SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 130 HON. EDWARD A. HINZ, JR., JUDGE

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9009

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

LESLIE VAN HOUTEN,
Defendant.

NO. A253156

REPORTERS' DAILY TRANSCRIPT

Monday, April 11, 1977

Volume 9

Pages 1337 to 1512, incl.

APPEARANCES: (See Volume 1.)

EMANUEL J. SANZO, C.S.R. No. 1267
- and -
LOIS R. JOHNSON, C.S.R. No. 812
Official Reporters

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LOS ANGELES, CALIFORNIA, MONDAY, APRIL 11, 1977, 10:25 A.M.

DEPARTMENT NO. 130 HON. EDWARD A. HINZ, JR., JUDGE

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(Appearances as heretofore noted.)

THE COURT: Good morning, ladies and gentlemen.

People versus Van Houten.

Let the record show the defendant is present, represented by counsel, the People are represented by counsel, the 12 prospective jurors are in the jury box.

What's the status concerning the rest of the panel?

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THE CLERK: Your Honor, Mrs. Diane C. Durnerin informed me this morning that she had to take her child to the doctor and then back to the baby sitter and she'd be late.

And as to another juror, Mr. Doubt, Leon S. Doubt, he'd like to address the court about his employment.

He checked Friday when he went back to work, and they informed him that they wouldn't pay him beyond the 25-day period.

THE COURT: All right, Mr. Doubt, would you please stand.

I understand, sir, that your employer will not continue your salary past the 25 days; is that correct?

MR. DOUBT: Twenty-five working days, yes.

THE COURT: Would that be a hardship on you to continue on this case if you were not paid beyond 25 days?

MR. DOUBT: Yes, sir; I'd lose two months.

THE COURT: All right.

Will counsel stipulate that Mr. Doubt may be excused?

MR. KAY: So stipulated.

MR. KEITH: Yes, Your Honor.

THE COURT: All right, Mr. Doubt, you are excused from further service upon this case. We appreciate your attendance.

You should report to the fifth floor jury room.

MR. DOUBT: Thank you.

THE COURT: Thank you.

THE CLERK: And, Your Honor, a Mrs. Minnie Lee Randall, R-a-n-d-a-l-l. I believe she has a problem tomorrow in regards to a funeral.

Mrs. Randall, would you please stand.

THE COURT: Yes, ma'am, what is the nature of the problem?

MRS. RANDALL: My aunt died, and I'd like to attend the funeral.

THE COURT: All right.

Will counsel approach the bench with the court reporter, please.

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(The following proceedings were held at the bench:)

THE COURT: All right.

In regard to Mrs. Diane C. Durnerin, do we have a stipulation that her name may be withdrawn from the panel during the period that she is absent; that when she comes back to court today her name may then be added to these prospective jurors?

MR. KAY: So stipulated.

MR. KEITH: So stipulated.

THE COURT: All right.

Now, in regard to Minnie Randall, Mrs. Minnie Lee Randall, if the funeral is at 12:00 it's going to be very difficult for her to get here before 12:00, and there wouldn't be a whole lot of time afterwards.

Now --

MR. KAY: Well, I would be willing to enter into the same stipulation that we did for the other lady.

You know, we could have her come back the next day. If we get a jury tomorrow she is out of luck.

But if we don't, she's already been passed for publicity and hardship.

THE COURT: Are you willing to stipulate to that, Mr. Keith?

MR. KEITH: Oh, yes; but supposing she is picked.

THE COURT: Well, her name will be withdrawn from the box.

MR. KEITH: I see.

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THE COURT: As with Mrs. Durnerin.

When they do return to court, Mrs. Durnerin later today and Mrs. Randall the day after tomorrow, their names would then be put back in the box.

MR. KEITH: That's all right.

THE COURT: So stipulated?

MR. KEITH: Yes.

MR. KAY: So stipulated.

THE COURT: All right; thank you.

THE CLERK: We will leave it in today?

THE COURT: Yes.

MR. KEITH: If it is left in today, what happens if she gets in the box.

THE COURT: Yes; what happens if she gets in?

MR. KEITH: I thought that's what I was stipulating --

THE CLERK: If she gets in today and she is in the box today, you ought to be finished questioning her today, and it won't make any difference if she was in tomorrow or not.

MR. KEITH: You might want to challenge her tomorrow.

MR. KAY: Well, we could handle her tomorrow, if necessary.

MR. KEITH: All right.

THE COURT: So stipulated, then?

MR. KEITH: All right.

MR. KAY: So stipulated.

(The following proceedings were held in open court in the presence of the prospective jury:)

THE COURT: All right.

Mrs. Randall, tomorrow you need not appear in court, but we will expect you to be here today and then to return on Wednesday at the regular time, 9:45.

All right, thank you.

Ladies and gentlemen, at this time we will begin with the exercise of peremptory challenges.

Now, the 12 jurors that are seated in the jury box have been passed for cause. Each attorney has now 26 peremptory challenges.

By a "peremptory challenge" we mean that each attorney in turn, each side in turn can ask the Court to excuse any juror seated in the jury box without specifying any reason for that.

Now, I want to advise you that you should not hold it against either attorney or either party in this case if they should excuse you from the jury box or if they should excuse from the jury box someone that you have come to be friendly with.

Each side has the obligation to insure that we have a fair and impartial juror, and each attorney will do his best to see that that's the type jury we have.

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All right.

As I say, each side has 26 peremptory challenges. The first challenge is with the People.

MR. KAY: Thank you, Your Honor.

The People will thank and excuse Juror No. 3, Mrs. Belinda Reyes.

Thank you, ma'am.

THE COURT: Mrs. Reyes, you are excused. Thank you for your attendance upon the court.

THE CLERK: Gustavo R. Trevino. First name is G-u-s-t-a-v-o, middle initial R., last name T-r-e-v-i-n-o.

Miss Durnerin just arrived, Your Honor.

THE COURT: All right. So her name will now be added to the jury box.

Nice to see you this morning.

MRS. DURNERIN: Thank you.

THE COURT: All right, Mr. Trevino, do you recall the questions that I asked the panel previously?

MR. TREVINO: A few of them, sir.

THE COURT: Well, did you note at the time that I asked those questions whether your answers would be any different?

MR. TREVINO: I don't think so.

THE COURT: All right.

Now, as you sit there now, can you think of any reason why you couldn't be fair and impartial as to both sides in this case?

MR. TREVINO: Well, sir, I don't think so.

THE COURT: All right.

Would you please give us your personal data, those items that are set forth there on the board.

MR. TREVINO: Gustavo Trevino -- R. Trevino; date of birth, 1933, October the 6th; resident, Pico Rivera; married; got five children; occupied by Montebello Schools; wife works for a garment factory; my children's ages, five months, six years, eight years, 16, and 17.

THE COURT: Thank you.

Have you previously served as a juror?

MR. TREVINO: No, sir; never.

THE COURT: All right.

And do you have any close relationship, either yourself or through any friends, close friends or relatives, with law enforcement?

MR. TREVINO: The only one I know is an ex-brother-in-law, but, no, no relationship any more.

THE COURT: All right.

And this is an ex-brother-in-law, you say?

MR. TREVINO: Yes.

THE COURT: And by whom was he employed?

MR. TREVINO: He's employed, I guess, by the sheriff. I don't know. I never --

I mean, I know he's a sheriff. That's all I know.

THE COURT: All right.

Do you ever discuss his work with him?

MR. TREVINO: I don't talk to him, sir.

THE COURT: Oh.

Well, let me ask you this, now, would you judge the

credibility of a police officer by the same standards that you would use as to any other witness?

MR. TREVINO: Yes.

THE COURT: All right. And have you ever been arrested -- you or anyone close to you, or any relative, ever been arrested or charged with a serious offense?

MR. TREVINO: No, sir.

1 THE COURT: Have you ever been a witness to or a victim
2 of any serious offense?
3 MR. TREVINO: No, sir.
4 THE COURT: All right, thank you.
5 Mr. Keith, you may inquire for cause.
6 MR. KEITH: Thank you, Your Honor.
7 Mr. Trevino, does Mrs. Trevino work outside the
8 home or is taking care of the five children enough?
9 MR. TREVINO: She's got to work, sir; we can't make it
10 by myself.
11 MR. KEITH: Oh, she --
12 MR. TREVINO: Works in a garment factory.
13 MR. KEITH: What is the name of the company?
14 MR. TREVINO: Julie Miller's.
15 MR. KEITH: And do all your children attend school?
16 MR. TREVINO: Four of them.
17 MR. KEITH: Except the youngest one?
18 MR. TREVINO: The baby.
19 MR. KEITH: Yes.
20 Mr. Trevino, do you know anybody who has used or
21 abused drugs illegally?
22 MR. TREVINO: Do I know anybody?
23 MR. KEITH: Yes.
24 MR. TREVINO: Well, I seen them around, but I turn the
25 other way around.
26 MR. KEITH: You mean you see --
27 MR. TREVINO: I see them on school, sir. I work for the
28 school department.

1 MR. KEITH: What is your particular occupation?
2 MR. TREVINO: Sprinkler plumber, sir.
3 MR. KEITH: You mean you see kids that appear to you to
4 have been using drugs?
5 MR. TREVINO: Correct.
6 MR. KEITH: And you avoid them?
7 MR. TREVINO: Yes, sir.
8 MR. KEITH: Have you read anything about the use or
9 abuse of drugs?
10 MR. TREVINO: Yes, I heard a lot of it, and I know it is
11 bad for your health.
12 MR. KEITH: I take it from your responses you don't know
13 anyone attending the Montebello schools that you have become
14 actually -- that you consider a drug user; you see them around,
15 but you avoid them?
16 MR. TREVINO: That's right.
17 MR. KEITH: You have never become acquainted with any of
18 them?
19 MR. TREVINO: No, sir.
20 MR. KEITH: And none of them have ever sought your help
21 or assistance, I presume?
22 MR. TREVINO: No, sir.
23 MR. KEITH: Has anybody in your family or any close
24 friends ever been treated by a psychiatrist?
25 MR. TREVINO: Not that I know, sir.
26 MR. KEITH: Do you know anything about psychiatry?
27 MR. TREVINO: Well, only they work on the mind. That's
28 all.

MR. KEITH: Do you feel psychiatrists perform a useful and valuable social function?

MR. TREVINO: They are called doctors; they should be something.

MR. KEITH: Do you feel that the art of psychiatry is populated with doctors that really don't know what they are talking about?

MR. TREVINO: No. If they are called doctors or psychiatrists, they should know what they are talking about, sir.

MR. KEITH: If someone in your family or someone near and dear to you were emotionally or mentally ill, or at least you thought they were, would you advise them to see a psychiatrist?

MR. TREVINO: Yes, sir.

MR. KEITH: In the event psychiatric testimony is offered on behalf of Miss Van Houten in this case, will you be inclined to disregard it simply because that evidence is coming from a doctor who specializes in psychiatry and for no other reason?

MR. TREVINO: I understand, sir.

MR. KEITH: Pardon me?

MR. TREVINO: I understand, sir.

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MR. KEITH: But you wouldn't disregard their testimony --

MR. TREVINO: No, sir.

MR. KEITH: -- simply because they are psychiatrists, would you?

MR. TREVINO: No, sir.

MR. KEITH: You would listen to their opinions and the reasons therefor, and give those opinions the weight you feel they deserve.

MR. TREVINO: I'd try my best, sir.

MR. KEITH: Have you or any members of your family or close friends been the victims of a serious crime, or a witness to a serious crime?

MR. TREVINO: Not that I know of, sir.

MR. KEITH: Have you ever been in the armed forces?

MR. TREVINO: Yes, sir.

MR. KEITH: How long ago was that?

MR. TREVINO: About 20 years ago. I got out about 1956.

MR. KEITH: Have you ever been in combat?

MR. TREVINO: No, sir.

MR. KEITH: What branch of the service were you in?

MR. TREVINO: Air Force, sir.

MR. KEITH: Are you or have you been a member of any veterans' organizations?

MR. TREVINO: No, sir.

MR. KEITH: In the event --

You have heard of Charles Manson before.

MR. TREVINO: Yes, sir.

MR. KEITH: And I forget; had you heard that name before

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you appeared in court a couple of weeks ago?

MR. TREVINO: No.

MR. KEITH: Did you understand my question?

MR. TREVINO: If I heard about him a couple of weeks ago?

MR. KEITH: No, no.

Had you heard his name before you came to court Monday two weeks ago?

MR. TREVINO: No, I haven't heard for a long time, sir.

MR. KEITH: Well, let's assume the evidence shows that Miss Van Houten was involved in some way with Mr. Manson.

You had heard of him way back --

MR. TREVINO: Yes, sir.

MR. KEITH: And let's say you had formed an opinion about him.

Would that opinion necessarily carry over to Miss Van Houten so that you would find it difficult to adjudge her fairly.

MR. TREVINO: It probably would, sir. On my mind, I think so.

MR. KEITH: You think what?

MR. TREVINO: That she -- well, if they --

When I heard about it in, say, '69, '70, around there, when I heard the case and I read about the papers, they were together; so I could say that they were involved together.

MR. KEITH: I didn't quite ask you that.

You told us previously that you had no opinion.

MR. TREVINO: I don't have no opinion right now, but as you just started asking questions my mind started working, sir.

(Laughter.)

MR. KEITH: I'm happy to hear something triggered --

(Laughter.)

MR. KEITH: Well, let's pursue this subject, if we may.

MR. TREVINO: Okay, sir.

MR. KEITH: I'm saying, assuming the evidence in this case shows that Miss Van Houten was in some manner involved with Mr. Manson.

All right?

MR. TREVINO: Right.

MR. KEITH: Now, assuming that, is it your present frame of mind that she is more likely guilty than innocent?

MR. TREVINO: Probably so, yes.

MR. KEITH: Pardon me?

MR. TREVINO: Yes, sir.

MR. KEITH: I will challenge him for cause right now.

THE COURT: Do you wish to inquire, Mr. Kay? Any objection?

MR. KAY: No, no objection.

THE COURT: All right, sir, you may be excused. Thank you.

THE CLERK: Mrs. Clara Ann Robinson, R-o-b-i-n-s-o-n.

THE COURT: Mrs. Robinson, did you hear the questions that I asked the panel previously?

MRS. ROBINSON: Yes.

THE COURT: And did any of those questions raise any doubt in your mind about whether you could be fair and impartial in this matter?

MRS. ROBINSON: No.

THE COURT: If I were to ask you the same questions would your answers be substantially the same?

MRS. ROBINSON: Yes.

THE COURT: All right. Would you please give us your personal data as set forth on the board.

MRS. ROBINSON: My name is Clara Ann Robinson.

June 5th, 1907.

MR. KEITH: I'm sorry, I can't hear her.

THE COURT: Could you pull the microphone up a little bit.

MRS. ROBINSON: June the 5th, 1907.

Los Angeles.

THE COURT: What part of Los Angeles?

MRS. ROBINSON: 1443 --

THE COURT: No, not the address; but is it west, east, north, south?

MRS. ROBINSON: It's right down that way (pointing).

THE COURT: It is north of the courthouse?

MRS. ROBINSON: Yes.

THE COURT: All right, thank you.

MRS. ROBINSON: I'm divorced.

I have six children.

And I'm a nurse.

And my children are 44, 43, 39, forty -- I mean thirty -- wait a minute.

37 -- 36, I mean; and 32 -- 34 and 32.

THE COURT: All right.

Now, you say you are employed by a hospital?

MRS. ROBINSON: I'm a special duty nurse. I do private nursing.

THE COURT: Have you previously served as a juror?

MRS. ROBINSON: No.

THE COURT: Do you have any close relationship with law enforcement or anyone in law enforcement?

MRS. ROBINSON: No, I don't have.

THE COURT: Have you ever been arrested for or charged

with a serious offense?

MRS. ROBINSON: No.

THE COURT: Have you ever been a witness to or a victim of a serious offense?

MRS. ROBINSON: No.

THE COURT: All right; thank you.

You may inquire, Mr. Keith.

MR. KEITH: Mrs. Robinson, when you say you are a special nurse, perhaps you could develop that somewhat.

Tell us what you mean by that.

MRS. ROBINSON: I do private duty nursing.

MR. KEITH: You are not on the staff of any particular hospital.

MRS. ROBINSON: No.

MR. KEITH: Do you work in any convalescent homes?

MRS. ROBINSON: Hospitals and convalescent homes.

MR. KEITH: Is that --

MRS. ROBINSON: I belong to the Nurses' Association. I go everywhere they send me.

MR. KEITH: I see; I understand. Thank you.

And what do your children do? What are their occupations?

MRS. ROBINSON: My daughter is -- she is a special nurse, too. She works. My first daughter. My son is a captain of the fire department.

And my next daughter is a salesman.

And my next son is a manager of the -- Oh, dear, I don't know what he is a manager of.

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MR. KEITH: That's all right. Go ahead.

MRS. ROBINSON: And my next daughter is manager of Value Center.

My next daughter is a personnel director.

MR. KEITH: Are any of your sons or daughters married to persons in the law enforcement field?

MRS. ROBINSON: No.

MR. KEITH: Where is your —

Where is the fire department of which your son is employed?

MRS. ROBINSON: Bakersfield.

MR. KEITH: Do most of your children live elsewhere than in Los Angeles County?

MRS. ROBINSON: One lives in South Gate and one in Glendale.

MR. KEITH: And the others live outside of this County?

MRS. ROBINSON: Yes.

MR. KEITH: And may I ask what your husband's occupation was before your divorce.

MRS. ROBINSON: He managed an apartment.

MR. KEITH: Pardon me?

MRS. ROBINSON: He managed apartments.

MR. KEITH: Have you always lived in the Los Angeles area?

MRS. ROBINSON: No; I came from Oakland.

MR. KEITH: Oakland?

MRS. ROBINSON: Oakland, seven or eight years ago.

MR. KEITH: And were you raised in Oakland?

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MRS. ROBINSON: No; I was born in Texas.
I came out here 42 years ago.

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MR. KEITH: In your occupation as a nurse, have you met doctors specializing in psychiatry?

MRS. ROBINSON: Yes.

MR. KEITH: And do you consider any of those psychiatrists friends of yours, or has your association been professional?

MRS. ROBINSON: I beg your pardon, I didn't understand the question.

MR. KEITH: Have you become friends, social acquaintances, with any of the psychiatrists that you have met in the course of your business?

MRS. ROBINSON: Well, not special friends.

MR. KEITH: Most of your association with psychiatrists has been on a professional basis?

MRS. ROBINSON: Yes.

MR. KEITH: And do you believe as a result of your exposure to psychiatrists that they perform a valuable social function?

MRS. ROBINSON: Yes.

MR. KEITH: Do you like psychiatrists?

MRS. ROBINSON: Yes.

MR. KEITH: And do you think psychiatrists are capable of delving into the human mind and diagnosing illnesses, mental illnesses, and treating them?

MRS. ROBINSON: Yes, I do.

MR. KEITH: I take it, then, that if someone in your family were emotionally disturbed, you would have no hesitation whatsoever about suggesting or advising they see a psychiatrist?

MRS. ROBINSON: No, I wouldn't.

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1 MR. KEITH: Therefore, if you are selected as a trial
2 juror, you would not disregard the testimony of a psychiatrist
3 that was offered in behalf of Miss Van Houten simply because
4 they did have that specialty?
5 MRS. ROBINSON: No.
6 MR. KEITH: Has anybody in your family ever been the
7 victim or a witness to a serious crime?
8 MRS. ROBINSON: No.
9 MR. KEITH: Does anybody in your family that you are
10 close to number among their friends law enforcement officers
11 or people engaged in law enforcement work that you yourself
12 see?
13 MRS. ROBINSON: Well, not now. My son used to be a
14 special friend of a policeman.
15 MR. KEITH: Did you know that particular --
16 MRS. ROBINSON: Yes.
17 MR. KEITH: -- officer?
18 And what police force was he a member of, if you
19 know?
20 MRS. ROBINSON: I don't know for sure.
21 MR. KEITH: Was that a long time ago?
22 MRS. ROBINSON: Yes, it's been quite a while ago.
23 MR. KEITH: That relationship wouldn't affect your
24 ability to be fair in this case --
25 MRS. ROBINSON: No, it wouldn't.
26 MR. KEITH: -- would it?
27 And, again, bearing in mind your occupation,
28 Mrs. Robinson, I suppose you have become exposed to people or

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1 seen people or perhaps even talked to people who have abused
2 drugs illegally?
3 MRS. ROBINSON: Yes.
4 MR. KEITH: Or legally, for that matter.
5 MRS. ROBINSON: Yes.
6 MR. KEITH: When I use the term "illegal drugs," I'm
7 talking about drugs that come into one's possession without
8 a prescription.
9 MRS. ROBINSON: Yes.
10 MR. KEITH: You probably understand that.
11 MRS. ROBINSON: Yes, I do.
12 MR. KEITH: But you have seen both kinds, people have
13 abused drugs that have been prescribed and those who have
14 abused illegally obtained drugs?
15 MRS. ROBINSON: Yes.
16 MR. KEITH: And in the event the evidence indicates in
17 this case that Miss Van Houten was an abuser of drugs, primarily
18 LSD, would that so upset you or disturb you that you would be
19 unable to consider any other evidence in the case and simply
20 say, "Well, she uses drugs; my mind is closed"?
21 MRS. ROBINSON: No.
22 MR. KEITH: You are sure of that?
23 MRS. ROBINSON: Yes.
24 MR. KEITH: Have you ever encountered anybody in your
25 particular occupation who has used LSD or purported to use
26 LSD?
27 Have you ever heard of that drug before?
28 MRS. ROBINSON: Yes.

