

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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THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
vs.
LESLIE VAN HOUTEN,
Defendant.

9010

NO. A253156

REPORTERS' DAILY TRANSCRIPT

Tuesday, April 12, 1977

Volume 10

Pages 1513 to 1670 , incl.

APPEARANCES: (See Volume 1.)

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1 LOS ANGELES, CALIFORNIA, TUESDAY, APRIL 12, 1977, 10:30 A.M.

2 DEPARTMENT NO. 130

HON. EDWARD A. HINZ, JR., JUDGE

3 - - -

4 (Appearances as heretofore noted.)

5 THE COURT: Good morning, ladies and gentlemen.

6 People versus Van Houten.

7 Let the record show the defendant is present,
8 represented by counsel, the People are represented by counsel,
9 the prospective jurors are present.

10 Would counsel approach the bench just a minute
11 with the court reporter, please.

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2-1
1 (The following proceedings were held
2 at the bench:)

3 THE COURT: All right.

4 Yesterday it was stipulated that Mrs. Minnie Lee
5 Randall, who had to go to a funeral today, would have her
6 name tag pulled from the box of jurors, and that it would go
7 back in the box when she returns to court tomorrow.

8 I just want to be sure that is on the record.

9 MR. KAY: Right. We did agree to that.

10 MR. KEITH: Yes.

11 THE COURT: All right.

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

14 THE COURT: Mr. Keith, you may inquire of Juror No. 10,
15 Mr. Albee.

16 MR. KEITH: Thank you, Your Honor.

17 Mr. Albee, how long have you been with Flintkote?

18 MR. ALBEE: Twenty-three years.

19 MR. KEITH: Had you ever been in the service?

20 MR. ALBEE: Yes, sir.

21 MR. KEITH: When was that, sir?

22 MR. ALBEE: 1942 to 1946.

23 MR. KEITH: Have you ever been in combat?

24 MR. ALBEE: Yes, sir.

25 MR. KEITH: What branch of the service?

26 MR. ALBEE: The army air force.

27 MR. KEITH: This is more out of -- not particularly
28 relevant.

1 What air force?

2 MR. ALBEE: The Thirteenth.

3 MR. KEITH: In the Pacific?

4 MR. ALBEE: Yes, sir.

5 MR. KEITH: What were you?

6 MR. ALBEE: Transport pilot.

7 MR. KEITH: Are you a member of any veterans organi-
8 zations?

9 MR. ALBEE: No, sir.

10 MR. KEITH: Did you go to work for Flintkote after being
11 discharged?

12 MR. ALBEE: No. I went to work in the industry that I'm
13 in, but it was a different company.

14 MR. KEITH: When you say you are a paper maker, I know
15 what Flintkote does, but your particular job, what does that
16 entail, just generally?

17 MR. ALBEE: Well, paper making, of course, is -- in my
18 case -- is taking recycled fibers and reprocessing them into
19 new paper.

20 My particular job is assistant superintendent.

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1 MR. KEITH: You are on the line, are you?

2 MR. ALBEE: Yes, sir.

3 MR. KEITH: And for what company does Mrs. Albee work?

4 MR. ALBEE: It's Ernest Paper Products.

5 MR. KEITH: And she is an accountant, according to my
6 notes; is that correct?

7 MR. ALBEE: An accounting clerk.

8 MR. KEITH: Do you number among your friends or
9 acquaintances anyone engaged in the field of psychiatry or
10 psychology?

11 MR. ALBEE: No, sir.

12 MR. KEITH: Has anybody in your family or any close
13 friends ever been treated by a psychiatrist?

14 MR. ALBEE: Not to my knowledge.

15 MR. KEITH: Have you taken any courses in or studied
16 psychology or psychiatry?

17 MR. ALBEE: No, sir.

18 MR. KEITH: Do you have any opinion on the value that
19 psychiatry may or may not contribute to society at large?

20 MR. ALBEE: I'm certain they do contribute.

21 MR. KEITH: I take it from that answer you have no
22 antipathy towards psychiatrists in general?

23 MR. ALBEE: No, sir.

24 MR. KEITH: You feel they do perform a valuable social
25 function?

26 MR. ALBEE: Yes, sir.

27 MR. KEITH: In the event psychiatrists testify here,
28 you, then, would not disregard their testimony simply because

1 of the nature of their profession.

2 MR. ALBEE: No, sir.

3 MR. KEITH: On the grounds that all psychiatrists are
4 charlatans or they are not capable of delving into the
5 complexities of the human mind.

6 You don't feel --

7 MR. ALBEE: I would consider what they say.

8 MR. KEITH: All right.

9 Now, have you had any exposure to the use or
10 abuse of illegally obtained drugs? Not yourself, but anybody
11 that's been close to you. Any friends, any relatives.

12 MR. ALBEE: Very briefly.

13 One time we had about an hour lecture at the
14 plant where I work on how to recognize the obvious symptoms
15 and what the different pills and things looked like.

16 MR. KEITH: Other than that, have you read any articles
17 in newspapers or magazines or been a participant in any
18 lectures or other presentations on the subject of drugs?

19 MR. ALBEE: I'm sure that I have read newspaper articles
20 where drugs were mentioned.

21 MR. KEITH: Have you ever heard of a drug called LSD
22 outside of this courtroom?

23 MR. ALBEE: Yes, sir.

24 MR. KEITH: Do you know much, if anything, about that
25 drug, its properties, its effects?

26 MR. ALBEE: Not about the properties, but I have read
27 the effects can be pretty bad.

28 MR. KEITH: In the event the evidence showed

1 Miss Van Houten consumed LSD to excess, would you consider
2 that fact in relation to all the other facts in the case
3 that may be presented to you from the witness stand in
4 evaluating Miss Van Houten's mental state?

5 Or would you simply close your mind to any other
6 evidence and say, "Well, Miss Van Houten, she abused LSD
7 and other drugs; I'm not going to give her any consideration
8 at all"?

9 MR. ALBER: Well, if it were introduced I'm sure that
10 I would have to consider it.

11 MR. KEITH: What I am getting at is, you won't be so
12 hostile towards that fact, the fact that drug abuse was
13 disclosed in this trial, that you would tend to disregard
14 all the other evidence bearing on her mental state and be --
15 well, your mind would be poisoned against her.

16 MR. ALBER: No.

17 MR. KEITH: All right.

18 Would you have any hesitation, Mr. Alber, in
19 returning a verdict, if you are selected as a trial juror,
20 favorable to Miss Van Houten if in your heart and your
21 conscience you believed that was a correct verdict, despite
22 the possibility of external public pressures, despite the
23 possibility in your mind that it might be an unpopular verdict?

24 MR. ALBER: No.

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1 MR. KEITH: You would have the courage of your convictions,
2 as I've asked all the other prospective jurors?

3 MR. ALBEE: Yes.

4 MR. KEITH: In the event the evidence indicated
5 Miss Van Houten was involved with Mr. Manson, and everybody
6 has heard about him, would that fact tend to so prejudice
7 you against her that you couldn't judge her fairly?

8 Again, I emphasize that such a relationship may
9 well be relevant; but if you heard from the witness stand she
10 had been involved with Mr. Manson some years ago, would that
11 so turn you off against her that you would be unable to
12 evaluate the nature of that relationship, vis-a-vis all the
13 other evidence in the case?

14 MR. ALBEE: No, sir.

15 MR. KEITH: Have you been able to hear our brief
16 discussions on the law of diminished capacity?

17 Sometimes apparently I've lowered my voice, and
18 some jurors in the audience have been unable to hear because
19 I've been directing my attention to you in the box.

20 MR. ALBEE: I've heard it.

21 MR. KEITH: Do you have any quarrel with such a rule of
22 law?

23 MR. ALBEE: No, sir.

24 MR. KEITH: You don't disagree, then, with the concept
25 that says that if A and B commit the same offenses, and if
26 B's mental state is different than A's, B's responsibility
27 under the law must be less, depending on the nature of the
28 mental state, of course.

1 MR. ALBEE: No, I don't disagree with that.

2 MR. KEITH: All right.

3 You would follow scrupulously any instruction
4 given you by His Honor --

5 MR. ALBEE: Yes.

6 MR. KEITH: -- on that subject?

7 MR. ALBEE: Yes, sir.

8 MR. KEITH: Do you feel it is possible, Mr. Albee, that
9 somebody, to use Mr. Kay's phraseology, can commit a vicious
10 homicide and still be mentally ill, mentally deranged?

11 MR. ALBEE: Would you state that again, please.

12 MR. KEITH: All right.

13 Do you feel it is possible, to use -- I'm not
14 conceding this, mind you -- for someone to commit or participate
15 in, using his phraseology, a vicious homicide and be suffering
16 from a mental illness reducing the degree of responsibility
17 of that person?

18 MR. ALBEE: Yes, sir; that's possible.

19 MR. KEITH: Is it your belief that the fact that
20 Miss Van Houten has been indicted is some evidence of her
21 guilt; that she's more likely to be guilty than innocent?

22 MR. ALBEE: No, sir.

23 MR. KEITH: Is it your belief that because she sits here
24 awaiting trial she's more likely to be guilty than innocent?

25 MR. ALBEE: No, sir.

26 MR. KEITH: Do you believe that at the present time
27 she's presumed to be innocent?

28 MR. ALBEE: Yes, sir.

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1 MR. KEITH: From your answers to those questions, I
2 take it you have no quarrel whatsoever with the principles of
3 law that His Honor has enunciated during this course of jury
4 selection?

5 MR. ALBEE: No, I don't.

6 MR. KEITH: Are you a member of any veterans organizations?

7 MR. ALBEE: No, sir.

8 MR. KEITH: I'd pass for cause, Your Honor.
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1 THE COURT: Thank you.

2 Mr. Kay, you may inquire for cause.

3 MR. KAY: Thank you, Your Honor.

4 Good morning, Mr. Albee.

5 MR. ALBEE: Morning.

6 MR. KAY: Mr. Albee, how many times a year do you see
7 your stepson?

8 MR. ALBEE: I haven't seen him for several years;
9 probably -- possibly ten.

10 MR. KAY: Possibly how many?

11 MR. ALBEE: Possibly ten -- eight or ten years.

12 MR. KAY: You haven't seen him for eight or ten years?

13 MR. ALBEE: No, sir.

14 MR. KAY: And do you have any children by -- Is this
15 marriage now, is this your first and only marriage?

16 MR. ALBEE: Yes, sir.

17 MR. KAY: And you don't have any other stepchildren
18 besides the one stepson?

19 MR. ALBEE: No, sir.

20 MR. KAY: When your stepson got in trouble, you don't
21 know the exact nature of the charges, you didn't follow that
22 at all?

23 MR. ALBEE: No, sir.

24 MR. KAY: Well, you just have no idea what it was?

25 MR. ALBEE: No, I don't.

26 MR. KAY: How long have you lived in the South Gate area?

27 MR. ALBEE: Since about April of 1947 with one six-months
28 break when I lived in Idaho.

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

4 MR. ALBEE: No, sir.

5 MR. KAY: Would you consider, to use Mr. Keith's words,
6 giving her a favorable verdict because she has been in custody
7 for seven years?

8 MR. ALBEE: No, sir.

9 MR. KAY: Do you understand that Judge Hinz, at the end
10 of the case, will give an instruction to whatever jurors are
11 here that you can't consider penalty or punishment?

12 Will you follow that instruction?

13 MR. ALBEE: Yes, sir.

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

17 MR. ALBEE: Yes.

18 MR. KAY: From your reading about LSD, do you think
19 that LSD is the type of drug that if you were to take an LSD
20 pill right now that you would immediately run out and kill
21 somebody?

22 MR. ALBEE: Well, as I understand it, I don't think
23 anybody can tell what it might do, the impression I have, at
24 any rate.

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1 MR. KAY: What did you read?

2 MR. ALBEE: I don't recall anything specifically, but
3 I can recall stories of people committing suicide when they
4 were under the influence of this.

5 One fellow was found sitting in a tree. That
6 was in the newspapers.

7 MR. KAY: Was this in a medical journal, or something,
8 you read?

9 MR. ALBEE: No; newspapers.

10 MR. KAY: Newspapers.

11 Now, if we had testimony about LSD and what LSD
12 can and cannot do this in this trial, do you think you could
13 put aside anything you might have read in the newspapers
14 about LSD, and base your decision about the characteristics
15 of that drug from the testimony you hear from the witness
16 stand?

17 MR. ALBEE: Yes, sir.

18 MR. KAY: Can you promise me you'd do that?

19 MR. ALBEE: Yes, sir.

20 MR. KAY: Because you understand if you read something
21 in the newspapers that's not subject to cross-examination.

22 I mean, I don't know who wrote the article, and
23 I don't have him up on the witness stand, and I can't ask
24 him what his basis and beliefs were for putting what he put
25 in the article that you read.

26 Do you understand that?

27 MR. ALBEE: I understand.

28 MR. KAY: But if somebody testifies in court here, of

1 course Mr. Keith and I will both have the opportunity of
2 asking the witnesses what the basis of their opinions are.

3 Do you think that psychiatrists are special
4 people that never make errors?

X 5 MR. ALBEE: Oh, I'm sure they make the same errors the
6 rest of us do.

7 MR. KAY: Do you think because a psychiatrist also
8 happens to be a medical doctor, that for that reason you'd
9 tend to accept his testimony?

10 MR. ALBEE: I would have to listen to what he said and
11 see if it sounded reasonable to me.

12 MR. KAY: I imagine you'd do that with any witness,
13 wouldn't you?

14 MR. ALBEE: I'm sure I would.

15 MR. KAY: Well, what I am asking is, are you going to
16 give the psychiatrist some added points just because a
17 psychiatrist also happens to be a doctor?

18 MR. ALBEE: No, sir.

19 MR. KAY: Some people think that doctors can do no
20 wrong. Of course, others think doctors can do no right.

21 Are you in either one of those categories?

22 MR. ALBEE: No, sir.

23 MR. KAY: Do you think that psychiatry is an exact
24 science, like chemistry or mathematics or physics, where you
25 can come up with definite provable answers?

26 MR. ALBEE: No, I don't.

27 MR. KAY: Do you think because a psychiatrist might be
28 able to help somebody with a current problem, that that means

1 that they can come into court and predict exactly what was
2 on somebody's mind years ago?

3 MR. ALBEE: I don't really think so.

4 MR. KAY: Did you understand my example of direct and
5 circumstantial evidence?

6 MR. ALBEE: Yes, sir.

7 MR. KAY: And since you said you understand it, would
8 you refuse to convict anybody based on circumstantial evidence
9 alone?

10 MR. ALBEE: No, I wouldn't.

11 MR. KAY: Would you require the prosecution to put
12 forth an eyewitness to an actual murder before you'd convict
13 anyone of murder?

14 MR. ALBEE: No, I wouldn't.

1 MR. KAY: Would you hold the prosecution to a higher
2 burden of proof than the law requires of us?

3 MR. ALBEE: No, sir.

4 MR. KAY: You understand the law doesn't require that
5 we prove somebody's guilt beyond a shadow of a doubt or to
6 an absolute certainty.

7 Do you understand that?

8 MR. ALBEE: I understand.

9 MR. KAY: And the fact that Miss Van Houten is here
10 for a retrial, do you think that that's some evidence that
11 she is more likely to be not guilty of the charges against
12 her?

13 MR. ALBEE: No, sir.

14 MR. KAY: Do you have any quarrel with the law, under
15 the theories of conspiracy and aiding and abetting, that says
16 that a person can be guilty of first degree murder even if
17 that person doesn't strike the fatal blow?

18 MR. ALBEE: No, I don't.

19 MR. KAY: Do you think that just because a defendant
20 calls psychiatrists to testify on their behalf in a criminal
21 trial, that that must mean that they are nuts or they have
22 some history of mental illness or they wouldn't call a
23 psychiatrist?

24 MR. ALBEE: No, I don't think so.

25 MR. KAY: Can you conceive of a defendant calling
26 psychiatrists in their behalf if they weren't mentally ill
27 at the time the crime was committed?

28 MR. ALBEE: (No response.)

1 MR. KAY: Can you conceive of that?

2 Do you think it's possible that a defendant
3 might call psychiatrists as witnesses if they really didn't
4 have any mental problems?

5 MR. ALBEE: Yes, I can.

6 MR. KAY: You understand that a defendant can have
7 some mental illness but the mental illness might not be
8 substantial enough to reduce that defendant's criminal
9 responsibility?

10 MR. ALBEE: Yes, I understand.

11 MR. KAY: But, of course, it's up to the jury to decide
12 whether there is even any mental illness involved; and then
13 if there is, whether that's substantial enough to reduce the
14 criminal responsibility.

15 Do you understand that?

16 MR. ALBEE: Yes.

17 MR. KAY: Now, since psychiatrists are going to testify,
18 are you going to let them make up your mind, or are you going
19 to make up your own mind?

20 MR. ALBEE: I'll make up my own mind.

21 MR. KAY: Do you think if a psychiatrist testifies
22 to something that you don't think is reasonable, that you
23 would reject his opinion?

24 MR. ALBEE: I would have to.

25 MR. KAY: And just because psychiatrists are going to
26 testify, are you going to forget about all the other evidence
27 in the case?

28 MR. ALBEE: No.

1 MR. KAY: And if you are selected as a juror, are you
2 willing to accept 100 percent of the responsibility for
3 determining the question of Miss Van Houten's guilt or
4 innocence, and of course included in that question would be
5 her mental state at the time of the Labianca murders?

6 MR. ALBEE: Yes.

7 MR. KAY: Have you ever studied psychiatry or
8 psychology?

9 MR. ALBEE: No.

10 MR. KAY: What about your wife; has she ever made a
11 study of it?

12 MR. ALBEE: No.

13 MR. KAY: Do you think if you are selected as a juror
14 that you can keep clear in your mind the distinction between
15 the fact that Miss Van Houten is charged with these three
16 crimes in 1969, and not 1977?

17 MR. ALBEE: Yes, I can.

18 MR. KAY: And that what we are -- the issues that
19 you will have to determine is her state of mind in 1969, and
20 not 1977?

21 MR. ALBEE: Yes, I understand.

22 MR. KAY: Is there anything I failed to ask you that
23 you think I should know about you in making a determination
24 on whether or not to accept you as a juror in the case?

25 MR. ALBEE: No.

26 MR. KAY: Do you think you can give the prosecution
27 a fair trial?

28 MR. ALBEE: Yes, sir.

1 MR. KAY: Thank you.

2 I will pass for cause.

3 THE COURT: Thank you.

4 The peremptory is with the People, No. 6.

5 MR. KAY: Yes. May I have just a moment, Your Honor?

6 THE COURT: Yes.

7 (Brief pause.)

8 MR. KAY: The People will thank and excuse juror No. 11,
9 Mr. William Williams.

10 Thank you, sir.

11 THE COURT: Mr. Williams, thank you for your attendance.
12 You are excused.

13 THE CLERK: Findley H. MacDonald.

14 First name F-i-n-d-l-e-y, middle initial H,
15 last name M-a-c-D-o-n-a-l-d.

6-1
1 THE COURT: Mr. MacDonald, did you hear the questions
2 that I asked the panel the other day?

