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MacDonald apartment?

A Not until after the murders.

Q Not until after the murders? Well, how long after--do you remember?

A About a year later.

Q About a year later? Why did you go back, if you recall?

A Just to see if anything would look familiar or jolt something in my memory or something.

Q To see if anything looked familiar? Did it?

A No, sir.

Q Did it jolt anything in your memory?

A No, sir.

Q Now, after the 17th of February, 1970, I believe you testified that you were arrested or picked up or questioned concerning this matter; is that correct?

A Yes, sir.

Q Did your picture ever appear in the paper in the Fayetteville newspaper to your knowledge?

A I don't think my picture did; no, sir.

Q Has your picture ever been in the paper to your knowledge?

A Not until yesterday.

Q How long did you live in Fayetteville after



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the murders?

A About a year.

Q About a year? Were you questioned quite a bit concerning the MacDonald murders after they occurred?

A I wasn't the only one.

Q I don't mean to imply that you were, but were you personally questioned?

A Yes, sir.

Q Were you ever hassled by the police concerning this situation?

A The City Police; yes, sir.

Q Is it fair then to say that in your opinion the City Police of Fayetteville hassled you about this; is that correct?

A Yes, sir.

Q You testified that you got rid of the blond wig; is that right?

A Yes, sir.

Q Tell us again why you did that?

A Well, I already had people coming up to me and making comments concerning the murders and everything. I just wanted to get rid of anything that might look like I had anything to do with it.

Q That was to keep you from being hassled by



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the police; isn't it?

A Yes.

MR. SEGAL: That is what she said.

It is OBJECTED TO, Your Honor.

BY MR. BLACKBURN:

Q I am sorry--what did you say?

A Yes.

THE COURT: I think she had answered the question, too, but we have a way of doing everything in duplicate, so I will let him ask it twice.

MR. SEGAL: All right, Your Honor.

BY MR. BLACKBURN:

Q For the second time, what was your answer?

A What was the question?

Q I take it then that at some occasion, you got rid of the hat because you felt you were being hassled by the police; is that correct--I mean the wig?

A The wig; yes.

Q Now, is it a fair statement to say that what you know of the MacDonald killings is a result of what you have been told by somebody else?

A As far as I know.

Q Let me ask you this question: the fact that you did not know where you were for the five hours or four and a half hours from 12:00 until 5:00 o'clock

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that morning and the constant comments that you

testified that you got from other people concerning the murders, did that cause you to have some concern yourself?

A Yes, sir.

Q In other words, you did not have an alibi for where you were; did you?

A No, sir.

Q Did you ever wear gloves very often?

A No, sir.

Q Did you ever wear gloves at all?

A Very rarely. It had to be pretty cold.

Q Do you know what the weather was like at about midnight or do you recall?

A No.

Q I am sorry?

A Not really.

Q You don't recall if it was raining or not?

A No. As far as I know, it wasn't raining.

Q What about the weather at about 4:30 or 5:00 that morning--do you recall the weather at that time?

A I didn't pay that much attention; no, I don't remember.

Q When was the first time on the 17th of



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February, 1970, that you heard of the MacDonald

killings?

A After I had been in my apartment for about 30 minutes.

Q How did you hear?

A There was a news bulletin on the radio.

Q That was the first time you had heard about it?

A Yes, sir.

Q You testified that you were into witchcraft; is that correct.

A Yes, sir.

Q And there were high priestesses--were you a high priestess?

A There weren't any as far as I knew. There were no other--well, I wasn't a witch anyway. There wasn't anyone interested in witchcraft in that area.

Q I am sorry. You will have to speak up.

A There wasn't anyone interested in witchcraft in that area where I lived.

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BY MR. BLACKBURN:

Q Is it fair to say you were reading about witchcraft?

A Right.

Q But you were not a witch yourself?

A No.

Q Did you ever wear white sheets or white robes around?

A No.

Q You never wore choir robes or anything like that?

A No.

Q You spoke of the term "pig," talked about pigs; and I assume you talked about that frequently or used that term frequently?

(Witness nods affirmatively)

Q Whom did you refer to as pigs in 1970?

(Witness looks at the Court.)

THE COURT: Does that answer your question?

MR. SEGAL: We OBJECT, Your Honor.

MR. MURTAGH: We were surprised.

MR. BLACKBURN: Your Honor, that was a surprise answer.