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MR. KEITH: have you ever --

All right. My question is, have you run across anyone in your business or your occupation that has purported to use LSD?

MRS. ROBINSON: Do you mean do I know anyone?

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MR. KEITH: Not know anybody necessarily; if you know anyone, fine, but I'm talking about patients of yours or people who are patients of hospitals in which you have --

MRS. ROBINSON: Yes.

MR. KEITH: Do you feel LSD is a therapeutic drug?

MRS. ROBINSON: I don't know.

MR. KEITH: You don't know too much about that particular drug, I take it?

MRS. ROBINSON: No, not too much.

MR. KEITH: Have you talked to people about it?

MRS. ROBINSON: Well, some.

MR. KEITH: Have you talked to any doctors or other nurses or medical technicians or psychiatrists about --

MRS. ROBINSON: I've talked to other nurses.

MR. KEITH: -- about LSD?

MRS. ROBINSON: Yes.

MR. KEITH: And do you have some opinion now as to what the -- as to the effects of that paticular hallucinogenic?

MRS. ROBINSON: Well, some.

MR. KEITH: Again, assuming Miss Van Houten -- now, we are assuming now -- used that drug regularly, many years ago, and bearing in mind your opinion about it, do you feel her assumed use of the drug LSD would tend to make it difficult for you to judge her fairly?

Now, I'm not suggesting that the use of LSD may not be relevant, mind you, in this case. What I'm asking you is if the mere fact that she did abuse that particular drug would so contaminate or poison your mind against her that you couldn't

judge her fairly?

MRS. ROBINSON: No.

MR. KEITH: You are sure of that?

MRS. ROBINSON: Yes.

MR. KEITH: Now, let's assume, as we did with Mr. Trevino, that -- we are just assuming now, mind you -- that the evidence indicates Miss Van Houten had a relationship, was involved with Mr. Manson.

Would that fact, and that fact alone, and again I'm not suggesting it isn't relevant, but would that fact alone tend to poison your mind so much against her you couldn't listen to any of the evidence?

MRS. ROBINSON: No.

MR. KEITH: You are sure of that?

MRS. ROBINSON: Yes.

MR. KEITH: In the event you were selected as a trial juror, and you were instructed by the court about a principle of law that we call diminished capacity, do you think you would be able to follow that instruction?

MRS. ROBINSON: Yes.

MR. KEITH: I did question some of the other -- in fact practically all of the other prospective jurors on that subject, and you were able to hear those questions --

MRS. ROBINSON: Yes.

MR. KEITH: -- about diminished capacity?

MRS. ROBINSON: Yes.

MR. KEITH: Now, do you feel --

Let me ask you this: Do you feel it is appropriate

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1 under our law that someone who is mentally ill and suffers
2 from certain mental defects or disease and commits an offense
3 should be treated less harshly than someone who is normal and
4 commits the same act?
5 MRS. ROBINSON: Yes.
6 MR. KEITH: Do you feel that's all right?
7 MRS. ROBINSON: Yes.
8 MR. KEITH: You go along with that?
9 MRS. ROBINSON: Yes.
10 MR. KEITH: You wouldn't quarrel with that principle of
11 law?
12 MRS. ROBINSON: No.
13 MR. KEITH: Pass for cause.
14 THE COURT: Thank you.
15 Mr. Kay, you may inquire.
16 MR. KAY: Thank you, Your Honor.
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Good morning, Mrs. Robinson.

MRS. ROBINSON: Good morning.

MR. KAY: Mrs. Robinson, because a psychiatrist often happens to be a medical doctor, which they all are, do you think for that reason alone that you would tend to accept his testimony as being truthful?

MRS. ROBINSON: No.

MR. KAY: I take it you have worked with a lot of doctors over the years, haven't you?

MRS. ROBINSON: Yes.

MR. KAY: Probably some you like and some you don't like; is that right?

MRS. ROBINSON: Right.

MR. KAY: And do you think that just because a person is a doctor, therefore, whatever he says is the gospel truth?

MRS. ROBINSON: No.

MR. KAY: Now, do you think just because a psychiatrist might be able to help somebody with a current problem that that means that therefore they can come into a courtroom and predict what somebody was thinking at a precise moment of time eight years ago?

Do you think they can do that without ever making an error?

MRS. ROBINSON: No, not exactly.

MR. KAY: You understand there is a difference between treating somebody for a current problem and predicting what somebody's problem may or may not have been long ago?

MRS. ROBINSON: Yes.

MR. KAY: Do you understand that?

MRS. ROBINSON: Yes.

MR. KAY: Do you think that anyone who commits a vicious premeditated murder must necessarily be mentally ill at the time they commit the murder?

MRS. ROBINSON: No, I wouldn't say so.

MR. KAY: Do you think that psychiatrists are just as capable of making errors and mistakes as any of us here?

MRS. ROBINSON: Yes.

MR. KAY: You don't think they are any more special --

MRS. ROBINSON: No.

MR. KAY: -- than anybody here in this courtroom, do you?

MRS. ROBINSON: No, I don't.

MR. KAY: And if any psychiatrist took the witness stand and testified that he thought that Miss Van Houten had some sort of mental illness at the time of the LaBianca murders, would you accept that as a fact without regard to the reasonableness or unreasonableness of that psychiatrist's opinion?

MRS. ROBINSON: No.

MR. KAY: And because of the fact that psychiatrists are going to testify in this case about Miss Van Houten's mental state at the time of the LaBianca murders, are you just going to sit back and let them decide that fact and just say, "Whatever they come up with, whatever opinion they come up with, it's okay with me"?

MRS. ROBINSON: Not necessarily.

MR. KAY: Will you make up your own mind as to that?

MRS. ROBINSON: I will.

1 MR. KAY: And, as I told the other jurors on Thursday,
2 you understand if you are selected as a juror in this case you
3 would have 100 percent of the responsibility for making that
4 determination.
5 Would you be willing to accept that responsibility?
6 MRS. ROBINSON: Yes.
7 MR. KAY: Did you understand the example I gave the
8 other jurors on Thursday about circumstantial evidence and
9 direct evidence?
10 MRS. ROBINSON: Yes.
11 MR. KAY: Remember the little blue Volkswagen and my
12 friend that lived on top of the hill?
13 MRS. ROBINSON: Yes.
14 MR. KAY: Understanding that example, would you refuse
15 to convict somebody based on circumstantial evidence alone?
16 MRS. ROBINSON: No.
17 MR. KAY: Would you require the prosecution to put forth
18 an eyewitness to a murder before you could convict any
19 defendant of that murder?
20 MRS. ROBINSON: No, not necessarily.
21 MR. KAY: And because of the fact that Miss Van Houten
22 has been in custody for the last eight years, do you feel that
23 for that reason, in spite of any evidence put forth by the
24 prosecution, you would consider not convicting her or convicting
25 her of a reduced charge because of that fact alone?
26 MRS. ROBINSON: No.
27 MR. KAY: If Mr. Keith got up in his closing argument
28 and, after I argued for a first degree conviction, he argued

for a second degree conviction, but you thought Miss Van Houten was guilty of first degree murder, would you consider for any reason finding her guilty of second degree murder?

MRS. ROBINSON: No.

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MR. KAY: And if you were that juror back in the jury room and it was 11 to 1 and you were the one holdout and the jurors changed your mind so that you felt that Miss Van Houten was guilty of first degree murder, would you have the courage to join with the other 11 and make that verdict unanimous and come out here and tell us that's your verdict?

Would you have the courage to do that?

MRS. ROBINSON: Yes.

MR. KAY: Are you sure about that?

MRS. ROBINSON: Yes.

MR. KAY: A lot of people don't think about that until they actually get in there.

There is not a verdict unless it is unanimous one way or the other.

MRS. ROBINSON: I understand.

MR. KAY: In a civil case it can be a less than unanimous verdict, but not in criminal cases.

All 12 jurors have to agree not only to the question of guilt or innocence but the degree of guilt; everybody has to be unanimous on that.

Did you understand, as I explained to the other jurors on Thursday, that under the law of California under both the law of conspiracy and aiding and abetting a person can be guilty of first degree murder even though they don't strike the fatal blow themselves?

Did you understand that?

MRS. ROBINSON: Yes.

MR. KAY: Do you have any quarrel with that law?

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MRS. ROBINSON: No.

MR. KAY: Will you follow the judge's instructions on that?

MRS. ROBINSON: Yes.

MR. KAY: And if you are selected as a juror in this case, do you think you can keep separate in your mind the fact that Miss Van Houten is charged with two counts of murder and one count of conspiracy to commit murder in 1969, and not in 1977?

Do you think you can keep that clear in your mind?

MRS. ROBINSON: Yes.

MR. KAY: You don't think you will have any problem at all with that?

MRS. ROBINSON: No.

MR. KAY: Is there anything that I haven't asked you or that Mr. Keith hasn't asked you that you think would be important for me to know in making a determination whether or not to select you as a juror in this case?

MRS. ROBINSON: I can't think of any.

MR. KAY: Okay; thank you very much.

I will pass for cause.

THE COURT: Thank you.

The peremptory is with the defense, number one.

MR. KEITH: Miss Van Houten will thank and excuse Juror No. 12, Mrs. Manning.

THE COURT: Mrs. Manning, thank you for your attention upon the court. You are excused.

THE CLERK: Mrs. Cora A. Chargois, C-h-a-r-g-o-i-s.

THE COURT: Mrs. Chargois, did you hear the questions

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that I asked the panel previously?

MRS. CHARGOIS: Yes.

THE COURT: And if I were to ask you those same questions would your answers be substantially the same?

MRS. CHARGOIS: Yes, they would.

THE COURT: As you sit there now can you think of any reason why you couldn't be fair and impartial as to both sides in this case?

MRS. CHARGOIS: No.

THE COURT: Would you please give us your personal data.

MRS. CHARGOIS: My name is Cora Chargois.

Date of birth: 1-13-23.

West L.A.

Married.

Three children; one daughter and two step-sons, ages 34, 37, 39.

Housewife.

And my husband is a cabinetmaker.

THE COURT: All right.

Have you previously served as a juror?

MRS. CHARGOIS: No.

THE COURT: Do you have any close relationship with law enforcement?

MRS. CHARGOIS: I have two cousins that work for the L.A.P.D.

THE COURT: And how often do you see them?

MRS. CHARGOIS: Oh, usually on holidays we get together.

7-4

THE COURT: Do you ever discuss their work with them?

MRS. CHARGOIS: Oh, no; they don't do that.

THE COURT: All right.

Would you be able to put to one side the fact that you have two cousins that are in the police department, and agree to decide this case solely on the evidence to be presented in this courtroom and the instructions the court would give you?

MRS. CHARGOIS: Yes, Your Honor.

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THE COURT: Would you judge the credibility of a police officer or peace officer by the same standard that you would use as to any other witness?

MRS. CHARGOIS: Yes.

THE COURT: All right.

Have you ever been arrested for or charged with a serious offense?

MRS. CHARGOIS: No.

THE COURT: Have you ever been a witness to or a victim of a serious offense?

MRS. CHARGOIS: No.

THE COURT: Thank you.

Mr. Keith, you may inquire.

MR. KEITH: Thank you.

Well, Mrs. Chargois, bearing in mind that you have two cousins in the Los Angeles Police Department, would you have any hesitation about returning a verdict in favor of Miss Van Houten, assuming of course that that verdict was in keeping with your heart and your mind and your conscience, even though you might feel that verdict would be unpopular with your cousins or the community at large?

MRS. CHARGOIS: No, I would not have any problem.

MR. KEITH: You would have the courage of convictions, would you?

MRS. CHARGOIS: Yes, I would.

MR. KEITH: And if you were selected as a trial juror, would you be able to maintain your individual opinion, as we are entitled to have, during deliberations --

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MRS. CHARGOIS: Yes.

MR. KEITH: -- after the case is submitted to you for decision.

You feel you would be able to do that even though you were in the minority, your opinion was a minority opinion?

MRS. CHARGOIS: Yes.

MR. KEITH: You wouldn't change your mind simply because of pressures put on you by other members of the panel, would you?

MRS. CHARGOIS: No.

MR. KEITH: However, you would engage in a full, fair and free decision with other members of the jury in order to decide what the facts are and how the law should be applied to the facts.

MRS. CHARGOIS: Yes.

MR. KEITH: Do you have any quarrel, "Mrs. Chargois" -- I don't think I'm doing it right --

MRS. CHARGOIS: That's all right.

MR. KEITH: -- but I'm close.

Do you have any quarrel with the principles of jurisprudence that you have heard so far?

MRS. CHARGOIS: No.

MR. KEITH: Pardon me?

MRS. CHARGOIS: No.

MR. KEITH: You are sure of that?

T7af MRS. CHARGOIS: Quite sure.

MR. KEITH: In the event you are instructed, you know, at the end of the case --

7-7

Have you ever served on a jury before? I have forgotten.

MRS. CHARGOIS: No, I have not.

MR. KEITH: All right.

At the end of the case after all the evidence is submitted and both sides have had an opportunity to make their summations, His Honor will instruct you as to the law applicable to the case.

He is the only one that can do that. The lawyers can't do it. We may talk about it, but the final word comes from him.

And in the event you are selected as a trial juror, would you be able to follow a rule of law that states, in substance, that somebody who is suffering from a mental illness or defect or disease or some other problem at the time of a purported offense, public offense, or during the occurrence of one, may be considered to have reduced responsibility for that offense, for the commission of that offense, compared to someone who is of sound or normal mind?

Could you follow such a principle of law?

MRS. CHARGOIS: Yes.

MR. KEITH: To make it simple, if A shoots B and A is totally normal, there may be one crime he's committed.

If A shoots B and A is severly mentally impaired, he may be guilty of something else.

Are you able to accept such a principle of law?

MRS. CHARGOIS: Yes.

MR. KEITH: When I say "something else," something lesser,

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his responsibility is less because of the particular mental state at the time.

You don't have any qqprrel with that --

MRS. CHARGOIS: No.

MR. KEITH: -- principle, I take it.

Do you know any psychiatrists?

MRS. CHARGOIS: No.

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MR. KEITH: Do you know anybody who has been treated by a psychiatrist?

MRS. CHARGOIS: No, I do not.

MR. KEITH: Have you done any reading or studying in the field of psychiatry or psychology?

MRS. CHARGOIS: No.

MR. KEITH: Do you have some particular aversion to psychiatrists or their methods or their theories?

MRS. CHARGOIS: No, I do not.

MR. KEITH: Or would you hesitate to send somebody who was close to you to a psychiatrist if you thought they needed some mental help?

MRS. CHARGOIS: I think I would; I would do everything I could.

MR. KEITH: All right.

You wouldn't tell them not to go to a psychiatrist, would you?

MRS. CHARGOIS: No.

MR. KEITH: If you felt they were mentally ill.

MRS. CHARGOIS: No.

MR. KEITH: Do you know anyone who has abused drugs illegally, or legally, for that matter?

MRS. CHARGOIS: No.

MR. KEITH: Have you made any particular study or done any reading about drugs, such as LSD, marijuana, or all the others?

MRS. CHARGOIS: Yes, I have read about them, but, you know, no studies on them.

1 MR. KEITH: You have just read articles --
2 MRS. CHARGOIS: Yes.
3 MR. KEITH: In newspapers and magazines.
4 MRS. CHARGOIS: Surely.
5 MR. KEITH: About the use and abuse of drugs, I presume.
6 MRS. CHARGOIS: Yes.
7 MR. KEITH: Have you ever read anything about acid,
8 LSD?
9 MRS. CHARGOIS: I have read, just about like anything
10 else.
11 MR. KEITH: Have you retained any of the things you have
12 read about acid?
13 MRS. CHARGOIS: No.
14 MR. KEITH: Do you have any --
15 Has anybody near or dear to you ever been the
16 victim or a witness to a serious offense?
17 MRS. CHARGOIS: Not that I know of.
18 MR. KEITH: Has anybody near or dear to you ever been
19 arrested for a serious offense?
20 MRS. CHARGOIS: No.
21 MR. KEITH: Have you ever been employed outside the home?
22 MRS. CHARGOIS: No, not recently. Years ago.
23 MR. KEITH: All right.
24 And is your husband -- he is a self-employed
25 carpenter?
26 MRS. CHARGOIS: Yes.
27 MR. KEITH: He is a carpenter contractor.
28 MRS. CHARGOIS: Right.

MR. KEITH: And your children, what are their occupations?

MRS. CHARGOIS: My daughter, she is an engineer.

And the youngest son, he's in the Army.

And the oldest son is in the Navy, a photographer.

MR. KEITH: Your oldest son is how old?

MRS. CHARGOIS: 39.

MR. KEITH: And he's in the Navy?

(B) MRS. CHARGOIS: Yes.

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MR. KEITH: In what capacity did you say? I didn't quite catch it.

MRS. CHARGOIS: He's a photographer for the navy.

MR. KEITH: And what is your son's, who is in the army, function?

MRS. CHARGOIS: He just works in the office. I guess it's admittance.

They are my stepsons.

MR. KEITH: Pardon me?

MRS. CHARGOIS: They are my stepsons.

MR. KEITH: Is your daughter a stepdaughter or --

MRS. CHARGOIS: No.

MR. KEITH: Where does she live?

MRS. CHARGOIS: In Connecticut.

MR. KEITH: In the event you heard some rather gory testimony and were exposed to some gruesome photographs, would you be able to take it and not become so upset or disturbed that you would be inclined to poison your mind against Leslie --

MRS. CHARGOIS: No.

MR. KEITH: -- simply because of the nature of the photographs and the fact that two people are dead?

MRS. CHARGOIS: No.

MR. KEITH: Would you shut your mind to any defense she may offer because of the nature of the photographs or the nature of the -- or the manner in which the LaBiancas met their death?

MRS. CHARGOIS: No.

MR. KEITH: I'm not suggesting the photographs lack

relevance. I'm not suggesting the manner in which the LaBiancas met their death lacks relevance.

What I am suggesting is if -- no photograph of a dead body is very much fun to look at.

MRS. CHARGOIS: I'm sure it isn't.

MR. KEITH: But do you think you would be able to withstand the natural tendency to become upset and still judge her fairly and impartially?

MRS. CHARGOIS: Yes.

MR. KEITH: You won't close your mind at the end of the prosecution's case, will you?

MRS. CHARGOIS: No.

MR. KEITH: You will listen to both sides?

MRS. CHARGOIS: Yes.

MR. KEITH: In the event the evidence indicates Miss Van Houten did have an association with Charles Manson, whom everybody seems to have heard of, would that so -- again, I'm not suggesting that association may not have relevance; it undoubtedly does -- but would you tend, because of that association, to find her guilty by association?

MRS. CHARGOIS: No.

MR. KEITH: Do you think you would be able to withstand that possibly natural tendency --

MRS. CHARGOIS: Yes.

MR. KEITH: -- and to judge her on the facts and all the facts?

MRS. CHARGOIS: Yes.

MR. KEITH: Thank you.

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We will pass for cause.

THE COURT: Thank you, Mr. Keith.

Mr. Kay?

MR. KAY: Thank you.

Mrs. Chargois, I wanted to clear up one thing. I don't know whether Mr. Keith, by his little example on diminished or mental capacity, has been misleading anybody, but you understand in this case Miss Van Houten is not pleading not guilty by reason of insanity. There is no question about whether she was sane or insane at the time of the LaBiance murders.

She is not putting that in issue; do you understand that?

MRS.CHARGOIS: Yes.