3 MR. MAC DONALD: Yes, sir.

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

6 MR. MAC DONALD: Yes, sir.

7 THE COURT: All right.

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

11 MR. MAC DONALD: No, Your Honor.

12 THE COURT: All right.

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

15 MR. MAC DONALD: My name is Findley H. MacDonald.

16 My date of birth is December 10th, 1951.

17 I reside in Pico Rivera.

18 I'm married; have no children.

19 I am employed by Rockwell International.

20 THE COURT: What kind of work do you do for Rockwell?

21 MR. MAC DONALD: I work on an order desk for the
22 municipal utilities division.

23 THE COURT: All right.

24 Is your wife employed outside the home?

25 MR. MAC DONALD: Yes, sir; she is. She works for
26 Wholesome Bakeries.

27 THE COURT: All right, thank you.

28 Have you previously served as a juror?

6-2

1 MR. MAC DONALD: No, sir.

2 THE COURT: Do you have any close relationship with
3 law enforcement of anyone in law enforcement?

4 MR. MAC DONALD: I believe I have a cousin who is a
5 deputy sheriff, but I'm not sure of that.

6 THE COURT: I take it that that fact or circumstance
7 would not in any way affect your ability to be fair and
8 impartial in this case, would it?

9 MR. MAC DONALD: No, Your Honor.

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

13 MR. MAC DONALD: Would I judge him the same, did you say?

14 THE COURT: Yes.

15 MR. MAC DONALD: Yes.

16 THE COURT: All right.

17 And have you or anyone close to you ever been
18 arrested or charged with a serious offense?

19 MR. MAC DONALD: No, sir.

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

22 MR. MAC DONALD: No, sir.

23 THE COURT: All right, thank you.

24 *Mr. Keith, you may inquire.

25 MR. KEITH: Thank you, Your Honor.

26 I'll go through the same routine, but I'll try to
27 speed it up.

28 What do you think about psychiatry?

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1 That's coming right to the point.

2 MR. MAC DONALD: Well, I think they are necessary. They
3 do serve a function in society.

4 MR. KEITH: If I may ask you this: Has anybody in your
5 family or any close friends ever been treated by a psychiatrist?

6 MR. MAC DONALD: No, sir; nobody that I know of, anyway.

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

8 MR. MAC DONALD: When I was in school, in high school,
9 I had a psychology class, but that was the only time.

10 MR. KEITH: And what is the extent of your education?

11 MR. MAC DONALD: High school and about two and a half
12 years of college.

13 MR. KEITH: Where?

14 MR. MAC DONALD: Rio Hondo and in La Mesa Junior College
15 in San Diego.

16 MR. KEITH: How long have you been with Rockwell?

17 MR. MAC DONALD: About two and a half years.

18 MR. KEITH: What was your occupation before then?

19 MR. MAC DONALD: I was a warehouse and order clerk for
20 a small power tool company.

21 MR. KEITH: All right.

22 Have you ever known anybody who has abused drugs?

23 MR. MAC DONALD: A friend of my wife several years ago
24 was a drug user.

25 MR. KEITH: Have you made any special study or have any
26 special interest in the use or abuse of illegally obtained
27 drugs?

28 MR. MAC DONALD: No, no special study; just what I've

6-4
1 read in the papers.

2 MR. KEITH: And have you read about LSD?

3 MR. MAC DONALD: Some, yes.

4 MR. KEITH: Have you retained anything you have read
5 about that drug?

6 MR. MAC DONALD: Have I retained anything?

7 MR. KEITH: Yeah, do you remember what you read?

8 MR. MAC DONALD: Some, yes.

9 MR. KEITH: Assuming the evidence in this case indicates
10 Miss Van Houten used LSD chronically, would that fact and that
11 fact alone tend to place her at a disadvantage, or would you
12 consider that fact along with all the other evidence in the
13 case in assessing her guilt or innocence?

14 MR. MAC DONALD: I would consider it along with the rest
15 of the evidence.
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1 MR. KEITH: The same applies to psychiatric testimony;
2 would you consider their evidence, the evidence of psychiatrists
3 that may appear in Miss Van Houten's behalf?

4 MR. MAC DONALD: With the rest of the evidence?

5 MR. KEITH: Yes.

6 MR. MAC DONALD: Yes, I would.

7 MR. KEITH: And you would not tend to disregard their
8 evidence or their testimony, would you, simply because of the
9 nature of their profession?

10 MR. MAC DONALD: No, sir.

11 MR. KEITH: Mr. Kay asked of the preceding prospective
12 juror, Mr. Albee, if psychiatrists have the expertise -- I'm
13 trying to paraphrase him as best I can -- the expertise to
14 determine the mental state of a person seven years ago that
15 they have been interviewing or examining presently, and
16 Mr. Albee, if I recall, said he didn't think so.

17 Do you have the same opinion?

18 MR. MAC DONALD: Yes, sir.

19 MR. KEITH: You think it's impossible for a psychiatrist
20 to evaluate the mental state or mental attitudes or mental
21 condition of a person whom they have examined today seven
22 years ago?

23 MR. MAC DONALD: I don't see how they could.

24 MR. KEITH: Well, let's suppose there were materials in
25 existence that definitely showed -- that were made seven or
26 eight years ago -- that definitely showed the mental state of
27 that person; then would you change your mind?

28 MR. MAC DONALD: I don't really know. I would have to

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1 see the materials or the evidence.

2 MR. KEITH: Well, do you feel that if there were evidence
3 of what went on in a person's mind eight years ago, evidence
4 made then, eight years ago, and that the psychiatrists used
5 that evidence to determine someone's state of mind then, eight
6 years later, that that could possibly be a valid opinion of
7 psychiatrists today?

8 That's a little awkward question.

9 MR. MAC DONALD: No, not of today.

10 MR. KEITH: No. If psychiatrists were testifying today
11 about a person's state of mind eight years ago, and the
12 evidence they used was evidence that was assembled eight years
13 ago, do you feel it still would be impossible for psychiatrists
14 today to determine that mental state eight years ago?

15 MR. MAC DONALD: I would think so.

6a 16 MR. KEITH: My questions may be a little awkward, but
17 do you understand what I'm getting at?

18 MR. MAC DONALD: Yes. Yes, I do.

19 MR. KEITH: Do you have any, Mr. MacDonald, any exposure
20 to or interest in or knowledge of certain religious cults like
21 the followers of Reverend Moon and Hare Krishna?

22 MR. MAC DONALD: I have read some about the Reverend
23 Moon; not so much on Hare Krishna.

24 MR. KEITH: All right.

25 And, however, that is in the course of general
26 reading?

27 MR. MAC DONALD: Yes.

28 MR. KEITH: You have taken no special interest in his

1 program?

2 MR. MAC DONALD: No, sir.

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

4 MR. MAC DONALD: No, sir.

5 MR. KEITH: Have you been able to hear counsel, both
6 counsel, discuss the subject of diminished capacity?

7 MR. MAC DONALD: Yes.

8 MR. KEITH: Do you believe that is an appropriate
9 concept in the law?

10 MR. MAC DONALD: Yes, sir, I do.

11 MR. KEITH: And would you follow the law on that subject
12 in the event you are selected as a trial juror?

13 MR. MAC DONALD: Yes.

14 MR. KEITH: You have no quarrel with the concept that
15 one person by reason of mental illness, so on and so forth,
16 can be less responsible for the commission of the same act as
17 someone else who is of sound mind?

18 MR. MAC DONALD: No, sir; I don't.

19 MR. KEITH: Do you believe that everyone who commits a
20 premeditated homicide has to be, of necessity, of sound mind?

21 MR. MAC DONALD: Has to be?

22 MR. KEITH: Has to be, must be.

23 MR. MAC DONALD: Of sound mind?

24 MR. KEITH: Yes.

25 MR. MAC DONALD: Not necessarily.

26 MR. KEITH: Would you hesitate to return a verdict
27 favorable to Miss Van Houten if you believed that was a proper
28 verdict despite -- despite the fact that you might think that

1 such a verdict would be received unpopularly by the community
2 and that you would be criticized by the community?

3 MR. MAC DONALD: No, sir; I wouldn't.

4 MR. KEITH: In other words, you would have the courage
5 enough to bring back such a verdict, then, I take it, even
6 though you might be subject to embarrassment thereafter?

7 MR. MAC DONALD: Yes, sir.

8 MR. KEITH: You are positive of that?

9 MR. MAC DONALD: Positive.

10 MR. KEITH: Do you feel you can maintain an open mind
11 throughout the case and not close it at the end of the
12 prosecution's case?

13 MR. MAC DONALD: Yes, sir; I can.

14 MR. KEITH: And do you feel you can be strong enough to
15 maintain your individual opinion once the case is submitted to
16 you for deliberation and decision?

17 MR. MAC DONALD: Yes, sir.

18 MR. KEITH: You will not change that opinion because you
19 are in the minority?

20 MR. MAC DONALD: No, sir; I will not.

21 MR. KEITH: You will not change that opinion arbitrarily
22 or by whim or caprice, would you?

23 MR. MAC DONALD: No, sir.

24 MR. KEITH: You would only change your opinion once held
25 if other jurors convinced you by reason, logic, and free and
26 full discussion, that your first opinion was erroneous?

27 MR. MAC DONALD: Yes,
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1 MR. KATH: Pass for cause.

2 THE COURT: Thank you.

3 Mr. Kay, you may inquire.

4 MR. KAY: Thank you.

5 Mr. MacDonald, because you are a young man, if
6 you were selected as a juror and during the course of the
7 trial Miss Van Houten smiled at you a lot or did something
8 like that, would that influence you in any way?

9 MR. MAC DONALD: No, sir.

10 MR. KAY: All right.

11 If you are selected as a juror, I take it you'd
12 base your verdict solely on the evidence that you hear in
13 this courtroom?

14 MR. MAC DONALD: Yes, sir, I would.

15 MR. KAY: Do you feel any sympathy for Miss Van Houten
16 as she sits over there?

17 MR. MAC DONALD: A little.

18 MR. KAY: Well, do you think that sympathy is going to
19 influence your verdict in this case?

20 MR. MAC DONALD: No, sir, it wouldn't.

21 MR. KAY: You understand that the Court is going to
22 instruct whatever jurors are selected that they can't consider
23 sympathy for a defendant or passion or prejudice against a
24 defendant.

25 Those are some things you will just have to keep
26 out of your head.

27 Do you think you can do that?

28 MR. MAC DONALD: Yes, sir, I can.

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

4 MR. MAC DONALD: No, sir.

5 MR. KAY: You wouldn't consider, as Mr. Keith said,
6 giving her a favorable verdict because of that fact, would
7 you?

8 MR. MAC DONALD: No, sir.

9 MR. KAY: If Mr. Keith got up in his closing argument
10 and argued for a reduced charge, a second degree murder
11 conviction, and I argued for a first degree murder conviction
12 and you felt that she was really guilty of first degree --

13 When I say "first degree," obviously we have more
14 than one count, but I am just using that as a general
15 category.

16 If you believed she was guilty of first degree,
17 for any reason, would you consider finding her guilty of
18 second degree?

19 MR. MAC DONALD: No, sir, not if she was guilty of
20 first degree.

21 MR. KAY: And do you have any quarrel with the law
22 in California, under the theories of conspiracy and aiding
23 and abetting, that a person can be guilty of first degree
24 murder even if they don't strike the actual fatal blow
25 killing the victim?

26 MR. MAC DONALD: No, sir, I don't.

27 MR. KAY: And would you require the prosecution to put
28 on an eyewitness to a murder before you'd convict any

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1 defendant of any murder?

2 MR. MC DONALD: No, sir.

3 MR. KAY: Did you understand my example of circumstantial
4 versus direct evidence?

5 MR. MC DONALD: Yes, sir, I did.

6 MR. KAY: Do you have any problem there?

7 MR. MC DONALD: No.

8 MR. KAY: Mr. Keith was pretty thorough with you in
9 his questions about psychiatric testimony, so I won't ask
10 you too many questions there.

11 But I take it just because psychiatrists are
12 going to testify in this case -- are you going to let them
13 make up your mind, or are you going to make up your own mind?

14 MR. MC DONALD: I'll make up my own.
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1 MR. KAY: And do you think you can keep clear in your
2 mind the fact that -- and when I say "keep clear" I mean
3 throughout the whole trial -- that Miss Van Houten is charged
4 with crimes in 1969, and not 1977?

5 MR. MAC DONALD: Yes, sir, I can.

6 MR. KAY: Is there anything I haven't asked you that
7 you think I should know about you in making a determination
8 on whether or not to select you as a juror?

9 MR. MAC DONALD: No, sir, nothing I can think of.

10 MR. KAY: And this friend of your wife that was a
11 drug user, did you know this person very well?

12 Or was this a friend of your wife before you got
13 married?

14 MR. MAC DONALD: It was someone she went to school with,
15 and I knew him perhaps six months to a year, at the most,
16 after we were married.

17 MR. KAY: Is this person still a friend, or do you --

18 MR. MAC DONALD: I haven't seen or heard of what
19 happened to him in at least four or five years.

20 MR. KAY: Oh, it's a male?

21 MR. MAC DONALD: Yes.

22 MR. KAY: Okay; thank you.

23 I have no further questions.

24 Pass for cause.

25 THE COURT: Thank you.

26 The peremptory is with the defendant, No. 6.

27 MR. KEITH: The defendant will thank and excuse juror
28 No. 5, Mrs. Adams.

1 THE COURT: Mrs. Adams, thank you for your attendance.
2 You are excused.

3 THE CLERK: Joseph O. Bouchard, B-o-u-c-h-a-r-d.

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

6 MR. BOUCHARD: Yes, I did.

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

9 MR. BOUCHARD: Yes, they would.

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

13 MR. BOUCHARD: None.

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

16 MR. BOUCHARD: Joseph O. Bouchard.

17 Date of birth is 11-31-24.

18 I live in Monrovia.

19 Married.

20 I have two children, 30 and 22, girls.

21 I work for the General Telephone Company as an
22 accountant.

23 THE COURT: Is your wife employed outside the home?

24 MR. BOUCHARD: No, she is not.

25 THE COURT: Thank you.

26 Have you previously served as a juror?

27 MR. BOUCHARD: Yes.

28 THE COURT: And how many criminal cases, if any, did

1 you serve on?

2 MR. BOUCHARD: I think one or two. I can't recall them
3 all.

4 THE COURT: Without telling me the results, was the
5 jury able to arrive at a verdict in each of those cases?

6 MR. BOUCHARD: Yes, it was.

7 THE COURT: Do you remember the nature of the charges?

8 MR. BOUCHARD: I think it was robbery, the one I can
9 recall.

10 THE COURT: And the other one, you don't remember what
11 the subject matter was?

12 MR. BOUCHARD: I don't remember.

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1 THE COURT: Have you ever served as a juror in a civil
2 case?

3 MR. BOUCHARD: Yes, I have.

4 THE COURT: And how many civil cases?

5 MR. BOUCHARD: Three or four.

6 THE COURT: All right.

7 Approximately how long was it that you served
8 on the civil cases?

9 MR. BOUCHARD: Some were in '69 and some were in '71
10 or '72, someplace around there.

11 THE COURT: Do you remember the Court telling the
12 prospective jurors the difference between the burden of proof
13 in a civil and a criminal case?

14 MR. BOUCHARD: Yes.

15 THE COURT: Do you understand that difference?

16 MR. BOUCHARD: Yes.

17 THE COURT: And do you also understand that in a
18 criminal case, unlike a civil case, all 12 jurors must agree
19 before the jury may return a verdict?

20 MR. BOUCHARD: Yes.

21 THE COURT: Would you be able to put completely to
22 one side the testimony and instructions you received in the
23 prior criminal and civil cases you sat on, and decide this
24 case solely on the evidence to be presented in this courtroom
25 and the instructions the Court would give you?

26 MR. BOUCHARD: Yes, I can.

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

1 MR. BOUCHARD: None.

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

4 MR. BOUCHARD: No.

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

7 MR. BOUCHARD: Not that I'm aware of, no.

8 THE COURT: All right; thank you.

9 At this time we are going to take a morning
10 recess.

11 Bear in mind, ladies and gentlemen, during this
12 recess you are not to discuss this case amongst yourselves
13 or with anyone else and you are not to form any opinion
14 concerning this matter or express any opinion concerning this
15 matter until the case is finally given to you.

16 Furthermore, it would be inappropriate, and you
17 must not read, see or hear any news media accounts of this
18 matter.

19 The Court will be in recess for 15 minutes, until
20 11:30.

21 All jurors, the defendant and counsel are ordered
22 to return at 11:30.

23 The Court is in recess.

24 (Recess.)

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1 THE COURT: People versus Van Houten.

2 Let the record show the defendant is present and
3 represented by counsel; the People are represented by counsel;
4 the prospective jurors are in their assigned places.

5 MR. KEITH, you may inquire for cause.

6 MR. KEITH: Thank you, Your Honor.

7 MR. BOUCHARD, how long have you lived in Monrovia?

8 MR. BOUCHARD: Eighteen years.

9 MR. KEITH: Do you know the Van Houtens?

10 MR. BOUCHARD: No.

11 MR. KEITH: Did you know they came from Monrovia?

12 MR. BOUCHARD: I didn't know that.

13 MR. KEITH: Do you feel because Leslie was born and
14 raised in Monrovia, and that she's in this trouble, that it
15 is sort of a blot on the escutcheon of the citizenry of
16 Monrovia and you would have difficulty judging her fairly as a
17 result?

18 MR. BOUCHARD: No.

19 MR. KEITH: Are you sure of that?

20 MR. BOUCHARD: Sure of that.

21 MR. KEITH: Let's see. You have two daughters.

22 I've got 21 and 32. Is that correct?

23 MR. BOUCHARD: 30 and 22.

24 MR. KEITH: I'm not even close.

25 What do they do?

26 MR. BOUCHARD: One is a housewife, one is a clerk for a
27 department store.

28 MR. KEITH: Which one is the clerk?

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MR. BOUCHARD: The one that is 22.

MR. KEITH: And what does the son-in-law do?

MR. BOUCHARD: He is in advertising.

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1 MR. KEITH: In this area?

2 MR. BOUCHARD: He operates out of Mission Viejo.

3 MR. KEITH: How long ago did you sit on the one or two
4 criminal cases as a juror?

5 MR. BOUCHARD: I think it was in 1971 or '2, someplace
6 around there.

7 MR. KEITH: Was it the same tour of duty that you sat
8 on three or four civil cases, if you recall?

9 MR. BOUCHARD: They were mixed. They weren't in both
10 types of courts that --

11 MR. KEITH: I understand that; but was it one tenure
12 or two --

13 MR. BOUCHARD: Two tenures.

14 MR. KEITH: Two tenures. Both back in the late '60s
15 and early '70s.

16 MR. BOUCHARD: Right.

17 MR. KEITH: Mr. Bouchard, do you know anybody that's
18 been involved with drugs, drug abuse?

19 MR. BOUCHARD: No, I don't.

20 MR. KEITH: Do you have any knowledge of narcotics
21 or dangerous drugs through exposure from the media?

22 MR. BOUCHARD: Just what I read in the newspaper, yes.

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

24 MR. BOUCHARD: Yes, I have heard of it.

25 MR. KEITH: Have you read about that drug?

26 MR. BOUCHARD: Yes.

27 MR. KEITH: Have you read about it recently?

28 MR. BOUCHARD: Not recently, no.

1 MR. KEITH: Do you remember any of the things you read
2 about it?

3 MR. BOUCHARD: Only excessive use to be detrimental.

4 MR. KEITH: Right.

5 And did you read that in the newspaper, in all
6 probability, or some scholarly journal?

7 MR. BOUCHARD: Newspaper.

8 MR. KEITH: What's your opinion of psychiatry?

9 MR. BOUCHARD: A useful tool of medicine.

10 MR. KEITH: Has anybody in your family ever been treated
11 by a psychiatrist?

12 MR. BOUCHARD: Not -- no.

13 MR. KEITH: Or any friends.

14 MR. BOUCHARD: No.

15 MR. KEITH: Not immediate family, but any relatives?

16 MR. BOUCHARD: Not that I know of.

17 MR. KEITH: Have you studied psychiatry or psychology
18 at all?

19 MR. BOUCHARD: No.

20 MR. KEITH: Or read any articles on the subject?

21 MR. BOUCHARD: Not that I can remember.

22 MR. KEITH: You don't have any particular interest in
23 that field of endeavor, I take it?

24 MR. BOUCHARD: No.

25 MR. KEITH: I take it, further, you do not entertain
26 a low opinion of psychiatrists in general.

27 MR. BOUCHARD: A normal opinion, I guess.

28 MR. KEITH: Well, what's a normal opinion to you?

1 I don't know what a normal opinion is. You have
2 got to tell me.

3 MR. BOUCHARD: Yeah.

4 MR. KEITH: Pardon me?

5 MR. BOUCHARD: I haven't any --

6 MR. KEITH: You really -- I'm sorry.

7 MR. BOUCHARD: I don't feel one way or the other about
8 it.

1 MR. KEITH: You don't think, then, you would disregard
2 the testimony of psychiatrists merely because they were
3 members of that profession, would you?