THE WITNESS: I did not mean that. That

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wasn't towards you.

THE COURT: She is trying to retract it now, but it is recorded for all history.

MR. BLACKBURN: I think she should be given every opportunity to retract, if that is her answer.

THE WITNESS: It is the law enforcement---

THE COURT: (Interposing) All right, she is going to answer your question now. Go ahead.

THE WITNESS: Any law enforcement agent.

BY MR. BLACKBURN:

Q In other words, you called the police "pigs"?

A Right.

Q You didn't think of children as being pigs?

A No.

Q Or ladies as pigs?

A No.

Q You didn't think of Colette, Kristen and Kimberly as pigs, did you?

A No, sir.

Q Now, about floral wreaths--you said that you said that you put four or five floral wreaths on---

A (Interposing) On a fence.

Q Where was the florist?



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A About half a block up the street in

Haymount.

Q Was this the first time you'd ever put floral wreaths on your lawn or the fence?

A To be honest, it is about the first time they put floral wreaths like that out.

Q Who else--did anyone else go with you to get the wreaths?

A Several people.

Q More than one?

A Yes, sir.

Q Did you ever go to this floral shop and get flowers when they would throw them out?

A All the time.

Q By "all the time," you mean once a week or--

A (Interposing) Any time that they would throw them out. We used to cut through the back there anyway on our way to the pizza shop, so anytime there was fresh flowers thrown out we would take them back home with us.

Q In your mind, was there any connection at all between the MacDonald murders and the funerals, and the fact that you all went to get the funeral wreaths?

A No, sir.

Q You got them because they were available?



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A Right.

Q Now, you said that you wore black, is that correct, or dark purple?

A Yes, sir.

Q Was that unusual for you?

A No, sir.

Q You normally wore that?

A Yes, sir.

Q Did you wear dark purple or black because the MacDonald family had been murdered?

A No, sir.

Q Did you wear dark purple or black because the MacDonald family was being buried at that particular time?

A No, sir.

Q Have you ever been violent before in your life?

A Never.

Q At any time--I believe you said "never," is that correct?

A Yes, sir.

MR. BLACKBURN: Just a second, Your Honor.

(Pause.)

BY MR. BLACKBURN:

Q You know, you have testified on direct



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#19 p5

1 examination this morning that a number of people in
2 Fayetteville and Nashville, Tennessee, talked to you
3 about the MacDonald murders?

4 A Yes, sir.

5 Q And you testified whether it was on direct
6 or cross that you did not remember where you were, and
7 that you had been picked up and questioned on a number
8 of occasions.

9 As a result of not knowing where you were
10 and not having an alibi, and as a further result of
11 being questioned a number of times, did there come a
12 time in your own mind when you began to worry yourself
13 about your involvement in this killing?

14 A Yes, sir.

15 Q And is it fair to say that that is the
16 reason that you became concerned, because of what I have
17 just stated?

18 A It was more the reason of what I was talking
19 about: these people.

20 Q One of the reasons that you were talking
21 about were these people?

22 (Witness nods affirmatively.)

23 Q Because you didn't know where you were in
24 answer to their questions?

25 A Yes, sir.

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Q Let me hand you what has been marked

for identification as Government Exhibit 306, a club.
Prior to right now, have you ever seen that club before?

A No, sir.

MR. BLACKBURN: Your Honor, if we could
have just one more moment.

(Pause.)

BY MR. BLACKBURN:

Q I think you testified on direct examination
you were out in a car with some folks about 4:30 or
5:00 o'clock, is that right?

A Yes, sir.

Q And you don't remember who they were?

A No, sir.

Q Was it unusual for you to come in, in the
morning at 4:30 and 5:00 o'clock?

A Not at all.

Q You had done that before?

A All the time.

Q Isn't it true that you might have been at
a place called Dunkin' Donuts that morning?

A That is where I was coming in from at that
time.

MR. BLACKBURN: Your Honor, at this time
we would mark for identification Government Exhibit 952,



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which purports to be a photograph.

(Government Exhibit No. 952 was
marked for identification.)

BY MR. BLACKBURN:

Q Ms. Stoeckley, let me hand you this and
ask you if you can take a look at it. Do you recognize
the person?

(Witness nods affirmatively.)

Q Who is it?

A Me.

Q Could you speak up a little louder?

A It is me.

Q Do you know when that photograph was taken?

