

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 106

HON. RAYMOND CHOATE, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

-VE-

CHARLES MANSON,

Defendant.

116

NO. 2-267861

REPORTERS' DAILY TRANSCRIPT

FRIDAY, JULY 16, 1971

APPEARANCES:

For the People: JOSEPH P. BUSCH, JR., District Attorney
BY: ANTHONY MANZELLA
Deputy District Attorney

For the Defendant Manson:

IRVING A. KANAREK, ESQ.

MARY LOU BRIANDI, CSR
ROGER K. WILLIAMS, CSR
Official Court Reporters

COPY

LOS ANGELES, CALIFORNIA, FRIDAY, JULY 16, 1971

10:01 A.M.

- - -

THE COURT: Good morning, ladies and gentlemen.

THE PROSPECTIVE JURORS: Good morning.

THE COURT: Are we missing one? Mrs. Jordan?

We are in recess.

(Short recess.)

THE COURT: All right. The record will show that Mr. Kanarek is present with Mr. Manson. All the prospective jurors are present.

Ladies and gentlemen, let me again remind you to try to be comfortable when the Court -- is everyone listening?

MR. KANAREK: Yes, your Honor.

THE COURT: Let me again remind you to have everyone comfortable when the Court sets this matter in the morning, because we have a long way to go in the matter, in the case, and you inconvenience everyone when you are not on time.

The Court sometimes will not be ready for you because of other matters, but you should make it your business not to inconvenience the others and cause us to wait.

All right. The record will show that all prospective jurors are present. I think that the voir dire of Mrs. Jordan had terminated.

Do you both pass for cause as to Mrs. Jordan?

MR. MANZELLA: Yes, your Honor.

THE COURT: Mr. Kanarek?

MR. KANAREK: Yes, your Honor.

1 THE COURT: Very well. The peremptory lies with the
2 People.

3 MR. MANZELLA: Your Honor, the People would ask if
4 your Honor would allow -- or, I would ask permission to
5 inquire of Mr. Rico on one point --

6 THE COURT: All right. You may --

7 MR. MANZELLA: -- if I may.

8 THE COURT: You may do so.

9
10 VOIR DIRE EXAMINATION OF

11 EMILIO RICO

12 BY MR. MANZELLA:

13 Q Mr. Rico, I wanted to talk to you about the fact
14 that you had a relative who was accused of a crime.

15 A Yes, sir.

16 Q I want to find out if anything occurred in that
17 case, which would cause you to have a bias or a prejudice
18 against law enforcement or against the District Attorney's
19 office or the prosecution in general?

20 A No, sir. I -- I remember answering that question,
21 and I said: "No."

22 THE COURT: I think he did answer it previously.

23 MR. MANZELLA: Well, that was when Mr. Kay inquired,
24 and I wanted to talk to him.

25 THE COURT: Oh.

26 MR. MANZELLA: That's why I asked permission --

27 THE COURT: I think that was true. Mr. Kay was
28 present.

1 Q BY MR. MANZELLA: Yes. And I just wanted to --
2 you know, talk to you myself, --

3 A Okay.

4 Q -- to clear that up in my own mind.

5 What was the charge in that case?

6 A Uh -- I believe that was a charge of possession
7 of narcotics.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Aa fls.

A2-1

1 Q All right. Did you become --

2 A No.

3 Q -- personally involved in the case?

4 A No. It was a bunch of fellows in a car, and
5 something was thrown out of the car and they arrested my
6 brother. He was in the car at the time.

7 But it was proven that he didn't have nothing to
8 do with it.

9 Q All right. So you felt that he was fairly --

10 A Yes.

11 Q -- treated in that case, and so --

12 A Yes.

13 MR. MANZELLA: Okay. Thanks, Mr. Rico.

14 Thank you, your Honor. The People pass for cause
15 as to all jurors, your Honor.

16 THE COURT: The peremptory -- it is your peremptory.

17 MR. MANZELLA: Yes, your Honor. The People will accept
18 the jury as presently constituted.

19 THE COURT: It is Defendant's peremptory.

20 MR. KANAREK: Thank and excuse Mrs. Reyes, your Honor.

21 THE COURT: Miss Reyes? Do you mean Juror No. 5?

22 Mr. Kanarek, do you mean Juror No. 5?

23 MR. KANAREK: Yes, your Honor.

24 THE COURT: Thank you, Miss Reyes. Room 253. Thank
25 you.

26 THE CLERK: Louis B. Cohen; C-o-h-e-n; Louis is
27 L-o-u-i-s.

28

VOIR DIRE EXAMINATION OF

LOUIS B. COHEN

BY THE COURT:

Q Mr. Cohen, were you present when the Court explained the nature of this case, and when the Court questioned the prospective juror, Mr. Winters?

A Yes.

Q Would your answers be any different than Mr. Winters' answers were to the questions of a general nature?

A No, sir.

Q All right. Would it be a hardship to you to serve in this case?

A No, sir.

Q Have you served as a juror before in any criminal case?

A I didn't serve as a juror. I was excused from one case.

Q I see. Are you related to or a friend of any law enforcement officer?

A No, sir.

Q What type of work do you do?

A I am a shoe cutter. I am retired now, practically. I had a job, but I called the boss not to expect me to come back.

I didn't feel I would go on.

Q How long did you work as a shoe cutter? How many years?

A Oh, all the way since I was about 18 years old,

1 backwards and forwards and so on.

2 Q Mostly in Los Angeles?

3 A No, back in Lynn, Massachusetts; and Framingham,
4 and mostly in -- oh, for a good deal -- not so much right
5 here in Los Angeles. I worked at -- oh, running -- Running --
6 doing the same operation, practically, on other machinery.

7 Q How long have you resided in Los Angeles?

8 A Since 1943.

9 Q Is there a Mrs. Cohen?

10 A Yes.

11 Q And what type of work does she do?

12 A She's a milliner, but she's retired, too.

13 Q In what area do you and shereside?

14 A Hollywood.

ab fls.

Ab-1

1 Q Do you have such views concerning the death
2 penalty that you could not be fair and impartial in
3 determining the question of guilt or innocence?

4 A No.

5 Q Or do you have such views concerning the death
6 penalty that you would automatically refuse to impose it,
7 regardless of the evidence?

8 A If the evidence was sufficient, I think I'd
9 go along with the --

10 Q You understand that there's no -- no criterion
11 set as to what is sufficient evidence? And that it is a
12 matter simply of your own discretion?

13 A That's true.

14 Q You understand that. In other words, there's no
15 such thing as a "proper case" --

16 A No.

17 Q -- or a proper quantum of evidence that's
18 spelled out by the law for the imposition of the death
19 penalty?

20 A I see.

21 Q You do understand that?

22 A Yes.

23 Q All right. What I am asking you is whether your
24 views are such concerning it that you would automatically
25 refuse to impose it, regardless of the evidence?

26 A The evidence would have to be sufficient to have
27 me -- have me go to a serious decision like that. The
28 evidence would --

Ab-2, 1 Q All right. Are your views such concerning the
2 death penalty that you would never impose it?

3 A No.

4 Q Or are your views such concerning the death
5 penalty that you would automatically impose it, upon a
6 conviction of murder of the first degree?

7 A Yes.

8 Q In other words, if somebody were convicted of
9 murder of the first degree, there would be an automatic
10 reaction on your part?

11 You would vote for the death penalty regardless
12 of the evidence?

13 A Right.

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

15 THE COURT: Any questions?

16 MR. MANZELLA: I would like to inquire, your Honor, --

17 THE COURT: All right.

18 MR. MANZELLA: -- to make sure that he understands the
19 question.

20
21 VOIR DIRE EXAMINATION

22 BY MR. MANZELLA:

23 Q Mr. Cohen, do you understand that the death
24 penalty is not automatic upon a conviction of first degree
25 murder? In other words, the law does not require the
26 death penalty upon a conviction of first degree murder.

27 Do you understand that?

28 A Will you explain the difference? Like I -- I

A b-3

1 feel that -- you say it's automatic? If the jury comes to
2 a decision, with the jury, and a -- and if it's first -- and
3 the law is that on first degree murder, as far as I know,
4 that it entails the death penalty, or life imprisonment.

5 Q That's right.

6 A Right. Or life imprisonment.

7 Q Do you understand that there -- if the defendant
8 is convicted of first degree murder, then there is in effect
9 a second trial, at which the same jury determines whether the
10 punishment will be life imprisonment or death? Do you
11 understand that?

12 A Yes. Now, yes.

13 Q Now, do you understand, as Judge Choate has said,
14 that the choice is entirely up to the individual jurors, as
15 to what they believe --

16 A Of course.

17 Q -- is justified, as the punishment in that
18 particular case? This particular case?

19 A Yes.

20 Q All right. Now, if the defendant, Mr. Manson,
21 were convicted of first degree murder by you, by this jury,
22 if you sat on this jury, then you would go into the penalty
23 phase, and either hear evidence or -- and then begin
24 deliberations on what penalty should be imposed, whether it's
25 life imprisonment or death.

26 Now, do you feel that if Mr. -- if you convicted
27 Mr. Manson of first degree murder, that you would automatically
28 vote for the death penalty, regardless of the evidence in the

Ab-4

1 case?

2 A Well, going along with my decision, and -- in
3 that debate, as you say, upon the panel as to what would be the
4 penalty, as to the evidence, there is a choice of my either
5 going -- or, voicing life imprisonment or death penalty.

6 That's the choice I have to make. That would be
7 part of the things that would go along with the law of the
8 thing, for first degree murder, you say; see?

9 That's the -- the -- the only -- the only
10 difference there is in your thinking on that is either one
11 or the other. But conclusively, it's either one or the other.

12 Q Well, right. The law sets down those two
13 choices.

Ae fls.

14 A Right, right.
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Ac-1

1 Q But do you understand that there -- if I may say
2 it this way, there are different kinds of first degree
3 murder.

4 A Well --

5 Q The facts differ on first degree murders.

6 A Then we'd have to have the instruction, on some,
7 to make those points clear, too. The Judge perhaps would
8 state those differences to us, in his instructions.

9 Otherwise, unless we were trained in this thing,
10 how would we know those different points?

11 Q Well, you see, there's no law that guides you,
12 no standards given to you by the law on which penalty to
13 choose.

14 A Well, there are instructions. Now, what instruc-
15 tions would we be given to point out the differences to us,
16 to sort of inform us?

17 Q Well, the instructions that define crimes have
18 to do with the guilt phase of the trial. In other words --
19 see, the crime of murder, the crime of murder will be
20 defined for you. The law defines that, gives you the
21 standards, on when a -- a particular set of facts you find
22 to be true constitutes first degree murder.

23 But once a defendant has been convicted of first
24 degree murder, then the law gives you no standards or no
25 guidelines to tell you which --

26 A I see.

27 Q -- punishment he should get, life or death.

28 A In the first or second phase of it, you keep

1 mentioning, of the trial.

2 Q Right.

3 A First, we get the conviction, if possible; and
4 then the penalty is up to another -- another decision of the
5 panel, on top of the first decision.

6 Q Right, right. Now, the question that the Judge
7 is asking you is: If Mr. Manson was convicted of first
8 degree murder, would you automatically vote for the death
9 penalty, regardless of the evidence that you've heard in the
10 case?

11 In other words, without regard to the evidence,
12 would you always vote for the death penalty in a first
13 degree murder case?

14 That's in essence what the question is. Would
15 you always vote for the death penalty for a defendant who
16 was convicted of first degree murder, regardless of those
17 facts which made it first degree murder?

18 A Well, you mention there are different points of
19 first degree murder. Not knowing all those points, you
20 can't say automatically you'd automatically do something,
21 without considering -- considering those points.

22 And then we would have to be instructed on those
23 points, in order to be able to consider the error.

24 I can't see why you say that it would be automatic.
25 I can't allow that -- that kind of a -- a phrase to enter
26 into it.

27 Q All right. Well, that's the question. The
28 Judge asked you if you would automatically vote for the death

1 penalty, and you said: "Yes."

2 A Well --

3 Q Did you --

4 A Conclusively thinking the thing, and not quite
5 understanding the word, you say "Yes" or "No" to the thing,
6 unless the question is asked so that you have a chance to
7 -- to think the thing over before you answer.

8 If it's a "Yes" or "No" thing, you are inclined
9 to go along with the "Yes," and so you say "automatically,"
10 which would include your "Yes." You see?

11 Q Well, are you saying that you misunderstood the
12 question?

13 A It's possible, and possible that -- that there
14 was a misunderstanding of the implication of the word
15 "automatic."

16 Q Well, let me ask you the question again.

17 If Mr. Manson was convicted of first degree
18 murder, would you automatically vote for the death penalty,
19 regardless of the evidence in the case?

20 A That's clear to me, whether I'd automatically vote
21 for something, regardless of something that might condition
22 the vote.

23 Do I make that clear to you?

24 Ad fls.

Ad-1,

1 Q I think you do. But you still haven't answered
2 the question, though. You can answer the question, if I
3 understand you correctly. You can answer it.

4 A Well, may I change the answer to my question,
5 and say -- and condition the answer? I would vote no -- not
6 automatically, but it would be conditioned by other factors
7 of the evidence, that might change my vote from no to yes.

8 That's the -- see, that's up to me to decide,
9 as of listening to the evidence, and in debate with the
10 jurors.

11 Q Well, are you saying, then, that you would not
12 automatically vote for the death penalty?

13 A Yes. I would have to say now: I wouldn't -- in
14 consideration of the use of the word "automatic," I would not
15 automatically vote death penalty, without consideration of
16 the facts and everything else.

17 But I might change my thought -- say, not use the
18 word "change my thought," but include -- include my thinking
19 on the thing, so that it may decide it one way or another.

20 That's the debate in the jury.

21 Q Are you saying that your vote as to penalty and
22 punishment depends on the evidence in the case?

23 A True.

24 MR. MANZELLA: All right. Your Honor, the People would
25 oppose the motion. I think that Mr. Cohen misunderstood the
26 question. I think he has made it clear that his vote would
27 depend on the evidence in the case.

28 Q BY THE COURT: Upon a conviction of murder in the

1d-2

1 first degree, Mr. Cohen, would you always vote for the death
2 penalty?

3 A Uh -- I think the State attorney allowed that
4 there were different -- different degrees of punishment for
5 first degree murder.

6 Q Well, it's clear in your mind, is it not, that
7 there are two punishments set out, and that the law decides
8 neither, but leaves it to the entire discretion of the jury,
9 as to which they should choose, the death penalty, or life
10 imprisonment?

11 A Well --

12 Q Is that clear?

13 A Yeah, those two points are clear to me. But --
14 is there a chance of a variation between them?

15 Q All right. Very well. If that's clear to you,
16 let me ask you this: Upon a conviction of murder of the first
17 degree, would you always vote for the death penalty, regard-
18 less of the evidence?

19 A No, I would have to consider the evidence. If
20 there was variations of penalty for the first degree murder,
21 I would have to consider those, and I would have to have
22 those points pointed out to me.

23 Q Well, I spelled out the variations. The
24 variations are either life imprisonment or death. And that
25 choice is left to the --

26 A Well, if the --

27 Q -- the jury and to the jury's discretion; is that
28 understandable?

1 A Well, if you say there are only two decisions,
2 one or the other, then I would have to -- I would say, along
3 with not using the word "automatically," but I would go along
4 with the decision of the -- of the jury, for the death
5 penalty.

6 Q Well, you are the jury. You are part of the
7 jury. And it has to be a unanimous vote, as to either
8 punishment.

9 Do you understand?

10 A Yes. Yes.

11 Q If either punishment is to be -- if either
12 punishment is to be found as the verdict of the jury, there
13 must be a unanimous vote in order to return a verdict.

14 Do you understand that?

15 A Yes. I would have to go --

16 Q So it's not a decision which you could avoid, --

17 A Well, the only thing I --

18 Q -- by going along with the other jurors.

19 What we are all seeking, both counsel and the
20 Court are seeking, is your individual opinion.

21 A Well, if I -- if my thought was for life
22 imprisonment, instead of death, then I would have to hold to
23 that life imprisonment, according to the evidence.

24 The extreme penalty is death, but the -- the
25 leniency, if it's possible to use that word, is for life
26 imprisonment. And if I felt that life imprisonment was
27 a sufficient penalty instead of that, then I would hold out
28 for the life imprisonment, each one of the jurors having
29 that choice.

Ae-1

1 Q Upon a conviction of murder of the first degree,
2 would you always vote for the death penalty, regardless of
3 the evidence? Yes or no.

4 A No.

5 Q Would you look at the evidence that would be
6 presented in the case, to determine which of the punishments
7 you should impose, --

8 A Of course.

9 Q -- in your own discretion?

10 A Of course.

11 THE COURT: All right. I think he did misunderstand.

12 Do you wish to ask him any questions?

13 MR. KANAREK: No, your Honor. Thank you.

14 Q BY THE COURT: Now, concerning publicity that
15 you may have heard, seen or read, I wish to talk to you
16 about that in the absence of the other jurors.

17 So, ladies and gentlemen, would you oblige me?
18 Don't talk amongst yourselves nor with anyone else.

19 Open both doors there, would you, please?

20 (Whereupon the members of the prospective jury
21 panel exited the courtroom, and the following proceed-
22 ings were had:)

23 BY THE COURT:

24 Q Mr. Cohen, before you ever came into this court,
25 had you ever heard, seen or read the name Charles Manson?

26 A Oh, yes. Over the last couple of years, the
27 papers have been filled of it. And I buy the Los Angeles
28 Times, seven days a week.

1 Q And you read it regularly?

2 A Regularly, yes, sir.

3 Q And you've read it regularly over the past two
4 years?

5 A Oh, yes.

6 Q So that you know about the Tate-La Bianca trial
7 and the homicides therein?

8 A I --

9 Q The homicides of which Mr. Manson was accused?

10 A I -- yes. I --

11 Q You know about the case?

12 A I know about the case. But I never did --

13 Q Well, let me ask you this.

14 A Thank you.

15 Q Would you simply answer my questions in as short
16 and terse a way as you can? If it's a yes or no, answer it
17 in that way.

18 If we wish to have you expand on it, we will
19 do that.

20 A Yes.

21 Q Will you follow that?

22 A Yes, sir.

23 Q Thank you. Do you know the result of that trial?

24 A It was life imprisonment, as far as I -- as far
25 as I recall. It was --

26 Q You believe that Mr. Manson was convicted of
27 what charge?

28 A He was convicted of murder.

1 Q And was sentenced to life imprisonment?

2 A Yes.

3 Q Was it more than one murder?

4 A The papers -- only having the information, what
5 the papers were there, the papers reported there were
6 several murders.

7 Q Had you ever heard the name Shorty Shea before?

8 A No.

9 Q Or had you heard the name Gary Hinman before?

10 A No.

11 Q Mary Brunner?

12 A No.

13 Q Bobby Beausoleil?

14 A No.

15 Q Had you heard the term Manson Family before?

16 A I heard that.

17 Q What does that mean?

18 A That -- apparently he had a group of -- like, you
19 might say, a small -- a small society, that he was the head
20 of; that -- and -- and it was more than that. They felt as
21 if they -- they felt as if he was -- there was a father
22 image idea there.

23 That's about --

24 Q He was the leader of this group?

25 A Group, yes, sir.

26 Q Which is known as Manson's Family?

27 A Right.

28 Q Do you think it's possible for you to set aside

1 what you may have heard, seen or read in the newspaper, over
2 television, and over the radio, heard over the radio? Any-
3 thing that you may have talked about with your friends
4 concerning Mr. Manson and that other case, or this case?
5 And decide the case independently of such matters?

6 A Yes.

7 Q Are you capable of doing that?

8 A I think so. Because -- may I expand on that?

9 Q No, you need not expand on it at this moment.

10 A Yes, thank you.

11 Q And will you do that?

12 A Yes.

13 Q You understand that if you were to consider any
14 such matters that you may have heard, seen or read, that it
15 would be very unfair to the defendant?

16 A (No response.)

17 Q Is that puzzling to you?

18 A Now, that -- that's sort of a -- it falls
19 between a yes and a no answer.
20
21
22
23
24
25
26
27
28

Af fls.

Af-1

1 Q All right. Well, there cannot be any in between.
2 It would, in the Court's judgment, be extremely unfair to the
3 defendant to rely on any news reports that you may have
4 heard, seen or read, or any rumor that you may have
5 discussed, in order to establish any element in the case.

6 A Well, I feel that I'd have to -- whatever I
7 remember reading, I would have to consider that evidence,
8 along with other evidence.

9 Q You think that whatever is -- whatever you may
10 have read is also evidence in the case? That you'd have to
11 consider?

12 A Yes. Since the Court has allowed another --
13 another trial for this. There must be somewhere information
14 in -- in the late evidence of the conviction, that --

15 Q Well, will you explain to me the difference
16 between how you arrive at your present answer, after you have
17 told me, in the first instance, that you would set aside
18 anything that you may have heard, seen or read for the
19 purpose of making a decision?

20 A I could set aside -- let me put it this way: I
21 can set aside what I heard before, but if new evidence came
22 along that pointed back at what had transpired, that I had
23 looked at or especially read in the last couple of years, I
24 may have to add the new evidence on to something that I
25 might remember of what the old evidence, on which he was
26 convicted on; see?

27 Q Oh, I see. You would use what you had heard in
28 the -- over the news media, and -- to fill in the gaps?

af-2,

1 A Well, as new evidence shows -- that is -- shows,
2 yes. It would -- you see, having backtracked on something
3 that you had remembered or something like that.

4 THE COURT: Any questions?

5 MR. KANAREK: Pardon?

6 THE COURT: Any question?

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

8 MR. MANZELLA: No questions.

9 MR. KANAREK: At this point, is the Court finished?

10 Q BY THE COURT: Mr. Cohen, if I were to instruct
11 you that you were to disregard such matters that you may
12 have read, completely -- wipe the slate clean from your
13 memory, wipe your memory clean of those things -- solely
14 for the purpose of deciding this case independently of such
15 matters, could you do that?

