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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 52

HON. JOSEPH L. CALL, JUDGE

PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

vs.)

NO. A 267861

STEVEN GROGAN,)

Defendant.)

REPORTERS' DAILY TRANSCRIPT

Wednesday, June 30, 1971

APPEARANCES OF COUNSEL:

(See Volume I)

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Official Reporters

COPY

1 LOS ANGELES, CALIFORNIA, WEDNESDAY, JUNE 30, 1971

2 9:45 A.M.

3
4 (A conference was held in chambers
5 with both counsel and defendant present
6 but not reported.)

7 (The following proceedings were had
8 in open court:)

9 THE COURT: Now, first we will call the case of People
10 against Steve Grogan. The defendant is here, defendant's
11 counsel is here, the People's counsel is here.

12 The jury that we had in the jury box yesterday is
13 all in the jury box with the exception of No. 6. Now, that is
14 Mrs. Baker.

15 Now, ladies and gentlemen, on the question of
16 jurors and the excusing of jurors, I am speaking to all jurors.
17 The court does have very stringent power and right with
18 respect to whether a juror may or may not be excused. Counsel
19 also has some right, very important right to exercise what is
20 called a peremptory challenge after a juror is passed for
21 cause. Either counsel may say "I excuse Mrs. Jones or Mrs.
22 Smith" and that is the end of it. That is a peremptory
23 challenge.

24 But up to that point excuses for cause must be
25 based on substantial reasons. Now, Mrs. Baker, or someone on
26 her behalf, I don't know, rang in this morning that she was
27 sick and incapacitated and unable to continue. Now, rather
28 than stop the trial at this juncture and bring in Mrs. Baker,

1 which the court could do by simply issuing a bench warrant for
2 her arrest and telling the sheriff to go down and bring her in,
3 I don't want to do that. I don't want to do that if it can
4 possibly be avoided. It doesn't help anybody.

5 Now, I am going at this immediate time to, with
6 the permission of counsel, excuse her for cause if there is no
7 objection at this instance on this particular juror, to excuse
8 her for cause, which will answer the immediate problem. Is
9 that satisfactory?

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1 MR. KATZ: No objection.

2 MR. WEEDMAN: No objection, your Honor.

3 THE COURT: Thank you.

4 So that our immediate problem, if it is solved, it
5 is only solved -- I hope it is solved, at least for a temporary
6 point.

7 Now, I do feel that I must, if jurors are sick --
8 and they could very well be; I am the last one to say that a
9 sick person isn't sick -- but I think I must in cases of
10 sickness, for instance, require from the jury statement of
11 the attending physician, a doctor of medicine, M.D., to the
12 effect that a juror, Mrs. Jones or Mrs. Smith, is a sick person
13 and should be at home in bed. I may have to require that,
14 which is a very honest and good reason; if they are sick, they
15 are sick, and that's where they should be, in bed. I don't
16 argue with that, but I am afraid that from now on out,
17 gentlemen, I must require such a statement from a doctor to
18 support evidence of sickness.

19 I know we have problems and I know the jurors have
20 problems, particularly if you are family people you have
21 problems -- you may have them anyway; you don't have to be
22 married to have problems, you can have them anyway -- so,
23 everybody has problems and this being a juror, too, is another
24 problem; but it is a civic duty that must be complied with,
25 otherwise we don't have jury trials either.

26 It is just one of those things that goes with good
27 organized society, the right to be tried by a jury. We have
28 got to get them in here somehow; we have got to get them.

1 With that statement, now, we will go ahead. I
2 think I will ask the clerk now to call another juror, if you
3 will, Mr. Clerk, to see where we go.

4 THE CLERK: Mrs. Thelma Byrd, B-y-r-d.

5
6 THELMA BYRD

7 BY THE COURT:

8 Q Is that Mrs. Byrd, Miss or Mrs.?

9 A Mrs.

10 Q Thank you.

11 Now, lady, have you heard everything that I have
12 said to the jury at the various times and to start with as
13 we started the picking of the jury in this case, or selection?

14 A Yes, I have, your Honor.

15 Q Thank you.

16 Did you understand everything that I said? Is it
17 clear to you?

18 A Yes, it is.

19 Q And did you hear me read the charge that has been
20 filed against the defendant in this case --

21 A Yes, I did.

22 Q -- by the People?

23 Now, I am going to ask you to assume that you have
24 been selected as a juror in this case and the case has been
25 tried, all over except the case goes to the jury for decision;
26 taking of testimony has been had and let's assume that you are
27 in the jury room and that at that time, as I have said many
28 times, the jury will vote, will render a verdict, guilty or

1 not guilty.

2 Is that clear to you?

3 A Yes.

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1 Q Thank you. Now, if the jury decides not guilty
2 then that concludes the case entirely. If the jury finds
3 guilty then the jury must make a finding of degree, first degree
4 or second degree. If the jury makes a finding of second degree
5 murder then there are no further proceedings at all as far as
6 the jury is concerned. The matter is concluded entirely.

7 If the jury makes a finding of first degree murder
8 then there must be a subsequent hearing or trial called a
9 penalty hearing. And at the penalty hearing the jury decides
10 on the penalty which must be in their judgment either a death
11 penalty or a life imprisonment. Is that clear to you up to
12 that point?

13 A Yes, it is.

14 Q Now, if you will please assume you are on the jury,
15 you are a juror, we have concluded or passed, finished the
16 penalty hearing and you are in the jury room voting on the
17 question of penalty. And I am going to ask you at that point
18 if you would automatically vote against the imposition of the
19 death penalty without regard to any evidence that might be
20 developed at the trial of the case before you?

21 A No, I wouldn't.

22 Q Thank you. Now, do you know of any reason -- and
23 I want you to tell me -- that you could not be fair and
24 impartial if you are selected as a juror in this case?

25 A (Short pause.) I would try to be.

26 Q Well, that's all right. May I ask you again do you
27 think you would be, or do you think you would be prejudiced?

28 A Well, your Honor, I believe I would be prejudiced.

1 I really do.

2 Q Well, let me it this way. If you are selected as
3 a juror would you be prejudiced in any way against either the
4 People or the defendant here?

5 A Not the People.

6 Q Would you be prejudiced against the defendant?
7 Put it this way: would you try the case with an open mind?

8 A Yes, I would.

9 Q I will ask you this again. Pardon my repeating the
10 question.

11 A Sure.

12 Q Are you prejudiced against either the People or the
13 defendant at this time?

14 A Not the People.

15 Q Well, how about the defendant?

16 A I think I am prejudiced against the defendant.

17 Q Would you say you are prejudiced?

18 A Yes, I would.

19 Q Against the defendant?

20 A Yes, I would.

21 Q Well, now, shall I proceed or do you want to inquire
22 on that point, gentlemen?

23 MR. WEEDMAN: If I may for just a moment.

24 THE COURT: I understood she says she would be prejudiced.
25 I understood that. May I act? I would exercise for cause.

26 MR. KATZ: Well, I would wish to inquire.

27 THE COURT: You want to ask some questions?

28 MR. KATZ: Yes, your Honor.

1 THE COURT: Well, let the defendant go first.

2 MR. KATZ: Yes.

3 MR. WEEDMAN: Thank you.

4 Q Mrs. Byrd, is it because of the association with
5 Charles Manson that would cause you to be prejudiced or perhaps
6 some other reason?

7 A Yes, it is.

8 Q It is because of that?

9 A Yes.

10 Q Okay. What is your understanding with respect to
11 Charles Manson, that is with respect to what he was charged with
12 and what if anything resulted from that charge?

13 A Well, almost everything about it is rather repulsive.

14 Q All right. Was it your understanding that he was
15 convicted of murder?

16 A Yes.

17 Q Was it your understanding that he was convicted of
18 murder notwithstanding the fact that he was not present at the
19 time of any of the deaths?

20 A That is true.

21 Q The Tate-La Bianca?

22 A Yes.

23 Q Did you know that?

24 A Yes, I did.

25 Q That doesn't make any difference as far as you are
26 concerned, that aspect of the case, inasmuch as he was finally
27 convicted of murder and sentenced to die?

28 A Where there is smoke there is bound to be fire.

1 Q Pardon?

2 A Where there is smoke there is bound to be fire.

3 Q Okay. So you feel that is a standard that you would
4 apply to this case?

5 A Well, I don't know about this particular case
6 really, but it is I just don't know. The news, of course the
7 news media you hear all this and see all this, and I read very
8 rarely the paper, but I do listen to the news. And it was so
9 heinous, you know.

10 Q Yes. Well, it certainly was. Of course, we are
11 not concerned about testing your knowledge about it, we are
12 only concerned about the impressions that you carried away from
13 looking at the matter in the media. But you feel that you have
14 carried away such an impression that it would perhaps blend
15 over into this case and would interfere with your fairly
16 evaluating the evidence here even though perhaps you don't
17 even want it to interfere, you think it will interfere?

18 A It might.
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1 MR. WEEDMAN: Well, I won't ask any more questions, your
2 Honor.

3 I will respectfully challenge Mrs. Byrd for cause
4 under section 1073, subdivision 2, your Honor.

5 THE COURT: Well, if you want to be heard -- or, shall
6 I act?

7 MR. KATZ: Well, your Honor, I'd like to clarify something
8 in my own mind. I am not trying to waste time, your Honor.

9 THE COURT: All right, go ahead.
10 BY MR. KATZ:

11 Q Mrs. Byrd, let me thank you at the outset for
12 telling us what is on your mind because the only way counsel
13 and myself know whether or not you could make a fair and
14 impartial juror is by your telling us this and we know that is
15 not easy to do at times, and we thank you very much for that
16 and I am sure Mr. Weedman thanks you for being very honest and
17 open in your approach to the subject.

18 Let me ask you a question so I can determine in my
19 own mind whether or not you could give Mr. Grogan a fair trial.

20 You understand that Mr. Manson is not a defendant
21 in this trial; is that correct?

22 A I understand that.

23 Q You understand that the Tate-La Bianca proceedings
24 have nothing to do with the proof in this case?

25 A Yes.

26 Q And you understand that Mr. Grogan will be
27 convicted or he will be acquitted based solely upon the
28 evidence that unfolds during the course of the trial; is that

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1 correct?

2 A Yes.

3 Q And if you were sworn as a juror you understand you
4 would be duty bound to properly evaluate the evidence and give
5 us the benefit of your individual opinion and an evaluation
6 and assessment of the weight in this case; isn't that correct?

7 A Sure.

8 Q And by your answers you are obviously a very
9 conscientious and open person.

10 Do you think if his Honor said, if you were
11 selected as a juror, that you would be required to evaluate
12 the evidence in this case based only upon what is offered in
13 this case and putting aside any extraneous factors by way of
14 publicity, what you have seen or what you have read or what
15 you have heard about Mr. Manson and the family, would you be
16 able to do that and determine Mr. Grogan's guilt or innocence
17 based only upon the evidence in this case?

18 A Yes.

19 Q All right; so what you are telling us is even
20 though you may have an opinion of Mr. Manson and even though
21 you may have an opinion of those who voluntarily associate
22 themselves with Mr. Manson by way of a lifestyle, you would
23 put that aside and judge the evidence in this case and make a
24 determination of Mr. Grogan's guilt or innocence based only
25 upon the evidence in this case; is that correct?

26 A Well, maybe.

27 Q You say "Well, maybe"?

28 A Yes.

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1 Q Now, if his Honor said you must do that, could you
2 do that?

3 A I would try.

4 Q Well, I think the court and counsel have to inquire
5 a little bit further. It is not enough to say you will try.
6 We have to know as you sit here now, can you do it; do you
7 think you can do it, because if you don't know whether you
8 could do it, then we don't know and it is better to excuse
9 you.

10 A Well, I really don't think I could.

11 MR. KATZ: All right, I thank you for being very honest,
12 and I think counsel's challenge is well taken.

13 Thank you very much, ma'am.

14 THE COURT: I will excuse you. Thank you, lady.

15 THE CLERK: Robert E. Ingold, I-n-g-o-l-d.

16
17 ROBERT E. INGOLD

18 BY THE COURT:

19 Q Now, Mr. Juror, did you hear everything I have said
20 to all of the jurors since we started to select a jury in this
21 case?

22 A Yes, I did.

23 Q And did you hear me read the charge that has been
24 filed against the defendant, charging him with the crime of
25 murder?

26 A Yes.

27 Q I am going to ask you to assume that you have been
28 selected as a juror, the case has been tried, the jury goes to

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1 the jury room, at which time there must be a finding -- the
2 duty of the jury is to render a verdict of guilty or not guilty.

3 If the jury votes not guilty the case is concluded.

4 If the jury votes guilty as charged, then the jury
5 must set the degree of the murder; that is, a first degree or
6 second degree.

7 If the jury makes a finding of second degree
8 murder, the case is, again, concluded insofar as the jury is
9 concerned. The jury is excused at that juncture.

10 If the jury makes a finding of first degree murder,
11 then a further hearing is held called a penalty hearing, at
12 which time the jury would fix or set the penalty of either
13 death or life imprisonment.

14 Now, I am going to ask you to assume that you are
15 voting on the question of penalty. I will ask you this
16 question: at that time would you automatically vote against
17 the imposition of the death penalty without regard to any
18 evidence that might be developed at the trial of this case
19 before you?

20 A No.

21 Q Thank you.

22 Now, I will ask you one more question: do you know
23 of any reason that you could not be fair and impartial in the
24 trial of this case if you are selected as a juror?

25 A I don't know of anything.

26 Q Well, your opinion is you feel you could be fair
27 and impartial; is that correct?

28 A That's right.

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1 THE COURT: Thank you.

2 I will pass the juror for cause.

3 Defendant may inquire.

4 MR. WEEDMAN: Thank you, your Honor.

5 Q Mr. Ingold, may I ask what your business or
6 profession is, please.

7 A I work for Hughes Aircraft.

8 Q What do you do for Hughes?

9 A I am a stock clerk.

10 Q Have you had any prior criminal jury experience,
11 Mr. Ingold?

12 A Never been on a jury before.

13 Q If this case should last as much as two months
14 would it cause you any financial loss as far as your work is
15 concerned?

16 A It would, quite a bit.

17 Q And would you describe that for us, please.

18 A Well, I wouldn't get paid after -- I am on my third
19 week now and the company, the way I understand it, pays for
20 four weeks.

21 Q So beyond that you --

22 A I would be on my own.

23 Q It is your understanding you would have to live on
24 the amount which you are paid as a juror, only?

25 A That's right.

26 Q Do you have any other source of income that would
27 tend to correct that --

28 A No.

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1 Q -- hardship to you at all?
2 A No.
3 Q So I take it, then, that you are self-supporting?
4 A That's right.
5 Q And is there a Mrs. Ingold?
6 A Yes, there is.
7 Q Are you supporting her?
8 A Yes.
9 Q Anyone else?
10 A No.
11 Q Are you asking to be excused on the grounds that it
12 would cause you a financial hardship?
13 A I would like to, because I don't know how I could
14 meet my obligations without income.
15 Q Yes. Well, let's see, this is your third week on
16 the panel; is that correct?
17 A Right.
18 Q So we would be talking about, perhaps, losing
19 almost as much as two months' pay, less what you would be paid
20 as a juror in this case?
21 A Right.
22 MR. WEEDMAN: Your Honor, I will submit the matter with
23 respect to hardship. I feel that Mr. Ingold would suffer
24 substantial loss.
25 THE COURT: The motion denied. I think it is a proper
26 answer. The People may -- the juror has advised me he can be
27 fair and impartial; I will stand on that statement. Motion
28 denied.

1 You may proceed or People may examine, depending
2 on what you want.
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1 BY MR. WEEDMAN:

2 Q Do you feel that the fact that sitting as a juror
3 here and losing substantially two months' pay more or less
4 would interfere with your function as a juror here?

5 A It probably would because --

6 Q By interfere I mean would it cause you to be
7 unable to give your best effort to both sides as a juror in
8 this case?

9 A That is something which remains to be seen, but I
10 am sure that it would interfere with my thinking because I
11 would have something else on my mind, I am sure.

12 Q Do you feel perhaps that after say a month of the
13 trial went by and you realized that you were each day, falling
14 farther and farther behind financially, this would begin to
15 perhaps put some kind of pressure on you such that you would
16 not be able to give the kind of full, relaxed, fair considera-
17 tion of the evidence that we are all entitled to here?

18 A Well, I would have to -- that would be some consi-
19 deration, that is, for sure.

20 MR. WEEDMAN: All right. I will pass to Mr. Katz, your
21 Honor.

22 THE COURT: All right.

23 BY MR. KATZ:

24 Q Mr. Ingold, please understand that we don't want
25 any juror to suffer a hardship by reason of the service as a
26 juror. You understand that?

27 A (Nodding head affirmatively.)

28 Q You will have to answer out loud.

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1 A I understand.

2 Q The court reporter can't get that down. Thank you,
3 sir.

4 Now, I want to assume for a moment that Hughes --
5 it is Hughes Aircraft, isn't it?

6 A Right.

7 Q Hughes is a pretty big outfit, isn't it?

8 A Yes.

9 Q If you can find Howard Hughes.

10 A Yes.

11 Q Now, I would like you to do this with his Honor's
12 permission perhaps during a recess, do you think you could
13 call your supervisor and determine whether or not if you were
14 selected as a juror and would have to serve perhaps an
15 additional six weeks or two months, that they would underwrite
16 that service, that is, pay the difference between what you are
17 paid as a juror and your present salary? And if in fact
18 Hughes Aircraft will do so, would you let us know and if they
19 won't, let us know and I will be happy to stipulate if they
20 won't, that you may be excused for a hardship, along with
21 Mr. Weedman. So we don't want you to suffer a hardship. You
22 understand that?

23 A Right.

24 Q Do you think you could do that, call your super-
25 visor and find out whether or not if selected as a juror they
26 would be willing to support you, as it were, during this
27 period of service, this very valuable period of service?
28 Would you do that for us?

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1 A I could try.

2 Q Is there somebody you can contact today?

3 A I would think so.

4 MR. KATZ: All right. Well, your Honor, I have no further
5 questions on this subject and I will pass the juror for cause.

6 THE COURT: Very well. Well, now, where are we on
7 peremptories then? We are down to peremptories.

8 MR. KATZ: Your Honor, when I say pass for cause I am
9 assuming that Mr. Weedman has no other questions at this time.
10 If he does, well --

11 THE COURT: If you pass for cause, I must find out.

12 MR. WEEDMAN: No, your Honor, I am not passing for cause.

13 THE COURT: All right, then.

14 MR. WEEDMAN: Well, Mr. Katz has suggested that the
15 prospective juror contact his employer. It seems to me, your
16 Honor, we would be wasting time --

17 THE COURT: I see.

18 MR. WEEDMAN: -- to go ahead on extensive voir dire of
19 Mr. Ingold.

20 THE COURT: If there is for cause presented I will overrule
21 it. So we are now down to peremptories then.

22 MR. WEEDMAN: I am not waiving Mr. Ingold for cause,
23 your Honor.

24 THE COURT: Whose peremptory? We are at that stage at
25 this time.

26 MR. KATZ: I think Mr. Weedman has the opportunity to
27 examine for cause.

28 THE COURT: That is what I am saying. Go ahead. Any more

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1 questions?

2 MR. WEEDMAN: All right, your Honor.

3 THE COURT: Pardon me. So we will be correct, all jurors
4 as I understand it have been passed for cause with the
5 exception of this gentleman that is just seated at the end?

6 MR. WEEDMAN: No, your Honor. Mr. De La Paz I have not
7 passed for cause.

8 THE COURT: I am sure the record would show a passing for
9 cause up to the last juror here, isn't that correct?

10 MR. WEEDMAN: Yes, your Honor, with the exception of
11 Mr. De La Paz.

12 THE COURT: Where is that gentleman?

13 MR. DE LA PAZ: Right here.

14 THE COURT: Have I interrogated him yet?

15 MR. WEEDMAN: Yes, briefly, your Honor.

16 THE COURT: All right. Then you may proceed with respect
17 to this other gentleman.

18 MR. KATZ: Excuse me, your Honor. As I understand it I
19 had already exercised a peremptory. I think all jurors at that
20 time were passed for cause. I don't think Mr. De La Paz was
21 selected subsequent to the exercising of a peremptory.
22 Accordingly Mr. Weedman would have had to pass for cause
23 all other jurors.

24 THE COURT: Have you passed for cause on No. 6?

25 MR. KATZ: I have not.

26 THE COURT: Finish your examination on No. 6 so I can
27 give a ruling and we may proceed. Any further questions
28 on No. 6 for cause. If so, you may proceed.