A I think it was a few weeks after the murder,
downtown in the police station.

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MR. BLACKBURN: Your Honor, we would

ask to publish this to the jury.

THE COURT: Very well.

(Government Exhibit 952 was
received in evidence.)

(Exhibit passed among the jury.)

BY MR. BLACKBURN:

Q Do you know whether or not the photograph
I was just showing to you--do you know whether or not
that photograph was ever shown to Dr. MacDonald before?

A No, sir; I don't.

Q With respect to the mescaline that you
took, I think you said one hit; is that correct?

A Yes, sir.

Q What would one hit do to you?

A Put you on a mild trip.

Q I think you have also testified that you
had a lot of drugs in your body that day; is that
correct--the 16th?

A Yes, sir.

Q Was that unusual for you to do that?

A No, sir.

Q That was fairly normal; is that correct?
(Witness nods affirmatively.)

Q Isn't it true that during this period of

1 time in 1970, when you were taking these drugs, that
2 days sort of ran together; is that correct?

3 A Yes, sir.

4 Q And at times, you would not know where or
5 remember where you had been or what you had done; is
6 that correct?

7 A Yes, sir.

8 Q This is not the first time in your life
9 that you have not ever remembered where you were one
10 night; is it?

11 A No, sir.

12 Q Now, I think they brought out that you had
13 a neighbor named Mr. Posey; is that correct?

14 A Yes, sir.

15 Q And you testified, I believe, on Direct that
16 you once told him somewhere that he had better tell his
17 wife---

18 A (Interposing) To keep her door locked.
19 That was a joke.

20 Q It was a joke? Why did you say that to him
21 if you can recall?

22 A He was leading me on in this conversation,
23 and I felt like he was trying to make me say things that
24 I didn't want to say, and I just threw that in there.

25 Q Do you recall ever having a conversation with

1 Mr. Posey when he offered to give you an alibi for
2 where you were?

3 A Yes, sir.

4 Q He did? Did anybody else ever offer to
5 give you an alibi?

6 A Yes, sir.

7 Q Did you ever take them up on it?

8 A No, sir.

9 Q When you talked to Ms. Zillioux, Mr.
10 Underhill, Mr. Beasley, Mr. Gaddis, Brisentine, Mr.
11 Posey--other than yesterday in Raleigh--is it fair
12 to say that during this period of time in your life
13 that you were still taking drugs?

14 A Yes, sir.

15 Q Did Mr. Beasley ever tell you that you had
16 better come up with some kind of story?

17 A He said it would be to my advantage to try
18 to figure out where I was that night.

19 Q You never made up any story as to where
20 you were; did you?

21 A I tried.

22 Q You don't know who killed the MacDonald
23 family; do you?

24 A No, sir.

25 Q Do you know of anybody who you think killed

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the MacDonald family?

A No, sir.

Q Now, the floppy hat which you said you had--and you liked your hat because you wore it almost all the time; is that correct?

A Yes, sir.

Q You kept that after the murders; didn't you?

A But I didn't wear it as frequently as I used to.

Q That is because you were being talked to, I suppose?

(Witness nods affirmatively.)

Q These words that you testified in 1970-- '69 and '70--the words "pig," "acid," "groovy," I think; were those common words at that time?

A Yes, sir.

Q You were not the only person that said those words?

A No, sir.

Q They asked you about Mr. Manson; do you recall that this morning?

A Yes, sir.

Q Did he have any power over you?

A No, sir.



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1 Q Did anybody have any power like that
2 over you?
3 A No, sir.
4 Q I believe you testified that when you
5 got home in your apartment, some painting had been
6 going on; is that correct?
7 A Yes, sir.
8 Q Was that an unusual occurrence at your
9 house?
10 A Nothing was an unusual occurrence in my
11 house.
12 Q Let me ask you this question, Ms. Stoeckley:
13 is it fair to say that as a result of the MacDonald
14 murders and the questions which you were asked in 1970,
15 and because of the clothing that you owned, that you
16 got a fair amount of attention from folks about this
17 crime?
18 A Not especially attention--just harassment.
19 Q With respect to this hobby horse in the
20 photograph, prior to seeing that horse in that
21 photograph, have you ever seen that hobby horse before?
22 A Plenty of times.
23 Q When you were talking about a hobby horse
24 being broken this morning--and I guess, maybe yesterday--
25 which one were you referring to?