4 MR. BOUCHARD: No.

5 MR. KEITH: You don't have any fixed belief, do you,
6 that psychiatrists are unable to delve into the human mind
7 and diagnose mental illness or mental disease or mental
8 defects?

9 MR. BOUCHARD: Ask me that again.

10 MR. KEITH: All right.

11 You don't have any fixed belief, do you, that
12 psychiatrists are unable, unqualified to examine the workings
13 of the human mind, even though very complex, and diagnose --

14 MR. BOUCHARD: No, I don't.

15 MR. KEITH: -- mental illness?

16 MR. BOUCHARD: No.

17 MR. KEITH: I will ask a question that was asked the
18 previous juror.

19 Do you believe a psychiatrist, a qualified
20 psychiatrist can determine the state of mind of a person
21 eight years ago?

22 MR. BOUCHARD: (No response.)

23 MR. KEITH: Assuming, assuming for the sake of
24 discussion that there are materials and evidence available
25 as to that person's frame of mind or state of mind that were
26 compiled or assembled eight years ago.

27 MR. BOUCHARD: He could have an opinion based on that
28 information.

1 MR. REITH: You don't necessarily believe such an
2 opinion would be invalid, do you?

3 MR. ROUCHARD: No.
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1 MR. KEITH: In the event you were selected as a juror and
2 there were submitted to you for consideration gory pictures
3 and you listened to some gruesome evidence, would that evidence
4 so inflame you or tend to so inflame you against Leslie you
5 would be unable to give her a fair trial?

6 MR. BOUCHARD: I don't think so, no.

7 MR. KEITH: In other words, our human nature sometimes
8 compels us to become emotional over bloody scenes, let's say,
9 and we are inclined to think irrationally.

10 Do you think you would do that?

11 MR. BOUCHARD: No, I don't think so.

12 MR. KEITH: Or if you did, do you think you could come
13 back to rationality and consider the pictures for such relevance
14 as they may have?

15 MR. BOUCHARD: I think I could, yes.

16 MR. KEITH: Do you think Miss Van Houten's involvement
17 with Mr. Manson, if that be the case, would create a hostility
18 in you toward her so that you would have difficulty judging
19 her guilt or innocence fairly?

20 MR. BOUCHARD: No, I don't think so.

21 MR. KEITH: Again, I'm not suggesting that an involvement
22 with Mr. Manson, if that be the case, is irrelevant. Quite
23 the contrary. What I'm saying is, from what you may or may
24 not know about him, you may think anybody involved with him
25 is an absolute rotter, and you would close your mind to the
26 other facts in the case.

27 You wouldn't do that, would you?

28 MR. BOUCHARD: No, I wouldn't.

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1 MR. KEITH: Do you have any problems or trouble with a
2 concept in the law known as diminished capacity where one
3 person who, because of mental illness, is deemed to be less
4 responsible for a particular offense than another person who
5 is not suffering from a mental illness?

6 MR. BOUCHARD: No.

7 MR. KEITH: Do you have any quarrel with that concept?

8 MR. BOUCHARD: No.

9 MR. KEITH: Or do you believe everyone should be lumped
10 together regardless of their mental states at the time of a
11 commission of a particular public offense?

12 MR. BOUCHARD: No, I don't.

13 MR. KEITH: Let's assume, Mr. Bouchard, that you decided,
14 after evaluating all the evidence and after searching your mind
15 and your conscience and your heart, to return a verdict in
16 favor of Miss Van Houten.

17 Would you be dissuaded or would you have difficulty
18 or would you hesitate to return such a verdict because of
19 public opinion or what you think public opinion might be, that
20 you might think such a verdict would be unpopular in the
21 community where you reside?

22 MR. BOUCHARD: No, I don't think I would.

23 MR. KEITH: You'd have the guts to come back and announce
24 your verdict despite the possibility, in your mind, of being
25 criticized once you got out of the courthouse?

26 MR. BOUCHARD: Yes, I could.

27 MR. KEITH: You are sure of that?

28 MR. BOUCHARD: Yes.

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1 MR. KEITH: All right.

2 Now, is there anything that you would like to
3 share with us, Mr. Bouchard, that we haven't inquired into
4 or that has come to your mind as a result of other questioning
5 or that you have thought about as you have sat behind the bar --

6 MR. BOUCHARD: None that I can think of.

7 MR. KEITH: -- that you would like to --

8 MR. BOUCHARD: None that I can think of --

9 MR. KEITH: -- share with us?

10 MR. BOUCHARD: -- at this point.

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MR. KEITH: You are sure of that?

MR. BOUCHARD: Yes.

MR. KEITH: Because I can't stand here all day long questioning you.

MR. BOUCHARD: None that I can think of.

MR. KEITH: Pass for cause.

THE COURT: Thank you.

Mr. Kay, you may inquire.

MR. KAY: Thank you, Your Honor.

Mr. Bouchard, your daughter that is 30 years old, did she go to Monrovia High School?

MR. BOUCHARD: Yes, she did.

MR. KAY: Do you have any knowledge about whether or not she knew Miss Van Houten --

MR. BOUCHARD: No.

MR. KAY: -- in school there?

MR. BOUCHARD: No.

MR. KAY: Miss Van Houten is 27, and your daughter is 30, and I don't know --

Is Monrovia High School -- does that start in the tenth grade?

MR. BOUCHARD: I think it's the ninth grade.

MR. KAY: Ninth grade.

Now, the fact that your oldest daughter and Miss Van Houten may have gone to the same high school at the same time, although obviously not in the same grades, would that make any difference to you?

MR. BOUCHARD: No.

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1 MR. KAY: The fact that Miss Van Houten attended
2 Monrovia High School, graduated from Monrovia High School,
3 does that make any difference to you?

4 MR. BOUCHARD: No.

5 MR. KAY: The fact that Miss Van Houten was raised in
6 Monrovia, does that make any difference to you?

7 MR. BOUCHARD: No.

8 MR. KAY: Do you think that there are not only good
9 people in Monrovia but there might also be bad people in
10 Monrovia?

11 MR. BOUCHARD: There is.

12 MR. KAY: Now, the fact that you have two daughters,
13 do you see any resemblance at all between your daughters and
14 Miss Van Houten?

15 MR. BOUCHARD: No, not at this point.

16 MR. KAY: Are you going to let that fact influence you
17 at all, the fact that you have two daughters and Miss Van
18 Houten is a girl close to the age of your oldest daughter?

19 MR. BOUCHARD: No.

20 MR. KAY: Do you think that has anything to do with the
21 question of her guilt or innocence in this case?

22 MR. BOUCHARD: Does not, no.

23 MR. KAY: The fact that Miss Van Houten's mother may
24 well come in here and testify in the defense portion of the
25 case as to Miss Van Houten's background, at least while she
26 was living with her in Monrovia, is that going to make any
27 difference to you?

28 MR. BOUCHARD: No.

1 MR. KAY: Are you going to, because you might feel sorry
2 for her mother and what her mother has been through, do you
3 think that, therefore, you might consider giving Miss Van
4 Houten a favorable verdict?

5 MR. BOUCHARD: No.

6 MR. KAY: Because you might feel sorry for her mother,
7 do you think, therefore, you are going to believe everything
8 that her mother says about Miss Van Houten?

9 MR. BOUCHARD: No.

10 MR. KAY: Do you think that because psychiatrists --
11 you told Mr. Keith you thought they had their -- basically
12 had their place in society -- do you think that because they
13 might be able to help someone with a current problem that,
14 therefore, they can come into a courtroom and diagnose
15 somebody's state of mind with the same exactness, that person's
16 state of mind eight years ago, as they could maybe diagnose
17 their state of mind at the present time?

18 MR. BOUCHARD: They can have an opinion on it.

19 MR. KAY: Sure. Anybody can have an opinion on anything;
20 is that right?

21 MR. BOUCHARD: That's right.

22 MR. KAY: But whether that is reasonable or unreasonable,
23 I think you would take that into consideration, wouldn't you?

24 MR. BOUCHARD: Yes, I would.

25 MR. KAY: And if you thought that a psychiatrist's
26 opinion, in view of all the evidence, the nonpsychiatric
27 opinion evidence, if you thought that that was their -- their
28 opinion was unreasonable in view of that evidence, you would

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1 reject it, wouldn't you?

2 MR. BOUCHARD: Yes.

3 MR. KAY: And would you be willing to accept 100 percent
4 of the responsibility to determine Miss Van Houten's state of
5 mind based on all the evidence in the case and not just the
6 psychiatric opinions?

7 MR. BOUCHARD: Yes, I would.

8 MR. KAY: You don't think you would let the psychiatrists
9 make your decision for you, do you?

10 MR. BOUCHARD: No.

11 MR. KAY: Did you understand the example of circum-
12 stantial versus direct evidence that I gave?

13 MR. BOUCHARD: Yes, I did.

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1 MR. KAY: Do you have any problem with that?

2 MR. BOUCHARD: No, I do not.

3 MR. KAY: Would you refuse to convict a defendant
4 based on circumstantial evidence standing alone?

5 MR. BOUCHARD: No, I would not.

6 MR. KAY: Would you require us to put forth an eyewitness
7 to a murder before you could convict any defendant of any
8 murder?

9 MR. BOUCHARD: No.

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

13 MR. BOUCHARD: No.

14 MR. KAY: You wouldn't consider giving her a favorable
15 verdict because of that, would you?

16 MR. BOUCHARD: No.

17 MR. KAY: Have you ever studied law?

18 MR. BOUCHARD: Business law, basic business law.

19 MR. KAY: Was that in high school or college, or both?

20 MR. BOUCHARD: Both.

21 MR. KAY: Well, I take it since you are an accountant
22 you probably had to study business law.

23 Are you a C.P.A.?

24 MR. BOUCHARD: No, I'm not.

25 MR. KAY: I think they have that as part of their
26 exam, don't they?

27 MR. BOUCHARD: Part of the curriculum.

28 MR. KAY: Do you think psychiatrists are special just

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1 because they happen to be doctors?

2 MR. BOUCHARD: No.

3 MR. KAY: Would you tend to accept the opinion of a
4 psychiatrist just because of the fact that a psychiatrist
5 is also a medical doctor?

6 MR. BOUCHARD: No.

7 MR. KAY: Can you conceive of a defendant calling
8 psychiatrists to testify in her behalf if the defendant wasn't
9 in fact mentally ill?

10 MR. BOUCHARD: (No response.)

11 MR. KAY: Can you conceive of that?

12 MR. BOUCHARD: Yes.

13 MR. KAY: Do you think every time a defendant calls
14 a psychiatrist that means they must have, as Mr. Keith says,
15 diminished capacity, diminished responsibility?

16 MR. BOUCHARD: No.

17 MR. KAY: Have you ever met a psychiatrist before?

18 MR. BOUCHARD: No.

19 MR. KAY: And the fact that Mr. Keith might call more
20 psychiatrists to testify in behalf of Miss Van Houten than
21 the prosecution calls to testify against her, do you think
22 for that reason alone that therefore the defense's position
23 must be correct because they call more witnesses?

24 MR. BOUCHARD: No.

25 MR. KAY: The fact that the defense and the prosecution
26 psychiatrists might disagree as to whether or not Miss Van Houten
27 had the mental capacity to commit a first degree murder, do
28 you think that that automatically means in your mind that

1 there is a reasonable doubt?

2 MR. BOUCHARD: Ask me that again.

3 MR. KAY: All right.

4 Because the defense and the prosecution
5 psychiatrists might disagree in this court about whether or
6 not Miss Van Houten had the mental capacity to commit a
7 first degree murder, will you consider that disagreement
8 alone between these two groups of people to automatically
9 mean that there must be a reasonable doubt about whether or
10 not she could form the capacity to commit a first degree
11 murder?

12 MR. BOUCHARD: No.

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1 MR. KAY: You understand that psychiatric testimony
2 might just be one portion of this case.

3 MR. BOUCHARD: Yes, sir.

4 MR. KAY: That there will be a lot of other evidence.
5 I take it you wouldn't block out all the other
6 evidence in your mind just because there is psychiatric
7 testimony, would you?

8 MR. BOUCHARD: No.

9 MR. KAY: And do you think, if you are selected as a
10 juror, that while you can keep clear in your mind that the
11 mental state of Miss Van Houten at the time of the Labianca
12 murders might be a key issue for you to decide, her mental
13 state at the present time is not an issue that you will have to
14 decide?

15 Do you understand that?

16 MR. BOUCHARD: Yes, I do.

17 MR. KAY: And if Mr. Keith got up in his closing
18 argument and argued for a second degree conviction and I
19 argued for a first degree and you felt that Miss Van Houten
20 was guilty of first degree murder, do you think for any reason,
21 like you didn't want Mr. Keith to go home empty-handed, or
22 anything like that, you would consider finding her guilty of
23 second degree?

24 MR. BOUCHARD: No.

25 MR. KAY: Is there anything I haven't asked you that
26 you think I should know about you?

27 MR. BOUCHARD: No --

28 You asked me about psychiatrists. I guess when

1 you go in the service everybody passes a cursory -- they
2 do have some kind of basic test.

3 So that came to my mind shortly thereafter;
4 that's all.

5 That's the only time I might have met one.

6 MR. KAY: You haven't studied psychiatry or --

7 MR. BOUCHARD: No.

8 MR. KAY: -- psychology, or anything like that.

9 MR. BOUCHARD: No.

10 MR. KAY: Okay; thank you.

11 I have no further questions.

12 I will pass for cause.

13 THE COURT: Thank you.

14 The peremptory is with the People, No. 6.

15 MR. KAY: May I have just a moment, Your Honor?

16 THE COURT: Yes.

17 (Brief pause.)

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1 MR. ROY: The People will thank and excuse juror No. 3,
2 Mrs. Pica.

3 Thank you, ma'am.

4 THE COURT: Mrs. Pica, you are excused. Thank you
5 for your attendance upon the Court.

6 THE CLERK: James D. Burton, B-u-r-t-o-n.

7 THE COURT: Mr. Burton, do you recall hearing the
8 questions that I asked the panel previously?

9 MR. BURTON: Yes, sir.

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

12 MR. BURTON: Substantially.

13 THE COURT: All right.

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

17 MR. BURTON: No, sir.

18 THE COURT: All right. Would you please answer the
19 questions that are on the board for us.

20 MR. BURTON: I'm James D. Burton.

21 3-18-27.

22 I live in South Pasadena.

23 I have been single about two years.

24 I have three children, boys, 23, 20 and 18.

25 I'm a field sales engineer for Beckman Instruments.

26 Do you want my ex-wife's occupation?

27 THE COURT: Yes; what was her occupation?

28 MR. BURTON: She is a -- she works for Weight Watchers.

1 And she is also a -- she handles correspondent
2 courses for the Church of Religious Science.

3 THE COURT: All right.

4 Have you previously served as a juror?

5 MR. BURTON: No, sir.

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

8 MR. BURTON: I know several of them quite well.

9 THE COURT: And who might they be?

10 MR. BURTON: Well, they run the gamut.

11 Captain Bob Tucker is with the Wilshire Department
12 here in the L. A. police force.

13 I know an area commander of the Highway Patrol
14 in Torrance.

15 And these are military friends I know.

16 And, oh, at least a half dozen others in different
17 areas. I would call none of them ~~buddies~~ buddies, but I know
18 them quite well.

19 THE COURT: Do you ever discuss their employment with
20 them?

21 MR. BURTON: You can't help it.

22 THE COURT: I take it you have.

23 MR. BURTON: Yes, sir.

24 THE COURT: And would this in any way affect your
25 ability to be fair and impartial in this case?

26 MR. BURTON: No, sir.

27 THE COURT: Now, if a police officer or peace officer
28 were called as a witness in this case, would you judge his

1 credibility by the same standards that you would use as to
2 any other witness?

3 MR. BURTON: Yes, sir.

4 THE COURT: And would it be difficult or would you
5 suffer any embarrassment to return a verdict against the
6 side which called police officers as witnesses?

7 MR. BURTON: No, sir.

8 THE COURT: Would you be able to put completely to one
9 side any of these contacts or relationships you have with
10 law enforcement people, and assure the Court that you can
11 decide this case solely on the evidence to be presented in
12 this courtroom and the instructions the Court would give you?

13 MR. BURTON: Yes, sir.
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1 THE COURT: Have you ever been -- have you or anyone
2 close to you ever been arrested for or charged with a serious
3 offense?

4 MR. BURTON: You mean a felony?

5 THE COURT: Yes.

6 MR. BURTON: Not to my knowledge.

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

9 MR. BURTON: Not to my knowledge.

10 THE COURT: Thank you.

11 Mr. Keith, you may inquire.

12 MR. KEITH: Mr. Burton, you are a Navy pilot?

13 MR. BURTON: Yes, sir.

14 MR. KEITH: You have been in combat?

15 MR. BURTON: I have never been shot at, no, sir, to my
16 knowledge.

17 (Laughter.)

18 MR. KEITH: You can't see it (indicating). You really
19 can't. You can't tell.

20 Were you in Viet Nam or Korea or World War II?

21 MR. BURTON: I was on inactive duty during Viet Nam.

22 MR. KEITH: Are you a member of any veterans'
23 organizations?

24 MR. BURTON: Yes, sir, several.

25 MR. KEITH: American Legion?

26 MR. BURTON: No, not that.

27 They are all Navy.

28 The Navy Reserve Association, Navy League and two

1 or three others.

2 MR. KEITH: And that's the reason why you know all
3 of these people engaged in law enforcement work, because they
4 are also members of the Navy Reserve?

5 MR. BURTON: Yes, sir.

6 MR. KEITH: And I appreciate your telling us that there
7 is no way you can avoid discussing their employment with
8 them.

9 MR. BURTON: That's correct, yes, sir.

10 MR. KEITH: Do they talk to you about the difficulties
11 of law enforcement?

12 MR. BURTON: No, not really.

13 MR. KEITH: Do they talk to you about how we have got
14 to get rid of crime in the streets and everybody ought to
15 be put away for the rest of their life?

16 Do they have that kind of --

17 MR. BURTON: Some people do.

18 MR. KEITH: Well, I know some people do; but do these
19 people?

20 MR. BURTON: Some of them. Not very many of them.

21 MR. KEITH: Do you agree with them --

22 MR. BURTON: No, sir.

23 MR. KEITH: -- in all respects?

24 MR. BURTON: Of course not.

25 MR. KEITH: How long have you been with Beckman
26 Instruments?

27 MR. BURTON: Twelve years.

28 MR. KEITH: And before then were you in the Navy

1 full time, active duty?