1 BY MR. WEEDMAN:

2 Q Mr. Ingold, with respect to contacting your employer
3 about being paid for jury service, perhaps you could tell us
4 where you gained the impression that you would not be paid?

5 A Well, the people that have served that I work
6 with there, and they have always said four weeks. So I don't
7 know.

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Q Well, would it be fair to say then you already know this without the necessity of contacting your employer?

A That is true because they only gave me four forms and said that was it, that I can turn into the jury assembly room downstairs.

Q Do you feel that it would be fruitful for you to contact someone?

A I really don't think it would. But --

MR. WEEDMAN: Well, perhaps that will answer the hardship matter here, your Honor, with respect to Mr. Katz' suggestion. I think Mr. Katz' suggestion is a good one ordinarily but I don't feel that it is necessary in this case.

THE COURT: Well, have you concluded your examination with respect to No. 6?

MR. WEEDMAN: Mr. Katz indicated that he would be willing to stipulate that Mr. Ingold could be excused for hardship.

THE COURT: No. If I get an answer I am going to -- I may change my own procedure. If the juror answers me that he is fair and impartial and can be in the trial of this action I may or may not be governed by that statement. Now, that juror has told me and has made that statement to me and so I am saying I must give a ruling. If you are posing for cause I will rule and if you concluded your examination on No. 6 then I will proceed with the next juror.

MR. WEEDMAN: Well, I have already moved -- well, rather, I will move, your Honor, at this time that Mr. Ingold be excused for cause.

THE COURT: All right.

5a-2 1 MR. WEEDMAN: Citing section 1073 subdivision 2 on the
2 ground that he has indicated to us that because of contemplated
3 loss of as much as two months' earnings he would not be able
4 to devote his full attention to the trial in order to give
5 both sides full consideration.

6 THE COURT: Well, I am not altogether satisfied that
7 constitutes a necessarily -- could be or couldn't be a valid
8 ground for excuse from jury service. I am ruling against you
9 with all due respect to the sincerity of your challenge.

10 MR. WEEDMAN: Surely, your Honor.

11 THE COURT: I want that understood and everybody in the
12 courtroom because I rule against counsel, he could be right
13 and I could be wrong. We will just reverse it. But I have to
14 make the ruling. I am ruling against you for cause on No. 6.
15 Now, let's finish No. 6. Do you have any further questions
16 on No. 6?

17 MR. WEEDMAN: Well, I have some more questions.

18 THE COURT: Go right ahead.

19 MR. WEEDMAN: Yes. Thank you.

20 Q Mr. Ingold, have you heard of Charles Manson?

21 A Yes, I have heard of him.

22 Q And what have you heard about Charles Manson or
23 what do you remember, put it that way?

24 A I don't remember too much. He was convicted of
25 murder.

26 Q Okay. And did you learn or do you feel that you
27 know what punishment was decreed for Mr. Manson?

28 A Yes.

1 Q What was that?

2 A Capital punishment.

3 Q Capital punishment. If the evidence in this case
4 should reflect an association between my client and Mr. Manson,
5 not talking about a criminal association, I am just talking
6 about a kind of lifestyle association, do you feel that you
7 would be prejudiced against my client in this case?

8 A Well, I don't think so.

9 Q All right. I take it then that you do not agree
10 with the idea of guilt by association?

11 A Not entirely, no.

12 Q Not entirely. Well, perhaps, you would be good
13 enough to amplify on that for us a little bit. What do you
14 mean by not entirely?

15 A Well, not in all cases. I guess it could be in
16 some cases.

17 Q Well, do you feel that because a man is associated
18 with a criminal, that that man is probably a criminal himself?

19 A No. I don't think so.

20 Q Do you feel in this case that merely because my
21 client had adopted the lifestyle similar to that of Charles
22 Manson's, that my client must be guilty of the charge here
23 because Charles Manson was found guilty in another case, of
24 murder?

25 (Short pause.)

26 It is a rather long question. Shall I try and
27 rephrase it for you?

28 A Well, I think I understand what you --

1 Q Well, take your time.

2 A I don't think he has to be guilty. I think that
3 is what you mean.

4 Q Well, I think an interesting question is this one:
5 suppose you are in the jury room and you have heard both sides.
6 You have listened attentatively and you are having a difficult
7 time making up your mind. You have gone down the line of
8 witnesses and you really can't decide. You may have spent
9 several days in the jury room with full discussion with all
10 jurors. Do you think then that you would allow an opinion
11 about Charles Manson and the Manson family to influence your
12 decision with respect to the guilt of my client?

13 A I don't think so.

14 Q You say you don't know?

15 A I don't think so.

16 Q You say you don't think so. Do you think it,
17 however, would present a problem for you?

18 A I don't think it would.

19 Q All right. I take it then, Mr. Ingold, if you
20 are sworn as a juror in this case you can promise me you will
21 decide my client's case on the evidence that is here and not
22 on something that you may have read in the newspapers or seen
23 on television about Charles Manson and the Tate-La Bianca
24 case?

25 A Yes.

26 Q Is that so? Supposing one of your fellow jurors
27 in the jury room, because of perhaps the length of time of
28 deliberations, or for what reason I don't know, any reason at

1 all, says to you, "Mr. Ingold, we have been in here for five
2 days now and you can't seem to make up your mind about the
3 evidence. Doesn't common sense tell you, Mr. Ingold, that
4 this man is a friend of Charles Manson's? Look at the kind of
5 man Charles Manson is. Can't your common sense tell you that
6 any friend of Charles Manson's charged with murder is probably
7 guilty of murder?"

8 What would your reaction be to that kind of an
9 argument from a fellow juror?

10 A I don't know right now.

6-1

1 Q When you say you don't know, does that mean that
2 you might be tempted under those circumstances to agree with
3 that person, you know, the sort of "Where there is smoke there
4 is fire," there may be guilt by association?

5 A I think that is something hard to tell until you
6 really come in contact with that problem. I don't think I
7 would, but it is something that --

8 Q Well, I think the most introspective people
9 recognize it as a possible problem but what we have to know
10 now is whether you can do it and we can't ask you the question
11 later on because then it is too late, you see.

12 We have to have an affirmative assurance from you
13 at this time that you will not be influenced by anything that
14 you may have learned about Charles Manson outside this case.
15 Is there some doubt -- excuse me, go ahead.

16 A I don't think I would.

17 Q Okay.

18 Most thoughtful responses to questions are
19 equivocal and I don't mean to harp on the fact that you are
20 giving us very reasonable, maybe, kinds of answers.

21 I don't quarrel with those kinds of answers, but
22 to pursue the matter, as you sit there now do you feel that
23 you would be influenced by knowledge of the Tate-La Bianca
24 murders, knowledge of Charles Manson and the Manson family?

25 A No.

26 Q All right, so you would be able to promise me,
27 then, that even in a tight situation, even in a close case,
28 you are simply not going to permit yourself to be swayed by

1 something that has nothing to do with the evidence in this
2 case?

3 A That's right.

4 Q All right; fine, sir.

5 I take it, Mr. Ingold, this is the first time
6 anyone has asked you any questions about the subject, and,
7 therefore, it is the first time you have really had a chance
8 to think about it?

9 A That's right.

10 Q With respect to the death penalty, if you found my
11 client guilty of murder in the first degree would you go into
12 the penalty phase and automatically impose the death penalty?

13 A No.

14 MR. KATZ: Excuse me, your Honor; there is an objection
15 on the grounds that it is not a complete question and should
16 ask "without regard to the evidence."

17 THE COURT: Let me have the wording of it, Mr. Reporter.

18 MR. WEEDMAN: I will withdraw the question.

19 THE COURT: All right, reframe it then.

20 Q BY MR. WEEDMAN: In the event that after fair
21 consideration of the evidence you find my client guilty of
22 willful, premeditated and malicious murder, without any
23 justification or excuse, would you automatically impose the
24 death penalty without regard to the evidence?

25 A No, I'd have to listen to all the evidence, and
26 with the evidence get both sides of it.

27 Q Surely.

28 In other words, as you sit there now there is no

1 way of knowing what you are going to do but that you are going
2 to listen to all the evidence and carefully consider all of
3 the evidence?

4 A Right.

5 Q Now, Mr. Ingold, I am sure you understand, do you
6 not, that the mere fact that we are talking about the death
7 penalty here doesn't mean that this case is going to get to
8 that stage, necessarily; you understand that, don't you?

9 A I do.

10 Q You understand that the reason we are talking about
11 the death penalty now is because this is the only opportunity
12 we have to talk about the death penalty; you understand that,
13 do you not?

14 A I do.

15 Q And do you understand that with respect to many
16 of the things that both sides will be discussing during jury
17 selection that some of those things are -- well, many of those
18 things may well not come up in this trial?

19 A I understand that.

20 Q For example, I take it you have been out in the
21 audience and you have heard Mr. Katz talking about conspiracy.

22 Do you understand that merely because Mr. Katz is
23 questioning about this rather horrible word, conspiracy, does
24 not necessarily mean that this jury is going to find that
25 there was a conspiracy?

26 A That's right.

27 Q In other words, I take it that you are going to be
28 shrewd enough not to let either Mr. Katz or myself begin to

1 argue this case to you before there is even any evidence.

2 Would that be a fair statement?

3 A Right.

4 Q Mr. Ingold, would you describe yourself as a
5 "show me" kind of person, or are you the kind of person that
6 believes anything anybody else tells you without some critical
7 examination?

8 A I'd have to have some proof.

9 Q And do you understand that if you are selected as
10 a juror in this case that you are going to have to give both
11 sides this kind of consideration, that you are going to have
12 to be a critical listener and a critical evaluator of the
13 evidence?

14 A Yes.

15 Q And appreciating that this is not an everyday
16 affair for any of us -- in other words, we go through our
17 everyday affairs evaluating information that comes to us with-
18 out such a critical examination of it -- do you feel that if
19 you were selected as a juror that you will be able to give us
20 this kind of critical, careful consideration of the evidence?

21 A Well, like I have stated before, I think the only
22 thing would be the hardship.

23 Q Surely.

24 A And that is, it would be a problem.

25 Q Do you think that the hardship that we were talking
26 about earlier would interfere with your careful, deliberate
27 evaluation of the evidence?

28 A Well, I am sure that it would have to enter into it

1 because if there is nothing coming in it is pretty hard to do
2 anything good, I think.

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6a

1 Q This is nice to talk about money won't buy every-
2 thing, but we know that money will buy a good many things and
3 when we don't have it it certainly can be a great anxiety-
4 producer.

5 Do you feel that, in the event that you are forced
6 to be a juror here that you would be able to resign yourself
7 to that fact and in that event forget about the financial
8 hardship or not?

9 A I don't see how I could. My wife has been sick and
10 it would be impossible.

11 Q Are you taking care of your wife as well, in some
12 fashion?

13 A I am not taking care of her but she is still under
14 doctor's care.

15 Q Are there medical expenses in addition to this?

16 A There is some, yes.

17 Q Are these medical expenses substantially -- do
18 they substantially add to your ordinary living expenses or do
19 you have medical insurance or something?

20 A There is medical insurance but it doesn't pay it
21 all.

22 Q I see.

23 Can you give us just a rough idea, Mr. Ingold, of
24 your income?

25 A A rough idea of what?

26 Q Of your income.

27 MR. KATZ: I'd object to that, your Honor; I think it is
28 too personal a question.

6a-2

1 THE COURT: Let me have that question, Mr. Reporter.

2 (The pending question was read by the
3 reporter as follows:)

4 "Q Can you give us a rough idea, Mr.
5 Ingold, of your income?"

6 MR. KATZ: I object.

7 MR. WEEDMAN: I will reframe the question.

8 THE COURT: All right. Reframe it.

9 Q BY MR. WEEDMAN: In any event, your income is such
10 that you need to get your paycheck every week or two weeks or --

11 A Two weeks.

12 MR. WEEDMAN: Your Honor, for the record, I will renew
13 my --

14 THE COURT: Certainly.

15 MR. WEEDMAN: -- challenge, respectfully, of course, to
16 Mr. Ingold on the ground that the hardship would interfere
17 with his giving both sides a fair and impartial consideration
18 of the evidence; for the reasons stated by Mr. Ingold.

19 THE COURT: Well, your challenge is not without merit
20 but I am inclined to rule against you and I think the law gives
21 me the right to say why, without any argument or trying to --

22 MR. WEEDMAN: Of course, your Honor.

23 THE COURT: I don't mean with you; I mean without any
24 question I feel I should say that every long trial is bound to
25 be a hardship on almost everybody in one fashion or another;
26 and I feel that I must have clear-cut statements of bias or
27 prejudice before I would be inclined to exercise and excuse
28 the juror for cause.

6a-3

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I do not think that it appears in this case.

2

I do deny it, respectfully deny your request; motion is denied.

3

MR. WEEDMAN: Thank you, your Honor.

4

THE COURT: Now, had you concluded on this juror?

5

MR. WEEDMAN: No, your Honor.

6

THE COURT: All right, go ahead.

7

Q BY MR. WEEDMAN: Mr. Ingold, do you feel that because

8

my client has been arrested and indicted by the Grand Jury

9

that he must necessarily be guilty?

10

It is kind of a silly question, I guess, but I'd

11

like to ask it.

12

A I don't think necessarily.

13

Q Do you feel that the People have something against --

14

that is, some evidence against Mr. Grogan or they wouldn't be

15

here?

16

A That's right.

17

Q Certainly, yes; but I take it that you have no

18

objection to the cherished principle in our society of the

19

presumption of innocence which cloaks my client throughout

20

this trial?

21

A No, I have no objection.

22

Q You recall Judge Call rather nicely summing up

23

this area of the law at the outset of the jury selection; did

24

you hear that?

25

A Yes.

26

Q And I take it that if you are selected as a juror

27

that you would have no difficulty working with this so-called

28

presumption of innocence?

6a-4

1 A No, I wouldn't.

2 Q Do you have any quarrel with the system insofar
3 as it requires the prosecution to prove their case, if they
4 have a case, and the system does not require the defendant
5 to prove his innocence; do you have any quarrel with that?
6 Is there anything about that that makes you think that that's
7 not right or fair or sensible?

8 A No.

9 Q Is there anything, of course, other than the hard-
10 ship matter we have already talked about, is there anything
11 about this trial that makes you feel that you could not give
12 both Mr. Katz' side of the case and my side of the case a
13 fair and impartial trial?

14 A Right now, I don't know of anything.

15 Q Finally, do you appreciate that each side is
16 entitled to your individual opinion, that the decision of the
17 jury is not a collective decision but, rather, a summary
18 of individual opinions with respect to guilty or not guilty?

19 I take it you agree with that, do you not, sir?

20 A Would I form my own opinion; is that what you mean?

21 Q Yes.

22 A Yes.

23 Q And I take it, then, finally, in the example I used
24 earlier that, if you were the one juror in an 11-1 deadlock,
25 that you would not change your mind merely to agree with the
26 other jurors?

27 A I don't think so.
28

6a-5

1 Q Pardon?

2 A No, I don't think I would.

3 Q Well, do you understand my question?

4 A I understand it, yes.

5 Q And do you appreciate that unless there is a reason
6 that you find in the evidence and in due consideration with
7 your fellow jurors, that you are not supposed to change your
8 mind one way or the other just to get along or just to agree
9 with your fellow jurors?

10 Do you understand that?

11 A Oh, sure.

12 Q And I take it, then, that whether it was for
13 guilty or whether it was for not guilty, if you were in that
14 jury room and you had listened to the instructions and you
15 considered the evidence and you had discussed it with your
16 fellow jurors, if you had made up your mind that you did not
17 agree with the other 11, you'd stick to that?

18 A I think I would.

19 Q Even though it might mean what is known as a hung
20 jury in this case?

21 A Yes.

22 MR. WEEDMAN: That's all I have, your Honor.

6b

6b-1

1 THE COURT: All right.

2 The People?

3 MR. KATZ: Thank you, your Honor.

4 Q Mr. Ingold, for purposes of my questioning at this
5 time, I am going to assume, sir, that Hughes Aircraft will be
6 so gracious as to continue your pay during your period of
7 tenure here and if in the event you find out to the contrary,
8 please notify the court and again I will be happy to enter
9 into a stipulation with counsel that you may be excused.

10 You understand that?

11 So, I am going to assume, then, for the purposes
12 of my questioning that you have no hardship problem.

13 Now, Mr. Weedman has been talking about the
14 concept that each juror is obliged to give both sides the
15 benefit of their individual opinion. You understand that; is
16 that correct?

17 A Right.

18 Q Now, let's assume that we have the situation, as
19 Mr. Weedman suggests, we have 11 jurors who apparently have
20 come to one conclusion concerning the guilt or innocence of
21 a defendant and you are on the other side.

22 Would you take the attitude that some jurors have
23 in the past, "Well, I know what my mind is and I don't care;
24 I don't give a damn what the other 11 jurors say about the
25 evidence or what their reasons are for coming to their
26 conclusions; I am going to stand by my guns and I don't even
27 want to talk about it."

28 Would that be your attitude?

6b-2

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A No.

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Q In other words, if 11 other jurors had stated that they had a certain position in regard to the guilt or innocence of a given defendant you'd want to know just what those reasons were for those conclusions, wouldn't you?

6

A Right.

7

8

9

Q And in that connection I take it you would be willing to examine the reasons they gave for coming to those conclusions; isn't that correct?

10

A Yes, sir.

11

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14

Q And I take it, then in the light of their reasons and their conclusions you would want to examine your own reasoning in regards to the conclusions you came to; isn't that right?

15

A Right.

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Q And if convinced, not by duress, not by coercion, but by reason, by logic, that your original evaluation was wrong, would you hesitate to change it?

20

A I don't think so.

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Q All right.

In other words, what you are saying is your pride wouldn't stand in the way of your ability to reason with the other jurors, to reevaluate, to reassess your opinion if you felt that in the logic of all the explanations your original position was wrong; is that correct?

A Right.

Q And you agree with the principle, then, that we are interested in one thing here, and that is the fair and

1 impartial administration of justice and the idea that we are
2 seeking the ascertainment of the truth; isn't that correct?

3 A Right.

4 Q And everything else must fall by the wayside,
5 including any pride we may have; is that right?

6 A Right.

Te 7

1 Q All right. Now, Mr. Ingold, you heard some discus-
2 sions concerning circumstantial evidence over the past few
3 days, have you not?

4 A Yes.

5 Q Do you have any quarrel with the principle of law
6 that in the State of California a person may be convicted of
7 murder in the first degree based wholly upon circumstantial
8 evidence?

9 A (Short pause.) I really don't know about that. I
10 would have to find out what the circumstances are, I guess.

11 Q All right. But you realize I can't talk about
12 what I think the evidence will be in this case because that
13 would be asking you to prejudge the evidence, and we are not
14 permitted to do so. But just with respect to general prin-
15 ciples the idea that, for example, there will be no eyewitness
16 to a killing; there will be no production of the body; no
17 eyewitness to having observed the body in death. Does it offend
18 your sense of fair play and justice that a man may stand
19 convicted of murder in the first degree under the laws of the
20 State of California based wholly upon circumstantial evidence?

21 A I think it would.

22 Q Does it offend your sense of justice that a man may
23 be convicted of murder in the first degree based just upon
24 circumstantial evidence, there being no eyewitness testimony
25 to the killing?

26 A No.

27 Q All right. So in other words then if you were
28 convinced by the People's proof beyond a reasonable doubt and to

7-2

1 a moral certainty based wholly upon circumstantial evidence,
2 I take it you would not hesitate to vote guilty even though
3 there was no eyewitness testimony to the killing; is that
4 correct?

5 A That's right.

6 Q Any doubt about that in your mind?

7 A No.

8 Q All right. So you think that you can give the
9 People a fair trial insofar as it concerns your willingness
10 and your ability to consider and evaluate circumstantial
11 evidence, to determine the guilt or innocence of Mr. Grogan;
12 is that correct?

13 A That's right.

14 Q If in your heart and your mind and your conscience
15 based upon proof which creates an abiding conviction to a moral
16 certainty of the truth of the charge, you believe the defendant
17 to be guilty, you would unhesitatingly vote for guilty; is
18 that correct?

19 A I think so.

20 Q All right. I have noticed you have taken some time
21 to consider the questions, and I do appreciate that. Because
22 these are not easy questions to answer. Sometimes we give
23 some very glib answers to these questions knowing what response
24 is desired, but really we don't desire any specific response.
25 What we desire, Mr. Ingold, is candor between counsel and the
26 prospective jurors; you appreciate that?