MR. KAY: So that sanity is not a question that you will have to face in this trial.

Just when Mr. Keith says, "If somebody is nuts and shoots somebody, do you think that they are crazy, that they must have been insane," that's not an issue that you are going to have to deal with in here because Miss Van Houten has not pleaded guilty by reason of insanity. We would have a whole special hearing for that. That's not involved here.

Now, realizing that in every criminal case the prosecution has the burden of proving a defendant guilty beyond a reasonable doubt, would you hold us to a higher burden of proof in this case; in other words, would you require us to prove Miss Van Houten's guilt to an absolute certainty or beyond a shadow of a doubt?

MRS. CHARGOIS: I do not understand that. Would you repeat that?

MR. KAY: All right.

The prosecution has a legal burden of proof in every criminal case, whether we prosecute somebody for running a red light or a murder such as this case --

MRS. CHARGOIS: Yes.

MR. KAY: -- we have to prove that defendant is guilty beyond a reasonable doubt.

Now, that's the burden that the law holds us to. We don't have the burden of proving that somebody is guilty beyond a shadow of a doubt or to an absolute certainty.

But some jurors figure, well, before I'm going to convict anybody the prosecution is going to have to get rid of any possible doubt in my mind; they are going to have to prove to an absolute certainty that the defendant is guilty.

Are you that type of juror?

MRS. CHARGOIS: No.

MR. KAY: Now, did you understand the example I gave the other jurors about circumstantial and direct evidence --

MRS. CHARGOIS: Yes.

MR. KAY: -- blue Volkswagen, and everything?

Understanding that, would you refuse to convict a defendant based on circumstantial evidence alone?

MRS. CHARGOIS: No.

MR. KAY: Would you require the prosecution to put forth an eyewitness to the actual murder before you would convict any defendant of any murder?

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MRS. CHARGOIS: No.

MR. KAY: Have you ever testified in court before?

MRS. CHARGOIS: No.

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MR. KAY: Because Miss Van Houten is here for a retrial, that means a second trial, do you think that that is any indication that she is more likely to be not guilty than guilty of these offenses?

MRS. CHARGOIS: No. It happened a long time ago.

MR. KAY: I beg your pardon?

MRS. CHARGOIS: That's something that I did not follow.

MR. KAY: That's something you don't have to concern yourself with in this case. The fact that she has a second trial is nothing that will concern the jury in this case and it is not because of any question of guilt or innocence.

If you were the one juror in the jury room when it was 11 to 1, 11 jurors were convicting Miss Van Houten for first degree murder, and you were convicting for second degree murder, and you changed your mind, and you felt that somebody pointed out to you that she really was guilty of first degree murder, because maybe you misinterpreted an instruction or you missed a piece of evidence, but you knew that your vote would make that jury verdict unanimous, in that situation would you have the courage not only in the jury room to vote to make the verdict unanimous but to come out here and tell us when Judge Hinz polls the jury -- tell us all -- that, yes, that's my verdict?

Would you have the courage to do that?

MRS. CHARGOIS: Yes, I would.

MR. KAY: Do you understand that in California under the laws of both conspiracy and aiding and abetting a person can be guilty of first degree murder even though they don't strike

1 the fatal blow?

2 MRS. CHARGOIS: I understand.

3 MR. KAY: Do you have any quarrel with that law?

4 MRS. CHARGOIS: No.

5 MR. KAY: You would follow the judge's instructions on

6 that?

7 MRS. CHARGOIS: Yes.

8a 8 MR. KAY: And the fact that Miss Van Houten's mother may

9 come into court and testify as to Miss Van Houten's background

10 during the defense portion of the case, and you might feel

11 sorry for the mother for what she's been through over the

12 years, for that reason alone are you going to consider con-

13 victing Miss Van Houten of a lesser charge or acquiting her

14 in this case?

15 MRS. CHARGOIS: No.

16 MR. KAY: And because you might feel sorry for her mother,

17 for that reason alone will you believe everything that the

18 mother says about her?

19 MRS. CHARGOIS: No.

20 MR. KAY: Do you think that anybody who commits a vicious

21 premeditated murder must necessarily be mentally ill at the

22 time they commit the murder --

23 MRS. CHARGOIS: No.

24 MR. KAY: -- or at any time?

25 MRS. CHARGOIS: No.

26 MR. KAY: Do you think that because somebody calls a

27 psychiatrist to testify in their behalf in a criminal trial

28 that they must, in fact, be mentally ill, or they wouldn't

1 call psychiatrists as witnesses?
2 MRS. CHARGOIS: No, not necessarily.
3 MR. KAY: Can you conceive of a defendant in a criminal
4 case calling psychiatrists as witnesses if that defendant
5 wasn't, in fact, mentally ill?
6 MRS. CHARGOIS: Well, yes.
7 MR. KAY: Because a psychiatrist also happens to be a
8 medical doctor, for that reason alone do you think you would
9 tend to accept their testimony as being true?
10 MRS. CHARGOIS: No.
11 MR. KAY: And do you think because a psychiatrist may
12 or may not be able to help somebody with a current problem,
13 that that means that they are going to be able to come into
14 court and predict with accuracy what somebody was thinking
15 about maybe eight years ago at a particular time?
16 MRS. CHARGOIS: No.
17 MR. KAY: And if you are selected as a juror in this case,
18 are you willing to accept 100 percent of the responsibility
19 for determining Miss Van Houten's mental state at the time of
20 the LaBianca murders?
21 MRS. CHARGOIS: Yes.
22 MR. KAY: You are not just going to leave it up to the
23 psychiatrists and figure whatever they say is okay with you?
24 MRS. CHARGOIS: No.
25 MR. KAY: And because the defense and prosecution
26 psychiatrists may disagree as to what Miss Van Houten's mental
27 state was at the time of the LaBianca murders, are you going
28 to automatically consider that to mean that there is a reasonable

doubt as to whether or not she had the mental capacity to commit a first degree murder?

MRS. CHARGOIS: No.

MR. KAY: And do you think you can keep this clear in your mind, the distinction between the fact that Miss Van Houten is charged with committing two counts of murder and one count of conspiracy to commit murder in 1969 and not 1977?

MRS. CHARGOIS: Yes.

MR. KAY: Do you think you can keep that in your mind at all times throughout this trial if you are selected as a juror?

MRS. CHARGOIS: Yes.

MR. KAY: Now, is there anything that I failed to ask you that you think I should know about you in making a determination whether or not to accept you as a juror in this case?

MRS. CHARGOIS: No.

MR. KAY: Thank you very much.

I'll pass for cause.

THE COURT: Thank you.

Peremptory is with the People, number 2.

MR. KAY: People will thank and excuse Juror No. 1, Mr. Bledsoe.

Thank you, sir.

THE COURT: Mr. Bledsoe, thank you for your attendance upon the court. You are excused.

THE CLERK: Mrs. Edna M. Saunders, S-a-u-n-d-e-r-s.

THE BAILIFF: Step down this way, ma'am.

THE COURT: Mrs. Saunders, did you hear the questions that I asked the panel previously?

MRS. SAUNDERS: Yes, I did.

THE COURT: And did any of those questions raise any doubt in your mind about whether you can be fair and impartial in this matter?

MRS. SAUNDERS: Yes, they do.

THE COURT: And what particular questions?

MRS. SAUNDERS: Well, I didn't read or keep up with this case by choice. I don't read anything that will cause me --

I have hypertension, and I don't read anything that may upset me.

THE COURT: All right. Well, how would the --

MRS. SAUNDERS: Well, I hear them talking about gory pictures, and I couldn't stand that.

THE COURT: Are you saying due to a health reason?

MRS. SAUNDERS: Yes, I have hypertension. I am under a doctor's care constantly.

THE COURT: Is there any other answer that would differ as to those questions that I asked the panel?

MRS. SAUNDERS: No.

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THE COURT: All right.

So as to any other questions, your answers would be substantially the same; is that correct?

MRS. SAUNDERS: Yes, they would.

THE COURT: Would you please give us your personal data, as listed on the board?

MRS. SAUNDERS: My name is Edna Saunders.

I was born 12-3-13.

I live in the Wilshire area.

I'm married.

I have one son, 42 years old.

And I'm retired.

Oh, my husband works at Lockheed Aircraft Company in Burbank.

THE COURT: Have you previously served as a juror?

MRS. SAUNDERS: No, I have not.

THE COURT: Do you have any close relationship with law enforcement?

MRS. SAUNDERS: No, I do not.

THE COURT: Have you ever been arrested for or charged with a serious offense?

MRS. SAUNDERS: No.

THE COURT: Have you ever been a witness to or a victim of a serious offense?

MRS. SAUNDERS: No, I haven't.

THE COURT: All right; thank you.

Will counsel approach the bench, please.

Can we have the court reporter.

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(The following proceedings were held at the bench:)

THE COURT: All right.

Will counsel stipulate this juror may be excused due to the medical problem?

MR. KEITH: I will.

THE COURT: Would you stipulate to it?

MR. KAY: (Pause.) Okay.

THE COURT: All right, thank you.

(The following proceedings were held in open court in the presence of the prospective jurors:)

THE COURT: All right.

Mrs. Saunders, you are excused from further service upon the case. Thank you.

MRS. SAUNDERS: Thank you.

THE CLERK: Frank G. Donnell, D-o-n-n-e-l-l.

THE COURT: Mr. Donnell, did you hear the questions that I asked the panel previously?

MR. DONNELL: Yes, Your Honor.

THE COURT: And if I were to ask you these same questions would your answers be substantially the same?

MR. DONNELL: Well, I would like to say one thing: That I don't believe in life sentences, and I would like to decline from this case.

THE COURT: I didn't understand that.

What did you say?

MR. DONNELL: I said I don't believe in a life sentence,

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and I would like to decline from this case.

THE COURT: Well, let me explain to you that the matter of punishment will not be up to the jury.

Do you understand that?

MR. DONNELL: Pardon me, sir?

THE COURT: Do you understand that the matter of punishment in this case, as in most cases, will not be a subject matter for the jury?

Do you understand that?

MR. DONNELL: Yes, Your Honor.

THE COURT: Do you further understand that the jury in deliberations must not consider or discuss or in any way, as I say, consider the matter of punishment?

Do you understand that?

MR. DONNELL: Yes, Your Honor.

THE COURT: Now, if you are selected as a juror in this case, could you follow that instruction and go into the jury room and discuss this case on the facts and the law without regard and without discussion of punishment?

MR. DONNELL: I believe so.

THE COURT: So you could put the matter of punishment completely out of your mind when you retire to deliberate; is that correct?

MR. DONNELL: I believe so.

THE COURT: All right.

Now, as to any of the other questions that I asked the panel, would your answers differ in any way?

MR. DONNELL: I don't think so.

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THE COURT: As you sit there now, can you think of any reason why you couldn't be fair and impartial as to both sides in this case?

MR. DONNELL: No, Your Honor.

THE COURT: All right. Would you please give us your personal data as set forth on the board.

MR. DONNELL: My name is Frank G. Donnell.

Born June 6th -- June 4th, 1928.

I live in the Lennox area.

I'm married.

I have three children, ages 21, 23 and 24.

My occupation is a lift truck operator with Rockwell International.

And also my wife works for Rockwell International.

THE COURT: What kind of work does she do?

MR. DONNELL: She is an administrator for an affirmative actions committee.

THE COURT: Have you previously served as a juror?

MR. DONNELL: No, Your Honor.

THE COURT: Do you have any close relationship with law enforcement?

MR. DONNELL: No, sir.

THE COURT: Have you ever been arrested for or charged with a serious offense?

MR. DONNELL: No, sir.

THE COURT: Have you ever been a witness to or a victim of a serious offense?

MR. DONNELL: No, sir.

9-5

THE COURT: Thank you.

Mr. Keith, you may inquire for cause.

MR. KEITH: Thank you, Your Honor.

What do you do for Rockwell?

MR. DONNELL: I'm a lift truck operator.

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MR. KEITH: A lift truck operator?

MR. DONNELL: Yes, sir.

MR. KEITH: Mr. Donnell, do you think your belief or lack of belief in life sentences is going to make it difficult for you to be a fair and impartial juror with respect to Leslie Van Houten?

MR. DONNELL: I believe so.

MR. KEITH: You heard His Honor tell you that it is not your function and will not be to consider penalty or punishment in the event -- during your deliberations, in the event you are selected as a trial juror.

MR. DONNELL: Well, I'm willing to put it aside, but I think about that.

MR. KEITH: You think about what?

MR. DONNELL: A life sentence.

MR. KEITH: Are you for or against life sentences?

MR. DONNELL: Well, I'm against --

MR. KEITH: I think we are entitled to know that, since you are going to have trouble.

MR. DONNELL: Yes.

MR. KEITH: You are against life sentences.

MR. DONNELL: Yes, sir.

MR. KEITH: It's your state of mind that nobody, no matter what they do, should spend the rest of their life in jail.

Is that what you are saying?

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MR. DONNELL: Yes, sir.

MR. KEITH: You are not saying, because you are against

9-7

1 life sentence. You are for the gas chamber, are you? Is that
2 what you are saying, sir?
3 MR. [illegible]: Yes, sir.
4 MR. [illegible]: You are in favor of —
5 MR. [illegible]: The death penalty.
6 MR. [illegible]: Pardon me?
7 MR. [illegible]: The death penalty.
8 MR. [illegible]: You are in favor of the death penalty.
9 MR. [illegible]: Yes.
10 MR. [illegible]: I wish you would have come out and said it
11 that way instead of against life sentences.
12 MR. [illegible]: I'm sorry.
13 MR. [illegible]: Because you confused us all.
14 MR. [illegible]: You were hoping, weren't you?
15 (Laughter.)
16 MR. [illegible]: What good would it have done me?
17 (Laughter.)
18 MR. [illegible]: And you honestly feel you can put this
19 feeling aside, even though this isn't a death penalty case,
20 this doesn't involve capital punishment at all.
21 Do you feel you can judge Miss Van Houten's guilt
22 or innocence fairly?
23 MR. [illegible]: Yes, I think so.
24 MR. [illegible]: Well, you are apparently a little unsure.
25 Is that a fair statement?
26 MR. [illegible]: To be truthful, yes.
27 MR. [illegible]: Well, that are you unsure about? Let tell
28 us what you are unsure about in your own words so I don't have

9-8

to pull it out of you.

MR. DONNELL: Okay.

Well, I believe that if a person gets a life sentence --

MR. KEITH: That's too good for them?

MR. DONNELL: Well, it could -- the probability of that person being eligible for parole is there.

MR. KEITH: So you are really worrying about penalty or punishment in this case, even though the judge has told you that you are not entitled to consider that during deliberations.

You think that whatever the penalty or punishment might be or might not be is going to affect your judgment; isn't that right?

MR. DONNELL: Yes.

1 MR. KEITH: And you think you are more likely than not
2 to be unfair towards Leslie because of your views on the
3 death penalty.
4 MR. DONNELL: Yes.
5 MR. KEITH: And the possibility of parole in the absence
6 of the gas chamber.
7 MR. DONNELL: Yes.
8 MR. KEITH: Challenge.
9 MR. KAY: Can I inquire?
10 THE COURT: Yes, you may inquire.
11 MR. KAY: Mr. Donnell, do you think --
12 You told the judge certain things that you thought,
13 that you could put aside your feeling about being against life
14 sentences.
15 And since in this case the jury will not have to
16 concern themselves with the question of penalty or punishment,
17 do you think you can really do what the judge told you, do you
18 think you really can put your feelings about being against
19 life sentences aside?
20 MR. DONNELL: I would try. I believe I could.
21 MR. KAY: Well, let me tell you this --
22 MR. DONNELL: Yes, sir.
23 MR. KAY: -- the judge at the end of this case -- whoever
24 is selected as a juror in this case will be instructed that
25 they are not to consider the question of penalty or punishment.
26 That means that when you are back in the jury room
27 it would be improper for any juror to bring up the subject of
28 penalty or punishment, either to say, "Well, I'm against life

sentences, I think she should get the death penalty," or, "I think she's been in seven years, that's long enough."

That would be improper for any juror to discuss one way or the other.

Do you think you can follow the judge's instructions if you are selected as a member of this jury?

MR. DONNELL: I believe I could.

MR. KAY: And do you think that you could determine the question of Miss Van Houten's guilt or innocence based on the evidence that you hear in this courtroom, and forget about the question of what penalty or punishment she would get if she was convicted?

MR. DONNELL: I believe I could.

MR. KAY: All right.

Will you really give us a good effort at that?

MR. DONNELL: I believe I can.

MR. KAY: All right.

Now, when you say you believe, are you certain you can do that?

MR. DONNELL: I'm certain.

MR. KAY: Okay; thank you.

I have nothing further.

THE COURT: Mr. Keith, you may resume.

MR. KEITH: Well, which is it, Mr. Donnell?

You told me that you couldn't give her a fair trial because of your feeling about the possibility of parole in a life sentence, and you just told him you could.

Now give us a straight answer.

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MR. DONNELL: Well, this is a straight answer; I just made up my mind that I could.

(Laughter.)

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MR. KEITH: You just --

THE COURT: Mr. Donnell, this is a very serious matter.

MR. DONNELL: Yes, Your Honor.

THE COURT: We are spending a lot of time by having people ask the questions concerning it, and all anybody wants, whether it is Mr. Keith or Mr. Kay or the court, is for you to tell us what your state of mind is.

No one is trying to force you to say one way or the other. We just -- and you are the only person that can tell us.

Now, let me ask you, if you are chosen as a juror in this matter, will you be able to decide this case without considering penalty or punishment?

MR. DONNELL: I believe I can.

THE COURT: Now, let me ask you this question: If you go into the jury room, would you, as you are deliberating on this case, be thinking about penalty and punishment to the point that that would have some influence on your discussions or consideration of this case?

MR. DONNELL: No.

I -- Would you repeat that question again?

THE COURT: Well, you tell me. You are going back into the jury room now to deliberate on this case. What, if anything, would you be thinking about in terms of punishment or penalty during the course of deliberations?

MR. DONNELL: I'm not sure.

THE COURT: All right. The court will grant Mr. Keith's challenge for cause.

10-2

Doubt?

Sir, you are excused from further attendance upon the case. Thank you.

MR. DONNELL: Thank you, Your Honor.

THE CLERK: Mark G. Bacon, B-a-c-o-n.

THE BAILIFF: Front row, sir.

Use the microphone when you sit down, sir.

THE COURT: Mr. Bacon, did you hear the questions that I asked the panel previously?

MR. BACON: Yes, sir.

THE COURT: And if I were to ask you those same questions, would your answers be substantially the same?

MR. BACON: They would be the same.

THE COURT: All right.

Can you think of any reason why you couldn't be fair and impartial as to both sides in this case?

MR. BACON: None, Your Honor.

THE COURT: All right, thank you.

Would you please answer the questions of personal data on the board.

MR. BACON: Name is Mark G. Bacon. Date of birth is September 1st, 1904. Area of residence is Chapman Woods. Marital status, I'm married, no children. I am a senior civil engineering assistant. My wife is a housemaid -- housewife.

THE COURT: Have you previously served as a juror?

MR. BACON: No, sir.

THE COURT: Do you have any close relationship with law enforcement?

MR. BACON: No, sir.

THE COURT: Have you ever been arrested for or charged with a serious offense?

MR. BACON: No, sir.

THE COURT: And have you ever been a witness to or a victim of a serious offense?

MR. BACON: No, sir.

THE COURT: All right, thank you.

Mr. Keith, you may inquire.

MR. KEITH: Mr. Bacon, did I hear you say you resided in Chapman Woods?

MR. BACON: Yes, sir.

MR. KEITH: Is that an area east of Pasadena?

MR. BACON: Yes, it is.

MR. KEITH: For whom are you employed?

MR. BACON: You mean who was I employed with?

MR. KEITH: I thought you said you were a senior --

MR. BACON: That was my occupation, but I'm retired.

MR. KEITH: I see.

MR. BACON: I'm sorry.

MR. KEITH: And for whom were you employed?

MR. BACON: County of Los Angeles.

MR. KEITH: In what capacity, again?

MR. BACON: Senior civil engineering assistant.

MR. KEITH: And how long were you with the county?

MR. BACON: Twenty-five years.

MR. KEITH: Have you been in the armed forces?

MR. BACON: Yes, sir.

MR. KEITH: How long ago was that?

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MR. BACON: From 1941 to 1945

MR. KEITH: What branch of the service?

MR. BACON: Military police.

MR. KEITH: Did you ever see combat?

MR. BACON: No, sir.

