Yes, sir. |
| 13 | Q In other words, just to give a real brief example, |
| 14 | if you wanted to prove that I was holding this pen, well, |
| 15 | direct evidence would be you can see that I am holding this. |
| 16 | pen. |
| 17 | A Right. |
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Now -- or, say you wanted to prove that I ever had had a pen in my hand. Okay. You can see my pen. That's direct evidence.

Now, say that I had it -- I had my hand up like this, and you couldn't see any pen in my hand. But here's a piece of paper (indicating) with some writing on it, in ink. And then, you have a handwriting man come in, and you prove that that's my handwriting, and it's in ink.

So that is circumstantial evidence to prove that I had a pen in my hand,

A Yes, sir.

Q Do you understand the difference? And do you understand that, in the eyes of the law, circumstantial evidence and direct evidence are considered equal? One is not favored over the other? Do you understand that?

A Yes, sir.

MR. KANAREK: Well, your Honor, if I may, I think that it's up to the jury -- I think a fair --

THE COURT: Excuse me just a minute. Don't argue.

Would you read it to me, Mr. Williams, please?

And if you have an objection to it, just make the objection.

MR. KANAREK: Yes. The objection is that --

MR. KANAREK: Improper voir dire, yes, sir.

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

*u Do you understand the difference?

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27 28 "And do you understand that, in the eyes of the law, circumstantial evidence and direct evidence are considered equal? One is not favored over the other? Do you understand that?")

THE COURT: Well, I will sustain the objection to the question. The Court is to instruct, Mr. Kay, on the law; and the Court has already told the jurors about circumstantial evidence, has instructed with respect to circumstantial evidence, and will further instruct upon it at the conclusion of the evidence in the first phase of the case.

So I'll sustain the objection.

MR. KAY: All right.

- Mr. Rico, if the Court then does instruct you along the lines of my last question, that circumstantial evidence and direct evidence are to be considered equal, would you follow that instruction?
 - A Yes, sir,
- Q Would you have any problem following that instruction?
 - A Not what the Court instructs, sir.
- Q All right. You understand that all the law to be given to the jury will come from Judge Choate?
 - & Right.
 - And not from the attorneys?
 - A No.
- Now, do you have any trouble, in your mind, thinking of the situation where you could find a defendant guilty of first-degree murder, even though the prosecution

did not find the body of the murder victim? MR. KANAREK: Well, your Honor, that -- if I may, the 2 vice of that question is --3 , THE COURT: Would you read it to me? . MR. KANAREK: -- that there is a murder victim. 5 THE COURT: There's an objection to it? ń MR. KANAREK: Yes, your Hosor, there is. 7 THE COURT: All right. Just raise the objection, and 8 I will rule on it. 9 (Whereupon, the record was read by the reporter as 10 follows:) 11 Now, do you have any trouble, in your 12 own mind, thinking of the situation where you could 13 find a defendant guilty of first-degree murder, 14 even though the prosecution did not find the body 15 of the murder victim?") 16 THE COURT: The Court sustains the objection. 17 18 BY MR. KAY: Mr. Rico --19 THE COURT: It assumes --20 MR. KAY: Excuse me. 12THE COURT: It assumes a fact that's not in evidence, 22 and may never be proven, and asking the juror to prejudge the 23 evidence. 24 The Court has no -- I won't make any further 25 I'll sustain the objection on that ground. comment. 26 MR. KAY: Thank you, your Honor, 27 (Proceedings had on an unrelated matter.)

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THE GOURT: I am sorry to interrupt the proceedings.

MR. KAY: Thank you, your Honor.

Q Mr. Rico, do you understand that the prosecution's burden is only in proving the defendant guilty beyond a reasonable doubt?

A Yes, sir.

All right. Now, realizing that that and that alone is the prosecution's burden, if the prosecution proved the defendant guilty beyond a reasonable doubt, would you require, in order to convict, that the prosecution also produce a body, so to speak --

MR. KANAREK: Well, your Honor --

Q DY MR. KAY: -- of the murder victim?

MR. KANAREK: Your Honor, there is no victim.

THE COURT: Excuse me just a minute. Just state an objection, if you have an objection.

MR. KANAREK: Yes.

THE COURT: Don't argue it before the jury.

MR. KANAREK: Yes, your Honor. Improper voir dire.

THE COURT: The Court takes it that you have an objection, and the objection is sustained.

It has the same fault as the previous questions. It asks the juror to prejudge the evidence.

MR. KAY: Thank you. If I might have just a moment, your Honor?

Q Mr. Rico, do you understand that a person can be guilty of first degree murder, even though the body of the

deceased is never found?

MR. KANAREK: Your Honor, if I may, that's improper voir dire.

THE COURT: Read it to me, wouldyou, please? I'm sorry.

> (Whereupon the question was read by the reporter as follows:

> Mr. Rico, do you understand that a person can be guilty of first degree murder, even though the body of the deceased is never found?")

THE COURT: The objection is overruled. You may answer the question.

JUROR NO. 10: Yes.

BY MR. KAY: And do you have any quarrel with Q that?

No quarrel. A

Do you feel that, in your mind, that you would have any problems convicting a defendant of first degree murder, based on circumstantial evidence?

> A No.

All right. In other words, if the prosecution proved, by circumstantial evidence, that the defendant was guilty beyond a reasonable doubt, that would be sufficient for you; is that correct?

Right, sir.

Q ... You understand that -- well, do you feel that the presumption of imocence, which a defendant is clocked with at the start of the trial, do you feel that that's an

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| 4b-3 | 1 | impossible burden for the prosecution to overcome? |
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| | 2 | A No. |
| | .3 | And you understand that that presumption of |
| ; | 4 | innocence lasts only until the prosecution proves the |
| | 5 | defendant guilty beyond a reasonable doubt? |
| , | 6 | A Right. |
| | 7 | now, Mr. Rico, have you or have any of your |
| | 8 | close friends or relatives ever been charged with a crime by |
| | 9 | a governmental authority, like a police department, a |
| | 10 | District Attorney's office? Other than a traffic ticket? |
| | 11 | A Himmon yes, I believe so. |
| | 12 | O All right. Now, is this a friend or a relative? |
| | 13 | A My younger brother. |
| | 14 | Q All right. Now, did anything happen - well, |
|) | 15 | let me ask you this: Did you feel that his case was handled |
| * | 16. | fairly? |
| š | 17 | A Yes. |
| | 18 | Q All right. And so did snything happen in that |
| , | 19 | case, that would prejudice you against the prosecution or the |
| • | 20 | police department? |
| | 21 . | A Home no. He was acquitted, so |
| , | 22 | Q All right. And did you feel that he was handled |
| | 23. | fairly |
| | 24 | A Yes. |
| • | 25 | 2 throughout the process? |
| | 26 | A Yes. |
| * | 27 | Q Now, do you feel that, to any degree whatsoever, |
| | 28 . | that you hold any passion or prejudice against police officers |

No. A 1 Do you feel that if a police officer took that Ţ 2 stand and testified, that you could weigh his testimony 3 equally with any other witness? Yes, sir. 5 That's when he first gets up there. Q 6 A Right. . 7 Now, after a witness gets up, then, you know, you 8 Q. can formulate an opinion about that witness' testimony. And 9 after he testifies for a while, you might not weigh a person's 10 testimony equally with another witness; do you understand 11 that? 12 A Yes, sir. 14 15 16 17 18 19 20 21 22 23 25 26 27 28

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And do you feel that you could weigh the prosecution witnesses when they took the stand equally with the defense witnesses, when they took the stand?

A Yes, sir,

Q In other words, you wouldn't prejudge anybody before you heard them on the witness stand?

A No.

And throughout the course of the trial, if you are selected as a juror, would you concentrate only on the evidence that comes out in the courtroom? In other words, disregard any rumors you hear, any newspaper headlines? Anything that happens outside this courtroom, would you disregard it?

A Yes.

In other words, just concentrate on the evidence that comes from the witness stand, and the instructions that Judge Choate will give you.

A. Yes, sir,

0 -- at the end of the case?

And you feel that, definitely, as far as the death penalty is concerned, that you wouldn't get in the jury room on the guilt phase of the trial and, realizing that -- say, in your own mind, you thought -- "Well, Mr. Manson is guilty of first-degree murder, but if I find him guilty of first-degree murder, then we'll have to go on to the death penalty phase, and therefore I am going to find him guilty of second-degree murder."

You wouldn't do anything like that, would you?

MR. KANAREK: Object, your Honor. Improper voir dire, and asked and answered previously.

THE COURT: Overruled, You may answer.

JUROR NO. 10: Uh -- no. Like the Judge says, there are two phases, and if he's proven guilty, then I would go and weigh it and see whether it would be death penalty or life imprisonment.

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BY MR. KAY: All right, you understand that the first phase, the guilt phase, during your deliberations you are not in any way to consider the second phase of the trial?

No.

And did you hear the instructions on conspiracy Q and aiding and abetting that Judge Choate read to the jurors yesterday?

Yes, sir. Å

And do you have any quarrel with those instructions?

> A No.

In other words, you understand that a person can be guilty of first degree murder even though he might not be present at the scene when the murder took place?

Á Yes, sir.

And do you have any quarrel with that?

A No.

MR. KAY: Pass for cause, your Honor. Thank you. THE COURT: Mr. Rico, Mr. Kay, in talking to you,

talked about sympathy.

The Court will tell you, tell you and the other jurors that as jurors it is your exclusive duty to decide all questions of fact submitted to you and for that purpose to determine effect and value of the evidence and in performing that duty you must not be influenced by sympathy. pity for a defendant. But that instruction, and that rule, only pertains to the first phase of the case. phase involving the question of guilt or impocence.

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Do you understand that?

JUROR NO. 10: Yes, sir.

THE COURT: Do all of you who are in the box understand that?

(Whereupon, there were murmirs of "Yes.")

THE COURT: That rule that I have read or that I have talked about is something which applies only in the guilt or innocence phase.

Is there anyone who does not understand it? (No response.)

THE COURT: Pass for cause?

MR. KAY: Pass for cause.

THE COURT: And, Mr. Kanarek, pass for cause?

MR. KANAREK: Yes, your Honor.

THE COURT: I am premature in that respect. We have not questioned Mr. Rico about a very important aspect of the case, and that is pretrial publicity. So at this moment we're going to have to ask you for the usual quiet and quick exodus, ladies and gentlemen. Don't talk about this case or permit anyone to converse with you about it during the time that you are outside, except for Mr. Rico.

Mr. Rico, would you remain.

THE BAILIFF: They may go to Department 100.

THE COURT: Can they go to Department 100?

Ladies and gentlemen, go to Department 100. Tell all of those who have already gone outside there to go to Department 100.

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BY THE COURT:

Mr. Rico, before you came into this courtroom, I take it from the responses that you have already made to counsel that you had heard of Mr. Manson?

VOIR DIRE EXAMINATION

Yes, sir.

Was that in connection with the Sharon Tate killing, La Bianca killing?

Yes, sir.

Did you follow the case that involved those homicides in the press or over television or radio or all of those media? ..

Uh, I didn't follow the case that close. it on television and, occasionally, I would read it. But I wouldn't do it on a day-to-day basis.

- You knew it, you simply knew it was going on? Q
- A Yes, sir.
- And occasionally saw something in the newspaper or something via television or radio; is that correct?
 - Yes, sir.
- And would your -- would you have any knowledge as to what the result was; do you remember what the result of that trial was?

Well, I believe all the defendants were found guilty, if I -- if I, uh --

Was there a verdict in the penalty phase that you remember?

I'm not quite sure. As far as I can think of ... ٨

| 5-4 | 1 | I believe they received the death penalty. |
|-----|--|---|
| | 2 | Q Do you know the name "Susan Atkins"? |
| | 3 | A Yes, I heard it. I believe I heard it. |
| ж | 4 | q In what connection? |
| | 5 · | A I believe it was a witness, wasn't it? |
| 3, | 6 | ? That's your best memory of it? |
| | 7 | A That's my best memory of it. |
| | 8 | Q That's all the Court is asking, your best memory |
| | 9 | of those news reports and what you may have heard. |
| | 1 0 · | Did you discuss the case occasionally with |
| | 11 | friends and relatives? |
| | 12 | A Yes. |
| | 13 | Q Do you know the name Shorty Shea? Had you heard |
| | 14 | it before the Court read it to you in the indictment? |
| | | |
| 5a | fis ¹⁵ | A Yes, I read about that. |
| 5a | fis 15 | |
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| · · · · · · · · · · · · · · · · · · · | <u>, 44</u> |
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| , Q . | What had you heard about that, heard seen or |
| read about | it? |
| | That he had disappeared, and then they couldn't |
| find him an | d they were charging Mr. Manson with the murder. |
| Q. | What about the name Hinman, Gary Hinman, the |
| musician Ga | ry Hinman? |
| λ | I heard about him, too. |
| . Q | What had you heard about that? |
| A | I heard when this other fellow I forget his |
| name was | charged and found guilty. |
| Q | Beausoleil? |
| A | Beausoleil, |
| • | Had you heard that Beausoleil was found guilty? |
| A. | Yes, sir. |
| Q (| Did you read the releases, news releases in |
| connection | with that case when Beausoleil was being tried? |
| A, | Just briefly, yes, I didn't even know that |
| Mr. Mahson | had any concern with that until they charged him |
| with it. I | thought Beausoleil was found guilty and that was |
| satisfied t | here. |
| • | Do you know the name Manson Family? |
| A , | Yes, sir. |
| • | What does that connote to you? |
| à. | Uh, Mr. Manson and his friends, his followers. |
| | |

Now, having in mind all that you have heard about

the Tate-La Bianca trial, about Mr. Manson, having in mind

prosecution of Mr. Beausoleil and all of these things that

what you've heard, seen or read in connection with the

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 you have mentioned, and any more that you may remember during the course of this trial, can you tell me that you are capable of being objective in setting aside any of these matters, setting aside any opinion that you might have formed for the purpose of making a judgment independently of those things — on any issue that you might be called upon to make, to decide upon in this case?

- A Yes, sir, I believe I could. I mean, I --
- A Well, the Court is not asking you to forget them, but the Court is asking you whether or not you can simply divorce your mind from them, discard them for from your mind for the purpose of making independent judgments on any issues that you may have to make a decision upon in this case.
 - A Yes, sir,
- What I am inquiring about or what we all want to know about, is first, whether you can do that?
 - A I'm pretty sure I can, sir.
- g We have to know more than that you are pretty sure. We have to know that you can do that, and that you, secondly, -- that you will do that.
 - A Well, yes, sir.
- You understand that if you allowed, for example, information concerning Beausoleil that you might have read to enter into your judgment in this case, if you are unable to separate those news articles that you may have heard, seen or read or any discussion that you may have heard, seen or read from the evidence in this case, that it would be very

concerning Mr. Manson and the previous trial?

A Uh, well, that this murder was committed and, uh, -- and by Mr. Manson's friends, and that it was supposedly proven that it was engineered by Manson.

- What was the result that you learned from the publicity concerning Mr. Manson?
- A I didn't follow the case that close. It was a lengthy thing, so when it first came out I would read.

 Now -- and I would listen to the radio. But after that, it seemed like -- I don't know, it took too long and I wasn't quite that interested in it.
- Q But do you know what the result was of the trial?

Like we're having a trial here.