16 A Yes. Yes, I feel I could do that, because of
17 your instructions as such. I would have to.

18 Q All right. Would you --

19 A In fact, I feel I would have to --

20 Q Excuse me, just a minute.

21 A Thank you.

22 Q If you were to receive instructions, and I
23 were to so instruct you that anything that you may have
24 heard, seen or read is not to be considered by you, unless
25 it was heard, seen or read by you as evidence taken in this
26 courtroom, could you do that?

27 A Yes. That would be the reasonable thing to do,
28 yes.

1 Regardless of my thinking of what could have
2 been -- could not have been -- I -- not being a legal --
3 having a legal mind, in a sense, I wouldn't --

4 Q Well, let me ask you: Are you capable of
5 forgetting, for the moment -- or, for the course of this
6 case -- anything that you may have heard, seen or read about
7 Mr. Manson previously?

8 A Yes, I would have to do that.

9 Q If I were to instruct you that you should not
10 let any such matter come in to your judgment, or come in
11 to your mind, in making any judgment that you'd be called
12 upon to make in this case, that you were to set aside such
13 matters, can you do that?

14 A Yes, I feel I can do that.

15 Q And will you do that?

16 A I will.

17 Q Will you be fair and impartial?

18 A Yes.

19 THE COURT: Mr. Kanarek?

20 MR. KANAREK: Thank you.

21
22 VOIR DIRE EXAMINATION

23 BY MR. KANAREK:

24 Q Mr. Cohen, I -- I just have a couple of
25 questions to ask you. When the -- you were going to
26 explain to the Court why you thought a certain way,
27 concerning the evidence that -- or, the matters you had
28 read and seen on TV.

1 And the Court said that -- not to tell him the
2 answer.

3 Do you remember that?

4 A Yeah.

Ag fls.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Ag-I 1 Q Would you tell us the answer? Why you had these
2 opinions?

3 A Well, I only look at this. I didn't follow the
4 case very closely. Just -- other things that I like to think
5 about and so on. And -- as the Court said, the conviction was
6 finally altered from death to life imprisonment.

7 That was the -- the last thing, casually reading it
8 in the papers; that was -- until an appeal came along.

9 Now, when the appeal comes along, and -- and all
10 new evidence is presented, apparently, then all that new
11 evidence, which is not yet in existence, as far as the jurors
12 are concerned -- it hasn't been presented -- if some of that
13 came along, and -- and then if you casually remembered some of
14 the things that you read, pointing to the conviction, and the
15 offering of the death penalty -- the altering of the death
16 penalty to life imprisonment -- actually, then, if you remember
17 it all, you think back at something perhaps, that the new
18 evidence might be in connection with, that might be convincing --
19 or, might condition some of the evidence that was presented,
20 that you might casually have read about in the paper, of the --
21 of the last conviction.

22 It's just a -- sort of a mental play there. So
23 that -- that was the reason I have said that, that prior to his
24 Honor's -- or, stating that -- asking the question, whether I
25 would be -- be willing to just forget everything that I had
26 seen or read or anything of the conviction and so on of the
27 last case, of the last part of this case here.

28 I would then have to go along and say that I'd go

1 along with the answer to the question that the judge put to
2 me, whether I would be willing to -- to forget anything I had
3 read or seen prior to possible new evidence being shown to me.

4 And that's the answer now. That I -- whatever I
5 had said before, it has to -- well, change -- change my
6 thought on it. And say that anything that I had said "yes"
7 to, that might have been conflicting, that now I'd have to
8 say -- well, forget those answers entirely, and go along with
9 the new statement, or question and answer, to the question of
10 the judge, as of right now.

11 Q Well, Mr. Cohen --

12 A Is that clear?

13 Q Yes.

14 A If it is to you, good.

15 THE COURT: It's not clear to me, Mr. Cohen.

16 JUROR NO. 5: Well, ask me --

17 Q BY THE COURT: Excuse me, just a minute,
18 Mr. Cohen. Do you understand that this is a different case?
19 That is, this is not --

20 A Yes. That's why I said: To forget everything.

21 Q Excuse me, just a minute. This is not the same
22 case that you read about in the newspapers over the last --

23 A But it's the same person.

24 Q The same defendant.

25 A The same defendant, that's right.

26 Q But he is accused of different crimes, entirely
27 different crimes.

28 Do you understand that?

1 A Yes. Now, I understand.

2 Q You understand that. Did you think this was
3 somehow or another an appeal?

4 A On a continuation. Or, it seemed to be, only
5 having read or -- or seen it in the paper, saying it's an
6 appeal, what the appeal was.

7 Q No, sir. This is -- weren't you present when I
8 read the indictment? You heard me read the indictment, didn't
9 you?

10 A (No response.)

11 Q You heard me read the accusation?

12 A Well, can you state that indictment again? This
13 was a week ago, and I have been here since a week. Can you
14 state the indictment again, briefly?

15 Q Mr. Manson is accused in the first count of
16 murder. He is accused of the murder of Gary Hinman.

17 In the second count, he is accused of conspiracy.
18 Do you recall me telling you that?

19 A Yes, those two points.

20 Q That, you heard. And in the third count, he is
21 accused of the murder of somebody named Shea.

22 A Yeah. Those names, I've never heard of.

Ah fls.

23

24

25

26

27

28

A h-1

1 Q You are going to have four or five months of
2 sitting as a jury here. If you forget what the charge is in
3 one week, do you think you'd probably have trouble forgetting
4 what --

5 A Well, I feel that --

6 THE COURT: Mr. Kanarek, do you have any further
7 questions?

8 MR. KANAREK: No, your Honor. I have no further
9 questions.

10 I think that Mr. Cohen is being candid as to --

11 THE COURT: Do you -- would you explain to me his
12 candidness?

13 MR. KANAREK: His candor is --

14 THE COURT: As you see it?

15 MR. KANAREK: I think that all of the -- that many of
16 the rest of us, if I may put it that way, including perhaps
17 some of the jurors -- what I am saying is, his candor is
18 reflective of what each of these people would be saying, if
19 they were candid, your Honor.

20 I think he is most -- most perceptive of the
21 effect of publicity and the fact these people give these
22 automatic answers for reasons of -- one reason or another.

23 I think -- I have no further questions.

24 THE COURT: Well, the Court is interested in your
25 observations, Mr. Kanarek. But you have no further questions?

26 MR. KANAREK: I have no further questions.

27 I believe that he -- that he is reflecting the
28 true --

Ah-2
1 THE COURT: Well, if you have no further questions, --

2 MR. KANAREK: -- viewpoint of the rest of the jurors --

3 THE COURT: -- sit down.

4 Do you have any further questions?

5 MR. MANZELLA: No, your Honor.

6 BY THE COURT:

7 Q Mr. Cohen, are you still of the firm opinion that
8 whatever you may have heard, seen or read in that other case,
9 you can set aside, for the purpose of deciding the issues in
10 this case?

11 A According to -- according to the possible
12 instructions of the judge, I am.

13 Q Well, that would be my instruction.

14 A Yes. Then -- "Yes" is the answer.

15 And may I say this? That as far as --

16 Q If it's about the subject, yes. Go ahead. If
17 it's about your state of mind.

18 A It's the subject of remembering points of this
19 thing, that the -- this case may run for months.

20 Q Very well.

21 A I feel that the jurors should be able to take
22 notes in this thing. This is just a group of laymen, in
23 a sense. They're not experts, and they're not memory
24 experts.

25 Q The Court will --

26 A And hundreds of thousands of thoughts might be
27 thrown at him. They must have a way of recollecting those
28 things --

1 THE COURT: I think you have put your point across.

2 Q Now, just a minute. You will be able to take
3 notes.

4 A Right. I feel I would have to sit and take
5 notes on this thing.

6 Q With that aid to your memory, do you think -- do
7 you believe that you would be able to remember these facts?

8 A Well, yes. With those notes. But you'd have to
9 -- you'd have hundreds of notes.

10 Q Now, what we are trying to seek at this time,
11 or what we are looking for right now, is your state of mind as
12 to whether you can set aside what you have heard, seen or
13 read, and whether you will set aside --

14 A Yes.

15 Q Can you and will you?

16 A I can and I will.

17 THE COURT: Very well. Bring the other jurors in.

18 Q You understand that you are to base your judgment
19 solely upon the evidence produced here, and upon the Court's
20 instructions of law?

21 A Yes.

22 Q And that if you were to consider anything what-
23 ever that you may have heard, seen or read, from the news
24 media, that it would be unfair and a violation of the Court's
25 instructions?

26 A True.

27 Q Having that in mind, do you have any doubt about
28 your ability to do that? That is, to set aside such matters?

1 A I have no doubt about my ability to go along
2 with the -- with the jury in their debate, and coming to my own
3 decision.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AI-1

1 THE COURT: The Court finds that this gentleman would
2 be incapable of separating the -- do you have something?

3 MR. KANAREK: Yes, your Honor. I would oppose -- I --
4 on the basis --

5 MR. MANZELLA: Could we approach the bench for this
6 argument, is it's going to be argued here?

7 THE COURT: No.

8 MR. MANZELLA: Because the jurors are coming in.

9 THE COURT: Very well. Perhaps the jurors could wait
10 outside just a moment.

11 (Whereupon, the few prospective jurors who had
12 entered the courtroom then exited the courtroom, and the
13 following proceedings were had:)

14 THE COURT: Go ahead, Mr. Kanarek.

15 MR. KANAREK: Does your Honor wish me to do it at the
16 bench?

17 THE COURT: You may do it here.

18 MR. KANAREK: I oppose this gentleman being excused.
19 This gentleman has been candid. This gentleman has been --

20 THE COURT: Do you believe that he is capable of
21 setting aside what he may have heard, seen or read, and that
22 he will do so, in making an independent judgment based on the
23 evidence?

24 MR. KANAREK: On a relative --

25 THE COURT: Would you answer the question?

26 MR. KANAREK: Well, I must answer the Court candidly.

27 On a relative basis, since your Honor has allowed
28 people on that I know are being --

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE COURT: I am not asking you that, Mr. Kanarek. I am asking you what your judgment is and what you base your objection to the Court's releasing him on.

MR. KANAREK: If your Honor would allow me, on the relative basis, compared to some of the people who have been less than candid, in my view, this gentleman is --

THE COURT: That is your view?

MR. KANAREK: That is correct.

THE COURT: All right. Any person who is on this -- in this jury box, in the Court's judgment, has been found to be a person who could set aside anything that he may have heard, seen or read, via the news media; anything that he may have talked about in connection with that other case, or this case or Mr. Manson, and who will set such matters aside and make an independent judgment fairly and impartially on the evidence in this case.

MR. KANAREK: It's my view that none -- no one in the box could possibly do that, with the publicity being what it is.

THE COURT: I understand your view. You have made it clear.

MR. KANAREK: Yes, that's correct.

THE COURT: Now, as to Mr. Cohen, do you wish to state anything?

MR. KANAREK: Yes. I wish to state that I oppose -- I contend it's a denial of due process and equal protection under the Fourteenth Amendment. And I refer your Honor to *Marion versus Beto*, which says that excluding --

1 THE COURT: I know what Marion versus Beto says. You've
2 quoted it --

3 MR. KANAREK: -- that improperly excluding one juror --

4 THE COURT: You have quoted that a number of times.

5 MR. KANAREK: That's correct. And I'm saying that this
6 man is being candid, and I say to the Court that excusing him
7 from the jury is a denial of -- as I say -- of due process,
8 equal protection and a fair trial.

9 THE COURT: You wish him left on the jury, then?

10 MR. KANAREK: Pardon?

11 THE COURT: You wish him left on the jury?

12 MR. KANAREK: Yes, most vehemently. And I do object
13 to his -- and I do urge, and request and move the Court that
14 he not be released.

15 THE COURT: The Court finds that Mr. Cohen is incapable
16 of making that segregation of news reports from the evidence.
17 I think he's in a very confused state of mind. His answers
18 are unclear.

19 I don't believe he understands the nature of this
20 proceeding. I don't believe he understands the importance of
21 segregating what he has heard, seen or read previously from
22 the evidence that might be produced in this case.

23 And it would be difficult for the Court to find,
24 under the circumstances that he could be fair and impartial.

25 The Court has made an individual judgment as to
26 each of these jurors who has been examined on this point, and
27 the Court's observations of the various jurors have, in part,
28 been the reasons for the Court's decisions as to whether

1 to excuse a juror on this point or to allow the juror to
2 remain on, believing that the juror could be fair and impartial.

3 In this case, I am unconvinced -- I am not -- I
4 am convinced that Mr. Cohen would have a great deal of
5 difficulty.

6 The Court does excuse Mr. Cohen.

7 MR. KANAREK: May I point out to the Court --

8 THE COURT: You needn't point out anything further.
9 Sit down.

10 MR. KANAREK: Then I have a request of the Court, your
11 Honor, if I may.

12 THE COURT: All right. Let's hear your request.

13 MR. KANAREK: The request is that the Court -- and of
14 course, we have the standing objection; and I know, theo-
15 retically, it's there in the record, for purposes of some other
16 Court to look at the record. But --

17 THE COURT: Let's bring in the prospective jurors.

18 MR. KANAREK: Well, my point is that I request and
19 beseech the Court not to ask leading and suggestive questions,
20 wherein your Honor gets a misapprehension, because of the yes
21 or no answers.

22 Someone can say yes or no, and --

23 THE COURT: The Court has not had any misapprehension.
24 If there has been any misapprehension, it has not been on the
25 Court's part.

26 (Whereupon, the members of the prospective jury
27 panel completed entering the courtroom, and the following
28 proceedings were had:)

1 THE COURT: Select another juror.

2 (To the clerk:) What do we have to do, surgery,
3 to get that phone out of your ear?

4 Select another juror, please.

5 THE CLERK: Jose B. Flores; F-l-o-r-e-s.

6
7 VOIR DIRE EXAMINATION OF

8 JOSE B. FLORES

9 BY THE COURT:

10 Q Mr. Flores, were you present when the Court
11 explained the nature of this case, when the Court talked to
12 Mr. Winters, and questioned him?

13 A Yes, I was.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2 fls.

1- 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Q Would your answers be any different than his?

A No, they wouldn't.

Q To the questions of a general nature?

A Similar, similar.

Q All right. Would you suffer any hardship should the Court -- should you be on this jury?

A No, sir. I believe I can't, at the present time.

Q Keep that microphone close to your face.

A At the present time my two-year-old son has an abnormal liver and I'm taking him at least once a week --

Q You believe it would be a hardship by reason of the fact that you must transport your son to the doctor?

A That's right, sir.

Q Once a week?

A That's right, sir.

Q Where do you take him?

A To the Children's Hospital, Hollywood.

Q Is there anyone else to do that, Mr. Schwartz?

A No, sir, I'm the only driver. My wife doesn't drive.

MR. KANAREK: Your Honor, I think your Honor is, I'm sure, mispronouncing Mr. Flores' name. It is Flores.

Q BY THE COURT: Oh, is it Flores?

A Yes.

Q I'm sorry.

Mr. Flores, your wife does not drive?

A That's right, sir.

Q And there is no one else in the family that could

1-2

1 take the child?

2 A No, not for that period of time.

3 Q You say he's about to have an operation, about to
4 have surgery?

5 A He's under treatment right now. There is no
6 surgery mentioned as of yet.

7 Q How long do you anticipate that this obligation
8 will continue?

9 A Only the doctors could tell.

10 Q I'm sorry?

11 A Only the doctors could tell. I couldn't.

12 Q You take him during the daytime once a week, is
13 that it?

14 A Yes, sir.

15 Q What type of work do you do?

16 A Work for an insurance company. I'm a supplier,
17 stock record clerk.

18 Q What do they do, excuse you for a period of time?

19 A Yes, sir.

20 Q So that you can accomplish this task?

21 A Yes, sir. Then, at night I have to make up the
22 time. Well, I don't have to, but I feel obliged to them.

23 Q All right. There is no way that you can see
24 that you could possibly arrange the transportation for the
25 child without your driving him?

26 A No, sir, not for that --

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

28 THE COURT: Yes, you may.

1-3

1 MR. KANAREK: Thank you.

2
3 VOIR DIRE EXAMINATION

4 BY :MR. KANAREK:

5 Q If a deputy sheriff or the Sheriff of Los
6 Angeles County should transport your child -- in other words,
7 is there any reason why you physically have to do it yourself,
8 Mr. Flores?

9 THE COURT: You needn't answer that, Mr. Flores. The
10 Court finds that it would be a hardship for you to serve on
11 this jury as a result of what you have stated to me and the
12 Court does excuse you. Thank you for being on the jury.

13 MR. KANAREK: Your Honor, I wonder if we can approach
14 the bench?

15 THE COURT: No, you may not approach the bench.

16 THE CLERK: Darryl Bergstrom, B-e-r-g-s-t-r-o-m,
17 first name spelled D-a-r-r-y-l.

18
19 VOIR DIRE EXAMINATION OF

20 DARRYL BERGSTROM

21 BY THE COURT:

22 Q Mr. Bergstrom, were you present when the Court
23 explained the nature of this case, when the Court conversed
24 with Mr. Winters and questioned him?

25 A Yes.

26 Q Would your answers be any different than the
27 answers of Mr. Winters to the questions of a general nature?

28 A No, they wouldn't.

1-4

1 Q Would it be any hardship for you to serve on this
2 jury?

3 A Yes, it would.

4 Q Tell me about it.

5 A My employer gives me 30 days which I've already
6 used ten of.

7 Q Who is your employer?

8 A Lear Siegler, Incorporated, in Santa Monica. And
9 I am the chief designer there. And my position would have to
10 be filled.

11 Q What type of designing do you do?

12 A Electromechanical. We build auto pilots for
13 aircrafts, north seeking gyros.

14 Q It is a situation where if you would sit four
15 months on this jury trial they would have to fill your
16 position?

17 A My position would have to be filled. I have 25
18 people working for me.

19 Q And when you would come back, you would be in a
20 position that would be possibly junior, if you came back at
21 all?

22 A I doubt whether I would come back at all.

23 Q I see. All right.

24 Gentlemen?

1-a fls.

1 a-1

MR. KANAREK: Yes.

MR. MANZELLA: People will stipulate it would constitute a hardship.

THE COURT: Go ahead, Mr. Kanarek.

MR. KANAREK: Very well.

VOIR DIRE EXAMINATION

BY MR. KANAREK:

Q I just wanted to ask, have you consulted with your company, that's all?

A Yes, I have.

MR. KANAREK: Thank you, stipulate.

THE COURT: The Court thanks the counsel for the stipulation. Mr. Bergstrom, you are excused.

MR. KANAREK: Thank you, Mr. Bergstrom.

THE COURT: Room 253, forthwith.

THE CLERK: Mrs. Lorraine Chargin.

Did I pronounce your name correctly, Chargin?

JUROR NO. 5: Yes.

THE CLERK: Your last name is spelled C-h-a-r-g-i-n, first name spelled L-o-r-r-a-i-n-e.

VOIR DIRE EXAMINATION OF

LORRAINE CHARGIN

BY THE COURT:

Q Mrs. Chargin, were you present when the Court explained the nature of this case and conversed with Mr. Winters?

1 A Yes, sir. Yes.

2 Q Would your answers be any different than his
3 answers?

4 A No.

5 Q To the questions of a general nature?

6 A No.

7 Q Would it be any hardship to you to serve in this
8 case?

9 A Yes.

10 Q What way?

11 A Uh, my husband and I reside in Los Angeles.

12 Q Keep that just a little closer. You have a very
13 soft voice. It doesn't carry well.

14 A We both live in Los Angeles, and he's employed in
15 Los Angeles, and I am employed in Sacramento. I go there
16 once every month or five weeks for a week. I am a boxing
17 promoter and I can't get no one to take my place.

18 Q You are a boxing promoter?

19 A A boxing promoter, uh-huh.

20 Q There aren't many women boxing promoters, are
21 there?

22 A Three, I believe.

23 Q Are you a boxing promoter generally in Los Angeles
24 County or statewide?

25 A No, in Sacramento.

26 Q I see.

27 Is there a license that's statewide or --

28 A We have a statewide license, but you have

1 individual club licenses. And I have a club license for
2 Sacramento and Oakland.

3 Q You have to be in Sacramento in order to
4 accomplish these duties about one week out of every five?

5 A Every five weeks, six weeks.

6 Q Would that cause you some financial hardship?

7 A Not financial.

8 Q Pardon?

9 A Not financial.

10 No, but if -- we're licensed. As such, a licensed
11 matchmaker or promoter has to be at every show. My husband
12 doesn't go to Sacramento, as he's employed in Los Angeles.
13 If I don't go, there aren't any shows, and if I don't go,
14 there isn't a club.

15 Q I see. Well, you wouldn't be able to continue
16 as a promoter in that circumstance, would you?

17 A No.

18 Q Wherein would lie the personal hardship to you?
19 It would ultimately involve a financial loss?

20 A Well, yes. I've worked at this club for two
21 years. It is a small club, building the club, and I employ
22 many people and I would hate to think that it would just
23 all go down the drain.

24 Q So ultimately it would be a financial loss to
25 you and the people you employ?

26 A Yes, uh-huh.

27 Q Is that correct?

28 A Yes, sir.

1 THE COURT: Gentlemen?

2 MR. MANZELLA: People will stipulate it would constitute
3 a hardship, your Honor.

4 MR. KANAREK: Stipulate, your Honor.

5 THE COURT: All right, thank you, gentlemen.

6 The gentlemen have stipulated, Mrs. Chargin,
7 that you may be excused, and the Court thanks you for serving
8 on jury duty. Room 253.