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1 MR. KEITH: Did you join the County of Los Angeles as an
2 employee after your discharge from the service?
3 MR. BACON: Yes, sir.
4 MR. KEITH: Do you have any psychiatric or psychological
5 training?
6 MR. BACON: No, sir.
7 MR. KEITH: Do you know any psychiatrists?
8 MR. BACON: No, sir.
9 MR. KEITH: Do you have any particular dislike or
10 antipathy towards psychiatrists?
11 MR. BACON: No, sir.
12 MR. KEITH: Do you know any drug users or persons that
13 have abused drugs, rather?
14 MR. BACON: No, sir.
15 MR. KEITH: Have you done any particular special reading
16 or paid any special interest to the use and abuse of illegally
17 obtained drugs?
18 MR. BACON: No, sir.
19 MR. KEITH: Have you ever heard of LSD before?
20 MR. BACON: I have.
21 MR. KEITH: Have you ever done any reading about that
22 drug?
23 MR. BACON: No, sir.
24 MR. KEITH: You don't know any law enforcement personnel?
25 MR. BACON: No, sir.
26 MR. KEITH: You didn't continue with any kind of police
27 training after your discharge from the service?
28 MR. BACON: No, sir.

MR. KEITH: Having been a military policeman, would you be more inclined or be inclined to give the police testimony more credence than you would the testimony of any other witness?

MR. BACON: No, sir.

MR. KEITH: Incidentally, in the event Miss Van Houten testifies in this case in her own behalf, would you be inclined to give her testimony less weight than you would give another witness because she is a defendant and for no other reason?

MR. BACON: No, sir.

MR. KEITH: Do you think you would be able to judge her testimony by the same standards you would judge the testimony of any other witness?

MR. BACON: Yes, sir.

MR. KEITH: Including police officers?

MR. BACON: Yes, sir.

MR. KEITH: Do you know anybody who has been the victim of or a witness to a relatively serious offense?

MR. BACON: Well, my brother. He was shot in a holdup.

MR. KEITH: How long ago was that?

MR. BACON: About 15, 16 years ago.

MR. KEITH: Bearing in mind that's a long time ago, you don't think that would make it difficult for you to be fair to Leslie, do you?

MR. BACON: No, it would not.

10a MR. KEITH: Incidentally, just because the name of this case is the People of the State of California versus Leslie Van Houten, that doesn't make you feel that Mr. Kay, the prosecutor, has the support of the entire State of California

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and, therefore, Miss Van Houten is at a distinct disadvantage; you do not feel that way, do you?

MR. BACON: No, sir; I don't.

MR. KEITH: And you understand that the fact that Miss Van Houten was indicted many years ago, and the fact that she is here for trial, is no evidence whatsoever against her and is not to be considered by you as such?

MR. BACON: I understand that.

MR. KEITH: You would be willing to follow that rule of law?

MR. BACON: I am.

MR. KEITH: On the issue of diminished capacity, if the evidence so shows that Miss Van Houten was suffering from what we call diminished capacity and was entitled to a favorable verdict from you, would you hesitate not to bring back such a verdict because it may be, in your opinion, an unpopular verdict in the community?

MR. BACON: I would not.

MR. KEITH: You are sure you would have the courage of your convictions despite any pressures from -- perceived or imagined or speculative pressures from outside sources?

MR. BACON: I would.

MR. KEITH: Well, one of the ladies that sat in the seat before you was worried about some photographs.

Are you going to be so worried about seeing photographs that you will turn your mind off with regards to Miss Van Houten and no longer listen to the evidence because of being upset or excited or disturbed by that kind of evidence?

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MR. BACON: I will not.

MR. KEITH: And in the event the evidence indicates that Miss Van Houten did have some involvement with Charlie Manson, would that fact, and that fact alone, bordering on guilt by association, mind you, so poison your mind against her that you would be unable to listen to other evidence in the case and find her guilty just because of an association with Manson?

That question wasn't as artfully put as I'd like.

But what I am trying to get at is, would you give Miss Van Houten less consideration than she otherwise actually would deserve because the evidence did show that she was involved with Manson?

I'm not saying that the involvement isn't very relevant, mind you. What I'm asking you is would you place such a weight on her association with Manson that you couldn't listen to anything else and just close your mind right then and there?

MR. BACON: No, I don't believe I would.

THE COURT: Mr. Keith, is this time --

MR. KEITH: I'll pass for cause anyway, Your Honor. This is a good time.

THE COURT: All right.

At this time we are going to recess now.

Are they to return to Department 106?

THE BAILIFF: 106.

THE COURT: All right.

At this time, ladies and gentlemen, we are going to recess about ten minutes early today. I have another matter to take care of. So during this recess, until 1:30, bear in mind you are not to discuss this case amongst yourselves or with anyone else; you are not to form any opinion concerning this matter or express any opinion concerning this matter until the case is finally given to you.

Furthermore, you must not allow yourselves to read, see, or hear any news media coverage of thi, matter.

All right. The court will be in recess until 1:30. All jurors are ordered to return to Department 106 at 1:30.

Thank you. Defendant and counsel are ordered to return at 1:30.

(At 11:50 a.m. a recess was taken until 1:30 p.m. of the same day.)

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LOS ANGELES, CALIFORNIA, MONDAY, APRIL 11, 1977, 1:41 P.M.

DEPARTMENT NO. 130 HON. EDWARD A. HINZ, JR., JUDGE

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(Appearances as heretofore noted.)

THE COURT: People versus Van Houten.

Let the record show the defendant is present, represented by counsel, the People are represented by counsel, the jurors are in their respective places.

T12f You may inquire, Mr. Kay, of Juror No. 1.

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MR. KAY: Thank you, Your Honor.

Mr. Bacon, just because Mr. Keith questioned you about these photographs that he likes to call grueseome photographs, you are not going to be like the last lady that sat in that seat and say, "Oh, I just can't look at anything like that; I'm just going to ignore that"?

You wouldn't do that, would you?

MR. BACON: No, sir; I would not.

MR. KAY: You understand that these photographs that Mr. Keith was talking about might be quite relevant in the case.

Of course the relevance would be for the jury to determine.

But they may give you some indication whether we're talking about an unfortunate tragedy as Mr. Keith likes to characterize it, or a willful, deliberate, premeditated murder of the first degree.

Do you understand that?

MR. BACON: Well, I don't believe that I could decide a case on photographs.

MR. KAY: Well, I do not think anybody is making you to.

MR. BACON: Yes.

MR. KAY: But you have to decide a case based on all of the evidence that you get in that case --

MR. BACON: That's true.

MR. KAY: -- not just photographs.

But the photographs may have some relevance to you, especially if you are selected as a member of the jury and

12-2

you determine that Leslie Van Houten had something to do with what you see in the photographs.

Do you understand that?

MR. BACON: I do.

MR. KAY: And also you understand that Miss --

Well, I'm sure you understand, because Judge Hinz read it to you in the Indictment, that Miss Van Houten was indicted by the grand jury along with Charles Manson and the others for the two LaBianca murders and for the count of conspiracy to commit murder. So you understand that her association with Charles Manson might very well be relevant in this case, quite relevant.

Do you understand that?

MR. BACON: I do.

MR. KAY: And although Mr. Keith talks about not wanting anybody to convict her on guilt by association, you understand that the jury might very well have to take into consideration the association, especially at the time of the LaBianca murders, and just before and just after that.

Do you understand that?

T13f MR. BACON: I do.

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MR. KAY: Do you feel that you'd require any more evidence to convict a woman of murder than you would a man?

MR. BACON: No, sir.

MR. KAY: And does the fact that Miss Van Houten has been in custody for the last seven years, does that make any difference to you?

MR. BACON: No, sir.

MR. KAY: Do you think you have clear in your mind the difference between a reasonable doubt and a doubt based on speculation or conjecture?

MR. BACON: Yes, sir.

MR. KAY: Do you think you have clear in your mind the difference between direct and circumstantial evidence, as in that little example I gave?

MR. BACON: I do.

MR. KAY: And would you refuse to convict anybody of murder based on circumstantial evidence alone?

MR. BACON: No, sir.

MR. KAY: Would you require the prosecution to produce an eyewitness to an actual murder before you would convict any defendant of any murder?

MR. BACON: No, sir.

MR. KAY: Do you understand that under the law of California a person can be convicted of first degree murder under the law of conspiracy and aiding and abetting even though they don't strike the fatal blow?

MR. BACON: I do.

MR. KAY: Do you think that's a fair law?

1 MR. BACON: I do.

2 MR. KAY: If Mr. Keith gets up in his final argument
3 and argues for a conviction of second degree murder and I
4 argue for a conviction of first degree murder and you feel
5 that Miss Van Houten is guilty of first degree murder, do you
6 feel that you'd convict her of second degree murder for any
7 reason, like you wouldn't want Mr. Keith to go home empty-
8 handed from the courtroom?

9 MR. BACON: I do not.

10 MR. KAY: Do you think there is anything special about
11 psychiatrists?

12 MR. BACON: No.

13 MR. KAY: Do you think they are just as capable of
14 error as anybody else?

15 MR. BACON: I do.

16 MR. KAY: Do you think psychiatry is an exact science,
17 like chemistry or physics or mathematics, where you can come
18 up with definite, provable answers?

19 MR. BACON: I do.

20 MR. KAY: You think you can come up with definite,
21 provable answers in psychiatry?

22 MR. BACON: Not at this time. I don't think it's
23 perfected to that extent yet.

24 MR. KAY: You understand when psychiatrists come into
25 court they gave their opinion, they say, "Well, it's my
26 opinion that so and so was thinking such and such at the time."

27 You understand they can't write it on a piece of
28 paper, and there is no way to prove or disprove anything a

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1 psychiatrist says.

2 Do you understand that?

3 MR. BACON: I do.

4 MR. KAY: Now, if some psychiatrists get up on the

5 stand --

6 Well, obviously you know by now that psychiatrists

7 are going to testify.

8 Because of that fact, if you are selected as a

9 juror are you just going to sit back and let the psychiatrists

10 make up your mind for you?

11 You will just wash your hands of it and say,

12 "Whatever they decide, that's okay with me."

13 MR. BACON: I will not.

14 MR. KAY: And because the defense and prosecution's

15 psychiatrists might disagree as to what Miss Van Houten's

16 mental state was at the time of the LaBianca murders, are you

17 going to take that automatically to mean that there must be

18 a reasonable doubt as to what her mental state was?

19 MR. BACON: (No response.)

20 MR. KAY: Just because the prosecution and the defense

21 psychiatrists disagree.

22 MR. BACON: I would think that is a doubt, yes.

23 MR. KAY: Well, you understand that it's not uncommon

24 in a criminal case to have prosecution and defense witnesses

25 disagree.

26 MR. BACON: Yes.

27 MR. KAY: Now, just because some psychiatrists called

28 by the defense get up on the stand and say, "We think that

1 Miss Van Houten didn't have the mental capacity to commit
2 a first degree murder," and the prosecution psychiatrists get
3 up on the stand and say, "Well, we do think that
4 Miss Van Houten had the mental capacity to commit a first
5 degree murder" --
6 Do you think that just because those psychiatrists
7 disagree, that without regard to the other evidence in the case
8 you are just going to say, "Hey, there is a reasonable doubt
9 because the psychiatrists disagree"?
10 MR. BACON: No.
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MR. KAY: You understand that just because psychiatrists are testifying doesn't mean that you have to close your eyes to all the other evidence in the case.

MR. BACON: I realize that.

MR. KAY: And if you are selected as a juror in this case, will you consider the psychiatric testimony in light of all the evidence in the case?

MR. BACON: (No response.)

MR. KAY: I mean, you are not just going to forget about the other evidence in the case, are you?

MR. BACON: No, I would not.

I would consider it, yes.

MR. KAY: Okay.

And if you are selected as a juror in this case, are you going to accept 100 percent of the responsibility for determining Miss Van Houten's mental state at the time of the LaBianca murders?

MR. BACON: I will.

MR. KAY: You understand that's the jurors that have the responsibility, not the psychiatrists.

MR. BACON: I do.

MR. KAY: And do you think you can keep clear in your mind the distinction between the fact that Miss Van Houten is charged with the two counts of murder and one count of conspiracy to commit murder in 1969, and not in 1977?

MR. BACON: I can.

MR. KAY: You can keep that in mind at all times during the case?

MR. BACON: I can.

MR. KAY: Is there anything I failed to ask you that you think I should know about you in determining whether or not to accept you as a juror in this case?

MR. BACON: No.

MR. KAY: Okay. Thank you very much.

I will pass for cause.

THE COURT: Thank you.

The peremptory is with the defendant, number two.

MR. KEITH: The defense will thank and excuse Juror No. 11, Mr. Moreno.

THE COURT: Mr. Moreno, thank you for your attendance upon the court. You are excused, sir.

THE CLERK: Florence A. Rohan, R-o-h-a-n.

THE COURT: Ma'am, is it Miss or Mrs.

MRS. ROHAN: Mrs.

THE COURT: Thank you.

Mrs. Rohan, did you hear the questions that I asked the panel the other day?

MRS. ROHAN: Yes, I did.

THE COURT: And if I were to ask you those same questions, would your answers be substantially the same?

T141 MRS. ROHAN: Yes, sir.

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THE COURT: As you sit there now, can you think of any reason why you couldn't be fair and impartial as to both sides in this case?

MRS. ROHAN: No, sir.

THE COURT: All right.

Would you please give us your personal data as set forth on the board.

MRS. ROHAN: Florence A. Rohan.

Date of birth was February 8, 1918.

South Bay area.

I'm married; I have two children, ages 31 and 33.

I'm a registered nurse, and my husband is a chemical technician.

THE COURT: By whom is your husband employed?

MRS. ROHAN: Chevron Corporation.

THE COURT: And where are you employed?

MRS. ROHAN: Hughes Aircraft.

THE COURT: All right.

Now, have you ever served as a juror before?

MRS. ROHAN: No, sir.

THE COURT: Do you have any close relationship with law enforcement?

MRS. ROHAN: No, sir.

THE COURT: Have you or any member of your family or any close friends that you know of ever been arrested or charged with a serious crime?

MRS. ROHAN: No, sir.

THE COURT: Have you ever been a witness to or a victim

of a serious crime?

MRS. ROHAN: No, sir.

THE COURT: Thank you.

Mr. Keith, you may inquire.

MR. KEITH: Thank you.

Mrs. Rohan, did I understand you to say you were a registered nurse at Hughes Aircraft?

MRS. ROHAN: Yes, sir.

MR. KEITH: And Mr. Rohan, he is a Chevron dealer?

MRS. ROHAN: Chemical technician with Chevron Corporation.

MR. KEITH: All right.

And may I ask the occupations of your children, please.

MRS. ROHAN: Well, my son right now is working with retarded people up in Oregon. I don't know the name of the organization.

MR. KEITH: That's all right.

MRS. ROHAN: And my daughter is a secretary with Flying Tiger Air Lines.

MR. KEITH: And are they both married?

MRS. ROHAN: Yes, sir.

MR. KEITH: And what do their respective spouses do?

MRS. ROHAN: My daughter-in-law works in a small electronics firm up there. I also don't know the name of that.

MR. KEITH: That's all right.

MRS. ROHAN: They haven't been up there very long.

And my son-in-law works for McDonnell-Douglas as a

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1 crane operator.

2 MR. KEITH: Mrs. Rohan, in your --

3 How long have you been with Hughes Aircraft, may

4 I ask?

5 MRS. ROHAN: Three years.

6 MR. KEITH: And before then were you also a registered

7 nurse?

8 MRS. ROHAN: Yes.

9 MR. KEITH: Have you worked in hospitals as opposed to a

10 corporation?

11 MRS. ROHAN: I worked in a doctor's office for 13 years

12 before that.

13 MR. KEITH: And have you ever --

14 I'd better ask you this: Is the doctor a

15 psychiatrist, by any chance?

16 MRS. ROHAN: The one I worked for?

17 MR. KEITH: Yes.

18 MRS. ROHAN: No, sir.

19 MR. KEITH: Have you come in contact with psychiatrists

20 through your years as a nurse?

21 MRS. ROHAN: Not for years.

22 Of course, we had to take it when I was in training.

23 We took psychiatry.

24 MR. KEITH: Pardon me?

25 MRS. ROHAN: We had to study psychiatry when I was in

26 training.

27 MR. KEITH: Do you believe there is a place in the sun

28 for medical doctors specializing in psychiatry?

1 MRS. ROHAN: Yes, I do.

2 MR. KEITH: You have no antipathy toward psychiatrists

3 in general, do you?

4 MRS. ROHAN: No, sir.

5 MR. KEITH: I'm not suggesting there aren't good

6 psychiatrists and mediocre psychiatrists; but, in general, you

7 feel they perform a valuable function, I presume?

8 MRS. ROHAN: Yes.

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MR. KEITH: You wouldn't hesitate to send someone you knew, and in need of mental treatment, to a psychiatrist, would you?

MRS. ROHAN: No, I wouldn't.

MR. KEITH: Also, in your capacity as a nurse or otherwise, have you come in contact with persons who have abused drugs?

MRS. ROHAN: Not really.

MR. KEITH: Had you taken any courses in the nature of certain drugs and their effects?

MRS. ROHAN: No, I haven't.

MR. KEITH: Have you ever heard of the hallucinogenic LSD before?

MRS. ROHAN: I've heard of it.

MR. KEITH: Have you read about it?

Most people have heard of it, but have you done any reading on the subject?

MRS. ROHAN: Very little, if any.

MR. KEITH: You know nothing about its properties or the effects of it?

MRS. ROHAN: No, I don't.

MR. KEITH: Has anybody near or dear to you ever been the victim of or a witness to a serious crime such as a robbery, burglary?

MRS. ROHAN: My son-in-law -- or, excuse me, my son and daughter-in-law's apartment was burglarized a number of years ago.

MR. KEITH: That, of course, would have no effect on

1 your fairness or your judgment in this case, would it?
2 MRS. ROHAN: No.
3 MR. KEITH: And do you number among your close friends
4 or perhaps close friends of your children or your husband whom
5 you see regularly people engaged in law enforcement work?
6 MRS. ROHAN: No.
7 MR. KEITH: Do you have any knowledge in various kinds
8 of purported religious sects known as Hare Krishna or the
9 followers of Reverend Moon or groups that engage in, generally
10 speaking, a type of thought control?
11 MRS. ROHAN: I've heard of them, but I don't really have
12 any knowledge about them.
13 MR. KEITH: And you don't know anybody who are involved
14 as followers of those sects or cults or whatever you want to
15 call them?
16 MRS. ROHAN: No, I do not.
17 MR. KEITH: In the event, Mrs. Rohan, that you sincerely
18 and honestly believed that Miss Van Houten was entitled to a
19 verdict in her favor, would you have any hesitation whatsoever
20 in returning such a verdict, even though you thought your
21 verdict might be unpopular in the community or perhaps even
22 amongst your friends?
23 MRS. ROHAN: No.
24 MR. KEITH: Would it be at all difficult for you to judge
25 Miss Van Houten fairly in the event the evidence indicated she
26 led, for a year and a half or two years, a rather bizarre and
27 perhaps, in your culture, unusual life style?
28 MRS. ROHAN: No.

1 MR. KEITH: Or a life style that you disapproved of on
2 general principles, a hippie-type of existence?
3 MRS. ROHAN: No, it would not.
4 MR. KEITH: Again, as I've been telling everybody else,
5 I'm not suggesting that that particular manner or conduct of
6 living might not be relevant.
7 Just in and of itself, would this put her at a
8 disadvantage?
9 MRS. ROHAN: No.
10 MR. KEITH: And, again, I'll ask you, as I've asked
11 others, would her association with Manson standing alone and
12 with nothing else, bearing in mind what you may know about
13 him, place her at such a disadvantage that you couldn't judge
14 her case fairly?
15 MRS. ROHAN: No.
16 MR. KEITH: As have all the other perspective jurors,
17 you have all promised to follow the law scrupulously as given
18 to you from the bench in the event you are selected as a trial
19 juror and at the close of the case.
20 Incidentally, have you been a juror before?
21 MRS. ROHAN: No.
22 MR. KEITH: And you have heard how a trial, then,
23 proceeds.
24 The prosecution and the defense, then perhaps
25 rebuttal, and then summation by the lawyers. Then instructions
26 by the court on the law, and then the case is submitted to you
27 for decision, and you go into the jury room and you deliberate.
28 MRS. ROHAN: Yes.

MR. KEITH: Okay.

And you are duty-bound to follow the law as given to you from the bench.