- That's as far as I you know, I just I just read the paper, you know, saying they were found guilty of murder and I believe they all got the death penalty. I didn't like I say, it was such a lengthy trial that I didn't go from a day-to-day basis reading everything that was in the newspaper on it.
- O Do you know how many people allegedly passed away, died, in connection with what came before the Court in the Tate-La Bianca case?
- A I believe it was four or five. I'm not even sure of that. Like I say, it was --
- Q Yes, thank you, gir. Thank you wary much, Mr. Rico.

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Okay.

MR. KAY: I have no questions, your Honor,

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

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THE COURT: Yes, you may,

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

MR. KANAREK: Your Honor, I don't know if Mr. Kay knows of our ground rules in this connection, but in any event, I didn't want to -- Mr. Kay is new in connection with what we are doing here. But I do wish to challenge this juror, 1073, Subsection 2, because of the publicity.

THE COURT; Yes, and the Court denies the challenge.

The Court finds this man, although he does have knowledge of Mr. Manson in the Tate-La Bianca homicides and possibly some information in connection with the Hinman homicides and the Shea homicide --

MR. KANAREK: He used the word "engineered," your Honor, There is a conspiracy count in this case. It is just incredible ---

THE COURT: You mean in connection with the Tate La Bianca case?

MR. KANAREK: Yes, and Mr. Manson had --

MR. KAY: He also said under the Judge's voir dire and my voir dire he would only consider and concentrate on the evidence that came from the courtroom, and that he would disregard any rumors, newspapers, radio, anything else.

THE COURT: Although he has knowledge, the Court finds

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 that he's intelligent enough and capable enough of setting aside that knowledge and those opinions that he has formed. That he will do that. And, therefore, under 1076 he is an acceptable juror to the Court.

MR. KANAREK: Well, the language --

THE COURT: Court finds he would be fair and impartial in view of his --

MR. KAMAREK: We call the attention of the Court to the language of cases like Stein vs. New York, Bruton vs. United States, the Aranda case, where the gist of it is that exhortation by the Court does not accomplish the result. As a matter of fact, avoid the exhortation, the less the result. The more the Court grinds it into the juror's mind —

THE COURT: The Court realizes that all of us are operating under some difficulties because of the pretrial publicity, but each of us must make an effort to find jurors who can be objective, who can follow the Court's instructions, and it is my judgment that this juror is one of those who can be fair and impartial in spite of what he has learned. The challenge is denied,

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

THE COURT: Bring the jury panel back in, please.

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MR. KANAREK: Your Honor?

THE COURT: Yes.

MR. KANAREK: May it be possible to take the recess at this point?

THE GOURT: Yes, we'll take a short recess. We will recess until 11:00 o'clock.

MR. KANAREK: Thank you.

MR. KAY: Thank you, your Honor.

THE COURT: Mr. Rico, during the recess -- Mr. Rico?

-- don't converse amongst yourselves -- amongst your fellow
jurors, nor permit anyone to converse with you on any subject
connected with this matter.

Don't form or express any opinion on the matter until it is finally submitted to you.

We will recess until II: 30 o'clock.

And have all the jurors in at that time.

THE BAILIFF: Yes, sir.

(Midmorning recess.)

(Proceedings had on unrelated matters.)

THE COURT: The case of People vs. Manson. Mr. Manson is present. Mr. Kanarek is present. The jurors are in the box and beyond the rail.

Ladies and gentlemen, occasionally you will hear matters that the Court is handling and calling, discussing, other than the matter at trial. Nothing that you hear is to, in any way, enter into your judgment in making any decision that you will be called upon to make in this case.

Do you all understand that?

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THE PROSPECTIVE JURORS: Yes.

THE COURT: The next peremptory challenge is with the People.

MR. KAY: Thank you, your Honor. The People will thank and excuse Juror No. 7. Mr. Gardner.

Thank you, sir.

THE COURT: Thank you, Mr. Gardner.

MR. KANAREK: Thank you, Mr. Gardner.

MR. KAY: Thank you.

THE COURT: Room 253, forthwith, Mr. Gardner.

THE CLERK: Mrs. Carmen J. Reyes; C-a-r-m-e-n; last name, R-e-y-e-s.

VOIR DIRE EXAMINATION OF

MRS. CARMEN J. REYES

BY THE COURT:

Mrs. Reyes, were you present when the Court explained the nature of this case, and instructed the prospective jurors on some of the law involved, and talked to a prospective juror --

A Yes, sir.

Q -- and questioned that prospective juror?

A Yes, sir.

Q You were present during all of that?

A Yes, sir.

Q Andwould your answers be any different than the prospective juror responded to the questions of a general nature that I put to him?

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All right. Would it be any hardship to you to serve on this jury for a period of four months or longer?

A Well, in September, my son starts school again, and I would have to drive him back and forth. And that would create hardship.

Q How old is your son?

A Sixteen.

Is there any way that he could be transported?
Bus or by someone else, perhaps?

A Well, where we live, he goes to a private school, and only for the public school do they have a bus around there.

Q How far away is the private school?

A Four miles.

Q He in 16?

A Sixteen.

Q Does he have a bicycle?

A No, not right now, he doesn't. And they do require him to --

Q Has he ever gotten to school by himself?

A No. We have to drive him, because they have to carry books every single day. They're not allowed to leave any books in their locker, and it's quite a burden, to carry all those books.

Q And you can't at this time think of any way that you could handle that situation?

A Well, I was trying to, because I was called to serve around February; so then, I extended it till summer, when

6-4 I knew I could get out of it. And I can't find nobody that lives close by, 2 because I moved. 3 THE COURT: Gentlemen? MR. KAY: Your Honor, the People will stipulate that 5 that constitutes a hardship. 6 7 MR. KANAREK: Submit it, your Honor. 8 MR. KAY: Your Honor, may I ask just one or two questions? Thank you. 9 10 11 VOIR DIRE EXAMINATION 12 BY MR. KAY: Ma'am, are you married? Q A Yes. 15 And is there any possibility that your husband 16 could take your son to school? 17 My husband starts work at 4:30 or 5:30 in the Ă 18 morning, and --Your son doesn't like to get up at that time? Q 7 fls. À (Laughing.) 23 26 27 28

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ľ am. 1 Teacher's aid I'm supposed to go in September. 2 hate to lose my chance because I've been on the waiting list 3. for about a year. 4 Do you believe you will lose your chance to be * 5 teacher's aid in the event you are selected as a juror? 6. Yes, because they need -- they'll just take it 7 8 from the list, whoever comes after me. Does it mean more money to you to become a Q teacher's aid? 10 11 Oh, yes. I'll have more hours. 12 And would it be a considerable advancement in money or --Yes, because I've been in a hole since last year. A I had a \$7,000 loss on my home and I have to pay for my son's 15 16 school You have to pay for his attendance? Á Uh-huh. He goes to private school. 19. Well, are you -- do you know, are you fairly 20 certain of receiving this advancement if you are available? 21 Yes. 22 MR. KAY: May we approach the bench momentarily, your 23 Honor? 24 THE COURT: Yes, you may. MR. KAY: Thank you, 26 (Whereupon, the following proceedings were had 27 at the bench among Court and counsel, outside the 28 hearing of the prospective jurors:)

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MR. KAY: I was just wondering with this juror, your Honor, if there was any possibility of having her get in touch with her employer and find out for sure whether or not that this would affect the hunch that they would pass her over. It might be with the School District they would feel that jury service is important enough that they wouldn't pass her over. So maybe if she could check this afternoon or something like that.

THE COURT: Well, she seemed -- she has waited for a year and she seems to have the feeling that if she were not available she would be passed over. She has apparently founded it on some information that she has with the job in the School District. I don't know how far the Court should go in requiring people to check and it may be, now that the school is in vacation, that it would be difficult for her to find that out in any event.

MR. KAY: Well, I know my wife is a teacher and it is pretty hard to get jobs in the schools right now, so I can sympathize with this juror.

THE COURT: Do you have any comment on it?

MR. KANAREK: No, I have no comment, your Honor.

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

THE COURT: Would the People stipulate that this is a hardship?

MR. KAY: Yes, your Honor.

THE COURT: The defendant?

MR. KANAREK: Yes, your Honor. 1 THE COURT: These people have stipulated in view of your 2 circumstance that they will excuse you, and the Court joins in 3 that and you are excused. 4 JUROR NO. 7: Thank you. 5 Thank you, Mrs. Reyes. MR. KANAREK: 6 7 MR. KAY: Thank you very much. 8 JUROR NO. 7: Thank you. 9 THE COURT: Room 253, Mrs. Reyes. 10 THE CLERK: Sarina Halabe, S-a-r-i-n-a, last name, 11 H-a-1-a-b-e. 12 THE COURT: Thank you, Mr. Lowe. 13 14 VOIR DIRE EXAMINATION OF 15 SARINA HALABE 16 BY THE COURT: 17 Would you state your name for us, please? Q 18 Sarina Halabe. 19 . Halabe. Q20 Miss Halabe, or Mrs. Halabe, would you -- would 21 your answers be the same as the answers of the prospective 22 jurors to the -- of the prospective juror to the questions of 23 a general nature put to them? 24 Uh, I don't think so. You were present when I explained the nature of 26 this case and when I questioned the jurors, is that correct? 27 Yes. A 28 In what respect would your answers vary to the Q

| 1. | general questions? |
|----|---|
| 2 | A Well, I had a lot of violence in my life and I |
| 3 | won't be fair and impartial. |
| 4 | You mean by that that you have been the victim of |
| 5 | a violent crime? |
| 6 | A Yes. |
| 7 | Q Would that affect your judgment in this case? |
| .8 | A I think it would be. I couldn't be impartial or |
| 9 | fair. |
| 10 | Q You believe that it would be too difficult for you |
| 11 | to be a juror in a case involving a crime of alleged crime |
| 12 | of violence? |
| 13 | A Yes, definitely. |
| 14 | Q So that you could not be fair and impartial to a |
| 15 | defendant who is accused of a crime? |
| 16 | A Yes, sir. |
| 17 | Q You understand the indictment that I have in my |
| 18 | hand here and that I read to you or paraphrased to you is |
| 19 | simply a means of bringing the matter to the attention of the |
| 20 | jury and the Court and it is not evidence? |
| 21 | A Yes, I understand. |
| 22 | Q But, nevertheless, in view of your background, |
| 23 | and knowing what you know about it, you believe that you cannot |
| 24 | be fair and impartial? |
| 25 | A Yes, sir. |
| 26 | THE COURT: Any questions, gentlemen? |
| 27 | MR. KAMAKEK: I have no questions, your Honor. |
| 28 | THE COURT: Any challenge? |

MR. KANAREK: Oh, yes, we will. I think it would be unfair to this lady to ask her to sit. 107 -- yes, sir.

THE COURT: The Court grants the challenge. Thank you very much, Mrs. Halabe. The Court -- the Court will excuse you.

MR. KANAREK: Thank you, Mrs. Halabe.

MR. KAY: Thank you, ma'am.

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JUROR NO. 1: Lady, you forgot your purse.

THE COURT: Select another name, then, would you?

THE CLERK: Miss Barbara Miller; M-i-l-l-e-r.

VOIR DIRE EXAMINATION

OF MISS BARBARA MILLER

BY THE COURT:

- Miss Miller, have you been present during all the proceedings since the Court explained the nature of this case, explained some of the law in connection with it, and questioned the prospective juror?
 - A Yes, I have.
- Q Would your answers be any different than he responded to the questions of a general nature that I put to him?
 - A Not that I can remember, sir.
- And would it be any hardship to you, were you required to serve as a juror in this case?
 - & Yes, sir, it would.
 - Would you explain that to us?
- A Yes. In August, I will be starting to take a class during the day, at Long Beach State. This will be the last time this class is offered,

If I don't take this class now, I will be forced to take eight units that I do not need at all towards my degree.

- What type of degree are you working toward?
- A Psychology, sir, with a credential.

| A. | A two-year-old, |
|--------------|---|
| · Q | I see. |
| A, . | And in the case of being sequestered, I wouldn't |
| have anyone | to keep her. Because I have no relatives hers. |
| ۵ | Where is the mother of the child? |
| X. | She's in New Orleans. |
| Ω. | In where? |
| λ. | New Orleans. |
| Q · | Is she living there; is that it? |
| * | Yes. |
| Q. H | low old is the mother? |
| λ. | 19. |
| Q. | Well, is she unable to care for the child? |
| A. | No, she isn't. She's going to school. |
| Q. | Well, if she's not unable to care for the child, |
| why don't y | ou arrange to have the child cared for by her mother? |
| A | Well, her mother's 2200 miles from her. I can't |
| arrange for | tit. |
| Ø. | Well, that's what I want to know, Why couldn't |
| you? | |
| . | Do you mean to send the child back to her mother? |
| Q | Why can't that be done? |
| 1. | Because she's going to school, That's her purpose |
| for being t | there |
| Q - (| So your daughter is attending a school in New |
| Orlgans, wi | nile you are caring for her child? |
| | Yes. |
| | |

| a-1 | 1 | Q How long have you been doing that? |
|------------|-----|---|
| | 2 | A About a year. |
| | 3 | Q Is your daughter currently attending school now? |
| • | 4 | A Yes, she is. |
| | 5 | She is currently enrolled in class there in New |
| * | 6 | Orleans? |
| | 7 | A Do you mean this summer? |
| • | 8 | Q Yes. |
| | 9 . | A No, she's working. She will be in September. |
| | 10 | Q Is there any other person who could care for the |
| | 11 | child at all? Any other |
| | 12 | A I have no relatives here. |
| | 13 | Q Any other relative? |
| . . | 14 | A Where? |
| | 15 | Q In California. |
| • | 16 | A I have no relatives here. |
| | 17. |) How about in New Orleans? |
| | 18 | A No. Well, my mother. She's 71 years old. |
| | 19 | THE COURT: Counsel? |
| | 20 | MR. KAY: The People will stipulate that that consti- |
| | 21 | tutes a bardship for this juror, your Honor. |
| | 22 | MR. KANAREK: No, your Honor. I make a motion that the |
| | 23 | County take care of this little girl. There's no reason in |
| | 24 | the world why this little girl could why we should be deprive |
| è | 25 | of the abilities of this lady as a juror, and and the |
| | 26 | expense would be very nominal, compared to other expenses |
| * | 27 | involved in |
| | 28 | Q BY THE COURT: Are you willing to do that, |

| 1 | Mrs. Lazard? Have |
|-----------|---|
| 2 | A No, I'm not. |
| 3 | Q someone else care for your child? |
| 4 | A No. I have a baby sitter that keeps her every |
| 5 | day for eight hours. And I take care of her the rest of the |
| 6 | time. |
| 7 | Q And Mr. Kanarek's proposel is that the County pay |
| 8 | for the baby sitter. |
| 9 | A I don't care for the County doing anything like |
| 10 | that. I have a job, and I don't want the County to pay |
| 11 | anything for mc. I pay for the baby sitter, and I wouldn't |
| 12 | like to have her - to have anybody else take care of her. |
| 13. | You know, after the eight hours, I prefer to do |
| 14 | it. |
| 15 | MR. KANAREK: May I ask a question or two, your Honor? |
| 16 | THE COURT: Yes, you may. |
| 17 | |
| 18 | VOIR DIRE EXAMINATION |
| 19 | BY MR. KANAREK: |
| 20 | Q May I ask you, at the present time, you are paying |
| 21 | a baby sitter like for right now? |
| 22 | A Yes, every day. |
| 23 | Q Now, if |
| 24 | THE COURT: That's in order to serve as a juror? |
| .25 | JUROR NO. 7: No. no. Because I work. |
| 26 | THE COURT: You work during the day? |
| 27 | JUROR NO. 7: Yes. |
| 28 | 9 BY IR. KANAREK: Well, may I ask by whom are you |

| ļ | employed? |
|-----|---|
| 2 | A L. A. County. Department of Public Social |
| 3 | Services. |
| 4 | Oh. The same the same organization |
| 5 | A Yes. |
| 6 | Q that Mrs. Loudd |
| 7 | A The same building. |
| ,8 | Q that Mrs. Loudd works? |
| 9 | A Yes |
| 10 | Now, if if the County took care of the baby |
| n | sitting problem during for a period of time beyond the time |
| 12 | of the normal jury service, while this case was in progress, |
| 13 | would that be agreeable with you |
| 14 | A No. My purpose is this: I would not like if |
| 15 | I was locked up, then somebody else would have to take care |
| 16 | of the child, and that means she would have to be taken care |
| 17 | of by a baby sitter eight hours, and then by somebody else |
| 18 | after the time. |
| 19 | Q Oh. |
| 20 | THE COURT: All right. |
| 21 | S BY MR. KANAREK: The chance of |
| 22 | THE COURT: Let's don't pursue that, Mr. Kenarek. |
| 23. | The motion is denied, to have the County pay for |
| .24 | the child care. |
| 25 | Is there a Mr. Lazard? |
| 26 | JUROR NO. 7: No. It's just me and the child. |
| 27 | THE COURT: All right. Well, the Court does not |
| 28 | anticipate that you would be sequestered, but something might |

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impel the Court to sequester this jury. It's unlikely, but it could happen.