9 Do you have time left on jury duty?

10 JUROR NO. 4: Yes, sir.

11 THE COURT: Room 253, forthwith, if you would, please.

12 JUROR NO. 4: Thank you.

13 THE CLERK: Here is your ticket. Lillian N.
14 Kleinbauer, K-l-e-i-n-b-a-u-e-r.

15
16 VOIR DIRE EXAMINATION OF

17 LILLIAN N. KLEINBAUER

18 BY THE COURT:

19 Q Mrs. Kleinbauer, were you present when the Court
20 explained the nature of this case and when the Court conversed
21 with Mr. Winters about the case?

22 A Yes, sir.

23 Q Would your answers be any different than his
24 answers of a general nature?

25 A No, sir.

26
27
28
lb fls.

1-b-1

1 Q You have to hold that right close to your lips.

2 A Okay.

3 Q Would it be any hardship for you to serve on this
4 case?

5 A Just the length of time. Not financially.

6 Q You mean by that the length of time would be
7 inconvenient for you?

8 A Yes.

9 Q Well, I'm inclined to agree with you in that
10 respect. It is for all of us, and the Court does ask a
11 considerable sacrifice for anybody who serves for such a long
12 period of time. And we would ask you to assume that sacrifice,
13 then, if it is no personal or financial hardship otherwise.

14 A Could I explain?

15 Q Yes, go ahead.

16 A I've worked for the same company for 21 years, and
17 while I was working I was called several times. Finally, I
18 came down and I said I could serve after the 30th of June.
19 So this is my first week. I mean, I finally got the notice.
20 And so I've been here this week. And I'm ready to stay until
21 the 20th of August. But on the 20th of August, why, we do
22 have tickets for a trip.

23 Q A trip?

24 A Yes.

25 Q Tell me about that?

26 A My husband is a coach for the Hollywood High
27 School and he's off during the summer. And we just have a
28 short cruise to the Carribean, 10-day trip.

1b-2

1 Q Have you purchased the tickets already?

2 A I have purchased the tickets.

3 I will be glad to come after that. I mean,
4 this is --

5 Q Perhaps you can go to the Carribean and after
6 you came back we could fill you in on the evidence --
7 (Laughter.) -- But it doesn't work that way.

8 Gentlemen, any questions?

9 MR. KANAREK: No questions.

10 THE COURT: All right, we find --

11 MR. MANZELLA: We stipulate.

12 MR. KANAREK: Stipulate.

13 THE COURT: We find it would constitute a personal
14 hardship which you should not have to suffer, so we'll
15 excuse you.

16 JUROR NO. 4: Thank you.

17 THE CLERK: Theodore Chastain, C-h-a-s-t-a-i-n.

18 Did I pronounce your name correctly, sir?

19 JUROR NO. 4: Yes.

20

21 VOIR DIRE EXAMINATION OF
22 THEODORE CHASTAIN

23 BY THE COURT:

24 Q Mr. Chastain, were you present when the Court
25 explained the nature of this case when the Court talked to
26 Mr. Winters?

27 A Yes, I was.

28 Q Would your answers be any different than his to

lb-3

1 the questions of a general nature?

2 A No. No.

3 Q Would it be any hardship to you to serve on this
4 jury?

5 A Well, it might. I have cataracts in both eyes,
6 and they have developed to the extent where I can't read
7 newsprint without a magnifying glass and a light before it.

8 And I'm supposed to have an operation this
9 fall. He doesn't definitely say what date, so it may be in
10 September or October, I don't know.

11 Q Is the surgeon a local surgeon?

12 A Well, he's an ophthalmologist. He's locally in
13 Los Angeles, yes.

14 Q Is there any way that you can ascertain when he
15 contemplated the operation?

16 A Well, I won't know. I have an appointment the
17 26th of this month, and probably I will know more about it
18 then.

19 Q How about your far vision? Can you see faces?
20 We're about twelve or fifteen feet apart.

21 A Oh, yes, I see that. I see your eyes, but I
22 wouldn't know what color they were. And if the light were
23 all right --

24 Q Well, they're red with -- just the whites are
25 red.

26 A If the light is behind a person, I wouldn't see
27 their face at all. It is just the outline I see.

28 Q Well, we'll excuse you. The Court think's that

lb-4

1 part of a juror's task is to observe witnesses on the witness
2 stand.

3 A I could do that, sir, but if I have to read any
4 great deal of material, I might fall down there.

lc fls.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1-c-1

1 Q You can't -- is it difficult for you to see
2 features, however?

3 A Oh, it is. I'm in a fog, more or less.

4 Q At this distance?

5 A There's -- it's very milky -- the explanation
6 would be if your glasses are smeared with milk and you try
7 to look through them, that's the way I look and see you
8 people.

9 Q The Court would excuse you from jury duty and
10 excuse you from further service, if you would like.

11 A Well, I have no objection from serving. It
12 wouldn't bother me financially in any way.

13 Q It is just you will have to have that operation?

14 A I presume sometime this fall, sometime, because
15 my vision has been getting progressively worse. And even the
16 last month it is worse.

17 Q Well, in view of the circumstances, the Court
18 will excuse you from this trial, service on this trial,
19 particularly in view of the fact it would extend well beyond
20 the time when, perhaps, your doctor would want to operate.

21 A Okay.

22 Q And the Court thanks you.

23 And if you do sit on any other jury, try to get
24 yourself close to the witness stand. Tell the Judge what
25 your problem is and get yourself close to the witness stand
26 during the remainder of your 30-day period.

27 A Thank you.

28 THE COURT: All right.

1 Thank you, Mr. Chastain.

2 THE CLERK: Mrs. Florence Jones, J-o-n-e-s.

3 MR. KANAREK: Your Honor, would it be imposing to ask
4 for a --

5 THE COURT: We'll take a short recess, ladies and
6 gentlemen. We'll be in recess for the next ten minutes.

7 During the recess you are advised not to converse
8 among yourselves or with anyone else or permit anyone to
9 converse with you on any subject connected with this matter,
10 nor are you to form or express any opinion on the matter,
11 should it be submitted to you, should you be chosen as a
12 juror in this matter.

13 (Morning recess.)

14 THE COURT: The record will show Mr. Manson to be
15 present with his attorney. The prospective jurors are in
16 the box and beyond the rail.

17 A juror has called in and indicated he is ill
18 and cannot return. And he was under doctor's care and was
19 ill yesterday, and today he has been unable to be present.

20 May he be excused, gentlemen? His name is
21 Bernard L. Scott.

22 MR. MANZELLA: So stipulated.

23 MR. KANAREK: So stipulated.

24
25 VOIR DIRE EXAMINATION OF

26 MRS. FLORENCE JONES

27 BY THE COURT:

28 Q Is it Mrs. Jones?

1 A Right.

2 Q Mrs. Jones, were you present when the Court
3 explained the nature of this case and when the Court
4 questioned Mr. Winters, one of your prospective jurors from
5 your group?

6 A Yes.

7 Q Would your answers be any different than the
8 answers of Mr. Winters to the questions of a general nature?

9 A No.

10 Q Would it be any hardship to you to serve on this
11 jury?

12 A No.

13 Q Neither financial, nor personal?

14 A No.

15 Q All right. Have you served as a juror before?

16 A Yes.

17 Q In any criminal case?

18 A Yes.

19 Q What was the nature of the cases of a criminal
20 nature in which you served and were there verdicts in each
21 case, without saying what the verdicts were?

22 A I served on one case, kidnapping, with an
23 assault with the intent to do great bodily harm. And there
24 was a verdict.

25 Q Just one case?

26 A One.

27 Q Would you set aside what you may have learned in
28 that case and decide this case on its evidence and the Court's

1 instructions?

2 A Yes.

3 Q Do you have any friends or relatives who are
4 law enforcement officers?

5 A A brother-in-law that's a police officer.

6 Q For --

7 A In Philadelphia.

8 Q In Philadelphia.

9 Would that affect your judgment, Mrs. Jones?

10 A No.

11 Q Are you, as a result of that relationship, more
12 likely or less likely to believe a police officer or someone
13 who is not a police officer simply because of the police
14 officer's status?

15 A No.

16 Q You can judge a police officer's testimony on the
17 same standards as any other witness's testimony?

18 A That's right.

19 Q Is there a Mr. Jones?

20 A I am divorced.

21 Q And what type of work did he do?

22 A A professional baseball player.

ld fls.

1d-1

1 Q And what -- are you employed?
2 A Social worker with the County of Los Angeles.
3 Q How long have you been so employed?
4 A Six years.
5 Q What's the nature of your work, in what --
6 A Welfare department.
7 Q Pardon?
8 A Uh, welfare department.
9 Q Do you -- are you in an office or are you out in
10 the field in your work?
11 A In the office and in the field.
12 Q I see. And you have a certain number of persons
13 assigned to you, case load of some type; is that correct?
14 A That's right.
15 Q How long have you been with the County?
16 A Six years.
17 Q Do you have such views concerning the death penalty
18 that you cannot be fair and impartial in determining the
19 question of guilt or innocence?
20 A Yes, I have.
21 Q In other words, knowing that the -- knowing that
22 you may be called upon to determine the issue of life imprison-
23 ment or death, you could not be impartial in the first phase,
24 am I stating that correct?
25 A That's right.
26 Q Are your views concerning the death penalty such
27 that you would automatically refuse to impose it?
28 A Yes.

18-2

1 Q Regardless of the evidence?

2 A Yes.

3 Q Or are your views such that you would never vote
4 to impose the death penalty?

5 A Yes.

6 Q Would you even consider the death penalty?

7 A No.

8 Q Are your views concerning the death penalty such
9 that you would automatically, given the choice between life
10 imprisonment and death, vote for life imprisonment every time?

11 A Right.

12 Q Regardless of what might be produced?

13 A That's right.

14 Q By way of evidence?

15 A Right.

16 MR. MANZELLA: Your Honor, the People would respectfully
17 challenge Mrs. Jones for cause under Section 1073, Sub-
18 division 2 of the Penal Code.

19 THE COURT: The Court grants the challenge. Thank you,
20 Mrs. Jones. Room 253 forthwith, please, Mrs. Jones.

21 THE CLERK: Mrs. Antonia N. Angus, A-n-g-u-s, first name
22 spelled A-n-t-o-n-i-a.

23

24

VOIR DIRE EXAMINATION OF

25

MRS. ANTONIA ANGUS

26

BY THE COURT:

27

28 Q Mrs. Angus, have you been present during all the
proceedings?

1 A Yes.

2 Q Since I first called this case and had
3 Mr. Winters --

4 A Yes, I have.

5 Q -- in the box.

6 Would your answers be any different than his were
7 to the questions of a general nature?

8 A No.

9 Q Would it be any hardship to you to serve in this
10 case?

11 A As far as I am concerned, yes.

12 Q In what way?

13 A My health is not very good.

14 Q What?

15 A Health.

16 Q Your health is not very good.

17 What's the problem with your health?

18 A I have hypertension and ulcers.

19 Q You have those all the time?

20 A All the time. I take medication.

21 Q Why should you have them in the courtroom?

22 A This is too much of an emotional strain.

23 Q It has been to this point for you?

24 A It has been to this point, yes.

25 Q It has caused you some aggravation?

26 A Yes.

27 Q How long have you been sitting here now, three
28 or four days?

1d4

1 A All this week, yes.

2 Q And you've experienced some considerable dis-
3 comfort?

4 A Yes, I have.

5 Q Do you think it might keep you from fully
6 concentrating on the case?

7 A Well, it is making me ill. Like I said, it is
8 too much of a strain.

9 Q Are you under doctor's care?

10 A Yes. Yes.

11 Q When did you last see your doctor about this?

12 A About three months ago.

13 Q Do you think you could seek your doctor's
14 advice as to whether or not it would cause you any further
15 complications?

16 A I'm under medication now.

17 Q Oh, are you?

18 A Yes, sir.

19 Q Have you had to increase the medication or --

20 A Yes, I have.

21 Q As a result of the pressure of this case?

22 A Yes, correct. It is causing me sleepless nights.

23 Q All right.

24 Gentlemen?

25 MR. MANZELLA: People will stipulate that it would
26 constitute a hardship, your Honor.

27 MR. KANAREK: So stipulate, your Honor, and thank you
28 lady.

1d-5

1 THE COURT: We'll excuse you, Mrs. Angus. Thank you for
2 serving as a juror.

3 Do you have any time left?

4 JUROR NO. 4: Yes.

5 THE COURT: Report to Room 253.

6 THE CLERK: Mrs. Agnes J. Kistler, K-i-s-t-l-e-r.

8 VOIR DIRE EXAMINATION OF

9 MRS. AGNES KISTLER

10 BY THE COURT:

11 Q Mrs. Kistler, were you present when the Court
12 explained the nature of this case and conversed with
13 Mr. Winters?

14 A Yes, I was.

15 Q Would your answers be any different than his
16 answers were to the questions of a general nature?

17 A No.

18 Q Would it be any hardship for you to serve in the
19 case?

20 A I am allowed 20 days. I work for McDonnell-
21 Douglas and I have used eight of those days.

22 Q And they will not pay you beyond that time?

23 A No.

1e-fls.

1e-1

1 Q Have you ascertained that?

2 A Yes.

3 Q From somebody who is an authority?

4 A Yes. It is a --

5 Q As I asked you to do?

6 A Yes. It is a plant policy, anyway.

7 Q Your earnings are important to you?

8 A Yes.

9 Q As a means of livelihood, are they?

10 A Yes, they are.

11 Q What do you do for McDonnell-Douglas?

12 A I am a developer in a plastic section, working on

13 a DC-10. We're working on our DC-10 real hard at the moment.

14 Q How long have you been employed with McDonnell-

15 Douglas?

16 A Oh, about 27, 28 years.

17 Q It is not a matter of your losing your job, but

18 you have a job available for you when you come back --

19 A Yes.

20 Q But you wouldn't be paid during the time that

21 you --

22 A I imagine.

23 Q Is that correct?

24 A Yes, I imagine. I don't think I would get fired,

25 no.

26 Q You're not sure about that?

27 A Well, I think each month it changes.

28 Q So you're not really sure at the end of four or

1 five months whether you would have a job available?

2 A I imagine at my age I doubt that --, you know --

3 THE COURT: All right, the Court --

4 MR. KANAREK: Your Honor, I make the motion --

5 THE COURT: You make the motion that the County pay her
6 for her -- pay her wages during the time --

7 MR. KANAREK: If she were working for the County, she
8 would get paid and, also, it is an invasion of her civil rights,
9 of her losing the job because of performing her civic duty.
10 And I believe that is the law, and there is federal law to that
11 effect.

12 THE COURT: The Court denies the motion, if it is a
13 motion, to have the County pay her salary while she's on jury
14 duty.

15 And the Court excuses you, and the Court thanks
16 you very much.

17 MR. KANAREK: Thank you very much, Mrs. Kistler.

18 THE CLERK: Miss Faith A. Kovach, K-o-v-a-c-h,
19 F-a-i-t-h.

20

21

VOIR DIRE EXAMINATION OF

22

MISS FAITH KOVACH

23

BY THE COURT:

24

Q Is it Miss Kovach?

25

A Yes, it is.

26

27

Q Miss Kovach, were you present when the Court
explained the nature of the case and conversed with
28 Mr. Winters?

1 A I was.

2 Q Would your answers be any different than his
3 answers were to the questions of a general nature?

4 A No, they would not.

5 Q Would it be a hardship to you to serve on the
6 case?

7 A No, it would not.

8 Q Neither financially or personal in any way?

9 A No.

10 Q Have you served as a juror in any criminal case
11 before?

12 A No.

13 Q Have you any connection with law enforcement?

14 A Yes, I do.

15 Q Tell us about that.

16 A I work for the Bureau of Narcotics and Dangerous
17 Drugs. It is federal.

18 Q You work for what?

19 A For the Federal Bureau of Narcotics and Dangerous
20 Drugs.

21 Q And are you in the prosecution end of it?

22 A No, I am a secretary.

23 Q Do you work for people who are in the prosecution
24 phase of that bureau?

25 A Yes, well -- we're a law enforcement --

26 Q Is it a prosecution type agency or some of
27 it regulatory in nature?

28 A It is a combination of both.

1 Q Yes. And you're working for someone who is in the
2 trial aspect, work in the trial aspect of it?

3 A That's right.

4 Q Do you think that would prejudice you against
5 somebody who is accused of a crime?

6 A No, it would not.

7 Q Do you think you could be fair and impartial in
8 spite of that connection?

9 A I do.

10 Q In what area do you reside?

11 A The Atwater area.

12 Q Do you have such views concerning the death
13 penalty that you could not be fair and impartial in determin-
14 ing the question of guilt or innocence?

15 A No.

16 Q Or do you have such views concerning the death
17 penalty that you would automatically refuse to impose it
18 regardless of the evidence?

19 A No.

20 Q Or would you, upon a conviction of murder of the
21 first degree, automatically impose the death penalty without
22 regard to the evidence?

23 A I think I misunderstood the first question you
24 asked me.

25 Q The first question deals with the first phase of
26 the trial, the question of guilt or innocence?

27 A No, then, my answer would be no to that.
28

lf-1

1 Q Your views are such that you would not be in
2 any way biased or partial in determining guilt or innocence?

3 A No.

4 Q All right. That was a poorly phrased question,
5 but you think you could be fair and impartial in determining
6 the first phase of the case regardless of what your views
7 concerning capital punishment may be?

8 A Right.

9 Q Now, concerning the penalty phase, if you should
10 be called upon to determine life imprisonment or death, would
11 you automatically refuse to impose the death penalty regard-
12 less of any evidence that might be produced?

13 A Yes, I would.

14 Q Can you conceive of yourself ever voting for the
15 death penalty in any case?

16 A No.

17 Q Your views are such that given the choice between
18 life imprisonment and death, you would always choose life
19 imprisonment regardless of the evidence?

20 A I would.

21 THE COURT: Any questions from either side?

22 MR. MANZELLA: No, your Honor. The People would
23 respectfully challenge Miss Kovach for cause under Section
24 1073, Subdivision 2 of the Penal Code.

25 THE COURT: All right, the Court grants the challenge.
26 Thank you, and the Court asks that you report to Room 253
27 forthwith.

28 THE CLERK: Allan Solk, S-o-l-k, first name A-l-l-a-n.

lf-2

VOIR DIRE EXAMINATION OF

ALLAN SOLK

BY THE COURT:

Q Mr. Solk, were you present when the Court explained the nature of this case and talked with Mr. Winters?

A Yes.

Q Would your answers be any different than he responded to the questions of a general nature?

A No.

Q Would it be any hardship to you to serve on the case?

A No.

Q Neither financial hardship or personal hardship, neither?

A No.

Q Have you had any jury experience, Mr. Solk?

A Yes, I have.

Q On criminal cases?

A Yes, one.

Q What was the nature of that case?

A Kidnapping.

Q Was there a verdict in the case without saying what it was?

A Yes.

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

A No.

Q And your work, what is the nature of it?

lf-3

1 A I am a real estate appraiser with the County
2 Assessor's Office.

3 Q And is there a Mrs. Solk?

4 A Yes, there is.

5 Q What type of work -- does she work outside the
6 home?

7 A Yes, she is a school teacher.

8 Q In what area, generally?

9 A San Pedro.

10 Q In what area do you and she reside?

11 A In San Pedro.

12 Q Do you have such views concerning the death
13 penalty that you could not be fair and impartial in determining
14 the question of guilt or innocence?

15 A No.

16 Q Or do you have such views concerning that penalty
17 that you would automatically refuse to impose it in any case?

18 A Yes.

19 Q Can you conceive of yourself voting for the death
20 penalty in any case?

21 A No.

22 Q Are your views concerning the death penalty such
23 that given the choice of life imprisonment and death, you
24 would automatically choose life imprisonment, refusing to
25 impose the death penalty -- without regard to the evidence,
26 rather?

27 A That's true.

28 Q Would you ever consider in any way imposing the

1f-4

1 death penalty in any case?

2 A No.

3 THE COURT: Gentlemen, any questions?

4 MR. MANZELLA: Your Honor, the People would respect-
5 fully challenge Mr. Solk for cause under Section 1073,
6 Subdivision 2 of the Penal Code.

7 THE COURT: The Court grants the challenge. Thank you,
8 Mr. Solk.

9 THE CLERK: Mrs. Gloria W. Taylor, T-a-y-l-o-r.

10
11 VOIR DIRE EXAMINATION OF

12 MISS GLORIA W. TAYLOR

13 BY THE COURT:

14 Q Miss Taylor, were you present when the Court
15 explained the nature of the case and conversed with Mr.
16 Winters from your group?

17 A Yes.

18 Q Would your answers be any different than his
19 were to the questions of a general nature?

20 A No.

21 Q Would there be any hardship to you to serve on
22 this jury?

23 A Yes, it would.

24 Q Tell us what it is?

25 A I have two children, one 7 and one 9 years of
26 age. And it would be a financial burden for me to have to
27 get someone to take care of them.

28 Q Who is taking care of them now?

lf- 5

1 A Well, they're with their grandfather part of the
2 day, and then I pick them up.

3 Q Is it that your -- the grandfather will be unable
4 to care for them during the entire period of time?

5 A Yes, because they're quite energetic and they're
6 quite a bit for him.

7 Q He will just eventually be worn down, is that
8 it?

9 A Yes.

10 Q Do you anticipate that he will not be able to
11 care for them during the entire period of four months, let's
12 say, if you are on this jury?

13 A True, because I have to take them to school and
14 pick them up. He doesn't drive or anything.

2 fls.

2-1

1 Q Well, is there anyone else who could care for them
2 in your absence? Other than the grandfather?

3 A No. Because it's just -- I'm the sole support
4 now.

5 Q What type of work do you do?

6 A I am a recreation director, City of Los Angeles.
7 And I also spoke to them about this, and they said that 20
8 days would probably be all they could stand, with our
9 shortage of staff and budget.