27 A Yes.

28 Q There is nothing to be embarrassed about or ashamed

7-3

1 about the fact that you may not like circumstantial evidence,
2 and in a murder case you just wouldn't consider it. Don't be
3 ashamed of having that kind of feeling if you entertain such
4 a feeling because many jurors do have that kind of feeling.
5 They would make fine jurors in other cases, but we don't want
6 them on a case of this kind, you understand that?

7 A Uh-huh.

8 Q If there is anybody in the panel who has had the
9 opportunity to reassess your feelings about circumstantial
10 evidence, don't be afraid to raise your hand.

11 THE COURT: I think you passed for cause.

12 MR. KATZ: Oh, yes. I understand.

13 THE COURT: Otherwise we can't move forward.

14 MR. KATZ: Yes. I understand that, your Honor.

15 THE COURT: All right.

16 Q BY MR. KATZ: Well, do you believe in the principle
17 that all persons are equal under the laws?

18 A Yes.

19 Q And you believe that the laws should be equally
20 applied to all persons regardless of their age, regardless
21 of their color or their racial or their ethnic background?

22 A Yes.

23 Q If his Honor instructed you during the guilt or
24 innocence phase that your verdict cannot be influenced by any
25 sympathy you may have for the defendant or any passion or
26 prejudice against the defendant will you follow that instruction?

27 A Yes.

28 Q All right. And do you think as you look at

7-4

1 Mr. Grogan now that because of his evident youth and solely
2 because of that fact you would give him some benefit that you
3 would not give any other defendant who was being tried in
4 a criminal case?

5 A No, I don't think so.

6 Q So in other words Mr. Grogan is a defendant just
7 like any other defendant, whether he is black, yellow, purple
8 or blue or whether he is 18, 19, 40 or 50, the People in all
9 cases must prove their case beyond a reasonable doubt and to
10 a moral certainty; is that correct?

11 A That's right.

12 Q And I take it merely because of the evident youth
13 of the defendant you would not require the People to sustain
14 any greater burden of proof than that required by law; is
15 that correct?

16 A I don't think so.

17 Q All right. You say you don't think so. I take it
18 that is just your speech pattern, that is the way you answer.
19 There is no doubt in your mind that you would not require us
20 to sustain a greater burden of proof in this case, is there?

21 A No, I don't believe so.

22 Q All right. Now, on this issue of death penalty,
23 assuming for a moment that we get to the penalty phase of this
24 trial which necessitates the jury returning a verdict of
25 murder in the first degree. You understand that the law does
26 not favor either life imprisonment on the one hand or the
27 death penalty on the other hand; you understand?

28 A Right.

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Q You understand that the law leaves it for the juror to determine within his heart, within his mind and within his conscience the proper verdict that is the penalty verdict in this case; you understand that?

A Right.

Q In that connection the law will not give you any guideposts by which to determine which penalty is warranted under the circumstances. You must make that sole and exclusive decision armed only with your heart and mind and conscience; you understand that?

A Right.

Q Now, bearing this in mind you understand that the People have no burden in the penalty phase to prove anything, you appreciate that?

A Right.

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7A

1 Q All right. So that while there may be evidence
2 of an aggravation of the offense there may be evidence of
3 mitigation of the offense, there may be some evidence or there
4 may not be evidence concerning the background and history of
5 a defendant. You may after considering all of the evidence
6 in the case feel that the crime is so heinous that you would
7 vote the death penalty; you understand that?

8 A Would you say that again?

9 Q Yes. What I am getting at is that the law places
10 no burden upon the People to produce anything in the penalty
11 phase of the trial; do you understand that principle?

12 A Right.

13 Q All right. So that you may feel after considering,
14 and you are obliged to consider all of the evidence in this
15 case and to weigh it very carefully, that because of the
16 heinousness of the crime, that may in your own individual
17 heart, mind and conscience warrant the return of a death
18 penalty verdict; you understand that?

19 A Right.

20 Q All right. And that may be so despite what evidence
21 if any is presented in the penalty phase, you appreciate that?

22 A That's right.

23 Q Assuming for a moment you felt that this case
24 warranted the return of the death penalty could you carry out
25 that conviction in your own mind, come back into the seat
26 where you are sitting now and tell Mr. Grogan by the --

27 MR. WEEDMAN: Excuse me, your Honor. I am going to object
28 to the form of the question even though counsel has not

1 completed the question. The juror is not required to come back
2 in the courtroom and tell the defendant something.

3 THE COURT: Let me have the question, please.

4 MR. KATZ: I did not finish it, your Honor.

5 (The pending question was read by the
6 reporter as follows:)

7 "Q Assuming for a moment you felt that
8 this case warranted the return of the death
9 penalty, could you carry out that conviction
10 in your own mind, come back into the seat
11 where you are sitting now and tell Mr. Grogan
12 by the --"?

13 THE COURT: The way it is phrased it asks for a prejudging
14 of factual matters. I think you covered it the other way
15 "Would you follow the law as the law is? Will you fairly and
16 impartially view the evidence?" Those matters have been
17 covered. The way it is, it particularizes the question
18 somewhat. I am rather inclined to sustain the objection.
19 You may reframe it if you can.

20 MR. KATZ: All right.

21 THE COURT: Unless it is covered pretty carefully.

22 MR. KATZ: All right.

23 Q Do you understand, Mr. Ingold, that it is not
24 enough for you to say, "I agree with the other 11 jurors that
25 this case warrants the death penalty" but that further action
26 is required. You have to come back into this jury box, and
27 the court will ask what the verdict is. And by your verdict
28 you tell the defendant, if it is one of death, that he is to

1 die. Do you understand that would be your obligation?

2 A That's right.

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1 Q Now, bearing in mind that this is what would have
2 to come to pass if you voted for the death penalty and all
3 other 11 members of the jury voted for the death penalty,
4 would you be willing to do that, if in your conscience you
5 felt that that was the proper verdict, however, distasteful
6 that might be to you?

7 A I probably would if I felt that way in my conscience.

8 Q Do you believe that you could personally join with
9 the 11 other persons and participate in a death penalty verdict
10 if you thought from all of the facts it was warranted?

11 A If it was warranted, I think so.

12 Q Now, it has been alleged, Mr. Ingold, that the
13 death of Mr. Shea occurred between the dates August the 16th,
14 1969 and September 1, 1969.

15 Assuming that you were convinced beyond a reasonable
16 doubt and to a moral certainty that Mr. Shea met his death
17 during that period, would you require us, nonetheless, before
18 voting guilty, to prove the exact time and date of the death,
19 even though we are not required to do so by law?

20 A No.

21 Q All right; so that if you believe that Mr. Grogan
22 committed murder in the first degree of Mr. Shea between the
23 dates of August 16, 1969 and September 1, 1969, I take it you
24 would vote guilty even though we didn't specify the exact date
25 and time of death; is that correct?

26 A That's right.

27 Q Is there any reason, other than the hardship
28 question, which is now held in abeyance, why you couldn't give

8-2

1 both sides a fair and impartial trial?

2 A No, I don't know of any.

3 MR. KATZ: Thank you, sir.

4 Pass for cause.

5 THE COURT: All right.

6 Now, I find the juror passes for cause, is
7 qualified for cause.

8 Therefore, I will direct counsel to please
9 interrogate for purposes of cause this next gentleman that we
10 haven't.

11 MR. WEEDMAN: Yes, Mr. De La Paz, your Honor.

12 THE COURT: Yes; you go ahead.

13 MR. WEEDMAN: Thank you.

14 Your Honor, Mr. Katz suggests, and I join in the
15 suggestion, that pursuant to the matter we discussed in
16 chambers, that I be permitted to just go down the line briefly
17 and ask each of those persons their business or occupation;
18 at least, of those we haven't already inquired of.

19 That was one thing that we had left out, because
20 we were concentrating on --

21 THE COURT: Let's step in a minute here, just step up
22 here. We can have the reporter or not, it doesn't make any
23 difference, either way you want it.

24 (Unreported discussion between court
25 and counsel in chambers with defendant
26 present.)

27 THE COURT: Go ahead, Mr. Weedman; we are back in court.

28 MR. WEEDMAN: Mr. Cooley, I don't believe we have

1 inquired as to your business or occupation; but, in any event,
2 would you tell us what you do?

3 MR. COOLEY: I am an electronic engineer.

4 MR. WEEDMAN: By whom are you employed?

5 MR. COOLEY: Computer Communication.

6 MR. WEEDMAN: Mr. Grimaldi -- What general area do you
7 live in, Mr. Cooley?

8 MR. COOLEY: Inglewood.

9 MR. WEEDMAN: Mrs. Rupe, we have already talked to you
10 about your occupation -- at some length, as a matter of fact.

11 Mr. Grimaldi, what is your business or occupation?

12 MR. GRIMALDI: I am an electronic technician.

13 MR. WEEDMAN: By whom are you employed?

14 MR. GRIMALDI: General Electric.

15 MR. WEEDMAN: What general area do you reside in?

16 MR. GRIMALDI: Montebello; East L.A. area.

17 MR. WEEDMAN: Mrs. Mullins, are you employed?

18 MRS. MULLINS: No, I am a housewife.

19 MR. WEEDMAN: And what does Mr. Mullins do?

20 MRS. MULLINS: He works for Aaron Brothers in West
21 Hollywood.

22 MR. WEEDMAN: And what general area do you reside in?

23 MRS. MULLINS: Wilshire.

24 MR. WEEDMAN: Mrs. Bardon, what is your -- I am sorry,
25 Mrs. Bardon, are you employed?

26 MRS. BARDON: Recently retired.

27 MR. WEEDMAN: That was from --

28 MRS. BARDON: L.A. City Schools.

1 MR. WEEDMAN: What did you do for them?

2 MRS. BARDON: I was assistant secretary to the superin-
3 tendent.

4 MR. WEEDMAN: Is there a Mr. Bardon?

5 MRS. BARDON: Yes, there is.

6 MR. WEEDMAN: What does he do?

7 MRS. BARDON: He recently retired as an operator for
8 RTD.

9 MR. WEEDMAN: Mrs. McCullough, are you employed?

10 MRS. McCULLOUGH: Yes, I am.

11 MR. WEEDMAN: What do you do?

12 MRS. McCULLOUGH: I am a stenographer for the Los Angeles
13 City Schools.

14 MR. WEEDMAN: And is there a Mr. McCullough?

15 MRS. McCULLOUGH: Yes, there is.

16 MR. WEEDMAN: What does he do for a living?

17 MRS. McCULLOUGH: He works for General Motors at the
18 assembly division in Van Nuys.

19 MR. WEEDMAN: Thank you; and what general area do you
20 reside in?

21 MRS. McCULLOUGH: Southeast Los Angeles.

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1 MR. WEEDMAN: Mr. Smith, what is your business or
2 occupation, please?

3 MR. SMITH: I am retired right now.

4 MR. WEEDMAN: What did you do for a living?

5 MR. SMITH: Mechanical field.

6 MR. WEEDMAN: And roughly --

7 MR. SMITH: Supervision.

8 MR. WEEDMAN: And what kind of work is that, Mr. Smith?

9 MR. SMITH: Management.

10 MR. WEEDMAN: By whom were you last employed?

11 MR. SMITH: Douglas.

12 MR. WEEDMAN: And what general area do you live in,
13 Mr. Smith?

14 MR. SMITH: Lynwood.

15 MR. WEEDMAN: Mr. Mejia, what is your business or occupa-
16 tion?

17 MR. MEJIA: Yes. I work for the Department of Public
18 Social Services, Cuban refugees; and I live in Glendale.

19 MR. WEEDMAN: Mr. De La Paz, your business or occupation --
20 I think we already know; you work for the Department of Motor
21 Vehicles, don't you?

22 MR. DE LA PAZ: Right.

23 MR. WEEDMAN: What general area do you live in, Mr. De La
24 Paz?

25 MR. DE LA PAZ: El Sereno.

26 MR. WEEDMAN: Mr. Bates, your business or occupation?

27 MR. BATES: At the present time I am security officer,
28 Los Angeles Clearing House; I retired from the post office

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1 after 30 years' service a few years ago.

2 MR. WEEDMAN: And the general area in which you reside?

3 MR. BATES: Highland Park.

4 MR. WEEDMAN: Mrs. Belles, are you employed?

5 MRS. BELLES: No, as of January 1st I was retired from the
6 Southwest -- Los Angeles Realty Board. I worked there for 18
7 years; I searched legal titles in regard to property, and
8 they eliminated the department on account of economic reasons
9 and I was retired -- it's much nicer than being fired.

10 MR. WEEDMAN: Is there a Mr. Belles?

11 MRS. BELLES: Yes.

12 MR. WEEDMAN: And if so, what does he do for a living?

13 MRS. BELLES: He's retired as of 1959.

14 MR. WEEDMAN: What did he do for a living?

15 MRS. BELLES: He worked in a paper box factory; he was
16 supervisor.

17 MR. WEEDMAN: And the general area in which you live?

18 MRS. BELLES: Southwest Los Angeles.

19 MR. WEEDMAN: And Mr. Ingold, what general area do you
20 reside in?

21 MR. INGOLD: Rolling Hills, the Torrance area.

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LORENZO DE LA PAZ

BY MR. WEEDMAN:

Q Mr. De La Paz, we had talked briefly about the
death penalty and I had dropped that subject and I wanted to
go back over it with you for a moment.

In the event that you are convinced beyond a

8a-3

1 reasonable doubt that my client has committed murder in the
2 first degree, would you automatically vote for the death
3 penalty?

4 A No.

5 Q Do you feel, Mr. De La Paz, that the death penalty
6 is an appropriate penalty for some criminal cases?

7 A No.

8 Q Pardon me?

9 A No.

10 Q Well, do you feel that you are opposed to the
11 death penalty?

12 A That's what I told the judge.

13 Q Would you -- perhaps you have had an opportunity
14 to consider it again -- would you automatically vote against
15 the death penalty or would you at least consider it?

16 A I wouldn't consider the death penalty.

17 Q Pardon me?

18 A I wouldn't consider the death penalty.

19 Q You would or would not?

20 A Would not.

21 MR. WEEDMAN: I will pass Mr. De La Paz for cause, your
22 Honor, in the interest of time.

23 MR. KATZ: Just one question.

24 Q Mr. De La Paz, I think what you are very honestly
25 stating to us is that because of your conscientious objections
26 concerning the death penalty that under no circumstances
27 and regardless of the evidence in the case before you would
28 you consider or vote the death penalty; is that correct?

1 A In this case or any other case, I wouldn't
2 consider it.

3 Q Thank you, sir.

4 No doubt in your mind?

5 A No; and I wouldn't like to be dismissed for cause,
6 but --

7 Q My question is simply there is no doubt in your
8 mind?

9 A Right.

10 Q In this case or any other case?

11 I am sorry, I didn't hear your answer.

12 A Right; it does not serve as a deterrent.

13 Q I didn't ask for your reasons, Mr. De La Paz; I
14 don't want to get into a philosophical discourse with you as
15 to the propriety of the death penalty, but am I correct in
16 saying --

17 A Right.

18 MR. KATZ: And I am certainly not trying to demean you,
19 because you discussed that viewpoint. It can be regarded
20 by very intelligent-thinking people as a valid point of view,
21 so please understand the spirit in which I asked the question.

22 Because of Mr. De La Paz' very open and honest
23 disclosures, I would challenge this juror for cause under
24 Section 1073, subsection 2, and 1074, subsection 8.

25 THE COURT: Do you stipulate?

26 MR. KATZ: I am challenging for cause.
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1 Q All right. Now, I want to ask you this question,
2 please, again. I am going to repeat what I have heretofore
3 stated. If you were voting on the question of penalty and
4 were a juror in this case would you automatically vote against
5 the death penalty without regard to any testimony that has
6 been produced in the trial of the case?

7 A Yes.

8 Q You would vote against the death penalty?

9 A Right.

10 Q Is that your statement?

11 A Yes.

12 Q Speak up, please.

13 A Yes.

14 THE COURT: Are there any further questions by defense
15 counsel?

16 MR. WEEDMAN: No, your Honor.

17 THE COURT: Before I rule?

18 MR. WEEDMAN: No, your Honor. Thank you.

19 THE COURT: Well, I will excuse you. Thank you very much.

20 MR. DE LA PAZ: Thank you.

21 MR. KATZ: For the grounds stated in my challenge, your
22 Honor.

23 THE COURT: Yes, I will. Thank you for the correction.
24 I find that for cause exists under the Witherspoon case. Also
25 that the court should exercise for cause, excuse the juror for
26 cause under section 1073 subdivision 2, existence of a state
27 of mind prohibiting impartiality. Also subdivision 8 of
28 section 1074 for the reasons therein stated.

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1 Now, we will call another juror.

2 Let's take a very short recess and we will go right
3 ahead. We have plenty to do.

4 Do not discuss the case or come to any opinion or
5 conclusion. Thank you.

6 (Recess.)

7 THE COURT: Now, we are back in session again, gentlemen.
8 The People against Grogan. The defendant is here, counsel is
9 here, the defendant and the People are here. The jurors are
10 in the jury box.

11 All right, go ahead, Mr. Clerk.

12 THE CLERK: Yes, sir. Edward D. Hooker, H-o-o-k-e-r.

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14 EDWARD D. HOOKER

15 BY THE COURT:

16 Q Now, let's Mr. Juror, start again here. Have you
17 been present in the courtroom since we originally started to
18 select jurors for the trial of this case?

19 A Yes.

20 Q Have you heard everything that the court said to
21 all of the jurors respecting the case?

22 A Yes.

23 Q Everything I have said. Did you hear me read the
24 charges that have been filed in the case against the defendant?

25 A Yes, I have.

26 Q Now, I am going to ask you to assume that you have
27 been selected as a juror, that we have tried the case. You
28 are in the jury room voting on the question of guilty or not

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1 guilty. At that point the jury could make a finding of not
2 guilty which would conclude the matter in its entirety. Is
3 that clear to you?

4 A Yes.

5 Q The jury could make a finding of guilty as charged.
6 And if the jury did that they would have to make a finding of
7 degree, first degree murder or second degree. Is that clear?

8 A Yes.

9 Q Now, if the jury found second degree murder as far
10 as the jury is concerned the case would be concluded. If the
11 jury made a finding of first degree murder then there would be
12 a penalty hearing. And after the penalty hearing the jury
13 would go to the jury room to vote on the question of penalty.
14 The penalty would have to be decided by the jury. It would
15 be either a death penalty or life imprisonment. Is that clear?

16 A Yes.

17 Q Now, if you will assume you are at that point or
18 in that position and you are about to vote on the question of
19 what the penalty is, I will ask you this question: at that
20 point would you automatically vote against the imposition of
21 the death penalty without regard to any evidence that might be
22 developed at the trial of this case?

23 A No.

24 Q All right. I will ask you this question: do you
25 feel if you are selected as a juror to decide this case could
26 you, would you and could you be fair and impartial to both
27 parties with an open mind if you are selected to try this
28 case?

1 A Yes.

2 THE COURT: All right. I pass the juror for cause at
3 this juncture.

4 Now, counsel for defendant may inquire.
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1 MR. WEEDMAN: Thank you, your Honor.

2 THE COURT: All right.

3 BY MR. WEEDMAN:

4 Q Mr. Hooker, is there anything about the apparent
5 length of this trial that is going to cause you any personal
6 hardship?

7 A Possibly. I am planning on moving out of the
8 county around July the 15th.

9 Q Is that the only thing that you --

10 A Yes.

11 Q -- see on the horizon that is a possible hardship
12 for you?

13 A Yes.

14 Q Okay. With respect to the death penalty, Mr.
15 Hooker, if you are satisfied after hearing all the evidence --
16 of course this is a big "if", I am sure you appreciate that;
17 but if you are satisfied for purposes of this question, my
18 client has committed willful, premeditated murder with malice
19 aforethought and you are now in the jury room deciding his
20 fate, would you automatically impose the death penalty?

21 A No.

22 Q Okay. So I take it then obviously you are going to
23 wait till you hear all the evidence in this case and then you
24 are going to make up your mind as to what you feel personally
25 the appropriate penalty should be?

26 A Right.

27 Q I take it that you understand, quite obviously,
28 that the mere fact we are talking about the death penalty doesn't

1 necessarily mean we are ever going to get to that point?

2 A Right.

3 Q Okay. That as Judge Call has mentioned quite
4 fairly and repeatedly that this question about the death
5 penalty must necessarily assume that there has been such a
6 conviction, but that in fact we may never get to that point,
7 okay?