And you would be sequestered for some period of time, during deliberations, it appears to the Court. So I do find that it is a hardship to you, and I will excuse you.

JUROR NO. 7: Thank you.

THE COURT: Do you have any time left on jury duty?

JUROR NO. 7: Yes, I have.

THE COURT: All right. Room 253, then, forthwith.

MR. KANAPEK: Your Honor, may I --

THE COURT: Or at 1:30.

MR. KANAREK: Your Honor, I wonder if I might approach the bench briefly, your Honor?

THE COURT: Yes, you may.

MR. KANAREK: Thank you.

THE COURT: Do you wish the reporter?

MR. KANAREK: Yes, your Honor.

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THE COURT: Call another name, would you? THE CLERK: Edwards H. Bateups; E-d-w-a-r-d-s;

last name, B-a-t-e-u-p-s.

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

MR. KANAREK: Your Honor, I want the record clearly to reflect that this discharge is over the -- I just want to make it abundantly clear that this is over the objection, over my objection, and I allege that it's -- this lady being of the black or Negro race, it's a violation of equal protection. on two grounds -- not only because of her race, but also because of an arbitrary decision, predicated upon facts which we suggest do not constitute a grounds for a -- for discharging her from jury service.

She's actually in the same building, the DPSS, the Department of Public Social Services; works for the same organization as Mrs. Loudd.

And it's our position that this is -- this denies the -- the discharge of this potential juror denies Mr. Manson a fair trial.

And I ask for a mis-trial on that ground, on what the Court has done in connection with this juror over objection.

THE COURT: Well, the Court could see that this juror was very much emotionally involved with the welfare of her grandchild. It would appear to the Court that this prospective juror would be considerably disturbed, if she were

sitter.

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required to serve as a juror. She seemed very emotional about the problem.

I believe that it would be a hardship for her.

And the Court has no reason at this time to reverse its ruling.

The motion is denied.

MR, KANARPK: She's -- my -- I might point out to the Court, your Monor, she's actually serving on jury duty under the very same circumstances now, with the child with a baby sitter

THE COURT: Oh, she ---

MR. KAY: She is not going to be sequentered now,

THE COURT: She is not going to be sequestered. If she were going to be sequestered and had any warning of it, in the course of a 20 or a 30-day service, I suppose that most judges would release her.

But there is a possibility of sequestration in this case; and because of that possibility, I excused her.

MR. KANAREK: I might point out -- very well, your Honor. I do oppose this discharge.

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

VOIR DIRE EXAMINATION
OF EDWARD H. BATEUPS

BY THE COURT:

A Mr. Batsups, were you present during the Court's explanation of this case, the Court's instructions to the

| 1 | Q Tell us about that. |
|-----------|---|
| 2 | A Well, I'm taking up a course in electronic |
| 3 | technology at Compton Junior College. |
| 4 | Q Night school or |
| 5 | A. Uh, both, sometimes, day and night. |
| 6 | Where do you work? |
| 7 | A I work for the Veteran Administration Hospital, |
| 8, | Long Beach, California, |
| 9 | And you attenu school at night, generally? |
| 10 | A Sometime in the day, it depends. |
| 11 | Q This course you intend to take, it is a night |
| 12 | course? |
| 13 | a. Some are both, night and day, |
| 14 | Q How many units would you be taking? |
| 15 | A This semester? |
| 16 | Q This coming semester. |
| 17 | A Fossibly 12. |
| 18 | Q While you're working? |
| 19 | A Yes. |
| 20 | Q How would you find time during the day to do that? |
| 21 | Would your job accommodate you in that way? |
| 22 | A Yes, it would. |
| 23. | Q Have you encolled yet? |
| 24 | A No, I haven't, I took off during the summer so I |
| 25 | could come and serve this jury duty. They said that I would |
| 26 | have to serve a month. They let me off because I was going to |
| 27 | school. |
| 28 | Q And the course that you want to take is what? |

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THE COURT: All right, the Court finds it would constitute a hardship, then, and does excuse you, Mr. Bateups. Thank you very much for serving as a juror, particularly under those circumstances.

Report to Room 253, would you, please?

JUROR NO. 7: Yes, sir.

MR. KANAREK: Thank you, Mr. Bateups.

MR. KAY: Thank you, sir.

THE CLERK: Mrs. Helen N. Grumbley, G-r-u-m-b-1-e-y.

VOIR DIRE EXAMINATION

OF MRS. HELEN N. GRUMBLEY

BY THE COURT:

- Mrs. Grumbley, you were present during the Court's explanation of the nature of this case and the Court's questioning of a prospective juror?
 - A Yes, I was.
- And would your answers be any different than you responded to the questions of a general nature?
 - A No.
- Now, would there be any hardship to you to serve as a juror in this case?
 - A Perhaps not hardship, but an inconveniencs.
 - Q What would be the problem?
- A Well, my job. I would be paid, but I have a fairly responsible job and -
 - o With whom?

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A. I'm with Glendale College. I am a secretary to one of the deans and really the job entails more than that. It is more of an office manager type job, because there are others in the office under my direction.

I assumed this jury stint after postponement because -- it is not really good in the summer either, but it is better than during the school year.

- 9 You work all year-round?
- A I work 12 months. Our office, our department --we're in the evening -- we have the evening school and our
 department offers classes all but three weeks of the entire
 school year.

I've been on the job a long time and I do carry a lot of responsibility when the Dean isn't in.

Also, I have a 12-year-old daughter, who, of course, I've always made arrangements for, for after-school hours, but I've also been in a position wherein any kind of an emergency situation I am available within 15 or 20 minutes, you know, getting from school to where I might need to go to here. And I have an elderly father who lives alone, who is 90. I haven't had any problems, but these things are always on your mind.

- Q Are you asking to be excused or would you be willing to undergo --
- A Yes, I think I am asking to be. I do feel -- I really feel a tremendous sense of responsibility to my job.

| 9a-1 | 1 | Q It is mainly because of your job and not because |
|---|-----|---|
| | ź | of your daughter? |
| | 3 | A Right, right, That was an added |
| k , | 4 | Q Well, I think that in view of what you have told |
| | 5 | me that I will simply regrettably, however, ask Glendale |
| * | 6 | College to get along without you for a while. |
| | 7 ' | A I'm sure they can't. |
| | .8 | I really wasn't trying to imply that they couldn't. |
| | 9 | They'd just have to vacate the buildings, right? |
| | 10 | A No, no, not this time. |
| , | 11 | Q Well, it may be there when you get back, if you |
| , | 12 | should be selected. I hope it is. |
| | 13 | Have you served as a juror before? |
| _ | 14 | A No, I have not. |
| | 15 | Are you related to or a friend of any law enforce- |
| • | 16 | ment officer? |
| a | 17 | A Not related to. Businesswise, business |
| | 18 | acquaintances. We have several police officers who are on |
| | 19 | our extended day staff, LAPD. One is. |
| | 20. | Q They instruct in police science? |
| | `21 | A One is a part-time coordinator who works regularly |
| | 22 | out of the office. |
| • | 23 | Q Would you describe them as acquaintances or |
| | 24 | friends? |
| , to the state of | 25 | A Well, acquaintances. First name acquaintances. |
| _ | 26 | Q I see. Would that affect your judgment in this |
| .# | 27 | case, however? |
| | 28 | A No. it would not. |

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| 0a-2 | 1 | o Have you ever studied law? |
|) . | 2 | A No, I have not. |
| | 3 | And is there a Mr. Grumbley? |
| | 4 | A Yes. |
| . | 5 | Q What's his employment? |
| # | 6 | A He's a mechanic at Lockheed. |
| | 7 | Q In what general area do you and he reside? |
| | 8 | A Northwest. The Atwater area, adjacent to Glendale. |
| | 9 | o In connection with the death penalty, do you have |
| | 10 | such views concerning it that you could not be fair and |
| | 11 | impartial in determining the question of guilt or innocence? |
| | 12 | A No. |
| , | . 13 | O Do you have such views concerning the death penalty |
| | . 14 | that you would automatically refuse to impose it regardless |
| | 15 | of the evidence that might be produced? |
| * | 16 | A This I don't know. I have mixed feelings about |
| | 17 | the death penalty. I I I can't really answer it. |
| د | 18 | Q Are your views concerning the death penalty such |
| | 19 | that you could never impose it regardless of the evidence? |
| • | 20 | A I would have to enswer I don't know to that, too. |
| | 21 | I really don't. |
| | 22 | Q Well, on the other side, would your views |
| | 23 | concerning the death penalty be such that upon a conviction of |
| | 24 | murder of the first degree that you would automatically impose |
| , e . | 25 | ft? |
| | 26 | A No. No. sir. |
| · | 27 | Q. Are your views such about the death penalty that |
| | 28 ′ ′ | you would refuse to consider it regardless of the evidence, |

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refuse to even consider the death penalty regardless of the evidence?

A No. I don't suppose I would refuse to consider it.

You would look at the evidence to make a determination whether in your judgment and your sole discretion the defendant, if he were convicted of murder of the first degree, should suffer life imprisonment or death?

A I would try.

now, can you think offined of any reason whatever as to why you couldn't be fair and impartial in the case?

A No. sir.

For the next few minutes we'll question you concerning your knowledge of publicity, pretrial publicity concerning this and another case involving Mr. Manson. And in that connection, then, we'll ask you to remain while the others leave.

And, ladies and gentlemen, the Court will order you to return at 1:45.

You are admonished that you are not to converse amongst yourselves or with anyone else or permit anyone to converse with you on any subject connected with this matter until it may finally be submitted to you. You may be back in the box at 1:45, if you would.

(Whereupon, all of the prospective jurors with the exception of Mrs. Grumbley retire from the courtroom.)

(Whereupon, an unrelated matter was called and heard before the Court.)

| 1 | BY THE COURT: |
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| 2 | Q Mrs. Grumbley, now that the other prospective |
| \$ | jurors have left the courtroom, the Court wanted to ask |
| 4 | you if you had previously heard, read or seen anything about |
| 5 | this case or any other case that Mr. Manson was connected |
| 6 | with? |
| 7 | A Yes, sir. |
| 8 | Q Was that in connection with this case or |
| 9 | some other case? |
| 10 | A Uh. |
| 11 | Q That you heard, seen or read |
| 12 | A Both. |
| 13 | Q Both. |
| 14 | That you heard, seen or read about Mr. Manson |
| 15 | in connection with the Sharon Tate killings, the La Bianca |
| 16 | killing? |
| 17 | A Yes, sir. |
| 18 | Q And did you follow that case more or less |
| 19 | regularly? |
| 20 | A No. 110 |
| 21 | Q In any of the media? |
| 22 | A No, not you mean daily, weekly? |
| 23: | Q Yes. |
| 24 | Just happen to haphazardly |
| 25 | A Yes, just haphazardly, a headline-type thing, |
| 26. | reading it every so often. |
| 27 | Q Do you know the results of that case? |
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| 1 | A Yes, I do. |
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| 2 | What is your best remembrance of the results of |
| 3 | that case? |
| 4 | A That the defendants were proved guilty. I believe |
| 5 | it was first degree. |
| 6 | Q Do you remember the penalty? |
| 7 | A The death penalty. |
| 8 . | Q Do you know whether had you ever heard the |
| 9. | name Shorty Shea before you came into this courtroom? |
| 10 | A I think so, yes. |
| 11 | Q Had you heard the name oh, excuse me, in what |
| 12. | connection had you heard the name Shorty Shea? |
| 13 | A . Uh, someone I think that worked had been at |
| 14 | the ranch where they lived. |
| 15 | Q Had you heard anything more that you can recall? |
| 16 | A Yes, the fact that he was missing and thought |
| 17 | perhaps had some bearing on the fact that he might have been |
| 18 | responsible. |
| 19 | Q How about the name Gary Hinman, had you heard |
| 20 | that? |
| 21 | A Yes. |
| 22 | Q In what connection? |
| 23 ° | A I'm confused on that because I I there was |
| 25 | a very little I believe he was murdered in his home. This |
| 26 | is really about all I or found dead in his home. I don't |
| .27 | really remember much about that. |
| 28 | Q Susan Atkins; do you remember that name? |
| | A Yes, one of the defendants of the former trial. |

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| Q | Had you | heard | during | the c | course | of | the | trial | that |
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| the Preside | at of th | e Unit | ed S tat | e mac | de some | a si | ater | ent i | 2. |
| connection | with the | trial | or with | ı Mr. | Mansor | 17 | | | |

A Yes, sir.

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 Did you form any opinion in connection with whether ne was right or wrong in his judgment of the case, as well as to the propriety of making a statement?

- A The question was: Did I form an opinion?
- Q Yes.
- A No.

Do you think, having heard, seen or read this publicity from time to time, that you could set aside those facts that you might have learned, for the purpose of making an independent judgment? That is, a judgment independent of those matters, based upon the evidence in this case, and the Court's instructions of law?

- A I -- I've never been a juror, as I told you, and I -- I have had no experience. But I would think that I could.
- We are interested in ascertaining whether you can, without doubt, set aside anything you might have heard, seen, or read, any opinion that you might have formed, provious to this time, from any publicity media, or from any discussion that you might have had with anyone, and decide this case --- or, any of the issues that might be presented in this case --- independently of such matters.