10 Q Well, the Court is not particularly concerned
11 about that. I think the City of Los Angeles would pay your
12 salary during that period of time. But the Court is concerned
13 about your child care situation. There would be no way you
14 could think of to have the children cared for, later on,
15 when they're going to school?

16 A No. Because I pick them up and I take them
17 every morning to school, and --

18 Q Your hours are such that you can do that,
19 generally?

20 A Yes.

21 Q And there's no one else who can do that?

22 A No, I can't depend on anyone else.

23 THE COURT: Gentlemen, any questions?

24 MR. MANZELLA: No, your Honor. The People would
25 stipulate it would constitute a hardship.

26 MR. KANAREK: Your Honor, we would make the -- and do
27 make the motion that the County --

28 THE COURT: That the County provide child care for

2-2

1 Mrs. -- for this lady; is that right?

2 MR. KANAREK: Yes, that's right. We deem -- it's our
3 belief that this expenditure would be minimal. There are
4 child care centers in the County --

5 Q BY THE COURT: Would you be willing to take your
6 child to a County child care center, during the time that you
7 are serving on jury duty?

8 A I don't think this would be advantageous to them.

9 DEFENDANT MANSON: It sure wouldn't. That's how I
10 got there.

11 THE COURT: Mr. Manson, you be quiet, please, or you'll
12 have to leave the courtroom.

13 Q Well, somebody would have to transport them there.
14 You'd still have the same problem of transport, wouldn't you?

15 A Yes.

16 THE COURT: Well, is your motion, Mr. Kanarek, that the
17 County provide someone to come to the home to transport them
18 to school, and then pick them up at school?

19 MR. KANAREK: Yes. I think --

20 THE COURT: Is that it?

21 MR. KANAREK: Yes, your Honor. I think that -- if this
22 lady, if it could be worked out -- I think that the -- if it
23 -- to her satisfaction, it could be worked out, that the
24 people who would do the transportation were reliable people,
25 and they went back and forth, and if she's willing to --
26 to do this, I think that -- and since she works, she would
27 not suffer any --

28 THE COURT: Would you be willing to do that? Would you

2-3

1 be willing to do that? Would you be willing to have one of
2 the Supervisors of the County, perhaps, pick the children
3 up, or somebody of equally responsible stature, perhaps,
4 pick the children up and deliver them? And so forth?

5 MR. KANAREK: Well, may I respectfully object to the
6 Court's sarcasm, your Honor?

7 THE COURT: Yes. The Court will strike its own remarks
8 in respect to that.

9 Q But it would --

10 MR. KANAREK: And I would like to approach the bench,
11 if I may.

12 THE COURT: No, you needn't approach the bench.

13 The Court does not believe that the -- that you
14 should be required to suffer this inconvenience or hardship.
15 The Court finds that it would be a hardship to you, under
16 the circumstances, regarding your children, and therefore
17 would excuse you.

18 MR. KANAREK: May the record reflect she's being
19 excused over opposition?

20 THE COURT: Yes. The Court -- the record may reflect
21 that it's -- she's excused over your opposition, and in view
22 of the Court's denial of the motion that the County provide
23 child care to pick up her children at the home and deliver
24 them to the school, and return them to the home, and other-
25 wise care for them in her absence.

26 Thank you.

27 JUROR NO. 5: Thank you.

28 MR. KANAREK: Thank you, Mrs. Taylor.

2-4

1 THE CLERK: Miss Carol A. Smallwood; S-m-a-l-l-w-o-o-d.

2 THE COURT: Incidentally, ladies and gentlemen, if
3 the Court strikes anything that it says, or that anybody else
4 says, you are to treat such matters as though it had never
5 been uttered, as though you had never heard it.

6 Do you all understand, and will you follow that
7 instruction?

8 (No negative response.)

2a fls.

9 THE COURT: Thank you.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2a-1

VOIR DIRE EXAMINATION OF

MISS CAROL A. SMALLWOOD

BY THE COURT:

Q Miss Smallwood, were you present when the Court explained the nature of this case, and when the Court conversed with Mr. Winters, the first prospective juror taken from your group and put in the box?

A Yes.

Q Would your answers be any different than his were to the questions of a general nature?

A No, they wouldn't.

Q All right.

Would it be a hardship to you to serve in any way?

A No.

Q Have you served as a juror before in a criminal case?

A No, I haven't.

Q This is your first jury duty of any kind?

A Yes.

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

A I have a cousin who is a deputy sheriff.

Q In the County of Los Angeles?

A No.

Q Where?

A San Bernardino County.

Q Would that affect your judgment in this case?

A No.

2a-2

1 Q You think you could still be fair and impartial
2 to the defendant, in spite of that connection with law
3 enforcement?

4 A Yes.

5 Q Or a law enforcement officer?

6 A Yes.

7 Q Would you be more inclined to -- to give
8 credence to the testimony of a law enforcement officer, simply
9 because of his status, because of that connection?

10 A No, no more so than anyone else.

11 Q What type of work do you do, Miss Smallwood?

12 A I have been an elementary school teacher. I am
13 unemployed at the moment.

14 Q And are you willing to remain unemployed during the
15 course of this trial?

16 A Yes.

17 Q You wouldn't be overly concerned about seeking
18 employment, if you were to sit here in this courtroom for
19 four or five months?

20 A No.

21 Q Is it Mrs. Smallwood?

22 A Miss.

23 Q Miss. In what area do you reside?

24 A The Wilshire district.

25 Q Do you have such views concerning the death penalty
26 that you could not be impartial in determining the question of
27 guilt or innocence?

28 A No.

1 Q Or do you have such views concerning the death
2 penalty that you would, as a result of those views, be unable
3 to vote for the death penalty? That you would automatically
4 vote against the death penalty, regardless of the evidence in
5 the case?

6 A Yes, I do.

7 Q Can you conceive of yourself ever voting for the
8 death penalty in any case?

9 A No, I couldn't.

10 Q Would your views be such that you would automatically
11 choose life imprisonment and vote against the death penalty,
12 regardless of the evidence that might be presented?

13 A Yes.

14 Q Would you ever consider imposing the death penalty?

15 A No, I couldn't.

16 THE COURT: Any questions?

17 MR. MANZELLA: No, your Honor. The People would
18 respectfully challenge Miss Smallwood for cause, under Section
19 1073 Subdivision 2 of the Penal Code.

20 THE COURT: Miss Smallwood, thank you very much. The
21 Court does excuse you.

22 Room 253 forthwith; would you please?

23 THE CLERK: Leo A. O'Donnell; O'-D-o-n-n-e-l-l.

24 MR. KANAREK: Thank you, Miss Smallwood.

25
26 VOIR DIRE EXAMINATION OF

27 LEO A. O'DONNELL

28 BY THE COURT:

1 Q Mr. O'Donnell, were you present when the Court
2 explained the nature of this case and talked to Mr. Winters?

3 A Yes, sir.

4 Q Would your answers be any different than he
5 responded to the questions of a general nature?

6 A No, sir.

7 Q Would it be any hardship to you to serve in this
8 case?

9 A Not financially. Perhaps, physically.

10 Q Tell us about that.

11 A Well, I have emphysema. I have a circulatory
12 trouble from my hips down, which sometimes immobilizes me for
13 three or four days at a time.

14 I never know when it's going to hit.

15 Q Other than that, you're in good shape, huh?

16 A Well, I was noticing, this morning, since the
17 21st of June, I have lost eight pounds.

18 Q Well, the Court's sorry to hear that. This
19 emphysema, does it give you some considerable problem, or --

20 A Very much short of breath, particularly if there's
21 any smog to speak of, or --

22 Q How do you think this -- these ailments would
23 affect your service as a juror?

24 A Well, the only -- I don't think it would affect me,
25 except the fact I could never promise that I could -- perhaps
26 when this circulatory trouble hits me, I'm not able perhaps
27 to get out of bed for a day at a time, or maybe out of the --
28 get out of the apartment for two or three days.

1 Q I see. The circulatory problem is -- has been
2 with you for some time, and it -- that has been your
3 experience, that occasionally you are laid up?

4 A Yes.

2b fls.

2b- 1

1 THE COURT: All right.

2 MR. MANZELLA: And the People would stipulate it
3 would constitute a hardship, your Honor.

4 MR. KANAREK: Stipulate, your Honor.

5 THE COURT: Thank you, sir. The Court does excuse
6 you. The Court appreciates your service on jury duty,
7 Mr. O'Donnell, under the circumstances.

8 The Court thinks it's quite a hardship.

9 JUROR NO. 5: Thank you.

10 THE COURT: Do you have any further time left?

11 JUROR NO. 5: I'm going to ask -- I have some more
12 time left, but I'm going to ask to be terminated.

13 THE COURT: All right. Would you -- pardon?

14 JUROR NO. 5: I'm going to ask them, when I go back
15 over there, to the jury assembly room, to terminate me. I
16 think I have got till the 26th of July.

17 THE COURT: Very well. You may tell them that this
18 Court concurs that you should be excused, in view of your
19 physical condition.

20 JUROR NO. 5: Thank you.

21 MR. KANAREK: Thank you, Mr. O'Donnell.

22 THE CLERK: Charles Pineda; P-i-n-e-d-a.

23
24 VOIR DIRE EXAMINATION OF

25 CHARLES PINEDA

26 BY THE COURT:

27 Q Mr. Pineda, were you present when the Court
28 explained the nature of this case and when the Court talked

2b-2

1 to Mr. Winters?

2 A Yes.

3 Q Would your answers be any different than his,
4 as to questions of a general nature?

5 A No, sir, they wouldn't.

6 Q All right. Would it be any hardship to you to
7 serve?

8 A Well, sir, at this time, the only thing involved
9 would be my employment. And being absent from --

10 Q Would you tell us about that?

11 A Well, I work for the Bureau of Customs, and right
12 now, we are having a very -- a very detailed inspection of --
13 inspection of parcels coming from Vietnam, from our GI's
14 returning home.

15 And naturally, the most essential thing here is
16 the narcotic problem. And therefore, if I stay here six --
17 five, four or five or six months, this is my first time on
18 jury duty, and it could be my last.

19 Q What do you mean by that?

20 A Well, I mean -- I don't know; they just might
21 take up and hire somebody else; I don't know.

22 Q How long have you been with the Customs?

23 A 11 years, sir.

24 Q Civil service, isn't it?

25 A Civil service, yes.

26 Other than -- other than that, well, I am willing
27 to serve, if -- if I am accepted.

28 Q Well, the Court believes that the Customs Service

2b-3

1 will have to forego your presence -- regrettably. The Court
2 does find that they could probably not find as good a man,
3 but perhaps they could find someone who could fill in there
4 for you, Mr. Pineda.

5 A Thank you, sir.

6 Q Have you had any jury experience in criminal
7 cases?

8 A This is my first time.

9 Q Are you connected with any law enforcement
10 officer in any way?

11 A Well, if I --

12 Q Any type of law enforcement officer?

13 A Well, yes. In two different ways. I had a
14 cousin that used to work for the L. A. Police Department,
15 Sergeant Rudy Diaz. And my son is studying law; and at the
16 same time, works for the California State as a parole officer.

17 Q What did Mr. Diaz do?

18 A Uh -- I think he used to -- when he started with
19 the L. A. Police, I think he was with the narcotics squad.

20 In later years, he was with the Homicide, I'm
21 sure. He's retired now. He is retired from the Los Angeles
22 Police Department now, --

23 A Yes, sir.

24 Q -- isn't he?

25 A Yes, he is.

26 Q Are you yourself a law enforcement officer, in
27 certain respects?

28 A In certain respects, yes.

2b-4

1 Q Have you ever testified as a witness in a
2 case?

3 A No.

4 Q Have you ever assembled evidence for the
5 presentation of --

6 A No. I missed it by a few -- maybe a couple of
7 months. Because a new ordinance states that, should I find
8 any narcotics, or intercept any narcotics, I am entitled to
9 go to the state, town or city, wherever the narcotics are
10 going, and testify that I did intercept them,

2c fls., 11

But I missed that by about two months.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2c-1

1 Q You haven't done that at all?

2 A No, sir. I haven't had a chance to testify --
3 although I do -- I do have makes and interceptions of
4 narcotics.

5 Q Have you made arrests?

6 A No. At certain -- at one time that I remember,
7 I made an interception of narcotics from Vietnam, and it was
8 from the son, who was a GI, to his father and mother.

9 And this is another thing, though. I just wanted
10 you to know what -- how it works.

11 Q Okay. Do you think that because of this connec-
12 tion with law enforcement, and your relationships with these
13 people that you've spoken about, that you could not be fair
14 and impartial in this case?

15 A I couldn't see why I -- no, I think I can
16 be impartial.

17 Q Would this in any way affect your judgment in the
18 case?

19 A No, sir, it wouldn't.

20 Q Is there a Mrs. Pineda?

21 A Yes, there is.

22 Q What type of work does she do?

23 A She doesn't work, sir. She's a housewife,
24 retired -- not in very good health.

25 Q In what area do you reside?

26 A East Los Angeles.

27 Q Do you have such views concerning the death
28 penalty that you would automatically refuse to impose it in

1 any case?

2 A No.

3 Q Or would you -- would you, because of your
4 views on the death penalty, be unable to be fair and impartial
5 in determining the question of guilt or innocence?

6 A Can you repeat that question?

7 Q Would you be unable, because of the views that
8 you have concerning the death penalty, to be impartial in
9 determining guilt or innocence?

10 A No.

11 Q Would you automatically impose the death penalty
12 upon a conviction of murder of the first degree, without
13 regard to the evidence?

14 A No, sir, I wouldn't.

15 Q Now, at this time, I wish to ask you about what
16 you may have heard, seen or read in connection with this case
17 whether you can set that aside; whether you have the ability
18 to set that aside, and whether you will set it aside and be
19 fair and impartial.

20 And for that purpose, I wish to examine you
21 outside the presence of the other jurors, and I'll ask them
22 all to leave and go to Department 107;

23 And not to converse about this case or permit
24 anyone to converse with them in connection with it, until
25 the matter has finally been submitted to them, and they're
26 in the course of deliberations.

27 (Whereupon the members of the prospective jury
28 panel exited the courtroom, and the following

proceedings were had:)

BY THE COURT:

Q Mr. Pineda, have you heard, seen or read anything in connection with Mr. Charles Manson, before you came into this courtroom?

A Sir, the only thing I've heard is what I've read and seen on television, and what I have read in the newspapers and seen on television.

Q Yes. That's what the Court's referring to. Anything that you may have read in the newspapers, heard or seen on television, or heard on radio.

The Court wishes to know whether or not that -- whether you remember any of that material that you may have read?

A Well, it was so much that, really, it was hard to keep everything --

Q Was what you read in connection with the Tate-La Bianca homicides?

A Yes, that's right.

Q Did you follow it closely in the media?

A Well, the first months, I did; but eventually I got tired of it.

Q Do you know what the results of that case were?

A Correct.

Q Tell us what it was, as nearly as you can remember.

A Do you mean the verdict?

Q What was the verdict in that case? Was there a finding of guilty or not guilty?

1 A Yes, there was a -- I'm answering this because
2 you are asking me.

3 Yes, there was a verdict of guilty.

4 Q And was there a penalty returned, that you
5 remember?

6 A Yes, sir. The jury returned a verdict of guilty;
7 and later on, returned a verdict of a death penalty.

8 Q All right. Now, do you know whether there was
9 more than one murder charged?

10 A Yes, sir, I think there was more than one.

11 Q Do you know the name Sharon -- excuse me.

12 Do you know the name Susan Atkins?

13 A Yes. They were some of the -- Mr. Manson's
14 girl friends or friends.

3: fls.

3-1

1 Q Susan Atkins is one of Mr. Manson's associates,
2 is that right?

3 A Yes, that's right.

4 Q All right.

5 Was there anything that you heard, or read about
6 the name Shorty Shea?

7 A Yes, sir, there was.

8 Q Tell me about that.

9 A Well, he disappeared.

10 Q From where?

11 A I understand that he was a stunt man for the
12 studios in Hollywood and in later -- he disappeared all of a
13 sudden.

14 Q Have you heard the name Gary Hinman previously?

15 A Yes, sir, I read about that.

16 Q What happened to him?

17 A You want me to say?

18 Q Yes, what you read.

19 A What I read in the papers, he was killed by some
20 persons in Santa Monica or somewhere around --

21 Q And do you know the name Spahn Ranch?

22 A Uh, yes, I've heard it.

23 Q What does that mean to you?

24 A Spahn Ranch?

25 Q Spahn Ranch.

26 A Yes, well, apparently it was a place where some of
27 the people stayed. Probably Mr. Manson and some of the girls
28 and maybe -- what I -- to put it another way, what the Manson

3-2

1 Family meant.

2 Q What does Manson Family mean to you?

3 A Well, many girls and many boys, and probably
4 enjoying life there.

5 Q Mr. Manson is the head of the group?

6 A That's what I read in the papers.

7 Q Well, now, let me ask you, if I were to instruct
8 you, Mr. Pineda, that you were to set aside anything you may
9 have heard, seen or read in the newspaper or over television
10 or over the radio, that is not forget such matters but set
11 them aside for the purpose of making any decision that you
12 might be called upon to make in this case, are you capable of
13 doing that?

14 A Yes. What I have read, seen on television or
15 the verdict rendered by the other jury has nothing to do with
16 this case here. And I believe that the man should have every
17 opportunity to prove himself not guilty.

18 Q Well, do you understand that that's not his
19 burden. He doesn't have to prove himself not guilty. From
20 what I read to you, there is a presumption of innocence.
21 I told you --

22 A Yes, I understand.

23 Q I told you, it is the presumption of innocence
24 and it is the burden of the People to prove he is guilty.

25 A What I meant -- I guess what I meant, the man
26 should be given the opportunity to talk, to present his side
27 of it, and that's what I meant. That's what I probably
28 meant.

3-3

1 Q Let me ask you this: Let's suppose in one of
2 these cases, either one of the cases, Count I or Count III,
3 the People are unable to prove one of the elements that is
4 required in the proof of a case of murder. And they're
5 unable to prove it beyond a reasonable doubt and to their
6 moral certainty, would you kind of fill in the evidence with
7 what you might have learned about either Mr. Shea or
8 Mr. Hinman's alleged death from the newspapers?

9 MR. KANAREK: Your Honor, I object to the Court's
10 question in that respect, and I would like to make argument
11 at the bench, if I might, in connection with it.

12 THE COURT: No, your objection is overruled.

13 Q BY THE COURT: Would you fill in with any
14 news article that you may have heard, seen or read?

15 A No, I would have to go strictly by the evidence
16 presented by both sides. I wouldn't be able to say, well,
17 they're missing this, I'll put it in myself and make up a
18 decision myself. I couldn't do that, sir.

19 Q You understand that would be very unfair to
20 Mr. Manson to do that, right?

21 A Correct. I wouldn't want to do that, sir.

22 Q And if you should find yourself thinking about
23 what you heard, seen or read outside of this courtroom or
24 talked about with your friends in connection with that other
25 case or this case, would you immediately put that out of your
26 mind for the purpose of making a decision --

27 A That's right.

28 Q -- independent -- would you wait until I finish

1 the question?

2 A Yes.

3 Q -- put that out of your mind and wait -- strike
4 that.

5 Would you put that out of your mind and make a
6 decision independently of such matters?

7 A Yes, sir, I would.

3a fls.

3a-1

1 Q Do you think you are capable of doing that?

2 A I am very capable. I'm -- I'm -- I've always
3 been good at making decisions.

4 Q Are you capable of completely, for the minute,
5 or for the period of time that's required to make a decision
6 on any issue in this case, of forgetting anything that you
7 may have heard, seen or read in the news media?

8 A Well, it would have to be fair to Mr. Manson. I
9 would have to.

10 Q The Court realizes that.

11 A Yes, I would be.

12 Q But what I am asking -- and you will do that,
13 is that correct?

14 A Yes, I would.

15 Q Can you be fair and impartial?

16 A Very, and I could be very fair with any individual.

17 Q In spite of the opinion you might have formed
18 and in spite --

19 A Correct.

20 Q -- of what you may have heard, seen or read, is
21 that correct, sir?

22 A Correct..

23 THE COURT: Go ahead.

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

25 MR. MANZELLA: No questions.

26 MR. KANAREK: 1073, Subsection 2.

27 THE COURT: The Court denies the challenge. The Court
28 believes that this gentleman can be fair and impartial in spite

3a-2

1 of what he has heard, seen or read. The Court finds that he
2 will set aside any opinions that he might have formed, any
3 information that he may have received from the news media
4 or from conversations previously about Mr. Manson, this case
5 or any other case, that he will set it aside and be fair
6 and impartial.

7 All right, bring the panel back. I think we have
8 a full jury box now and are ready for a general voir dire.

9 THE BAILIFF: Yes, your Honor.

10 THE COURT: Mrs. McKissack.

11 THE BAILIFF: She stepped outside.

12 THE COURT: See if you can find her, will you?

13 (Whereupon, an unrelated matter was called before
14 the Court.)

15 THE COURT: Ladies and gentlemen --

16 The record should show the prospective jurors
17 are in the box.

18 There are only three left beyond the rail?

19 THE CLERK: There should be four. Should be four.

20 THE COURT: We are missing one.

21 Do you want to call roll?

22 THE CLERK: Mrs. Evelyn Saks?

23 MRS. SAKS: Yes.

24 THE CLERK: Mrs. Corrine Roat?

25 (No response.)