8 A Uh-huh.

9 Q Have you heard about Charles Manson and the so-
10 called Manson family?

11 A Yes.

12 Q Have you formed any opinion about the Charles
13 Manson family and Charles Manson?

14 A Yes.

15 Q And is your opinion such that you feel that it
16 might prejudice my client's position here if the evidence
17 discloses -- and I am sure it will -- that my client, at least
18 very broadly speaking, is a member of the Manson family?

19 A I don't believe so.

20 Q Do you recognize, however, Mr. Hooker, that there
21 is a problem in this regard as far as your deliberations are
22 concerned?

23 A Yes.

24 Q I take it from your answer then that you are
25 telling us that you have formed some opinion which you are
26 going to have to conscientiously and consciously be alert to
27 and which indeed you are going to have to set aside in order
28 to give my client and the People, as a matter of fact, a fair

1 trial in this case?

2 A Right.

3 Q Okay. Is there anything about your opinion that
4 you feel under certain circumstances you would just not be able
5 to set aside?

6 A There could be. I'm not positive.

7 Q You have heard me discuss repeatedly the problem
8 of a close case, of the undecided juror during the guilt phase
9 and whether or not opinions formed about the Manson family
10 would interfere at that point. How do you feel about that?

11 A I don't know. It would depend on what came out in
12 the testimony.

13 Q Supposing you found that it was a close case.
14 Supposing you really, after considerable consideration of the
15 testimony, really couldn't make up your mind if the truth was
16 being told here in this courtroom and if so, which portions
17 were the most credible. And perhaps several days had gone by.
18 Do you think that your opinion about Charles Manson would then
19 come into play and that you might be then tempted to decide
20 the case not really so much on the evidence here but based on
21 your opinion of Charles Manson?

22 A Stated that way, no.

23 Q Okay. To what extent do you feel, Mr. Hooker,
24 that your opinion would interfere with your consideration of
25 the evidence here?

26 A Well, if it were to just come right down to it
27 and I couldn't decide, and I felt both sides had a very good
28 case, I would have to I think rely a little bit on what I know

1 about Mr. Manson and his group as an entirety. Not just on
2 him.

3 Q In that regard is it the lifestyle of these
4 persons as you perhaps have an opinion about them that makes
5 you say this, or is it primarily an opinion based upon the
6 Tate-La Bianca murder case?

7 A I would think more of the murder cases.

8 Q I am sure you appreciate of course that my client
9 was not charged with those cases and has nothing to do with
10 those cases?

11 A Right.

12 Q That he was merely an associate -- perhaps that is
13 too strong a word -- at least he was a person that merely
14 lived with other members of the Manson family?

15 MR. KATZ: Excuse me, your Honor. I am going to object.

16 MR. WEEDMAN: I will withdraw that. I don't want to
17 state --

18 THE COURT: It is withdrawn.

19 MR. WEEDMAN: -- I don't want to make any statements of
20 evidence here.

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1 MR. KATZ: Purported evidence, your Honor.

2 THE COURT: Restate it; restate it.

3 MR. WEEDMAN: Yes, your Honor.

4 Q With respect to the opinions you have formed
5 based primarily on the Tate-La Bianca case, do you have a
6 pretty strong feeling that persons who were not only friendly
7 to Charles Manson before his arrest and conviction but are
8 still friendly to him are more likely to be criminal types
9 than not?

10 A No.

11 Q Do you concede for purposes of a fair consideration
12 of the evidence here that there may well be persons who are
13 dedicated to a way of life that coincides with Charles Manson's
14 way of life, apart from criminality, of course, and that
15 such persons, however distasteful that might be to you and
16 others, and nonetheless are no more apt to commit crime than
17 persons who --

18 MR. KATZ: I am sorry, there is an objection --

19 MR. WEEDMAN: I will reframe it.

20 Q You appreciate the fact that, just putting it very
21 simply, that merely because people may approve of Charles
22 Manson generally, that this is no evidence that they have
23 committed any crime?

24 A Right.

25 Q Do you feel that this opinion that you have
26 formed would substantially interfere in a close case here?

27 A I think it would.

28 Q Okay; and so we'll be clear about it, do you feel

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1 that if you had some difficulty making up your mind about
2 the evidence, that you would then in your mind go back and
3 reflect upon the fact that Charles Manson has been convicted
4 of some, I believe, seven murders and that other members of
5 the family were involved in those murders and utilize that
6 information in arriving at a verdict here?

7 A If I was very undecided, I think I would.

8 Q In the event that there are persons here who
9 testified for the prosecution that were members of the --
10 very loosely speaking -- that were members of the so-called
11 Manson family, do you feel you'd be prejudiced against their
12 testimony on that basis alone?

13 A No.

14 Q I take it, then, that irrespective of the background
15 of the person you would automatically reject their testimony?

16 A No.

17 Q You could take that into account; but, of course,
18 you take it into account not artificially but insofar as you
19 felt it had some real relevancy and bearing on the case; is
20 that so?

21 A Yes.

22 Q So, then, while you feel you might possibly be
23 prejudiced against my client's position because of his
24 association with the Manson family, you feel that you could --
25 do you feel that you would not be so prejudiced against
26 prosecution witnesses who are testifying here, who were
27 members of the Manson family?

28 Do you follow my question?

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1 A Well, not really.

2 Q All right.

3 Well, let me try it again: as I understand it,
4 you feel that you might well utilize something that you had
5 learned outside of this case against my client, to wit, his
6 association with Charles Manson and what you have learned
7 about Charles Manson and the Manson family.

8 What about your opinion possibly interfering in
9 your evaluation of prosecution witness testimony if the
10 evidence should show that such prosecution witnesses were at
11 one time, at least, loyal, devoted members of the Manson
12 family?

13 A I don't think it would prejudice me in any way.

14 Q Would you agree that is sort of the other side of
15 the coin in this problem?

16 In other words, we are trying to see where the
17 prejudice might possibly cut and you have indicated it might
18 cut towards my client but you don't feel it would cut towards
19 prosecution witnesses.

20 A Right.

21 Q Do you feel on that basis, Mr. Hooker, that you
22 could not in the final analysis, perhaps, try as hard as you
23 might, be able to give my client a fair and impartial trial?

24 A Well, relying on Manson would be the very last
25 thing I would do. I would try and stick basically with the
26 testimony that is given for this case and nothing else.

27 Q Well, of course, you would be instructed, naturally,
28 specifically or in effect, that you are not to consider any

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1 evidence that is not before you in this court; and I am
2 sure you'll agree that anything you may have learned from the
3 newspapers or other sources about Charles Manson is not
4 evidence in this case?

5 A Right.

6 Q I take it, notwithstanding your agreeing to that,
7 that, nonetheless, you would, in the close case, utilize such
8 evidence -- that is, such material, out of court material?

9 A I think so.

10 MR. WEEDMAN: Well, I appreciate your honesty and your
11 introspection in this regard very much.

12 Your Honor, I would respectfully challenge
13 Mr. Hooker for cause, Section 1073, subdivision 2.

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1 THE COURT: Let me ask this question once again; I may
2 rephrase it.

3 Q I will ask this to you, Mr. Juror: I will ask you
4 if you can and will, notwithstanding any opinion that you may
5 have in this case, if you have any, if you can act fairly and
6 impartially upon all matters that have been submitted to you?

7 Now, you can answer that yes or no.

8 A I think I'd have to answer "No."

9 Q Is the answer "yes"? You're answering it "Yes"?

10 MR. KATZ: No; the answer is "No," your Honor.

11 MR. HOOKER: No. I would answer "No."

12 Q BY THE COURT: You can be fair?

13 A No.

14 Q Your answer is "No", that you feel you could not
15 be fair and impartial; is that your answer?

16 A Yes.

17 THE COURT: Any further question by the People?

18 MR. KATZ: No, your Honor, I think the record is clear.

19 THE COURT: Are you ready for me to act in the matter?

20 MR. KATZ: Yes, your Honor.

21 THE COURT: I will excuse the juror. Thank you.

22 And I will state the Court is acting under Section
23 2 of Section 1073 and subdivision 8 of Section 1074 in
24 exercising and excusing the witness for cause.

25 Now we will call another juror.

26 THE CLERK: Miss Dora Cota, C-o-t-a.

MISS DORA COTA

BY THE COURT:

Q Now, lady, we'll start all over here.

Have you been in the courtroom since we first started to pick a jury in this case?

A Yes.

Q Did you hear everything that I said to all of the other jurors up to this time?

A Yes.

Q Did you hear me read the charge that has been filed against the defendant in this case?

A Yes.

Q Now, I will ask you to assume that you have been selected as a juror in this case, that you have heard all of the testimony, you have gone to the jury room to vote guilty or not guilty.

Now, if you vote not guilty, that concludes the case entirely; do you understand that?

A Yes.

Q If the jury votes guilty, then they must determine the degree, first degree or second degree murder.

Is that clear to you?

A Yes.

Q If the jury votes second degree murder, then the jury is through, they don't have any further duties.

If the jury votes first degree murder, then there is a subsequent, a following hearing called a penalty hearing, held right away; and as a result of that hearing the jury

1 then determines what the penalty is, whether it is the
2 death penalty or life imprisonment penalty.

3 Is that clear?

4 A Yes.

5 Q Now, I will ask you to assume that you are
6 at the penalty hearing, that you have gone into the jury room
7 with the jurors, you are voting on a question of penalty.

8 Now, I will ask you at that time, if that were the
9 situation: at that time would you automatically vote against
10 the imposition of the death penalty without regard to the
11 evidence or testimony that might have been developed in the
12 trial of this case?

13 A No.

14 Q Thank you.

15 Now I will ask you one or two more questions: do
16 you know of any reason that you could not be fair and impartial
17 if you were selected to try this case as a juror?

18 A No.

19 Q And I think one more question, if I may, here, I
20 will ask it in this form: do you have any opinions at all of
21 any kind that would prevent you -- this is probably a repeat
22 of my last question -- do you have any opinions or feelings
23 of any kind that would prevent you from being fair and impartial
24 to both the People and the defendant if you are selected as a
25 juror in this case?

26 A No.

27 THE COURT: Thank you.

28 I at this time clear the juror for cause.

1 MR. WEEDMAN: Thank you, your Honor.

2 Q Miss Cota, are you employed?

3 A Yes.

4 Q And may I ask your business or occupation, please.

5 A I am a clerk at Sears Roebuck & Company.

6 Q And is there a Mr. Cota?

7 A No.

8 Q I see -- I am sorry, it is Miss Cota, yes?

9 A Yes.

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1 May I ask generally where you reside, the general
2 area?

3 A East Los Angeles.

4 Q Now, with respect to the death penalty, Miss Cota,
5 do you feel that if you were convinced beyond a reasonable
6 doubt that my client had committed a murder of the first
7 degree without any justification or excuse, that you would
8 automatically impose the death penalty?

9 A No.

10 Q So your answer would be like the answer we have
11 heard from so many other prospective jurors, that you would
12 wait and hear what the evidence is, not only consider the
13 evidence during the guilt phase but also what ever evidence
14 might be produced during the penalty phase?

15 A (Nodding head affirmatively.)

16 Q I take it from your answer then that you are not
17 one of those persons who feels that when people have committed
18 a murder of the first degree that they ought to die auto-
19 matically for so doing?

20 A Yes.

21 Q You are not one of those persons, are you, Miss
22 Cota?

23 A No.

24 Q You would, of course, in fairness to the People
25 consider their position since they are asking for the death
26 penalty in this case, but you will also consider our position,
27 will you?

28 A Yes.

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1 Q Does the mere fact that Mr. Katz is asking for the
2 death penalty here make you feel that my client is more apt to
3 be guilty than not?

4 A No.

5 Q So what you are telling us then is you are going to
6 wait until you hear the evidence on the guilt phase as well?

7 A (Nodding head affirmatively.)

8 Q Is there anything about the fact that my client has
9 been charged with murder that makes you feel that he must
10 somehow be guilty or the district attorney's office wouldn't
11 charge him?

12 (Short pause.)

13 Q It is an awkward question. Let me withdraw it and
14 start over again.

15 Do you feel that the district attorney's office
16 just would never charge anyone with murder unless they had in
17 fact committed a murder, or do you feel that the district
18 attorney acts on evidence that is available to them, that they
19 have to take some position and that they bring a matter into
20 court and let the jury or the judge decide? Which one of
21 those propositions?

22 A Well, I imagine they let the jury decide.

23 Q Certainly.

24 A According to the evidence.

25 Q In that connection I am sure you appreciate that
26 the district attorney does not always get a conviction just
27 because he charges somebody with a crime?

28 A Right.

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Q Okay. With respect to circumstantial evidence, do you think that you would have any problem in utilizing circumstantial evidence merely because it is circumstantial evidence rather than direct evidence?

A No.

Q Did you hear and understand Mr. Katz' example about the cookie?

A (Nodding head affirmatively.)

Q And the small child and the cookie? All right. And do you recall Judge Call's reading two circumstantial evidence instructions when we started the jury selection in this case?

A Yes.

Q And do you recall that portion of the instructions which said in substance that where there are two reasonable inferences to be drawn from circumstantial evidence, one pointing to the defendant's guilt, the other pointing to his innocence, that you are required by law to adopt that interpretation which points to the defendant's innocence? Do you have any quarrel with that law so far as your utilization of circumstantial evidence goes?

A No.

Q Is there anything at all that is repugnant to you about using circumstantial evidence here in the State of California?

A No.

Q To convict someone?

Do you understand, Miss Cota, that you have as a

1 juror the right to reject circumstantial evidence if it does
2 not meet the standards of proof to satisfy your conscience and
3 your mind?

4 A (Nodding head affirmatively.)

5 Q That you need not accept circumstantial evidence
6 just because it is circumstantial evidence. In other words,
7 do you understand that circumstantial evidence is no stronger
8 than any other kind of evidence?

9 A (Nodding head affirmatively.)

10 Q Okay. Do you think you would have any problem,
11 Miss Cota, in holding on to your own individual opinion
12 following jury deliberation if you found yourself in the
13 awkward position of being the one juror who does not agree
14 with the other 11 jurors? Would you be able to stick to your
15 conviction and not change it merely because the other jurors
16 do not agree with you?

17 A Yes.

18 Q Do you feel that you might be a little frightened,
19 perhaps, to get into a situation where that might happen to
20 you? In other words, do you feel a little frightened where
21 you may end up in the jury room with 11 people saying, "Come
22 on, now, Miss Cota, I mean, after all, it is 11 to 1." Do
23 you think you would be able to hold up under that situation?

24 A I think so.

25 Q Okay. I am not throwing down the gauntlet, you
26 know. I am not challenging any member of this jury to be
27 an unreasonable stubborn mule or anything like that at all.
28 I am talking about an individual opinion which is honestly

1 and fairly and fully arrived at. And so you are not going to
2 change it merely because you are in a minority of one, right?

3 A Right.

4 Q What have you heard about Charles Manson?

5 A He was accused of murder.

6 Q Convicted?

7 A Convicted of murder.

8 Q Sentenced to die?

9 A (Nodding head affirmatively.)

10 Q Certain members of the Manson family were likewise
11 accused and convicted and sentenced to die?

12 A Right.

13 Q How do you feel about this case if the evidence
14 discloses that my client not only is a member of the Manson
15 family but is a man who in large measure at least believes in
16 Charles Manson's philosophy of life apart from any alleged
17 criminality, of course? Do you think that would infect your
18 thinking so that you couldn't give my client a fair trial
19 based on the evidence in this courtroom?

20 A No.

21 Q Would you be able to set aside anything that you
22 may -- any opinion you may have formed about Charles Manson
23 and the Manson family in order to evaluate the evidence here
24 and give my client a fair trial?

25 A (Nodding head affirmatively.)

26 Q Do you think you would be able to do that?

27 A Yes.
28

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Q You know, I have probably bored everyone to death constantly asking about this close case in the jury room situation. But supposing it was a close case where you were having a hard time making up your mind. Do you think you would then be tempted to be influenced by what you may have read in the newspapers or seen on television or heard from your friends about Charles Manson and the Manson family?

8 A No.

9 Q Do you have any close friends, or any relatives, rather, or close friends who are in law enforcement?

11 A Friends.

12 Q Okay. Is there anything about the fact that you have friends in law enforcement that would lead you to conclude that inasmuch as police officers may be testifying here, that my client must be guilty?

16 A No.

17 Q Would you gauge the testimony of police officers the way you would gauge the testimony of any other witness?

19 A Yes, I would.

20 Q If you are satisfied that they are telling the truth after a due consideration of the evidence then you would act on that, would you not?

23 A Yes.

24 Q If you are satisfied that perhaps the officer doesn't know as much as he should know in connection with the case then you would treat it accordingly, wouldn't you?

27 A Yes.

28 Q I am sure you appreciate, do you not, that officers

1 can be mistaken just like the rest of us?

2 A (Nodding head affirmatively.)

3 Q We expect policemen, do we not, to be a little
4 more careful about such things, people's lives at stake --
5 but nonetheless if there is something about even a police
6 officer's testimony that doesn't convince you in your heart and
7 in your mind, I take it that you will just reject it and move
8 on to something else in this matter, is that so?

9 A Yes.

10 Q Is there anything about the length of this trial
11 that is going to cause you any personal hardship in this case?

12 A Yes. Afraid so.

13 Q Darn it.

14 MR. KATZ: Should have asked it first.

15 MR. WEEDMAN: Well, I sort of hoped, you know, that it
16 won't. So I dodge the question for awhile.

17 Q But would you tell us, please, what it would be
18 that would cause you some personal hardship?

19 A Well, I am self-supporting, and Sears won't pay us
20 after 30 days.

21 Q How long have you been on the present panel?
22 How many days have you served?

23 A It is my third week.

24 Q So in about another week, why, your ordinary income
25 is going to stop, is that so?

26 A Yes.

27 Q Now, are you sure about this? And the reason I
28 ask you this is because as Mr. Katz has suggested with Hughes,

1 Hughes is a very large company and I don't think we have
2 noticed any lack of public social responsibility on their
3 part. Do you know for a fact that you will not be paid if
4 you are on this jury duty?

5 A Well, I did talk it over with my boss, and he said
6 definitely a month. That is all I can serve.

7 Q A month?

8 A Yes.

9 Q Well, all right. Are you asking to be excused
10 on that ground, Miss Cota?

11 A Yes.

12 MR. WEEDMAN: Well, your Honor, I respectfully submit
13 that Miss Cota --

14 THE COURT: Do you pass?

15 MR. WEEDMAN: Yes. I will pass for cause, except with
16 respect -- no, I am sorry, your Honor. Forgive me.

17 Q Miss Cota, do you think that you would be able if
18 you are selected as a juror to give both sides the kind of
19 attention that we require here, knowing that it is going to
20 cost you perhaps as much as two months' salary?

21 A I don't really think so, because I am self-
22 supporting.

23 Q Pardon?

24 A Because I am self-supporting.

25 Q Do you think if you are chosen as a juror even under
26 those unfortunate circumstances that you would be able to get
27 through the trial and give us both your undivided attention,
28 that is, without reference to your financial hardship?

1 A I think so.

2 Q Pardon?

3 A I think so.

4 MR. WEEDMAN: All right. Thank you very much, Miss Cota.

5 I will pass for cause, your Honor.

6 THE COURT: People.

7 MR. KATZ: Yes, your Honor.

8 Q Miss Cota, I apologize in advance for having you
9 subjected to what might be regarded by some as interrogation.
10 And do you understand that we do this so that we can determine
11 how you think, how you feel about Mr. Grogan at this time
12 before there is any evidence, how you feel about the prosecution
13 in general and whether or not there are any outside factors
14 which would prevent you from being fair and impartial to both
15 sides? You understand that is why we are asking you questions
16 at this time?

17 A Right.

18 Q So let me go to what apparently is the heart of
19 your problem, and that is perhaps one of hardship. Do you have
20 any means to sustain yourself for a period of say one month
21 to six weeks if you did not receive the steady income from
22 Sears over that period of time?

23 A No.

24 Q In other words, you don't have any savings or any

25 A Very small savings.

26 Q All right. And are you positive that Sears would
27 not under any circumstances and even if you were selected as
28 a juror to serve in this case for perhaps six weeks to two

1 months that under those circumstances they still would not
2 continue to pay you?

3 A Well, I am pretty certain they wouldn't, but I
4 could ask them.

5 Q All right. May I ask you to do this. Over the
6 lunch hour would you be kind enough to call your supervisor
7 and explain the situation to the supervisor and determine
8 whether or not you would receive your salary during the period
9 of tenure of service on this jury if selected as a juror;
10 would you do that?