2 MR. BURTON: I haven't been on active duty since '54.

3 Before Beckman I was with another electronics
4 company, Transatron and General Electric.

5 I have been peddling for quite a while.

6 MR. KEITH: I think you are an industrial salesman.
7 Isn't that what you are supposed to be called? You are
8 not a ---

9 MR. BURTON: Well, "a peddler" is a euphemistic term.

10 MR. KEITH: I don't want you to sit there and belittle
11 yourself.

12 MR. BURTON: I don't, believe me.

13 MR. KEITH: And your three boys, what do they do?

14 MR. BURTON: The eldest one is at San Luis Obispo.

15 The number two boy is going to F.C.C.

16 And number three is a junior at South Pas. High
17 School.

18 MR. KEITH: And the boy in San Luis Obispo, is he at
19 Cal Poly there or is he ---

20 MR. BURTON: Yes, sir.

21 MR. KEITH: --- working?

22 MR. BURTON: Yes, sir.

23 MR. KEITH: Do you see your boy often at Cal Poly?

24 MR. BURTON: Oh, every couple of months or so.

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1 MR. KEITH: Well, I'd better tell you this. My daughter
2 happens to attend Cal Poly in San Luis.

3 I don't know whether your son knows my daughter
4 or not, but I think I ought to disclose that.

5 MR. BURTON: He's in ornamental horticulture.

6 MR. KEITH: She knows some fellows in ornamental
7 horticulture.

8 MR. BURTON: I haven't heard him mention your daughter's
9 name.

10 MR. KEITH: Well, no doubt. But I think I should
11 disclose that out of an abundance of caution.

12 Do you have any knowledge of psychiatry or
13 psychology?

14 MR. BURTON: No, sir.

15 MR. KEITH: Has anybody in your family been treated by
16 a psychologist or psychiatrist, not immediate family necessarily,
17 but --

18 MR. BURTON: I think --

19 MR. KEITH: It would include close friends.

20 MR. BURTON: I think my wife's aunt was.

21 MR. KEITH: Well, all right.

22 But what is your feeling about psychiatry?

23 MR. BURTON: It's sort of like medicine, I guess.

24 MR. KEITH: But do you have any feeling or belief that
25 psychiatry is not advanced enough to be able to delve accurately
26 into the complexities of the human mind?

27 MR. BURTON: Within limits. I have no antipathy to
28 psychology. I don't -- by the same token, I don't believe

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1 everything they say either.

2 MR. KEITH: All right.

3 But would you consider what they said --

4 MR. BURTON: Oh, yes, of course.

5 MR. KEITH: -- and consider the reasons therefor if
6 psychiatrists are called here?

7 MR. BURTON: Yes, sir.

8 MR. KEITH: And you wouldn't shut your mind to what they
9 say simply because you are not oversold on the profession or
10 art --

11 MR. BURTON: Oh, no, sir.

12 MR. KEITH: -- of psychiatry?

13 MR. BURTON: No, sir.

14 MR. KEITH: You do feel that psychiatrists, some
15 psychiatrists, if not most psychiatrists, can diagnose mental
16 or emotional illnesses?

17 MR. BURTON: Within limits, I'm sure.

18 MR. KEITH: Do you have a fixed belief that a psychiatrist,
19 however qualified, would have difficulty determining the state
20 of mind of or mental state of someone eight years ago even
21 though there was evidence of what occurred eight years ago
22 bearing -- in other words, material bearing on that person's
23 mental condition?

24 The point has been raised that it may be very
25 difficult, if not impossible, for a psychiatrist to determine
26 whether or not someone was mentally ill or mentally disturbed
27 or unbalanced eight years ago. And I'm suggesting would you
28 espouse that belief or opinion even assuming the presence and

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1 availability of ample materials as to that state of mind so
2 long ago.

3 MR. BURTON: I would imagine he could make a more
4 educated guess than I could.

5 MR. KEITH: Do you feel that a psychiatrist's opinion
6 as to someone's mental state eight years ago is no more than
7 an educated guess right now? Or would you want to listen to
8 what materials that psychiatrist had available to him in order
9 to reach a diagnosis?

10 (No response.)

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1 MR. KEITH: Did you understand that?

2 (No response.)

3 MR. KEITH: Well, you told me that it would be an
4 educated guess.

5 MR. BURTON: I'd say he could make a more educated guess.

6 Okay. He could make a better diagnosis. Is that
7 a good word?

8 MR. KEITH: Well, no. I want you to use your words.

9 I mean, if you feel it can be no more than an
10 educated guess, then you have an opinion right now that a
11 psychiatrist, no matter how able, no matter how qualified --

12 MR. BURTON: I didn't say --

13 MR. KEITH: -- no matter how much material he had can't
14 form an opinion, a valid opinion, as to a person's mental
15 state eight years ago.

16 MR. BURTON: I said that he could make a better -- a more
17 educated guess than I can.

18 I'm sure he could make a more affirmative statement,
19 and he'd base it on some reason, I'm sure.

20 MR. KEITH: I would hope so.

21 MR. BURTON: Well, I would, too.

22 THE COURT: Would this be an appropriate time?

23 MR. KEITH: Yes, this is fine. I'm about finished. Yes.

24 THE COURT: All right.

25 At this time, ladies and gentlemen, we are going
26 to recess in this matter until 1:30.

27 Bear in mind during this recess the admonition
28 that I've previously given to you. You are not to discuss

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1 this matter amongst yourselves or with anyone else. You are
2 not to form any opinion concerning this matter or express any
3 opinion concerning this matter until the case is finally
4 given to you.

5 Furthermore, you must not allow yourselves to read,
6 see, or hear any news media accounts of this matter.

7 All right. The court will be in recess until
8 1:30. All jurors, defendant, and counsel are ordered to
9 return at that time.

10 The court is in recess. Thank you.

11 (At 12:03 p.m. a recess was taken until
12 1:30 p.m. of the same day.)

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1 LOS ANGELES, CALIFORNIA, TUESDAY, APRIL 12, 1977, 1:56 P.M.
2 DEPARTMENT NO. 130 HON. EDWARD A. HINZ, JR., JUDGE

3
4 (Appearances as heretofore noted.)

5 THE COURT: People versus Van Houten.

6 Let the record show the defendant is present,
7 represented by counsel, the People are represented by counsel,
8 the prospective jurors are present.

9 Mr. Keith, you may resume with juror No. 3,
10 Mr. Burton.

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1 MR. KEITH: Thank you, Your Honor.

2 Mr. Burton, just a very few more questions.

3 In the event you believe in your heart and mind
4 that Miss Van Houten was entitled to a favorable verdict after
5 the case was submitted to you and after deliberations, would
6 you have the courage to bring back such a favorable verdict,
7 even though your friends on the police department may feel
8 that it was unjustified and you would be subject to criticism
9 from them?

10 MR. BURTON: Of course.

11 MR. KEITH: Or if you felt that your verdict might be
12 unpopular in the community; same answer?

13 MR. BURTON: Same answer; yes, sir.

14 MR. KEITH: Do you feel if the evidence indicated in
15 this case that Miss Van Houten led a rather bizarre life style
16 in the late '60s, that this would prejudice you against her
17 to the exclusion of all the other evidence, not suggesting,
18 of course, that that particular manner or method or mode of
19 living doesn't have relevance.

20 But would that type of life style on her part so
21 prejudice you against her that it would turn you off, to use
22 a colloquialism?

23 MR. BURTON: No, sir.

24 MR. KEITH: Do you feel her past association with
25 Mr. Manson, if the evidence so reflects that, would so concern
26 you and upset you and disturb you that this would prejudice
27 you against her --

28 MR. BURTON: No, sir.

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1 MR. KEITH: -- to the exclusion of all the other
2 evidence and to the exclusion of the particular type of
3 involvement Miss Van Houten may have had with Mr. Manson.

4 MR. BURTON: No, sir.

5 MR. KEITH: Do you feel if the evidence indicates that
6 she abused drugs in the past, primarily LSD, that that and
7 that alone would create a hostility in your mind against her
8 so that you would fail to give the proper weight and relevance
9 to the use of drugs, and just say, "She deserves no
10 consideration from me because she has used drugs in the past"?

11 MR. BURTON: I assume that she used drugs to abuse
12 herself.

13 MR. KEITH: Pardon me?

14 MR. BURTON: I assume you mean she used drugs to abuse
15 herself --

16 MR. KEITH: My point is --

17 MR. BURTON: -- and the answer is no, of course.

18 MR. KEITH: Her use of drugs I'm sure will be of
19 considerable significance.

20 MR. BURTON: Yes, sir.

21 MR. KEITH: Would you consider the significance of
22 that use rather than just say, "She is a bad girl, she
23 overused drugs, I'm not going to give her any consideration"?

24 MR. BURTON: It would be the significance of the drugs
25 that she used.

26 MR. KEITH: Thank you.

27 Now, having perhaps pondered your role as a
28 prospective juror in this case, is there anything you would

1 like to share with Mr. Kay and myself and His Honor bearing
2 on your qualifications to act as an impartial juror?

3 MR. BURTON: You haven't asked one question.

4 MR. KEITH: Well, you ask it for me, then.

5 MR. BURTON: Your question of relative responsibility
6 of --

7 MR. KEITH: Diminished capacity?

8 MR. BURTON: Diminished capacity.

9 MR. KEITH: Yes.

10 I take it, then, you did hear our discussions
11 on that subject?

12 MR. BURTON: Yes, sir.

13 MR. KEITH: With the other jurors.

14 And I did ask them if they would follow a concept
15 broadly put that fastens reduced responsibility on persons
16 who have committed or who are purported to have committed
17 offenses while mentally ill, disturbed, deranged.

18 All right.

19 MR. BURTON: Well, I feel that if a person -- I believe
20 in the individual responsibility.

21 MR. KEITH: All right.

22 MR. BURTON: If a person has intelligence enough to
23 commit a crime, they are intelligent enough to be responsible
24 for it.

25 MR. KEITH: So you would be disinclined to agree with
26 the concept of a principle of law that states if somebody is
27 suffering from a diminished capacity due to mental illness,
28 defect or any other reason, intoxication, for instance, then,

his responsibility for the commission of a particular offense may be reduced.

MR. BURTON: I would disagree with that.

MR. KEITH: Let me make sure that -- through another example or so -- that we understand each other.

Let us suppose I decide to shoot you and I'm of a sound mind, legally speaking.

Let's suppose I'm paid a large sum of money to do so, and I do so.

This would be an example of first degree murder; and if I was caught, I'd assume full responsibility.

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1 Let's suppose I am deranged to some extent, not
2 legally insane necessarily but let's suppose my capacity is
3 diminished by reason of mental illness, and I really don't
4 have the capability to premeditate like my original example,
5 and I shoot you.

6 Do you feel that I should assume the same respon-
7 sibility in the second example as in the first example?

8 MR. BURTON: Yes, I do.

9 MR. KEITH: Would you be inclined not to follow a law
10 that reduces one's responsibility for particular offenses by
11 reason of diminished capacity if you were so instructed by
12 the court?

13 MR. BURTON: I would find that very difficult to do.

14 MR. KEITH: May we approach the bench, Your Honor?

15 THE COURT: Yes, will counsel approach the bench.

16 (The following proceedings were held
17 at the bench.)

18 MR. KEITH: I'm going to challenge Mr. Burton,
19 unfortunately -- he seemed like a fine juror to me -- for
20 cause.

21 I don't want to go any farther with him without
22 practically asking him to prejudge the case. And I feel my
23 challenge is well taken because he has said in the event he's
24 instructed in diminished capacity he would be inclined not to
25 follow the instruction.

26 THE COURT: Do you wish to be heard?

27 MR. KAY: I'd like to ask him a little bit before the
28 challenge. I want to make crystal clear that -- be sure that

1 he understands.

2 MR. KEITH: I don't have any objection to that. I just
3 don't think I could go any farther without asking --

4 THE COURT: Well, I don't want to get into a long
5 dissertation between the laws on murder of the first degree
6 and ask him if he is going to agree with each and every --

7 MR. KEITH: I agree. I don't have any objection to
8 Mr. Kay --

9 THE COURT: If you have no objection, then Mr. Kay may
10 inquire.

11 MR. KAY: I do have a question.

12 Just before we started there were two people that
13 came out of the back door and they came up and contacted
14 Miss Van Houten.

15 I wondered who they were. Does the court know who
16 they are?

17 They are sitting in the front row there.

18 MR. KEITH: Well, I know, because Leslie told me. It is
19 her former English teacher.

20 I don't know what they are doing coming out of the
21 back door.

22 THE COURT: Let's go off the record.

23 (Discussion was held off the record.)

24 THE COURT: All right.

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

27 THE COURT: All right, Mr. Kay, you may inquire.

28 MR. KAY: Thank you.

1 Mr. Burton, I want to make -- get real clear that
2 we understand exactly where you are coming from on this --
3 the last thing you were talking to Mr. Keith about.

4 Now, you said basically that if you thought a
5 person was intelligent enough to know what they were doing
6 when they committed a crime -- I'm not getting the words
7 exact, but -- basically, if they were intelligent enough to
8 know what they were doing when they committed a crime, that
9 they should be responsible for what they did, is basically
10 what you said.

11 MR. BURTON: No, no, no.

12 MR. KAY: Okay, go ahead.

13 MR. BURTON: If they are intelligent enough to commit a
14 crime, they are intelligent enough to be responsible for it,
15 whether they know it or not.

16 They are responsible for it.

17 MR. KAY: Well, now, if the judge --

18 You understand, if you are selected as a member of
19 the jury, it would be up to the jury to determine whether or
20 not there is any mental illness involved.

21 I mean, if the jury determines that there is no
22 mental illness involved, fine, that takes care of it. And if
23 the jury determines that a defendant had some mental illness,
24 then it is up to the jury to determine if the mental illness
25 was substantial enough to reduce the criminal responsibility
26 of the defendant.

27 Now, what you are saying to Mr. Keith and to
28 myself and to the court now is that no matter how crazy

1 somebody might be, a defendant might be, you wouldn't take that
2 into consideration at all, or how mentally ill, or would you
3 take that into consideration?

4 MR. BURTON: Okay.

5 You are talking -- we are evidently talking about
6 a person who has really committed what you call a heinous
7 crime or something like this.

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1 MR. KAY: Right.

2 MR. BURTON: And they did it or they didn't.

3 MR. KAY: Right.

4 MR. BURTON: And that's one thing.

5 MR. KAY: Right.

6 Let's assume that there is substantial proof that
7 the person did it but the question is, what was the person's
8 state of mind at the time they did it.

9 Once the evidence is in that the person did it,
10 would you just close your mind to any evidence on their
11 state of mind, or would you consider what the person's state
12 of mind was?

13 You see, as I told the jurors from the beginning,
14 the prosecution has the legal burden not only of proving
15 guilt or innocence but proving the degree of guilt.

16 We have to prove, in order to have Miss Van Houten
17 convicted of a first degree murder, that she had the mental
18 capacity to commit a willful, deliberate, premeditated murder
19 of the first degree.

20 Now, that entails more than just proving that she
21 did the act. That entails proving that she had the particular
22 state of mind at the time of the commission of the act.

23 Now, would you consider that, what the person's
24 state of mind was at the time they committed the act, or
25 would you just say once the evidence is in, "I'm convinced
26 that the person did the act, it doesn't make any difference
27 what their state of mind was"?

28 MR. BURTON: I believe I probably would.

17-2

1 I believe if they did the act they are
2 responsible for what they did.

3 MR. KAY: Well, of course, we are talking about a
4 degree of responsibility.

5 MR. BURTON: Yes, sir.

6 MR. KAY: Do you think that there could be --

7 Do you think you could consider in your mind the
8 degree of that person's responsibility?

9 Or would you just say that once the evidence is
10 in in proving that that person committed some murders, that
11 you'd just close your mind to the degree of responsibility?

12 MR. BURTON: If you are talking about murder --

13 MR. KAY: That's what we are talking about.

14 MR. BURTON: I don't believe I would say there is a
15 degree of responsibility.

16 That's like -- what do you call it? That's like
17 virtue amongst prostitutes. They either did it or they
18 didn't.

19 And that's what it is.

20 MR. KAY: Once the evidence was in and you felt that a
21 person committed the act, then, you just wouldn't consider
22 any other evidence as to whether they may or may not have
23 been mentally ill at the time they committed the act?

24 MR. BURTON: Well, what does that have to do with it?

25 MR. KAY: That's what I am asking you. I'm asking you
26 will you consider it.

27 I can't tell you what it has to do with it.

28 I mean, Mr. Keith and I might disagree about that.

1 I'm just trying to find out what's in your mind.
2 I'm trying to find out, are you going to follow the Court's
3 instructions in this regard and consider --

4 I'm not saying that you have to buy anything.
5 I'm just saying, will you follow the instructions and keep
6 an open mind, or will you just once the proof is in that the
7 person committed the murder, just say, "Well, I'm not going
8 to listen to anything else, I'm not going to listen to any
9 mental state, or anything, I'm going to throw the book at the
10 person?"

11 MR. BURTON: I didn't say that.
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1 MR. KAY: Okay.

2 THE COURT: Mr. Burton, let me ask you this:

3 The Court is going to instruct the jury at the
4 conclusion of the case concerning the elements of first degree
5 murder and other forms of murder; and without getting into
6 a great amount of detail, the differentiation between various
7 forms of homicide has to do with the mental state.

8 And I don't want to go into it in more detail
9 than that.

10 But what we are trying to find out is, if the
11 Court instructs you concerning the various mental states
12 applicable as to each form of homicide, will you follow those
13 instructions?

14 Or are you going to, because of your state of
15 mind, reject the instructions that the Court gives in regard
16 to mental state?

17 MR. BURTON: I would -- being honest, Your Honor, I
18 don't think I could ignore --

19 Well, it would prey on my mind if I said the
20 person was just sort of halfway responsible for what they did
21 no matter what their mental state.

22 I can't say black or white, but it's there.

23 THE COURT: Do you have anything further, Mr. Kay?

24 MR. KAY: No.

25 THE COURT: All right.

26 MR. Burton, you are excused. Thank you, sir.

27 THE CLERK: Mrs. Mary E. Blackshear, B-l-a-c-k-s-h-e-a-r.

28 THE COURT: Mrs. Blackshear, did you hear the questions

1 that the Court previously asked the jury?

2 MS. BLACKSHEAR: Yes.

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

5 MS. BLACKSHEAR: Yes.

6 THE COURT: All right.

7 As you sit there now can you think of any reason
8 why you couldn't be fair and impartial in this matter?

9 MS. BLACKSHEAR: No, I couldn't think of any reason
10 about that, but I have a note here that I would like to read.

11 THE COURT: You have a --

12 MS. BLACKSHEAR: I have a note here.

13 THE COURT: All right. Would you hand it, please, to
14 the bailiff.

15 THE BAILIFF: I will get it, ma'am.

16 THE COURT: You just stay where you are, ma'am, and he
17 will bring it over to me.

18 (Brief pause.)

19 THE COURT: All right. Does this in any way affect
20 your ability to serve upon this case?

21 MS. BLACKSHEAR: Yes. I'm going to have to check with
22 her to find out, you know, if I'm going to get paid while
23 I'm here or not.

24 THE COURT: The note I have --

25 MS. BLACKSHEAR: Well, according to -- I have to call
26 her because it says on there that I would be paid after jury
27 duty.

28 So I'm going to need to be paid before I finish

1 jury duty. I can't be here for 90 days and --

2 THE COURT: Let me read the note for the record.

3 It says:

4 "Mary, please have this filled out
5 when you finish jury duty and bring it to me.
6 Otherwise you don't get paid.