26 THE CLERK: Franklin Tilley?

27 MR. TILLEY: Here.

28 THE CLERK: Glenn Marker?

1 MR. MARKER: Here.

2 THE COURT: Anyone know anything about Mrs. Roat?

3 THE CLERK: R-o-a-t, your Honor.

4 THE COURT: R-o-a-t.

5 Would counsel approach the bench?

6 MR. KANAREK: Yes, your Honor.

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

10 THE COURT: Let's see, it is your peremptory now?

11 MR. MANZELLA: Right. We have to do the general
12 voir dire of Mr. Pineda.

13 MR. KANAREK: Your Honor --

14 THE COURT: How about this missing juror? I don't
15 know anything about her. Shall we just proceed without her?

16 MR. KANAREK: Not with only four left.

17 MR. MANZELLA: We'd have to stipulate she could be
18 excused.

19 MR. KANAREK: I can't do that with only four left.

20 THE COURT: We'd have to delay the proceedings.

21 MR. KANAREK: I know.

22 Your Honor, if I may say this, I previously have
23 stipulated, but there is only four people there, and one of
24 them will not be called. I have -- it is not a course, your
25 Honor, at all -- I have the same feeling as the Court, but
26 this is a person -- I don't know this -- I don't know what
27 the matter is. I just don't -- if there were 30 people --

28 THE COURT: Of course you wouldn't stipulate any

1 situation like this. We must find out what's happened to the
2 juror or we -- not being able to do that, we'll either have
3 to stipulate or determine should be done when we find out.

4 And it might delay the proceedings considerably.

5 MR. KANAREK: I don't see how. It is a quarter of
6 12:00. It could be determined over the lunch hour. It need
7 not create any problem, whatsoever.

8 THE COURT: We'll find out where she is, if we can.

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

12 THE COURT: Ladies and gentlemen, you are excused now
13 until 2:00 o'clock.

14 During the time that you are in recess, you are
15 admonished that you are not to converse amongst yourselves
16 or with anyone else, or permit anyone to converse with you
17 on any subject connected with this matter, nor are you to
18 form or express any opinion on the matter until it has
19 finally been submitted to you, should you be chosen as jurors.

20 Have anyone of you seen Mrs. Roat this morning,
21 R-o-a-t?

22 What is her first name?

23 THE CLERK: Corrine, C-o-r-r-i-n-e.

24 THE COURT: Corrine Roat. She was here yesterday.

25 THE CLERK: Apparently she was here today,
26 According to count.

27 THE COURT: And she was here yesterday, according to what
28 we know, but it is Mrs. Corrine Roat.

1 Does anyone of you know her?

2 Anyone of you behind the rail know her?

3 All right, I'll see you at 2:00 o'clock. In the
4 meantime, we'll try to find her.

5 (Whereupon at 11:50 o'clock a.m. the noon recess
6 was taken, the proceedings to be resumed at
7 2:00 o'clock p.m. of the same day.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4-1

1 LOS ANGELES, CALIFORNIA, FRIDAY, JULY 16, 1971, 2:08 P. M.

2
3 THE COURT: One of the jurors is absent from beyond the
4 rail. Her name is Mrs. Corrine Roat. Her absence appears to
5 be without excuse and without permission of the Court. The
6 information the Court has is that she has left for Mexico on
7 a short trip, or on vacation.

8 The Court finds that she is in contempt. The Court
9 issues a bench warrant for her, no bail on the bench warrant,
10 but will order that it be held until Monday morning.

11 Well, ladies and gentlemen, there was a colloquy
12 between -- this is directed to those of you who are in the jury
13 box. The record should show that Mr. Kanarek is present with
14 Mr. Manson, and there are three jurors behind the rail, and
15 everyone's in the jury box; all the prospective jurors are in
16 the jury box.

17 There was a colloquy between Mr. Kanarek and one of
18 the prospective jurors and the Court, regarding the prospective
19 juror's hardship in not having a day care for her children.

20 In that colloquy, thinking over what I had said,
21 I believe that my remarks and questions may have been overly
22 sharp and critical of Mr. Kanarek and his motions and his
23 comments. And really, that type of sharpness has no place in
24 a lawsuit. That type of remark does not add to the lawsuit at
25 all, but rather it detracts from it.

26 The Court does wish to apologize to you and to
27 Mr. Kanarek, and the Court's remarks are stricken, ladies and
28 gentlemen. You'll remember that I told you that anything that

4-2

49

1 I strike from the record is to be treated as though you had
2 never heard it.

3 All right. Well, I will strike the remarks that
4 I made this morning in your presence in connection with
5 Mr. Kanarek's motions and his comments -- and except the
6 remarks that I made denying the motion to have the County
7 pay for the lady's child care, or to have the County to provide
8 someone to care for her children during the time that she's
9 at work, or to provide transportation for her children.

10 All right. I will have the prospective jurors
11 come in now, and we'll proceed as we had this morning.

12 MR. MANZELLA: Your Honor, we have general questioning
13 of Mr. Pineda yet to do.

14 THE COURT: Oh, that's true. Thank you for reminding
15 me.

16 You may question Mr. Pineda generally, if you
17 wish.

18 Mr. Kanarek, you may begin.

19 Hold the panel -- well, no; they may come in.
20 Yes, they may come in.

21 MR. KANAREK: Yes, thank you, your Honor.

22 THE COURT: So send the panel in.

23 And, Mr. Kanarek, you may proceed with your
24 questioning of Mr. Pineda.

25 MR. KANAREK: Your Honor, as to this particular juror,
26 I have no questions. But does your Honor think it would be
27 fruitful to -- since it's general, and all of the jurors are
28 going to be present, it might be productive to have the entire

1 new panel here, for whatever that may be worth.

2 THE COURT: They're on their way now from 107.

3 Go ahead.

4 MR. MANZELLA: Thank you.

5 MR. KANAREK: Well, I have -- thank you, your Honor.

6
7 VOIR DIRE EXAMINATION OF

8 CHARLES PINEDA

9 BY MR. MANZELLA:

10 Q Mr. Pineda, I have a few questions that I would
11 like to ask you.

12 Do you know anyone involved in the defense of
13 criminal cases, as a defense attorney, investigator, or any-
14 thing of that kind?

15 A No, sir, I don't.

16 Q All right. Do you know anyone who has ever been
17 accused of any crime?

18 A No, sir, not that I can remember.

19 Q Have you heard the questions that I've asked the
20 other jurors?

21 A Yes, sir, I have.

22 Q All right. Did you hear the answers given by the
23 other jurors to my questions?

24 A Yes, I have.

25 Q Did any of the questions I asked or any answers
26 given by any of the jurors bring to your mind anything that --
27 that you feel would bear upon your ability to be fair and
28 impartial to the People in this case?

1 A No, I don't think so.

2 Q All right. Would you have answered the questions
3 substantially the same as the majority of the other jurors
4 answered my questions?

5 A Yes, I think I would.

6 MR. MANZELLA: All right. Thank you. The People have
7 no further questions, and pass for cause, your Honor.

5 fls.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 THE COURT: Both sides pass for cause?

2 MR. MANZELLA: People pass for cause, your Honor.

3 THE COURT: Pass for cause?

4 MR. KANAREK: Pass for cause, yes, your Honor.

5 THE COURT: It is the People's peremptory challenge,
6 both sides having passed for cause.

7 MR. MANZELLA: Yes, your Honor, the People accept the
8 jury as presently constituted.

9 THE COURT: The Defendant's peremptory challenge.

10 MR. KANAREK: They can excuse Mr. Eidelman. Thank you,
11 Mr. Eidelman.

12 THE COURT: Thank you, Mr. Eidelman. The Court thanks
13 you for your jury service, and has your jury time terminated
14 now?

15 JUROR NO. 2: No, sir.

16 THE COURT: All right, report to Room 253, please.

17 THE CLERK: Mrs. Evelyn D. Saks, S-a-k-s.

18 THE COURT: Excuse me, would counsel approach the
19 bench?

20 (Whereupon, proceedings were had at the bench
21 among Court and counsel, outside the hearing of the jury,
22 which was not reported:)

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

26 THE COURT: Before Mrs. Saks' name was called,
27 Mr. Kanarek had requested, in view of the fact that one of
28 the jurors was missing, that the Court put the three

1 prospective jurors' names -- that is, the three who remained
2 on the rail in a -- in with the panel of newly arrived
3 prospective jurors and selected -- then select prospective
4 jurors for the box from that combined group. And the Court
5 indicated that it would do that.

6 And is that still your request?

7 MR. KANAREK: Yes, your Honor.

8 THE COURT: You wish to leave her on?

9 MR. KANAREK: Well, I --

10 THE COURT: There are only two left. There were three
11 before her name was selected. There are two left now beyond
12 the rail.

13 The juror who failed to appear this morning, the
14 Court has issued a bench warrant for her, and we'll hold the
15 bench warrant until Monday. I'm informed by the clerk that
16 he has found that this lady, Mrs. Roat, I believe her name is,
17 simply left for Mexico or some place on a vacation without
18 asking the Court or anyone for permission to be absent from
19 jury duty.

20 MR. KANAREK: That certainly is agreeable. I would
21 welcome the Court indicating that the Court -- was just sort
22 of a clerical mistake and that everybody that was left over
23 was intended to be mixed up, just so she doesn't feel she's
24 singled out. I think it makes sense to everyone in the room,
25 and that this would also save the time of informing the jurors
26 as to the general questions.

27 THE COURT: The Court will follow your suggestion.

28 MR. KANAREK: Thank you.

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

3 THE COURT: Mrs. Saks, we were in error in calling your
4 name now and having it separate and apart from the other group
5 that's come in. It must be, by our agreement, mixed with the
6 other names. So we'll put your name back in the box and ask
7 you to go back beyond the rail. And then, we'll draw at
8 random from amongst all of the prospective jurors.

9 Will all of you who have just come into the
10 jury -- come into the courtroom, who are prospective jurors,
11 please rise and raise your right hands.

12 Just those of you who had not been previously
13 sworn.

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

19 (Whereupon, the prospective jurors answered in the
20 affirmative.)

21 THE CLERK: Thank you, be seated.

22 THE COURT: Is there any one amongst you who did not take
23 that oath and who would prefer to affirm?

24 I see none.

25 There are three names -- wait just a moment.

26 There are three names I have here of persons who
27 had previously been called in this case as prospective jurors
28 and who have been excused: Mr. Hopper, Melvin Hopper.

1 Would you stand, Mr. Hopper?

2 I don't see him here.

3 Nathan Johnson, Mr. Johnson.

4 And Earnest James.

5 The Court does remember that Mr. Hopper, Mr.
6 Johnson and Mr. James had been previously called.

7 May it be stipulated that they may be excused,
8 gentlemen?

9 MR. MANZELLA: So stipulated.

10 MR. KANAREK: So stipulated.

11 THE COURT: That their names need not be --

12 MR. KANAREK: So stipulated, your Honor.

13 THE COURT: Very well.

14 Mr. Hopper, you may not remain, then --

15 THE CLERK: Would you take these back, please?

16 MR. KANAREK: Mr. Hopper isn't here, I gather. There
17 were one gentleman or two that weren't here.

18 I wonder if that means, perhaps, through some
19 oversight there may be other people that were sent here?

20 THE COURT: We'll inquire about that at this moment.

21 Is there any one of you who has previously been
22 called to this case and who has been excused?

23 Would you state your name?

24 MRS. SHERMAN: Mrs. Rachael L. Sherman.

25 THE COURT: May she be excused?

26 MR. KANAREK: Certainly, your Honor.

27 MR. MANZELLA: So stipulated, your Honor.

28 THE COURT: You may be excused. You need not wait.

1 Now, have we called roll and is everyone present
2 who should be?

3 THE CLERK: We haven't called the roll.

4 THE COURT: Do you have a list?

5 Go ahead and call their names very quickly.

6 THE CLERK: As I call the names of the jurors, please
7 answer.

8 MR. MANZELLA: Your Honor, excuse me, the People
9 would be willing to stipulate that the court reporter would not
10 have to take down all the names as they are being read by the
11 clerk.

12 THE COURT: All right.

13 MR. KANAREK: That's agreeable, your Honor. It is
14 agreeable.

15 (Whereupon, a roll call of the prospective jurors
16 was had.)
17
18
19
20
21
22
23
24
25
26
27
28

6 fls.

6-1

1 THE CLERK: I had a response to each name called, your
2 Honor.

3 THE COURT: Thank you.

4 Ladies and gentlemen, you are called here as
5 prospective jurors in the case of People vs. -- the People
6 of the State of California vs. Charles Manson.

7 Mr. Manson is seated there at counsel table, in
8 a blue shirt. He is accused by this indictment -- which the
9 Court has before it -- with the crime of murder, in violation
10 of Section 187 of the Penal Code, a felony, in that on or
11 about the 27th day of July, in the County of Los Angeles, he
12 did willfully, unlawfully and feloniously and with malice
13 aforethought murder Gary Alan Hinman, a human being.

14 Incidentally, if you can't hear me, let me know.
15 Raise your right hands, in the back of the courtroom, if
16 you can't hear me.

17 That's Count I. The accusation of Count I is
18 a Count of violation of Section 187, murder.

19 Count II is a Count alleging conspiracy to
20 commit murder and robbery, in violation of Section 182.1
21 of the Penal Code, a felony, in that it is alleged that on
22 or about the 25th through the 28th day of July, 1969, at and
23 in the County of Los Angeles, Mr. Manson, Susan Denise Atkins
24 and Bruce McGregor Davis did willfully, unlawfully and
25 feloniously and knowingly conspire, combine, confederate and
26 agree together, with other persons whose true identity is
27 unknown, to commit the crime of murder, in violation of
28 Section 187 of the Penal Code, a felony, and of robbery,

6-2
1 a violation of Section 211 of the Penal Code, a felony;

2 That pursuant to and for the purpose of carrying
3 out the objects and purposes of the aforesaid combination,
4 agreement and conspiracy, the defendants committed the
5 following overt acts at and in the County of Los Angeles:

6 Overt act No. 1 is alleged as being that on or
7 about the 25th day of July, the said defendants Bruce McGregor
8 Davis and Susan Denise Atkins and Robert Beausoleil did
9 travel to the vicinity of 964 Old Topanga Canyon Road,
10 Malibu, in the County of Los Angeles.

11 The second overt act, it is alleged, in Count II,
12 the Count of conspiracy, is that on July 26th, Mr. Manson,
13 Susan Denise Atkins and Bruce McGregor Davis did enter the
14 residence at 964 Old Topanga Canyon Road, Malibu, in the
15 County of Los Angeles.

16 Overt act No. 3 alleges that on July 26th, 1969,
17 Mr. Manson and Bruce McGregor Davis did drive away from 964
18 Old Topanga Road in a Fiat automobile owned by Gary Hinman.

19 Count III of the indictment alleges a Count of
20 murder, in violation of Section 187 of the Penal Code, in
21 that it is alleged therein that between the 16th day of August,
22 1969, and the first day of September, 1969, in the County of
23 Los Angeles, the said defendants Charles Manson, Bruce
24 McGregor Davis and Steven Grogan did willfully, unlawfully
25 and feloniously and with malice aforethought murder Donald
26 Jerome "Shorty" Shea, a human being.

27 Those are the Counts alleged in this indictment.
28 A Count of -- the first Count, of murder; the second Count

6-3
1 alleges a crime of conspiracy to commit murder and robbery;
2 and the third Count, as I've stated to you, a Count of murder.

3 To each of those Counts, Mr. Manson has entered
4 a plea of not guilty, and this is the time set for trial.

5 Is there anyone -- strike that, I will state to
6 all of you beyond the rail that this trial is -- it is
7 anticipated that it will take four to five months to try.

8 The Court does not intend to sequester you; that
9 is, to place you in a hotel room or to separate you from
10 your families at night. You can return home each night --
11 unless something unusual should happen, which should impel
12 the Court, on its own motion, to sequester you; or, to grant
13 a motion to sequester.

14 This indictment which I have read, ladies and
15 gentlemen, is not evidence. It's not to be regarded as
16 evidence by you.

17 It's simply a means of bringing this matter
18 before this Court and this jury.

19 Would you call a name from the box now? Would
20 you mix them up and call one?

21 THE CLERK: Wallace R. Nethery; N-e-t-h-e-r-y.

22
23 VOIR DIRE EXAMINATION OF
24 WALLACE R. NETHERY

25 BY THE COURT:

26 Q Mr. Nethery, you'll take your place in seat No. 2.

27 I will direct questions to Mr. Nethery of a
28 general nature, and sometimes a specific nature. And up to

6-4

1 the time when I ask him about the question of hardship, I
2 should like to have you listen very carefully, because I will
3 be asking you whether your answers would be the same as Mr.
4 Nethery's to the questions I am about to put to him.

6a fls.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

6-5

1 Mr. Nethery, you have heard the Court refer to
2 Mr. Charles Manson, and the Court has identified him as the
3 gentleman in the blue shirt, seated at the counsel table.

4 Do you know Mr. Manson or do you know anything
5 whatever about the alleged incidents which the Court has
6 spoken of in the indictment?

7 A I -- I do not know Mr. Manson. I have --

8 Q Just a minute. Would you do this? And would all
9 of you present please observe this? The microphone will
10 not work unless, first, the button is pushed; and secondly,
11 unless it is directed toward your face and held about an
12 inch from your face. You'll hear it pick up.

13 Go ahead with your answer.

14 A I do not know Mr. Manson. I -- I have read,
15 in the newspapers --

16 Q You have read, heard or seen something in the
17 news media --

18 A Yes.

19 Q -- concerning these allegations?

20 A Yes.

21 Q All right. The Court will ask you about those --
22 those matters that you've heard, seen or read out of the
23 presence of the other jurors.

24 Each juror, each prospective juror is, by our
25 processes and our methods here, is questioned outside of the
26 presence of the other jurors, about what he may have heard,
27 seen or read.

28 But do you have any personal knowledge of any

6-6
1 of these alleged incidents?

2 A No, your Honor.

3 Q Mr. Manson is represented by Mr. Irving Kanarek,
4 attorney, and -- thank you, Mr. Kanarek.

5 MR. KANAREK: Thank you, your Honor.

6 Q BY THE COURT: And the People are represented by
7 Deputy District Attorney Anthony Manzella.

8 Do you know either of these lawyers who have been
9 presented to you?

10 A No. No, your Honor.

11 Q Have you ever been represented by either of the
12 lawyers or by any firm that they have been partnered or
13 associated with in any way?

14 A No.

15 Q Have you ever worked for law enforcement, or has
16 anyone close to you ever worked for law enforcement?

17 A No.

18 Q Have you ever been the victim of a crime of
19 violence, or has anyone close to you been the victim of a
20 crime of violence?

21 A No.

22 Q Have you ever been a witness in a criminal case,
23 either for the prosecution or for the defense?

24 A Yes.

25 Q All right. Would you state what that was?

26 A Uh -- it was a misdemeanor charge. I worked at
27 a university, and it was a -- it had to do with at least a
28 beginning -- an incipient attack in an office against a

1 secretary.

2 Q Of a violent attack --

3 A Yes.

4 Q -- against -- in other words, a physical attack?

5 A Yes.

6 Q And you were a witness in the case for the
7 prosecution or for the defense?

8 A For the prosecution, your Honor.

9 Q Do you think that would arouse any bias or
10 prejudice in your mind against a person who is accused of a
11 crime?

12 A I don't believe so.

13 Q Well, are you certain? The way you say that, --

14 A Yes.

15 Q -- it indicates that you may be hedging a bit.
16 You are not hedging by that answer?

17 A No.

18 Q All right. Have you yourself been charged with
19 a criminal offense, other than a minor traffic violation, or
20 had any of your close friends or relatives been accused of
21 such a thing?

22 A No.

23 Q Now, at the conclusion of this case -- strike that.

24 At the conclusion of the presentation of the
25 evidence and argument in this case, the Court will instruct
26 you concerning the law in the case.

27 Now, regardless of what you believe the law should
28 be, or what you believe the law to be, you are to take the

1 instructions concerning the law from the Court. Would you do
2 that?

3 A Yes.

4 Q Do you understand that the indictment that I have
5 read or paraphrased is not evidence? This paper that I --

6 A Yes.

7 Q -- read to you is not evidence?

8 A Yes, I do.

9 Q It's simply the charge itself, to which Mr.
10 Manson has entered a plea of not guilty.

11 A Yes.

12 Q Have you had any legal experience? Have you been
13 in any way connected with a law office of any type?

14 A No, I haven't, your Honor.

15 Q Are you inclined to take the testimony of a
16 police officer, giving it more credence than some other
17 persons, simply because the witness is a police officer?

18 A (Pause.) I believe I'd tend to think of a
19 police officer as being trained, professional; so perhaps --

6b fls.

20

21

22

23

24

25

26

27

28

6b-1

1 Q Well, I am stating simply, because of his status,
2 are you inclined to give him more credence than somebody else?

3 MR. KANAREK: 1073, Sub section 2, your Honor.

4 JUROR NO. 2: Yes.

5 BY THE COURT:

6 Q If I were to instruct you that credibility is
7 to be judged on certain standards, would you apply those
8 standards equally to a police officer as well as to anyone
9 else?

10 A Yes.

11 Q In following those standards, then, would you --
12 would you apply them impartially to people who were non-
13 police officers and police officers as well?

14 A Yes, I would.

15 THE COURT: The Court believes that -- that the
16 prospective juror will do that; and accordingly, will find that
17 the challenge should be denied.

18 DEFENDANT MANSON: There's two District Attorneys here.

19 THE COURT: Mr. Manson, you are going to have to be
20 quiet, or you'll have to leave the room.

21 DEFENDANT MANSON: Yes, sir.

22 (Whereupon, Defendant Manson arose and proceeded
23 to walk toward the detention room.)

24 THE COURT: He needn't leave now.

25 THE BAILIFF: Apparently he wants to.

26 THE COURT: Pardon?

27 THE BAILIFF: Apparently he wants to.

28 THE COURT: Do you mean to say, Mr. Manson, that you are

1 leaving now?