The question is whether or not you can; and, secondly, whether or not you will. And of course, if you could not — if you were doubtful at all about it, it would be incumbent upon the Court to determine that you should not sit in this case, because the Court wants to be certain that anyone who sits on this jury can set aside — not necessarily forget, but set aside — those matters that he or she may have

| 1 | heard, seen or read before. |
|-------------|---|
| 2 | A Well, I understand that. And I want to be fair |
| 3 | myself. |
| 4 | Q Yes. |
| 5 | A But I feel it's difficult to answer, when you've |
| 6 | never been in any such position in your life, |
| 7 | When you have never done |
| 8 | A really, where you have had to set aside things |
| 9 | and I I think I could. I think I could follow |
| 10, | instructions and do that. |
| 11 | And that's the best I can say to you, in all |
| 12 | fairness. |
| 13 | Q I judge there's a tinge of uncertainty in your |
| 14 | mind, however? |
| 15 | A Yes, there is. |
| 16 | Q You don't know whether, in deliberations on some |
| 17 | issue or other, in the course of the case, you might allow |
| 18 | something that you had heard, seen or read to enter into your |
| 19 | mind; is that correct? |
| 20 | A Right, And right now, I am trying to set aside |
| 21 | the feeling that I really as I told you was asking to be |
| 22 | excused; letting that influence me in my answers. I am |
| 23 . | trying to be |
| 24 | Q I understand that. |
| 25 · | A to put this into operation right now. |
| 26 | Q I think that you are making a that you have |
| 27 | made a sincere and successful effort, in that you are being |

objective about your ability, and that you are being objective Ì about your answers. MR. KANAREK: 1073, Subsection 2, your Honor, 3 4 THE COURT: All right. The Court will grant the challenge 5 for cause. The Court must excuse you, because it is not certain that you could discard such matters as you may have 7 8 heard, seen, or read, or such opinions as you may have formed, 9 for the purpose of being a juror in this case. 10 But the Court thanks you nevertheless, and --11 JUROR NO. 7: Thank you. 12 THE COURT: -- you are excused. And you are to report 13 to Room 253 ---14 MR. KANAREK: Thank you, Mrs. Grumbley. 15 THE COURT: -- at 1:30. 16 MR. KAY: Thank you, ma'am, 17 THE COURT: 1:45. We are in recess until then. 18 MR. KAY: Thank you, your Honor, 19 (Whereupon, at 12:01 p.m., an adjournment was 20 taken until 1:45 p.m. of the same day.) 21 22 23 24 25 26 27 28

LOS ANGELES, CALIFORNIA, WEDNESDAY, JULY 7, 1971 2:10 P.M.

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(Whereupon, Mr. Kay was not present for the afternoon session. Mr. Hanzella was present.)

THE COURT: Ladies and gentlemen, as I've told you before, occasionally you will hear other matters that arise before this Court. You are not in may way to allow such matters to enter into any decision that you must make in the course of this case before the Court.

The record will show Mr. Manson to be present with Mr. Kanarck. The prospective jurors are in the jury box and beyond the rail.

I think that one juxor had just been excused and we were about to select another.

There are two jurors, Ann Johnson and Emma D.

Ford who are amongst the jurors who are prospective jurors -amongst the prospective jurors, rather, in the courtroom.

Would you ladies stand?

Have you previously been excused from this trial?
Mrs. Ford, you have been?

MRS. FORD: Yes, I have.

THE COURT: And Miss Johnson?

MISS JOHNSON: Yes.

THE COURT: All right, you two ladies, then, are excused at this time, and you need not wait at this time. You are excused and you may report back to Room 253, and thank you for coming again.

| 1 | THE CLERK: Marion T. Surr, M-s-r-i-g-n, last name, |
|------|---|
| 2 | S-u-r-r. |
| 3 | THE COURT: This is from the previous panel, is it? |
| 4 | THE CLERK: Yes. |
| 5 | |
| 6. | VOIR DIRE EXAMINATION OF |
| 7 | MARION T. SURR |
| 8 | BY THE COURT: |
| 9 | Q Mrs. Surr, were you present when the Court |
| 10 | explained the nature of this case to the prospective jurous, |
| 11 | and when the Court instructed on the law in part concerning the |
| 12 | case and also maked questions of a prospective juror in |
| 13 | connection with the case? |
| 14 | A Yes, sir. |
| 15 | Q Would your answers be any different to the |
| 16 | general questions put to that prespective juror? |
| 17 | À No, sir. |
| 18 | THE COURT: Mr. Stegall, would you hand that microphone |
| 19 | back to Mrs. Surr. Check it to see if you need to flip the |
| 20 | button. |
| 21, | JURON NO. 7: Now, I think it is all right. |
| 22 | THE COURT: Fine. |
| 23 | If you could keep it close to your mouth and when |
| 24 | it picks up, you'll hear it. |
| 25 | Q BY THE COURT: I didn't hear your response. |
| 26 | Would your answers be the same? |
| 27 1 | A Oh, yes, sir. |
| 28 | Q Would it be any hardship for you to serve |
| | |

| 1 | for a period of four mon this triel? |
|-----------|---|
| 2 | A Yes, sir. I'm afraid it would be. |
| 3 | Would you spell out for us what that hardship |
| 4 | would be? |
| 5 | MR. KAYAREK. Your Honor, may we approach the benefit |
| 6 | THE COURT: No. you may not |
| 7 | A Well, currently I am imemployed, and I have been |
| 8 | since March 31st. But I have an offer of a very good job, |
| ور. | one I would zeally like to take starting about the first of |
| 10 | September. And I must be available. |
| 13. | Q You are employed at this moment, is that right? |
| 12 | A Yes, sir, |
| 13 | Q And you have been looking for a job? |
| 14 | A Yes, sir, in my line, wh-high. |
| 15 | Q Now you have learned of one? |
| 16 | A Yes, sir. It starts about September 1st. |
| 17 | Q Have you interviewed for the job? |
| 18 | A Oh, yes, sir. Yes, sir. |
| 19 | Q Interviewed and you've been hired? |
| 20 | A If I am available at that time. |
| 21 | O I see. They will it is your judgment that they |
| 22 | will not hold it for you in the event if you should serve? |
| 23 | A I'm afraid not. |
| 24 | Q What type of work is it? |
| 25 | A. It would be a telent coordinator in the radio |
| 26 | and television division of the Musicians Union. |
| 27 | Q And it will be available to you the first of this |
| 28 | month? |
| | · · · · · · · · · · · · · · · · · · · |

| • | 1 | A The first of this it will be available to me |
|--------|------------|--|
| · } | 2 | around the last of August or the first of September. I'm |
| • | 3 , | not just too sure about the time. |
| 5 | 4. | Q I see. |
| | . 5 | THE COURT: Do either of you gentlemen have any question |
| F | 6 | MR. MANZELLA: No, the People stipulate it constitutes |
| | 7 | a hardship. |
| | 8 | THE COURT: Any questions? |
| | 9 | MR. KANAREK: No. your Honor. We'll submit it. |
| | 10 | THE COURT: The Court finds it would be a hardship. |
| | n'. | Incidentally, do you need the money from this |
| | . 12 | employment to support yourself? |
| | 13 | JUROR NO. 7: Well, I am the major wage-earner. My |
| | 14 | husband is retired. |
| } | 15 | THE COURT: I see. You are the major wage-earner in |
| • | 16 | the family? |
| | 17 | JUROR NO. 7: Yes, sir. |
| • | 18. | THE COURT: The Court finds it is a hardship you should |
| | 19: | not be required to endure and so the Court excuses you. |
| | 20. | JUROR NO. 7: Thank you. |
| 1.2 | fls. 21 | THE COURT: Thank you. |
| | 22 | |
| | 23 | |
| | 24 | |
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12-1 THE COURT: Call another name. 1 How many are left from the morning group? 2 THE CLURK; Five. 3 THE COURT: All right, Go ahead. 4 THE CLERK! Miss Jo Epalding; that's J-o; last name. 5 S-p-a-1-d-i-n-q. 6 7 VOIR DIRE EXAMINATION 8 OF MISS JO SPALDING 9 DY THE COURT: 10 Mrs. Spalding, you have been present during all \mathbf{n} the proceedings thus far, since the Court explained the nature 12 of this case, and questioned the prospective jurors? 13 Yes, I have. 14 Would your answers he any different than his 15 answers to the majority of the questions put to him, of a 16 general nature? 17 18 No, they wouldn't. Would it be any hardship to you to serve on this 19 jury? 20 Well, I would think so, your Honor. 21 Q ... In what way? 22 Well, I am presently under the doctor's care; and 23 if I would have to be -- you know, on the jury for any length of time, I --

Keep your voice up; would you?

you know, treatments that I have to have from the doctor.

I wouldn't be able -- you know, to take my --

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1 2 3 THE COURT: That it would help her? MR. KANAREK: Yes, your Honor. 6 7 8 BY THE COURT: 10 11 you'd be in pain; is that correct? 12 Yes, it is possible. 18 14 15 waiting to be called, have you not? 16 17 know, in real bad pain. 18 19 20 21 22 23 24 25 26 27 28

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THE COURT: You would oppose her being excused? MR. KANAREK: She indicates that, by having -- by having from time to time a recess, that it may alleviate it; THE COURT: Yes, the Court heard that. FURTHER VOIR DIRE EXAMINATION However, Mrs. Spalding, at the conclusion of an hour, sometimes just before the recess, it's quite possible And you experience that pain, as you have told us, during the time that you have been out there beyond the rail, Yes. Priday was my first day that I was -- you

| | 1 | | |
|------------|-----------|---------------------------------------|--|
| L2a-1 | 1 | Ŋ, | And it was sufficient pain, even though there were |
| | 2 | recesses fr | om time to time during the morning, that you could |
| | 3 | not concent | rate? |
| | 4 | A | Well |
| | 5 | . Q. | Was that the case? |
| ? | 6 | A | I you know, I could concentrate. But I was in |
| | 7 | a great des | l of misery. |
| | 8 | ß | So that were you able to devote your full |
| | 9, ` | attention t | o what was going on in court? |
| | 10 | · A | Yes, I was. |
| | 11 | 3 | And you think, then, that you would not thereby |
| | 12 | be caused t | o divert your attention from what's going on in |
| | 13 | court, beca | use of this ailment? |
| _ | 14 | . A | I wouldn't think so. |
| | 15 | ଦ | Well, I misunderstood your first remarks, then. |
| * | 16 | | Have you had jury experience before? |
| T . | 17 | · A | No, I haven't. |
| • | 18 | Q | What type of work do you do? |
| | 19 | A | I draw assistance from the County. |
| | 20 | Q | You draw |
| | 21 | A | Aid from the County. |
| • | 22 | Q | Aid from the County? |
| | 23 | A | Yes. I'm unemployed. |
| • | 24 | Q | And have you ever been employed? |
| સ | . 25 | A | Yes, I have. |
| | 26 | Q | What was the last employment you had? |
| | 27 | A | It's been about oh, three years ago. |
| | 28 | \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ | Throp years son? |

| 1 | A Ves. |
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| 2 | Q What was the nature of that employment? |
| 3 | A Well, it's a nurse's aid, convalencent hospital. |
| 4 | Spa convalescent. |
| 5 | Q Are you related to or a friend of any law |
| 6 | enforcement officer? |
| 7 | A No. I am not. |
| 8 | Q Is there a Mr. Spalding? |
| 9 | A No, there isn't. |
| 10 | Q In what general area do you reside? |
| ĬĮ, | A South Central Los Angeles. |
| 12 | And do you know of any reason why you couldn't be |
| 13 | fair and impartial in this case? |
| 14 | A No, I do not. |
| 15 | 2 Is there any other cause for hardship that you |
| 16 | can think of? Would you suffer any financial or personal |
| 17 | hardship in any way, were you caused to serve here for four |
| 18 | months? |
| 19 | A No. |
| 20 | a And your medical problem, so long as it receives |
| 21 | treatment, you believe will not in any way divert your |
| 22 | attention from this trial? |
| 23 | A No. |
| 24 | o All right. You heard the Court's explanation of |
| 25 | the law concerning the penalty phase in this case? |
| 26 | A Yes, sir, I have. |
| 27 | Q Are your views concerning the death penalty such |
| 28 | that you would not, by reason of those views, be able to be |

FURTHER VOIR DIRE EXAMINATION 1 BY MR. KANAREK: 2 Is it Mrs. Spalding? Q. 3 A Miss. Miss Spalding. 0 A Miss. 6 Q. Miss Spalding. 7 Now, for instance, if I -- that kind of mistake. you are not going to use that to decide this case? 9 A No. 10 11 Right? That's right. 12 Okay. Now, directing your attention to -- Miss 13 Spalding, to your experiences in life, and the fact that you 14 are of the black or Negro race, is there any reason that you 15 believe that you couldn't be fair and impartial in this case. 16 in this sense? 17 That just because someone is white, you don't 18 believe that everything that they speak is gospel truth? 19 20 A Well, no. Hardly; right? 21 Ą A Right. 23 QAnd so is it a fair statement that -- that, regardless of the race of the person that you may be in the 25 jury room with, that you will maintain your position, as long as you think it's correct and honest, and you will not 26 27 change your position just because someone who is white tells 28 you that something in their opinion is thus and so? No, I wouldn't. 12b fis.

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Is it a fair statement -- now, I have to go into subject matter which is regrettable; but nevertheless, it may come out in the evidence. And right now, we are attempting to obtain people with judicial temperaments.

And I -- I preface it that way, because I am going to ask you a question that may be something that --

THE COURT: Can all of you hear Mr. Kanarek back there?
THE PROSPECTIVE JURGES: No.

THE COURT: I noticed that you were having some troubles.

Perhaps --- where's that other microphone?

THE BAILIFF: In the next court, sir,

THE COURT: Next door? All right. Here, you can use mine.

MR. KANAREK: Very well. Thank you, your Honor.

I'll use the one ---

THE COURT: That might be a little difficult. Well, we will get another jack or another microphone to plug into that jack.

MR. KANAREK: Thank you.

- Q Can you hear me, Miss Spalding?
- A Yes, I can.
- Now, it may come to pass that the evidence in this case may include words such as the word "Nigger," for instance, and that will be evidence before you which you may have to discuss in the jury room.

Is there anything about this -- this distasteful type of evidence coming before you, that is of such a nature that you feel that it would be unfair to ask you to sit as a

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A No. I do not.

Now, in your lifetime, because of the fact that you are of the black or Negro race, I -- I would gather that perhaps from time to time, in your experiences in life, this has caused you some feeling or other, if I may put it that way, is that correct?

- A No.
- Q It never has?
- A No. To me, it's just another word.
- 0 What?
- A To me, it's just another word,
- I am speaking of the fact that, whatever your experiences in life may have been, because of the fact that that the race that you happen to be born to is that of the black or Negro race, are those experiences such that you couldn't be fair and impartial in this case, no matter what the evidence might be?
 - A No.
- And are we in agreement that, for instance, if someone takes that witness stand, who is of the black or Negro race, someone that's been in custody for many years, in one or more of the prisons, in California or elsewhere, a person more than one, perhaps a person with this kind of background, if he testifies, is there any reason that you couldn't give that person's testimony the weight that it's entitled to, irrespective of the fact that that person may have had the misfortune to be in dustody for many years?

MR. MANZELLA: Objection, your Honor, It's asking the juror to prejudge the evidence; and as a matter of fact, the juror may consider that fact in judging credibility of a witness.

THE COURT: Sustained. Simply offer your objection. Don't argue them, if you would, please.

Q BY MR. KANAREK: Well, may I ask you -THE COURT: Hold it just a minute. Is that all right?
MR. KANAREK: Testing? Yes, your Honor.

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| | Q. | Mi | ss Sp | alding | , 18 | it | a fai | ir statem | ent | that | : You |
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| #ould | not | give | ROYS | weigh | t to | A ; | police | officer | ju | st be | e de la compa |
| ho's | a pol | Lice | offic | er, is | that | : 4 | fair | statemen | t? | | |

A Yes.

Are we in agreement that you shouldn't give less weight to a person of the black or Negro race who has had the misfortune of being in custody a great number of years, just because he is black and been in custody?

A. NO.

MR. MANZELLA: Your Honor, I would have to object again on the grounds it is an improper statement of the law and asking the juror to prejudge the evidence.