1 A Well, when I first looked at the picture
2 yesterday, I thought it was broken.

3 Q That is the only significance that has to
4 you?

5 A That is the only reason I said that.

6 Q Did it appear to you to be broken in the
7 picture; is that correct?

8 A Yes, sir.

9 Q Now, I believe you said that on the 18th of
10 February, 1970, you were detained by the Fayetteville
11 police; is that correct?

12 A Yes, sir.

13 Q And you were expected to be interviewed by
14 the CID?

15 A Yes, sir.

16 Q They did not show up?

17 A No, sir.

18 Q Isn't it true that there did come a time
19 subsequent to that as I believe you testified that the
20 CID did, in fact, interview you?

21 A Yes, sir.

22 Q Concerning the MacDonald killings?

23 A Yes, sir.

24 Q To your knowledge, were a lot of people
25 being interviewed or questioned?



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1 A Yes, sir.

2 Q By the CID or by the Fayetteville police?

3 A By someone--some law enforcement.

4 Q By law enforcement?

5 (Witness nods affirmatively.)

6 Q I believe you were asked a number of

7 questions concerning the fact that you had moved as a

8 result of the MacDonald killings; is that correct?

9 A It was one of the reasons; yes.

10 Q What were some other reasons?

11 A I had been to North Carolina Memorial and

12 taken methadone and everything and I wanted to move

13 away into another area where I could stay clean.

14 Q Is it fair to say that you were not

15 particularly anxious to come to North Carolina this

16 week?

17 A Yes, sir.

18 Q Prior to leaving North Carolina in 1970,

19 you had cooperated in some ways with the Fayetteville

20 Police Department; is that not correct?

21 A Yes, sir.

22 Q And as a result of that cooperation, is it

23 not true to say that even today, you are still fearful

24 for your safety?

25 A Yes, sir.

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Q Isn't it true that that is the primary

reason you did not want to come here and testify?

A It was one of the reasons; yes, sir.

Q You have no reason to believe, do you,

that you were standing on a street corner at 4:00 o'clock in the morning on the 17th of February, near Fort Bragg; do you?

A I don't have any reason to believe that; no.

THE COURT: Mr. Blackburn, may I

inquire---

MR. BLACKBURN: (Interposing) It would

be a few more minutes, Your Honor.

THE COURT: Well, then, it is time

for us to go to lunch on our Friday schedule and that is what we will do now. We will come back today at 1:30. You know, we only get one hour on Friday. If you will come back at 1:30. Don't talk about the case. Take a recess until 1:30.

(The proceeding was recessed at 12:32 p.m., to reconvene at 1:30 p.m., this same day.)



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(The following proceedings were held in the presence of the jury and alternates.)

THE COURT: Any further questions of this witness?

MR. BLACKBURN: Yes, Your Honor.

(Whereupon,

HELENA STOECKLEY

the witness on the stand at the time of recess, resumed the stand, and testified further as follows:)

CROSS - EXAMINATION 1:31 p.m.
(resumed)

BY MR. BLACKBURN:

Q Ms. Stoeckley, let me hand you Defendant Exhibit Number 86 and 89. With respect to Defendant Exhibit 86--that's a photograph of you I take it?

A Yes, sir.

Q Okay, if you don't mind, would you speak up a little bit louder?

A Yes, sir.

Q Do you know when that photograph was taken or what year it was taken?

A I think it was taken in 1970.

Q In 1970. Now, this drawing that was done

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is the Defendant Exhibit 89. Taking that drawing

in its totality, is that you?

A No, sir.

Q You didn't sit for that drawing; did you?

A No, sir.

Q You don't know who drew it?

A No, sir.

Q I take it that you don't know then whether or not whoever drew it--this drawing--also had this photograph?

A No, sir.

Q Now, when you came home at about 4:30 or 5:00 o'clock that morning on the 17th, you got out of the car; you recall that?

A Yes, sir.

Q Did you see any blood on your hands?

A No, sir.

Q Did you see any blood on your clothes?

A No, sir.

MR. BLACKBURN: No further questions, Your Honor.

MR. SEGAL: I have a few questions on redirect, Your Honor.

THE COURT: All right, sir.

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BY MR. SEGAL:

Q Ms. Stoeckley, do you remember hearing about the funerals of the MacDonald family that were being planned; do you recall that?

A Being planned?