My question is, do you have any quarrel with the law that tells us, all of us, that someone may be less responsible when it comes to the commission of an offense than someone else because of an impaired mental capacity at the time?

MRS. ROHAN: No.

MR. KEITH: Do you have any quarrel with such a law?

MRS. ROHAN: No.

MR. KEITH: And, again, I'm paraphrasing very, very broadly. But I think it's in the interest of time I should do so as long as you get the principle in mind.

MRS. ROHAN: Yes.

MR. KEITH: In other words, I want to find out whether you are opposed that A would be considered less responsible for the same offense if A is mentally impaired than B who was normal.

You don't have any quarrel with that concept --

MRS. ROHAN: No.

MR. KEITH: -- I take it.

Do you have any feeling at all, Mrs. Rohan, that Miss Van Houten begins with a disadvantage because she's been charged with these offenses and because she's here awaiting trial?

MRS. ROHAN: No.

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MR. KEITH: You understand that is absolutely no evidence against her, and it should not be considered as such.

MRS. ROHAN: I understand.

MR. KEITH: And that she is not likely to be more guilty than innocent because she is coming to trial.

Do you understand that?

MRS. ROHAN: Yes.

MR. KEITH: Do you agree with that principle?

MRS. ROHAN: Yes.

MR. KEITH: And you think you can follow it.

MRS. ROHAN: Yes.

MR. KEITH: Do you have any belief that Miss Van Houten is more likely guilty than innocent because the name of this case is the People of the State of California versus Miss Van Houten?

In other words, are you in some sort of awe that the plaintiff in this case -- that's all it is; it's got to be somebody, it's got to be somebody against somebody else -- that the plaintiff is the People?

MRS. ROHAN: I'm sorry?

MR. KEITH: All right.

Do you feel that because the name of the caption of the case is the People versus Leslie Van Houten, and the People are represented by Mr. Kay here --

I want to find out if you feel -- or if you believe that's some evidence of Miss Van Houten's guilt, because the plaintiff in this case happens to be the People of the State of California.

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MRS. ROHAN: No.

MR. KAY: Do you think you can keep an open mind throughout the entire testimony?

MRS. ROHAN: Yes.

MR. KEITH: I shouldn't ask you "do you think"; can you?

MRS. ROHAN: Yes.

MR. KEITH: And will you, will you maintain your individual opinion in the event you are selected as a trial juror and the case is submitted to you for decision during your deliberations?

MRS. ROHAN: Yes.

MR. KEITH: And you won't be swayed by whim, caprice or arbitrariness.

MRS. ROHAN: No.

MR. KEITH: Or simply because the majority of the jurors may have a different opinion than yours.

MRS. ROHAN: No.

MR. KEITH: I pass for cause.

THE COURT: Thank you.

Mr. Kay.

MR. KAY: Mrs. Rohan, because you are a nurse do you think that doctors are some sort of God, that they can do no wrong?

MRS. ROHAN: No.

MR. KAY: I take it you know better than that.

Do you think just because psychiatrists are also doctors, that you'd tend to give them more credence because of that fact?

MRS. ROHAN: No.

1 MR. KAY: Do you think psychiatrists are incapable of
2 error?
3 MRS. ROHAN: No.
4 MR. KAY: You told Mr. Keith that you wouldn't hesitate --
5 I believe you told him you wouldn't hesitate
6 sending somebody to a psychiatrist if you thought that they
7 were having mental problems.
8 Well, because of that do you think that just
9 because they might be able to help somebody with a current
10 problem, that that means that they can predict what somebody
11 was thinking at a particular hour eight years ago?
12 MRS. ROHAN: No.
13 MR. KAY: And if you are selected as a trial juror in
14 this case, would you let the psychiatrists make up your mind,
15 or would you make up your own mind?
16 MRS. ROHAN: I'll make up my own mind.
17 MR. KAY: And if you think that a psychiatrist gets on
18 the witness stand and testifies to something unreasonable, will
19 you reject his opinion?
20 MRS. ROHAN: If he --
21 MR. KAY: If you think it's unreasonable.
22 MRS. ROHAN: Right, yes, sir.
23 MR. KAY: And if you are selected as a juror in this
24 case, will you accept 100 percent of the responsibility for
25 determining Miss Van Houten's mental state at the time of the
26 LaBianca murders?
27 MRS. ROHAN: Yes.
28 MR. KAY: Mr. Keith asked you a question about

1 Miss Van Houten leading a hippie life style and would you
2 hold that against her.
3 You understand that that would be for you to
4 determine, whether or not she led a hippie life style or not.
5 As I said before, my understanding of hippies is
6 that they were peace loving; and that's for you to decide,
7 whether she led a hippie life style or some other type of
8 life style that might not have been peace loving.
9 Do you understand that?
10 MRS. ROHAN: Yes.
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1 MR. KAY: Just because Mr. Keith and I say something
2 in voir dire, the evidence comes from the witness stand, not
3 what we say during jury selection.
4 Now, the fact that Miss Van Houten has been in
5 custody for the last seven years, does that make any difference
6 to you?
7 MRS. ROHAN: No.
8 MR. KAY: Would you consider not convicting her or
9 convicting her of a reduced charge due to that fact?
10 MRS. ROHAN: No.
11 MR. KAY: And realizing that the prosecution has the
12 burden of proving a defendant guilty beyond a reasonable
13 doubt, would you hold us to a higher burden of proof?
14 MRS. ROHAN: No.
15 MR. KAY: Did you understand my example of circumstantial
16 and direct evidence?
17 MRS. ROHAN: Yes.
18 MR. KAY: Would you refuse to convict a defendant
19 based on circumstantial evidence standing alone?
20 MRS. ROHAN: No.
21 MR. KAY: Would you require of the prosecution that we
22 have to produce an eyewitness to a murder before you would
23 convict any defendant of any murder?
24 MRS. ROHAN: No.
25 MR. KAY: And do you feel that because Miss Van Houten
26 is here for a retrial, a second trial, that that's some
27 indication that she is more likely to be not guilty of the
28 charges?

MRS. ROHAN: No.

MR. KAY: And if you were in the jury room and you were the one holdout juror and the other 11 were wanting to convict her of first degree murder and you changed your mind, would you have the courage to vote along with the majority and come out here and tell all of us that that's your verdict?

MRS. ROHAN: Yes.

MR. KAY: Did you understand, as I told the other jurors, that under the law of conspiracy and aiding and abetting a person can be guilty of first degree murder even if they don't strike the fatal blow themselves.

Do you think that's a fair law?

MRS. ROHAN: Yes.

MR. KAY: And the fact that Miss Van Houten's mother might come in here and testify during the defense portion of the case, as to Miss Van Houten's background when she was with her, and you might feel sorry for the mother for what she has gone through over the years --

For that reason alone would you consider not convicting Miss Van Houten or convicting her of a reduced charge?

MRS. ROHAN: No.

MR. KAY: And because you might feel sorry for the mother, would you for that reason believe everything that the mother said about Miss Van Houten?

MRS. ROHAN: No.

MR. KAY: Do you think that anybody who commits a vicious, premeditated murder is mentally ill?

MRS. ROHAN: No.

MR. KAY: Can you conceive of a defendant calling psychiatrists as witnesses if the defendant wasn't in fact mentally ill?

MRS. ROHAN: Can I conceive of it?

MR. KAY: Yes.

MRS. ROHAN: Yes.

MR. KAY: Do you have any friends that are psychiatrists?

MRS. ROHAN: No.

MR. KAY: And other than studying about psychiatry during your nursing days, have you ever worked with a psychiatrists?

MRS. ROHAN: No.

MR. KAY: Do you think, if you are selected as a juror in this case, that you can keep clear in your mind throughout the trial the distinction between the fact that Miss Van Houten is chargedwith crimes in 1969, and not 1977?

T15af MRS. ROHAN: Yes.

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MR. KAY: Now, is there anything that I failed to ask you that you think would be important for me to know before I would select you as a juror in this case?

MRS. ROHAN: No.

MR. KEITH: Thank you very much.

I will pass for cause.

THE COURT: Thank you.

The peremptory is with the People, number three.

MR. KAY: The People will thank and excuse Juror No. 9, Mr. Swan.

Thank you, sir.

THE COURT: Mr. Swan, you are excused. Thank you for your attendance upon the court.

THE CLERK: Frank Coats, C-o-a-t-s.

THE COURT: Mr. Coats, did you hear the questions that I asked the panel previously?

MR. COATS: I did.

THE COURT: And if I were to ask you those same questions would your answers be substantially the same?

MR. COATS: Yes, sir.

THE COURT: Can you think of any reason why you couldn't be fair and impartial as to both sides of this case?

MR. COATS: No, sir.

THE COURT: All right.

Would you please give us your personal data.

MR. COATS: My name is Frank Coats.

Date of birth: 16th July, '32.
Residence: Compton area.

Marriage status: I'm married.

Children: Two boys, one 18, the other one 24.

Occupation: U.S. Army Corp of Engineers.

THE COURT: And is your wife employed outside the home?

MR. COATS: She is a nurse, but she is unemployed.

THE COURT: All right.

Have you previously served as a juror?

MR. COATS: No, sir.

THE COURT: Do you have any close relationship with law enforcement or anyone in law enforcement?

MR. COATS: No, sir.

THE COURT: Have you or any member of your family or anyone close to you been arrested or charged with a serious offense?

MR. COATS: No, sir.

THE COURT: Have you or any member of your family or anyone close to you been the victim of or a witness to a serious offense?

MR. COATS: No, sir.

THE COURT: Thank you.

Mr. Keith, you may inquire.

MR. KEITH: Mr. Coats, you are in the U.S. Army Corp of Engineers, I presume, as a civilian employee?

MR. COATS: Yes, sir.

MR. KEITH: Have you been in the service?

MR. COATS: Yes, sir.

MR. KEITH: How long ago was that?

MR. COATS: Well, I was out in '52.

1 MR. KEITH: And then did you join as a civilian?
2 MR. COATS: Yes, sir.
3 MR. KEITH: The Army --
4 MR. COATS: Yes.
5 MR. KEITH: -- Corp of Engineers.
6 MR. COATS: Yes.
7 MR. KEITH: Have you been in combat?
8 MR. COATS: Yes, sir.
9 MR. KEITH: The Korean War?
10 MR. COATS: Yes, sir.
11 MR. KEITH: Are you a member of any veterans'
12 organizations?
13 MR. COATS: No, sir.
14 MR. KEITH: Were you a member of the Corp of Engineers
15 at the time of the Korean War, or were you in the infantry?
16 MR. COATS: No, sir; the airborne and the infantry.
17 MR. KEITH: And what do your two boys do?
18 MR. COATS: One of them is in the military, and the other
19 one is in school.
20 MR. KEITH: Is it the older one that's in the military?
21 MR. COATS: Yes, sir.
22 MR. KEITH: And in what branch of the service?
23 MR. COATS: Military intelligence.
24 MR. KEITH: Is that the Army?
25 MR. COATS: Yes, sir.
26 MR. KEITH: What's his rank?
27 MR. COATS: I believe he's a Spec. 5 or Spec. 6; I don't
28 know.

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1 MR. KEITH: Was your wife a nurse at any hospital when
2 she was --
3 MR. COATS: Ft. MacArthur, yes.
4 MR. KEITH: -- employed?
5 Have you ever had any association or contact with
6 medical doctors practicing in psychiatry?
7 MR. COATS: No.
8 MR. KEITH: Or anybody in your family that you know
9 about other than your wife, probably?
10 MR. COATS: No, sir.
11 MR. KEITH: Have you ever studied psychiatry or
12 psychology?
13 MR. COATS: No, sir.
14 MR. KEITH: Do you know anybody either in your family
15 or outside your family that you consider friends or
16 acquaintances that have ever been involved with drugs?
17 MR. COATS: No, sir.
18 MR. KEITH: Do you know anything about --
19 MR. COATS: No.
20 MR. KEITH: -- different drugs, their qualities or
21 properties --
22 MR. COATS: No.
23 MR. KEITH: -- or effects?
24 And you do not know anybody that is in law enforce-
25 ment?
26 MR. COATS: I know people in law enforcement, yes.
27 MR. KEITH: Well or just casually?
28 MR. COATS: Well, pretty well. We are fishing partners.

1 MR. KEITH: All right.

2 And who might that be? Not names but just

3 generally speaking.

4 MR. COATS: I have about four on the Compton force and

5 about two in the Los Angeles Sheriff's Department.

6 MR. KEITH: Do you take fishing trips or junkets with

7 them?

8 MR. COATS: We take fishing trips together, yes.

9 MR. KEITH: Do you discuss or do they discuss with you

10 problems in law enforcement?

11 MR. COATS: Nothing but fishing talk.

12 MR. KEITH: You must be good to talk only about fishing.

13 Would you be able to follow all the instructions

14 given by the court in the event -- instructions of the law --

15 in the event you are selected as a trial juror?

16 MR. COATS: I would.

17 MR. KEITH: Can you think of anything, any of those

18 laws that we've been discussing, that you might disagree with?

19 MR. COATS: Not really.

20 MR. KEITH: When you say "Not really," is there some

21 area involving what might be the law of this case that you

22 have some doubts about or reservations about in your mind?

23 MR. COATS: Well, maybe, but --

24 MR. KEITH: Because now is the time to tell us about it,

25 because we can't stand here questioning you all day long.

26 MR. COATS: Not really. Not -- you know.

27 MR. KEITH: Well, is there something about the concept

28 of diminished capacity that bothers you?

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MR. COATS: No.

MR. KEITH: We have been discussing that, or at least I have.

MR. COATS: No.

MR. KEITH: Do you think you can follow a law that says A is not as responsible for a crime as B if A is shown to be mentally incapacitated to some extent?

MR. COATS: I could follow that.

MR. KEITH: Now, Mr. Kay has been asking if you think that somebody who commits a premeditated vicious murder is, in all probability, mentally ill.

MR. COATS: Yes.

MR. KEITH: Have you heard those questions asked by him?

MR. COATS: Yes.

MR. KEITH: Well, I do not want to get in an argument with him, but can you conceive of someone who commits a homicide -- I won't -- he calls it murder; I'm going to call it homicide -- homicide is killing somebody -- can you conceive of somebody committing a homicide who premeditates a homicide, thinks about it ahead of time, and not be guilty of murder, no matter how vicious, make it the most vicious thing that ever happened.

Can you conceive of that?

MR. COATS: Maybe so.

MR. KEITH: We are getting into the -- when we get on this subject of premeditation, we get into a rather complex region of the law that is not simple to understand. That's why I'd just as soon not.

If you are selected as a juror, your brain will be

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whirling soon enough, so I don't like to get into it now, particularly when it invades the province of the court to some extent.

Nevertheless, could you conceive of someone who could premeditate homicide, no matter how vicious, and still not be guilty of first degree murder?

MR. COATS: Maybe so.

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MR. KEITH: Okay.

Is there anything you can think of that you would like to share with us, Mr. Coats, that might make it difficult for you to give Miss Van Houten a fair trial; something in your background, your past, your education, your life experience, your beliefs, your thoughts, your attitudes that --

MR. COATS: Not really, because I've led a good life.

MR. KEITH: Well, I --

MR. COATS: You are stating my life --

MR. KEITH: I am --

MR. COATS: You are stating my life.

I lived a good life, so nothing --

MR. KEITH: I didn't say -- I wasn't intimating you haven't lived a good life. What I'm suggesting is because of the patterns of your life, because of some of your thoughts, because of some of your beliefs, Miss Van Houten may be at a disadvantage.

MR. COATS: No, sir.

MR. KEITH: You are sure of that?

MR. COATS: Positive.

MR. KEITH: Now, I apologize if I thought that --

MR. COATS: Maybe I misunderstood you. I'm sorry.

MR. KEITH: -- if I, by implication, suggested that you didn't live a good life.

We will pass for cause, Your Honor.

THE COURT: Thank you.

Mr. Kay?

MR. KAY: Thank you, Your Honor.

1 Mr. Coats, does the fact that Miss Van Houten
2 has been in custody for the last seven years make any difference
3 to you?
4 MR. COATS: No. No, sir.
5 MR. KAY: You don't feel that because of that that you
6 would consider not convicting her or convicting her for a
7 reduced charge just because she's been in custody for seven
8 years?
9 MR. COATS: No.
10 MR. KAY: As I think the judge made clear to everybody
11 this morning, penalty and punishment is something that it
12 would be improper to even discuss in the jury room by any of
13 the jurors. That's something -- this is not a death penalty
14 case, so penalty and punishment is something that you won't
15 have to consider in this case.
16 Do you feel that you understood the example I gave
17 of direct and circumstantial evidence?
18 MR. COATS: I did.
19 MR. KAY: And understanding that, would you refuse to
20 convict any defendant based on circumstantial evidence alone?
21 MR. COATS: Not really.
22 MR. KAY: Would you require of the prosecution that we
23 put forth an eyewitness to a murder before you would convict
24 any defendant of any murder?
25 MR. COATS: No, I guess not.
26 MR. KAY: All right. You understand --
27 MR. COATS: I --
28 MR. KAY: -- in a lot of murders, there are not eyewitnesses

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that are left.

MR. COATS: Yes.

I don't quite go along with it, but I guess it's the law. You have to --

MR. KAY: Well, some jurors in the past have told me that they just won't convict anybody of murder unless they hear an eyewitness up on the stand saying, "I saw the defendant shoot somebody else."

Now, if you have a murder during the course of a robbery in a big supermarket where there are a lot of witnesses, that's fine; but this is not alleged to be a supermarket robbery-murder in this case, you understand.

There are a lot of murders where there aren't witnesses because the victims are not with us any more.

Now, would you be the type of juror that would say, "I'm not going to convict any defendant of any murder unless I hear somebody up on that stand saying, 'I saw with my own eyes the defendant kill the victim'"?

MR. COATS: I would like to say it that way, yes. I would like to. But --

MR. KAY: Well, you would like to -- of course, we would all like to see eyewitnesses, if they were alive. But you understand that there just aren't a lot of eyewitnesses to a lot of murders.

MR. COATS: Right.

MR. KAY: Now, would you refuse to convict a defendant of murder if the prosecution didn't produce an eyewitness?

MR. COATS: No, not really.

MR. KAY: Well, can you promise me that? I mean, I can tell you --

MR. COATS: I could.

MR. KAY: I mean, I can tell you right now the prosecution may not produce any eyewitness to the murder of the LaBiancas in this case.

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So if you feel that you would need an eyewitness, maybe I would start out at a disadvantage in your mind.

Now, realizing that we may not put forth any eyewitnesses to the actual murder of the LaBiancas, do you feel that you can give the prosecution a fair trial?

MR. COATS: I could.

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MR. KAY: Okay.

Now, do you understand that under the law of conspiracy and aiding and abetting the defendant can be guilty of first degree murder, even though that defendant doesn't strike the fatal blow.

MR. COATS: Yes.

MR. KAY: Do you think that's a fair law?

MR. COATS: I don't know whether that's a fair law, but I guess that is the law.

MR. KAY: Well, would you follow that?

MR. COATS: I'd have to, yes.

MR. KAY: In other words, in a conspiracy, if a group of people get together and agree that they are going to kill somebody, but only one of the group goes out and does the actual murder, they are considered to be all guilty of the murder, even though only one of them does the actual murder.

Do you understand that?

MR. COATS: I understand that, yes.

MR. KAY: Do you think under that type of circumstance that it is a fair law if you have a whole group of people agreeing to commit a murder and, pursuant to that agreement, one of them goes out and commits that murder?

MR. COATS: I understand what you are talking about, but -- Yes.

MR. KAY: Well, will you follow the court's instructions in that regard?

MR. COATS: Yes.

MR. KAY: You don't think you would get in the jury room and say, "Well, you know, I'd like to follow the court's instructions, but, gee, I really don't think it is fair, and I just don't know that I could follow it in that circumstance."

You wouldn't do that, would you?

MR. COATS: No.

MR. KAY: Do you feel that just because a defendant calls a number of psychiatrists to testify in his or her behalf, that, therefore, that must mean that it's a fact that the defendant is mentally ill or has some mental illness in the past or they wouldn't call the psychiatrist?

MR. COATS: No, sir.

MR. KAY: Can you conceive of a defendant calling psychiatrists as witnesses if the defendant wasn't, in fact, mentally ill?

MR. COATS: Yes, sir.

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1 MR. KAY: Do you know anything about psychiatry?

2 MR. COATS: Not that much, no.

3 MR. KAY: Do you feel that because a psychiatrist is

4 also a medical doctor, that therefore you'd accept whatever

5 the psychiatrist said because of that reason?