11 A Well, he is out --

12 THE COURT: Well, wait a minute. I am not prepared to
13 exercise. Read that statement, please.

14 MR. KATZ: I will withdraw it.

15 THE COURT: I think you better, because you are building
16 up a situation that I would rule in accordance with your
17 thought. I don't say I would or wouldn't because the juror has
18 met the qualifications at the moment of 1076 of the CCP,
19 and whether I will step out of that I don't know. I am just
20 cautioning you. You can ask the question if you want to.

21 MR. KATZ: I think Mr. Weedman and myself both are in
22 agreement that we don't want any juror to suffer any financial
23 hardship.

24 THE COURT: Well, you can ask your question if you want to.
25 I am not telling you what to do. I am only saying how I might
26 rule.

27 MR. KATZ: Yes. All right.

28 Q Let's pass the question of hardship for a moment

1 and let me ask you this question:

2 With respect to circumstantial evidence do you
3 think it is unfair that someone may be convicted of murder
4 in the first degree without an eyewitness to the killing?

5 A No.

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11b-1

1 Q Do you understand that in your day-to-day
2 activities and life habits you draw inferences from facts,
3 isn't that correct?

4 A That's right.

5 Q And you make judgments based upon facts that are
6 made known to you, isn't that right?

7 A Yes.

8 Q So in effect you are using circumstantial evidence
9 every day in your life, aren't you?

10 A That's right.

11 Q I take it then you have no objections to applying
12 common sense to the evidence as it unfolds during the course
13 of the trial and determining whether or not the People have
14 met the burden of proof, is that correct?

15 A Right.

16 Q If you are convinced beyond a reasonable doubt
17 and to a moral certainty based wholly upon circumstantial
18 evidence, I take it that you would be willing to vote guilty,
19 is that correct?

20 A Right.

21 Q Merely because we are using circumstantial
22 evidence, would this in and of itself cause you to require the
23 People to sustain a greater burden of proof than that already
24 required by law?

25 A No.

26 Q All right. Now, Mr. Weedman talked about a part
27 of the circumstantial evidence instruction which relates to
28 two reasonable inferences. And Mr. Weedman is quite correct

11b-2

1 in that statement of law. I am not going to pick apart the
2 circumstantial evidence instructions at this time because you
3 have indicated that you will follow his Honor's instructions
4 at the conclusion of this case. Isn't that correct?

5 A Yes.

6 Q So I take it that you won't seize upon any one
7 case or any one line of a given instruction but will treat all
8 the instructions as applicable as a whole and apply the law
9 to the facts as you find them to be, is that correct?

10 A Yes.

11 Q I take it you give us your solemn promise that
12 you would do that, is that correct?

13 A Yes.

14 Q Going on to the issue of the death penalty and
15 sometimes it is said that women are the weaker sex. I don't
16 believe that for any moment. And do you think that if in your
17 own conscience that after a consideration of all of the
18 evidence presented at the guilt phase of this trial and at
19 the penalty hearing, that the death penalty was warranted, do
20 you think you would have the resolve to vote the death penalty?

21 A Yes.

12

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Q

1 Q Do you think that you would have the ability to
2 come back into that seat where you are sitting and tell the
3 court that is your verdict, it is one of death, if you believed
4 from all of the evidence and based upon an application of your
5 conscience that this was warranted?

6 Could you do that?

7 A I think so.

8 Q And you have heard us discuss various principles
9 of law with which you may be confronted during the course of
10 this trial if selected as a juror.

11 Bearing that in mind, do you think that you could
12 be fair to both sides?

13 A I think so, yes.

14 MR. KATZ: I think you can, too.

15 Pass for cause.

16 THE COURT: Thank you.

17 All right. Then this lady has been passed.

18 We are back to peremptories. Are there any
19 peremptories?

20 MR. WEEDMAN: Yes, your Honor, I believe it is --

21 THE COURT: I forgot whose peremptory it is.

22 MR. KATZ: It is the defense.

23 MR. WEEDMAN: I believe it is the defense peremptory,
24 your Honor.

25 THE COURT: All right.

26 MR. WEEDMAN: We will thank and excuse Mrs. Bardon,
27 your Honor.

28 THE COURT: All right.

12-2

1 Thank you, lady.

2 THE CLERK: Eugene E. Ragland, R-a-g-l-a-n-d.

3
4 EUGENE E. RAGLAND

5 BY THE COURT:

6 Q Mr. Ragland, have you heard -- have you been in
7 the courtroom ever since we commenced the selecting of the
8 jury in this case?

9 A Yes, sir, I have.

10 Q Have you heard everything the court said to the
11 jurors?

12 A Yes, sir.

13 Q Did you hear me read the charges in the indictment
14 that have been preferred against the defendant?

15 A Yes.

16 Q I will ask you to assume that you have been
17 selected as a juror, that we have tried the case, the case has
18 gone to the jury for a finding, a verdict of guilty or not
19 guilty.

20 As I have stated, if the jury votes not guilty the
21 case is concluded right at that point.

22 If the jury votes guilty, then the jury makes a
23 finding of degree, second degree or first degree -- or, first
24 degree or second degree; one of the degrees must be set. A
25 second degree, again, concludes the case as far as the jury is
26 concerned.

27 A finding of first degree necessitates a further
28 hearing on penalty. At the penalty hearing the jury then

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1 determines the penalty, being either the death penalty or life
2 imprisonment.

3 Now, you will assume that you are one of the jurors
4 you are at the death penalty hearing; you have gone to the jury
5 room to determine penalty.

6 Now, I will ask you in so voting on the penalty
7 this question: would you automatically vote against the imposi-
8 tion of capital punishment without regard to any evidence that
9 might have been developed at the trial of this case before you?

10 A No, I would not.

11 Q All right.

12 Now, I will ask you another question: do you know
13 of any reason at all or do you have any opinion that would in
14 any way prevent you from acting fairly and impartially upon
15 all matters that will be considered in this trial?

16 A I know of no reason, sir.

17 Q I will restate it in this fashion: if you are
18 selected as a juror in this case, can you be absolutely fair
19 and impartial in the trial of this case as a juror upon all
20 matters that come before you?

21 A I will try my best.

22 THE COURT: Very well. Thank you.

23 I will pass the juror at this juncture for cause.

24 We are up to 12 o'clock; let's go over today until
25 2 o'clock.

26 Please return promptly, folks, as you have been.
27 Do not discuss the case or come to any opinion or conclusion.
28

Thank you very much.

(Noon recess.)

13-1

1 LOS ANGELES, CALIFORNIA, WEDNESDAY, JUNE 30, 1971

2 2:05 P.M.

3
4 THE COURT: All right. Now, gentlemen, we will proceed
5 in People against Grogan.

6 The defendant is here, defendant's counsel is
7 here, People's counsel is here. The jurors are in the jury box
8 and the defendant may proceed with your voir dire.

9 MR. WEEDMAN: May I confer with counsel for just one
10 moment, your Honor.

11 (Conference between counsel not
12 reported.)

13 MR. WEEDMAN: Your Honor, I wonder if I might be
14 permitted to inquire of Mr. Ingold if he did contact his
15 employer relative to loss of wages.

16 THE COURT: Well, all right.

17
18 ROBERT E. INGOLD

19 BY MR. WEEDMAN:

20 Q Mr. Ingold, did you have that opportunity?

21 A Yes, I did.

22 Q What did you find out?

23 A Well, just like I said, my supervisor, he even
24 checked the book and it is impossible.

25 Q You will not be paid?

26 A Not after 30 days.

27 MR. WEEDMAN: All right.

28 MR. KATZ: Your Honor, both counsel will offer a

1 stipulation under these circumstances that this gentleman may
2 be excused.

3 THE COURT: Well, first, now let me take it this way.
4 Have you finished with the juror?

5 MR. WEEDMAN: Yes, your Honor.

6 THE COURT: All right. Now, wait a few minutes.

7 MR. KATZ: Yes.

8 THE COURT: Let's finish. We are going to be confused.
9 Now, voir dire this lady if you will.

10 MR. WEEDMAN: We are with Mr. Ragland, your Honor.

11 THE COURT: That's right. Do you pass for cause?

12 MR. WEEDMAN: Yes. Pass Miss Cota for cause.

13 THE COURT: All right. Now, the People go ahead.

14 MR. KATZ: I think I have already had the opportunity,
15 and I do pass Miss Cota for cause.

16 THE COURT: Now, are there any peremptories? Where are
17 we?

18 MR. WEEDMAN: We have Mr. Ragland yet to examine, your
19 Honor.

20 MR. KATZ: That's correct, your Honor.

21 THE COURT: Well, hadn't I passed him for voir dire?
22 Hadn't I passed him for cause there at 12 o'clock?

23 MR. WEEDMAN: I confess, your Honor, I lost track at
24 that point.

25 THE COURT: You go ahead then.

26 MR. WEEDMAN: All right.
27
28

EUGENE RAGLAND

BY MR. WEEDMAN:

Q Mr. Ragland, is there anything about the fact that this trial may last six to eight weeks that would cause you any personal hardship?

A No, no personal.

Q May I inquire as to your business or occupation?

A I am with the Southern Pacific Transportation Company in the freight traffic department.

Q Is that the Southern Pacific Railroad?

A Yes, only we -- we have changed.

Q My father is a retired railroad engineer, and I hate to see it pass that way.

In any event if you are satisfied that it won't cause any hardship then I am sure that I am satisfied.

Now, with respect to the issue of capital punishment, if following your deliberations you conclude that my client is in fact guilty of murder in the first degree would you automatically impose the death sentence?

A No.

Q I take it that you, like so many of the other jurors, would listen to all of the evidence and consider all of the evidence before arriving at any decision relative to penalty in this case?

A That's right.

Q Do you feel that the death penalty, however, is something which is not perhaps utilized as much as it should be in this state?

A No.

1 MR. KATZ: Excuse me, your Honor. There will be an
2 objection to that question in that it calls for an argumentative
3 response and discussion and a philosophical discourse.

4 MR. WEEDMAN: I believe counsel is correct, your Honor.
5 I withdraw the question.

6 THE COURT: All right. Withdraw it and restate it then.
7 All right.

8 Q BY MR. WEEDMAN: Mr. Ragland, what, if anything, do
9 you know or have you heard about Charles Manson and the Charles
10 Manson family?

11 A Well, the general description of the hippie life-
12 style which I find very, personally very repugnant. But I
13 don't believe that is at trial in this case.

14 Q All right. Have you formed any opinions about
15 Charles Manson and the Manson family other than an opinion that
16 their lifestyle is repugnant to you?

17 A An opinion on what line?

18 Q Well, any opinion relative to their propensity to
19 commit crimes, for instance?

20 A I believe their lifestyle engenders that type of
21 thinking.

22 Q You feel then that their lifestyle itself
23 incorporates a kind of potential then for criminal conduct?

24 MR. KATZ: Excuse me, your Honor. There will be an
25 objection on the grounds that his response would be immaterial.
26 Again calling for discourse.

27 THE COURT: Give me that statement, Mr. Reporter.

28 (The record was read by the reporter

as follows:

"Q You feel then that their life-style itself incorporates a kind of potential then for criminal conduct?

"MR. KATZ: Excuse me, your Honor. There will be an objection on the grounds that his response would be immaterial. Again calling for discourse."

The 14

1 THE COURT: Well, I think so; I think it would be specula-
2 tive, a prejudgment, and immaterial.

3 I would be inclined to sustain it on all grounds.

4 BY MR. WEEDMAN:

5 Q Mr. Ragland, have you formed an opinion with
6 respect to Charles Manson and the Manson family that you think
7 would prejudice you against my client if the evidence shows,
8 as I have indicated, that my client is, at least loosely
9 speaking, a member of the Manson family?

10 A No, I don't believe that my opinion of him would
11 influence my judging of the evidence that is presented.

12 Q I am sure that you appreciate that that's the kind
13 of attitude that we are always hopeful for.

14 What do you think about your ability, however, to
15 do that if this should turn out in your judgment to be a very
16 close case?

17 A Again, I don't believe that we are trying his life-
18 style. I think we are trying certain facts.

19 Q I take it, then, that if some other juror, perhaps
20 motivated by a sincere desire to arrive at some decision in
21 this matter, attempts to influence you by urging that, "After
22 all, Charles Manson, a known murderer, or at least accused of
23 murder and convicted thereof," and my client being a member
24 of the Manson family; therefore, my client probably committed
25 these crimes -- I take it you would reject that argument?

26 A Yes; I wouldn't accept that as a valid testimony.

27 Q Sure.

28 A Because it isn't something here that is a fact that

14-2

1 we can weigh.

2 Q What you are saying, then, as I understand it, is
3 that you are going to narrow your consideration to evidence
4 that is produced for you in this courtroom?

5 A That's right.

6 Q And even though you might perhaps even be tempted
7 to fall back on things that you may have learned in some other
8 case, you are simply not going to use them?

9 A That's right.

10 Q And you are going to resist any effort on the part
11 of any of your fellow jurors to force you to utilize such
12 evidence?

13 A That's right.

14 Q Or such material that is extraneous to this case?

15 A That's right.

16 Q I take it that you heard my questions to the other
17 prospective jurors?

18 A Yes.

19 Q I covered a number of rather obvious matters about
20 presumption of innocence and circumstantial evidence; and the
21 mere fact that he has been charged is no evidence of his guilt
22 and so on.

23 Would your answers be substantially the same as
24 the answers we have heard from the other prospective jurors
25 who are now in the box?

26 A Yes.

27 MR. WEEDMAN: Thank you very much, Mr. Ragland.

28 I will pass for cause.

14-3

1 THE COURT: May I just interrupt one minute and then you
2 may proceed.

3 Now, I want to say, Mr. Juror, keep in mind at all
4 times the only defendant we have here in this case is Mr. Steve
5 Grogan; and I don't know any more than you do -- I don't know
6 what witnesses the People may or may not call, nor do I know
7 what witnesses the defendant may call or not. I don't know if
8 they will call any. They may not call any, I don't know.

9 I just don't know, and if they are in the file
10 I haven't looked at them. I can say that honestly, I don't know.
11 It may be appended on the indictment, but I don't know; I
12 haven't checked them.

13 Now, that is aside the point. The point is that
14 no matter what witnesses maybe called, either by the People
15 or the defendant, you mustn't confuse any thinking, if you
16 have any -- I am putting "ifs" all along here -- maybe you
17 don't have any feeling, any convictions or feeling -- you may
18 or you may not have -- about any witnesses that may be called,
19 or Mr. Manson, if he is called, or anybody connected with
20 him. They are not on trial in this court. They are not on
21 trial here; you can't pass on them one way or the other,
22 and the only gentleman you are passing judgment on or will be,
23 if you are selected, is the defendant.

24 So, whatever feeling you may have, if you do,
25 if you do have one way or the other on any witnesses, you must
26 put that to one side.

27 If you have any prejudice, you cast it out, because
28 you are not trying the witness, you are trying the defendant.

1 You can't hold against the defendant as a feeling, whether
2 you are upset or not or mad or not or disturbed or not with
3 a witness; you can't hold that against the defendant.

4 You must remember, that goes -- I want everybody
5 to remember that admonition -- you must view the testimony
6 impartially, fairly, accept what you want as a juror, you
7 have that right; reject what you don't think is credible,
8 accept what you think is credible, but leave your personal
9 feeling out.

10 You are not trying the witness, you can't hold
11 those things, whatever you may feel or not feel against a
12 witness, you can't hold it against a defendant. You must
13 remember that.

14 Now, the People go ahead.

15 MR. KATZ: Thank you so much.

16 Q Mr. Ragland, is there a Mrs. Ragland?

17 A Yes.

18 Q And is she a housewife?

19 A No, she works.

20 Q And where does she work?

21 A Southern Pacific Transportation Company.

22 Q That wouldn't be the same concern --

23 A Same concern.

24 Q -- where you are employed, is that?

25 A Yes, we met there.

26 Q And what general area of town do you live in?

27 A Hollywood.

28 Q Now, you have been sitting for the last four or five

1 days hearing counsel ask the same question over and over
2 again, have you not?

3 A Yes.

4 Q And I take it that your answers would be similar
5 to the majority of the prospective jurors' who have answered
6 the question; is that correct?

7 A Well, in most cases.

8 Q All right; and with reference to my discussion
9 concerning circumstantial evidence, would your answer be similar
10 to the majority of those who answered my questions?

11 A Yes, I can accept circumstantial evidence.

12 Q And, Mr. Ragland, you recognize the fact that in
13 your everyday life you draw deductions from facts that are
14 proven to you and draw inferences from facts that are proven
15 to you; isn't that right?

16 A That's right.

15

15-1

1 Q For example, if Mrs. Ragland is driving a certain
2 car and she comes home, and you don't see her drive that car,
3 but you hear the car pull up, and she is getting out of the car
4 and you don't see anybody else around, and you open the door
5 and you see Mrs. Ragland, you draw an inference that she just
6 drove home; isn't that right?

7 A That's right.

8 Q Yet you didn't even see her drive the car, isn't
9 that right?

10 A That's right.

11 Q You understand what we are talking about when we
12 refer to circumstantial evidence is using our common sense
13 drawing inferences from facts that are proven to you, isn't
14 that right?

15 A That's right.

16 Q I take it then from your common sense and if the
17 evidence satisfies you that you have an abiding conviction to
18 a moral certainty of the truth of the charge you will vote
19 guilty even though that evidence is wholly circumstantial, is
20 that correct?

21 A That's correct.

22 Q Is it fair to say that you would not require the
23 People to produce a body or an eyewitness to the killing or an
24 eyewitness to having observed the body in death before voting
25 guilty, is that correct?

26 A Yes.

27 Q All right. And that always presupposes that we
28 have some evidence there which comports with the requirements

15-2

1 of law, namely, that you have an abiding conviction to a moral
2 certainty of the truth of the charge based upon circumstantial
3 evidence, is that correct?

4 A That's correct.

5 Q Would you refuse, irrespective of the evidence in
6 this case to vote the death penalty solely because the case is
7 predicated upon circumstantial evidence?

8 A No, I would not.

9 Q Any reason why you couldn't be fair and impartial
10 to both sides, sir?

11 A I know of none.

12 MR. KATZ: Thank you. Pass for cause.

13 THE COURT: Thank you. Now, gentlemen, I believe it is
14 People's peremptory, is it not?

15 MR. KATZ: Yes.

16 THE COURT: Yes.

17 MR. KATZ: Yes. People wish to thank and excuse Mr.
18 Mejia.

19
20 THE COURT: All right, thank you, sir.

21 THE CLERK: Miss Diane P. Phillips, P-h-i-l-l-i-p-s.

22
23 DIANE P. PHILLIPS

24 BY THE COURT:

25 Q Well now, let's start at the beginning to a certain
26 extent here, lady. You have been in the courtroom since I
27 first started, we first started the selection of the jury in
28 this case; that's correct?

1 A Yes, it is.

2 Q Have you heard everything that I have said to the
3 jurors in the jury box?

4 A Yes.

5 Q Did you hear me read the Information, the indictment,
6 the charge against the defendant in this case?

7 A Yes.

8 Q All right. Thank you.

9 Now, I am going to assume that you are a juror, you
10 have heard the testimony, the jury has gone out to decide the
11 case. And at that time you understand the jury may vote not
12 guilty, in which event the case is all over. It is concluded.
13 Or the jury may vote guilty. Is that clear up to that point?

14 A Yes.

15 Q Now, if the jury votes guilty it must set the degree
16 of the crime, guilty first degree or guilty second degree murder.
17 Now, if the jury votes second degree murder then the jury is
18 still through. That is the end of the case as far as the jury
19 is concerned. If the jury votes guilty first degree murder
20 then there is a second hearing, that is to say, a subsequent
21 hearing by the same jury called the penalty hearing in which the
22 jury determines the penalty. That is, either death penalty or
23 life imprisonment. Now, is that clear up to that point?

24 A Yes.

25 Q Thank you. Now, let's assume you are on the jury.
26 Let's assume the jury has just finished or concluded the penalty
27 hearing. You are in the jury room voting on the question of
28 penalty. What will the penalty be. Now, if you will put

1 yourself in that position I want to ask you this question.
2 Whether you would automatically vote against the imposition
3 of the death penalty without regard to any evidence that might
4 be developed in the trial of this case before you?