2 DEFENDANT MANSON: You told me, if I couldn't keep quiet,
3 to leave the room. And I am leaving the room.

4 THE COURT: You can't keep quiet?

5 DEFENDANT MANSON: Well, I --

6 THE COURT: Well, can you be quiet?

7 DEFENDANT MANSON: No.

8 THE COURT: You can't be?

9 DEFENDANT MANSON: No.

10 THE COURT: Very well. The Court will ask that he be
11 removed, then.

12 (Whereupon, the Defendant Manson exited the
13 courtroom, and the following proceedings were had:)

14 THE COURT: Ladies and gentlemen, even though there may
15 be, during the course of this trial, remarks made by
16 Mr. Manson, the Court instructs you that you are not in any
17 way to allow his conduct in the courtroom, in making such
18 remarks, to in any way enter into your judgment on any
19 decision that you must make in this case.

20 Q Will you follow that instruction, Mr. Nethery?

21 A Yes.

22 Q Now, the Court wishes to ask you at this time, now,
23 having in mind the last few questions that we've talked
24 about -- or, that we've -- having in mind the subject that we
25 have discussed concerning police officer's testimony -- do you
26 have any doubt about your ability to be fair and impartial, and
27 to follow the Court's instructions in judging credibility, in
28 respect to a police officer's testimony?

1 A No, I don't.

2 Q The Court will instruct you that a defendant in a
3 criminal case is assumed to be innocent until the contrary is
4 proved; and in case of a reasonable doubt whether his guilt
5 is satisfactorily shown, he is entitled to an acquittal.

6 This burden -- this presumption places upon
7 the State the burden of proving him guilty beyond a reasonable
8 doubt. Reasonable doubt is defined follows:

9 It's not a mere possible doubt, because every-
10 thing relating to human affairs and depending on moral
11 evidence is open to some possible or imaginary doubt. It is
12 that state of the case, which, after the entire comparison and
13 consideration of all of the evidence, leaves the minds of
14 the jurors in that condition that they cannot say that they
15 feel an abiding conviction, to a moral certainty, of the truth
16 of the charge.

3 fls.

17
18
19
20
21
22
23
24
25
26
27
28

7-1,
1 The testimony of a witness, a writing, a material
2 object, or anything presented to the senses offered to prove
3 the existence or non-existence of a fact is either direct or
4 circumstantial evidence.

5 Direct evidence means evidence that directly
6 proves a fact, without any inference, and which in itself,
7 if true, conclusively establishes that fact.

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

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

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

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

28 Also, if the evidence as to any particular Count

7-2

1 is susceptible of two reasonable interpretations, one of
2 which points to the defendant's guilt and the other to his
3 innocence, it is your duty to adopt that interpretation which
4 points to the defendant's innocence, and reject the other
5 which points to his guilt.

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

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

16 Where a conspirator commits an act which is
17 neither in furtherance of the object of the conspiracy nor
18 the natural and probable consequence of an attempt to attain
19 that object, he alone is responsible for and is bound by
20 that act, and no responsibility therefor attaches to any of
21 his confederates.

22 Each member of a conspiracy is liable for each
23 act and bound by each declaration of every other member of
24 the conspiracy if said act or said declaration is in further-
25 ance of the object of the conspiracy.

26 Murder of the first degree, which we'll be
27 talking about, is a murder perpetrated by a willful, deliberate
28 and premeditated killing, with malice aforethought, or a murder

7-3

1 committed by torture, or in the course of a burglary or a
2 robbery. That is murder of the first degree.

3 A person aids and abets the commission of a
4 crime if he knowingly and with criminal intent aids,
5 promotes, encourages or instigates by act or advice, or by
6 act and advice, the commission of such crime.

7 All persons concerned in the commission of a
8 crime who either directly and actively commit the act
9 constituting the offense or who knowingly and with criminal
10 intent aid and abet in its commission or, whether present or
11 not, who advise and encourage its commission, are regarded
12 by the law as principals in the crime thus committed and are
13 equally guilty thereof.

14 The Court will read you, ladies and gentlemen,
15 further instructions of law. These are not meant to be
16 all encompassing. They are not all of the law that the
17 Court will read you in connection with this case.

18 Q BY THE COURT: But I'll ask you, Mr. Methery,
19 whether you have any quarrel with those principles of law
20 that the Court has read?

21 A No, I do not.

22 Q And will you follow the law as I shall state it
23 to you, regardless of whether you do have any question in your
24 mind concerning it?

25 A Yes, your Honor.

26 THE COURT: In a case in which the offense charged is
27 punishable by death, the Court is required to ascertain if
28 any prospective juror entertains such conscientious opinions

7-4

1 as would preclude his finding the defendant guilty, if the
2 evidence should justify such a finding, or if he would, under
3 no circumstances, vote for the death penalty, or if upon a
4 conviction of murder of the first degree, the prospective
5 juror would automatically, automatically vote for the death
6 penalty without regard to the evidence.

7 Now, at the outset of this trial, the Court has
8 no way of knowing whether or not you'll be called upon to
9 determine the issue of penalty, and I don't mean to imply by
10 talking about the death penalty that you will ever arrive at
11 a stage where you will be considering it.

12 The defendant, as you have been previously
13 informed, is charged with the crimes of murder. And in
14 arriving at a verdict in this case, as to the guilt or the
15 innocence of the defendant, the subject of penalty or
16 punishment is not one that's to be discussed by you, or
17 considered by you in the course of your deliberations as
18 jurors in the case, as penalty or punishment is a matter
19 which, under our law, must be considered and determined in
20 a separate proceeding, if your findings are, in the first
21 phase of the trial, that the defendant is guilty of murder
22 of the first degree.

23 If the defendant is found guilty of something
24 less than murder of the first degree, then, you never enter
25 into the penalty phase. You never enter into the discussion
26 as to whether life imprisonment or death should be imposed.

27 So when the defendant, if he is, found guilty of
28 murder first in the State of California, when and if a

7-5

1 defendant is found guilty of murder of the first degree,
2 an offense punishable by life imprisonment or death, then
3 the jury shall fix the penalty as either death or life
4 imprisonment. And the law imposes neither death or life
5 imprisonment, but presumes the two alternatives to the jurors,
6 and it is left to the absolute discretion of the jury as to
7 which of these penalties should be imposed.

8 The Legislature has formulated no rules. The
9 Court will give you no rules to guide your discretion.
10 Therefore, I'll be excusing you, ladies and gentlemen, who
11 are beyond the rail. I'll be asking Mr. Nethery these
12 questions:

13 Are your opinions concerning the death penalty
14 such that you would automatically refuse to impose it without
15 regard to any evidence that might be developed?

16 Are your opinions concerning the death penalty
17 such that if a defendant were convicted of murder of the
18 first degree, you would vote to impose the death penalty
19 without regard to any evidence that might be developed during
20 the case?

21 Are your views of the death penalty such
22 as would prevent you from being impartial in determining the
23 issue of guilt or innocence?

24 Are your views such that you would never vote to
25 impose the death penalty?

26 You may be thinking about the answers that you
27 will give and searching your mind before the Court calls you
28 to the box.

7-6

1 Now, I'm going to take a short recess. I'll take
2 a recess for ten minutes.

3 During the recess you are obliged not to converse
4 amongst yourselves, nor with anyone else, nor either permit
5 anyone to converse with you on any subject connected with
6 this matter, nor are you to form or express any opinion on
7 the matter until it is finally submitted to you, should you
8 be selected as jurors.

9 We're in recess now.

10 (Afternoon recess.)
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8 fls.

8-1-77
XXX

1 THE COURT: The record will show Mr. Kanarek to be
2 present, and the prospective jurors beyond the rail and in
3 the box.

4 Q Mr. Nethery, the Court's going to ask you some
5 questions of a more personal nature now, beginning with the
6 question of hardship.

7 Would it be any hardship for you to serve as a
8 juror in this case?

9 A Yes, it would, your Honor.

10 Q Tell me about that.

11 A I am a librarian in a departmental library at
12 a university. I am the only full time employee -- the only
13 employee in that library, aside from student assistants.

14 And it was difficult to be replaced for roughly a
15 month, and it would be terribly difficult to be away for
16 several months.

17 Q There's nobody who could fill in for you?

18 A I would say that -- I'm not indispensable, but
19 if I -- under the present situation, I am being replaced now
20 by a student assistant.

21 Q What library is that?

22 A It's the University of Southern California, the
23 philosophy library.

24 Q What sort of hardship would that entail to you?

25 It certainly would entail some hardship to the
26 people of the school, who would have to find someone who
27 could replace you during the time that you are gone.

28 But what is the hardship to you? Would you be

1 paid during this period of time that you are here?

2 And incidentally, ladies and gentlemen, the
3 Court will ask all of you who may have this question in your
4 minds to inquire of your employers as to whether or not,
5 if you remain on jury duty, for a period of four or five
6 months, you will be paid.

7 The Court has noted that, generally speaking,
8 the County and City employees generally are paid during all
9 of the period of time that they must remain on jury duty.
10 But there are some circumstances wherein you may not be
11 paid, and the Court would ask you to inquire of somebody in
12 authority, who has some firm word on it as to whether or not
13 you will be paid.

14 A I -- yes. I am being paid for this present
15 tour of duty, but I --

16 Q If it should extend beyond 30 days, would you be
17 paid?

18 A I'm not sure about that, other than -- other than
19 if I weren't paid, it wouldn't be a personal hardship. It's
20 a professional -- or, an institutional problem, really.

21 Q It's kind of a problem to the people who are
22 left behind at the library.

23 A Yes.

24 THE COURT: Yes. Either of you gentlemen have any
25 comment you wish to make?

26 (No response.)

27 Q BY THE COURT: Have you served as a juror
28 before?

1 A No, I haven't. Just this week.

2 MR. KANAREK: May I ask this, your Honor? Does Mr.
3 Nethery have a preference?

4 Q BY THE COURT: Are you asking to be excused?

5 A Yes, I would like to be excused.

6 Q You have never served as a juror before?

7 A No, I haven't.

8 Q And you -- on a criminal case or a civil case?

9 A No. Well, just this week.

10 Q Oh. Have you served as a juror in a criminal
11 case before?

12 A No.

13 Q You have already told us about your job. How
14 long have you been with the University of Southern California?

15 A 15 years.

16 Q And are you connected with the -- do you have
17 friends or relatives who are law enforcement officers?

18 A No, I haven't.

19 Q And is there a Mrs. Nethery?

20 A No, I'm not married.

21
22
23
24
25
26
27
28
9 fls.

9-1,

1 THE COURT: Do either of you have any questions with
2 respect to the question of hardship?

3 MR. MANZELLA: Well, your Honor, it sounds like
4 Mr. Nethery said it is an institutional hardship more than a
5 personal hardship, if he is going to be paid by the library
6 for the time he's on jury duty.

7 THE COURT: Very well. It may very well be, and the
8 Court would probably ask you to ask the university to try to
9 find somebody. I do realize when you come back, you sometimes
10 have to pick up the pieces, and that may be difficult from a
11 personal standpoint, but the Court realizes that jury duty is
12 one of the highest obligations that a citizen can undertake,
13 and it is one that very frequently involves some personal
14 sacrifices, and the Court would request that you make that
15 sacrifice. And the Court realizes that it is a considerable
16 one. However, if there is any financial hardship, the Court
17 would ask you to let us know that, if you discover that that is
18 the case.

19 BY THE COURT:

20 Q Concerning the death penalty, now, about which I
21 have told you, the law about which I've told you in the State
22 of California, you understand that the Court is not in any
23 way inferring that it will become necessary for you to enter
24 into a penalty phase. I'm not inferring, by talking about the
25 death penalty, that the defendant is guilty of any of the
26 crimes charged against him; you understand that?

27 A Yes.

28 Q It is simply that the same jury which determines

1 the question of guilt or innocence, is also the jury which
2 determines the penalty, life imprisonment or death.

3 And since we're in the process of selecting that
4 jury now, we must inquire about your views concerning the
5 death penalty.

6 Do you understand that?

7 A Yes, I do.

8 Q Now, are your views concerning the death penalty
9 such that in the first phase of the case, the phase involving
10 guilt or innocence, that you could not thereby be impartial,
11 fair and impartial in deciding that issue of guilt or
12 innocence?

13 A No.

14 Q Are your views concerning the death penalty such
15 that you would automatically refuse to impose it regardless
16 of the evidence in the case?

17 A May I impose a question of -- guilt or innocence
18 or --

19 Q Would you, going beyond that first phase, now, and
20 assuming that you are one of the jurors who are deliberating
21 in the second phase, involving penalty, are your views concern-
22 ing the death penalty such that you would automatically refuse
23 to impose it?

24 A Yes, they are.

25 Q Are your views such concerning the death penalty
26 that you would never impose it in any case regardless of the
27 evidence?

28 A Yes.

1 Q Would you refuse to even consider imposing the
2 death penalty in any case?

3 A I don't believe I would refuse to consider, but
4 I -- But it would be just a matter of time, at the end of the
5 consideration that I would say, no, I will not go for the
6 death penalty.

7 Q In other words -- I'm not quite sure what you mean
8 by that.

9 If -- can you conceive of yourself at any time,
10 under any set of circumstances, ever voting for the death
11 penalty?

12 A No, no, I'm sorry, I misunderstood. No, I
13 can't.

14 Q If you would give consideration to the evidence in
15 the case, do you think under any set of circumstances you would
16 ever, after considering the evidence, impose the death
17 penalty?

18 A No.

19 Q You would automatically vote against it, is that
20 correct?

21 A Yes.

22 Q Regardless of whatever evidence might be produced?

23 A Yes.

24 MR. MANZELLA: Your Honor, the People would respectfully
25 challenge Mr. Nethery for cause under Section 1973, Sub-
26 division 2 of the Penal Code.

27 THE COURT: Any questions?

28 MR. KANAREK: Yes, your Honor.

VOIR DIRE EXAMINATION

BY MR. KANAREK:

Q Mr. Nethery, you've stated that you would discuss these matters with the -- with your fellow jurors, right?

A Yes, that's what I said. I was -- I was trying to say, I think, that I wouldn't vote immediately to cut off discussion, but I would know in my own mind at the end of the discussion, and under no circumstances, would I vote for the death penalty.

Q Now, as far as the guilt or innocence phase goes, there's no reason you couldn't sit in judgment as far as that aspect of it is concerned?

A No, I'm sure that there isn't.

Q Well, then, not having experienced it, not having gone through it, would you say that perhaps you would -- you might even convince your fellow jurors that there need not be any death penalty in any particular situation?

I'm not thinking of this particular case, because we're speaking in a vacuum, without any particular person or defendant in mind.

A Yes, I think that's a possibility. I might be able to convince them.

10 fls.

10-1

1 Q And so therefore, you wouldn't have to vote
2 for the death penalty; right?

3 A Possibly, yes.

4 MR. KANAREK: Oppose the challenge, your Honor.

5 THE COURT: The People?

6 MR. MANZELLA: The People renew the challenge, your
7 Honor.

8 THE COURT: The Court finds that Mr. Nethery would
9 automatically vote against the death penalty, regardless of
10 the -- regardless of the evidence;

11 And therefore, the Court does grant the challenge
12 for cause.

13 Mr. Nethery, thank you -- is it Nethery?

14 JUROR NO. 2: It's Nethery.

15 THE COURT: I'm sorry. I have been mispronouncing
16 it --

17 JUROR NO. 2: Nethery.

18 I'm used to having it mispronounced.

19 THE COURT: -- all the way through. I caught that as
20 an "m" and not an "n".

21 Mr. Nethery, the Court thanks you for serving
22 as a juror. You are excused, to report to Room 253 --

23 THE CLERK: Wednesday.

24 THE COURT: Wednesday?

25 THE CLERK: Yes.

26 THE COURT: You are going to give Mr. Nethery three
27 days off?

28 THE CLERK: Yes.

10-2

1 THE COURT: It sounds rather lenient. But you don't
2 have to report back until Wednesday, Mr. Nethery, at 9:00
3 o'clock.

4 THE CLERK: Edward J. Byrd; B-y-r-d.

5 MR. KANAREK: Thank you, Mr. Nethery.

6
7 VOIR DIRE EXAMINATION OF

8 EDWARD J. BYRD

9 BY THE COURT:

10 Q Mr. Byrd, were you present when the Court
11 explained the nature of this case, instructed the jurors
12 in regard to the law, and talked with Mr. Nethery?

13 A Yes.

14 Q Would your answers be any different than his
15 to the questions of a general nature?

16 A In one instance, I believe.

17 Q All right.

18 A On the matter of police officers.

19 Q Tell us about that. How would your answer be
20 any different?

21 A I don't believe I would give them any more
22 credence than any other --

23 Q Would you give them any less credence, because
24 of their status?

25 A No.

26 Q You would judge their credibility according to
27 the standards that you would apply to each witness?

28 A Yes.

1 Q Incidentally, while we are talking about the
2 subject of credibility and the standards, the Court will
3 tell you that every person who testifies under oath is
4 a witness.

5 You are the sole and exclusive judges of the
6 credibility of the witnesses who testified in this case --
7 who testify in this case. In determining the credibility
8 of a witness, you may consider any matter that has a
9 tendency and reason to prove or disprove the truthfulness
10 of the testimony, including but not limited to the following:

11 His demeanor while testifying and the manner in
12 which he testifies; the character of his testimony; the
13 extent of his capacity to perceive, to recollect, or to
14 communicate any matter about which he testifies; the extent
15 of his opportunity to perceive any matter about which he
16 testifies;

17 His character for honesty or veracity or their
18 opposites; the existence or non-existence of bias, interest,
19 or other motives; a statement previously made by him that
20 is consistent with his testimony; a statement made by him
21 that is inconsistent with any part of his testimony;

22 The existence or non-existence of any fact
23 testified to by him; his attitude toward the action in which
24 he testifies, or toward the giving of testimony; his admis-
25 sion of untruthfulness; his prior conviction of a felony.

26 Will you follow that instruction, as well as
27 all the other instructions that the Court gives to you,
28 Mr. Byrd?

1 A Yes.

2 Q Would there be any hardship to you, Mr. Byrd,

3 if you were to serve in this case?

4 A Uh -- not if I were paid.

5 Q For whom do you work?

6 A The County.

7 Q County of Los Angeles.

8 A Yes.

9 Q What type of work do you do?

10 A Principal program.

11 Q I'm sorry.

12 A Principal program.

13 Q For what department?

14 A Data processing.

15 Q You work for the data processing in the Civil

16 Center here?

17 A No, County Hospital.

18 Q Have you been a juror before?

19 A No.

20 Q How long have you been employed with the County?

21 A Ten years.

22 Q And is there a Mrs. Byrd?

23 A No, I'm divorced.

24

25

26

27

28

10a fls.

10-a
Pg. 1

1 Q Are you related to or a friend of any law
2 enforcement officer of any type?

3 A No.

4 Q Is there anything -- can you think of any reason
5 why you couldn't be impartial and fair in this case?

6 A I -- I'm not sure. I'm not sure.

7 Q The basis of that, we'll examine on that question
8 perhaps at a later time.

9 Are you referring to anything in particular that
10 makes you unsure?

11 A Uh -- yes; previous comments and previous trials.

12 Q Something that you may have heard, seen or read in
13 the news media?

14 A Yeah.

15 Q Let me ask you about your attitude towards the
16 death penalty.

17 Is it such that you couldn't be fair and
18 impartial in determining guilt or innocence?

19 A Yes. I think that it is, yes.

20 Q In other words, knowing that you would be unable
21 to -- strike that.

22 Knowing that the penalty phase would follow, you
23 would be unable to be impartial in determining the first phase
24 of the trial?

25 A I think I would be governed by that, yes.

26 Q By what?

27 A By the first phase; my views would affect the
28 second phase.

10a-2

1 Q Well, I'm not sure I follow that.

2 Would you be unable to be fair and impartial in
3 determining guilt or innocence, because of your feelings
4 concerning the death penalty?

5 A Yes.

6 Q Are your views such concerning the death penalty
7 that you would automatically refuse to impose it, regardless
8 of the evidence?

9 A Yes.

10 Q Are your views concerning the death penalty such
11 that you would never in any case vote for the death penalty?

12 A Yes.

13 Q Are your views such that you would refuse to even
14 consider the death penalty, regardless of the evidence?

15 A Uh -- I think -- yes.

16 Q Is there a -- any hesitancy or reservation on your
17 part?

18 A I might discuss it. But I don't think that I
19 could -- would change, you know.

20 Q In other words, you might discuss the evidence with
21 fellow jurors, but you don't believe that you could ever vote
22 for the death penalty; is that what you are saying?

23 A That's right.

24 THE COURT: Any questions, gentlemen?

25 MR. KANAREK: Yes, your Honor.

26

27

VOIR DIRE EXAMINATION

28

BY MR. KANAREK:

1 Q Mr. Byrd, am I pronouncing your name correctly?

2 A Yes.

3 Q As far as this experience that you have had in the
4 past, or your experience -- you've never had to actually make
5 any decision, as -- as far as the death penalty is concerned;
6 is that right?

7 A No, no.

8 Q And so, is it a fair statement that, not having
9 experienced it, you don't know for sure what you would do in
10 any particular situation, as far as the death penalty is
11 concerned? Not having actually done it?

12 A No, I don't think that's a fair statement.

13 Q That isn't? May I ask you what about the
14 statement -- what is your state of mind?

15 A It's pretty closed on the matter.

16 Q It's pretty closed. But it isn't 100 per cent
17 shut, is it?

18 A Yes.

19 Q Oh, it is?

20 A Yes.

21 Q I see. But -- and what do you mean by that, when
22 you say that?

23 A That I would vote no against death.

24 Q But you would, certainly, discuss it with your
25 fellow jurors; right?

26 A Yes.

27 Q And you'd try to convince them to your viewpoint;
28 right?

1 A Yes.

2 Q Whatever it may be. In all phases of the case;
3 right?

4 A I believe so.

5 MR. KANAREK: Oppose the challenge, your Honor.

6

7 VOIR DIRE EXAMINATION

8 BY MR. MANZELLA:

9 Q Mr. Byrd, after discussing the evidence with
10 your fellow jurors, would you automatically refuse to vote
11 for the death penalty, regardless of what evidence may be
12 introduced at the trial, and regardless of those discussions?