7 "Both."

8 By whom are you employed?

9 MS. BLACKSHEAR: U.C.L.A.

10 THE COURT: I beg your pardon?

11 MS. BLACKSHEAR: U.C.L.A.

1 THE COURT: Have you had an opportunity to talk to them?

2 MS. BLACKSHEAR: No, but I would like to call them.

3 THE COURT: Has anybody prevented you from calling them?

4 MS. BLACKSHEAR: She goes to lunch at 1 o'clock, and
5 she wasn't there yesterday for me to talk to her.

6 THE COURT: So you are telling me you don't have any
7 way to call her?

8 MS. BLACKSHEAR: I can call her now and see if she is
9 there.

10 THE COURT: How about during the recess?

11 MS. BLACKSHEAR: Okay, I'll call her during the recess.

12 THE COURT: Can you think of any reason why you couldn't
13 be a fair and impartial juror in this case?

14 MS. BLACKSHEAR: No.

15 THE COURT: All right.

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

18 MS. BLACKSHEAR: Mary Blackshear.

19 12-14-34.

20 THE COURT: No; just the area you live --

21 MR. KEITH: That's her age.

22 THE COURT: Oh, excuse me; go ahead.

23 MS. BLACKSHEAR: Los Angeles, Southwest.

24 Divorced.

25 Children: Three; 23, 19 and 8.

26 Occupation: Senior LWN.

27 MR. KEITH: I'm sorry, Your Honor; I couldn't hear that.

28 THE COURT: Could you pull the microphone up a little

1 bit closer?

2 What is your occupation?

3 MS. BLACKSHEAR: Senior IWH, licensed vocational nurse.
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1 THE COURT: Have you previously served as a juror?

2 MRS. BLACKSHEAR: No.

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

5 MRS. BLACKSHEAR: No.

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

8 MRS. BLACKSHEAR: No.

9 THE COURT: Have you or anyone close to you been the
10 victim of a serious offense?

11 MRS. BLACKSHEAR: No.

12 THE COURT: All right, thank you.

13 Mr. Keith, you may inquire.

14 MR. KEITH: Thank you, Your Honor.

15 Mrs. Blackshear, I was unable to hear whether you
16 were married or not.

17 MRS. BLACKSHEAR: Divorced.

18 MR. KEITH: And I was also unable to hear whether you
19 had any children.

20 MRS. BLACKSHEAR: Three.

21 MR. KEITH: And what are their ages?

22 MRS. BLACKSHEAR: 23, 19, and 8.

23 MR. KEITH: And is the 23-year-old a boy or a girl?

24 MRS. BLACKSHEAR: A girl.

25 MR. KEITH: What does she do?

26 MRS. BLACKSHEAR: She is a student.

27 MR. KEITH: Where?

28 MRS. BLACKSHEAR: Cal Poly State University in Pomona.

1B-2

1 MR. KEITH: And the 19-year-old?

2 MRS. BLACKSHEAR: A student.

3 MR. KEITH: A student?

4 MRS. BLACKSHEAR: Yes.

5 MR. KEITH: Where?

6 MRS. BLACKSHEAR: Crenshaw High.

7 MR. KEITH: And is it a boy or girl?

8 MRS. BLACKSHEAR: A boy.

9 MR. KEITH: And what did your former husband do?

10 MRS. BLACKSHEAR: When I knew him, he worked for the
11 city.

12 MR. KEITH: As what?

13 MRS. BLACKSHEAR: I think he works in the public works
14 department, something like that.

15 MR. KEITH: How long have you been a nurse, Mrs. Blackshear?

16 MRS. BLACKSHEAR: About 15 years.

17 MR. KEITH: Presently you are on the staff at UCLA?

18 MRS. BLACKSHEAR: Yes.

19 MR. KEITH: As a result of your occupation, do you know
20 many psychiatrists?

21 MRS. BLACKSHEAR: Not personally.

22 MR. KEITH: You just know of some?

23 MRS. BLACKSHEAR: Yes.

24 MR. KEITH: You are not attached to NPI, are you?

25 MRS. BLACKSHEAR: No.

26 MR. KEITH: Have you taken courses or studied psychiatry
27 or psychology?

28 MRS. BLACKSHEAR: Well, I had a course in psychology at

18-3

1 East L. A. when I was taking up nursing but --

2 MR. KEITH: Other than that, have you had any particular
3 or special interest in those subjects?

4 MRS. BLACKSHEAR: No.

5 MR. KEITH: Do you have any belief or feeling that
6 psychiatrists or the profession of psychiatry is of little
7 value?

8 MRS. BLACKSHEAR: No, not necessarily. I wouldn't go
9 to one myself, but --

10 MR. KEITH: Are you suggesting to us that you wouldn't
11 go to one even if you felt emotionally or mentally disturbed?

12 MRS. BLACKSHEAR: No. What I'm saying is, the problems
13 that I have, I try to reason my problems out, and I just
14 wouldn't go to one.

15 MR. KEITH: Well, everybody has problems.

16 MRS. BLACKSHEAR: That's true.

17 MR. KEITH: I'm talking about --

18 Let me ask you in this fashion: Would you advise
19 a friend or relative to seek psychiatric help if you felt
20 they were mentally disturbed or mentally ill --

21 MRS. BLACKSHEAR: No.

22 MR. KEITH: -- and in need of help?

23 What was your answer?

24 MRS. BLACKSHEAR: If I had a friend or a relative that
25 I felt needed help, I wouldn't advise him to go -- I would
26 advise him to go only to a psychiatrist if they couldn't work
27 out their problems by talking it over, maybe, with their
28 pastor or a friend or something. And then if they couldn't

1 work their problems out, maybe they would need to see one;
2 but I would make it a last resort.

3 MR. KEITH: Would you be inclined, therefore, in the
4 event psychiatrists appeared here in behalf of Miss Van Houten
5 and testified to her particular mental state in 1969, 1970,
6 to disregard their testimony because of the somewhat low
7 esteem perhaps in which you hold psychiatrists?

8 MRS. BLACKSHEAR: No, I don't hold them in any low
9 esteem. I just --
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18-5

1 MR. KEITH: Do you feel they are sort of a surplusage
2 on the planet?

3 MRS. BLACKSHEAR: Yeah, make it the last resort, say.

4 MR. KEITH: And even so, don't you think you might be
5 inclined to disregard their testimony, to disregard their
6 opinions, and the reasons they may give therefor, arbitrarily?

7 MRS. BLACKSHEAR: No.

8 MR. KEITH: You are positive of that?

9 MRS. BLACKSHEAR: I'm positive.

10 MR. KEITH: Do you feel that psychiatrists are unable to,
11 because of the state of the art, delve into the complexities
12 of the human mind and help someone or diagnose someone's
13 possible mental illness?

14 MRS. BLACKSHEAR: No.

15 MR. KEITH: I realize you believe in self-help --

16 MRS. BLACKSHEAR: I do.

17 MR. KEITH: -- as opposed to going to counseling, or
18 whatever source --

19 MRS. BLACKSHEAR: I do.

20 MR. KEITH: -- to solve one's problems.

21 But in this case we are not talking about a course
22 of treatment. We are talking about a diagnosis.

23 Do you feel that -- and bear in mind you are a
24 nurse and you are exposed to this kind of thing more than
25 most of us are -- do you believe that psychiatrists in general
26 agree there may be good psychiatrists and indifferent
27 psychiatrists and poor psychiatrists?

28 But let's assume a well-qualified psychiatrist,

18-6

1 Do you believe that he has the capacity, or she,
2 to make a diagnosis as to one's mental state at a particular
3 time; just a diagnosis, now --

4 MRS. BLACKSHEAR: Okay.

5 MR. KEITH: -- about what is the matter with someone as
6 opposed to a course of treatment?

7 MRS. BLACKSHEAR: Yeah, I would say so, yes.

8 MR. KEITH: Have you dealt with people as --

9 What is a vocational nurse, by the way,
10 Mrs. Blackshear?

11 MRS. BLACKSHEAR: A vocational nurse is -- they have the
12 registered nurse --

13 MR. KEITH: You are going to have to talk a little --

14 MRS. BLACKSHEAR: They have the registered nurses which
15 go two or three years. They have the vocational nurse who
16 goes 18 months or a year. Whatever school you happen to go to.

17 MR. KEITH: All right.

18 MRS. BLACKSHEAR: They give medications. They just don't
19 give narcotics.

20 MR. KEITH: Well, speaking of narcotics, that's the
21 next --

22 Have you encountered patients or perhaps friends
23 or relatives that have had drug problems?

24 MRS. BLACKSHEAR: No.

25 MR. KEITH: No patients?

26 MRS. BLACKSHEAR: No, I take care of the babies, mostly.

27 MR. KEITH: Do you have any particular training or
28 learning in the field of drug abuse?

1 MRS. BLACKSHEAR: No.

2 MR. KEITH: Have you taken courses in drug abuse in
3 connection with your training to become a vocational nurse?

4 MRS. BLACKSHEAR: No.

5 MR. KEITH: You don't know anything about -- I shouldn't
6 put it that baldly -- you know very little, I take it, about
7 the use and abuse of dangerous drugs or narcotics?

8 MRS. BLACKSHEAR: Right.

9 MR. KEITH: And you don't have any particular interest
10 in that field beyond what you are exposed to through the media?

11 MRS. BLACKSHEAR: No.

12 MR. KEITH: Is that a fair statement?

13 MRS. BLACKSHEAR: That's a fair statement.
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1 MR. KEITH: Are you so opposed to the abuse of drugs,
2 as true we all are, but are you so opposed to it and so
3 strongly opposed to it that in the event the evidence indicated
4 Miss Van Houten had abused LSD you would give her no further
5 consideration once you learned that and thus be unable to give
6 her a fair trial?

7 MRS. BLACKSHEAR: No.

8 MR. KEITH: Can you think of any reason as you sit
9 there now beyond possible employment problems that would
10 prevent you from giving Leslie a fair trial or that might
11 make it difficult for you to give her a fair trial?

12 MRS. BLACKSHEAR: No.

13 MR. KEITH: For instance, we had a discussion about
14 the concept of diminished capability with the juror who sat in
15 that chair previously.

16 Did you listen to that discussion?

17 MRS. BLACKSHEAR: Some of it.

18 MR. KEITH: Is that because you weren't interested or
19 because the attorneys' voices and the judge's voice were
20 directed to the jurors and not to the persons in the audience?

21 MRS. BLACKSHEAR: They weren't directed exactly to the
22 audience.

23 MR. KEITH: Pardon me?

24 MRS. BLACKSHEAR: The voices were not directed exactly
25 to the audience.

26 MR. KEITH: Did you hear enough about the concept of
27 diminished responsibility with respect to different degrees
28 of homicide whereby you are able to tell us now whether or not

1 you agree with that concept of law, and if you are instructed
2 on the subject of diminished capacity would you follow such
3 instructions?

4 MRS. BLACKSHEAR: I would follow the instructions, yes.

5 MR. KEITH: Do you agree, however, with the doctrine of
6 diminished capacity which, in essence, states that A may be
7 less responsible for a homicide than B because of the peculiar
8 or unique mental state of A as opposed to B, A being unbalanced
9 and B being normal?

10 MRS. BLACKSHEAR: I didn't hear all that part of it,
11 so I really couldn't say that I agree with it.

12 MR. KEITH: Do you have reservations about that doctrine?

13 You did tell us that you would follow the law --

14 MRS. BLACKSHEAR: Yes.

15 MR. KEITH: -- in the event you were so instructed by
16 the court in the area of diminished capacity as it affects
17 one's responsibility in a homicide case.

18 You did tell us you would do that.

19 MRS. BLACKSHEAR: Yes, I did.

20 MR. KEITH: Now, the question is, do you feel that a
21 person's particular mental state can affect his or her
22 responsibility for the commission of a homicide?

23 MRS. BLACKSHEAR: Yes.

24 MR. KEITH: Do you feel that such a rule of law is
25 appropriate?

26 What I'm asking you is, do you quarrel with the
27 doctrine?

28 You did tell us you would follow it, but the

1 corollary is would you quarrel with it?

2 MRS. BLACKSHEAR: No.

3 MR. KEITH: I'll pass for cause.

4 THE COURT: Thank you.

5 Mr. Kay, you may inquire.

6 MR. KAY: Thank you, Your Honor.

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MR. KAY: Mrs. Blackshear, I'm sorry that I missed it

about your children.

How many are boys and how many are girls? or are

they all boys or all girls?

MRS. BLACKSHEAR: Two are girls and one is a boy.

MR. KAY: And how old are the girls?

MRS. BLACKSHEAR: Twenty-three and eight.

MR. KAY: The fact that Miss Van Houten has been in

custody for seven years, does that make any difference to you?

MRS. BLACKSHEAR: It doesn't make any difference.

MR. KAY: You wouldn't consider giving her a favorable

verdict, so Mr. Keith likes to say, because of that fact?

MRS. BLACKSHEAR: No.

MR. KAY: And realizing that under the law the

prosecution has the legal burden of proving a defendant

guilty beyond a reasonable doubt, would you hold us to any

higher burden of proof?

MRS. BLACKSHEAR: No.

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

MRS. BLACKSHEAR: No.

MR. KAY: Did you hear my example of circumstantial

evidence direct evidence?

MRS. BLACKSHEAR: Yes.

MR. KAY: Okay.

You don't want me to report that.

MRS. BLACKSHEAR: No.

(Laughter.)

MR. KAY: You don't have to be so frank.

1 Understanding that, do you have any quarrel with
2 circumstantial evidence?

3 MRS. BLACKSHEAR: No.

4 MR. KAY: Would you refuse to convict a defendant based
5 on circumstantial evidence?

6 MRS. BLACKSHEAR: No.

7 MR. KAY: Would you require us to call an eyewitness
8 to a murder before you would convict any defendant of any
9 murder?

10 MRS. BLACKSHEAR: No.

11 MR. KAY: If you were in the jury room and it was
12 eleven to one, eleven jurors wanted to convict Miss Van Houten
13 of first degree murder and you wanted to convict her of second
14 degree, and somebody pointed out to you that maybe you
15 misinterpreted a jury instruction or maybe you missed a crucial
16 piece of evidence and you change your mind, you felt she was
17 guilty of first degree murder, would you not only have the
18 courage to vote in the jury room to convict her of first
19 degree murder but to come out here in the courtroom and tell
20 all of us that that's your verdict?

21 MRS. BLACKSHEAR: Yes.

22 MR. KAY: Even though you knew your verdict would make
23 the verdict unanimous and mean she would be convicted of
24 first degree murder?

25 MRS. BLACKSHEAR: Yes.

26 MR. KAY: Did you understand my discussions with the
27 other jurors about conspiracy and aiding and abetting?

28 MRS. BLACKSHEAR: Yes.

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1 MR. KAY: Do you have any quarrel with the fact that
2 under the law in California a person can be convicted of
3 first degree murder under the theories of aiding and abetting
4 and conspiracy even if they don't strike the fatal blow
5 themselves?

6 MRS. BLACKSHEAR: No.

7 MR. KAY: Do you feel that anyone who commits a vicious
8 murder must be mentally ill at the time they committed the
9 murder?

10 MRS. BLACKSHEAR: No.

11 MR. KAY: Do you think that just because defendants
12 call psychiatrists to testify in their behalf, that that means
13 that they must be mentally ill or have some history of mental
14 illness or they wouldn't call the psychiatrists?

15 MRS. BLACKSHEAR: About that I'm not sure.
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1 MR. KAY: Well, do you think that just because a
2 defendant in any trial calls a psychiatrist to testify as a
3 witness on their behalf, that that means that it's a fact
4 that the person must be mentally ill or they wouldn't call
5 psychiatrists?

6 MRS. BLACKSHEAR: I guess so.

7 I'm not sure on that, yes.

8 MR. KAY: You understand, as Mr. Keith has been telling
9 you, that the mental state of a defendant can possibly under
10 the law reduce their criminal responsibility.

11 Now, realizing that a defendant might get off
12 with a lighter sentence, so to speak, if he could convince
13 the jury that his or her mental state was not what it was
14 made out to be, can you conceive of them calling psychiatrists
15 to testify on their behalf?

16 MRS. BLACKSHEAR: Yes.

17 MR. KAY: So you don't think that just because they
18 call psychiatrists that means it's a God-given fact that they
19 are mentally ill, then, do you?

20 MRS. BLACKSHEAR: No.

21 MR. KAY: Do you feel if any psychiatrist gets on the
22 stand and tells you that his opinion is that Miss Van Houten
23 was mentally ill at the time of the Lodiencia murders, that
24 you are going to accept his opinion as a fact without regard
25 to the reasonableness or unreasonableness of that psychiatrist's
26 opinion?

27 MRS. BLACKSHEAR: No.

28 MR. KAY: Now, because you work with doctors a lot, do

19-5

1 you think that doctors are something special; that they are
2 incapable of making mistakes?

3 MRS. BLACKSHEAR: Everybody makes mistakes; no.

4 MR. KAY: You don't think doctors are gods, or anything,
5 that just never make a mistake?

6 MRS. BLACKSHEAR: No, I definitely do not.

7 MR. KAY: You know better than that, huh?

8 MRS. BLACKSHEAR: Yes.

9 MR. KAY: Do you think that psychiatry is a definite
10 science, like chemistry or mathematics, where you can come up
11 with definite, provable answers?

12 MRS. BLACKSHEAR: No.

13 MR. KAY: Because psychiatrists are going to testify
14 in this court, are you just going to sit back and let them
15 make up your mind for you, or are you going to make up your
16 own mind?

17 MRS. BLACKSHEAR: I will make up my own mind.

18 MR. KAY: Do you think you can keep clear in your mind
19 the fact that Miss Van Houten is being charged with two counts
20 of murder and one count of conspiracy to commit murder in 1969,
21 and not 1977?

22 MRS. BLACKSHEAR: Yes.

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

26 MRS. BLACKSHEAR: No.

27 MR. KAY: And you think you will be able to call your
28 employer at the afternoon recess?

1 MRS. BLACKSHEAR: Yes.

2 MR. KAY: Thank you.

3 I will pass for cause.

4 THE COURT: Thank you.

5 The peremptory is with the defendant, No. 7.

6 MR. KEITH: The defence will thank and excuse juror
7 No. 12, Mrs. Chargois.

8 THE COURT: Mrs. Chargois, thank you for your attendance
9 upon the case. You are excused.

10 THE CLERK: Mrs. Diane C. Durnerin, D-u-r-n-e-r-i-n.
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1 THE COURT: Mrs. Durnerin, did you hear the questions
2 that I asked the panel previously?

3 MRS. DURNERIN: Yes, sir.

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

6 MRS. DURNERIN: Yes.

7 THE COURT: All right.

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

11 MRS. DURNERIN: No.

12 THE COURT: All right.

13 Would you please give us your personal data?

14 MRS. DURNERIN: My name is Diane C. Durnerin.

15 Born October 24, '48.

16 I live in the Arcadia area.

17 I'm married.

18 I have two children, seven and eight.

19 And I work for the Edison Company. I'm a
20 secretary.

21 And my husband works for KWOW.

22 THE COURT: And what kind of work does he do for them?

23 MRS. DURNERIN: He gets accounts and writes the
24 commercials.

25 THE COURT: Have you previously served as a juror?

26 MRS. DURNERIN: No.

27 THE COURT: Do you have any close friends or relatives
28 or are you yourself associated with law enforcement?

1 MRS. DURNERIN: No.

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

4 MRS. DURNERIN: No.

5 THE COURT: Have you or anyone close to you ever been
6 the victim of a serious offense?

7 MRS. DURNERIN: No.

8 THE COURT: Thank you.

9 Mr. Keith, you may inquire.

10 MR. KEITH: Mrs. Durnerin, would you be able to keep
11 an open mind throughout the case and not decide it at the
12 close of the prosecution's case?