5 A Yes.

6 Q The answer is yes?

7 A Yes.

8 Q Or no?

9 A Yes.

10 Q Yes, that is your answer?

11 A Yes.

12 Q Yes?

13 A Yes, that's my answer.

14 THE COURT: Thank you.

15 Now, do you counsel desire any further interroga-
16 tion or not?

17 MR. WEEDMAN: Just very briefly, if I may, your Honor.

18 THE COURT: All right.

19 BY MR. WEEDMAN:

20 Q In answering Judge Call as you have, do you under-
21 stand that the law does not favor one sentence as against the
22 other? In other words, the law expresses no preference either
23 for life imprisonment or for the death penalty?

24 A Yes.

25 Q Do you understand in answering Judge Call's
26 question that when you are in that jury room you therefore have
27 absolute discretion in the matter of the selection of penalty?

28 A Yes.

1 Q And you understand that it is your individual
2 opinion that is required with respect to the penalty, whatever
3 it may be, life imprisonment or the death penalty?

4 A Yes.

5 Q Can you conceive of any cases in which you would
6 at least consider the imposition of the death penalty?

7 A No, I could not.

8 Q And I take it that that is without exception, as
9 far as you are concerned?

10 A That's right.

11 MR. WEEDMAN: All right. Well, I think we will --

12 THE COURT: People.

13 MR. WEEDMAN: -- wait for Mr. Katz, your Honor.

14 THE COURT: May I act on the matter?

15 MR. KATZ: Yes, your Honor. There is a challenge.

16 THE COURT: It is submitted for decision?

17 MR. KATZ: Submitted.

18 THE COURT: All right. I will excuse you. Thank you,
19 lady. And I find that for cause exists for excuse. I find
20 it under the ruling and the law of the Witherspoon case. Also
21 under section 1073 subdivision 2 and subdivision 8 of section
22 1074 on an implied bias on for cause exists, and I excuse the
23 lady. Thank you very much.

24 Now, we will call another juror.

25 THE CLERK: Aaron Dukes, Jr., D-u-k-e-s.

26 MR. KATZ: First name?

27 THE CLERK: Aaron, A-a-r-o-n.
28

AARON DUKES, JR.

BY THE COURT:

Q Now, let's start over again. I will ask you, Mr. Juror, if you have been in the courtroom since we started to get a jury here a few days ago, isn't that right?

A Yes, your Honor.

Q Have you heard everything that I have said to the jurors in the jury box?

A I have.

Q Did you hear me read the charge that has been filed against the defendant in this case?

A I did.

Q Thank you.

Now, let's assume you are a full-fledged juror and let's assume you have heard the case. You have gone to the jury room with the jurors to decide guilty or not guilty. Now, at that time the jury could bring in a vote or find the defendant not guilty, or they could find the defendant guilty as charged. Is that clear to you?

A Yes, that is clear.

Q All right. Now, if they find guilty as charged then the jury makes a finding of degree, second degree murder or first degree murder. If the jury finds second degree murder then the jury is excused. There is no more duties for the jury. If the jury finds guilty first degree murder then the jury holds another subsequent hearing, called the penalty hearing. And the jury must determine the penalty which is either the death penalty or life imprisonment. Is that clear

1 to you?

2 A It is clear.

3 Q All right. Let's assume you are in the jury room,
4 you have held the penalty hearing and you are in the jury room
5 deciding on the penalty. Now, I am going to ask you this
6 question. If you put yourself in that position would you
7 automatically vote against the imposition of the death penalty
8 without regard to any evidence that might be developed at the
9 trial of this case?

10 A No.

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Q Now, I will ask you a subsequent question, another question: do you know of any reason at all that you could not be fair and impartial to both the defendant and the People and view this case with an open mind?

Is there any reason that you can advise me why you cannot be fair and impartial if you are selected as a juror?

A Well --

Q First, if you could, give me a yes or no answer.

A No.

THE COURT: All right, thank you.

I will pass the juror for cause.

The defendant may examine.

MR. WEEDMAN: Thank you, your Honor.

THE COURT: Thank you.

BY MR. WEEDMAN:

Q Mr. Dukes, may I ask what you do for a living?

A I am a utility man, Chrysler Corporation.

Q I am sorry?

A Utility man, Chrystler Corporation.

Q And is there a Mrs. Dukes?

A There is.

Q Is she employed?

A City.

Q What does she do for the city?

A VD; VD control.

Q With respect to the issue of capital punishment would you, if you are convinced beyond a reasonable doubt that the defendant, my client, committed murder in the first degree,

16-2

1 automatically impose the death sentence?

2 A No.

3 Q I take it, sir, then, you, like so many others,
4 would wait and hear all the evidence before even beginning
5 to make up your mind about what kind of penalty to impose on
6 this case?

7 A That's right.

8 Q Have you heard of Charles Manson?

9 A Indirect.

10 Q Okay; have you learned anything about Charles
11 Manson being accused of and convicted and sentenced to die,
12 as a matter of fact, for a variety of murders?

13 A Well, I didn't follow up the case because I wasn't
14 interested in the Charles Manson case.

15 Q Have you formed any opinion based on, perhaps,
16 very little, but, nonetheless -- but, have you formed any
17 opinion with respect to the so-called Manson family?

18 A No.

19 Q So I take it, then, if there is any evidence in
20 this case that tends to connect my client in any way with the
21 Charles Manson family, that doesn't make any difference to you
22 at all?

23 A No.

24 Q So that is not going to be a problem in your case,
25 then; it would be a fair statement?

26 A That's right.

27 Q Is there anything about the possible length of
28 this trial that would cause you any personal hardship?

16-3

1 A There would be.

2 Q And would you tell us about that, please.

3 A Well, according to where I work, that I am allowed
4 30 days and if it goes beyond that, then I don't know. Meantime,
5 I have one more week and my job went down on this past Monday;
6 otherwise, this company is discontinuing here and going,
7 moving back East, so from that point, I don't know. It creates
8 a problem.

9 Q In other words, you would have to seek employment
10 with another firm?

11 A I would.

12 Q So, it is obvious, then, that you are not going
13 to have any other source of income other than what you might
14 be paid -- will be paid, rather, as a juror?

15 A That is correct.

16 Q Mr. Dukes, during the course of this trial there
17 may be evidence which has racial overtones; maybe evidence
18 concerning philosophy, position, attitudes toward Negro people
19 or black people by Caucasian people.

20 If such evidence is developed during the course
21 of this trial, do you feel that you would be able to fairly
22 handle such evidence without reference to the fact that you,
23 yourself, are black?

24 A I do.

25 Q By the way, Mr. Dukes, my generation, and I think
26 all of us, in an effort never to offend anyone, at least in
27 this country -- you are a member of a minority race -- so,
28 sometimes, particularly my younger black friends, prefer to

16-4 1 be referred to as "black" and anything else they don't like.

2 Is that true in your case, sir, or am I using
3 a term that, perhaps, offends you in some way?

4 A Would you use that term again, please?

5 Q Black; is that an appropriate term.

6 A It don't offend me.

7 Q Well, I appreciate that, Mr. Dukes. It is an area
8 which we perhaps are properly discussing here because of the
9 evidence that might be developed during the course of this
10 trial.

11 Do you have a feeling, as you sit there now,
12 Mr. Dukes, that it might be difficult for you -- just a hunch,
13 perhaps -- that it might be difficult for you to acquit my
14 client for any reason?

15 A Not until after I have heard the facts concerning
16 this case and all the evidence has been presented, and at that
17 time it would be a decision for me.

18 Q Sure; and so you don't have any feeling that just
19 because my client has been charged that he must necessarily be
20 guilty?

21 A Not necessarily, no.

22 Q Certainly; and by the same token do you feel that
23 my client need not prove his innocence to your satisfaction;
24 but, rather, it is up to the People to prove him guilty, if
25 they can?

26 A I feel it is up to the People.

27 Q Without at all arguing the case at this point, I
28 don't want to concede by my question to you that we feel that

16-5

1 we cannot prove innocence, and I hope that you don't try and
2 guess at what the evidence may be in this case; but have you
3 any quarrel, then, with the idea that not guilty means that
4 the People couldn't prove their case?

5 A I have no quarrel.

6 Q So, then, if you are not satisfied with all of the
7 evidence in this case as to the guilt of my client, then you
8 would acquit my client, even though it may be that you are not
9 convinced that he is innocent?

10 A I am afraid that's -- the facts have to be presented
11 before; then it depends on the decision I would make after
12 hearing the facts of the whole case.

13 Q Let's -- I have asked you -- for some reason I
14 picked you out, Mr. Dukes, to ask you what I think is the
15 toughest question to ask a juror, you see.

16 Let's assume an absurd situation. Let's suppose
17 that you are selected as a juror and you are sworn, and the
18 People don't put on any evidence at all; Mr. Katz stands up
19 and says, "We rest."

20 I take it that you -- then, of course, you go
21 into the jury room; right?

22 I take it that you would acquit the defendant;
23 isn't that so?

24 MR. KATZ: Excuse me, your Honor --

25 MR. DUKES: No, no.

26 MR. KATZ: -- I will object on the grounds that this poses
27 an impossible situation. It is confusing to the juror.

28 THE COURT: Read the question, please.

16-6

1 (The pending question was read by
2 the reporter as follows:)

3 "Q I have asked you -- for some reason
4 I picked you out, Mr. Dukes, to ask you what I
5 think is the toughest question to ask a juror,
6 you see.

7 "Let's assume an absurd situation;
8 let's suppose that you are selected as a juror
9 and you are sworn and the People don't put on
10 any evidence at all; Mr. Katz stands up and
11 says, 'We rest.' I take it that you -- and
12 then, of course, you go into the jury room;
13 right?

14 "I take it that you would acquit
15 the defendant; isn't that so?"

16 THE COURT: Well, I am rather inclined to sustain the
17 objection the way it is framed.

18 Can't you reframe your question?

19 MR. WEEDMAN: I will try. Thank you, your Honor.

20 THE COURT: All right.

21 BY MR. WEEDMAN:

22 Q If my client does not put on any evidence here,
23 and yet after a fair consideration of all of the People's
24 evidence you are not convinced that my client is guilty,
25 would you acquit him or not?

26 A I feel that I would have the right of acquitting
27 your client unless it is agreed by the jury after examining
28 all the facts and things of the case; I feel that I wouldn't

stand alone in making the decision.

Q Are you telling us then that you are not going to require my client to prove his innocence, but rather you are going to require the People to prove him guilty if they can?

THE COURT: Mr. Weedman, now first I want to apologize for interrupting you.

MR. WEEDMAN: That is not necessary, your Honor.

THE COURT: I'm not trying to disturb you. Your questions are perfectly proper. We are dealing with laymen here, it may be that they don't at the moment -- we have had so many questions since I originally instructed them on the doctrine that any defendant is presumed to be innocent until proven guilty, the burden is on the People to prove the defendant guilty to a moral certainty and beyond a reasonable doubt. If they cannot do that then obviously the duty of the jurors is to vote not guilty because the People have not proven the defendant guilty. And that at all stages of the proceedings the defendant is presumed to be innocent as he sits there. If the People drop their case at this time the defendant stands not guilty or at least he is not guilty although there is no finding, there is no necessity because the presumption carries through that he is not guilty of anything.

I don't know if the juror is fully possessed, if he remembers the basic, the cardinal principles. That is what I am getting at. I don't know whether he understands your question. Maybe he does. But if that clarifies it, now if you will ask your question again and let's see what his answer is.

1 Q BY MR. WEEDMAN: Mr. Dukes, now that Judge Call
2 has gone back and reviewed the law have you any quarrel with
3 it at all, that is, any quarrel with the idea that the People
4 just very simply have got to prove my client guilty if they
5 can, and that if they do not, then you must acquit my client?

6 A According to the law, yes, I am with the law.

7 Q I take it that that rule of law is not repugnant
8 to you in any way?

9 A No.

10 Q I take it by that you are simply not going to
11 require my client to come up here and convince you that he is
12 innocent but what you are going to do is see if the People
13 have proven a case. If they have, fine. If they haven't then
14 it will be not guilty, is that correct?

15 A That's right.

16 MR. WEEDMAN: All right. Thank you, sir.

17 THE COURT: May I interrupt again.

18 MR. WEEDMAN: Yes. Certainly. I wish your Honor would.

19 THE COURT: Fine.

20 MR. WEEDMAN: All right.

21 BY THE COURT:

22 Q Mr. Juror, let me, because this can be very
23 confusing to anybody, and that is why in a criminal case I
24 try to constantly repeat and repeat to bring it home to the
25 jury, the laymen, every one of them -- let's say the People
26 have put on their case, put on their witnesses and say "We
27 rest now. We rest our case." And let us say that defendant
28 says, "I rest, too. I am not going to put on any testimony."

1 Do you follow me up to that point?

2 A I follow you.

3 Q Now, let's say the jury goes to the jury room,
4 The defendant is presumed to be innocent. Do you follow me
5 there?

6 A Right.

7 Q Now, it is up to the People. The People must prove
8 the defendant guilty beyond a reasonable doubt. So when you
9 and the rest of the jurors go to the jury room you say to
10 yourselves basically, you say, well, have the People proved
11 the defendant guilty beyond a reasonable doubt? And if you
12 all say no, the People have not proven the defendant guilty
13 beyond a reasonable doubt and some juror says, "The defendant
14 didn't even put on any testimony." Suppose somebody says that.
15 The answer is the defendant in any case, not just this case,
16 doesn't have to put on any testimony in the event the People
17 have not proven the defendant guilty.
18

19 In other words, the burden is on the People to prove
20 any defendant, not just this defendant, any defendant guilty
21 beyond a reasonable doubt.

22 So when you go to the jury room and you, let us
23 say for the purpose of trying to illustrate the point, the jury
24 should say, "Well, we don't think the People have proven the
25 defendant guilty." Then they would vote not guilty. Is that
26 clear?

27 A That is clear.

28 Q That is because the People have not proven the
defendant guilty beyond a reasonable doubt, if that should be

1 the situation. Do you see?

2 A (Nodding head affirmatively.)

3 Q Now, on the other hand I want to try to give the
4 illustration in fairness to both parties, if the jury says,
5 "Yes, the People have proven the defendant guilty to a moral
6 certainty and beyond a reasonable doubt," they have proven --
7 they have met the proof, then the duty is to vote guilty if
8 that is the opinion of the jury. Do you follow me there?

9 A I follow you.

10 Q It gets back to the jury, you see. There is no
11 compulsion on the juror to vote in one way or the other. The
12 compulsion comes after the finding of the jury is made. In
13 other words, once the jurors or juror says, "The People have
14 proven the defendant guilty beyond a reasonable doubt" then
15 it is almost automatic for the juror to vote -- if they have
16 proven the defendant guilty -- guilty. That follows the
17 finding of the juror, what he has made his mind up to. Do you
18 follow that?

19 A I follow that.

20 Q The juror says, "No, the People have not proven the
21 defendant guilty beyond a reasonable doubt." Then he votes
22 not guilty. That follows first what he makes his mind up to.
23 Do you follow that?

24 A I follow that.

25 THE COURT: Now, please excuse my interruption again.
26 I will try not to bother you again, Mr. Weedman.

27 MR. WEEDMAN: Oh, your Honor, I appreciate those
28 questions very much. Thank you.

1 THE COURT: Very well.

2 Q BY MR. WEEDMAN: If you should learn from the
3 evidence in this case that the lifestyle of my client differs
4 considerably from your lifestyle would that alone, do you
5 think, prejudice you against my client?

6 A No.

7 Q Will you be able, as a juror, in effect, to allow
8 my client, at least in effect, to live his life the way he
9 wants to live it apart from, of course, any criminal conduct,
10 and not judge him on anything here but evidence of whether or
11 not he committed a crime? Do you follow me?

12 A I do.

13 Q All right. So I take it you will have no problem
14 then in being prejudiced against my client because you might
15 disagree with the way he chooses to live?

16 A That's correct.

17a

Tke 17a 1

Q If that life somehow involves the commission of murder, why then of course naturally you are not going to sit still for that?

A That's right.

Q But you are not going to arrive at a conclusion of murder merely because my client chooses to live his life in a particular way?

A No.

Q All right, sir.

Finally, have you any quarrel with the idea, with the law, really, that the People and the defendant are entitled to your individual opinion in this case, that it is not a collective opinion of the jury that we have, but an individual opinion from each of you; is that all right with you?

A I would have no quarrel.

MR. WEEDMAN: All right, sir. Thank you, Mr. Dukes.

THE COURT: Pass for cause?

MR. WEEDMAN: Pass Mr. Dukes for cause, your Honor.

THE COURT: Thank you. People.

MR. KATZ: Thank you.

Q Mr. Dukes --

A Yes.

Q I would like to inquire again of your job situation. I am not sure I understand it. Did you say that if you were required to serve as a juror in this case that you would lose your job with Chrysler Corporation because they are moving back East or what?

A They will pay me up to 30 days. They will pay me

17a-2

1 up to 30 days for jury duty.

2 Q And beyond that they will not pay you anything,
3 is that correct?

4 A Beyond that I asked a question but it hasn't --
5 it wasn't made clear whether they will or not.

6 Q I see. So as you sit here now you don't know if
7 you were selected as a juror whether or not they would
8 compensate you for serving on a jury; is that correct?

9 A Past that date, yes. Past that time.

10 Q I see. And in the event that they would not
11 compensate you for your service here as a juror beyond the 30
12 days, would that work a financial hardship on you?

13 A Quite a bit.

14 Q And because of that would you rather not serve on
15 the jury?

16 A I would on account of by that.

17 Q Do you think that you would be concerned about your
18 financial condition to such a point that you could not give
19 your undivided attention to the evidence presented in this case?

20 A That I couldn't answer.

21 Q We all like to think that we can do the very best
22 job that we should, but sometimes because of other factors,
23 other considerations, we are not able to do the best job. And
24 it is nothing to be embarrassed about and I am wondering
25 whether or not because of your financial situation you might
26 tend to think about that situation and worry about it and not
27 give full and complete attention and undivided attention to the
28 evidence in this case. Do you think that might be something that

17a-3

1 might occur during the course of the trial?

2 A It's a possibility.

3 Q As you sit here now does it worry you, this
4 prospect?

5 A I think about it, plus the future.

6 Q Mr. Dukes, you have heard from time to time either
7 Mr. Weedman interpose an objection to one of my questions or
8 I have interposed an objection to one of Mr. Weedman's questions.
9 Do you understand that both lawyers are not trying to hide or
10 conceal something from you but we are trying to play according
11 to the rules of court; do you understand that?

12 A I understand that.

13 Q And in that connection, you can compare the court-
14 room proceedings with a football game, though there are much
15 more serious stakes here. We expect all participants to abide
16 by the rules so that will insure fairness to them. In other
17 words, the football game; do you understand that?

18 A I understand.

19 Q And by the same token these rules of evidence
20 that have been enacted by those who are concerned with the
21 due administration of justice are designed to impart fairness
22 to these court proceedings; do you understand that?

23 A Yes.

24 Q And when his Honor, for example, rules for or
25 against a party he is not mad at us and he is not saying we
26 did something wrong; he is merely fairly and impartially
27 saying "Well, I don't think this abides by the rules of
28 evidence, and I don't think you should ask the question."

17a4

Do you understand that?

18

A I understand that.

18.

1 Q So, in ^{that} the spirit I hope you won't think I am a
2 bad guy if one of my objections are, or is overruled, for
3 example, or if one of Mr. Weedman's objections is sustained;
4 you won't think I'm a bad guy?

5 A No.

6 Q Is that correct?

7 A That's correct.

8 Q And again, I take it, you won't judge this case,
9 and by that I mean the guilt or innocence of the defendant,
10 based upon the personality of the attorneys; is that right?

11 A That's right.

12 Q You understand that even though you may like Mr.
13 Weedman and think that he's a fine fellow and you may not like
14 me and you may not like the clothes that I wear; that has
15 nothing to do with the guilt or innocence; isn't that correct?

16 A That is correct.

17 Q And the only thing we are concerned with here is
18 the ascertainment of the truth; isn't that right?

19 A Correct.

20 Q And, indeed, you may or may not like Mr. Grogan;
21 that has nothing to do with the fair and impartial determina-
22 tion of the facts in this case; isn't that right?

23 A That's correct.

24 Q And I take it, as you have indicated to both his
25 Honor, Judge Call, and to Mr. Weedman, you have no quarrel
26 with the concept that it is up to the People to prove
27 Mr. Grogan's guilt beyond a reasonable doubt and to a moral
28 certainty; is that correct?

18-2

1 A That's correct.

2 Q And at the same time you will not require us to
3 sustain a greater burden of proof, such as proof which excludes
4 all possibility of error; you understand we are not required
5 to demonstrate that degree of proof; isn't that correct?