13 A Yes.

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

17 THE COURT: The challenge --

18 MR. KANAREK: Oppose the challenge, your Honor.

19 THE COURT: -- is granted.

20 The challenge is granted.

21 MR. KANAREK: Thank you, Mr. Byrd.

22 THE COURT: Room 253 on Wednesday.

23 Do you have more time to serve?

24 JUROR NO. 2: Yes.

25 THE COURT: How much time do you have left?

26 JUROR NO. 2: About two weeks.

27 THE COURT: All right. Room 253, Wednesday.

28 THE CLERK: Leonard H. Burke, B-u-r-k-e.

VOIR DIRE EXAMINATION OF

LEONARD H. BURKE

BY THE COURT:

Q Mr. Burke, you were present when the Court explained the nature of this case, and instructed on parts of the law, and talked to Mr. Nethery; is that correct?

A That's correct.

11 fls.

11-1

1 Q Would your answers be any different than Mr.
2 Nethery's -- to the questions of a general nature that I have
3 put to him?

4 A Uh, yes, I am associated with officers.

5 I am a parking control checker for the City of
6 Los Angeles, and as such, have a policeman supervisor, a
7 sworn officer, I should say.

8 Q Would that raise any bias in your mind in favor
9 of police officer testimony, do you think?

10 A I know it wouldn't.

11 Q Do you think that you can judge a police officer's
12 testimony on the same basis as any other person's?

13 A Yes, sir.

14 Q Are you an officer, yourself, I mean, are you
15 a peace officer, yourself?

16 A No, sir. I am a parking control checker, which
17 is a civilian capacity.

18 Q I see. You work with officers constantly in
19 your work; is that it?

20 A Yes, I have an officer for a supervisor.

21 Q Is Mr. Nethery's response to the Court's question
22 -- was, in the first instance, that he believed -- that he
23 believed -- that he would give greater credence to the testimony
24 of an officer because of his relationship with police
25 officers in the past.

26 And then, later, when the Court explained that
27 he was to judge witnesses' testimony all on the same basis,
28 that is judge credibility on the bases that are set forth by

11-2

1 the Court in his instructions, he changed that.

2 Now, you are stating right from the first that you
3 are not in agreement with him. But in respect to that, that
4 you would not give any greater credence to a police officer's
5 testimony; am I correct?

6 A That's correct, your Honor.

7 Q Would you give any lesser credence to a police
8 officer's testimony simply because of his status?

9 Now, I'm assuming that you are talking about
10 "status" as I have been, and as a reason for credibility or
11 non-credibility.

12 A No, I wouldn't give any more credence or less,
13 either.

14 Q Very well.

15 Would it be a hardship to you to serve in the case?

16 A Only if I wasn't paid.

17 Q And you are paid by the City of Los Angeles, are
18 you not?

19 A Yes. Yes, your Honor.

20 Q Well, you should inquire, but it has been the
21 experience of the Court and the counsel that those who are
22 employed by public agencies are paid throughout the jury
23 service, no matter how long it might be.

24 Have you served as a juror in a criminal case
25 before?

26 A Yes, one.

27 Q What was the nature of that case, and state to
28 us whether there was a verdict, without stating to us what

11-3

1 kind of -- what the verdict was? Just state what kind of a
2 case it was and whether there was a verdict.

3 A The case was -- the case of possession of
4 marijuana, and the verdict --

5 Q There was a verdict?

6 A No, there was no verdict rendered.

7 Q A mistrial?

8 A A mistrial, sir.

9 Q Very well, sir.

10 Have you sat as a juror on any other criminal
11 case?

12 A No.

13 Q Will you set aside whatever you may have learned
14 from that case and decide this case solely on its law and
15 its instructions?

16 A I can.

17 Q All right. Is there a Mrs. Burke?

18 A Yes, there is.

19 Q And is she employed outside the home?

20 A No, a student.

21 Q Now, are you related to any law enforcement
22 officer?

23 A No, I am not.

24 Q Or are you a close friend of any of these law
25 enforcement officers that you have been talking to?

26 A No, sir. I've just been in this area for two
27 years and I haven't had a chance to become acquainted.

28 Q By law enforcement officer, I mean any Highway

11-4

1 Patrolman, policeman, deputy sheriff, deputy prosecutor of
2 any type, Deputy District Attorney, City Attorney, a Deputy
3 Attorney General, anyone in that category?

4 A No, sir.

5 Q Or any one of those categories?

6 A Other than checkers that do the same job as I do,
7 that's all.

8 Q In connection with the death penalty, are your
9 views concerning it such that you would be unable to be
10 impartial in determining the question of guilt or innocence?

11 A No, they're not.

12 Q Or are your views such concerning the death
13 penalty that you would automatically refuse to impose it
14 regardless of the evidence?

15 A No, they're not.

16 Q Or do you have such views concerning the death
17 penalty that you would never vote to impose it?

18 A No, I don't, sir.

11H fls.

11a-1

1 Q Or are your views such that you would automatically
2 impose it upon a conviction of murder in the first degree,
3 regardless of the evidence that might be produced?

4 A Yes, I could.

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

8 A No, not unless the evidence so stated, and that's
9 what it called for.

10 Q In other words, you would look at the evidence
11 to determine whether or not in your judgment, in your sole
12 judgment and discretion, the death penalty should be imposed?

13 A That's true, your Honor.

14 Q Now, we're going to ask you about what you may
15 have heard, seen or read in the press concerning this or any
16 other case involving Mr. Manson.

17 And in doing that, we're going to question you
18 separate and apart from the other jurors. That means that the
19 other jurors, the prospective jurors are going to have to leave
20 the room and go to Department 107. So, as you do that, do so
21 quietly and quickly, and maybe the first one or two out of the
22 door there -- would you hold both of the doors open so it can
23 be done very quickly.

24 Do not discuss this case amongst yourselves or
25 anyone else during the time that you are out of this court-
26 room.

27 All right, the record will show that the
28 prospective jurors have left the room. Mr. Burke remains.

VOIR DIRE EXAMINATION

BY THE COURT:

Q Mr. Burke, have you heard, seen or read the name Charles Manson before you came into this room?

A Yes, I have, on -- should I state?

Q Yes.

And was it in connection with the so-called Tate-La Bianca homicides?

A I am quite sure it was, your Honor. The only headlines -- I never perused it much, but the headlines and the TV's, I have seen his name and associated it with a prior trial.

Q With a prior trial?

A Yes.

Q And do you remember the nature of that trial at all?

A Only that it was a murder case. As I say, I --

Q Do you know whether or not Mr. Manson was convicted of anything in that trial?

A I'm not positive as to the verdict, no, sir.

Q Do you know whether he was a single defendant or whether he was with other defendants in that trial?

A This I remember. There were other defendants, yes, sir.

Q Do you know who they were?

A No, I don't.

Q You don't remember any names?

A No.

1 Q Do you remember the name Susan Atkins?

2 A I've heard it.

3 Q And in what connection? Do you know that name?

4 A No, sir, only I can say that I remember hearing
5 the name.

6 Q Before you came into this courtroom had you heard
7 the name Gary Hinman, heard, seen or read it?

8 A No, not Gary Hinman.

9 Q Or had you heard, seen or read the name Shorty
10 Shea?

11 A No, sir.

12 Q Had you heard, seen or read the name Manson
13 Family?

14 A Yes, I had.

15 Q Tell me in what connection?

16 A Well, here, too, it was through headlines that I
17 read -- on articles, and through the TV media.

18 Q How about in this case, have you heard, seen or
19 read anything in connection with this case in either -- in
20 the press or in the -- over television or via radio; had you
21 heard, seen or read anything?

22 A Not prior to this morning. And I -- in the jury
23 room I heard it.

24 Q Well, what did you hear in the jury room?

25 A That some of the jurors had been selected to come
26 up here for questioning and that they had been returned.

27 Q Other than that, you hadn't heard anything, what-
28 ever?

1 A Details, none, your Honor.

2 Q Now, let me ask you, if I were to instruct you,
3 Mr. Burke, that anything you may have heard, seen or read
4 concerning this case, or any other case in which Mr. Manson
5 was involved, or anything that you may have heard, seen or
6 read about Mr. Manson, or that you may remember during the
7 course of this trial, and/or your deliberations concerning
8 Mr. Manson, that you were to set aside such matter, set aside
9 such reports, and any discussions that you may have had --
10 not erase them from your memory, not forget them, rather, but
11 just wipe the slate clean temporarily for the purpose of
12 making any judgment you might be called upon to make in this
13 case; do you think you could do that?

14 A I'm fairly positive I could.

15 In other words, you're saying just use the
16 evidence as presented in this trial relative to what's happen-
17 ing -- I know I could.

18

19

20

21

22

23

24

25

26

27

28

11b fls.

lib-1

1 Q You're certain you could?

2 A Yes, sir.

3 Q And will you do that?

4 A I would.

5 Q And would you be fair and impartial in the case
6 in spite of what you may have heard, seen or read in the press
7 or discussed with anyone concerning Mr. Manson or this case or
8 any other case?

9 A Yes, sir, I can, and would do this.

10 THE COURT: All right, Mr. Kanarek.

11
12 VOIR DIRE EXAMINATION

13 BY MR. KANAREK:

14 Q Mr. Burke --

15 A That's correct, sir.

16 Q Mr. Burke, you certainly would intend to follow
17 the Court's order, wouldn't you?

18 A That is correct.

19 Q As to publicity,

20 But not having -- not having actually gone
21 through it, not having experienced it, do you think that you
22 don't know whether you could actually not consider matters
23 that you heard by way of publicity concerning Mr. Manson?

24 A I speak only from experience on the last trial
25 that I had, that I was able to show impartiality there and
26 I believe I could do it in any future jury I sit on.

27 Q But in the last trial there was no publicity
28 problem?

11b-2

1 A No, sir.

2 Q And I hope we are in agreement -- you understand
3 this is no reflection upon you, the fact you read newspapers
4 and watch TV, you understand. No one -- the point is, what
5 we're discussing here, is a very unique and unusual situation,
6 namely, the mass of publicity that you have spoken of here.
7 And so the question is really not -- it is not directed
8 towards your -- towards anything that happened in that other
9 trial where, I presume, there was no publicity problem; is
10 that correct?

11 A No, sir.

12 Q There was a publicity --

13 A No, no publicity.

14 Q I see.

15 So, therefore, not having lived through it,
16 you really don't know whether you could do it? Any of us
17 might be in the position that you are in right now.

18 You don't -- you would certainly intend not to
19 remember these matters that you have heard, but is it a
20 fair statement you don't know whether or not you would not
21 consider those matters?

22 A I am almost positive I wouldn't. Knowing myself,
23 I don't think I would.

24 MR. KANAREK: Thank you very much, Mr. Burke. Thank
25 you.

26 MR. MANZELLA: No questions, your Honor.

27 MR. KANAREK: 1073, Subsection 2, your Honor.
28

12 fls.

12-1

BY THE COURT:

Q Mr. Burke, do you understand that if you were to consider anything that you have heard, seen or read concerning Mr. Manson, which was of a detrimental nature, that it would be very unfair to him?

A I realize this, your Honor.

Q And you think that you are objective enough, so that you can segregate those things that you have heard, seen or read from -- from the evidence in this case, and decide the case independently of those things that you had heard, seen or read? And only on the evidence?

A I am almost positive I could.

Q When you say "almost positive," are you hedging at all?

A Not in the least, sir.

Q Is there any uncertainty in your mind?

A No, there isn't. I -- as I said, I have had experiences which put me to the test, to let me know that I can view things impartially and unemotionally, and make a good judgment on it.

Q Would you do that?

A I would.

THE COURT: The Court denies the challenge.

The Court finds that Mr. Burke can set aside any information, any opinion that he may have formed, and that he will do so, and that he will be fair and impartial.

All right. Bring the other jurors back in.

(Pause in the proceedings.)

1 THE COURT: All right. The record will show that the
2 prospective jurors are in the jury box and beyond the rail.

3 I was looking at the second hand on the clock
4 up there, ladies and gentlemen. You moved -- off the record.

5 (Discussion had off the record.)

6 THE COURT: Gentlemen, you may question, if you will.

7 MR. KANAREK: Yes. Thank you, your Honor.

8 VOIR DIRE EXAMINATION

9 BY MR. KANAREK:

10 Q Mr. Burke, may I ask you, in connection with --
11 you say that you work for a police officer?
12

13 A Yes. My immediate supervisor is a police
14 officer.

15 Q Is he a Los Angeles Police Department --

16 A Yes.

17 Q -- police officer? LAPD?

18 A Right, sir.

19 Q And may I ask, where is that physically located,
20 with respect to this building?

21 A It's located in the Wilshire District, on Pico.

22 Q Oh. Is that at Wilshire Station?

23 A Yes, sir.

24 Q I see. And that's on -- Pico, near West Boule-
25 vard?

26 A That's right. 4426 West Pico.

27 Q I see. So that you work in that parking lot
28 immediately adjacent to the Police Building?

1 A No, that's not my responsibility, the parking
2 lot.

3 My responsibility is -- do you want me to
4 explain?

5 Q Yes, please.

6 A We cite vehicles that are overparked. We are
7 meter maids, to an extent.

8 MR. KANAREK: Oh, I see. I see. Oh. Thank you very
9 much. Pass for cause, your Honor.

10 THE COURT: That's all?

11 MR. KANAREK: Yes, your Honor.

12 THE COURT: Mr. Manzella?

13
14 VOIR DIRE EXAMINATION

15 BY MR. MANZELLA:

16 Q Mr. Burke, did I hear you correctly? In other
17 words, you cite vehicles for parking violations; is that
18 correct?

19 A That's true, sir.

20 Q All right. You work for L. A. City, then?

21 A That's right.

22 Q Mr. Burke, do you understand that the question
23 that was asked of you with regard to credibility has to do
24 with whether or not the status or occupation of a person
25 alone would cause you to give more or less credence to
26 their testimony, whether it be a police officer or a doctor,
27 or lawyer or -- or an Indian chief, anything? Do you under-
28 stand that question asked of you dealt with occupation, and

1 whether a person's occupation alone would cause you to give
2 more or less credence to their testimony?

3 Did you understand the question that way?

4 A Uh -- well, I am -- I would exempt a professional
5 witness, such as a -- a professional person, such as a
12 a fls. 6 chemist, a doctor, et cetera.

12a-1

1 Q Well, do you understand -- maybe I can make it
2 clear. After you've heard a person testify, no matter who it
3 is, whether it's a police officer, a chemist, no matter what
4 occupation or status that person has, you have to make a
5 judgment as to credibility.

6 In other words, whether you will or will not
7 believe the person. You understand that, do you not?

8 A Yes.

9 Q All right. So the question is not whether you
10 would give more or less credence to a police officer's
11 testimony, because you may very well decide to do just that,
12 after you've heard a particular police officer testify.

13 Do you understand that?

14 A Yes, I understand what you are saying.

15 Q Right. What we are concerned with is whether or
16 not, beforehand -- and regardless of how the person testifies,
17 and all of these other things the Court talked about, in
18 giving you the standards by which you judge credibility --
19 whether or not the fact that the person is a police officer,
20 alone, would cause you to give more credence to his testimony?

21 Do you understand that?

22 A You are saying that -- would I give prior credence
23 because of the occupation?

24 Q Right, exactly.

25 A I would not, no, sir.

26 Q All right. Okay. But I want to make sure that
27 you understand that, after a person testifies, no matter who
28 he is -- a police officer or not -- then you may -- then you

12a-2

1 have to make the judgment as to whether or not you are going to
2 believe a particular witness; do you understand that?

3 A Yes, sir.

4 Q All right. Now, having in mind -- do you know
5 anyone that's involved in the defense of criminal cases, or
6 has been involved in the defense of criminal cases? A lawyer,
7 investigator, anything of that nature?

8 A No, I don't.

9 Q All right. Do you know anyone that's ever been
10 accused of any crime?

11 A Not personally, no.

12 Q All right. When you say "not personally," my
13 question is designed to get at your feelings with regard to
14 the prosecution of criminal cases.

15 In other words, if you have had any experience
16 in that regard which would cause you to be biased or preju-
17 diced against law enforcement or against the District
18 Attorney's office or against prosecution in general.

19 A No, there's nothing in that respect.

20 Q All right. Have you ever taken a course in law?

21 A No, I haven't.

22 Q You say you served on a jury, which did not reach
23 a verdict; is that correct?

24 A That's correct, sir.

25 Q All right. Would your experience on that jury in
26 any way hinder you from entering fully and completely into
27 discussions with fellow jurors in this case?

28 A No, it wouldn't, sir. No.

12a-3

1 Q You've heard the Court's instructions with
2 regard to the burden of proof on the prosecution, and there's
3 a burden of proving guilt beyond a reasonable doubt.

4 Now, that burden is the same in all criminal
5 cases, whether it's a burglary, a theft, or a murder case.

6 Would you hold the People to a greater standard
7 of proof, or a higher standard of proof, a higher burden of
8 proof because this was a murder case?

9 A No, I understand that they -- the prosecution
10 is -- it's necessary to have a preponderance of evidence,
11 without a reasonable doubt; and this, I would abide by.

12 Q You would hold them to the standard of proving
13 guilt beyond a reasonable doubt?

14 A Yes, sir.

15 THE COURT: You did mention one thing there, preponderance
16 of the evidence, Mr. Burke, did you not? You understand that
17 a preponderance of evidence is the standard in civil cases,
18 for a plaintiff to -- to prevail in a civil action. He must
19 show a preponderance of the evidence, just simply show a
20 greater weight of the evidence than the defendant in a civil
21 action.

22 But in the criminal action, the burden of proof
23 is beyond a reasonable doubt, in order to overcome the
24 presumption of innocence, and the People must establish proof
25 beyond a reasonable doubt and to a moral certainty.

26 Do you understand that?

27 JUROR NO. 2: Yes, your Honor. I guess I used the
28 wrong terminology.

1 THE COURT: And you have sat on civil cases, too?

2 JUROR NO. 2: No.

3 THE COURT: You haven't?

4 JUROR NO. 2: Just one case.

5 THE COURT: You've heard the phrase "preponderance of the
6 evidence," however?

7 JUROR NO. 2: Yes, I have.

8 THE COURT: And you understand now that it is the
9 burden of proof in a civil action, and not in a criminal
10 action?

12b fls.

11 JUROR NO. 2: Yes, your Honor.
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

12b-1

1 BY MR. MANZELLA:

2 Q Mr. Burke, do you have any quarrel with the law
3 which permits a person to be convicted of first degree
4 murder, even though there were no eyewitnesses to the killing?

5 A You'll have to restate that. I don't think I
6 understood it.

7 Q All right.

8 The law does not require a particular type of
9 truth, to proof a murder of first degree. Some people may
10 feel that it is unfair to convict a person of first degree
11 murder, if there are no eyewitnesses who can testify to the
12 killing.

13 What my question is designed to find out, if
14 you feel that way, do you feel it is unfair or unjust, for
15 the law to permit a person to be convicted of first degree
16 murder, even though there were no eyewitnesses to that
17 killing?

18 A May I ask, are you saying that circumstantial --
19 if circumstances still point to it, would I be in agreement
20 with the law?

21 Q I'm not sure if that's what I am saying.

22 Let me ask it another way.

23 If you believed, based on all of the evidence
24 presented here at the trial, that Mr. Manson was guilty of
25 first degree murder, and that we had proven guilt beyond
26 a reasonable doubt, would you be able to vote for a
27 conviction of first degree murder, even though were no
28 eyewitnesses to the killing?

12b-2

1 MR. KANAREK: That's improper voir dire, your Honor.

2 THE COURT: Sustained.

3 Q BY MR. MANZELLA: Essentially, according to the
4 Court's instructions, circumstantial evidence is evidence
5 which is other than eyewitness testimony.

6 In the course of our daily lives, we often use
7 circumstantial evidence to make judgments. The other jurors
8 have already heard just a small example I gave with regard
9 to a situation in which your wife tells you she's going out
10 to buy groceries, and she's going to take the car, and you
11 are sitting in the house.

12 Sometime later, you look out the end of the
13 driveway, and you see your car parked there. You see your
14 wife walking from the car, and she's carrying a bag full of
15 groceries.

16 Now, you never saw her actually drive the
17 vehicle, drive the car, or shop in the market. But you
18 assume from that that she drove the car, without thinking
19 about it. You assume that she drove the car to the store,
20 bought some groceries, drove it back, and is now coming
21 into the house with a bag full of groceries.

22 That's an example of circumstantial evidence.
23 There's no eyewitness to the fact that your wife is driving
24 the car.

25 That's an example of the use of circumstantial
26 evidence in our daily lives.

12b end
13 fls.

13-1

1 The law permits the use of circumstantial
2 evidence as well as the use of direct evidence.

3 Now, my question to you is, do you have any
4 quarrel with that law which permits a person to be convicted
5 of first degree murder even though there were no eyewitnesses
6 to the killing?

7 A No, I don't have a quarrel with that. I under-
8 stand now.

9 Q All right. I thought you did, but I wasn't sure.

10 Now, do you have any quarrel with the law which
11 permits a person to be convicted of first degree murder even
12 though the body of the deceased has not been found, cannot be
13 produced?