MR. KAHAREK: I'm not stating the law, your Honor.

I'm merely inquiring into the juror's state of mind.

THE COURT: The Court sustains the objection as being improper voir dire.

BY MR. KANAREK: Miss Spalding, when we speak of status, for instance, -- I don't think it will happen, but the mere fact that -- for instance, let's say someone testifies here that is a United States Senator.

Is the fact of status, the fact he has a high position, is that of such a nature that just because he is a United States Senator you would believe him and take what he says as gospel without analyzing it, integrating it with the other evidence and trying to see whether it makes sense?

A No, I would not.

1 In other words, I gather because of a person's high status or certain status in our society, you're not going

to automatically say that this person is telling the truth?

- A. That's right.
- Now, let's look at the other side of the coin.

 If someone comes from prison and is black and been

in custody for many years, are you going to reject that person's testimony just because of the particular status that he may have?

A No.

MR. MANZELLA: Objection, your Honor, on the same grounds.

MR. KANAREK: I think it is perfectly legitimate voir dire, your Honor.

THE COURT: All right, she's already answered it. The answer may remain.

- & BY MR. KANAREK: Then, I gather your state of mind is that you will critically analyze the testimony of each and every witness regardless of the station in life of the particular witness; is that a fair statement?
 - A Yes, it is.
- Now, directing your attention, for instance, to the fact that maybe from this witness stand there will be brought to your attention matters containing statements that have racial overtones, discuss matters when there are differences of opinion between black people and white people.

Say that this type of subject matter is brought before you. Is your state of mind such that you can and would use that evidence and maintain your position as long as you thought it was correct?

A. Yes.

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May I ask you this, if it should come to pass in the jury room that you were one of a minority, let's say that three people had one viewpoint and nine people had another viewpoint, would you maintain your position even though it meant that the result was not a unanimous result?

Yes, I would.

Are we in agreement -- well, let me ask you, do you have any feeling about that principle of law that the Court will instruct us all, the Court will tell us that the result must reflect the individual opinion of each juror, meaning that if five people think one way and seven people think another way, so be it, that is the result. There is no necessity for unanimity in this trial,

Is there any reason, anything about that principle that is such that you feel would be unfair to ask you to sit as a juror?

No.

For instance, the Supreme Court of California, where there are seven people on the Court, sometimes they split four to three. Those learned men do not always agree on all matters that come before them. So certainly I gather there is no problem in recognizing that there is no necessity to agree in this courtroom with everyone else on the jury.

To my opinion, that's right. Ă.

And you would maintain your point as long as you thought it was correct?

A. Yes.

Q Now, directing your attention to police officers.

What -- may I ask you, what is your state of mind toward police officer testimony?

MR. MANZELLA: Your Honor, the People object to that question on the grounds it is asking the juror to prejudge the evidence in the case.

MR. KANAREK: Not at all.

MR. MANZELLA: Or the credibility of a witness, your Honor.

THE COURT: The objection is sustained in its form. You may reframe your question.

MR. KANAREK: Very well.

- Q BY MR. KANAREK: Oh, Miss Spalding, if it should come to pass, as it may, that in this courtroom there will be police officers testifying, is there anything about the fact that a witness is a police officer that is of such a nature that you couldn't be fair and impartial in taking that testimony and deciding what to do with it in your deliberations?
 - A I don't think so.
- Are we in agreement that there is no obligation to accept as fact that which comes from the witness stand?

Well, what I am saying is, evidence is only fact when the jury decides that it rises to the dignity of fact,

Is there anything about that, for instance, that offends you?

- k No.
- And do you recognize and accept that just because

somebody says something occurred in a certain way from the witness stand, that is not a fact until you decide that it is?

A That's right.

Now, directing your attention to everything that you have heard in this courtroom so far, Miss Spalding.

Is there any reason on this God's green earth why you couldn't be a fair and impartial juror?

A No, there isn't.

MR. KANAREK: Thank you very much.

Thank you, your Honor.

THE COURT: We'll take a short recess, ladies and gentlemen.

During the recess you are obliged not to converse amongst yourselves or with anyone else on any subject connected with this matter, nor are you to form or express any opinion on the matter, should it finally be submitted to you, should you be chosen as a juror.

Somebody has asked for a short recess. We'll make it about ten minutes. Be back in your seats in about ten minutes.

(Short recess.)

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THE COURT: The record will show the defendant to be present with his counsel, Mr. Kanarek. The prospective jurors are in the box, and we are ready to proceed.

Mr. Manzella? Go shead.

VOIR DIRE EXAMINATION

BY MR. MANZELLAY

Q Miss Spalding, I would like to ask you a few questions, not. Have you, or has anyone you know ever been involved --

DEFENDANT MANSON: Your Honor, could you carry on by yourself? Could I go in the back a while?

THE COURT: Mr. Manson, you are going to have to be -- DEFENDANT MANSON: Callabogalimshangerish;

Now, can I go in the back?

THE COURT: Mr. Manson, if you don't be quiet, if you don't behave yourself, the Court will have to exclude you.

DEFENDANT MANSON: I am in a very lugubrious mood this morning.

THE COURT: Go shead, Mr. Manson.

Q BY MR. MANZELLA: Have you or has anyone you know ever been involved in the defense of criminal cases, as an attorney, investigator, legal secretary for a defense attorney in criminal cases, anything of that sort?

A No.

Q Have you or anyone you know ever been accused of any crime?

A No.

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All right. Miss Spalding, the estimated length of this trial is approximately four months. Both sides are concerned that you are able to give your full attention to the evidence.

The prosecution's case, the People's case, will be lengthy. Would your back problem in any way prevent you or hinder you or disturb your ability to -- you know, to give your full attention to the People's case, and to the defense case?

A No, I don't think so.

Q Do you have any doubt about that? Bearing in mind that the People's case at least will last approximately four months?

A I -- I don't think it would make that difference.

All right. Miss Spalding, the - you've heard the Court's instructions with regard to the burden of proof on the prosecution; is that correct?

A Yes. I have.

Q Would you hold the prosecution to a higher standard, or a greater burden of proof, because this is a murder case?

A No.

Q Now, you've heard the Court's instructions with regard to circumstantial evidence; is that correct?

A Yes, I have.

Q Do you have any bias or quarrel with circumstantial evidence?

A No.

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| <i>S</i> | Now, | did you | hear | the | examples | that | I gave | with |
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| regard to | direct | evidence | and | cir | cumstantia | ıI evi | dence? | • |

- A Yes, I did.
- Q Did you understand the difference between the two?
 - A Yes.
- Q Now, if you were convinced beyond a reasonable doubt of Mr. Manson's guilt of first degree murder, would you be able to vote for a conviction of first degree murder, in a case based upon circumstantial evidence?
 - A Would you say that again, please?
 - Q Of course. I'll repeat it.

If you were convinced by the evidence, beyond a reasonable doubt, that Mr. Manson was guilty of first degree murder, would you be able to vote for a conviction of first degree murder, when the People's case was based entirely on circumstantial evidence?

- A If I was convinced, I would vote, yes.
- Now, you understand that the law does not require that the prosecution produce the body of the deceased?

MR. KANAREK: Your Honor, that -- I must object to that as improper volr dire.

THE COURT: Sustained.

You may rephrase your question.

MR. MANZELLA: Thank you, your Honor.

- Q Do you have any quarrel with the law which permits the fact of the death to be proved by circumstantial evidence?
 - A (No response.)

Do you understand my question? Q 1 MR. KANAREK: Your Honor, if I may, I must object. 2 There is no deceased. There is no death. I mean, those --3 this man may -- may well be alive, in --4 THE COURT: Mr. Kanarek, if you have an objection. • 5 state it. 6 MR. KANAREK: I object on the grounds it's improper 7 voir dire. Ŕ THE COURT: The objection's overruled. 9 You may answer the question. 10 BY MR. MANZELLA: Did you understand the question, Q 11 Miss Spalding? 12 I would like you to repeat it again, please. 13 I will. Thank you. 14 THE COURT: The reporter can read it. . 15 Will you read it, please, Mr. Williams? 16 Some of the jurous in the back are having 17 difficulty hearing you, Mr. Manzella. 18 PROSPECTIVE JURORS: Can't hear at all. 19 THE COURT: Perhaps you could use the same microphone 20 that Mr. Kanarek uses. 21 Mr. Manzella, you would be able to hold that 22 closer, I think. 23 (Whereupon the record was read by the reporter 24 as follows: 25 26 Do you have any quarrel with the law 27 which permits the fact of the death to be proved 28 by circumstantial evidence?")

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15 fls.

THE COURT: Can you answer that question, please?

JUROR NO. 7: Do I have any quarrel with the law about circumstantial evidence?

O BY MR. MANZELLA: Miss Spalding, why don't I withdraw that question? And I'll rephrase it.

You understand that if the prosecution were able to produce the body of the deceased in a murder case, that body is direct evidence of the death; do you understand that?

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MR. KANAREK: I must object. There is no deceased. It is assuming --

THE COURT: Excuse me, just a minute.

MR. KAMAREK: It is improper.

THE COURT: Just raise your objection.

MR. KANAREK: Yes, your Honor.

THE COURT: The objection is sustained.

Q BY MR. MANZELLA: All right, Miss Spalding.

You understand the distinction between circumstantial evidence and direct evidence, is that correct?

A Yes,

Now, the body of the deceased has not been found, then there is no direct evidence of the death; you understand that?

A Yes.

MR. KANAREK: That's improper voir dire, your Honor. There is no showing of any deceased.

MR. MANZELLA: Your Honor, I'm not suggesting or stating at this time that there is a deceased.

THE COURT: The objection is sustained. You may rephrase your question.

MR. MANZELLA: Thank you.

Q BY MR. MANZELLA: All right, Miss Spelding, do you have any quarrel with the law that allows the death -- strike that. I'll start again.

You understand in a murder case one of the elements that has to be proved was that there was a death; do you understand that?

Ā Yes.

All right. Now, the law permits the People to Q. prove the death by direct evidence or by circumstantial evidence; do you understand that?

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Yes.

Now, do you have any quarrel with the fact that the law does permit the death to be proved by circumstantial evidence?

Well, I think, uh, uh, you know, if the evidence was, you know, direct evidence, rather than circumstance,

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I would go along with the direct cyldence.

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All right. But if there is no direct evidence of the death, do you quarrel with the law which permits the

That's improper voir dire, your Honor.

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death to be proved by circumstantial evidence?

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THE COURT: Overruled. You may answer it.

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MR. KANARÉK:

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BY MR. MANZELLA: All right. Now, if you were convinced beyond a reasonable doubt that the death had

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occurred and that the circumstances surrounding the death, again, beyond a reasonable doubt made it first degree murder,

would you be able to vote for a conviction of first degree

murder even though the body had not been produced?

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A Yes.

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All right. Did you hear the Court's instructions with regard to aiding and abetting and conspiracy?

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A Yes, I did.

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And did you hear the questions that I have asked Q

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the other jurors with regard to aiding and abetting a conspiracy?

A Yes.

Q Now, does it in any way strike you as unfair or unjust that a person could be convicted of first degree murder under the law, under those -- either of those two doctrines, either as an aider and abettor or as a conspirator? Does that strike you as unfair or unjust?

A No.

Q If you believed that the -- that Mr. Manson was guilty of first degree murder, beyond a reasonable doubt, would you be able to vote for conviction of first degree murder even though he was not present at the scene of the killing?

A Yes, if I believed that.

Q Now, Miss Spalding, if the defendant testifies or calls witnesses in his behalf, do you feel in any way obligated to accept his testimony without judging it by the same standards of credibility that you would use for any witness' testimony?

A No.

Q And if you felt that the defendant or his witnesses were not telling the truth in whole or in part of their testimony, would you reject that whole or that part of the testimony which you felt was not true?

A Yes.

MR. MANZELLA: Your Honor, with the Court's permission I would like to just inquire of the entire panel on one point,

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and that is, is there anyone, who upon further thought feels that they -- that they would suffer a hardship having to git for four months in this case?

MR. KANAREK: Your Honor, if I may, we have interrogated in connection with these matters by the Court and I --

THE COURT: I would permit it, if there's anyone who can demonstrate to us that he or she would suffer a hardship. We'd — the Court would hear about it. There has been several days for these jurors, prospective jurors to think about it and the Court would have no objection to anyone raising any point that might arise that might in any way interfere with his or her jury duty.

(Whereupon, Juror No. 12 raised her hand.)

MR. MANZELLA: Mrs. Wall.

JUROR NO. 12: Yes.

VOIR DIRE EXAMINATION

BY THE COURT:

Q Is it something that you have stated to us before, Mrs. Wall?

A No. it is a physical --

| ١ | Q. | Don't | strangle | any | prospective' | juror | with | that |
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| cord. | | | * | | | | | |

(Laughter.)

- A. Thank you.
 - It is a physical condition.
- Q Is it something that's arisen?
- A Yes.
- Q Since you talked with us before?
- A Yes. I found within the last week I had kidney stones and I didn't have any difficulties with about four or five months since I've had a stone, but I've found within the last week that I have been having quite a bit of difficulties. So much so the bailiff put a bed upstairs in one of the jury rooms
 - B I'm sorry I couldn't hear that. So that --
 - A. They let me lie down Friday in the jury room.
 - Q Has this been a chronic condition with you?
- A In the past, every three months. But it has been about four months and I didn't think, you know -- I thought it was all over with it but I think the sitting and the inactivity has aggravated it.
- Q You're involved in the medical profession in some way, are you not?
 - A Yes, I am a nurse.
 - Q And you're asking for that reason to be excused?
 - A Yes, I don't think I could sit too much longer,

THE COURT: Gentlemen?

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MR, MANZELLA: Based on what Mrs. Wall said, your Honor, the People would stipulate that it would cause her a hardship to serve.

THE COURT: Any quastions?

MR. KANAREK: No, I would be glad to stipulate, your Honor.

THE COURT: All right, both attorneys have graciously stipulated, Mrs. Wall, that you may be excused, and the Court thanks you for having been here so long under those conditions, for braving it out, and the Court excuses you now.

Do you have any time left on jury duty? JUROR NO. 12: Yes.

THE COURT: Do you wish to complete it or --

JUROR NO. 12: Well, I would ask to be excused this evening to go to the doctor, and then I'll let him decide if I should terminate it.

THE COURT: The Court will excuse you today. You need not report back to that Room 253. We'll hang onto your slip and see that it gets back there. And perhaps you could get some medical attention.

JUROR NO. 12: Thank you.

MR. KANAREK: Thank you, Mrs. Wall.

THE COURT: Pick another juror's name from the box for Mr. Wall.

THE CLERK: Miss Blanche E. Bobbitt, B-l-a-n-d-h-a, last name B-o-b-i-t-t.

THE COURT: Had you concluded your examination of Miss Spalding?

MR, MANZELLA: Yes, your Honor, \mathbf{r}^{\bullet} 2 VOIR DIKE EXAMINATION OF 3. MISS BLANCHE E. BOBBITT 4 BY THE COURTY 5 Miss Bobbitt, -- is it Miss or Mrs.? 6 Miss. 7 Miss Bobbitt, were you present during all of the 8 proceedings when the Court explained the nature of this case. 9 instructed on some parts of the law regarding the case and 10. questioned the prospective juror? 11 A. Yes, I was. 12 Would your answers be any different than the 13 prospective juror responded to the questions of a general 14 nature? 15 Not in general, except that I am prejudiced. I'll 16 have to admit it. 17 You are prejudiced as a result of things that you 18 Q. may have heard, seen, or read in the press? QΓ A. Yes, sir, 'n Over television and radio? 21 Yes, sir. 22 Do you think that it would be impossible for you to 23

No, I don't. I'd vote for the death penalty

exclude those things from your mind?

right this minute without hearing the evidence.