13 MRS. DURNERIN: Yes.

14 MR. KEITH: Would you be able to maintain your
15 individual opinion, in the event you are selected as a trial
16 juror and you commence deliberations and you reach a decision --

17 Would you be able to maintain that opinion
18 despite the fact that perhaps you may be in the minority
19 of the jurors?

20 MRS. DURNERIN: Yes.

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1 MR. KEITH: You wouldn't be swayed by pressures put on
2 you by other jurors to change your mind?

3 MRS. DURNERIN: No.

4 MR. KEITH: You would only change your mind, I presume,
5 change your opinion in the event you were persuaded your
6 original opinion was erroneous?

7 MRS. DURNERIN: Yes.

8 MR. KEITH: By reason of logical and reasonable and
9 dispassionate discussions with other jurors, right?

10 MRS. DURNERIN: Yes.

11 MR. KEITH: All right.

12 Do you know anything about drugs?

13 MRS. DURNERIN: Not much.

14 MR. KEITH: Have you read a little about it?

15 MRS. DURNERIN: Yeah, I have read some articles.

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

17 MRS. DURNERIN: Oh, yes.

18 MR. KEITH: You have read about that?

19 MRS. DURNERIN: Uh-huh.

20 MR. KEITH: Do you know anybody that's ever used it?

21 MRS. DURNERIN: Not that I know of.

22 MR. KEITH: Have you reached any opinion about the
23 effects LSD can have, as a result of reading you have done in
24 the past?

25 MRS. DURNERIN: No.

26 MR. KEITH: Do you know any psychiatrists?

27 MRS. DURNERIN: No.

28 MR. KEITH: What's your opinion of psychiatrists?

1 MRS. DURNERIN: Well, I think that they provide a
2 service that's necessary.

3 MR. KEITH: You wouldn't be averse to sending a friend
4 that you thought was mentally ill to a psychiatrist for
5 treatment or observation, would you?

6 MRS. DURNERIN: No.

7 MR. KEITH: You wouldn't disregard the testimony of
8 psychiatrists, in the event that they appeared here and
9 testified in Miss Van Houten's behalf as to her mental state
10 back in 1969, would you, simply because of the nature of their
11 profession?

12 MRS. DURNERIN: No.

13 MR. KEITH: You don't feel that psychiatry is in such
14 a stage of infancy that those who practice that profession
15 are unable or ill-equipped or unqualified to delve into the
16 human mind and make diagnoses?

17 MRS. DURNERIN: No.

18 MR. KEITH: You don't feel that way at all, do you?

19 MRS. DURNERIN: No.

20 MR. KEITH: Therefore, you would listen to the opinions
21 and the reasons therefor offered by a psychiatrist from the
22 witness stand, and you wouldn't just disregard them?

23 MRS. DURNERIN: No.

24 MR. KEITH: Out of whim or caprice.

25 MRS. DURNERIN: I would have to weigh it with the rest
26 of the testimony.

27 MR. KEITH: Right.

28 And you would consider their opinions, their

1 reasons therefor and the reasonableness of their reasons.

2 MRS. DURNERIN: Yes.

3 MR. KEITH: Do you feel that a psychiatrist, no matter
4 how well qualified, would be unable to tell us what the
5 mental state was of a person eight years ago, even though
6 the psychiatrist had been furnished and was equipped with
7 voluminous material concerning the events and concerning
8 other circumstances eight years ago?

9 MRS. DURNERIN: I feel it would depend a whole lot on --
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1 MR. KEITH: What they had.

2 MRS. DURNERIN: The material, right.

3 MR. KEITH: Yes, what sort of material they had.

4 MRS. DURNERIN: Um-hum.

5 MR. KEITH: And how believable and how credible --

6 MRS. DURNERIN: How accurate, yes.

7 MR. KEITH: And how detailed.

8 MRS. DURNERIN: Yes, definitely.

9 MR. KEITH: All right.

10 You don't feel that if the evidence shows
11 Miss Van Houten was involved with Charles Manson that would
12 put her at such a disadvantage you wouldn't be able to
13 judge her guilt or innocence fairly, do you?

14 MRS. DURNERIN: No.

15 MR. KEITH: Again, I want to emphasize that her
16 association with Manson, if any there may have been, is of
17 significance and relevance.

18 I don't want to --

19 MRS. DURNERIN: Yes.

20 MR. KEITH: -- suggest otherwise.

21 But merely because of the association you would --
22 that would poison your mind against her?

23 MRS. DURNERIN: No.

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1 MR. KEITH: Say she's a bad girl and forget it?

2 MRS. DURNERIN: No.

3 MR. KEITH: Would the same thing apply in the event the
4 evidence showed Miss Van Houten back in the '60s abused LSD
5 and other drugs?

6 MRS. DURNERIN: No.

7 MR. KEITH: You would consider its relevance --

8 MRS. DURNERIN: I would, together --

9 MR. KEITH: -- in the light of all the other evidence
10 and in the light of the judge's instructions as to the law?

11 MRS. DURNERIN: Yes.

12 MR. KEITH: Now, do you feel that the concept of
13 diminished capacity is inappropriate?

14 MRS. DURNERIN: Inappropriate how? For this case? I
15 don't know.

16 MR. KEITH: No, no, no, no, no. In general. Generally.

17 MRS. DURNERIN: Generally, no.

18 MR. KEITH: Generally speaking. Like, did you hear
19 Mr. Burton?

20 MRS. DURNERIN: Yes, I heard that. No.

21 MR. KEITH: Well, we have had quite a discussion with
22 him.

23 Are you of the same frame of mind he was?

24 MRS. DURNERIN: No.

25 MR. KEITH: Or is?

26 MRS. DURNERIN: No.

27 MR. KEITH: Do you have any quarrel, Mrs. Durnerin, with
28 any of the other concepts of law that have been enunciated here

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1 such as presumption of innocence, the fact that an indictment
2 is no evidence of guilt and is to be considered as such,
3 reasonable doubt?

4 MRS. DURNERIN: No. Yes. No, I have no qualms.

5 MR. KEITH: Pass for cause, Your Honor.

6 THE COURT: Thank you.

7 Mr. Kay, you may inquire.

8 MR. KAY: Thank you, Your Honor.

9 I bet you could hardly wait to get up here. You
10 haven't heard any of my questions before, and so you want to
11 see what we are going to say.

12 Now, the fact that Miss Van Houten has been in
13 custody for seven years, does that make any difference to you?

14 MRS. DURNERIN: Not until the end of the trial.

15 MR. KAY: Even at the end of the trial, does it make
16 any difference to you?

17 MRS. DURNERIN: Well, I would feel bad if she was found
18 innocent. That's what I mean.

19 If she was guilty, no; if she was innocent, yes,
20 I would feel bad.

21 MR. KAY: Well, let me say this: The court is going to
22 instruct the jury, whoever sits on the jury, that they can't
23 take into consideration the question of penalty or punishment.

24 MRS. DURNERIN: Right.

25 MR. KAY: Now, are you going to feel, when you get back
26 in the jury room, "Well, Miss Van Houten has already served
27 seven years, and that's long enough for anybody to serve for
28 any murder, so let's give her a favorable verdict that Mr. Keith

20-3
1 talks about and let her go home"?

2 MRS. DURNERIN: No.

3 MR. KAY: Do you feel any sympathy for Miss Van Houten
4 as she sits there now?

5 MRS. DURNERIN: No.

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

9 MRS. DURNERIN: Yes.

10 MR. KAY: Do you understand the prosecution doesn't have
11 the burden of proving somebody guilty beyond a shadow of a
12 doubt or to an absolute certainty; we just have to prove
13 somebody guilty beyond a reasonable doubt?

14 MRS. DURNERIN: Yes.

15 MR. KAY: So you would not hold us to any higher burden
16 of proof, would you?

17 MRS. DURNERIN: No.

18 MR. KAY: Do you have any close friends that are
19 attorneys?

20 MRS. DURNERIN: No.

21 MR. KAY: Have you ever studied law?

22 MRS. DURNERIN: No.

23 MR. KAY: Well, there are a lot of women that go to
24 law school.

25 MRS. DURNERIN: I barely got out of high school.

26 MR. KAY: Well, there are a lot of women nowadays that
27 are going to law school and studying law.

28 MRS. DURNERIN: Yes.

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1 MR. KAY: So that's -- I don't limit that question to
2 men.

3 Did you understand the example I gave of circum-
4 stantial versus direct evidence?

5 MRS. DURNERIN: Yes, I did.

6 MR. KAY: You are afraid I'm going to say it again, huh?

7 Do you have any quarrel with circumstantial
8 evidence?

9 MRS. DURNERIN: No.

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1 MR. KAY: Would you refuse to convict a defendant based
2 on circumstantial evidence?

3 MRS. DURNERIN: Not if I'm instructed by the judge, no.

4 MR. KAY: Under the law, the law doesn't differentiate --

5 MRS. DURNERIN: That's just the way it is.

6 MR. KAY: -- between direct and circumstantial evidence.

7 As I pointed out before, some jurors say, "Well,
8 unless there is some witness that saw something happen, I am
9 not going to believe it, because seeing is believing," so to
10 speak.

11 Do you feel that way?

12 MRS. DURNERIN: No.

13 MR. KAY: So you wouldn't require us to put an eyewitness
14 on to the murder before you convict any defendant of murder?

15 MRS. DURNERIN: No.

16 MR. KAY: And if you were that one juror in the jury
17 room, and it was 11 to 1 -- I don't have to repeat all the
18 facts; I'm sure you have heard it a lot -- would you have the
19 courage to vote along with the other jurors if you conscien-
20 tiously believed that they were right?

21 MRS. DURNERIN: If I felt they were right, yes.

22 MR. KAY: Even though you knew that your vote would
23 make the verdict unanimous and it would mean that Miss Van
24 Houten would be convicted of, say, the charge of first degree
25 murder?

26 MRS. DURNERIN: Yes.

27 MR. KAY: The fact that Miss Van Houten's mother might
28 come into the courtroom and testify on Miss Van Houten's

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1 behalf in the defense part of the case, and you might feel
2 sorry for what she's been through over the years, for that
3 reason alone would you consider finding Miss Van Houten guilty
4 of a reduced charge such as second degree murder?

5 MRS. DURNERIN: No.

6 MR. KAY: And also for that reason, that you might feel
7 sorry for the mother, would you, therefore, believe everything
8 that she had to say about Miss Van Houten?

9 MRS. DURNERIN: It would have to be weighed with
10 everything else.

11 MR. KAY: I mean, you just wouldn't automatically believe
12 everything she had to say --

13 MRS. DURNERIN: No.

14 MR. KAY: -- because you might feel sorry for the circum-
15 stances that she found herself in back in 1969?

16 MRS. DURNERIN: No.

17 MR. KAY: Can you conceive of a defendant calling
18 psychiatrists to testify in his or her behalf if the defendant
19 wasn't, in fact, mentally ill or had some mental illness in
20 their history?

21 MRS. DURNERIN: Yes.

22 MR. KAY: Do you think that anybody who commits a vicious
23 murder must necessarily be mentally ill at the time they
24 committed the murder?

25 MRS. DURNERIN: No.

26 MR. KAY: Do you think if a person commits a vicious
27 murder that they must not have known what they were doing at
28 the time?

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1 MRS. DURNERIN: No.

2 MR. KAY: Do you think that psychiatrists are special
3 people that just are incapable of making errors?

4 MRS. DURNERIN: No.

20a 5 MR. KAY: Do you understand that ---

6 You have heard me talk about willful, deliberate,
7 premeditated murder, I take it, since I have asked several
8 jurors questions about that, haven't you?

9 MRS. DURNERIN: Yes.

10 MR. KAY: You understand those are legal terms, not
11 psychiatric terms?

12 MRS. DURNERIN: Yes.

13 MR. KAY: Do you think that psychiatrists are any more
14 qualified than any member of the jury to make a conclusion
15 as to a defendant's legal state of mind at the time of a crime
16 as opposed to a psychiatric state of mind?

17 MRS. DURNERIN: Legally? No.

18 MR. KAY: I mean, we are in a court of law. We are
19 talking about ---

20 MRS. DURNERIN: Not as far as courts of law. As far
21 as legal outside a court of law -- you know how they give you
22 a statement saying you are sane or insane.

23 MR. KAY: Okay. You understand there is no question of
24 sanity or insanity in this trial.

25 MRS. DURNERIN: Yes.

26 MR. KAY: Miss Van Houten is not pleading not guilty by
27 reason of insanity.

28 MRS. DURNERIN: Yes.

1 MR. KAY: So you just won't have to address yourself to
2 that question.

3 What I'm saying is that you understand the terms
4 we are talking about when we are talking about Miss Van Houten's
5 mental state are legal terms.

6 MRS. DURNERIN: Yes.
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1 MR. KAY: Did she have a mental capacity to commit a
2 willful, deliberate, premeditated murder.

3 What I'm asking you is do you think psychiatrists
4 are any more qualified than you or any other member of the
5 jury to make a determination as to what her legal state of
6 mind was as opposed to her psychiatric state of mind at
7 the time of the LaBianca murders?

8 MRS. DURNERIN: As opposed to the psychiatric side?

9 MR. KAY: Right.

10 MRS. DURNERIN: No.

11 MR. KAY: Do you think because a psychiatrist also
12 happens to be a medical doctor that for that reason alone you
13 would tend to accept whatever they had to say on the witness
14 stand?

15 MRS. DURNERIN: No.

16 MR. KAY: And because psychiatrists are going to testify
17 in this case about Miss Van Houten's mental state at the time
18 of the LaBianca murders, do you feel that it is up to them
19 to decide what her mental state was; that you would just wash
20 your hands of it and let them make up your mind for you?

21 MRS. DURNERIN: No.

22 MR. KAY: If a psychiatrist got on the stand and testi-
23 fied to something you felt was unreasonable, would you reject
24 it?

25 MRS. DURNERIN: I don't understand the business about
26 rejecting something.

27 P. You aren't allowed to, are you? Don't you have
28 to keep it all together?

1 MR. KAY: You will be instructed at the end of the case
2 that every witness that testifies, you can accept all of their
3 testimony, you can accept a part of their testimony, or you
4 can reject all of it.

5 Just because somebody gets up on the witness stand
6 and swears to tell the truth doesn't mean that you have to
7 believe them. Or even if there is not a question as to whether
8 they are lying or not lying, if they say something unreasonable,
9 you don't have to accept that.

10 You will be instructed that it is up to you to
11 determine it, up to the members of the jury to determine what
12 you accept and what you don't accept.

13 It would be pretty hard for you to make a decision
14 if you accepted everything that you heard. You would be
15 going this way and that way and up and down and everything.

16 But it would be up to you to determine what you
17 accept and what you reject.

18 Do you understand that?

19 MRS. DURNERIN: Yes.

20 MR. KAY: If a psychiatrist came in here and took the
21 stand and testified that that wall behind you was pink, would
22 you believe him?

23 MRS. DURNERIN: No.

24 MR. KAY: All right. Well, that's what I'm -- is a
25 general example of what I'm getting at.

26 If somebody testifies to something unreasonable,
27 you don't have to accept it. And I take it you wouldn't if
28 you felt it was unreasonable.

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1 MRS. DURNERIN: No.

2 MR. KAY: Now, if you are selected as a juror in this
3 case, are you willing to accept 100 percent of the responsi-
4 bility to determine what Miss Van Houten's mental state was
5 at the time of the LaBianca murders?

6 MRS. DURNERIN: Yes.

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1 MR. KAY: Do you understand the psychiatrists don't have
2 any responsibility here? It is the jury that has the
3 responsibility.

4 MRS. DURNERIN: Yes.

5 MR. KAY: And if Mr. Keith got up in his closing
6 argument and argued for a second degree murder conviction,
7 and you believed that Miss Van Houten was guilty of first
8 degree, for any reason in the world would you consider finding
9 her guilty of second degree murder?

10 MRS. DURNERIN: Not if I believed otherwise.

11 MR. KAY: Do you think you can keep clear in your mind
12 throughout the entire case that what Miss Van Houten is being
13 charged with are two counts of murder and one count of
14 conspiracy to commit murder in 1969 and not 1977?

15 MRS. DURNERIN: Yes.

16 MR. KAY: Is there anything that I failed to ask you
17 that you think I should know about you?

18 All the secrets are coming out of the closet.

19 Is there anything you think I should know about
20 you --

21 MRS. DURNERIN: No.

22 MR. KAY: -- that I haven't asked or that Mr. Keith
23 hasn't asked or the judge hasn't asked?

24 MRS. DURNERIN: No, I think I said everything.

25 MR. KAY: All right.

26 I'll pass for cause.

27 THE COURT: Thank you.

28 The peremptory is with the People, number 8.

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MR. KAY: May we approach the bench, please?

THE COURT: Yes, will counsel approach the bench.

(The following proceedings were held
at the bench:)

MR. KAY: Before I can intelligently exercise my next
peremptory, I'd like to have our afternoon recess to find
out about Mrs. Blackshear.

THE COURT: Well, we can take a recess now. It is five
minutes of 3:00.

MR. KAY: Okay.

THE COURT: And we will resume at ten after.

MR. KAY: Okay, thank you.

THE COURT: Okay.

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

THE COURT: All right. At this time, ladies and
gentlemen, over my objections, I've been talked into taking
a recess.

Bear in mind during this recess that 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.

Mrs. Blackshear, I hope you will have an opportunity
to make your phone call and let us know how it comes out.

All right. Court is in recess.

1 All jurors, defendant, and counsel are ordered
2 to return at ten minutes past the hour.

3 Court is in recess,

4 (Recess taken.)

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21-1

1 THE COURT: People versus Van Bonten.

2 Let the record show the defendant is present,
3 represented by counsel, the People are represented by counsel,
4 the prospective jurors are in their places.

5 MRS. BLACKSHEAR: Were you able to make your phone
6 call?

7 MRS. BLACKSHEAR: She is ill.

8 THE COURT: She is what?

9 MRS. BLACKSHEAR: She is ill. She wasn't there.

10 THE COURT: So there is no one there you can talk to?

11 MRS. BLACKSHEAR: Well, everybody else was making the
12 rounds, and there won't be anybody there for the next half
13 hour.

14 And they don't know, anyway, so --

15 THE COURT: Well, can you check between now and
16 tomorrow morning at 10 o'clock?

17 MRS. BLACKSHEAR: (Nods head affirmatively.)

18 THE COURT: All right; thank you.

19 The peremptory is with the People, No. 8.

20 MR. KAY: The People will thank and excuse
21 Mrs. Blackshear.

22 Thank you, ma'am.

23 THE COURT: Thank you, ma'am. You are excused.

24 THE CLERK: Frank L. Palmer, P-a-l-m-e-r.

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

27 MR. PALMER: Yes.

28 THE COURT: And if I were to ask you those same

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1 questions would your answers be substantially the same?

2 MR. PALMER: Yes, they would.

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

6 MR. PALMER: I can't think of any reason.

7 THE COURT: All right.

8 Would you please give us your personal data?

9 MR. PALMER: My name is Frank D. Palmer.

10 I was born on the 7th of December, 1946.

11 My area of residence is Norwalk.

12 I am married.

13 We currently have three children: four and a half,
14 two and a half and one.

15 My occupation is -- I work for the ABC School
16 District as a head custodian; and my wife is a mother.

17 THE COURT: Thank you.

18 Have you previously served as a juror?

19 MR. PALMER: I was on jury duty, but I never made it
20 onto a jury.

21 THE COURT: And when was that?

22 MR. PALMER: About 1968 or '69.

23 THE COURT: All right.

24 Do you have any close relationship with law
25 enforcement or anyone that is involved with law enforcement?

26 MR. PALMER: The only thing I can of is my little
27 brother -- or my younger brother was just hired by the Whittier
28 Police Department as a jailer.