6 MR. COATS: No, sir.

7 MR. KAY: And because psychiatrists are going to be

8 testifying in this case, are you going to sit back and let the

9 psychiatrists make up your mind for you, or are you going to

10 make up your mind?

11 MR. COATS: I'll make up my own mind.

12 MR. KAY: And if you are selected as a juror you are

13 willing to accept 100 percent of the responsibility for

14 determining Miss Van Houten's mental state at the time of the

15 LaBianca murders?

16 MR. COATS: I am.

17 MR. KAY: And because of the fact that the defense

18 might call more psychiatrists to testify in Miss Van Houten's

19 behalf than the prosecution calls to testify against her, do

20 you think that that means therefore the defense must be right

21 because they called more psychiatrists?

22 MR. COATS: No, sir.

23 MR. KAY: And do you think you can keep clear in your

24 mind, if you are selected as a juror, the fact that

25 Miss Van Houten is charged with murders and conspiracy to

26 commit murder in 1969, and not 1977?

27 MR. COATS: Yes, sir.

28 MR. KAY: And what you will be asked as an issue to

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decide in the case is what her state of mind was at the time of the LaBianca murders in '69, not '77.

And if Mr. Keith asks you in his closing argument to convict Miss Van Houten of second degree murder but you felt she was guilty of first degree murder, for any reason would you even consider convicting her of second degree murder?

MR. COATS: I'll follow my own judgment.

MR. KAY: Thank you very much.

I will pass for cause.

THE COURT: All right; thank you.

The peremptory is with the defendant, number three.

MR. KEITH: The defense will thank and excuse Juror No. 10, Mrs. Titus.

THE COURT: Mrs. Titus, thank you for your attendance. You are excused, ma'am.

THE CLERK: Mrs. Helen L. O'Reilly, O-'-R-e-i-l-l-y.

THE COURT: Mrs. O'Reilly, did you hear the questions that I asked the panel previously?

MRS. O'REILLY: Yes, I did.

THE COURT: And if I were to ask you those same questions would your answers differ in any way?

MRS. O'REILLY: No.

THE COURT: Can you think of any reason as you sit there now why you couldn't be fair and impartial as to both sides in this case?

MRS. O'REILLY: No.

THE COURT: Would you please give us your personal data?

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MRS. O'REILLY: My name is Helen L. O'Reilly.

I was born March 3, 1920.

I live in Monterey Park.

I'm a widow.

I have two children, ages 30 and 33.

And I work for the L.A. City Schools as a lab technician.

THE COURT: All right.

Have you previously served as a juror?

MRS. O'REILLY: No, I have not.

THE COURT: Do you have any close relationship with law enforcement or anyone in law enforcement?

MRS. O'REILLY: No.

THE COURT: Have you or anyone close to you ever been arrested or charged with a serious offense?

MRS. O'REILLY: No.

THE COURT: Have you or anyone close to you been a victim or a witness to a serious offense?

MRS. O'REILLY: My house was burglarized twice two years ago.

THE COURT: Now, you say it was burglarized twice?

MRS. O'REILLY: Yes.

THE COURT: And once was about three years ago?

MRS. O'REILLY: They were both within a short space of time.

Two years ago.

THE COURT: All right.

Is there anything about that fact or circumstance

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that would in any way affect your ability to be fair and impartial as to both sides of this case?

MRS. O'REILLY: No.

THE COURT: Thank you.

Mr. Keith, you may inquire.

MR. KEITH: Mrs. O'Reilly, what does that entail, if I may ask, being a lab technician for the Los Angeles City Schools?

MRS. O'REILLY: We assist --

The title of the job is Life Science Lab Technician.

And it's -- it entails culturing and providing microscopic organisms for the school student to use in the scientific classes.

MR. KEITH: I understand; thank you.

And what was your husband's occupation in his life time?

17af MRS. O'REILLY: He was an accountant.

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MR. KEITH: And what are the occupations of your two children?

MRS. O'REILLY: My son is a welfare case worker.

My daughter is unemployed.

MR. KEITH: Let's see; your children's ages -- I don't have it down.

I have 30 --

MRS. O'REILLY: 30 and 33.

MR. KEITH: And which is the oldest, your son or daughter?

MRS. O'REILLY: My son.

MR. KEITH: Does your daughter have any particular occupation when she is employed?

MRS. O'REILLY: She was a rehabilitation counselor for the state.

MR. KEITH: Do you know any psychiatrists?

MRS. O'REILLY: No, not personally.

MR. KEITH: Do you have any particular feeling about psychiatrists, that they are generally inadequate or generally pretty good and perform a useful service for society?

MRS. O'REILLY: Yes, I do.

MR. KEITH: Do you know anybody that's been treated by a psychiatrist? Anybody well, that is.

MRS. O'REILLY: Members of my family.

MR. KEITH: Was their experience beneficial, in your opinion, or harmful or indifferent?

MRS. O'REILLY: I would say it was beneficial.

MR. KEITH: So you don't have any beef against

1 psychiatrists, presumably.

2 MRS. O'REILLY: No.

3 MR. KEITH: He is going to ask you; so I suppose I might

4 as well ask you.

5 Psychiatrists can make mistakes. And do you feel

6 that way --

7 MRS. O'REILLY: Yes.

8 MR. KEITH: -- or do you feel they are infallible?

9 And in the event psychiatrists do testify in this

10 case, are you going to consider their opinions and the reasons

11 therefor, and evaluate their testimony in accordance with the

12 dictates of your mind and your conscience?

13 And your -- assuming you have a reasonably sharp

14 mind, which you appear to have.

15 MRS. O'REILLY: I think I could evaluate their testimony.

16 MR. KEITH: You won't toss it aside because they practice

17 psychiatry?

18 MRS. O'REILLY: No.

19 MR. KEITH: In the event the evidence indicates

20 Miss Van Houten had an association with Mr. Manson, would

21 that --

22 Even though that association may well be extremely

23 relevant in this case, would you tend to give her no

24 consideration whatsoever because she was involved with what

25 most people believe is a rather evil person, to put it politely?

26 MRS. O'REILLY: No, I wouldn't.

27 MR. KEITH: Do you have any particular knowledge of

28 certain purported religious movements, such as the

Hare Krishna organization and the followers of Reverend Moon or any other organization that deals in what we might term thought control or ---

MRS. O'REILLY: Only in general terms.

MR. KEITH: You don't know of anybody that's involved in any of those types of groups, do you?

MRS. O'REILLY: No, sir.

MR. KEITH: Would you follow the law as to diminished capacity if the court instructs you on that subject?

MRS. O'REILLY: Yes.

MR. KEITH: We have been discussing it on -- or I have been, and so has Mr. Kay, to some extent. And we are interested in finding out your state of mind thereto.

For instance, would you be violently opposed to a law that states, generally, that someone who is mentally unbalanced at the time -- I'm really paraphrasing it -- is guilty of a particular offense to a lesser degree than someone who, to put it vulgarly, has all their marbles?

MRS. O'REILLY: No.

MR. KEITH: You don't take issue or have any quarrel with that concept?

MRS. O'REILLY: No.

MR. KEITH: You think that's fair enough?

MRS. O'REILLY: I think so.

MR. KEITH: You are sure now?

MRS. O'REILLY: Yes.

MR. KEITH: Without going into the complexities of that concept, you think, generally speaking, it's a fair concept.

Is there anything that you can think of that you would like to share with us that may make it difficult for you to pass judgment on Miss Van Houten fairly and impartially and dispassionately?

MRS. O'REILLY: No.

MR. KEITH: You wouldn't hesitate to return a verdict in her favor, would you, even though you may feel that it might be an unpopular verdict or that you might be criticized by friends or family?

MRS. O'REILLY: No.

MR. KEITH: You'd have the courage of your convictions?

MRS. O'REILLY: Yes, I would.

MR. KEITH: Thank you.

Pass for cause, Your Honor.

THE COURT: Thank you.

Mr. Kay.

MR. KAY: Thank you, Your Honor.

Mrs. O'Reilly, just because you feel that a psychiatrist might be able to help somebody with a current problem, do you therefore think that they can come into a courtroom and predict with accuracy what somebody was thinking eight years ago?

MRS. O'REILLY: No, not necessarily.

MR. KAY: Now, did you hear the questions that I asked the other jurors?

MRS. O'REILLY: Yes, I did.

MR. KAY: And would any of your answers be substantially different?

MRS. O'REILLY: No, I don't know of any.

MR. KAY: Okay.

Thank you. I will pass for cause.

THE COURT: Thank you.

The peremptory is with the People, number four.

MR. KAY: May the People thank and excuse Mrs. O'Reilly.

Thank you, ma'am.

THE COURT: Mrs. O'Reilly, you are excused. Thank you for your attendance upon the court.

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THE CLERK: Dale K. Finley, F-i-n-l-e-y.

THE COURT: Mr. Finley, did you hear the questions that I asked the panel previously?

MR. FINLEY: Yes, I did.

THE COURT: And if I were to ask you those same questions, would your answers be substantially the same?

MR. FINLEY: Yes, they would.

THE COURT: As you sit there now, can you think of any reason why you couldn't be fair and impartial as to both sides in this case?

MR. FINLEY: No, I cannot.

THE COURT: All right.

Would you please give us your personal data.

MR. FINLEY: My name is Dale K. Finley.

Date of birth is 2-18-56.

Area of residence, Pasadena.

I'm single; obviously I have no children.

My occupation, I am a sales clerk for Sears, Roebuck.

THE COURT: Have you previously served as a juror?

MR. FINLEY: No, I have not.

THE COURT: And do you have any close relationship with law enforcement or anyone in law enforcement?

MR. FINLEY: No, I do not.

THE COURT: Have you or anyone close to you ever been arrested or charged with a serious offense?

MR. FINLEY: No, sir.

THE COURT: Have you or anyone close to you ever been

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the victim or a witness to a serious offense?

MR. FINLEY: No.

THE COURT: Thank you.

Mr. Keith, you may inquire.

MR. KEITH: Thank you, Your Honor.

How long have you been with Sears, Roebuck?

MR. FINLEY: Seven months.

MR. KEITH: What was your occupation before then?

MR. FINLEY: Student.

MR. KEITH: Where?

MR. FINLEY: Pardon?

MR. KEITH: Where?

MR. FINLEY: Pasadena City College.

MR. KEITH: Had you studied psychology at all at college?

MR. FINLEY: I took one course, introductory psychology.

MR. KEITH: Have you done any reading subsequent to that time on the subject?

MR. FINLEY: No, I have not.

MR. KEITH: Do you know anybody engaged in the law enforcement field?

MR. FINLEY: No, sir.

MR. KEITH: Do you know any psychiatrists?

MR. FINLEY: No, I do not.

MR. KEITH: Do you know anybody that has consulted a psychiatrist?

MR. FINLEY: Pardon?

MR. KEITH: Do you know anybody that has consulted a psychiatrist?

18-3

MR. FINLEY: No, sir.

MR. KEITH: Do you have a general antipathy towards psychiatrists?

Do you feel they are more likely to be charlatans than not?

MR. FINLEY: No, I do not.

MR. KEITH: You are sure of that?

MR. FINLEY: Yes.

MR. KEITH: You wouldn't tend to discount the testimony of psychiatrists, if called for the defense, would you, simply because they are medical doctors practicing in that field?

MR. FINLEY: No, sir.

MR. KEITH: You are sure of that?

MR. FINLEY: I'm positive.

MR. KEITH: Do you know anybody that is involved in drug use?

MR. FINLEY: No, I do not.

MR. KEITH: Nobody at all, not even at Pasadena CC?

MR. FINLEY: No.

MR. KEITH: I live in Pasadena, too, so --

MR. FINLEY: No, I don't.

MR. KEITH: Have you done any reading in that field?

MR. FINLEY: Some.

MR. KEITH: Have you ever heard of LSD before?

MR. FINLEY: Yes, I have.

MR. KEITH: Have you read anything about its properties or its possible effects?

MR. FINLEY: Some.

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MR. KEITH: Do you have an opinion now as to whether that drug is therapeutic or otherwise, the opposite?

MR. FINLEY: I would think otherwise. I don't think it's exactly therapeutic.

MR. KEITH: You have never -- you don't know anybody that's been the victim or a witness to a serious offense, do you?

MR. FINLEY: No, I don't.

18-5

MR. KEITH: Did I ask you if you knew anybody in law enforcement?

MR. FINLEY: Yes, you did.

I? MR. KEITH: I believe I did and you said no.

Do you know anybody that is into the Hare Krishna movement or following -- a follower of Reverend Moon or any organization that has thought control as one of its primary purposes?

MR. FINLEY: No, I don't.

MR. KEITH: Benevolent or otherwise.

Have you made any study or maintained any interest in those particular types of groups?

MR. FINLEY: No, sir.

MR. KEITH: Have you ever been in the service?

MR. FINLEY: No, sir.

MR. KEITH: Have you always lived in Los Angeles County?

MR. FINLEY: Only for a short time, I lived in Montana, for about four months.

MR. KEITH: The rest of the time you have lived in this area?

MR. FINLEY: Yes, in Pasadena.

MR. KEITH: Would you have any difficulty accepting a law if it were -- if you were instructed upon by the court -- involving diminished capacity, as I've been talking to the other jurors about?

MR. FINLEY: I would not.

MR. KEITH: You don't feel that's an unfair law?

MR. FINLEY: No, I do not.

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MR. KEITH: Mind you, my discussions and Mr. Kay's discussions have been rather superficial, of necessity, at this point.

MR. FINLEY: Yes, sir.

MR. KEITH: But understanding the concept, would you think that's fair, and do you think you could follow such a law?

MR. FINLEY: Yes, I think I could.

MR. KEITH: Are there any other legal concepts that have been enunciated here that you would have trouble following?

MR. FINLEY: No, sir.

MR. KEITH: Like presumption of innocence, reasonable doubt -- oh, Mr. Kay talked about circumstantial evidence to some extent. That's an important concept.

None of those things bother you?

MR. FINLEY: No, they do not.

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MR. KEITH: Do you think you would have the courage to return a verdict in favor of Miss Van Houten, even though you felt such a verdict might be unpopular amongst your friends or associates or community at large?

MR. FINLEY: Yes, I could.

MR. KEITH: Do you think you can keep an open mind throughout the case and not close it at the end of the prosecution's case?

MR. FINLEY: Yes, sir.

MR. KEITH: In the event you see some unfortunate photographs and hear some gory evidence, do you think that is going to so inflame you against Leslie that you will be

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unable to treat her fairly thereafter?

MR. FINLEY: No, I don't think so.

MR. KEITH: You are sure of that?

MR. FINLEY: I'm positive.

MR. KEITH: Or pretty sure about it.

I'm not suggesting, as I keep emphasizing, that they may not have relevance, and probably will, and you will give such photographs or such testimony the relevance you think it is entitled to.

But in and of itself, that's not going to turn you so off against her that you won't be fair?

MR. FINLEY: No, it would not.

MR. KEITH: All right.

In the event Miss Van Houten testifies, will you give her the benefit of her testimony or just say to yourself, "Well, she's a defendant. She's going to put her best foot forward. And I'm not going to believe her."

Are you going to do that?

MR. FINLEY: I would give her the same --

MR. KEITH: Well, you would judge --

MR. FINLEY: -- courtesy I would anyone else.

MR. KEITH: I was going to answer it for you, because that's sort of a --

You would consider her testimony by the same standards that you would any other witness?

MR. FINLEY: Yes, I would.

MR. KEITH: There are certain guidelines by which to test the credibility of a witness that I won't go into, but,

18-8

again, part of the instructions.

Would you follow those instructions?

MR. FINLEY: Yes, I would.

MR. KEITH: Pass for cause, Your Honor.

THE COURT: Thank you.

Mr. Kay?

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MR. KAY: Thank you, Your Honor.

Mr. Finley, do you feel any sympathy for Miss Van Houten as she sits over there?

MR. FINLEY: No.

MR. KAY: Would you require any more evidence to convict a woman of murder than you would a man?

MR. FINLEY: No, sir.

MR. KAY: The fact that Miss Van Houten has been in custody for the last seven years, does that make any difference to you?

MR. FINLEY: It does not.

MR. KAY: Would you consider not convicting her or convicting her of a reduced charge because of that fact?

MR. FINLEY: I would not.

MR. KAY: Do you think you have clear in your mind the distinction between a reasonable doubt and a doubt based on speculation or conjecture?

MR. FINLEY: I think I do, yes.

MR. KAY: And would you hold the prosecution to a higher burden of proof than the law holds us to?

MR. FINLEY: I would not.

MR. KAY: You understand we have to prove in every criminal case every defendant guilty beyond a reasonable doubt, but that's it. We don't have to have a motion picture film of somebody committing a crime in order to prove the defendant guilty.

MR. FINLEY: Yes, I understand that.

MR. KAY: Have you ever studied law?

18-10

MR. FINLEY: I have some.

MR. KAY: And what type of law have you studied?

MR. FINLEY: I have taken two courses in general law and intermediate law.

MR. KAY: Well, you will have to give me --

MR. FINLEY: I don't know the course -- I cannot remember the course names. They were taken -- one in my senior year of high school, which was just a general law course. It just dealt with criminal courts, civil courts, and how they operate.

MR. KAY: Was a good portion of that -- did a good portion of that deal with the criminal courts of that course?

MR. FINLEY: Most of it dealt with civil cases.

MR. KAY: And what about the other course?

The other course, I take it, was in college?

MR. FINLEY: Yes.

MR. KAY: And what was the title of that course?

MR. FINLEY: I believe the course was intro to law. They discussed the processes which one would take if he were incarcerated and et cetera.

MR. KAY: And so I take it that concentrated a lot on criminal law?

MR. FINLEY: Yes, it did.

MR. KAY: Did you study the elements of murder?

MR. FINLEY: No, I did not.

MR. KAY: Did you study anything about psychiatry in the law?

MR. FINLEY: No, sir.

MR. KAY: And the law course, was it Pasadena City

College?

MR. FINLEY: Yes, sir. However, I did not finish that course.

MR. KAY: You didn't like it?

MR. FINLEY: No. My father died in the course of the class; therefore, I had to withdraw from the class.

MR. KAY: How far into the course were you?

MR. FINLEY: Three months. The course was five and a half.

MR. KAY: Five and a half months?

MR. FINLEY: Yes, sir. It was an extended course.

MR. KAY: What was your major in college, or did you have one?

MR. FINLEY: I did not have one.

MR. KAY: Are you still taking any courses at college or --

MR. FINLEY: Not at the present time.

MR. KAY: Have you ever testified in court before?

MR. FINLEY: No, sir.

MR. KAY: Have you ever watched a case in court other --

Well, is this the very first time you have ever been on jury duty?

MR. FINLEY: Yes, sir.

MR. KAY: Okay.

Have you ever watched a case in court before --

MR. FINLEY: No, sir.

MR. KAY: -- as part of your class or anything like that?

18-12

You never went to court to watch?

MR. FINLEY: No, sir. That would have come after I dropped the course.

MR. KAY: Have you ever had what I termed to some of the other jurors on Thursday an unfortunate experience with a police officer, maybe a ticket you did not think you deserved, or something like that?

MR. FINLEY: A ticket. I think they should have got me for more than they got me, but nothing besides that, no.

MR. KAY: Well, I'll dig up your records if you -- No, I won't do that. Statute of limitations has run on that anyway.

MR. FINLEY: I would hope so.

MR. KAY: So nothing has happened that you feel that you would hold against the police officers in this case?

MR. FINLEY: No, sir.

MR. KAY: And you told Mr. Keith that you didn't have any quarrel with the law of circumstantial evidence.

of? Would you require the prosecution that we'd have to put an eyewitness to the murder of the LaBiancas on the stand before you would convict any defendant of the LaBianca murders?

MR. FINLEY: No, sir.

19 fl

19-1

MR. KAY: If you were the one juror in the jury room that was holding out and the 11 other jurors were voting for first degree murder and you changed your mind because somebody pointed out to you that maybe you misread an instruction or misinterpreted it, or something along that line, would you have the courage, not only in the jury room to tell the other jurors that you'd vote for first degree murder, but to come out here and tell the court, when the clerk of the court polls the jury, that that is your verdict?

MR. FINLEY: Yes, I could.

MR. KAY: Even though you realize that your verdict would make the verdict unanimous and mean it would be a first degree murder conviction?

MR. FINLEY: Yes, I could.

MR. KAY: Do you have any quarrel with the fact that under the law of California a defendant can be convicted of first degree murder under the theories of conspiracy and aiding and abetting even if that person didn't themselves strike the fatal blow, killing the victim?