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| | MR. | Kanarek: | Your | Honor, | I | wonder | lf | W# | might | approach |
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(Laughter.)

MR. MANZELLA: I don't think it's necessary to approach the bench, your Honor.

THE COURT: You realize, Miss Bobbitt, that that would be wrong?

JUROR NO. 12: Yes. But this is the way I feel about it.

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

THE COURT: All right. The Court will excuse you,

Miss Bobbitt.

MR. KANAREK: Thank you, Miss Bobbitt.

I would like to approach the bench, if I may, your Honor,

THE COURT: Miss Bobbitt, thank you. You are to report to Room 253, the jury assembly room.

JUROR NO. 12: Oh! My Blip?

THE COURT: Yes, with your slip, if you would,

MR. KANAREK: Thank you.

THE COURT: Do you still wish to approach the bench?

MR. KAMAREK: Yes, if I may, your Honor.

THE COURT: Very well.

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

MR. KANAREK: Yes, your Honor. I -- as a result of this lady's statement, I would -- I ask your Honor to admonish the jury not to consider it for any purpose. And mere admonishment

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 not sufficing, I ask for a mistrial, because she epitomizes -THE COURT: The motion for a mistrial is denied.

She made no statement about facts, and the Court believes that she simply stated a prejudice, which is the most blatant example of prejudice -- one of the most that we've heard thus far, in attempting to pick a jury.

I can't see that it would in any way affect the judgment of the jurors, --

. MR. KANAREK: Well, --

THE COURT: -- this sort of statement. I think it would probably just draw more attention to it than it deserves.

What sort of an instruction would you suggest?

MR. KANAREK: Well, that's the vice. What I am asking is -- that's the vice. And that's why I -- why I ask for an evidentiary hearing. I consider it -- we --

THE COURT: An evidentiary hearing from whom?

MR. KANAREK: As to the -- I -- I know that it's -
THE COURT: What type of evidentiary hearing?

MR. KANAREK: As to the effect of that statement on each and every one of the prospective jurors here in this room.

I think we are entitled to it, because we are embarking, your Honor, on a trial; and it's a — this type of a statement is — it would indicate that — that we have, of course, argued — and other counsel have argued to the Court, Mr. Denny and Mr. Weedman, before this case was severed — that it's impossible to get a fair jury in this case.

And this woman -- this woman --

THE COURT: Your motion for an evidentiary hearing and motion for a mistrial, both motions are denied.

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The Court will say something to the jury in connection with it, and will ask them a question or two in respect to Miss Bobbitt's statement, her reply.

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

THE COURT: Is there any one of you ladies and gentlemen who is in the box who would allow the statement of Miss Bobbitt concerning her prejudices and her bias in this case to in any way affect his or her judgment on any issue that you may be called upon to resolve in this case?

(No affirmative response.)

THE COURT: Is there any one of you beyond the rail who would respond to that affirmatively?

You believe that Miss Bobbitt's statement -- you are raising your hand -- that Miss Bobbitt's statement would affect your judgment in the case, madam?

PROSPECTIVE JUROR BRADBURY: It wouldn't affect my judgment. But I could not render a fair decision.

THE COURT: Well, you may be called upon later to explain that, or to enswer certain questions.

. But as of now -- what is your name?

PROSPECTIVE JUROR BRADBURY: Bradbury.

THE COURT: Bradbury. I am simply asking you -- if you will listen to the question, please --, whether Miss Bobbitt's statement -- that is, the last prospective juror, the lady who was excused -- whether her statement would in any way affect your judgment in this case?

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(No affirmative response.)
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             THE COURT: I see no affirmative response.
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Scient another juror, would you, please? THE CLERK: Robert J. Mullaly; M-u-I-1-a-1-y.

VOIR DIRE EXAMENATION OF

ROBERT J. MULLALY

BY THE COURT:

- Q Mr. Mullaly, would you pronounce your name for us, sir?
 - A Mullaly.
 - Q Mullaly?
 - A Mullaly.
- Q Mr. Mulialy, have you been present since the Court explained the nature of this case to the prospective jurors and questioned the prospective juror?
 - A Yes.
- Q Would your answers be any different than his answers were to the questions that I put to him of a general nature?
 - A Approximately the seme.
- Q All right. Would it be any hardship to you if you were caused to serve on this jury?
 - A No.
 - Q Have you had any jury experience before?
 - A This is my third tour as a juror.
 - Q Have you served as a juror in criminal cases?
 - A Yes, sir.
- Q And in this tour of duty as a juror, what types of criminal cases have you -- would you tell us what types of

criminal cases you've served upon? And whether there was a verdict, without saying whether it was guilty or not guilty?

A Armed robbery; manslaughter; marijuana; and harpin.

- O The manslaughter case, was that a vehicular manslaughter type?
 - A Yes, sir.
- Q Would you set aside anything you may have learned in those cases. Mr. Mullaly, and decide this case solely on the evidence produced here in this court during the trial and the Court's instructions of law?
 - A Yes, sir.
 - Q What type of work do you do?

A I work for the State, Division of Highways; I am a highway technician.

- and is there a Mrs. Mullaly?
- A Yes, sir.
- Q Is she employed outside the home?
- A No.
- Q In what general area do you and she reside?
- A Last L. A.
- Do you have such views concerning the death penalty that you could not, because of those views, be fair and impartial in determining guilt or innocence?
 - A ' Guilt or innocence, no.
- Do you have such views concerning the death penalty that you would automatically refuse to impose it in any case, regardless of the evidence?

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| A | n the penalty phase, yes. | |
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| 9 | n other words, you would never be able to impose | Ļ |
| death po | alty, regardless of the evidence that might be | |

A That's right, sir.

Are you stating that your state of mind is such that you would automatically vote against the death penalty, regardless of what evidence may be produced?

A Yes. I would not -- I do not believe in capital punishment.

Q And would you refuse to even consider the death penalty in any case?

A Yes, sir.

MR. MANZELLA: Your Honor, the People would respectfully challenge Mr. Mullaly under Section 1073, Subdivision 2 of the Penal Code.

THE COURT: The Court grants the ex --

MR. KANAREK: Well, your Honor, may I just ask a question?

THE COURT: You may.

VOIR DIRE EXAMINATION

BY MR. KANAREK:

Q Mr. Mullaly, sir, is it a fair statement that in the unlikely event that this reached a penalty phase, that you would -- that you would discuss it with your fellow jurors? That is, the evidence -- and whatever instructions the Gourt gave you?

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You certainly wouldn't refuse to talk about it with your fellow jurors; is that a fair statement?

A I have talked about this for years, and I am convinced in my own mind how I feel.

MR.KANAREK: Thank you.

THE COURT: You didn't respond to his question, to Mr. Kanerek's --

JUROR NO. 12: Oh, I'll talk about it, but my mind is made up, your Honor, on this.

THE COURT: You would talk about it, but you would never yote for the death penalty in any case?

JUROR NO. 12: That's true, your Honor.

THE COURT: All right. Thank you, Mr. Mullaly.

The Court does excuse you. Room 253, then, forthwith -- well, you needn't report today. How about -- Friday? Or tomorrow?

THE CLERK: Tomorrow.

THE COURT: Report tomorrow, then, at 9:00 o'clock, if you would, Mr. Mullaly. Room 253.

You are excused until then.

MR. KANAREK: Thank you, Mr. Mullaly.

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THE CLERK: Thomas N. McArdle: M-c-A-r-d-l-e.

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Q -- that you --

-- my position is replaceable. I would keep employment with Blue Shield; but perhaps in another rate.

In other words, it's your judgment that you would be -- you would be demoted, if you were to be on this

VOIR DIRE EXAMINATION OF THOMAS N. MCARDLE

BY THE COURT!

Mr. McArdle, you have been present during all the proceedings since the Court explained the nature of this case, and since the Court questioned the prospective juror in respect to the case; is that correct?

Â Yes. sir.

Would your enswers be any different than the prospective juror responded to the questions of a general nature?

No.

Would there be any hardship to you, should you be caused to serve in the case?

> ٨ Uh -- I think so.

> Tell us about it.

I am chief claims examiner for California Blue Shield, and I supervise 40 people.

not yet been sworn to rise and raise his or her right hand.

Is there snyone of you who would not be sworn, but who would prefer to affirm?

Then I -- there are none, apparently. So everyone raise his right hand, and face the Clerk.

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

THE PROSPECTIVE JURORS: I. do. '

THE COURT: The bailiff tells me that there -- there are one or two who indicate that they would perhaps -- that they would prefer to affirm; is that correct? I see none.

THE BAILIFF: Would you stand up, please?

Would you please rise, then? THE COURT:

THE CLERK: You do solemnly affirm that you will well and truly answer such questions as may be asked of you, touching upon your qualifications to act as a trial juror in the cause now pending before this Court; and this, you do under pain and penalty of perjury?

PROSPECTIVE JUROR MARIATT: I affirm.

THE CLERK: May I have your name?

PROSPECTIVE JUROR MARLATT: Marlate.

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THE COURT: Ladies and gentlemen, this is the case of the People of the State of California versus Charles Manson.

There's an Indictment before the Court in three counts. The three counts are as follows:

The first count charges a violation of Section 187, Murder, in that on or about the 27th day of July, 1969 in the County of Los Angeles, said defendant, Charles Manson, did willfully, unlawfully, feloniously and with malice aforethought murder Gary Alan Hinman, a human being.

The second count charges a count of conspiracy, in violation of Section 182.1 of the Penal Code, in that it alleges that on or about the 25th through the 28th day of July -- days of July, 1969, in the County of Los Angeles, Mr. Manson, Susan Denise Atkins and Bruce McGregor Davis did willfully, unlawfully and feloniously and knowingly conspire, combine, confederate and agree, with other persons whose true identity is unknown, to commit the crime of murder, a violation of Section 187 of the Penal Code, a felony; and of robbery, a violation of Section 211 of the Penal Code, a felony;

That pursuant to and for the purpose of carrying out the objects and purposes of the aforesaid combination or conspiracy, the defendants committed overt acts -- and three overt acts are alleged in that Count II.

The first overt act alleged is that on the 25th day of July, 1969, the defendants Davis, Atkins and Beausoleil did travel to the vicinity of 964 Old Topanga Canyon Road in Nalibu, in the County of Los Angeles.

Overt act number II alleges that on July 26th,

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Charles Manson, Defendant Atkins, and Defendant Davis entered the residence at 964 Old Topanga Canyon Road in the County of Los Angeles;

And overt act number III charges that, on that date, July 26th, the defendants Manson and Davis did drive away from 964 Old Topanga Canyon Road in a Fist automobile owned by Gary Hinman.

Steve Grogan did commit the act of murder, in violation of Section 187, of the Penal Code, between the 16th day of August, 1969 and the lat day of September, 1969, in the County of Los Angeles, State of California, in that they did willfully, unlawfully and with malice aforethought murder Donald Jerome "Shorty" Shea, a human being.

To these three counts, Mr. Manson has entered pleas of not guilty. And this is the time set for trial.

Is there may one of you who did not see

Mr. Manson as he sat on the far side of the counsel table
here, to the Court's left, when he was in court?

The Court notes that you have been in the courtroom part of the morning, and all of this afternoon -- all the
prospective jurors have been here.

Is there any one of you -- if there is any one, please raise your hand, if you did not see Mr. Manson?

(No affirmative response.)

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Mr. Manson is represented by Irving Kanarek.

Mr. Kanarek is at the counsel table there and is standing up and facing you now.

Thank you, Mr. Kanarek.

And the People are represented by Mr. Anthony Manzella, Deputy District Attorney.

Would you stir up those names there, please, Mrs. Holt, and draw one of them from the box.

THE CLERK: Mrs. Hazel Warren, W-a-r-r-e-n.

THE COURT: Would someone give Mrs. Warren the microphone. Fine.

Ladies and gentlemen, those of you beyond the rail, the Court wishes you to listen very carefully as the Court is talking to Mrs. Warren.

VOIR DIRE EXAMINATION OF

MRS, HAZEL WARREN

BY THE COURT:

- Q Is it Mrs. Warren?
- A Yes, it is.
- Q And if there's anyone of you who cannot hear during the course of this next few minutes in discussing this matter with Mrs. Warren, would you please raise your hand and let me know. I'll be asking you whether you've heard the questions and whether your answers would be any different to these more or less general questions that I am going to put to Mrs. Warren before we get to the question of hardship.

Mrs. Warren, this case is going to take four or

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period of time that the case is being tried, the Court will tell you that you are not going to be sequestered. It is not the intention of the Court to put you in a hotel room each evening. You may be sequestered should anything unusual happen that the Court -- and counsel make the motion to have you sequestered or the Court on its own motion may determine that you should be sequestered. Would be only in the event something of an unusual nature should occur. However, it is not my intention to sequester you. It is not my present intention to sequester you.

The Court has told you shout these three Courts

live months to try, the Court would tell you. We anticipate

...at it will take no longer than that. And that during the

The Court has told you about these three Counts in the indictment. The Court would tell you likewise that this indictment is not evidence in the case. It is simply a means of bringing it before this jury and before this Court so that the matter can be tried and guilt or innocence determined. And you are not in any way to take the accusation, the indictment as being evidence; do you understand that?

A Yes.

Q I'11 ask you some general questions now and --

Have you ever worked for law enforcement?

A No.

Q In any way?

liave you ever been the victim of a crime of violence or had a close friend or relative who is a victim of

| | 1 | a crime of violence? |
|-----|--------------|---|
| 4 | 2 | A No. |
| | 3. | Q Have you ever been a witness in a criminal case? |
| | 4 | A No. |
| | 5 | Q Either for the prosecution or for the defense? |
| • | 6. | A No. |
| | 7 | Q Have you or a close relative ever been charged |
| | 8 , | with a criminal offense? |
| | 9 | A No. |
| | 10 | Q Of any type? |
| | 11 | Other than a minor traffic violation. |
| | 12. | At the conclusion of this case the Court is going |
| | 13 | to instruct you concerning the law in the case. It is your |
| | 14 | obligation as a juror to follow that law regardless of what |
| • | 15 | you believe the law should be or regardless of what you |
| • | 16 | believe the law to be at that time. |
| • | 17 | Bo you understand that obligation? |
| | . 18 | A Yes. |
| | . 19 | Q And will you follow that obligation? |
| | 20 | A Uh, yes, but I'm afraid my mind might be prejudiced |
| | 21 | against the case in advance, though. |
| | 22 | Q Well, we'll get to that in just a moment. |
| | 23 | In connection with the law in this matter, will |
| | 24 | you follow the instructions of law as I shall give them to |
| • | 25 | you regardless of what you feel the law should be or regardless |
| | 26 | of what you feel the law is? |
| 17# | fla * | A Yes. |
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Are you able, do you believe, to judge the testimony of a police officer on the same basis as you would judge the testimony of any other person and not give it any greater weight or credibility simply because that person is a police officer?

A I believe so.

Q Are you uncertain?

A Oh, possibly.

Q You mean by that that you would give it -- you might be inclined to give it greater credence or lesser credence?

A Yes.

Q Which is it?

A Greater, possibly.

MR. KANAREK: Your Honor, I wonder if we might approach the bench?

THE COURT: Well, not at this moment.