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1 THE COURT: And how long has he been employed with
2 the Whittier Police Department?

3 MR. PALMER: About two weeks.

4 THE COURT: Would this fact or circumstance in any way
5 affect your ability to be fair and impartial in this case?

6 MR. PALMER: It shouldn't have any effect at all.

7 THE COURT: If a police or peace officer were called
8 as a witness in this matter, would you judge his credibility
9 by the same standard that you would use as to any other
10 witness?

11 MR. PALMER: Yes, I would.
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1 THE COURT: And have you or anyone close to you ever
2 been arrested for or charged with a serious offense?

3 MR. PALMER: Not to my knowledge.

4 THE COURT: And have you or anyone close to you ever
5 been the victim of a serious offense?

6 MR. PALMER: Not to my knowledge.

7 THE COURT: All right, thank you.

8 MR. Keith, you may inquire.

9 MR. KEITH: Mr. Palmer, in what area is the ABC School
10 District?

11 MR. PALMER: It covers mostly Cerritos, the south part
12 of Norwalk, Hawaiian Gardens, a little bit of Lakewood and the
13 Long Beach area.

14 MR. KEITH: As head custodian, perhaps you could
15 describe briefly for us your particular function.

16 MR. PALMER: Okay.

17 I'm assigned to an elementary school in Hawaiian
18 Gardens, and I make sure that the school is clean inside and
19 out.

20 I work both days and nights. The day man covers
21 the exterior of the school and any little jobs that need to
22 be done.

23 And the night custodian generally covers the
24 interior of the classrooms.

25 MR. KEITH: How long have you had this occupation?

26 MR. PALMER: Since I was 18.

27 MR. KEITH: Always with the ABC School District?

28 MR. PALMER: No; I worked for Bellflower and

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1 Norwalk-La Mirada.

2 MR. KEITH: Have you been in the service? Probably
3 not.

4 MR. PALMER: No, I haven't. I have a visual problem.

5 MR. KEITH: I answered my own question when I asked it.
6 Not because of your glasses, but because of your age and when
7 you started with the school district.

8 Had your wife ever been employed outside the
9 home?

10 MR. PALMER: Yes.

11 MR. KEITH: In what capacity, may I ask?

12 MR. PALMER: She worked at a laundromat -- or a
13 cleaner's just before we were married.

14 MR. KEITH: All right.

15 And is the extent of your education through high
16 school?

17 MR. PALMER: Yes.

18 I also have an A.A. degree from Cerritos College,
19 and I did attend some classes at Cal State Long Beach.

20 MR. KEITH: Have you taken courses in psychiatry or
21 psychology?

22 MR. PALMER: I had two courses in psychology.

23 MR. KEITH: Did those courses interest you?

24 MR. PALMER: One was an introduction into it, and the
25 other one was on child development.

26 MR. KEITH: Did you enjoy the courses?

27 MR. PALMER: Kind of in the middle.

28 MR. KEITH: All right.

21-6

1 MR. PALMER: I got a D in one and a C in the other.

2 MR. KEITH: I didn't ask your grades.

3 (Laughter.)

4 MR. KEITH: It sounds as if you may have been somewhat
5 indifferent.

6 MR. PALMER: Yes.

7 MR. KEITH: We have been prying, but not that much.

8 (Laughter.)

9 MR. KEITH: Do you know of anyone who has been treated
10 by a psychiatrist?

11 MR. PALMER: No, not offhand.

12 MR. KEITH: Do you have any particular opinion as to
13 the place of psychiatrists in the sun, if I may put it that
14 way?

15 MR. PALMER: They definitely serve a function in
16 society.

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1 MR. KEITH: You are not averse to the field as a matter
2 of course?

3 MR. PALMER: No. I don't know that much about the
4 field, but they do serve a function.

5 MR. KEITH: But you do not hold them in poor esteem,
6 I take it?

7 MR. PALMER: No.

8 MR. KEITH: So you wouldn't just disregard their
9 testimony arbitrarily if they did come here and testify in
10 behalf of Miss Van Houten, as to her mental condition back
11 in 1969-1970?

12 MR. PALMER: No.

13 MR. KEITH: Do you know anyone who has abused drugs?

14 MR. PALMER: Not offhand.

15 MR. KEITH: Have you made any study of the use or abuse
16 of drugs?

17 MR. PALMER: The only exposure that I have had on that
18 is some of the films that came out from Carrizosa that were
19 shown at the school that I worked at.

20 MR. KEITH: And did any of those films bear on the
21 subject of the use of LSD?

22 MR. PALMER: The main --

23 MR. KEITH: If you recall.

24 MR. PALMER: Okay.

25 The film that they showed there was explaining
26 the abuse of drugs, and they weren't going into any specifics.

27 They named them all, you know, the various names
28 of them, but they didn't go into any precise drug.

1 They said don't abuse them, was the main scope
2 of it.

3 MR. KEITH: And was one of the drugs mentioned in that
4 film course acid, or LSD?

5 MR. PALMER: Yes.

6 MR. KEITH: But you don't recall any specific
7 information you received from that motion picture as to the
8 effects of LSD other than don't do it?

9 MR. PALMER: Don't do it, and they are hallucinogenic
10 drugs.

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1 MR. KEITH: Was the course -- the motion picture course
2 devoted exclusively to hallucinogenic drugs?

3 MR. PALMER: I believe it covered all the drugs in
4 general because it was like a one-day seminar sort of thing.

5 MR. KEITH: I noticed you used the term. I wondered
6 if the course was devoted to that specific type of drug.

7 MR. PALMER: It probably covered more of those than
8 the others.

9 MR. KEITH: All right; I will leave that subject.

10 In the event you are selected as a juror and
11 you are shown some gruesome photographs and hear some gory
12 testimony, is that fact standing alone going to so horrify
13 you that you will be inclined to give Leslie Van Houten less
14 of an advantage than she might otherwise be entitled to?

15 MR. PALMER: No, it wouldn't.

16 MR. KEITH: You think you can stomach that kind of
17 evidence and still give her a fair trial?

18 MR. PALMER: Yes, I can.

19 MR. KEITH: Do you believe that you would be inclined
20 to be unfair to Miss Van Houten simply because and only
21 because the evidence showed she had an association with one
22 Charles Manson?

23 MR. PALMER: No, I wouldn't.

24 MR. KEITH: You would, however, attach relevance to
25 that association if you thought it was merited, would you not?

26 MR. PALMER: Yes, I would.

27 MR. KEITH: And would the same apply to drug abuse,
28 inasmuch as you did see that film --

1 MR. PALMER: Yes.

2 MR. KEITH: -- that you would not become hostile or
3 prejudiced towards her simply because the evidence did show she
4 abused LSD and perhaps other hallucinogenic drugs?

5 MR. PALMER: I will, you know, stand on all the evidence
6 that is given.

7 MR. KEITH: What I'm trying to get across is, again --
8 and I'm reiterating this, I realize; it's of significance --
9 that drug abuse is not an insignificant part of this case,
10 I trust.

11 However, despite its significance, I don't want
12 you to take the position -- and if you do take that position,
13 let us know -- that anybody who abuses drugs should deserve
14 no consideration whatsoever, and close your mind to what
15 perhaps may be a rather complex importance of the use of
16 drugs in this case.

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1 Do you understand the drift of what I'm saying?

2 MR. PALMER: Yes.

3 MR. KEITH: All right, good.

4 Let's suppose you decided to return a verdict
5 favorable -- in favor of Miss Van Houten. Let's further
6 suppose that you might be of the opinion that such a verdict
7 would be received critically by the community in which you
8 live and work.

9 Would you have the courage to return such a
10 verdict even though you might feel that it was against popular
11 opinion?

12 MR. PALMER: I feel whichever verdict I do enter that I'm
13 going to get somebody that doesn't like it. So I'm willing to
14 accept it.

15 MR. KEITH: Is there anything about the previous life
16 style of Miss Van Houten during the '60s that might militate
17 against you giving her a fair trial, assuming for the sake of
18 this discussion that it was a rather bizarre Haight-Ashbury
19 type arrangement.

20 MR. PALMER: No, it wouldn't affect me.

21 MR. KEITH: Have you been able to hear the discussions
22 that have taken place, particularly with Mr. Burton who formerly
23 occupied your seat, on the possible or probable issue of
24 diminished capability?

25 MR. PALMER: Yes.

26 MR. KEITH: Now, if you are instructed on that subject
27 by His Honor, would you be able to follow his instructions?

28 MR. PALMER: I'll have no problem at all at following it.

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1 MR. KEITH: Very well.

2 However, would you disagree, even though you were
3 able to follow those instructions, would you disagree with
4 the concept that says, that tells us, that teaches us, that
5 one --

6 MR. PALMER: I would --

7 MR. KEITH: -- one person may be less responsible than
8 another for a particular crime by reason of what goes on up
9 here in the mind?

10 MR. PALMER: I understand it and I agree with the law.

11 MR. KEITH: Thank you.

12 We'd pass for cause.

13 THE COURT: Thank you.

14 Mr. Kay, you may inquire.

15 MR. KAY: Mr. Palmer, you understand that just because
16 Mr. Keith says that drug abuse might be significant in this
17 case it doesn't mean that it is.

18 That's up to the jury to decide.

19 Do you understand?

20 MR. PALMER: Yes.

21 MR. KAY: The jury can decide that drug abuse doesn't
22 have any relevance in this case or they might decide it has a
23 lot. But that's a question of fact for the jury to decide.

24 I take it that if you are selected as a juror in
25 this case, that no matter what Mr. Keith says you are going to
26 base your decision on the evidence you hear from the witness
27 stand; is that right?

28 MR. PALMER: Yes.

1 MR. KAY: And the fact that Mr. Keith might not want you
2 to look at some -- what he terms gory photographs, for that
3 reason you are not going to just put them aside without looking
4 at them in the jury room if you are selected as a juror?

5 MR. PALMER: Well, if it is part of the evidence, then
6 I will take it into consideration.

7 MR. KAY: I imagine you will take all of the evidence
8 into consideration.

9 MR. PALMER: Yes.

10 MR. KAY: You just wouldn't put aside part of it and say,
11 "Oh, I remember Mr. Keith said on voir dire we shouldn't pay
12 too much attention to those, so I'm not even going to bother
13 looking at them in the jury room."

14 You wouldn't do that, would you?

15 MR. PALMER: No.
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1 MR. KAY: And the fact that Mr. Keith says that Miss Van
2 Houten led a bizarre Haight-Ashbury-type life style, that's
3 for you to determine, you understand that if you are selected
4 as a juror, whether it was a hippie life style she led or
5 whether it was some other sort of a life style that she led.

6 Do you understand that?

7 MR. PALMER: Yes, I do.

8 MR. KAY: Do you think you would require any more
9 evidence to convict a woman of murder than you would a man?

10 MR. PALMER: No. It would be about the same.

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

14 MR. PALMER: No, it doesn't.

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

18 MR. PALMER: Yes, I do.

19 MR. KAY: Would you hold us to any higher burden of
20 proof than the law holds us to?

21 MR. PALMER: No, I wouldn't.

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

23 MR. PALMER: Almost, if that makes --

24 MR. KAY: Well, why don't you explain that?

25 MR. PALMER: Let me clarify it.

26 When I was about eight or nine years old, my dad
27 was in an automobile accident where a person ran a light and
28 our car was hit. And I was in the car with my brothers,

1 We all went to court, and they testified, and it
2 didn't reach me.

3 But I was sworn to testify, but I didn't.

4 MR. KAY: Now, other than that case, have you ever
5 watched a trial in progress when you weren't on jury duty?

6 MR. PALMER: No, I haven't.

7 MR. KAY: Have you ever had what I termed with the
8 other jurors an unfortunate incident with the police department
9 where maybe you think you got a ticket or something you didn't
10 deserve?

11 MR. PALMER: No.

12 MR. KAY: Did you understand my example of circumstan-
13 tial versus direct evidence?

14 MR. PALMER: Yes.

15 MR. KAY: Would you refuse to convict a defendant based
16 on circumstantial evidence alone?

17 MR. PALMER: Would you repeat that once more?

18 MR. KAY: Would you refuse to convict a defendant based
19 on circumstantial evidence alone?

20 MR. PALMER: No.

21 MR. KAY: Would you require of the prosecution that we
22 call an eyewitness to the actual murder before you could
23 convict any defendant of any murder?

24 MR. PALMER: Well, it's kind of difficult to have an
25 eyewitness in a lot of cases.

26 MR. KAY: Right.

27 Okay. But some people want eyewitnesses --

28 MR. PALMER: No.

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1 MR. KAY: -- and I'm just asking you --

2 MR. PALMER: No.

3 MR. KAY: -- you are not that type of person?

4 MR. PALMER: No.

5 MR. KAY: Since you told us earlier that you knew the
6 reason why Miss Van Houten was here, I take it that you don't
7 think that because she's here for a retrial that that is any
8 indication that she's more likely to be not guilty of the
9 charges?

10 MR. PALMER: What it is, is somebody erred on the first
11 one, so they kind of had to start over again.

12 So it doesn't make her less guilty or more guilty.

13 MR. KAY: Well, her attorney disappeared during the
14 course of the first trial. That's why she's here.

15 Now, you are not to take into consideration any
16 of the reasons why --

17 MR. PALMER: Right.

18 MR. KAY: -- why she's here. That has nothing to do with
19 the question of her guilt or innocence.

20 She's entitled to a fresh start --

21 MR. PALMER: Yes.

22 MR. KAY: -- here, and whoever is selected as a jury has
23 to determine the question of her guilt or innocence just like
24 this was the first trial, so to speak.

25 MR. PALMER: Yes, I understand that.

26 MR. KAY: Now, if you were in the jury room, and you were
27 the one juror that was holding out, and the other 11 were going
28 the other way, say, for a conviction of first degree murder,

1 would you have the courage to change your vote if you believed
2 that she was guilty of first degree murder and come out here
3 and tell us all that that was your verdict?

4 MR. PALMER: I can do that.

5 MR. KAY: Did you understand that under the law of
6 conspiracy and aiding and abetting a person can be guilty of
7 first degree murder even though they don't strike the fatal
8 blow?

9 MR. PALMER: Yes, I understand that.

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

2 MR. PALMER: No, I don't.

3 MR. KAY: Do you think that is fair?

4 MR. PALMER: Yes, I do.

5 MR. KAY: Do you think that anybody who commits a
6 vicious murder must now have known what they were doing at
7 the time they committed the murder?

8 MR. PALMER: They can be aware of what they are doing.

9 MR. KAY: You don't think that just because somebody
10 commits a vicious murder that they must be crazy, do you?

11 MR. PALMER: It can be both ways. They can be sane and
12 knowing what they are doing for whatever reason they are doing
13 it, or they can also be insane.

14 MR. KAY: Right.

15 Do you understand the question of sanity or
16 insanity is something that you will not have to address
17 yourself to in this courtroom?

18 Do you understand that?

19 MR. PALMER: Yes, I understand that, too.

20 MR. KAY: That's just not in issue here. Miss Van Houten
21 has not pleaded not guilty by reason of insanity. So there
22 won't be any testimony about sanity versus insanity.

23 Can you conceive of a defendant in a criminal
24 case calling psychiatrists to testify on their behalf if they
25 weren't, in fact, mentally ill?

26 MR. PALMER: Yes.

27 MR. KAY: If a psychiatrist gets on the stand and
28 testifies to something unreasonable, are you going to accept

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1 that?

2 MR. PALMER: I would have to take it into consideration
3 with the other evidence given at that time, so I could probably
4 disregard some of his testimony if it is -- well, I'll say
5 too far out.

6 MR. KAY: Well, if you thought it was unreasonable, if
7 it didn't have any real foundation in the evidence, if it was
8 out in left field, so to speak, are you going to automatically
9 accept that just because a person swears that he is going to
10 tell the truth and tells you that?

11 MR. PALMER: I would probably cancel it out, because it
12 wouldn't involve the case, then.

13 MR. KAY: Well, it might involve the case.

14 MR. PALMER: Right.

15 MR. KAY: But maybe it is unreasonable.

16 MR. PALMER: It's out in left field.

17 MR. KAY: Hopefully everything that we have in this
18 courtroom is going to involve the case.

19 But maybe everything you hear from the witness
20 stand won't be reasonable.

21 I'm not saying that it won't be --

22 MR. PALMER: Right.

23 MR. KAY: -- but that's for you to decide.

24 Do you understand?

25 MR. PALMER: Yes.

26 MR. KAY: And if you are selected as a juror in this
27 case, are you willing to accept 100 percent of the responsi-
28 bility to determine the question of Miss Van Houten's guilt

1 or innocence --

2 MR. PALMER: Yes, I will.

3 MR. KAY: -- and her mental state at the time of the
4 LaBianche murders?

5 MR. PALMER: Yes.

6 MR. KAY: You are not going to let the psychiatrists
7 make up your mind for you, are you?

8 MR. PALMER: No, I'm not.

9 MR. KAY: Do you think psychiatrists are incapable of
10 error?

11 MR. PALMER: They are -- they have the possibility of
12 error, yes. We all do.

13 MR. KAY: Do you think that they have -- or it is more
14 likely that they wouldn't commit error than any of the rest
15 of us?

16 MR. PALMER: Well, if they have been studying the field,
17 they should have a less probability of making mistakes than
18 somebody else.

19 MR. KAY: But does that mean that whatever you hear from
20 the stand, from the psychiatrists, you are going to say, "Oh,
21 well, the psychiatrists know more about that field than I do,
22 and I'm just going to -- whatever they say is okay with me?"

23 MR. PALMER: No.

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1 MR. KAY: Do you think that psychiatry is a definite
2 science, like chemistry or mathematics, where you can come
3 up with definite, provable answers?

4 MR. PALMER: No.

5 MR. KAY: Have you ever met a psychiatrist?

6 MR. PALMER: No, I haven't.

7 MR. KAY: Or a psychologist?

8 MR. PALMER: No.

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

13 MR. PALMER: Yes.

14 MR. KAY: And you understand that in the indictment
15 that His Honor Judge Hinz read to you, that Mr. Manson is
16 also alleged to be a co-defendant in all of those charges.

17 So you understand that Miss Van Houten's
18 association, if any -- which of course will have to come from
19 the evidence -- might be quite relevant with Mr. Manson.

20 MR. PALMER: Yes, I understand that.

21 MR. KAY: Can you think of anything I haven't asked
22 that you think I should know about, about you?

23 MR. PALMER: No.

24 MR. KAY: Thank you.

25 I will pass for cause.

26 THE COURT: Thank you.

27 The peremptory is with the defense, No. 8.

28 MR. KEITH: Yes; the defense will thank and excuse

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1 juror No. 5, Mr. Bouchard.

2 THE COURT: Mr. Bouchard, thank you for your attendance.
3 You are excused, sir.

4 THE CLERK: Mrs. Elizabeth A. Reagan, R-a-a-g-a-n.

5 THE COURT: Mrs. Reagan, did you hear the questions
6 I asked the panel previously?

7 MRS. REAGAN: Yes, I did.

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

10 MRS. REAGAN: Yes, they would.

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

14 MRS. REAGAN: Yes, I do.

15 THE COURT: And what might that be?

16 MRS. REAGAN: I do not feel that I can serve as a juror
17 on this case. My son -- for the following reasons:

18 My son is serving a term at present in the Army,
19 in a Army prison, on a sentence of drugs, and he's going to
20 be paroled in my -- in our custody next month.