6 A That's right.

7 Q So, in other words, you will follow his Honor's
8 instructions in regard to our burden of proof and will listen
9 to the entire instruction and not merely seize upon certain
10 words in a given instruction; isn't that correct?

11 A That's right.

12 Q Now, we talked a little bit about circumstantial
13 evidence. Do you have any quarrel with the use of circumstan-
14 tial evidence to establish the guilt of a person?

15 A I have heard that word used and I have read up on
16 the word, and I don't know, it depends on how strong it is,
17 how strong the evidence --

18 THE COURT: May I interrupt?

19 A Yes.

20 MR. KATZ: Yes, your Honor; please do.

21 THE COURT: Without trying to dislodge your thinking,
22 but because of the instruction, itself, if it were read to the
23 juror -- I have no objection to the defendant picking up the
24 first paragraph; you do as you want to -- to give the jury
25 what the law is and then ask if, "Now, listen here, Mr. Juror," --
26 you don't have to say that to him -- "do you follow that
27 instruction now?"

28 It would be better, because in saying, "Would you

1 follow the instruction?" doesn't give the full strength of
2 the instruction, itself.

3 MR. KATZ: That is why I asked that --

4 THE COURT: Or else, if you want me to read it, I have no
5 objection to reading it and finding out if the juror will
6 follow that instruction or not.

7 You see, you are calling upon the juror to rely
8 on his memory when you say, "Will you follow the instruction?"
9 and he's thinking back, "What is that instruction on circum-
10 stantial evidence?"

11 MR. KATZ: Yes, your Honor; I appreciate your observation
12 and would ask your Honor to read, I think, at this time --

13 THE COURT: It would give a clearer answer; the juror
14 would know more what he is answering.

15 MR. KATZ: I would appreciate it.

16 THE COURT: Let me read the instruction. This is what
17 I will instruct you before you go to the jury room, on the
18 instruction on circumstantial evidence.

19 Now, here is what the law says, and this is the
20 law that you must follow in considering the facts and the
21 weight and the strength of the testimony and how much there must
22 be; and here's what the law says pertaining to circumstantial
23 evidence, if the People rely on circumstantial evidence in
24 part or in whole.

25 Here's the way the law reads:

26 (Reading)

27 "You are not permitted to find the
28 defendant guilty of the crime charged against

1 him based on circumstantial evidence unless
2 the proved circumstances are not only consistent
3 with the theory that the defendant is guilty of
4 the crime but cannot be reconciled with any
5 other rational conclusion, and each fact which
6 is essential to complete a set of circumstances
7 necessary to establish the defendant's guilt has
8 been proved beyond a reasonable doubt."

9 Now, that is your basic charge or instruction on
10 circumstantial evidence.

11 The People are asking you, "Will you follow that
12 law if you are selected as a juror, in passing on the question
13 of whether the People have proved the defendant guilty or not
14 guilty?"

15 A I would.

16 THE COURT: Now, you go ahead. I am sorry to constantly
17 interrupt.

18 MR. KATZ: I appreciate your help.

19 Q So, Mr. Dukes, you understand that the law con-
20 templates that a man may be convicted in this State of murder
21 in the first degree based wholly upon the use of circumstantial
22 evidence, there being no eyewitness to the killing; you under-
23 stand that?

24 A I understand that now.

18a-1

Q Do you accept that principle and is it a fair statement to say that you have no quarrel with it?

A I have no quarrel.

Q All right.

Now, listen carefully to this question, if you will: if you believe beyond a reasonable doubt and to a moral certainty, based wholly upon circumstantial evidence, that the defendant murdered the alleged victim, Shorty Shea, would you refuse -- and I outline that -- would you refuse, nonetheless, to vote guilty solely because there was no eyewitness to the killing?

A Would you state that question again, please?

Q Yes, sir.

If you believed beyond a reasonable doubt and to a moral certainty, based upon circumstantial evidence, that the defendant murdered the alleged victim, would you, nevertheless, refuse, in accordance with law, to vote guilty solely because there was no eyewitness testimony to the killing?

A No.

Q All right.

So what you are saying, then, is that you can consider and that you are willing to consider circumstantial evidence in order to determine whether or not Mr. Grogan is guilty under the principles of law; is that correct?

A That's correct.

Q All right; and, lastly, perhaps I should make this observation and ask you what your state of mind is concerning this.

18a-2

1 As we said at the very beginning, only the lawyer
2 and God knows why a prospective juror is excused peremptorily;
3 that is, without having to state a reason; and generally the
4 latter, referring to God, is confused.

5 I don't mean this in jest, but it is an illustration
6 of the fact that this system is not entirely perfect. We try
7 and do the best job we can; at the same time, we may or may not
8 feel comfortable with a given juror or we just, for some reason,
9 will excuse a juror.

10 Now, you may become friends with the juror that is
11 excused and, accordingly, you may feel that your friend has
12 been rebuffed and have ill feelings either toward myself or
13 Mr. Weedman. So I am asking you this: you understand that all
14 Mr. Weedman and myself are truly concerned with is getting just
15 12 fair and impartial jurors who will hear fairly and fully
16 all of the issues in this case.

17 You understand that is our purpose?

18 A Right.

19 Q We are not asking any of the jurors to precommit
20 themselves on the issue of guilt or innocence or, if we get to
21 the issue of penalty, on the penalty to be assessed in this
22 case; you understand that?

23 A I understand that.

24 Q So if we do, in our imperfect manner, excuse a
25 prospective juror who becomes a friend of yours, I hope you
26 won't harbor any ill will towards any of us; is that correct?

27 A That's correct.

28 Q You understand we are trying to do the best job we

18a-3¹

can.

A Yes.

MR. KATZ: Thank you.

Pass for cause.

THE COURT: Pass for cause?

MR. KATZ: Yes, your Honor.

THE COURT: We are ready for peremptories, if there are any peremptories. I have lost --

MR. KATZ: Defendant's peremptory, your Honor.

THE COURT: Defendant's peremptory?

Let's take a short recess. We are up to 3 o'clock.

Do not discuss the case or come to any opinions or conclusions.

We will go ahead in a few minutes; thank you, ladies and gentlemen.

(Recess.)

19

19.

1 THE COURT: Well, now, let's see, gentlemen.

2 We are about to have the peremptory. All right.
3 The court is in session in People against Grogan. Defendant
4 is here and both counsel are here. The jurors are in the
5 jury box.

6 Now, whose peremptory is it, gentlemen?

7 MR. WEEDMAN: It is my peremptory, your Honor.

8 THE COURT: All right.

9 MR. WEEDMAN: The defendant will thank and excuse
10 Mrs. Belles, your Honor.

11 THE COURT: Very well.

12 MR. WEEDMAN: That is juror No. 5.

13 THE COURT: Very well. Thank you.

14 MRS. BELLES: Thank you.

15 MR. KATZ: Thank you, ma'am.

16 THE CLERK: Mrs. Thelma M. Chaffin, C-h-a-f-f-i-n.

17
18 THELMA M. CHAFFIN

19 BY THE COURT:

20 Q Now, lady, have you been, I take it in the court-
21 room ever since we started to pick the jury in this case?

22 A Yes.

23 Q Am I right about that?

24 A Yes.

25 Q And have you heard everything that I have said
26 to the other jurors?

27 A Yes, I have.

28 Q Did you hear me read the charges that have been

1 filed against the defendant in this case?

2 A Yes, I have.

3 Q Now, if you will please assume that you have been
4 selected as a juror in this case and assume we have tried
5 the case, the jury has gone to the jury room to vote guilty
6 or not guilty. Now, if the jury votes not guilty that concludes
7 the case entirely. If the jury votes guilty then they must fix
8 the degree, first degree or second degree. If the jury finds
9 second degree murder, then the case as far as the jury is
10 concerned is concluded. The jury can go home. They are through.

11 However, if the jury finds first degree murder,
12 then the court must hold a separate penalty hearing before
13 the same jury.

14 A Uh-huh.

15 Q And then the jury would determine penalty of either
16 the death penalty or life imprisonment. Are those procedural
17 facts clear to you?

18 A Yes. Yes, they are.

19 Q Now, I will ask you to assume that we have held
20 the penalty hearing and you are in the jury room passing on
21 a question of penalty. I will ask you this question, and you
22 are about to vote. At that time would you automatically vote
23 against the imposition of the death penalty without regard
24 to any evidence that might be developed at the trial of this
25 case?

26 A No.

27 Q All right. Now, I will ask you another question.
28 Do you feel that you could be fair and impartial if you are

1 selected to try this case as a juror?

2 A Yes.

3 Q Now, I am going to re-ask the question in another
4 fashion.

5 Do you know of any reason at all, anything that
6 would come up in your mind or disturb you in such a way that
7 you could not be fair and impartial in arriving at a verdict
8 in this case?

9 A No, sir.

10 Q Now, I might repeat very briefly because while
11 I have touched upon these principles of law and as I just
12 indicated to the last juror, to a layman, a citizen, one who
13 hasn't studied law, let us say, they may have some difficulty
14 in absorbing some of the basic principles. I will only touch
15 lightly.

16 As any defendant, not just this defendant, as
17 any defendant sits at the counsel table he is presumed to
18 be innocent?

19 A Yes.

20 Q Everybody, everybody is presumed to be innocent
21 of any crime. The filing of the charge does not change the
22 presumption. The presumption continues. At the trial where we
23 are just about to start -- we are not in trial, we haven't
24 picked the jury yet -- but we are in the process of being in
25 trial. But the testimony is not here.

26 Now, concerning the defendant, to tip over or over-
27 come the presumption of innocence the People must prove a
28 defendant guilty to a moral certainty and beyond a reasonable

1 doubt. Is that clear?

2 A Yes, that's clear.

3 Q If -- I use the word "if", the People prove a
4 defendant -- a defendant, I am talking about any defendant --
5 guilty and beyond a reasonable doubt, if the juror is satis-
6 fied that the People have met those requirements --

7 A Yes.

8 Q The duty of the juror is to vote guilty if the
9 juror has made up his or her mind that that standard or that
10 amount of testimony has been complied with and met by the
11 People, to a moral certainty and beyond a reasonable doubt.

12 You understand that?

13 A Yes.
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1 Q Now we'll take the reverse of it, if the People
2 have not met that standard, if they have not proven the
3 defendant guilty to a moral certainty and beyond a reasonable
4 doubt, the juror should vote not guilty because the standard
5 of proof in such a situation has not been met.

6 You follow that?

7 A Yes, I do.

8 Q And that decision as to whether the People have or
9 have not met the standard or the amount of testimony required
10 by law, that's up to the jurors, it isn't up to the judge, I
11 have nothing to do; it is the juror, he or she makes up his
12 mind or her mind, yes, the People have met that standard, or,
13 no, the People have not met that standard, and that's one of
14 the problems when you go to the jury room after the case is
15 turned over to you. You debate among yourselves.

16 One juror may say, "Yes, they have met that
17 standard for such and such reason"; another juror may say,
18 "No, they haven't for such and such reason, they haven't";
19 and the juror must discuss these questions.

20 You may take one ballot, you may take many ballots,
21 I don't know, but that's where you determine those facts.

22 A Yes.

23 Q Would you abide by -- I have only briefly touched
24 the law, but would you abide by those instructions --

25 A Yes, sir, I would.

26 Q -- as I have indicated them to you?

27 A Yes, I would.

28 Q And I think you have already answered this

20-2

1 question -- if you have any personal feelings in the matter
2 one way or the other -- maybe you haven't any feelings, I hope
3 not -- but whatever personal convictions or feelings you may
4 have, will you put them to one side and decide this case on
5 the question, what are the facts, what is the law, this case
6 we are trying, not how you feel about something -- remember,
7 too, that the defendant in this case is Mr. Grogan and nobody
8 else is a defendant.

9 Remember, you are not trying in this case what
10 happened in some other lawsuit; always remember that. You are
11 a juror, I am a judge in this case right here, in the Grogan
12 case, and if you have any feelings or you have read something
13 or you have seen pictures or anything, it is not this case,
14 that's somebody else's case, somebody else's problem.

15 I am not arguing it one way or the other, but you
16 must put it to one side and decide this case; and the
17 defendant stands presumed innocent. You can't tack on some-
18 thing you have read, if you have, or seen or heard. You are
19 under a sworn duty, or will be if you are accepted, to try
20 this case on the facts in this case and the law in this case
21 and the standards that the law sets.

22 You mustn't be influenced, and I don't know who
23 the witnesses are going to be, by whoever may show up, if I
24 can use that common parlance, or may be a witness in the case,
25 I don't know; but don't tack any suggestions on. Listen to the
26 evidence.

27 A Right.

28 Q And draw your factual conclusions on what the

20-3

1 witness says or doesn't say; on your belief on what he said,
2 one way or the other in connection with the law as I give it
3 to you.

4 Keep your personal feelings out of it, if you have
5 any -- I don't know.

6 Now, can you do that?

7 A Yes, I can.

8 THE COURT: All right, I will pass the witness for cause
9 and we will go to the defendant for voir dire.

10 MR. WEEDMAN: Thank you, your Honor.

11 Q Mrs. Chaffin, are you employed?

12 A No, I am not; I am a housewife.

13 Q How about Mr. Chaffin, what does he do?

14 A He is a machinist.

15 Q Have you any prior criminal jury experience?

16 A No, sir; my first time.

17 Q Is there anything about the length of this trial
18 that you feel would cause you any personal hardship?

19 A No, sir, nothing.

20 Q With respect to this business of the death penalty,
21 I am sure that you appreciate, and particularly since I have
22 been asking it so often, that just because we are talking about
23 the death penalty doesn't mean that this case is going to go
24 that far. As it stands now you might well acquit the defendant
25 and not be worried about the death penalty in this case.

26 However, since this is our only opportunity to
27 discuss that matter with you and, of course, we must necessarily
28 discuss it, how do you feel about capital punishment, Mrs. Chaffin?

20-4

1

A Well, I really never thought much about it. This is about the closest I have ever come to it.

2

3

Q I take it, then, that your mind is an open mind?

4

A Yes, it is.

5

6

Q So that you will do the thing that both Mr. Katz and I want very much for you to do, and that's to listen to all the evidence --

7

8

A Right.

9

Q -- weigh and consider it very carefully.

10

11

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16

With respect to this business about at least possibly considering matters which are not before you in this case, as Judge call, of course, has been particularly instructing you, do you know anything about or feel you know anything about Charles Manson or the Manson family that might interfere with your giving my client a fair trial on the evidence in this case?

17

18

A No, sir; it hasn't anything to do with him, what they did.

19

20

Q Supposing, of course, the evidence shows that there is some association between Charles Manson and my client --

21

22

A Well, you can't judge him on that.

23

24

MR. KATZ: Excuse me, your Honor; I think the question is somewhat misleading and I would move to strike the answer for the purpose of interposing the objection.

25

26

MR. WEEDMAN: I will withdraw it.

27

28

THE COURT: Withdraw it for that purpose.

It is withdrawn; the juror is to disregard it.

The jury, disregard the answer and the question.

20-5

1 Ask it again; reframe it.

2 MR. WEEDMAN: All right, your Honor.

3 Q Insofar as any opinion that you may have formed
4 based on anything you may have read or heard or seen relative
5 to the Manson family and Charles Manson, will you not permit
6 that opinion, if you have an opinion, or anything that you may
7 have learned about that, to influence your judgment in this
8 case?

9 A No, sir.

10 Q And may we feel -- may we, over on this side of
11 the table, feel safe in your -- feel safe with your assurance
12 that you won't permit something like that to influence you?

13 A I will try.

14 Q Do you recognize, Mrs. Chaffin, that it might
15 really present a problem for a juror in this case?

16 A Oh, I think so.

17 Q Would you agree with the proposition that the
18 Tate-La Bianca case and Charles Manson was probably one of the
19 most highly publicized cases, probably of all?

20 A Yes, indeed, too much so.

21 Q And, indeed, there was a great deal of public
22 interest, a great deal of outrage, a great deal of concern
23 about it.

24 A Yes, there was.

21

21-1

1 Q Will you promise us, and I like to put it that
2 way, will you promise us that you will not even be tempted to
3 use anything that you may have learned or any opinions you may
4 have formed outside this courtroom in arriving at a decision?

5 A It would be completely out of my mind.

6 Q That would be true even if it is the kind of
7 close case that I have discussed with the jurors here?

8 A Right.

9 Q With respect to this business of circumstantial
10 evidence, you may recall that Judge Call, the first day, read
11 the entire circumstantial evidence instructions and that among
12 those was, in essence, an instruction which told us that where
13 circumstantial evidence is susceptible of two reasonable
14 interpretations, one of which points to the defendant's guilt
15 and the other which points to his innocence, that you are
16 required by law to adopt that interpretation which points to
17 his innocence. Have you any quarrel with that?

18 A No, I don't.

19 Q So that you would then, I take it, have no trouble
20 handling circumstantial evidence?

21 A No, I wouldn't.

22 Q Where it points to guilt and where it points to
23 innocence, you would just simply adopt the innocent interpreta-
24 tion and move on to the next bit of evidence whatever it may
25 be?
26

27 A I would have to go by the evidence.

28 Q Yes. But particularly do you feel that you would
be tempted to reject the innocent, the reasonable innocent

1 interpretation and seize upon just the guilty interpretation?

2 A Oh, no. I would have to be fair.

3 MR. KATZ: Excuse me. I will object as a misstatement
4 of law unless it is clarified that the inference pointing to
5 the guilt of the defendant is unreasonable.

6 THE COURT: Well, can you amplify your statement.

7 MR. WEEDMAN: Oh, I know Mr. Katz is wrong in that
8 connection, your Honor. I object to him stating that before
9 the jury.

10 THE COURT: Read the question, please.

11 (The question was read by the reporter
12 as follows:

13 "Q But particularly do you feel
14 that you would be tempted to reject the
15 innocent, the reasonable innocent interpreta-
16 tion and seize upon just the guilty interpreta-
17 tion?"

18 MR. KATZ: I withdraw my objection, your Honor. I did
19 not hear the "innocent reasonable" that is, the clarification
20 as a reasonable interpretation.

21 THE COURT: Just a minute. Read it again slowly.

22 (The question was read by the reporter
23 as follows:

24 "Q But particularly do you feel
25 that you would be tempted to reject the
26 innocent, the reasonable innocent interpreta-
27 tion and seize upon just the guilty interpreta-
28 tion?"

1 THE COURT: Yes. The way it is framed, the word
2 reasonable -- I will sustain the objection --

3 MR. WEEDMAN: The objection has been withdrawn, I under-
4 stand.

5 THE COURT: You can reframe that if you want to.

6 MR. WEEDMAN: Well, I will try.

7 THE COURT: The word reasonable in there disturbs me.
8 If you can reframe it.

9 MR. WEEDMAN: I will try, your Honor. Thank you.

10 THE COURT: All right.

11 Q BY MR. WEEDMAN: Mrs. Chaffin, do you remember
12 Mr. Katz' illustration about the cookie jar?

13 A Yes. I have had that experience.

14 Q Okay. Let me modify the illustration a little bit,
15 and I will try and figure this out as I go along.

16 Suppose we had a little boy who had been told by
17 his mother to stay out of the cookie jar that is up on the top
18 shelf of the kitchen. Okay? And he has obviously, you know,
19 a great love for cookies, like all children do, I am sure.
20 But at the same time there is a little boy next door whose
21 mother is one of those indulgent mothers who lets that little
22 boy have all the cookies he wants. Okay. Now, you are the
23 mother. You come in the kitchen and you see your little boy
24 whom you have told to stay away from the cookie jar, and he
25 has got a cookie in his hand. At the same time you see the
26 little boy from next door beating a rapid exit back to his
27 house.
28

Now, what do we have? Well, we have perhaps two

1 reasonable interpretations. One is that your little boy got
2 the cookie from the cookie jar as he was not supposed to do.
3 The other reasonable interpretation is that that little boy
4 from next door came over and gave him a cookie. Is that kind
5 of a fair illustration?

6 A Yes, it is.

7 Q Okay. Now, if the law requires you to adopt the
8 reasonable interpretation which points to innocence in this
9 case which says that the little boy did not get it from the
10 cookie jar would you have any trouble following the reasonable
11 interpretation?

12 A No, I wouldn't.

13 Q Which points to innocence and rejecting the
14 reasonable -- certainly we still have a reasonable interpreta-
15 tion pointing to guilt, you would reject that, wouldn't you?

16 A Yes, I would.

17 Q If you were instructed to do so?

18 A Yes, I would.

19 Q And do you understand that we haven't elevated
20 circumstantial evidence beyond its proper place just because
21 we have been talking a lot about it here?