Q BY THE COURT: You understand that the Court will set forth in its instructions that you, as a juror, are one of the -- as one of the jurors, will have the obligation of determining the credibility of witnesses; you understand that?

A Yes.

And you understand it would be incorrect for you simply because a person is a police officer or a defendant or because he is of some particular status to give that person any further -- any more credibility simply because of that status than someone else?

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Would you follow that

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Yes.

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Have you ever had any legal experience, worked Q in a law office of any type?

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No.

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Are you acquainted with or related to any lawyer

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who practices defense or criminal law?

No.

Ä The Court will instruct you and each juror that all murder perpetrated by willful, deliberate or premeditated killing with malice aforethought, or a murder committed by torture, or a killing committed by -- during the course of a burglary or robbery, in the course of a burglary or robbery, is murder of the first degree. The Court will instruct you concerning howicide and concerning murder.

The Court believes that it is necessary that you know what we are talking about when counsel and the Court talk about murder of the first degree, however.

The Court instructs you now that a defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt thether his guilt is satisfactorily shown, he is entitled to an acquittal. This presumption places upon the State the burden of proving him guilty beyond a reasonable doubt. Reasonable doubt is defined as follows: It is not a mere possible doubt: because everything relating to human affairs and depending on moral evidence, is open to some possible or imaginary doubt.

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It is that state of the case, which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.

The testimony of a witness, a writing, a material object, or anything presented to the senses offered to prove the existence or non-existence of a fact is either direct or circumstantial evidence.

Direct evidence means evidence that directly proves a fact, without an inference, and which in itself.

If true, conclusively catablishes that fact.

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

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

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

You are not permitted to find the defendant guilty of any crime charged against him based on circumstantial evidence unless the proved circumstances are not only consistent with the theory that the defendant is guilty of the

crime, but cannot be reconciled with any other rational conclusion and each fact which is essential to complete a set of circumstances necessary to establish the defendant's guilt has been proved beyond a reasonable doubt.

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

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 A conspiracy is an agreement between two or more persons to commit a public offense and with the specific intent to commit such offense, followed by overt acts committed in this state by one or more of the parties for the purpose of accomplishing the object of the agreement. Conspiracy is a crime.

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

It is not necessary in proving a conspiracy to show a meeting of the alleged conspirators or the making of an express or formal agreement. The formation and existence of a conspiracy may be inferred from all circumstances tending to show the common intent and may be proved in the same way as any other fact may be proved, either by direct testimony of the fact or by circumstantial evidence, or by both direct and circumstantial evidence.

A person sids and abets the commission of a crime if he knowingly and with criminal intent sids, promotes, encourages or instigates by act or a dvice, or by act and advice, the commission of such crime.

all persons concerned in the commission of a crime who either directly and actively commit the act constituting the offense or who knowingly and with criminal intent aid and abet in its commission or, whether present or not, who advise and encourage its commission, are regarded by the law as principals in the crime thus committed and are

equally guilty thereof.

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Now, the court has read those instructions, Mrs. Warren, and the Court will ask you whether you are willing to follow those instructions as well as those -- any other instructions of law the Court will give you?

A Yes.

Q In a case where the defendant is found guilty of murder of the first degree, the law in the State of California is to the effect that the crime is punishable by life imprisonment or death. And if upon a conviction of murder of the first degree, thereupon there are further proceedings on the issue of the penalty. It is the so-called penalty phase of the trial.

Do you understand?

- A (Node head.)
- Q It is a separate phase, separate and apart from the first phase of the trial in which the jury determines whether a person is guilty or immocent of -- whether the defendant is guilty or innocent of the crime of murder of the first degree.

If the jury finds the defendant to be not guilty or if the defendant is found guilty of something less than murder of the first degree, then it is not necessary to enter into the second phase of the penalty phase, and the jury need not consider the question of punishment.

But should there be a conviction of murder of the first degree, then, that penalty phase is entered and the law imposes neither life imprisonment nor death, but presents the

two alternatives to the absolute discretion of the jury. 1 The Legislature of the State of California has 2 formulated no rules to control the exercise of your discretion. 3 Do you understand that, Mrs. Warren? Yes. 5 Do you understand the procedure as I have explained Q. 6 it thus far? 7 A Yes. 8 Now, the Court is going to inquire concerning the Ø. 9 death penalty, both of you and of other prospective jurous. 30. The fact that I inquire about the death penalty 11 12 that you can judge from what I have said -- does not mean. and it is not intended by this Court to mean that it will be 13 necessary that I feel it will be necessary that you enter into 14 that second phase. The Court is not making any inference as 15 to guilt or innocence by questioning you about the death 16 17 penalty. 18 Do you understand that? 19 A Yes. 20 21 22 23 25 26 27 98

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Werdict in this case as to guilt or innocence of the defendant, the subject of penalty or punishment is not to be discussed or considered by the jury, as that is a matter which, under the law, must be considered and determined in that separate proceedings, the penalty phase, should your findings in the first case require such a proceeding.

Do you understand?

- A Yes.
- Now, the Court wants to determine from you at this time whether you have such opinions concerning the death penalty that you would automatically refuse to impose it, regardless of the evidence that might be produced in the case?
- A Yes, I think I would be skeptical of giving anyone a death penalty.
- Q Are your views concerning the death penalty such that you would never vote to impose it in any case?
 - X Yes, they are.
- So that if you were a juror in this case, called upon to determine the question of life imprisonment or death, you would automatically refuse to impose the death penalty, and vote for life imprisonment, regardless of the evidence; is that correct?
 - A Yes.
- Q Would you over consider imposing the death penalty in any case?
 - A I don't believe so.
 - Q: When you say, "I don't believe so," you sound to

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me as though you may be hedging a bit. 1 Are there some sets of facts in which you might 2 conceivably impose the death penalty? 3 Not to my knowledge, as of this moment. 4 The Court wishes to inform you that there is no 5. standard; there is no proper case -- I don't mean to infer by any question that I've asked, or by anything that I have said, 7 that there is a proper case, It's solely a matter of the juror's discretion. .9 10 as to which penalty would be imposed. Do you understand that? Н Yes. 12 All right, What I am asking you now are whether 13 your views are such that you would refuse to even consider 14 the death penalty in this case, or in any case. 15 Yes, they are. 16 And your reaction, I take it from what you have 17 said, would it be an automatic reaction, voting against the 18 death penalty, regardless of the evidence? 19 Yes, it would be. 20 MR. MANZELLA: Your Honor, the People respectfully 21 challenge Mrs. Warren under Section 1073, Subdivision 2, of the 22 Penal Code. 23 THE COURT: I am not sure that your microphone is 24 working. It's difficult to hear you. 25 MR. MANZELLA: The People would respectfully challenge 26 Mrs. Warren under Section 1073, Subdivision 2 of the Penal 27 Code, your Honor, 28. THE COURT: Any questions?

MR. KANAREK: No questions, your Konor. 1 THE COURT: All right. The Court grants the challenge. 2 Mrs. Warren, thank you very buch. The Court does 3 excuse you. And you may go to Room 253 tomorrow morning at 4 9:00 o'clock. 5. MR, KANAREK: Thank you, Mrs. Warren. MR. MANZELLA: Thank you, Mrs. Warren. 7 THE COURT: Select another juror. 8 9 THE CLERK: Leita L. Elder: L-e-i-t-a; last name, 10 E-1-d-e-r. . 11 12 VOIR DIRE EXAMINATION 13 OF LEITA L. ELDER 14 BY THE COURT. 15 Mrs. Elder, --Q. 16 Yes. 17 -- have you been present during the Court's 18 explanation of the nature of this case, to this new group of 19 prospective jurors, and have you heard the questioning of 20 Mrs. Warren? 21 Yes, I have. 22 Would your answers in any way differ from hers, 23 to the questions of a general nature that I've put to her? 24 No, they would not. A, 25 All right. I am going to ask you whether or not 26 it would be any hardship to you to serve on this jury. 27 Yes, I believe it would. 28 What would be your problems? Q.

| 1 | A Well, I am a teacher, and I have to start school |
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| 2 | in September. |
| 3 | Q For what school district do you teach? |
| 4 : | A Beverly Hills Unified School District. |
| 5 | Q And what grade do you teach? |
| 6 | A. Sixth grade. |
| 7 | Wherein lies the personal hardship? Other than |
| 8 | your inability to be present in Beverly Hills classrooms? |
| 9 | A My personal concern for my children, I quess. |
| 10 | But I do have professional commitments during the |
| ,11 | summer; in August. |
| 12 | But my prime concern would be for beginning the |
| 13 | school year, and not being there to |
| 14. | A How long have you been with the school district? |
| 15 | A. Ten years. |
| 16 | 9 You do have tenure, of course? |
| 17 | L Oh, yes. |
| 18 | Q It's the Court's judgment that this would not |
| 19 . | constitute a special hardship to release you, Mrs. Elder. |
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Is it Mrs. Elder?

A Yes, it is.

May I speak to that? In the past, I have been called for jury duty during the school year, and have been excused because of the problem for the class.

And so it was suggested that I could serve during the summer. And I was very happy to do that. But I would consider this a problem for the children.

- Well, the Court realizes that it probably would be a problem for somebody there at Beverly Hills High School -- or Beverly Hills grammar school -- to fill in for you, to find somebody who could replace you -- if indeed they could.
 - A No, they couldn't. (Laughter.)
 - Q You must feel fairly secure in that department.
 - A Oh, yes. Yes.
- Q Well, I don't view it as a personal hardship, and the Court believes that you should serve, if you are called upon to serve.

Have you served as a juror before?

- A No.
- Q In any criminal case?
- A No.
- Q You have been teaching for about ten years at Beverly Hills High School?
 - A Ten years in Beverly Hills.
 - Q Beverly Hills.
 - A But I have been teaching for 15 years.

| 1 | g And is there a Mr. Elder? |
|----|--|
| 2 | A. No. |
| 3 | Q And ~~ |
| 4 | A Well, there is, but he is not mine. |
| 5 | Q Pardon? |
| 6 | A. There is, but he is not mine. |
| 7 | (Laughter.) |
| 8 | g I didn't know whether you were boasting or |
| 9 | complaining. |
| 10 | A Boasting, I guess. No, no, correct that. |
| 11 | Q In what general area do you reside? Beverly Hills? |
| 12 | A No, Wilshire Central. |
| 13 | Q Are you related to or a friend of any law |
| 14 | enforcement officer? By "law enforcement officer," I mean |
| 15 | any policeman, California Highway patrolman, Deputy Sheriff, |
| 16 | prosecutor, assistant prosecutor of any type? |
| 17 | r No. |
| 18 | A Do you have views concerning the death |
| 19 | penalty such that you could not thereby be impartial in |
| 20 | determining the issue of guilt or innocence, as I've explained |
| 21 | it, in this first phase of the trial? |
| 22 | A. No. |
| 23 | A Speaking about the death penalty, again, are your |
| 24 | views concerning it such or, do you have views concerning |
| 25 | it such that you would automatically refuse to impose it in |
| 26 | any case, regardless of the evidence? |
| 27 | A No. |
| 28 | Q Or conversely, would you automatically impose |

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it, upon a conviction of murder of the first degree, regardless of the evidence?

A No.

have heard, seen or read about Mr. Manson, via the daily press, the television, or radio. And I will ask you whether you — if you do know anything whatever about Mr. Manson, or of this case, or of another case, whether you can set aside what you have heard, seen or read, and whether you will set it aside, for the purpose of being independent and objective as a juror in this case.

I won't ask you that question now. I want all of you who are beyond the rail to be thinking about that, to be thinking about your attitude toward the death penalty, and another thing that I wish to ask you about, the question of hardship.

And I am talking to those of you who are beyond the rail now. I should like you, between now and tomorrow, to contact your employers and determine from your employers whether you will be paid during the course of a four-month --- four or five-month period of jury duty.

It's been the Court's finding that -- and experience that school districts will generally pay,

Mrs. Elder, so that you needn't be concerned about salary.

I do realize that there are other considerations. However, they must be, in the Court's judgment a considerable hardship, before they warrant excusing a juror.

Everyone knows that jury duty is inconvenient.

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And many times, it is a hardship. The Court believes that the hardship should be suffered, in part, as an obligation and as a duty of citizenship.

And the Court would ask you, unless it is a considerable hardship, to endure that hardship and inconvenience for the purpose of giving to a defendant the jury trial to which he has the right.

Now, what I intend to do at this moment is to ask all of you to leave the room, with the exception of Miss Spalding and Mrs. Elder.

We will ask Miss Spalding and Mrs. Elder about pre-trial publicity and their attitudes in connection with it. And we will call you back in in about 15 minutes.

During this recess -- it's a recess for you -the Court will instruct you that during this recess or any
recess, you are admonished that you are not to converse
amongst yourselves nor with anyone else on any subject
connected with this trial, nor are you to allow anyone else
to converse with you; nor are you to form or express any
opinion on the matter until it is finally submitted to you,
should you be chosen as a juror.

The Court will also advise you that, during the time that you are a prospective juror, or a juror in this case, you are not to see, hear, or read any publicity whatever about this trial, or about Mr. Manson, or the Manson Family, or about any trial in which Mr. Manson may have previously been involved.

You are to follow that instruction during all the

time that you are in any way connected with this case.

All right. We are -- you may leave. And when you leave, because it's necessary for us to do this many times during the day, to heave you leave, while we question jurous about pre-trial publicity, will you do so as quickly as you can and as quietly as you can?

(Whereupon, the following proceedings were had in open court, while the members of the prospective jury panel were exiting the courtroom.)

THE COURT: I will ask Mrs. Elder to simply wait outside the door, if you would, please.

(Whereupon, the following proceedings were had in open court, after the members of the prospective jury panel had exited the courtroom.)

VOIR DIRE EXAMINATION OF JO SPALDING

BY THE COURT:

Miss Spalding, previous to this trial, had you ever seen, heard, or read anything in connection with Mr. Manson?

A Yes, wir, I have.

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| 1 | And saw newspapers from time to time? |
| 2 | A Well, yes, from time to time, |
| 3 | A Now, did you learn about the result in that case? |
| 4 | A No. |
| 5 | Q You don't know whether Mr. Manson was convicted of |
| .6 | murders in those or murder or murders in that case, and you |
| 7 | don't know anything at all about whether there was a penalty |
| 8 - | in the case brought back by the jury; is that correct? |
| , 9 | A Ho, I don't. |
| 10 | Q Have you ever heard the name Susan Atkins? |
| 11 | A Well, I've heard the name, yes. |
| 12 | Q What does that mean to you? |
| 13 | A. Well, it is just a name, you know, as I say. |
| 14 | I have the radio on and watch TV, but a lot of times it is |
| 15 | just on. I'm not really paying too much attention to it. I |
| 16 , | listen to the radio mostly. |
| 1 7 | & Well, do you know who Susan Atkins is? |
| 18 | A Dh, well, uh, I think I'm not too sure. |
| 19 | Un, well, in the news I heard she was one of the Manson |
| 20 | followers or something similar to that. |
| 2 Į | G I'm sorry, I interrupted you. |
| 22 | A Or similar to that, |
| 23 | Q Do you know the name Bobby Beausoleil? |
| 24 | A. No. |
| 25 - | Q Do you know the name Gary Hinman? Had you heard |
| 26 | that before the Court mentioned it? |
| 27 | A Yes, I had heard the name. |
| 28 | Q What had you heard about that? |
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| 1 | A Well, I really can't say what I heard about it. |
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| 2 | The only thing I can say is that I heard the name. |
| В | Q You don't know in what connection you have heard the |
| 4 | name? |
| 5 | A. No, I don't. |
| 6 | Q How about Shorty Shea? Have you heard that name? |
| 7 | A No. |
| -8 | 4 All right. Had you heard the name Mary Brunner? |
| 9 | A. No. |
| 10 | Q Had you heard the name Manson Pamily? |
| 11 | A. Yes, I had heard that. |
| 12 | Q What does that mean to you? |
| 13 | A Well, it is just you know, it doesn't mean |
| 14 | you know, just what I heard. You know, |
| 15 | Q No, I don't know. |
| 16 | A Well, that this Susan Atson Atson belonged to the |
| 17 | Manson Family. |
| 18 : | Q: What does the term Manson Family mean to you? |
| 19 | A Well, it is just that I heard, you know, what I |
| 20 | heard, you know, that I said on the news. |
| 21 | Q Well, I don't know. |
| 22 | A Well, it doesn't mean, you know, too much. And I |
| 23 | listen to the news and, I mean, I don't pay too much attention |
| 24 | to it. I just listen to it if it comes on and I have the radio |
| 25 | on, |
| 26 | Q Would you listen to the question now? |
| 27 | Considering what you have heard, seen or read about |
| 28 | this case, do you think that you could set it aside for the |

purpose of making an independent and impartial judgment about any issue that you can -- that you would be called upon to decide in this case?