Q Yes; you heard that there was going to be a funeral of the MacDonald family; hadn't you? You heard that in 1970?

A Yes, sir.

Q Didn't you want to attend that funeral?

A I made mention of that fact at one time.

Q Does that mean that you did or not want to go to the funeral of the MacDonald family?

A At one point I did.

Q I can't hear you.

A Yes, sir.

Q And did you talk to some other people about going to the MacDonald funeral?

A Just about getting a way to it or if I would be allowed to go to it or something like that.

Q And was the only reason why you didn't go to the funeral was because you couldn't get anybody to take you out there?



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A No.

Q What was the reason why you didn't go?

A I just changed my mind.

Q Who was it that you talked to about the fact that you wanted to go to the MacDonald funeral?

A I'm not even sure.

Q Was it people that you lived with in the house?

A Probably someone who frequented being at the house quite a bit.

Q What did you mean when you said you weren't sure you would be allowed to go?

A Well, I didn't know if it was for family members or what.

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BY MR. SEGAL:

Q Now, your testimony is that you had never met the MacDonald family prior to February 17, 1970; correct?

A Yes, sir.

MR. BLACKBURN: Your Honor, I would OBJECT.

THE COURT: Yes; I don't see that this--it is what you went into, I think, on direct examination. And on cross-examination, I don't think that there has been anything new brought out about this, has there?

MR. SEGAL: I thought it related to some issue. I have nothing further on that point, Your Honor.

THE COURT: All right.

BY MR. SEGAL:

Q You were asked by the Government's attorney whether anybody had power over you. Do you recall being asked that?

A Yes, sir.

Q And was your answer--your answer was that nobody had power over you; is that right?

A Yes, sir.

Q In 1969 and 1970, did some drug have power over you when you used it?

A A drug did; yes, sir.



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1 Q What was the drug that most had power over
2 you when you took it?

3 A Heroin.

4 Q What about LSD?

5 MR. ANDERSON: OBJECTION.

6 THE COURT: OVERRULED.

7 BY MR. SEGAL:

8 Q Yes, Ms. Stoeckley?

9 A It didn't really have any power--well, I
10 couldn't control it.

11 Q Can you tell us a little more clearly, when
12 you say you couldn't control it?

13 A I mean, I couldn't control my actions when I
14 was on it. That is why I discontinued using it.

15 Q You discontinued--finally discontinued using
16 LSD in what year?

17 A About '71.

18 Q And when you discontinued using it, was it
19 because when you used it, you had thoughts that were re-
20 lated to the MacDonald case?

21 A Not necessarily; no.

22 Q Not necessarily?

23 A No.

24 Q Did you have thoughts relating to the murders
25 of the MacDonald family when you were using LSD between

2km3

1 February 17, 1970, and when you stopped in 1971?

2 A I don't know what I would be thinking when I
3 was using LSD.

4 Q Well, what is it, if you can tell us more
5 precisely, that finally made you stop using LSD regular-
6 ly.

7 A It wasn't any one thing. I just got tired of
8 the drug taking me.

9 MR. SEGAL: Bear with me just one sec-
10 ond, please.

11 (Pause.)

12 MR. SEGAL: I have no further questions
13 of this witness at this time, Your Honor.

14 MR. BLACKBURN: Your Honor, I would like to
15 have one question, if I might.

16 THE COURT: All right.

17 R E C R O S S - E X A M I N A T I O N 1:33 p.m.

18
19 BY MR. BLACKBURN:

20 Q Ms. Stoeckley, have you ever been formally
21 accused or convicted of any crime of violence?

22 A Of violence?

23 Q Yes, ma'am.

24 A No, sir.

25 MR. BLACKBURN: No further questions.

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THE COURT: All right; call your next

witness. You may stand down.

(Witness excused.)

MR. SEGAL: Your Honor, the Defense calls Mrs. Jane Zillioux. While she is being brought forward, may we speak to you about some matters?

THE COURT: Yes.

MR. BLACKBURN: I assume this witness can be excused.

MR. SEGAL: That is part of the matter. Not until we have a chance to talk to Your Honor.

THE COURT: Don't let her be excused yet.

B E N C H C O N F E R E N C E

MR. SEGAL: In regard to this witness, Your Honor, I at this time wish to place her under subpoena, because I wish to retain her. I do not want her to be held in custody as a material witness.

THE COURT: I thought she was under subpoena.

MR. SMITH: I don't know that we ever got her served.