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

15 THE COURT: Objection is sustained.

16 BY MR. MANZELLA:

17 Q Do you have any quarrel --

18 MR. KANAREK: Your Honor, if I may, I would ask your
19 Honor to please make a statement to the jury concerning it.

20 THE COURT: Yes, the Court wishes to tell prospective
21 jurors that it is not the function of either counsel to
22 instruct concerning the law. You take the instructions, ladies
23 and gentlemen, from the Court as to the law, and counsel are
24 not in the guise of questions to instruct you concerning the
25 law in the case. And the Court does strike Mr. Manzella's
26 last question. Anything stricken, of course, as I told you
27 before, is to be treated as though you never heard it.

28 BY MR. MANZELLA:

1 Q All right, Mr. Burke, do you have any quarrel
2 with the law which permits a person to be convicted of first
3 degree murder where the death is proved by circumstantial
4 evidence?

5 A No, I don't.

6 Q All right. You understand that all my questions
7 are based on the assumption that other evidence convinces you,
8 personally, beyond a reasonable doubt, the truth of the
9 charge; you understand that, don't you?

10 A Yes, I do.

11 Q All right. I'm not asking you to vote now as
12 to guilt or innocence.

13 All right, Mr. Burke, you've heard the Court's
14 instructions with regard to aiding and abetting and
15 conspiracy.

16 Do you have any quarrel with the law which
17 permits a person to be convicted of first degree murder based
18 upon either of those legal doctrines?

19 A No, I don't.

20 Q Now, Mr. Burke, if the defendant testifies in this
21 case or if he calls witnesses on his behalf, would you judge
22 the credibility by the same standards you would use to judge
23 the credibility of any witness?

24 A Yes, I would.

25 Q And if, after judging their credibility by those
26 standards, you decide in your own mind that those witnesses
27 are not telling the truth, either in whole or in part of their
28 testimony, would you reject that whole or that part of the

1 testimony, which you did not believe?

2 A Yes.

3 Q All right, Mr. Burke, finally, I have a few
4 questions with regard to the death penalty.

5 Now, you understand by now that the decision as
6 to whether or not the death penalty will be imposed is a
7 personal and individual decision of each juror.

8 Having given the matter some thought, now, do you
9 feel that if you, after listening to all of the evidence in
10 this case, do you feel that you could, if you felt that this
11 case warranted the imposition of the death penalty, do you
12 feel that you personally and individually could vote for the
13 death penalty?

14 A Yes, I could, sir.

15 MR. MANZELLA: All right, thank you. The People pass
16 for cause, your Honor.

17 THE COURT: It is the peremptory challenge of the
18 People.

19 MR. MANZELLA: The People accept the jury, your Honor.

20 THE COURT: The peremptory challenge of Defendant.

21 MR. KANAREK: Thank and excuse Mr. Chastain. Thank
22 you, Mr. Chastain.

23 THE COURT: I don't see any Mr. Chastain.

24 MR. KANAREK: The gentleman --

25 THE COURT: There is a Mr. Pineda who is seated --

26 MR. KANAREK: I'm sorry, Mr. Pineda.

27 THE COURT: Juror No. 4 -- or 5, rather.

28 MR. KANAREK: Yes.

1 THE COURT: Juror No. 5?

2 MR. KANAREK: Yes, your Honor.

3 Thank you, Mr. Pineda.

4 THE COURT: Mr. Pineda, thank you very much. Room
5 253 on Wednesday, if you would, at 9:00 o'clock. Thank you
6 for being here.

7 Call another name.

8 THE CLERK: Mrs. Celia Brent, B-r-e-n-t, first name
9 C-e-l-i-a.

10
11 VOIR DIRE EXAMINATION OF
12 CELIA BRENT

13 BY THE COURT:

14 Q Mrs. Brent, were you present when the Court
15 explained the nature of this case?

16 A Yes, yes.

17 Q When the Court conversed with Mr. Nethery and
18 questioned him?

19 A Yes.

20 Q Would your answers be any different than his
21 were to the questions of a general nature?

22 A No.

13 a fls.

13a-1

1 Q Would you turn that microphone on and get it
2 closer to your face?

3 A I don't know, have I got it on?

4 Oh, it is on, okay.

5 Q Would your answers be any different, Mrs. Brent,
6 than the answers he gave to the questions of a general
7 nature?

8 A No, they wouldn't be any different.

9 Q Now, concerning the judgment of credibility of
10 witnesses, would you follow the instructions that I give you
11 and have given in connection with judging the credibility of
12 witnesses?

13 A Yes.

14 Q Would it be a hardship to you to serve in this
15 case?

16 A No.

17 Q Have you served as a juror before in any criminal
18 case?

19 A No.

20 Q Are you employed outside the home?

21 A Just part time.

22 Q And doing what?

23 A Sales lady.

24 Q What area?

25 A May Company, Wilshire.

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

28 A No.

13a-2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Q Law enforcement officer?

A No, no, sir.

Q Is there a Mr. Brent?

A No, I am a widow.

Q Well, what was Mr. Brent's occupation?

A He was a civil service employee, Post Office.

Q 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 No.

Q Or do you have such views concerning the death penalty that you would automatically refuse to impose it?

A No.

Q And would you, upon a conviction of murder of the first degree, automatically impose the death penalty regardless of the evidence?

A Yeah.

Q In other words, if a person is convicted of murder of the first degree, as far as you are concerned, that's it, regardless of whatever evidence may have been produced, you're going to vote for the death penalty?

A Yeah.

THE COURT: Mr. Kanarek, any questions?

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

THE COURT: All right, the Court will excuse you, Mrs. Brent. Would you report to Room 253 on Wednesday, please?

MRS. BRENT: All right.

MR. KANAREK: Thank you, Mrs. Brent.

13a-3

1 THE CLERK: Arthur D. Thompson, T-h-o-m-p-s-o-n.

2
3 VOIR DIRE EXAMINATION OF
4 ARTHUR D. THOMPSON

5 BY THE COURT:

6 Q Mr. Thompson, you have been present during the
7 proceedings since I've spoken to your group of prospective
8 jurors and to Mr. Nethery?

9 A Yes, I have.

10 Q Would your answers be any different than his
11 were to the questions of a general nature?

12 A Uh, no, they would not.

13 Q All right. Would it be a hardship to you to
14 serve in this case?

15 A Yes, it would.

16 Q Tell us about it.

17 A I get paid for 20 working days.

18 Q And then, it stops, is that correct?

19 A Right.

20 Q By whom are you employed?

21 A Systems Development Corporation, Santa Monica.

22 MR. MANZELLA: People would stipulate it would constitute
23 a hardship, your Honor.

24 MR. KANAREK: No, your Honor, I would make a motion that
25 this gentleman -- may I ask a question or two?

26 THE COURT: Yes, you may.

27
28 VOIR DIRE EXAMINATION

.13a-4

BY MR. KANAREK:

Q What type of work do you do?

A I am a systems analyst.

MR. KANAREK: Yes, your Honor --

THE COURT: Pardon?

JUROR NO. 5: I am a systems analyst.

THE COURT: A what, systems analyst?

JUROR NO. 5: Yes.

MR. KANAREK: Yes, your Honor, I would refer your Honor--

THE COURT: Use the microphone, Mr. Kanarek.

MR. KANAREK: Yes, your Honor.

I make the motion the County pay this gentleman the same wage they would have paid the gentleman who worked for the General Hospital who was in data computing, and it is my motion whatever his salary is he not be excused because of hardship, because it matters not what pocket it comes out of, the County still has to pay it. And that is my motion.

THE COURT: In other words, you're asking me to order the County of Los Angeles to make payments to him during the course of the time that he is a juror in this case?

MR. KANAREK: Yes, fundamental due process.

THE COURT: That is your motion?

MR. KANAREK: Due process and equal protection under the 14th Amendment and --

THE COURT: Excuse me.

MR. KANAREK: And if your Honor wishes, I could approach the bench and make further argument.

THE COURT: Well, if you wish to, you may.

MR. KANAREK: Yes, if I may, thank you.

13b fls.

13b-1

1 (Whereupon, the following proceedings were
2 had at the bench among Court and counsel, outside the hear-
3 ing of the jury:)

4 MR. KANAREK: I think the issue is in clear focus.
5 The previous gentleman --

6 THE COURT: State it very quickly.

7 MR. KANAREK: The issue is in clear focus, your Honor.
8 The previous gentleman worked in data processing for the
9 County of Los Angeles. And he clearly was not excused be-
10 cause of hardship. As a matter of fact, it was because of
11 the death penalty. And so I make the point that it is
12 arbitrary, it is discriminatory, it is a violation of equal
13 protection and due process for someone who works for the
14 County to be allowed to get their full salary and for some-
15 one who does not work for the County not to. That is a
16 strikingly -- for systems development corporation not to --
17 so what difference does it make where the money -- out of
18 which pocket it comes. It is obviously -- the Court has the
19 power to, if necessary, to issue an order to show cause and
20 serve it upon the board of supervisors, because they are
21 entitled to the constitutional protection of equal protec-
22 tion and due process.

23 THE COURT: The motion for such an order is denied.

24 MR. KANAREK: Thank you.

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

28 THE COURT: The Court does thank you, Mr. Thompson, and

1 does excuse you, Mr. Thompson. Room 253.

2 MR. KANAREK: That may be shown over opposition, your
3 Honor?

4 THE COURT: Yes, it may so show. I think the record is
5 clear in respect to that, the Court denies the motion to
6 cause the County to respond to an order to show cause as to
7 why they shouldn't pay Mr. Thompson's wages during the time
8 that he serves as a juror in this case.

9 You may call another name.

10 THE CLERK: Carroll C. Smith, C-a-r-r-o-l-l, last name
11 spelled S-m-i-t-h.

12
13 VOIR DIRE EXAMINATION OF

14 CARROLL C. SMITH

15 BY THE COURT:

16 Q Mr. Smith, were you present when the Court
17 explained the nature of this case and conversed with
18 Mr. Nethery?

19 A Yes, I was.

20 Q Would your answers be any different than his
21 answers were to the questions of a general nature?

22 A No.

23 Q Would you follow the Court's instructions
24 in deciding the credibility of witnesses?

25 A Yes, I would.

26 Q Would it be a hardship to you to serve in this
27 case, Mr. Smith, in any way?

28 A If I got paid.

1 Q Well, by whom are you employed?

2 A Uniroyal, Incorporated.

3 Q Have you checked with them yet?

4 A No, I haven't.

5 Q Would you do that in the course of the next
6 recess over the weekend?

7 A Yes, sir.

8 Q Fine.

9 Have you served as a juror before in a criminal
10 case?

11 A No, sir.

12 Q What do you do for Uniroyal? What is the
13 nature of your work?

14 A I am a quality control supervisor.

15 Q And are you related to or a friend of any law
16 enforcement officer?

17 A Retired.

18 Q Tell me about that.

19 A I have an uncle that was on the L.A.P.D.

20 Q How close are you to your uncle? Do you see
21 him all the time, talk to him?

22 A No, he lives in Texas now.

23 Q I see. During the time that he was an active
24 police officer, did you see him from time to time?

25 A From time to time.

26 Q Do you think that that relationship would
27 affect your judgment in this case in any way?

28 A No, sir.

1 Q Or in your judgment of credibility?

2 A Not at all.

3 Q Is there a Mrs. Smith?

4 A Yes.

5 Q And is she employed outside the home?

6 A Yes.

7 Q What does she do?

8 A Market research analysis.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

14 fls.

14-1

1 Q In connection with the death penalty, do you have
2 such views concerning it that you would automatically refuse
3 to impose it in any case?

4 A No.

5 Q Or do you have such views concerning the death
6 penalty that you would automatically refuse to impose it,
7 regardless of the evidence that might be produced in any
8 case?

9 A No.

10 Q Do you have such views concerning it that you
11 could not be impartial in determining guilt or innocence?

12 A No.

13 Q Or upon a conviction of murder of the first
14 degree, would you automatically impose it, without regard
15 to the evidence?

16 A No.

17 Q I'm going to inquire of you on Monday morning --
18 we'll leave it until then -- about whether or not you will
19 be paid, if you were to serve for a period of four or five
20 months.

21 And the Court will inquire also of you, should
22 you answer in the affirmative to that, about your previous
23 knowledge or your knowledge of previous publicity concerning
24 this or any other trial in which Mr. Manson may have been
25 involved.

26 The Court wants to know whether or not you can
27 set aside anything that you may have heard, seen or read,
28 and are firmly convinced that you can set it aside; and

14-2

1 whether you will set aside anything that you may have heard,
2 seen or read and be impartial in determining any issue that
3 you are called upon to decide in the course of service on
4 this jury.

5 Do you understand?

6 A Can I answer that now?

7 Q Well, yes, you can answer that.

8 A Well, yes.

9 Q You think that you can?

10 A I could be impartial, yes.

11 THE COURT: All right. We'll examine you.

12 You believe that you can set aside that which
13 you may have heard --

14 JUROR NO. 5: Yes, I can.

15 THE COURT: -- heard, seen or read?

16 JUROR NO. 5: Yes.

17 THE COURT: Well, we wish to examine you in more detail,
18 out of the presence of the other jurors, about any publicity
19 that you may have read in the newspapers, magazines, seen on
20 television or heard via the radio. And we'll inquire on
21 Monday morning.

22 Would you all --

23 MR. KANAREK: Your Honor?

24 THE COURT: Yes?

25 Yes, Mr. Kanarek? Did you wish to approach the
26 bench, or did you have something --

27 MR. KANAREK: Yes. Well, may I approach the bench, then?

28 THE COURT: Yes, you may. Do you want the reporter?

14-3

1 MR. KANAREK: Oh, it's not necessary.

2 (Whereupon, proceedings were had at the bench
3 among Court and counsel, outside the hearing of the
4 prospective jury panel, which was not reported.)

5 THE COURT: Ladies and gentlemen, the Court will excuse
6 you until 10:00 o'clock on Monday morning, -- excuse me just
7 a moment. 9:45 on Monday morning. You may report to
8 Department 107.

9 I want you to observe this admonition during
10 the time that you are on this recess, or any subsequent
11 recess, should you be chosen as a juror, or while you are
12 a prospective juror.

13 You are not to converse amongst yourselves nor
14 with anyone else on any subject connected with this matter,
15 nor are you to form or express any opinion on the matter
16 until it is finally submitted to you.

17 You are not to see, hear or read anything that --
18 you are not to see anything over television, or in any of
19 the news media; you are not to listen to anything; you are
20 not to read anything whatever; you are to ignore any news
21 article or news item in connection with this case, or in
22 connection with Mr. Manson.

23 If by -- just by happenstance, you should turn the
24 radio on and hear the case being talked about, the Court
25 would order you that you turn it off, or not listen; and
26 the same is true of a headline. If you pick up a paper and
27 see a headline, you perhaps could not help doing that,
28 but you are not to go any further with it.

14-4

1 And I expect that, during the course of this
2 trial, that you will all obey that rule; that you will avoid
3 reading any news release concerning this trial or any other
4 matter in which Mr. Manson may be involved.

5 Have a pleasant weekend. I'll see you all on Monday.
6 Good night.

7 Now, there is one juror whose last day it is.
8 What is your name, sir?

9 JUROR LAUDERDALE: Lauderdale, sir.

10 MR. MANZELLA: The People would stipulate he may be
11 excused.

12 MR. KANAREK: So stipulated.

13 THE COURT: Since this is your last day, we will excuse
14 you, Mr. Lauderdale. You need not come back on Monday.

;4a f;s74

14a-1

1 Now, may we have Mr. Manson out here, just
2 briefly, --

3 THE BAILIFF: Yes, sir.

4 THE COURT: -- when the jurors are all gone?

5 (Whereupon, all the members of the prospective
6 jury panel exited the courtroom, and the following proceedings
7 were had:)

8 THE COURT: The Court has, because of what Mr. Manson
9 had indicated to you yesterday, about somebody possibly
10 opening his cell, and someone harming him, has gone through
11 the jail and has looked at the measures that have been
12 established for security in the cell block where Mr. Manson
13 is.

14 I am no expert, whatever, but I was curious as to
15 what had happened, what steps had been taken --

16 DEFENDANT MANSON: Worry about someone else being
17 harmed.

18 THE COURT: -- to safeguard Mr. Manson.

19 DEFENDANT MANSON: No, safeguard the other fellow.

20 THE COURT: And the Court does not find anything that
21 would be dangerous to Mr. Manson. The circumstances seem to
22 be such that the security there is well taken care of.

23 MR. KANAREK: Well, your Honor, I would like to ask
24 your Honor to --

25 THE COURT: Do you have any further information?

26 MR. KANAREK: Yes.

27 THE COURT: In connection with that matter?

28 MR. KANAREK: Yes, I do, your Honor.

1 DEFENDANT MANSON: Don't mention the names. Just
2 keep the name in your pocket. Just tell him that you --
3 that it's documentary; it's not hearsay. You know, like we
4 are not making any accusations we can't prove. You know,
5 it's that simple.

6 You know, the only thing I am concerned is, some-
7 one else is going to get hurt, if the people keep pushing me
8 in the wrong direction. That's what I'm scared of.

9 I'm not afraid of me being hurt.

10 THE COURT: Ask the jail whether or not they can get
11 Mr. Manson some decent clothes.

12 DEFENDANT MANSON: Well, they're decent clothes.
13 They're clean clothes, and they're good clothes. But they have
14 large clothes. That's the only difference.

15 THE COURT: Well, you wear about a size 36, and they
16 gave you apparently a size 44.

17 THE BAILIFF: They draw their own size.

18 THE COURT: Oh, I see.

19 DEFENDANT MANSON: They can't do that with anybody.
20 They have a high enough time the way it is. I am in sympathy
21 with --

22 THE COURT: Is there anything else you wish to say to the
23 Court in respect to this point that was raised yesterday,
24 concerning --

25 DEFENDANT MANSON: Tell him what I told you.

26 THE COURT: -- concerning jail security, and the threat
27 to Mr. Manson?

28 MR. KANAREK: Yes, your Honor. We have certain

1 information, documentation. It is documented, in connection
2 with a -- people who, I believe would be percipient witnesses.

3 DEFENDANT MANSON: Tell him whoever's setting on that
4 file up there with the key -- that's what you tell him. Tell
5 him they're paranoid, setting on me, and I don't like --
6 appreciate setting them in fear.

7 They're the ones that are afraid, and they're
8 projecting their fear at me.

9 THE COURT: Mr. Kanarek, I didn't hear what the
10 defendant said. But do you have anything further to say?

11 MR. KANAREK: Well, I just -- your Honor --

12 THE COURT: Have you revealed this to Captain Kennedy,
13 who is in charge of security up there, in charge of the jail?

14 MR. KANAREK: I'm going to take this up personally. I
15 have the names, and I'm going to take it up personally with
16 the jail people tonight, your Honor.

17 THE COURT: All right. The Court would ask you to do
18 that. Now, you have requested that the Court alter the time
19 of this meeting of Mr. Manson and Mr. Grogan and Mr. Davis --

20 MR. KANAREK: Right. Mr. Denny --

21 THE COURT: -- and their respective attorneys, with
22 respect to --

23 MR. KANAREK: That's right. We wish to accommodate
24 Mr. Denny and Mr. Weedman, and so it's going to be seven to
25 nine, instead of six to eight.

26 THE COURT: All right. That's satisfactory to the
27 Court, and the Court so orders.

28 MR. KANAREK: Thank you, your Honor.

14mb-1

1 DEFENDANT MANSON: If you make it 6:00 to 8:00, they
2 will be there at 7:00 to 9:00. That's what I tried to explain
3 to you yesterday.

4 Your Honor, I have been doing this for 24 years,
5 living this procedure. It's a long time. I understand the
6 procedures.

7 And all I am asking is that my cell not be
8 opened, when it's not supposed to be opened.

9 In other words, they have a procedure, and when
10 they break that procedure, I get all nervous; see? Because
11 I know the little things that move in and out of those
12 chambers in there. That's my chambers in there.

13 THE COURT: Tell Mr. Kanarek about it, and have him talk
14 with Captain Kennedy. If there is anything specific, well,
15 I want to know about it.

16 DEFENDANT MANSON: Thank you.

17 THE COURT: All right.

18 DEFENDANT MANSON: I thought you'd sent him. That's
19 who I thought.

20 THE COURT: What?

21 DEFENDANT MANSON: I thought you'd sent him.

22 THE COURT: Captain Kennedy?

23 DEFENDANT MANSON: No, the guy that come in my cell.
24 I thought he was your man.

25 THE COURT: So far as I know, there was no one in your
26 cell that -- that the people up there know about.

27 Now, the Court -- I went up to the jail today,
28 Mr. Kanarek, to determine just what the setup was up there,

14b- 2

1 and whether or not the situation was such that it offered
2 any threat to Mr. Manson.

3 It apparently does not -- although, as I say,
4 I'm not in any way qualified as a expert. I simply wanted,
5 as a layman, to determine whether there appeared to be any
6 danger.

7 And there does not appear to be to me. If you
8 know otherwise, why, let me know.

9 MR. KANAREK: Well, your Honor, I think it's possible --

10 THE COURT: We are in recess.

11 MR. KANAREK: -- that the jail may be physically --
12 may look okay, when your Honor's there, but doors can be
13 opened, when your Honor isn't there.

14 Obviously, if someone has access, he has a key.
15 There are things that are possible that -- in any physical
16 setup. I'm sure your Honor would agree with that statement;
17 so it isn't --

18 DEFENDANT MANSON: See, those keys turn both ways.

19 THE COURT: Well, tell Mr. Kennedy -- Captain Kennedy
20 what you know, Mr. Kanarek. And if there is any reason for
21 any tighter security measures, why, let the Court know.

22 MR. KANAREK: Yes, your Honor. Thank you.

23 MR. MANZELLA: Good night, Judge.

24 MR. KANAREK: Yes. Thank you. And have a good weekend,
25 your Honor.

26 THE COURT: Good night.

27 (Whereupon, at 4:22 o'clock p.m., an adjournment
28 was taken until 10:00 o'clock a.m. on Monday,
July 19, 1971.)