- I -- uh -- yes,
- Do you believe that you can divorce yourself from all of this publicity that you may have heard, seen or read and be fair and impartial in spite of that?
 - Yes, I do.
- Do you think that you can be -- that you would be able, capable, of setting aside any such information, any such news report you may have heard, seen or read, anything you may have heard by way of conversation by your friends and decide this case solely on the evidence that's presented here?
 - Yes, I could,
- Can you set aside any opinions that you may have formed from that publicity that you heard, seen or read, and be fair and impartial?

YOR.

THE COURT: Mr. Kanarek.

MR, KANAREK: Thank you, your Honor.

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VOIR DIRE EXAMINATION

BY MR. KANAREK:

Q Miss Spaiding -- can you hear me now?

A Yes.

Q Recognizing -- I'll withdraw that.

Thinking of what you did hear, by way of publicity, and saw by way of publicity, did any of that involve any racial matters?

A No.

Now, certainly you intend -- you would intend to follow the Court's order and set aside anything that you may have heard, right?

A Yes.

Q Now, is it a fair statement that you sometimes intend to do something and somehow or other what we intend to do doesn't exactly work out that way. I mean, I guess we've all had that experience?

A Yes.

Now, having in mind that, that certainly it would be your intent to follow the Court said, do you think that it would be difficult -- may I sak it that way -- that it would be difficult to set aside what you heard concerning Mr. Manson?

A No.

Q What is your thinking as to what occurred as far as Mr. Manson was concerned in that previous trial?

A I can't really say because I don't know. I did not follow it, you know, the trial that close. I -- I just

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have the radio on and listen to what I usually listen to, and if the news comes on, I may, you know, listen. But I'm really not paying too much attention to it. So I -- I didn't -- I don't remember anything, you know, about -- or wasn't following it or I didn't follow it.

Does the name Sharon Tate mean anything as far as the publicity is concerned that you heard in that previous trial?

A Well, I, uh -- it doesn't mean anything, but as far as I can remember I think she was among one that was murdered.

And as far as what the result was in the trial as far as what the jury said in connection with Mr. Manson, do you know what the jury said?

A No. I do not.

Q And do you know what penalty, if any, the jury said should occur in that case?

A No.

MR. KAMAREK: Thank you very much, Miss Spalding. Thank you.

THE COURT: Mr. Manzella, any questions?

MR. MANZELLA: No questions, your Honor.

THE COURT: All right, thank you, Miss Spalding. The Court will ask you to wait outside, if you will, please.

(Whereupon, prospective juror No. 7 retired from the courtroom.)

THE COURT: Are the other jurous in Department 160? THE BAILIFF: I believe they are outside.

19a-3 THE COURT: Would you like to bring Mrs. Elder in? 1 THE BAILIFF: Yes, sir. .2 Your Honor, could we ask the other jurors to go 3 down to Department 100 until you need them? THE COURT: Yes, although they'll be moved right back in. THE BAILIFF: Okay. 7 THE COURT: It will be less than five minutes they 11 8 be brought right back in. 9 10 11 VOIR DIRE EXAMINATION OF MRS. LEITA L. BIDER 12 BY THE COURT: 13 Mrs. Elder, we wish to inquire of you whether you 14 Q previously heard the name Manson, heard, seen or read it 15 before you came into this courtroom? 16 17 Yes, I have. 18 And that was in connection with the so-called 19 Tate-La Bianca homicides? 20 Yes. 21 And did you follow that case in the press or 22 via television or radio? 23 Á Sort of, but --24 D. Just from time to time, not regularly? **2**Š A I refused to read it. 26. Pardon? Q 27

I refused to read.

Did you learn the jurors' verdict?

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| | 1 | A Yes. |
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| | 2 | Q What do you know that to be? |
| | 3 | A Uh, that they were found guilty, first degree, |
| , | 4 | I believe. |
| | 5 | Q And do you know what the penalty was that the jury |
| : | 6 | returned? |
| | 7 | A Yes, the death penalty. |
| | 8 | Q Do you know the name Susan Atkins? |
| | 9 | A Yes. |
| | 10 | Q Do you know her to be what? |
| | n | A Well, one of the defendants. I think she was one |
| | 12 | of the ones that was convicted, I think. |
| | 13 | Q Did you hear have you ever heard the name |
| | 14 | Shorty Shee or have you heard the name Gary Hinman before I |
| - | 15 | mentioned it here? |
| Ē | 16 | A Yes, I had yes, I had heard the names. |
| | 17 | Q What had you heard about Gary Hinman? |
| E. | 18 | He's generally referred to in the press as musician |
| | 19 | Gary Himmen, the Court believes. |
| | 20 | A Other than hearing, reading that he had been |
| | 21 | supposedly murdered or something, I know nothing. |
| | 22 | I think I've heard the name Shea or whatever his |
| 9b £ | La. ²³ | name is. I Shorty Shea. |
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| 1 . | Q | Do you know what you may have heard about Mr. Sheat |
|----------|-------------|---|
| 2 | A | No. |
| 3 | Q | Just remember the name somehow or other? |
| 4 . | A | Right. |
| 5 | Q | Do you remember the name Bobby Beausoleil? Have |
| 6 | you ever he | eard that? |
| 7 | A , | No. |
| 8 | Q. | Do you recall the President of the United States |
| 9 | make any si | tatement in connection with the case during the |
| 10 | A | Yes, I recall that. |
| 11 | વ | Did you have any reflections on that as to whether |
| 12 | he was just | tified in drawing the conclusion that he did and |
| 13 | making stat | Cemera tus? |
| 14 | A | I felt it was improper. Whether it was justified |
| 15 | or not | • |
| 16 | Q | You formed no opinion? |
| 17 | A | I didn't really evaluate that. |
| 18 | , | I just don't want to be on this kind of trial. |
| 19 | B | Why is that? |
| 20 | A | Well, I suppose it is because it seems so |
| 21 | ugly and - | |
| 22 | Q | I'm sorry? |
| 23 | A | It seems so ugly. And my life has not been that |
| 24 | way. And | I just don't wish to have that forced upon me, I |
| 25. | guess. | |
| 26 | | So I'm that was my one desire to not be on |
| 27 | a case lik | e this. I just object to being forced to think |
| 28- | of ugly th | ings and see ugly things. |

Q Well, would that feeling prejudice you against either side, do you think?

A Well, I haven't been exposed to that, so I don't know. But I do know that I try to be fair about things, but I have no way of evaluating that. I don't know.

O Do you think that you could be objective enough to view the evidence as it comes in, listen to the evidence and be fair and impartial in making your decision based upon the evidence and the law as I shall instruct you concerning it?

A Yes. And fortunately, I feel that I would do that, but I just don't want to do it.

Q It is the Court's view from having listened to you and observed you, that you could be objective in spite of your feeling of revulsion toward this type of case.

Let me ask you about this: If I were to instruct you that you were not to allow any matters that you might have discussed with anyone or any matters that you may have heard, seen or read concerning that Tate-La Bianca case or this case or Mr. Manson to enter into your judgment on any issue involved in this case, do you think that you are capable of setting such matters aside? Not forget them, but set them aside for the purpose of making objective judgments?

A Yes, I know I can, because that's the way I am.
But it isn't because I want to, but I do that. I know that.
I know that I am the kind of juror that someone would want.

and being fair and impartial?

A I know I would try. But I can't -- not having been

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exposed to this, I can't evaluate it completely. But I know I would always try.

MR. KANAREK: 1073, Subsection 2, your Honor.

Q BY THE COURT: I know that you would try, too.

And it is -- judging from what you had said previously, it
is your belief that you actually could do that?

And from what the Court has observed, it is the Court's belief that you probably could do that. But we have to be more certain than that. We have to all be convinced, to be certain that you would not allow snything that you heard, seen or read to enter into your judgment?

A Yes.

Because certainly it would be unfair to Mr. Manson were you to do that.

A Of course.

Are you of the mind now that you would not be certain whether you would be capable of setting aside any opinions -- any opinion that you might have formed from radio, television, newspapers or otherwise?

A I don't know that I could positively answer that.

I honestly don't know that I could, but I -- so -- I don't
think I could answer that positively.

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| Q | In making | a judgment | on the case, t | hen, you |
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| believe th | hat it's poss | ible that, | in your presen | t state of |
| mind, that | t some of tha | t publicity | that you migh | t have heard |
| might rub | off and caus | e you to be | something les | s than |
| impartial: | ? | • | • | |

A I guess it's possible. I -- I can't be that certain.

All I can say is, I would try, But I can't be that certain about it.

THE COURT: All right. The Court grants the challenge for cause. The Court will excuse you.

Thank you, Mrs. Elder.

MR. KANAREK: Thank you, Hrs. Elder.

THE COURT: Mrs. Elder, report back to Room 253, would you, tomorrow at 9:00 o'dlock?

Let's call another name,

MR. KANAREK: Your Honor, while she's doing that,
I would like to challenge under 1073, Subsection 2, Juror
Spalding:

THE COURT: I am inclined to grant that challenge. I think her intellectual capacity is such that it would be very difficult for that woman to distinguish between what she's heard, seen or read, and what the evidence is.

The Court grants the challenge.

Call two names.

Would you inform Miss Spalding, then, that she's to report to Room --

THE BAILIFF: Yes, sir.

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THE COURT: -- 253 tomorrow morning?

MR. MANZELLA: I take it we don't have to bring her back into the courtroom, your Honor, and have Mr. Kanarek state his challenge in front of the juror, for all to see? THE COURT: I -- the Court generally --

MR. MANZELLA: . I'm not asking for that, your Honor.

THE COURT: Generally, counsel with to approach the bench when such a challenge is made, in any event, just in the event that the Court should deny it. That's been the request when the jurors are present.

MR. KANAREK: I might state, your Honor, that the challenge is -- I feel that -- that a juror -- one issue is different from another issue. I mean, counsel evidently doesn't conceive that.

Well --THE COURT:

MR. KANAREK: I believe that every one of these jurors -- every one of them -- is biased and prejudiced; and that some of them have, for reasons of their own, a desire to be on this jury.

And I -- I think that --

THE COURT: Aside from that, what is the -- you have no request, do you, that the jurors be brought back in to be excluded?

MR. KANAREK: No.

THE COURT, All right.

MR. KANAREK: No, that's pointless.

THE COURT: All right. If you wish ---

MR. KANARKK: I would prefer all challenges to take

| 1 | place outside the presence of the jury, because it it's |
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| 2 ′ | irrelevant to any voir dire. In other words, the fact of |
| 3 | making the challenge, you have the mechanical problem of |
| . | telling it to the Court, without the jurors knowing it. |
| 5 | I would welcome that being done outside the |
| 6 | presence of the juror in every case. |
| 7 | THE COURT: All right. You may inform Miss Spalding, |
| § , | then, that she needn't that she's been excused; and that |
| 9 | she should report to Room 253 tomorrow morning at 9:00 o'clock |
| 10 | then, if you would, Mr. Kuczera. |
| 11 | THE BAILIFF: Yes, sir. |
| 12 | THE COURT: Well, it's 4:15 at this time. Shall we |
| 13. | adjourn until tomorrow morning? |
| 14 | MR. MANZELLA: Yes, your Honor. |
| 15 | THE COURT: 9:30, then? |
| 16 | Let's take two names out of the box first, though, |
| 17 | so we can |
| 18 | Bring the jury back in, would you, please? |
| 19 | THE CLERK: For 7 and 127 |
| 20 | THE COURT: That would be No. 7 and No. 12, yes. |
| 21 | (Whereupon, the members of the prospective jury |
| 22 | panel began filing into the courtroom.) |
| 23 | THE COURT: You may stand beyond the rail, if you would, |
| 24 | Mr. Lows, please. You may remain standing. |
| 25 | Would you come in in a hurry? And see if we can |
| 26 | move people along? |
| 27 | (Pause in the proceedings while the rest of the |
| 28 | prospective jury panel filed in.) |

THE COURT: All right. Now, we must fill -- we must Ì fill seats No. 7 and 12. So Mrs. Holt, would you draw two 2 3 names? THE CLERK: Mike S. Kowal: K-o-w-a-l. 4. THE COURT: Mr. Kowal, you needn't come forward at this 5 6 time. You will be in seat No. 7. 7 THE CLERK: Robert C. Nowloki; N-0-v--8 PROSPECTIVE JUROR NOWICKI: Here, 9 THE CLERK: --i-c-k-1. 10 THE COURT: Mr. Nowicki, you will be in seat No. 12 11 tomorrow morning at 9:30. 12: All right. Remember the admonition that I have 13 given to you, just before the Court permitted you to leave the 14 courtroom. 15 You are ordered to return tomorrow morning at 9:30. 16 Everyone try to be on time. The Court will try to get other 17 matters out of the way, so that we can start promptly. 18. Remember also to contact your employer, if you 19 have any doubt about whether or not you would be paid during 20° the period of service on this jury. 21 Good night, ladies and gentlemen. 22 (Whereupon, the members of the prospective jury 23 panel exited the courtroom, and the following proceedings were 24 had in their absence:) THE COURT: In connection with Request For Subpognas. 26 Mr. Kanarek, or Affidavits For Attendance -- let's see. July 27 23rd? Do you think you need them that early? 28 MR. KANAREK: Yes, your Honor. There's a necessity to

Ì consult with these people. 2 THE COURT: I know that, but --3 MR. KANAREK: As your Honor notes --THE COURT: Are you going to get to it by July 23rd? MR. KANAREK: Well, I --6 THE COURT: If you had a week before, wouldn't it be 7 sufficient? 8 MR. KANAREK: Well, no. I -- I think that there's a 9 necessity to consult with these people, and then to integrate -10 THE COURT: Well, they're in San Quentin, aren't they? 11 MR. KANAREK: Yes. 12 THE COURT: All right. I'll talk to you off the record 13. on this. 14 MR. KANAREK: Thank you, your Honor. 15 THE COURT: We are in recess. 16 MR. KANAREK: Yes. Thank you. 17 (Whereupon, an adjournment was taken at 4:16 18 p.m. to reconvene at 9:30 a.m., Thursday, July 8, 1971.) 19 20 21 22 23 24 25 26 27

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