22 A Right.

23 Q If you concluded after a fair deliberation that
24 this evidence is just not convincing, I take it you are going
25 to reject it irrespective of whether it is direct or circum-
26 stantial evidence or whatever label you want to put on it,
27 that is true, isn't it?

28 A Yes, it is.

1 Q As a matter of fact, that is a very obvious thing,
2 isn't it?

3 A Yes.

4 Q Okay. Did you hear Mr. Katz yesterday when he
5 questioned a prospective juror, I think it was Mrs. Baker as
6 a matter of fact, when he questioned her relative to the law
7 of conspiracy?

8 A Yes, I did.

9 Q Is there anything about that word conspiracy that
10 you find so horrendous?

11 A Not really.

12 Q You think that you might say that conspiracy may
13 be worse than murder, do you think there is anything about
14 this that would prejudice you?

15 A No, it wouldn't.

16 Q Just on that basis alone in this case?

17 A No.

18 Q Okay. And indeed, finally, you understand that
19 despite the fact that Mr. Katz and I have been talking about
20 the law here at some length, that in the final analysis the
21 law will be given to you by Judge Call, it won't come from
22 Mr. Katz and it won't come from me? So that our discussion
23 of the law here is merely an effort to kind of explore your
24 thinking in the matter and what we say about the law here,
25 well, you will wait until you hear from Judge Call, and you
26 will follow the instructions that he gives you?

27 A Yes, I will.
28

21A.

1 Q And then finally do you appreciate the fact that
2 you may well be given instructions --

3 A Yes.

4 Q -- which have no application here because you may
5 decide that the evidence doesn't support a particular theory
6 and so there is no need to use any instructions that deal
7 with that?

8 A Right.

9 Q You understand that?

10 A Uh-huh.

11 MR. WEEDMAN: Thank you so much, Mrs. Chaffin. Pass for
12 cause.

13 THE COURT: Thank you. People.

14 MR. KATZ: Yes. Thank you.

15 BY MR. KATZ:

16 Q Mrs. Chaffin, Mr. Weedman correctly brought to your
17 attention the principle in regards to circumstantial evidence,
18 that where there are two inferences, each of which is reason-
19 able -- and I underscore the word reasonable -- then you
20 are dutybound to accept the reasonable interpretation which
21 favors the innocence of the defendant. You understand that?

22 A Yes.

23 Q And reject the other reasonable inference which
24 points to the guilt; you understand that?

25 A Yes.

26 Q However, if his Honor in that same instruction
27 further instructs you that where there are two inferences,
28 one of which is reasonable and points to the guilt of the

21a-2 1

2 defendant and the other inference is unreasonable and points
3 to the innocence of the defendant you realize that you are
4 dutybound to adopt the reasonable interpretation?

5 A Yes, sir.

6 Q Isn't that correct?

7 A Right.

8 Q And if that reasonable interpretation which points
9 to the guilt of the defendant creates in your mind an abiding
10 conviction to a moral certainty of the truth of the charge
11 then you are dutybound and obliged to vote guilty; isn't that
12 correct?

13 A That's right.

14 Q No quarrel with that?

15 A No, sir.

16 Q All right. Now, we have talked about the cookie
17 example and it was somewhat modified by the mischievous boy
18 next door. I take it you have no quarrel then with applying the
19 rules of circumstantial evidence?

20 A No, I have no quarrel.

21 Q And you understand that we use circumstantial
22 evidence every day in our lives, don't we?

23 A Yes, we do.

24 Q There is nothing abhorrent to your sense of justice
25 and fair play to draw inferences from proven facts; is that
26 correct?

27 A Right.

28 Q You are willing to make judgments, value judgments
based upon facts that are proven to you, is that right?

21a-3

1 A That's right.

2 Q You are willing to draw the inference from
3 circumstantial evidence in this case if it is reasonable to
4 you?

5 A Right.

6 Q And if it creates an abiding conviction to a moral
7 certainty of the truth of the charge that the defendant is
8 guilty, is that correct?

9 A That's right.

10 Q I take it that if we can sustain our proof as
11 required by law you will vote guilty even though we have not
12 produced the body, even though we have not presented an eye-
13 witness to the killing; is that right?

14 A Right.

15 Q Now, sometime ago we mentioned at the very start
16 of these proceedings that each juror in a sense holds the life
17 of a defendant, should we reach that phase of the proceedings
18 known as the penalty hearing, in his or her own hands; isn't
19 that correct?

20 A Yes, it is.

21 Q Mrs. Chaffin, do you understand that in that connec-
22 tion, even though 11 jurors voted for death and one juror
23 voted for life, then there could be no return of the death
24 penalty; isn't that correct?

25 A Yes, sir.

22

26

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1 Q So that it takes, as you understand it, 12 votes
2 for the death penalty in order for one to be returned in this
3 courtroom, isn't that correct?

4 A That's right.

5 Q So that you can't say, "Well, heck, the other 11
6 jurors are voting for death and I'll go along with them, but
7 I'm going to blame them for the verdict; you can't say that,
8 can you?

9 A No.

10 Q Because without your vote there can be no death
11 penalty, isn't that correct?

12 A That's right.

13 Q So, I take it if selected as a juror you would
14 regard this as a very grave responsibility, isn't that correct?

15 A Yes, sir; it is.

16 Q Do you think after hearing all the evidence in this
17 case that in your conscience the case warranted the death
18 penalty, that you would vote your conscience, that you would
19 come back into the seat where you are sitting right now and
20 answer to the court, "I vote the death penalty"; could you do
21 that?

22 A I think I could.

23 Q Now, you realize that if you were of such a state
24 of mind as you sit here now that even though you believe in
25 the principle that the death penalty is justified under
26 certain circumstances, that you really couldn't personally
27 participate in the death penalty verdict, the People could
28 never get a fair trial on that issue; isn't that correct?

22-2

1 A Yes.

2 Q All right.

3 So that as you sit here now and as you examine
4 your state of mind, I want you to carefully analyze how you
5 feel about this before answering the question.

6 Let's assume that it is six weeks from this date,
7 you have heard all of the evidence in the case, you believe
8 that the case warrants the return of the death penalty but
9 you know that without your vote there cannot be a return of
10 the death penalty -- 11 jurors have cast their ballot in
11 favor of death -- how would you vote?

12 A The same as they, if I thought it was right.

13 Q That's the answer.

14 In other words, based upon your sole and absolute
15 discretion, consistent with your moral principles, you felt
16 that was the right verdict you would vote that verdict even
17 though you felt it was distasteful; is that correct?

18 A Yes.

19 Q You have heard me state that, unequivocally, should
20 we reach that phase of the case known as the penalty phase,
21 that I would deliberately prevail upon the jury to return a
22 death verdict; is that correct?

23 A Yes.

24 Q And do you harbor any ill will towards the prosecu-
25 tion because I am making that disclosure to you at this time?

26 A No, sir.

27 Q You understand that what I am trying to do is
28 make you aware of all of the possible issues with which you will

1 be confronted if selected as a juror?

2 A Yes, you are.

3 Q And if you felt from having thought about it that
4 maybe this is the kind of case you'd rather not have to make a
5 decision in, this is the time to tell us now; isn't that right?

6 A That's right.

7 Q Do you have any sons or daughters of the approxi-
8 mate age or appearance of Mr. Grogan?

9 A I think I have maybe one.

10 Q All right.

11 Now, do you think that maybe you would tend to
12 identify Mr. Grogan with your son and thereby have your verdict
13 influenced by that association?

14 A No, sir.

15 Q All right.

16 Do you believe that all persons should be equally
17 treated under the laws?

18 A Equally?

19 Q Yes.

20 A I do.

21 Q And in that connection, whether a person is young
22 or old, if that person, in fact, committed murder in the
23 first degree, I take it you would vote for murder in the
24 first degree, if proven?

25 A Age has nothing to do with it when it comes to
26 whatever they have done.

27 Q That's a very good answer. In other words, what
28 you are saying is that the youthful appearance of this

1 defendant, his age, has nothing whatsoever to do with his
2 guilt or innocence; is that right?

3 A That's right.

4 Q And I take it, then, that you would not withhold
5 returning a verdict of murder in the first degree solely
6 because of his age or his evident youth; is that correct?

7 A That's right.

8 Q The People can get a fair trial in this case?

9 A Right.

10 Q And so can the defendant; is that right?

11 A Right.

12 MR. KATZ: Thank you, ma'am.

13 Pass for cause.
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1 THE COURT: It is the People's peremptory, is it?

2 THE CLERK: Yes, sir, it is.

3 MR. KATZ: Yes; the People wish to thank and excuse
4 Mr. Grimaldi.

5 THE CLERK: The initial E; the name Read, R-e-a-d,
6 Killgore, K-i-l-l-g-o-r-e.

7 The first name would appear to be spelled R-e-a-d.

8 MR. KILLGORE: Right.

9
10 E. READ KILLGORE

11 BY THE COURT:

12 Q Now, Mr. Juror, I will ask you a number of
13 questions.

14 Have you heard everything that I have said to the
15 jurors from the time we first started to pick the jury here a
16 few days ago?

17 A Yes, sir, I have.

18 Q And did you hear me read the charge that has been
19 filed against the defendant?

20 A I did.

21 Q Thank you.

22 Now I will ask you to assume that you have been
23 selected as a juror and that the case has been tried and gone
24 to the jury room.

25 At that time the jury may make a finding of guilty
26 or not guilty, you understand that?

27 A I do.

28 Q And if the jury makes a finding of not guilty, the

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case is concluded entirely.

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Now, if the jury makes a finding of guilty, then they set the degree. If the jury sets the degree of second degree murder, then the jury is excused and the case is concluded as far as the jury is concerned.

If the jury makes a finding of first degree murder, then the jury must hold a subsequent penalty hearing for the purpose of determining what penalty will be imposed.

You understand that?

A I do.

Q The penalty must be either that of the death penalty or life imprisonment.

Now, let's assume the court and the jury have held a penalty hearing; the jury is in the jury room determining the penalty, you will please assume that you are at that position on penalty, and I will ask you if at that time you would automatically vote against the imposition of capital -- of the death penalty, without regard to any evidence that might have developed at the trial of this case?

A Well, it all depends, your Honor, on the evidence.

Q Give me a yes or no, if you will; would you automatically --

A No.

Q -- vote against the death penalty --

A No.

Q -- no matter what testimony had been produced at the trial of the case?

The answer is "No"?

1 A Right.

2 Q Now I will ask you another question: do you know
3 of any reason at all that would -- I will withdraw it and
4 restate it.

5 If you are selected as a juror, would and could
6 you be fair and impartial in arriving at a verdict in this
7 case?

8 A I feel I could, yes, sir.

9 Q All right.

10 Now, I will re-ask it in this fashion: Do you
11 know of any reason at all of any kind that would stop you or
12 prevent you from arriving at a fair and impartial verdict?

13 A I know of no reason.

14 Q Do you think you could arrive at a fair and
15 impartial verdict?

16 A I feel I could.

17 Q Now, let's see, the name of Manson has been
18 mentioned once or twice or more in examination of the jurors.

19 You understand that the trial of this case is
20 against the defendant in this case, Mr. Grogan, and he's the
21 only person on trial in this lawsuit; you understand that?

22 A I understand that.

23 Q And that no matter what problems or difficulties
24 may be presented to other people, their problems have nothing
25 to do with the trial of this defendant; is that clear?

26 A Very clear.

27 Q And this court and the jury is not trying other
28 people someplace else; they are trying this defendant here.

1 Do you understand that?

2 A I do.

3 Q And whatever you may or may not think about
4 somebody else, if you do -- I don't know, I am not asking you--
5 if you have got any opinions at all about somebody else, you
6 can't hold them against the defendant here, because this man,
7 Grogan, is the man on trial and nobody else; is that clear?

8 A Very clear.

9 Q And none of the witnesses that may be -- they are
10 not on trial, you understand that --

11 A Right.

12 Q It is the defendant here, so you must view this
13 case on the question of ultimately, of what testimony have
14 the People produced to justify the conviction; and that must
15 be weighed impartially and openly without bringing in any
16 prejudices of any kind in determining your ultimate results
17 of what the facts are.

18 Is that clear?

19 A Very clear.

20 THE COURT: All right.

21 Did you want to talk to counsel? Go ahead.

22 MR. WEEDMAN: No, I am sorry, your Honor; we had just
23 one or two words and we accomplished that.

24 Thank you, your Honor.

25 THE COURT: Go ahead.

26 BY MR. WEEDMAN:

27 Q Mr. Killgore, have you had prior jury experience,
28

1 sir?

2 A No, I haven't

3 Q Are you presently employed?

4 A No, I am not.

5 Q What do you do for a living, or what did you do
6 for a living?

7 A In the picture business and TV.

8 Q In that connection, perhaps, particularly, have you
9 heard anything about Charles Manson and the so-called Manson
10 family?

11 A Very little.

12 Q As a consequence, as a result of reading and
13 hearing whatever you may have heard, have you formed any
14 opinion about Charles Manson and the Manson family?

15 A None whatsoever.
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1 Q Is there anything at all in connection with what
2 you may have read or heard that makes you feel you could not
3 give my client a fair and impartial trial here?

4 A Nothing.

5 Q May I ask generally which portion of town you
6 reside?

7 A Myself? Hollywood.

8 Q With respect to the death penalty, if you are
9 convinced that my client did, in fact, commit murder, do you
10 think you would automatically impose the death penalty?

11 A No.

12 Q Okay, so you join the other jurors in indicating,
13 which is certainly proper, that you will wait and hear all of
14 the evidence in this case before arriving at any decision in
15 this matter?

16 A Right.

17 Q If you have to stay here for perhaps six to eight
18 weeks, would it cause you any personal hardship at all?

19 A No, I'd be very happy to.

20 Q Pardon me?

21 A No, it wouldn't.

22 Q Is there anything at all about the case that makes
23 you feel you would rather be someplace else while it is being
24 tried?

25 A The only place I think of would be at work, but
26 right now things are a little tight for me; in other words, I
27 haven't got anyplace to go.
28

1 Q All right; so there is nothing about the case that
2 you think offends you in any way so that you couldn't give both
3 sides a fair --

4 A I haven't heard anything about it.

5 MR. WEEDMAN: All right, sir.

6 Thank you very much, Mr. Killgore.

7 I will pass for cause, your Honor.

8 THE COURT: Thank you.

9 People?

10 MR. KATZ: Thank you.

11 Q Mr. Killgore, is there a Mrs. Killgore?

12 A Yes, there is.

13 Q And is your wife a housewife?

14 A Yes, she is.

15 Q And you have heard the discussion I have had with
16 the other prospective members of the panel in regard to
17 circumstantial evidence, have you not?

18 A I certainly have.

19 Q Would your answer be substantially the same?

20 A Substantially the same.

21 Q I am pretty certain at this time you are pretty
22 tired of hearing the same questions over and over again?

23 A They have zoomed into my head pretty well.

24 Q What we are driving at and we are certainly not
25 trying to bore you, but it is very important to have an open
26 mind concerning the law that may be applicable to the case and
27 have an open mind in regards to the facts that may or may not
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1 unfold during the course of this trial.

2 You understand that?

3 A I understand.

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Q And both Mr. Weedman and myself have an absolute responsibility to our respective sides to ensure that this jury starts out with an open mind, isn't that fair?

A Very.

Q Okay. Is there any reason why you couldn't give the People a fair trial?

A None whatsoever.

MR. KATZ: Thank you, sir. Pass for cause.

THE COURT: Pass for cause. All right. Now, let's see. I believe, I could be wrong, it is the defendant's peremptory, is that right, gentlemen?

MR. WEEDMAN: Yes, it is, your Honor.

THE COURT: You will have to help me. All right.

MR. WEEDMAN: We would thank and excuse Mrs. Mullins.

THE COURT: All right.

MR. WEEDMAN: Thank you, Mrs. Mullins.

MRS. MULLINS: Thank you.

THE CLERK: Mrs. Alice Trivedi, T-r-i-v-e-d-i.

ALICE TRIVEDI

BY THE COURT:

Q Well, now, lady, let's start here back again.

You have been in the courtroom here since we started the picking of the jury for the trial of this case, that's correct, isn't it?

A Yes.

Q Thank you. Have you heard everything I have said right up to date in what I have said to the jury as we have

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1 gone along here?

2 A Yes.

3 Q And did you hear me read the charge that has been
4 filed against the defendant?

5 A Yes.

6 Q All right. Well, then, we will start you here.

7 Let's suppose you have been selected as a juror
8 and you have heard all the testimony in the case, and the
9 court sends you out to the jury room with all the rest of
10 these folks to decide the case, guilty or not guilty.

11 Now, at that juncture you understand the jury
12 could vote not guilty; is that clear to you?

13 A Yes.

14 Q That is the end of it. The jury could vote guilty.
15 And if they should vote guilty, then they must make a finding
16 of degree, first degree or second degree murder.

17 If the jury finds second degree murder that concludes
18 the case at that point as far as the jury is concerned. On the
19 other hand, if the jury finds guilty first degree murder, then
20 the jury must hold another subsequent hearing that follows
21 right away after the trial for the purpose of determining the
22 penalty. That is called the penalty hearing. And there at
23 the penalty hearing the jury makes a finding or determines
24 the penalty of either the death penalty or life imprisonment.

25 That is clear?

26 A Yes.

27 Q Now, if you will put yourself at that position
28 you are about to vote on penalty. I am going to ask you this

23-3

1 question. At that time would you automatically vote against
2 the imposition of the death penalty without regard to any
3 evidence that might have been developed at the trial of this
4 case?

5 A I think I would.

6 Q The answer is yes?

7 A Yes.

8 Q Is that correct?

9 A Yes.

10 THE COURT: Thank you. Now, does the defendant care to
11 inquire further?

12 MR. WEEDMAN: I'm sorry, your Honor.

13 THE COURT: That is all right. Take your time. Nobody is
14 crowding you.

15 MR. WEEDMAN: I wasn't quite sure.

16 THE COURT: It is up to your voir dire.

17 MR. WEEDMAN: Well, perhaps I can just ask perhaps
18 substantially the same question again, if I may. I wasn't sure
19 about the answer.

20 THE COURT: Yes. Will you read --

21 MR. WEEDMAN: I will try, your Honor, if I may.

22 THE COURT: All right.

23 BY MR. WEEDMAN:

24 Q Is it pronounced Trivedi?

25 A Yes.

26 Q Mrs. Trivedi, how do you feel about the death
27 penalty?

28 MR. KATZ: Well, excuse me, your Honor. I would object to

23-4

1 that question because it calls for a philosophical discourse.

2 THE COURT: Read the question, please.

3 (Pending question read by the
4 reporter as follows:)

5 "Q Mrs. Trivedi, how do you feel
6 about the death penalty?"

7 MR. KATZ: I have no objection if counsel asks whether
8 she is opposed or in favor of the death penalty.

9 THE COURT: I think counsel may be right. You can remodify
10 it and get the same point.

11 MR. WEEDMAN: I will withdraw the question and ask another
12 one, your Honor.

13 THE COURT: All right.

14 Q BY MR. WEEDMAN: Are you opposed to the death penalty?

15 A Yes.

16 Q Can you conceive of any case -- and I would like
17 you to think carefully about this -- in which you would at
18 least consider the imposition of the death penalty?

19 A Yes.

20 Q So that as far as this case is concerned if it
21 should ever get to a penalty phase then you would at least
22 sit down with your fellow jurors and discuss the penalty and/or
23 life imprisonment?

24 A Yes.

25 Q Okay. You appreciate, do you not, that as has
26 been pointed out so many times here that the law does not
27 express any preference one for the other, that it is solely
28 within the discretion of the jury during the penalty phase?

23-5

1 A Yes.

2 Q So that you may, as you care to take into the
3 jury room your personal feelings about capital punishment
4 that the law only requires that you at least be willing to
5 consider the imposition either of one sentence or of the
6 other, do you understand that?

7 A Yes.

8 Q Okay. Should this case -- perhaps I have got about
9 15 seconds, your Honor --

10 THE COURT: Do you want to go over until tomorrow morning?

11 MR. WEEDMAN: Well, perhaps that would be appropriate,
12 your Honor.

13 THE COURT: All right. We are up to 4.

14 Ladies and gentlemen, we will recess till 9:30
15 promptly tomorrow. Do not discuss the case, please, or come
16 to any opinion or conclusion. We will go over and start
17 promptly at 9:30. And I thank all of you. Thank you.

18 (At 4 p.m. an adjournment was taken

19 until 9:30 a.m. of the following day,

20 Thursday, July 1, 1971.)
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