MR. FINLEY: I have no quarrel with that.

MR. KAY: Would you follow the court's instructions on that?

MR. FINLEY: Yes, I would.

MR. KAY: Without telling me exactly where you live in Pasadena, do you live anywhere near the Fair Oaks exit of the freeway?

MR. FINLEY: (No response.)

MR. KAY: Fair Oaks.

19-2

MR. FINLEY: I live halfway between the two, Fair Oaks and Lake.

MR. KAY: Do you feel that just because a defendant calls a psychiatrist in his or her behalf, that therefore that means the defendant must in fact be mentally ill or have a history of mental illness or they wouldn't call psychiatrists as witnesses?

MR. FINLEY: No, I do not think that way.

MR. KAY: Can you conceive of defendants calling psychiatrists as witnesses on their behalf if they weren't in fact mentally ill?

MR. FINLEY: Yes, I can.

MR. KAY: Do you think that psychiatrists are somebody special, that they are incapable of error?

MR. FINLEY: No, I do not.

MR. KAY: You think they are just as capable of error as any of the rest of us?

MR. FINLEY: Yes, sir.

MR. KAY: I'm not sure that Mr. Keith asked you this: But have you ever known anybody that's gone to a psychiatrist?

MR. FINLEY: No, I have not.

MR. KAY: And since psychiatrists are going to testify in this case, are you going to make up your own mind or let them make up your mind as to what Miss Van Houten's mental state was at the time of the LaBianca murders?

MR. FINLEY: I will make up my own mind.

MR. KAY: Do you think psychiatry is an exact science, like chemistry or mathematics, where you can come up with

19-3

definite, provable answers?

MR. FINLEY: I do not.

MR. KAY: And because the defense and prosecution psychiatrists might disagree as to whether or not Miss Van Houten had the mental capacity to commit a first degree murder, are you going to take that to mean automatically that there is a reasonable doubt as to whether or not she could have the capacity to commit a first degree murder?

MR. FINLEY: I would not.

MR. KAY: You understand psychiatric testimony will just be one part of this case; there will be a lot of other evidence.

You won't close your mind on the other evidence in the case just because psychiatrists are going to testify, would you?

MR. FINLEY: No, I would not.

MR. KAY: And if you were selected as a juror in the case, do you think that you could keep straight in your mind the fact that Miss Van Houten is charged with murders in 1969, and not in 1977?

MR. FINLEY: Yes, I could.

MR. KAY: Do you think you could keep that clear in your mind at all times?

MR. FINLEY: Yes, sir.

MR. KAY: Is there anything that I haven't asked you that you think I should know about you in order to help me make a decision whether to keep you as a juror in the case?

MR. FINLEY: No, sir.

MR. RAY: All right, thank you very much.

I will pass for cause.

THE COURT: Thank you.

The peremptory is with defense, number four.

MR. KEITH: The defense will thank and excuse Juror No. 3, Mrs. Robinson.

THE COURT: Mrs. Robinson, thank you for your attendance. You are excused.

THE CLERK: Nell M. Burton, B-u-r-t-o-n.

THE COURT: All right.

Ladies and gentlemen, at this time we are going to take the afternoon recess.

Bear in mind during this recess you are not to discuss this case amongst yourselves or with anyone else, you are not to form any opinion concerning this matter or express any opinion concerning this matter until the case is finally given to you.

Furthermore, you must not allow yourselves to read, see or hear any news media accounts of this matter.

The court will be in recess until 10 minutes past 3:00.

All jurors, the defendant and counsel are ordered to return at that time.

The court is in recess.

T20E (Recess.)

20-1

THE COURT: People versus Van Houten.

Let the record show the defendant is present, represented by counsel; the People are represented by counsel; the prospective jurors are in their appropriate places.

All right, Mr. Burton, did you hear the questions that I previously asked the panel?

MR. BURTON: Yes, I did, Your Honor.

THE COURT: And if I were to ask you those same questions, would your answers be substantially the same?

MR. BURTON: Yes, Your Honor.

THE COURT: Can you think of any reason why you couldn't be fair and impartial as to both sides in this case?

MR. BURTON: None, Your Honor.

THE COURT: All right.

Would you please answer the personal data matters on the board, please.

MR. BURTON: Neil H. Burton.

3-6-22.

Gardena.

Married; one child, age 20.

Occupation, tool room attendant.

Spouse is a housewife.

THE COURT: Have you previously served as a juror?

MR. BURTON: No, sir.

THE COURT: Do you have any close relationship with law enforcement or anyone in law enforcement?

MR. BURTON: No, sir.

THE COURT: Have you or anyone close to you been arrested

20-2

for or charged with a serious offense?

MR. BURTON: Yes, sir.

THE COURT: And who would that be?

MR. BURTON: My son.

THE COURT: And how long ago was that?

MR. BURTON: One year ago.

THE COURT: Has that matter been resolved in the courts?

MR. BURTON: Yes, sir.

THE COURT: Would that fact or circumstance in any way affect your ability to be fair and impartial in this case?

MR. BURTON: Negative.

THE COURT: All right.

In other words, you could put that fact or circumstance completely to one side and decide this case solely on the evidence to be presented in this courtroom and the instructions the court would give you; is that correct?

MR. BURTON: I could, Your Honor.

THE COURT: All right.

Have you or anyone close to you ever been a witness to or a victim of a serious crime?

MR. BURTON: No, sir.

THE COURT: All right, thank you.

Mr. Keith, you may inquire.

MR. KEITH: Thank you, Your Honor.

Mr. Burton, how long have you lived in the Gardena area?

MR. BURTON: It's been my residence, the present address, for 30 years.

21 f1

MR. KEITH: And what is the name of the concern for whom you are employed now or for which you are employed now?

MR. BURTON: Southern California Regional Occupational Center, Torrance.

21-1

MR. KEITH: Could you describe generally the function of a Southern California Regional Occupational Center.

MR. BURTON: Yes, sir.

To teach nonpotential college students in the 11th and 12th grades an occupation.

MR. KEITH: A trade.

MR. BURTON: A trade.

MR. KEITH: And consequently there are tools there, and you take care of the tools; is that right?

MR. BURTON: Yes, sir.

It's in the machine shop section, and we have something like a couple million dollars worth of machinery there.

And we teach the students to be machine operators on lathes, mills, turret lathes, grinders --

MR. KEITH: When you say you are an attendant, you are more than an attendant, then; you are actually a teacher there.

MR. BURTON: No, I'm not a teacher.

I take care of the tool crib and account for tools, do their ordering for the machine tool area, and see that the tools get returned.

That's the big problem.

MR. KEITH: Do you know anybody that's abused drugs, Mr. Burton?

MR. BURTON: I beg your pardon, sir?

MR. KEITH: Do you know anyone that has abused drugs?

MR. BURTON: No, sir, not really.

I guess all the young people have probably tried it at one time or another.

My kid has, pot; that's the only one.

MR. KEITH: Is that the trouble he was in?

MR. BURTON: No, sir.

MR. KEITH: Do you believe your --

Your son has been in court. I don't want to be personal, but you almost have to be in a case of this seriousness.

Has your son been to court?

MR. BURTON: Yes, sir. He's already been tried, and he's on parole at the present time.

MR. KEITH: Do you believe he was tried fairly and justly by the courts, or do you have some animosity towards the court system, the criminal justice system?

MR. BURTON: Well, not -- no, sir, I don't have anything against the justice department.

But I think --

MR. KEITH: Not the justice department. We are all involved in the system and --

MR. BURTON: In his particular case I thought he kind of got a rough rap.

MR. KEITH: You told us he was on parole.

Are you sure you don't mean probation?

MR. BURTON: Or probation, yes, sir. Probation, rather.

MR. KEITH: Would your feeling that your --

Would you be inclined to maybe take it out on Leslie because you felt your --

1 MR. BURTON: No, sir.
2 MR. KEITH: -- son --
3 MR. BURTON: No.
4 MR. KEITH: -- got a rough rap, in your words?
5 MR. BURTON: No.
6 MR. KEITH: Do you feel any hostility towards anyone in
7 this court because of the predicament your son found himself
8 in?
9 MR. BURTON: No, sir.
10 MR. KEITH: You are sure of that.
11 MR. BURTON: No, sir. Positive.
12 MR. KEITH: Do you know any psychiatrists, or is there
13 anybody in your family or amongst your close friends who have
14 been treated by psychiatrists?
15 MR. BURTON: None to my knowledge, no, sir.
16 MR. KEITH: Have you done any studying or read anything
17 in psychology or psychiatry?
18 MR. BURTON: No, sir.
19 MR. KEITH: Do you have any dislike towards psychiatrists
20 as a group? Bearing in mind there are always good doctors and
21 inferior doctors.
22 But generally speaking, do you feel that, let's
23 say, psychiatrists practice a profession they really don't know
24 too much about because of the complexities of the human mind?
25 MR. BURTON: No, sir.
26 MR. KEITH: You wouldn't --
27 In the event psychiatrists appeared in behalf of
28 Miss Van Houten, you wouldn't simply characterize them as

1 charlatans and not pay any attention to their testimony,
2 would you?
3 MR. BURTON: No, sir.
4 MR. KEITH: You believe that psychiatrists perform a
5 useful function in society?
6 MR. BURTON: As far as I know, yes, sir.
7 MR. KEITH: You don't have any belief to the contrary.
8 MR. BURTON: No, sir.
9 MR. KEITH: Would you listen to the psychiatric testimony,
10 in the event it's offered in behalf of Miss Van Houten, and
11 do your best to understand it and listen to their opinions,
12 listen to their reasons therefor, and give their testimony
13 the weight you feel it's entitled to.
14 MR. BURTON: Yes, sir, I believe I could.
15 MR. KEITH: In the event the evidence indicated that
16 Miss Van Houten did use chronically certain hallucinogenic
17 drugs, would you feel that she somehow has been contaminated
18 and that you would not give her the benefit of her defense as
19 a result thereof?
20 MR. BURTON: I would have to wait until all the evidence
21 was presented before I could make a fair statement on that,
22 sir.
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MR. KEITH: What I'm saying is you simply wouldn't disregard the defense evidence because the evidence did indicate she was a user of drugs at one time?

Now, again, I have to emphasize this, I'm not suggesting that the use of drugs by her and perhaps others isn't most relevant, you understand. What I'm trying to determine is if you would become hostile towards her because she did abuse drugs at one time and give her less consideration than she otherwise might deserve.

MR. BURTON: No, sir.

MR. KEITH: And in the event the evidence indicated that she was involved with a gentleman by the name of Charles Manson, who is a coindictee, incidentally, as I'm sure you are aware, for that fact, and for that fact alone, would you be inclined to give her case less consideration than it otherwise deserves?

Again, I'm not saying that her association with Manson isn't extremely relevant; but would that so unhinge you to learn of an association that you would tend to put her at a distinct disadvantage?

MR. BURTON: No, sir.

MR. KEITH: Have there been any concepts, legal concepts, that you tend to quarrel with that you have heard about while you have been here for the past two weeks?

MR. BURTON: No, sir.

MR. KEITH: You have heard me talk about diminished capacity, have you not, with some of the other jurors?

MR. BURTON: Would you repeat that, please?

MR. KEITH: Have you heard me discuss briefly a concept called diminished capabity or diminished responsibility with other jurors, or couldn't you hear me?

MR. BURTON: No, sir, I couldn't hear you. I was in the back row there.

MR. KEITH: All right. I'd better ask you a question or two on that subject.

Let's suppose His Honor instructs you that there is a principle known as diminished capacity or diminished responsibility whereby a person, by reason of mental illness or defect, commits an act, a criminal act. And let's further suppose that by reason of that mental incapacity, let's say, the law says you are less responsible for the offense than if someone with a sound mind had committed it.

Do you understand that?

MR. BURTON: Yes, sir.

MR. KEITH: Now, if the judge tells you that is the law, would you follow it, or would you say, "Everybody is in the same boat. If A, B, and C do the same thing, they are all -- they all should suffer the same responsibility regardless of their differing mental states at the time"?

MR. BURTON: I would have to follow the instructions of the judge.

MR. KEITH: Would you have any quarrel with that kind of a concept, that kind of a doctrine, called diminished capacity?

In other words, if your brain is diminished at the time of the offense, you may not be as responsible as someone else who has done the same thing.

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Do you have any quarrel with that concept?

MR. BURTON: No, sir; I don't have any quarrel with it.

MR. KEITH: Would you have any hesitation to return a verdict in favor of Miss Van Houten, even though you felt that verdict might be unpopular in the community or amongst your friends or associates?

Do you understand that question?

MR. BURTON: Yes, sir; I understand the question.

I'd have to wait until I weighed all the evidence --

MR. KEITH: No, I'm not --

MR. BURTON: -- both the prosecutor and the defense.

MR. KEITH: Okay. Now, you didn't understand the question, I don't believe. Let me ask it again:

Let's assume that you believe in your heart and in your mind and in your conscience that Miss Van Houten is entitled to a favorable verdict. A favorable verdict, all right?

And let's suppose you also felt down deep that that verdict, when you announced it, or if you announced it, would be received unfavorably by the community in general; that you would be criticized or embarrassed or humiliated.

Would you have the courage to bring back the verdict you felt was proper despite the --

MR. BURTON: Yes, sir; I believe I would, yes.

MR. KEITH: You would not have any difficulty or hesitation doing that, I take it?

MR. BURTON: No, sir.

MR. KEITH: Well, I'm going to pass for cause.

THE COURT: Thank you.

Mr. Kay, you may inquire.

MR. KAY: Mr. Burton, what was the nature of the charge against your son?

MR. BURTON: Assault.

MR. KAY: Now, did that matter actually proceed to a trial?

MR. BURTON: Yes, sir.

MR. KAY: Was it a trial by a jury or by a judge?

MR. BURTON: Just by a judge.

MR. KAY: Was that out in Torrance?

MR. BURTON: Yes, sir.

MR. KAY: Now, you said that you felt that your son got a bum rap.

Was that because you didn't think he was guilty, or you thought the sentence was too severe?

MR. BURTON: I thought the sentence -- at the time he was put on his own recognizance for over three months. And then when he came to trial for sentencing, he was given a year.

MR. KAY: So you don't have any quarrel with the fact of his guilt; you just thought that the sentence was a little too harsh?

MR. BURTON: I thought the sentence was a little out of line after being on his own recognizance.

MR. KAY: But you did agree with the judge's decision that your son was guilty of the offense?

MR. BURTON: Oh, yes, sir.

MR. KAY: Now, did you feel that your son was treated

fairly by the police department in that case?

MR. BURTON: Yes, sir. They -- the Gardena police, the sergeant in charge of the case put in a word, and his temporary probation officer wrote a nice letter and recommended -- The boy just started college on a Wednesday, and on Friday he was sentenced.

Pity!

So I think it kind of ruined his life as far as his education went.

MR. KAY: Now, did you feel that the prosecutor who handled the case handled it fairly?

MR. BURTON: Well, I thought the lawyer was a little -- he didn't push hard enough.

MR. KAY: You mean your son's lawyer?

MR. BURTON: The public defender.

MR. KAY: All right.

But what about the deputy district attorney that prosecuted your son; do you think he was fair?

MR. BURTON: Yes, sir.

MR. KAY: Did he do anything that you didn't like that you would --

Well, did he do anything you didn't like?

MR. BURTON: No, sir.

MR. KAY: So basically, then, your whole disagreement with what happened was just the judge's sentence was too stiff?

MR. BURTON: Yes, sir. That's all.

MR. KAY: Now, because of the fact that Miss Van Houten's mother is going to come -- may come into court and testify

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on Miss Van Houten's behalf in the defense portion of the case, are you going to identify with her because your son has had a problem and her daughter has a problem?

MR. BURTON: No, sir.

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MR. KAY: Do you see any distinction between your son's problem and the problem that Miss Van Houten may have?

MR. BURTON: No, sir.

MR. KAY: Now, the fact that Miss Van Houten has been in custody for seven years, does that make any difference to you?

MR. BURTON: No, sir.

MR. KAY: Because of that fact, would you consider acquitting her or convicting her of a reduced charge, because you feel seven years is long enough for any defendant to spend in custody for any murder?

MR. BURTON: No, sir.

MR. KAY: Is there anything at all that happened, even -- Well, because the judge out in Torrance gave your son what you felt to be a harsh sentence, are you going to therefore hold that against Judge Hinz here?

MR. BURTON: No, sir.

MR. KAY: And are you going to even consider the question of penalty or punishment in the jury room when you are deliberating on this case, if you are selected as a juror?

MR. BURTON: No, sir.

MR. KAY: Was your son's problem in any way, shape or form connected with dangerous drugs or narcotics?

MR. BURTON: No, sir.

MR. KAY: And as far as you know, your son has tried marijuana, but you don't know if he has tried anything else, any type of drugs?

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MR. BURTON: No, sir.

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MR. KAY: Did you understand the example I gave of direct and circumstantial evidence?

MR. BURTON: (No response.)

MR. KAY: Or could you hear me in the back row?

Do you remember I gave the example of my friend that lived on the top of the hill and I lived at the bottom?

MR. BURTON: Oh --

MR. KAY: Do you remember that?

MR. BURTON: Right, sir.

MR. KAY: Do you think you understood that example?

MR. BURTON: I think so.

That was last week; you better run through it one more time.

MR. KAY: All right. I'm sure everybody is real excited about that.

(Laughter.)

MR. KAY: I will; okay. I have a captive audience here.

All right. Assuming that I live at the bottom of a hill and I have a friend named Don that lives at the top of the hill, and from my house I can see up to the top of the hill and I can see where he lives.

MR. BURTON: You have refreshed me.

MR. KAY: You mean you want me to quit? I'm just getting warmed up.

MR. BURTON: You can quit.

(Laughter.)

MR. BURTON: You can stop. It came through.

(Laughter.)

23-3

THE COURT: There is a man after my own heart.

(Laughter.)

MR. KAY: I was just getting started.

All right. So you think you do understand the difference between direct and circumstantial evidence.

You understand direct evidence --

MR. BURTON: Right.

MR. KAY: -- is like if I wanted to prove that you were holding that microphone, direct evidence would be that I am looking at you holding it right now and I can come into court and I can say, "I saw Mr. Burton hold the microphone in court."

That would be direct evidence.

But circumstantial evidence might be if I didn't see you when I walked in and I wanted to know who the last person was that held that microphone and I bring in a fingerprint man who takes a latent fingerprint, he dusts it with powder, and your fingerprint appears.

And I have all the jurors put their fingerprints on exemplar cards, and lo and behold he says, "That's Mr. Burton's fingerprint because I have compared the latent with his exemplar."

That would be circumstantial evidence. I didn't see you hold the microphone then, but I could prove by circumstantial evidence -- by the fact that you had your fingerprint on there, that you held the microphone.

Now, realizing the distinction between direct and circumstantial evidence, would you refuse to convict a defendant based on circumstantial evidence alone?

MR. BURTON: (Pause.) No, sir.

MR. KAY: All right.

If the prosecution didn't put forth any eyewitness testimony to a murder, would you refuse to convict any defendant of any murder unless we put an eyewitness on the stand?

MR. BURTON: Yes, sir, if it was proven, if you could prove it.

MR. KAY: Okay.

Well --

MR. BURTON: I think I misinterpreted your last question.

MR. KAY: Yes, I think you did.

What I am trying to get at is this:

Some jurors won't convict anybody of anything unless the prosecution puts on an eyewitness that says, "I saw Mr. Burton hold the microphone."

I mean, the fact that your fingerprints are on there, that wouldn't make any difference.

"Unless you can put an eyewitness on that actually saw Mr. Burton holding the microphone, we are not going to believe that Mr. Burton held the microphone."

Now, in a murder case, would you refuse to convict a defendant, any defendant of any murder unless we put an eyewitness on that actually saw that defendant killing the victim?

Do you understand what I am saying?

MR. BURTON: I -- if you could prove it without -- to beyond a reasonable doubt.

MR. KAY: Yes.

MR. BURTON: I would go for the circumstantial as well as -- or the eyewitness, whichever.

MR. KAY: In other words, you wouldn't require us to put an eyewitness on before you would convict a defendant of murder, would you?

MR. BURTON: No, sir.