THE COURT: Well, the warrant you had issued for her arrest had the effect of a subpoena.



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1 MR. SEGAL: All I would like to have,
2 Your Honor, is the witness be advised that we have not
3 released her. She is under subpoena. We will tender the
4 witness fee immediately to her, so that she, you know,
5 will be able to stay.

6 THE COURT: Do you want some time to do
7 that, or have you already got it prepared?

8 MR. SEGAL: We don't have it prepared,
9 Your Honor, but we will do it this afternoon.

10 THE COURT: Get it done right away.
11 You see the girl has done what she came here to do. I
12 am not after holding people in jail.

13 MR. SEGAL: I agree entirely. It will
14 take us less than a half hour to have a subpoena for her.
15 I would just ask, out of the hearing of the jury, of
16 course, that Your Honor tell her that the subpoena means
17 what it says, and that she had best not run off. I don't
18 think she will, if she hears it from Your Honor. Every-
19 thing you know about her says despite her looking up at
20 the Court, that she would listen.

21 THE COURT: What do you want me to do,
22 go in yonder jail right now and tell her?

23 MR. SEGAL: If we are going to have a
24 voir dire--I don't know whether we are going to have a
25 hearing out of the presence of the jury or not.

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THE COURT: On these other witnesses?

MR. SEGAL: Yes, Your Honor.

THE COURT: That was going to be--we didn't have time for me to tell you, but that was going to be my solution to that. I don't see how I can rule without knowing where you are going and what the witnesses are going to say. In that connection, how many of this type witness do you have?

MR. SEGAL: There are five.

MR. SMITH: There are five.

MR. SEGAL: Let me call the first one and Your Honor will get an idea of what their testimony is like. That may help you. Then you may see whether you want to hear the rest of them.

MR. SMITH: They are different kinds of people.

THE COURT: Got any Stoeckleys in the crowd?

MR. SMITH: We have changed all the Stoeckleys' names.

THE COURT: Tell me about the length of testimony for these witnesses.

MR. SMITH: I would say direct---

THE COURT: (Interposing) You are looking at an hour and 15 minutes of remaining trial time

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1 for this day.

2 MR. SMITH: My feeling is the direct

3 examination of those witness would take 20 minutes to

4 30 apiece.

5 MR. SEGAL: That is correct.

6 THE COURT: Well, would it profit any-

7 thing just to let this jury go? How long would your voir

8 dres last?

9 MR. SEGAL: Probably shorter--there'd be less

10 objections that are made for the purpose of the jury.

11 We will just hear what they have to say.

12 THE COURT: That is 50 minutes, and

13 if there is any cross-examination--I was going to say I

14 might just give the jury the afternoon off and get all

15 of that behind us this afternoon.

16 MR. SEGAL: We have some other admini-

17 strative matters to discuss with Your Honor that could

18 also be profitably discussed at this time after the jury

19 leaves, if you wanted to do that. We are ready to go

20 either way. We have witnesses here.

21 MR. SMITH: We are primed and ready.

22 THE COURT: Of course, doubtless, you

23 could finish with one witness this afternoon or maybe

24 two, but if we can't finish with all of them, then there

25 is not a whole lot to be gained by just doing one or two,

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it would seem to me. If we can get all these things,
then I anticipate that what they say may be different.
This statement may be in one category, say, lacking ad-
mission against interest--the other just purely a state
of mind, or something like that, which might invoke a
different rule.

MR. SMITH: Yes, sir.

THE COURT: Does the Government have
any suggestions about the thing?

MR. MURTAGH: Since each one of these
things is going to have to be ruled on, I think by the
Court, because they are all inter-mixed--I think that
the best thing, Judge, is to perhaps let the jury go.
And if Defense Counsel would omit some of the foundation
questions and just cut right to the meat of it, we could
get the matter solved--get them all done today.

THE COURT: Did you say you had some-
thing else to bring up this afternoon?

MR. SEGAL: Yes, Your Honor. There are
a couple. We have a motion for a writ of habeas corpus
ad testificandum.

MR. SMITH: That is being moved on, I
understand, now.

THE COURT: That was handed to me yester-
day afternoon with an affidavit. I did not consider that



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affidavit sufficient, and so I need to know some more on that. Maybe I ought to explain why I don't.

I get these things all the time. Everybody who is in Marion in jail would rather be in Raleigh testifying.