21 So he will be coming home in May.

22 I have been to prison to visit him and some of
23 the inmates, and I feel our concern -- my concern, my state
24 of mind at present is in rehabilitation and working with him
25 next month.

26 So I don't feel that I could serve effectively
27 on this jury at this time.

28 THE COURT: That's because, I take it, you think you

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1 should be with him in the month of May. Is that it?

2 MRS. REAGAN: Right. And I feel my concerns are very
3 strong on rehabilitation.

4 THE COURT: All right.

5 Will counsel approach the bench with the court
6 reporter, please?

7 (The following proceedings were held
8 at the bench:)

9 MR. KUTZ: I will stipulate.

10 THE COURT: Will you stipulate?

11 MR. KAY: Yes.

12 THE COURT: All right.

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

16 THE COURT: Mrs. Reagan, you are excused from further
17 service on the jury. Thank you very much.

18 THE CLERK: Ervin E. Sidor.

19 First name E-r-v-i-n, middle initial E, last name
20 S-i-d-o-r.

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

23 MR. SIDOR: Yes, sir.

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

26 MR. SIDOR: No, sir.

27 THE COURT: All right.

28 As you sit there now, can you think of any reason

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1 why you couldn't be fair and impartial as to both sides in
2 this case?

3 MR. SINOR: No, sir.

4 THE COURT: All right.

5 Would you please give us your personal data.
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1 MR. SINOR: My name is Ervin Leon Sinor, S-i-n-o-r.

2 My birth date, January 3rd, 1943.

3 Residence: South Gate.

4 Married.

5 I have a boy 11 and a girl 8 and a boy 4.

6 And my occupation: I work for Firestone Tire
7 and Rubber Company.

8 THE COURT: Is your wife employed outside the home?

9 MR. SINOR: At present, yes. She is a tax consultant
10 for H & R Block.

11 THE COURT: Have you previously served as a juror?

12 MR. SINOR: No, sir.

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

15 MR. SINOR: No, sir.

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

18 MR. SINOR: No.

19 THE COURT: And have you or anyone close to you ever
20 been the victim of or a witness to a serious offense?

21 MR. SINOR: No, sir.

22 THE COURT: Thank you.

23 Mr. Keith, you may inquire.

24 MR. KEITH: It's "Sinor"?

25 MR. SINOR: Long I.

26 MR. KEITH: All right; thank you.

27 How long have you been with Firestone Tire and
28 Rubber?

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1 MR. SINOR: It will be nine years this month, the 22nd.

2 MR. KEITH: And what is your capacity there?

3 MR. SINOR: I am an assistant engineer. I work in the

4 quality assurance lab.

5 MR. KEITH: What?

6 MR. SINOR: The quality assurance lab.

7 MR. KEITH: What did you do before you went to work

8 for Firestone?

9 MR. SINOR: I was a machinist.

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

11 MR. SINOR: No.

12 MR. KEITH: Has your wife, who is a tax consultant,

13 had legal training other than in the tax field?

14 MR. SINOR: No.

15 MR. KEITH: Have you had any occasion to have met or

16 have consulted with a psychiatrist?

17 Not you personally; I'm including members of

18 your family.

19 MR. SINOR: I met one psychiatrist.

20 MR. KEITH: Nobody in your family has ever been

21 treated by a psychiatrist. And I'm including close relatives

22 as well as --

23 MR. SINOR: Yes, they have.

24 MR. KEITH: Yes, they have?

25 MR. SINOR: Yes.

26 MR. KEITH: And who would that be?

27 MR. SINOR: My mother, stepmother, father-in-law.

28 MR. KEITH: And do you feel that the psychiatrist

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1 helped them?

2 MR. SINGER: Yes.

3 MR. KEITH: Therefore, I take it you have quite
4 the contrary of a low esteem for the field of psychiatry?

5 MR. SINGER: Yes.

6 MR. KEITH: And the psychiatrist you met, is he the
7 psychiatrist that treated your family, or part of your
8 family?

9 MR. SINGER: My mother, yes.

10 MR. KEITH: That's the one that you met?

11 MR. SINGER: Yes.

12 MR. KEITH: What's his name?

13 MR. SINGER: I don't know his name.

14 He's the head doctor at the State Mental Hospital
15 in Phoenix.
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1 MR. KEITH: Is that where your family resided?

2 MR. SINOR: That's where my mother is now, yes.

3 She is a ward of the state.

4 MR. KEITH: Pardon me?

5 MR. SINOR: She is a ward of the state.

6 MR. KEITH: I'm sorry to hear that.

7 And is she presently under the care of a
8 psychiatrist?

9 MR. SINOR: Yes, as an out-patient. She has been out
10 for seven years.

11 MR. KEITH: I take it, therefore, that you would not
12 disregard the testimony of a psychiatrist or more than
13 one psychiatrist in the event such took the stand and
14 testified in behalf of Miss Van Houten?

15 MR. SINOR: No, I wouldn't.

16 MR. KEITH: And you would consider their testimony
17 carefully, I take it?

18 MR. SINOR: Oh, yes.

19 MR. KEITH: And you would consider the reasons for
20 their opinions carefully, and you would not reject them
21 arbitrarily?

22 MR. SINOR: No.

23 MR. KEITH: I am sure you don't feel that psychiatrists
24 are infallible, mind you. Or perhaps you do; but I would
25 rather doubt it.

26 You don't feel that way?

27 MR. SINOR: No.

28 MR. KEITH: Nonetheless, you feel that their opinions

1 and the reasons they give therefor are worthy of your
2 consideration?

3 MR. SINOR: Definitely.

4 MR. KEITH: And very profound consideration, right?

5 MR. SINOR: Yes.

6 MR. KEITH: Do you have an exposure to persons who
7 have been involved in the use and abuse of drugs?

8 MR. SINOR: No.

9 MR. KEITH: Have you done any reading or studying on
10 the subject of drugs other than normal media exposure?

11 MR. SINOR: No.

12 MR. KEITH: Have you heard of a drug called LSD?

13 MR. SINOR: Oh, yes.

14 MR. KEITH: Have you read or heard about the properties
15 and possible effects of that drug?

16 MR. SINOR: No, not really.

17 MR. KEITH: You don't know much about it other than you
18 have heard the name of it.

19 MR. SINOR: Right.

20 MR. KEITH: And you realize that it's now an illegal
21 drug?

22 MR. SINOR: Right.

23 MR. KEITH: All right.

24 Now, you have heard of Mr. Manson, of course?

25 MR. SINOR: Yes.

26 MR. KEITH: And you realize that he was indicted along
27 with Miss Van Houten many years ago.

28 Do you feel if the evidence does indicate an

1 involvement by Miss Van Houten with Mr. Hanson, that that
2 involvement, if any -- is the evidence so discloses -- would
3 compel you or influence you to shut your mind with regards to
4 Miss Van Houten and not consider the significance of that
5 possible relationship but say, in effect, "Anybody that had
6 anything to do with him is bad, I'd give her no consideration"?

7 MR. SINOR: No, I would not.

8 MR. KEITH: In the event the evidence indicated
9 Miss Van Houten back in the '60s was an abuser of drugs,
10 primarily LSD, would you again -- or not "again," but would
11 you be inclined to give her no more consideration, and disregard
12 totally the possibly complex relationship between
13 Miss Van Houten's state of mind and the use of drugs?

14 MR. SINOR: No.

15 MR. KEITH: Would the same apply to her life style back
16 in the '60s, which was something less than perhaps you and I
17 would be inclined to follow?

18 MR. SINOR: No.

19 MR. KEITH: Would you be concerned if you saw some
20 bloody pictures and heard some gory evidence and became so
21 horrified that you would be unable to give Miss Van Houten
22 or be inclined to be unable to give her a fair trial?

23 MR. SINOR: I don't feel that would bother me at all.
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1 MR. KEITH: Are you going to have any problems with a
2 concept of law that we've been discussing sometimes briefly,
3 sometimes more in depth known as diminished capacity?

4 MR. SINOR: No.

5 MR. KEITH: Do you believe that --

6 You won't have any difficulty in following that
7 law if you are so instructed in the law by His Honor?

8 MR. SINOR: I won't have no problem.

9 MR. KEITH: All right.

10 Do you have any difficulty in agreeing with a
11 concept that teaches us that one person may be less responsible
12 for the same course of conduct as someone else by reason of the
13 first person's being mentally unbalanced, mentally ill,
14 mentally diseased, suffering from some mental defect, whatever?

15 MR. SINOR: No.

16 MR. KEITH: I think the easiest way to get at it is were
17 you able to hear Mr. Burton's feeling on the subject?

18 MR. SINOR: Yes.

19 MR. KEITH: Do you share that belief?

20 MR. SINOR: No, I disagree with him.

21 MR. KEITH: Thank you.

22 Now, is there anything that you would like to share
23 with us that you can think of that bears on your qualifications
24 to sit as an impartial juror on this case that's back in the
25 hidden recesses of your mind and would perhaps take a
26 psychiatrist to bring out but we don't have that kind of time?

27 MR. SINOR: Nothing right off, except that my employer,
28 with vacations coming up, he'd rather not for me to serve.

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1 MR. KEITH: I see.

2 MR. SINOR: That's about it.

3 MR. KEITH: Other than that, you have no problem?

4 MR. SINOR: No.

5 MR. KEITH: Do you think you will be able to devote your
6 full attention to this case if selected as a trial juror and
7 not sit there wondering whether you are going to have your job
8 back or not?

9 MR. SINOR: I think so.

10 MR. KEITH: Pass for cause.

11 THE COURT: Thank you.

12 Mr. Kay, you may inquire.

13 MR. KAY: Mr. Sinor, during the publicity voir dire, you
14 told us, which we couldn't go into at the time, that you had
15 a person problem why you didn't want to sit on this jury. Now
16 you can tell us.

17 MR. SINOR: Personal was just the -- companywise, they
18 will pay me my wages when I'm here; but the department manager,
19 he don't want me here.

20 That's all.

21 MR. KAY: Well, do you think he's going to retaliate or
22 anything if you are here, demote you or anything like that?

23 MR. SINOR: Could be.

24 MR. KAY: Do you think that would make you uneasy sitting
25 as a juror in this case?

26 MR. SINOR: I would try and not to let it bother me, but,
27 truthfully, it -- I'm only human. I think it would to an
28 extent, yes.

24-3

1 MR. KAY: I'll pass for cause.

2 THE COURT: All right, thank you.

3 The peremptory is with the People, number 9.

4 MR. KAY: People will thank and excuse Mr. Sinor.

5 Thank you.

6 THE COURT: Thank you, sir. You are excused.

7 THE CLERK: Mrs. Leatha M. Settle. First name is
8 L-e-a-t-h-a, middle initial M., last name Settle, S-e-t-t-l-e.

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

11 MRS. SETTLE: Yes, sir.

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

14 MRS. SETTLE: Yes.

15 THE COURT: As you sit there now, can you think of any
16 reason why you couldn't be fair and impartial in this matter?

17 MRS. SETTLE: No, sir.

18 THE COURT: All right.

19 Would you please give us your personal data.

20 MRS. SETTLE: Okay.

21 My name is Leatha M. Settle.

22 Date of birth, August 19, 1941.

23 I reside in Compton.

24 Marital status, divorcee.

25 Children, one child, girl, age 9.

26 Occupation, I work at Compton Unified School
27 District as an insurance clerk.

28 THE COURT: And what was your former husband's occupation?

1 MRS. SETTLE: Probation officer,

2 THE COURT: All right.

3 And have you previously served as a juror?

4 MRS. SETTLE: No.

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24-5

1 THE COURT: Do you have any or any close friend of
2 yours have any close relationship with law enforcement?

3 MRS. SETTLE: No.

4 THE COURT: Have you or anyone close to you ever been
5 arrested or convicted of a serious offense?

6 MRS. SETTLE: No.

7 THE COURT: And have you or anyone close to you ever
8 been the victim or a witness to a serious offense?

9 MRS. SETTLE: No.

10 THE COURT: Thank you.

11 Mr. Keith, you may inquire.

12 MR. KEITH: What is your job, Mrs. Settle, with the
13 Compton School District?

14 I couldn't hear. I'm sorry.

15 MRS. SETTLE: Insurance clerk.

16 MR. KEITH: Have you had any experience, either you or
17 anybody in your family or any close friends, with psychiatrists?

18 MRS. SETTLE: No.

19 MR. KEITH: Do you have any opinion about psychiatrists?

20 MRS. SETTLE: No personal -- no.

21 MR. KEITH: Have you read or studied psychiatry or
22 psychology?

23 MRS. SETTLE: Psychology. I had one required class in
24 junior college.

25 MR. KEITH: Was that college or -- junior college?

26 MRS. SETTLE: Yes.

27 MR. KEITH: What junior college was that?

28 MRS. SETTLE: New York City Community College.

1 MR. KEITH: When did you come to the Los Angeles area?

2 MRS. SETTLE: In '67.

3 MR. KEITH: Was your former husband a probation officer
4 here or in New York?

5 MRS. SETTLE: No, here; Los Angeles County.

6 MR. KEITH: Is he still a probation officer, or have you
7 lost track of him?

8 MRS. SETTLE: As far as I know, he still is a probation
9 officer.

10 MR. KEITH: Did you ever talk to him -- I'm sure you did --
11 about his work?

12 MRS. SETTLE: Oh, yes. We talked about it, definitely.

13 MR. KEITH: Have you ever been involved in the field of --
14 a similar field?

15 MRS. SETTLE: A similar field to his?

16 MR. KEITH: Yes.

17 MRS. SETTLE: No.

18 MR. KEITH: Have you ever been involved with persons
19 who have abused drugs?

20 MRS. SETTLE: Abused, no; but use, yes.

21 MR. KEITH: Are you talking now about students at the
22 Compton Unified School District?

23 MRS. SETTLE: No.

24 MR. KEITH: Or somebody you know personally?

25 MRS. SETTLE: Somebody I knew personally.

26 MR. KEITH: Would that be a relative or friend?

27 MRS. SETTLE: Well, how would you classify it --

28 MR. KEITH: Or both?

24-7

1 MRS. SETTLE: Well, at the time it was my ex-husband.
2 He was working -- doing graduate work, and he majored in
3 psychology. And he was doing research work on drugs.

4 MR. KEITH: How long ago were you divorced?

5 MRS. SETTLE: Going on four years.

6 MR. KEITH: Your former husband studied the use of
7 drugs, then?

8 MRS. SETTLE: Well, studied or experimented with them
9 or what. Same thing.

10 MR. KEITH: Used them, too?

11 MRS. SETTLE: Yes.

12 MR. KEITH: In the event the evidence would indicate that
13 Miss Van Houten used drugs, too, back in the '60s, possibly
14 to excess, bearing in mind your husband's experience, would
15 you tend to give Miss Van Houten no further consideration
16 because of her drug use?

17 MRS. SETTLE: No.

18 MR. KEITH: Or would you give that evidence the
19 significance you thought it would deserve, that you thought
20 it was entitled to, in the whole picture of the case?

21 MRS. SETTLE: I would, yes.

22 MR. KEITH: Now, you don't have any exposure to
23 psychiatrists and don't know much about them.

24 Nonetheless, would you tend to disregard their
25 testimony simply because of the nature of their profession and
26 not pay respect to their opinions and reasons therefor?

27 MRS. SETTLE: No.

28 MR. KEITH: In the event the evidence indicated

1 Miss Van Houten was associated at one time or was involved with
2 Mr. Manson, bear in mind, mind you, that association, if any
3 there be, may bear considerable significance, considerable
4 relevance in this case, that's for you to determine, but the
5 mere fact of the association alone, would that strike you in
6 such a manner that you would tend to give Miss Van Houten's
7 position less consideration than it might otherwise deserve?

8 MRS. SETTLE: No.

9 MR. KEITH: In other words, would it tend to so prejudice
10 you against her that she'd be at a terrible disadvantage?

11 MRS. SETTLE: No.

12 MR. KEITH: Would your answer be the same if I asked you
13 questions about her life style or if I asked you questions
14 concerning rather gruesome, gory evidence or photographs?

15 MRS. SETTLE: My answer would be the same.

16 MR. KEITH: Did your husband -- former husband, excuse
17 me -- seek any professional help or other kinds of help for
18 his drug use, or was he merely experimenting so it didn't
19 become a problem with him?

20 MRS. SETTLE: He was merely experimenting.

25-1

1 MR. KEITH: So he wasn't into it to such an extent that
2 it affected his actions and reactions and conduct?

3 MRS. SETTLE: No.

4 MR. KEITH: Did you reconstitute with him for experimenting?

5 MRS. SETTLE: Yes, I did.

6 MR. KEITH: Can you think of any reason now, while you
7 have had a chance to reflect a while, Mrs. Settle, why you
8 couldn't sit on this jury and be fair to Miss Van Houten?

9 MRS. SETTLE: No, no reason.

10 MR. KEITH: I believe you may have told us before that
11 violence strongly affects you?

12 MRS. SETTLE: No, not violence strongly affects me.

13 I said what I saw at that particular time; it
14 just turned me off.

15 MR. KEITH: All right.

16 MRS. SETTLE: At that time I wasn't into -- it wasn't
17 something that I had to just sit and watch.

18 MR. KEITH: Would you have any quarrel with the
19 doctrine of law that teaches us that even though someone may
20 participate in a very violent offense, his or her
21 responsibility may be lessened, considerably lessened by the
22 degree of mental health, let's say, that person possesses at
23 the time?

24 MRS. SETTLE: Could you repeat that, please?

25 MR. KEITH: Yes.

26 Do you have any quarrel with the doctrine of law
27 that teaches us --

28 MRS. SETTLE: Yes.

25-2

1 MR. KEITH: -- that even though a person may
2 participate in a violent offense, that person's responsibility,
3 legal responsibility therefor may be considerably reduced by
4 reason of their diminished, let's say, mental state at the
5 time?

6 MRS. SETTLE: Would I have any quarrel?

7 MR. KEITH: Yes.

8 MRS. SETTLE: No, not with the law, no.

9 MR. KEITH: Do you have any quarrel with that concept,
10 that someone can be less responsible than someone else for
11 the commission of even a violent offense?

12 MRS. SETTLE: No.

13 MR. KEITH: Because of their mental incapacity.

14 MRS. SETTLE: No.

15 MR. KEITH: At the time of the commission of such an
16 offense.

17 MRS. SETTLE: No.

18 MR. KEITH: I have no further questions.

19 RECESS FOR CASE.

20 THE COURT: All right; thank you, Mr. Keith.

21 At this time we are going to recess until
22 tomorrow morning.

23 Ladies and gentlemen, bear in mind during this
24 recess you are not to discuss this case amongst yourselves
25 or with anyone else and you are not to form any opinion
26 concerning this matter or express any opinion concerning
27 this matter until the case is finally given to you.

28 Furthermore, you must not read, see or hear any

25-3
1 of the news media accounts of this matter.

2 All right.

3 Larry, is it the fifth floor tomorrow?

4 THE BAILIFF: Fifth floor, right.

5 THE COURT: All right.

6 All jurors are ordered to report tomorrow
7 morning at 9:45 to the fifth floor jury room.

8 Have a good evening. We will see you tomorrow
9 morning at 9:45.

10 The defendant and counsel are ordered to return
11 at 10:00 a.m. Thank you.

12 The Court is in recess.

13 (At 4:05 P.M. an adjournment was taken
14 until Wednesday, April 13, 1977, at
15 10:00 A.M.)
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