MR. KAY: So long as we proved the defendant's guilt

1 beyond a reasonable doubt, that's all you would require of us;
2 is that right?
3 MR. BURTON: Yes, sir.
4 MR. KNX: And of course that's what the law requires.
5 We have to prove a defendant's guilt beyond a reasonable doubt.
6 But the law makes no distinction between direct and
7 circumstantial evidence. Both direct and circumstantial are
8 viewed the same under the law.
9 It's just whatever convinces you.
10 It might be all circumstantial, it might be all
11 direct, or it might be a combination of both.
12 But you wouldn't require of us that we actually
13 put on an eyewitness, would you, so long as we convinced you
14 beyond a reasonable doubt that the defendant was guilty?
T23xf 15 MR. BURTON: No, sir.
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MR. KAY: And can you conceive of the fact that you could be convinced beyond a reasonable doubt that a defendant is guilty without an eyewitness to the actual crime?

MR. BURTON: (No response.)

MR. KAY: I mean, do you think it's possible that we could convince you beyond a reasonable doubt that the defendant is guilty of a crime without putting on an eyewitness?

Or do you think —

MR. BURTON: I believe it would be possible.

MR. KAY: But pretty hard?

MR. BURTON: (No response.)

MR. KAY: I'm trying to get what's in your mind; I don't know.

MR. BURTON: Well, I believe that if you could prove beyond a reasonable doubt that the party was guilty, then I would have to go along with it.

MR. KAY: Well, can you conceive of us proving that to you without an eyewitness?

MR. BURTON: (No response.)

MR. KAY: Or would you just say that, "Hey, there is no way that the prosecution can prove that to me unless I actually hear somebody up on the witness stand saying, 'I saw Leslie Van Houten actually commit the murder'"?

MR. BURTON: Yes, sir, I believe you could.

MR. KAY: You think we could.

Now, under the law of conspiracy and aiding and abetting a person can be convicted of first degree murder even though they don't strike the fatal blow.

Do you have any quarrel with that law?

MR. BURTON: No, sir.

MR. KAY: You think that's a fair law?

MR. BURTON: Yes, sir.

MR. KAY: Now, because psychiatrists are going to --

Well, let me ask you this: Do you think that anybody who -- any defendant who commits a crime has some psychiatric problems or they wouldn't commit a crime?

MR. BURTON: I don't think I could answer that truthfully, sir.

MR. KAY: Well, do you think that every defendant who commits a crime is necessarily mentally ill?

MR. BURTON: That's a possibility.

MR. KAY: Well, did you think your son was mentally ill when he committed the crime he was convicted of?

MR. BURTON: I think he was just plain dumb, to be honest with you.

(Laughter.)

MR. KAY: You think there is a difference between being dumb and being mentally ill?

MR. BURTON: In his case there was.

(Laughter.)

MR. KAY: So since in his case there was, you think it's possible that in somebody else's case there might be a difference between being dumb and mentally ill or maybe between being bad and being mentally ill?

MR. BURTON: Yes, sir.

MR. KAY: So you don't necessarily think that everybody

that commits a crime is necessarily mentally ill, then, do you?

MR. BURTON: No, sir.

MR. KAY: Do you think that anybody who commits a vicious murder necessarily must have been mentally ill at the time they committed the murder?

MR. BURTON: The way it's happened -- I don't know that answer, truthfully, really.

MR. KAY: I'm just asking for your state of mind.

Let me ask you this: Can you conceive in your own mind of somebody committing a vicious murder without that person being mentally ill at the time they committed the murder?

MR. BURTON: I would think you'd have to be a little imbalanced.

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MR. KAY: All right. I don't have any further questions.

I'll pass for cause.

THE COURT: All right, thank you.

The peremptory is with the People, number 5.

MR. KAY: The People will thank and excuse Mr. Burton.

Thank you, sir.

THE COURT: Mr. Burton, thank you for your attendance. You are excused, sir.

THE CLERK: Mrs. Lillian R. Pica, P-i-c-a.

THE COURT: Ma'am, did you hear the questions that I asked the panel previously?

MRS. PICA: Yes, I did.

THE COURT: And if I were to ask you those same questions, would your answers be substantially the same?

MRS. PICA: Yes, sir.

THE COURT: As you sit there now, can you think of any reason why you couldn't be fair and impartial as to both sides in this case?

MRS. PICA: No, sir.

THE COURT: Would you please give us your personal data.

MRS. PICA: My name is Lillian R. Pica.

I was born on July 18, 1939.

I live in Temple City.

I am divorced.

I have one child, a girl, age 11.

And I'm a secretary employed by Arcadia School District.

THE COURT: All right.

And have you previously served as a juror?

MRS. PICA: No, sir.

THE COURT: Do you have any close relationship with law enforcement or anyone in law enforcement?

MRS. PICA: No, sir.

THE COURT: Have you or anyone close to you ever been arrested or charged with a serious offense?

MRS. PICA: No.

THE COURT: Have you or anyone close to you ever been a victim or a witness to a serious offense?

MRS. PICA: No, sir.

THE COURT: All right, thank you.

Mr. Keith, you may inquire.

MR. KEITH: Thank you.

How long have you lived in the Temple City area, Mrs. Pica?

MRS. PICA: About eight years.

MR. KEITH: How long have you been employed by the Arcadia School District?

MRS. PICA: Four years.

MR. KEITH: And what was your employment, if any, before then?

MRS. PICA: I was employed with a chalkboard firm in South El Monte as a secretary.

MR. KEITH: A what firm? I'm sorry.

MRS. PICA: A chalkboard -- they manufactured and installed chalkboards or blackboards.

MR. KEITH: Oh, chalkboards.

24-3

MRS. PICA: Yes.

MR. KEITH: Thank you. My hearing, not your diction, I'm sure.

Do you know anybody, Mrs. Pica, that has consulted a psychiatrist for treatment?

MRS. PICA: No, I don't.

MR. KEITH: Have you done any reading or studying either in school or otherwise in the field of psychiatry or psychology?

MRS. PICA: No, sir.

MR. KEITH: And you yourself have never consulted a psychiatrist, I'm sure.

MRS. PICA: No.

MR. KEITH: Do you have any dislike of medical doctors who practice psychiatry in general?

MRS. PICA: No, sir.

MR. KEITH: Bearing in mind, I'm sure there's top ones, excellent ones, and some not so good, but, as a general proposition, do you feel that the human mind is too complex a subject to be understood by those practicing psychiatry?

MRS. PICA: I really haven't given it any thought.

MR. KEITH: You don't know whether you would --

Let me ask you this: Do you think psychiatrists perform a function in society that is useful?

MRS. PICA: Yes, sir.

MR. KEITH: Would you be inclined to disregard the testimony of a psychiatrist if he appeared in behalf of Miss Van Houten simply because of his profession?

MRS. PICA: No, I would not.

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MR. KEITH: Inasmuch as you haven't given the profession of psychiatry any thought, would you be inclined to think that the human mind and how it operates and how it reacts is too tough a subject for anybody to decipher --

MRS. PICA: No.

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MR. KEITH: -- or to understand?

MRS. PICA: No. I just have not had occasion to think about psychiatry.

MR. KEITH: Do you know anybody who was, has, in your opinion, been an abuser of illegal narcotics or dangerous drugs?

MRS. PICA: No, sir.

MR. KEITH: Have you ever done any reading on that subject?

MRS. PICA: No, sir.

MR. KEITH: Have you ever heard of a drug by the name of LSD, sometimes called acid?

MRS. PICA: Yes, sir.

MR. KEITH: And have you heard of that drug from something you have read or something somebody has told you about or from both sources?

MRS. PICA: Probably from what someone has said.

MR. KEITH: You have never paid any special or particular interest to the properties or effects of that drug, I presume?

MRS. PICA: That's right.

MR. KEITH: I think you told us you had hardly ever heard of Mr. Manson before you came into the courtroom; is that correct?

MRS. PICA: That's right.

MR. KEITH: So any association the evidence may disclose that Mr. Manson may have had with Miss Van Houten wouldn't affect your judgment whatsoever, would it?

MRS. PICA: That's right.

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MR. KEITH: And supposing you were shown some bloody photographs, would that so inflame you against Miss Van Houten that you would be inclined not to give her the fair -- the sort of fair trial that she deserves?

MRS. PICA: No, sir.

MR. KEITH: Or if you heard some testimony that was very unpleasant and rather gory, would that so inflame you against her that you would have difficulty giving her the fair trial to which she is entitled?

MRS. PICA: No, sir.

MR. KEITH: Are there any principles of law that we have discussed here in the courtroom that you take issue with, that you have a quarrel with?

MRS. PICA: No, sir.

MR. KEITH: Have you been able to hear our brief discussions as to a concept called diminished capacity?

MRS. PICA: Yes, I heard your discussions.

MR. KEITH: Do you have any quarrel with that concept?

MRS. PICA: No.

MR. KEITH: Do you believe that if A shoots B, and A is normal, of sound mind, he should be guilty of one sort of offense, but if he's mentally unbalanced, mentally ill to the point where his capacity -- his mental capacity is severely impaired, do you feel it is fair that A be treated differently?

MRS. PICA: Yes.

MR. KEITH: Rather, the second A be treated -- sort of like Dr. Jekyl and Mr. Hyde.

And I'm not talking -- When I say "treated

24-7

1 differently," that's slightly ambiguous. I'm not talking
2 about punishment or penalty. I'm talking about, as Mr. Kay
3 has put it, a reduced charge.
4 MRS. PICA: I understand.
5 MR. KEITH: Do you feel that's fair?
6 MRS. PICA: Yes.
7 MR. KEITH: In the event you decided in your heart and
8 in your mind and in your conscience that Miss Van Houten was
9 entitled to a favorable verdict -- now, I'm talking now after
10 you have retired to the jury room and have undergone
11 deliberations with your fellow jurors and you have reached a
12 decision, and that decision is favorable to her -- would you
13 hesitate to have the courage of your convictions and return
14 that verdict even though -- because, not "even though" --
15 because you felt that verdict might be unpopular in your
16 community or amongst your friends or amongst your fellow
17 workers?
18 MRS. PICA: No, I would not.
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MR. KEITH: You are sure of that?

MRS. PICA: Positive.

MR. KEITH: In other words, you wouldn't be scared to return the verdict you thought was proper if it happened to be in her favor?

MRS. PICA: That's right.

MR. KEITH: And you wouldn't let any outside external pressures persuade you otherwise?

I'm not talking about people talking to you, but just a feeling, "Oh, I'm going to be criticized, I'm going to be humiliated if I return this verdict."

MRS. PICA: Wouldn't bother me.

MR. KEITH: You are sure of that?

MRS. PICA: Yes.

MR. KEITH: Thank you.

Pass for cause.

THE COURT: Thank you.

Mr. Kay, you may inquire.

MR. KAY: Thank you, Your Honor.

Mrs. Pica, you are not going to refuse to look at those photographs if you are selected as a juror in this case, are you, because Mr. Keith might not want you to look at them?

MRS. PICA: No, sir.

MR. KAY: You understand that if you are selected as a juror in the case you have to view all the evidence, whether some of it might be distasteful to you or not?

MRS. PICA: Yes, sir.

MR. KAY: Now, the fact that Miss Van Houten has been in

custody for seven years, does that make any difference to you?

MRS. PICA: Makes no difference.

MR. KAY: You wouldn't do as Mr. Keith has suggested, give her a favorable verdict because of that fact?

MRS. PICA: No, I would not.

MR. KAY: Do you feel any sympathy at all for Miss Van Houten as she sits over there?

MRS. PICA: No, sir.

MR. KAY: Do you think you have clear in your mind a distinction between a reasonable doubt and doubt based on speculation and conjecture?

MRS. PICA: Yes, sir.

MR. KAY: The fact that you have a daughter and the fact that Miss Van Houten's mother might come into court and testify as to her background while she lived with her mother, are you going to tend to associate yourself with Miss Van Housen's mother because you have a daughter and she has a daughter?

MRS. PICA: No, I would not.

MR. KAY: Do you see any resemblances between your daughter and Leslie Van Houten?

MRS. PICA: No, my daughter is only 11.

25 f1

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MR. KAY: You are not going to attempt to identify with Leslie Van Houten because of your daughter?

MRS. PICA: No.

MR. KAY: Have you ever testified in court before?

MRS. PICA: No, sir.

MR. KAY: Did you understand my example of circumstantial and direct evidence, I hope?

MRS. PICA: Yes, I did.

MR. KAY: Okay.

Good; I don't have to repeat it.

Five more minutes. It would take me that long to just repeat it.

Would you require of us that we put on an eyewitness to a murder before you would convict any defendant of any murder?

MRS. PICA: No, I would not.

MR. KAY: And would you refuse to convict a defendant of murder based on circumstantial evidence alone?

MRS. PICA: I would not.

MR. KAY: Did you understand my examples --

Well, did you understand that under the law in California under the theories of conspiracy and aiding and abetting a defendant can be found guilty of first degree murder even though the defendant himself or herself doesn't strike the fatal blow killing the victim?

MRS. PICA: I understand.

MR. KAY: Do you think that's a fair law?

MRS. PICA: Yes.

25-2

MR. KAY: Have you ever had any prior jury duty before?

MRS. FICA: Never.

MR. KAY: Not even on a tour other than this tour right here.

MRS. FICA: That's right.

MR. KAY: If you were the one juror in the jury room holding out and the other 11 were -- wanted to convict Miss Van Houten of first degree murder and then you changed your mind for some reason and you felt that she was guilty of first degree murder, would you have the courage not only of telling the other jurors in the jury room that that was your verdict of first degree murder but coming out here in the courtroom and telling us all here in court that that's your verdict?

MRS. FICA: I would have that courage.

MR. KAY: Even though you knew your vote would make the verdict unanimous and mean that Miss Van Houten would be convicted of first degree murder?

MRS. FICA: Yes.

MR. KAY: If Mr. Keith got up and argued at the close of the case that you should convict Miss Van Houten of second degree murder but you felt she was guilty of first degree murder, would you for any reason consider convicting her of second degree murder?

MRS. FICA: Not on what he said alone.

MR. KAY: In other words, if you thought she was guilty of first degree that's what you would convict her of.

MRS. FICA: Right.

MR. KAY: Did you say you lived in the Temple City area?

25-3

MRS. PICA: Yes.

MR. KAY: How long have you lived in that area?

MRS. PICA: About eight years.

MR. KAY: Eight years?

MRS. PICA: (Nods head affirmatively.)

MR. KAY: So you were living there in '69?

MRS. PICA: Yes.

MR. KAY: Do you think that anybody who commits a vicious murder must necessarily have been mentally ill at the time they committed the murder?

MRS. PICA: No, I do not.

MR. KAY: Do you think anybody who commits a crime must be mentally ill?

MRS. PICA: No.

MR. KAY: Can you conceive of a defendant calling psychiatrists on her behalf if she wasn't in fact mentally ill at sometime?

MRS. PICA: Yes.

MR. KAY: Do you think psychiatrists are incapable of error?

MRS. PICA: They make errors just like everyone else.

MR. KAY: Do you think psychiatry is an exact science, like chemistry or mathematics, where you can come up with definite, provable answers?

MRS. PICA: No.

MR. KAY: And since psychiatrists are going to testify in this case, are you going to let them make up your mind, or are you going to make up your own mind?

MRS. PICA: I will make up my own mind.

MR. KAY: If the psychiatrist gets up on the stand and testifies to something that you think is unreasonable, will you reject his opinion?

MRS. PICA: Yes.

MR. KAY: And in reaching your opinion on Miss Van Houten's guilt or innocence, will you look at all the evidence in the case, not just the psychiatric testimony?

MRS. PICA: Absolutely.

MR. KAY: You understand the psychiatric testimony will just be a part of the case; there will be a lot of other evidence.

MRS. PICA: Right.

MR. KAY: Just because Mr. Keith and I happen to be talking a lot about psychiatric evidence and how jurors view psychiatric evidence doesn't mean that's going to be 100 percent of the trial.

You understand that?

MRS. PICA: I understand.

MR. KAY: Because the prosecution and defense psychiatrists might disagree as to whether Miss Van Houten had the mental capacity to commit a willful, deliberate, premeditated murder of the first degree, are you going to take that disagreement to automatically mean that there must be a reasonable doubt?

MRS. PICA: No, sir.

MR. KAY: And if you are selected as a juror in the case, do you think that you can keep distinct in your mind

1 throughout the trial at all times that Miss Van Houten is
2 being charged with two counts of murder and one count of
3 conspiracy to commit murder in 1969, and not in 1977.
T25af 4 MRS. FICH: Yes.
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MR. KAY: Is there anything I failed to ask you that you think I should know about you in determining whether or not to select you as a trial juror in the case?

MRS. PICA: I can't think of a thing.

MR. KAY: Thank you.

I will pass for cause.

THE COURT: Thank you.

The peremptory is with the defense, number 5.

MR. KEITH: The defense will thank and excuse Juror No. 10, Mr. Finley.

THE COURT: Mr. Finley, you are excused. Thank you for your attendance upon the court.

THE CLERK: Bill J. Albee, A-l-b-e-e.

THE COURT: Mr. Albee, did you hear the questions that I asked the panel previously?

MR. ALBEE: Yes, sir.

THE COURT: And if I were to ask you those same questions would your answers be substantially the same?

MR. ALBEE: Yes, sir.

THE COURT: As you sit there now, can you think of any reason why you couldn't be fair and impartial as to both sides in this case?

MR. ALBEE: No, sir.

THE COURT: All right.

Would you please give us your personal data.

MR. ALBEE: My name is Bill Albee.

My date of birth is October the 17th, 1922.

I live in South Gate.

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I am married.

I have a stepson, approximately 37. I don't know the exact date.

My occupation is a paper maker.

THE COURT: I'm sorry. I didn't hear that.

MR. ALBEE: Paper maker.

My wife is an accounting clerk.

THE COURT: By whom are you employed?

MR. ALBEE: The Flintkote Company.

THE COURT: By whom is your wife employed?

MR. ALBEE: Ernest Paper Products.

THE COURT: Have you previously served as a juror?

MR. ALBEE: No, sir.

THE COURT: Do you have any close relationship with law enforcement or anyone in law enforcement?

MR. ALBEE: No, sir.

THE COURT: Have you or anyone close to you ever been arrested for or charged with a serious offense?

MR. ALBEE: Yes, sir.

THE COURT: And who was that?

MR. ALBEE: My stepson.

THE COURT: How long ago did that occur?

MR. ALBEE: I don't know exactly. I think it's probably been five or six years ago.

THE COURT: And what was the nature of the charge?

MR. ALBEE: That I don't know, either, sir.

He wasn't living with us, and I wasn't informed of what --

THE COURT: Was that in the State of California or outside the State of California?

MR. ALBEE: In the State of California.

THE COURT: Do you know what county?

MR. ALBEE: Probably Los Angeles.

THE COURT: All right.

I take it you don't know of any of the details surrounding that episode?

MR. ALBEE: No, sir.

THE COURT: Would you be able to put completely to one side those facts and circumstances to the extent that you know them, and decide this case solely on the evidence to be presented in this courtroom and the instructions the court would give you?

MR. ALBEE: Yes, sir.

THE COURT: All right.

Now, have you or anyone close to you been a witness or a victim to a serious offense?

MR. ALBEE: I had a burglary on my property probably about four or five years ago.

THE COURT: Did you have to go to court in that matter?

MR. ALBEE: No, sir.

THE COURT: Were you present when the burglary took place?

MR. ALBEE: No, sir.

THE COURT: Is there anything about that fact or circumstance that would in any way affect your ability to be fair and impartial in this case?

MR. ALBEE: No, sir.

THE COURT: Would you be able to put that matter completely to one side, and decide this case solely on the evidence to be presented in this courtroom and the instructions the court would give you?

MR. ALBEE: Yes, sir.

THE COURT: All right; thank you.

Ladies and gentlemen, at this time we are going to recess in this matter until tomorrow morning.

Now, tomorrow morning all jurors are to report to the jury room on the fifth floor, and not Department 106. That's being used for other purposes.

So all jurors are to report to the jury room at 9:45. The bailiff will go down at the appropriate time to have you brought into court.

So remember two things: One, don't go to Department 106, there won't be anybody there to take care of you; and number two, don't come to this courtroom.

In other words, go to the fifth floor jury room and await developments there.

All right. I must admonish you again that you are not to discuss this case amongst yourselves or with anyone else, and you are not to form any opinion concerning this matter or express any opinion concerning this matter until the case is finally given to you.

Furthermore, it would be inappropriate for you to read, hear, or see any news media accounts of this matter.

Have a good evening.

The court will see you all back tomorrow morning at 9:45.

The defendant and counsel are ordered back at that time.

Thank you.

(At 4:05 p.m. an adjournment was taken until Tuesday, April 12, 1977, at 10 a.m.)