MR. MURTAGH: There are two that are in there right now. They confessed years ago.

THE COURT: I can get you any witness in the world who'll say anything, but when we are talking about going halfway across the street--it is over 200 miles to Marion to get a witness out of jail to have him come here. I would want to know a little bit more.

MR. SEGAL: Certainly, Your Honor. We can supplement that with other testimony.

MR. SMITH: I talked with an FBI man this morning with Mr. Anderson in regard to making a little further discussion with Mr. Frier, and I talked with Mr. Frier on the telephone with FBI people there, so I think we are underway on completing some investigation.

(Bench conference terminated.)

#23p1

1 THE COURT: Members of the jury,
2 it's got so we have at least one goody for you every
3 day. Yesterday, we gave you virtually the whole day
4 off. Also, you got a bonus yesterday. We raised your
5 pay by \$5.00 a day. I heard no objections to that.

6 Now, it appears that the next five witnesses
7 who will be called to testify will--it is believed by
8 counsel--undertake to offer testimony about matters
9 which will involve some decisions as to the admissibility
10 of the evidence, perhaps some close questions of
11 evidentiary law.

12 The normal way to handle this is let you
13 go back here and wait while we educate ourselves and
14 hear all of this; but I have proposed that since we
15 obviously cannot finish today and these all have to be
16 gotten rid of, that we take all five of these witnesses
17 and hear their testimony in your absence, and let you
18 take the rest of the day off.

19 Then when you come back, we will have the
20 witnesses ready to testify and you can hear them and
21 you won't be going in and out, and they won't be
22 parading up here for these bench conferences.

23 So with the consent of counsel for all
24 parties and at the suggestion of the Court, we are
25 going to let the jury retire for the remainder of this



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#23 p2

1 trial day, and of course for the week.

2 We will reconvene Monday morning at 10:00
3 o'clock, our usual Monday reconvening hour. I pause at
4 this time to remind you again of the instructions which
5 remain in force and effect at all times. They are
6 briefly that you are not to discuss this case among
7 yourselves.

8 Don't let anybody discuss it in your
9 presence. Do not read, look at, or listen to anything
10 that may appear in any of the news media. I will be
11 asking you about that Monday morning.

12 That is particularly binding at this time
13 for that. Testimony, it is anticipated, will be given
14 from this witness stand this afternoon while you are
15 not here, which you may never hear.

16 And it's just too much to ask of you that
17 weed out that which came to you from some outside
18 source from that which you have heard in here; so I
19 caution you not to let anything of that nature come to
20 your attention from any source whatsoever.

21 Finally, members of the jury, you must keep
22 open minds about the case. Although it may seem to
23 you that there is hardly anything else that could be
24 said about it, I am informed that you have not heard
25 it quite all yet.



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So please keep open minds about it. I

commend you again for the manner in which you have been discharging this responsibility. I just don't think I have ever seen a better jury than this one, from the standpoint of your promptness and the attention which you have paid to the witnesses and to the counsel and to the Court.

I express this for them because they can't talk to you; but I can--that all of us are grateful for the attitudes that you have so admirably demonstrated in the hearing of this case.

I am going to let you retire now. Have a good weekend, a safe trip home and back, and we will see you Monday morning at 10:00 o'clock.

(Jury exits at 1:52 p.m.)

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(The following proceedings were held in

the absence of the jury and alternates.)

THE COURT: All right, call your first witness.

MR. SEGAL: Your Honor, could we dispose of the administrative matter in regard to the subpoena that I have prepared?

THE COURT: Oh, yes.

MR. SEGAL: May we ask the Marshal to bring Ms. Stoeckley back to the Court, please. It will just take a moment, Your Honor.

(Ms. Stoeckley enters at 1:55 p.m.)

MR. SEGAL: Your Honor, Ms. Stoeckley has been present in the Court pursuant to a warrant of arrest issued for her as a material witness in this matter after I had filed an affidavit with this Court and made an oral motion in that regard. I believe at this time, it is appropriate to discharge the warrant of arrest. It would expire, I think, this evening anyway. However, because it is not certain in my mind that Ms. Stoeckley's testimony may not be needed further in this case-- at this time, I am going to tender her a subpoena as a witness--a subpoena to be here at 2:00 o'clock this afternoon. I will ask that thereafter--she can be excused, and I will just make arrangements to locate

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her.

I am also going to tender her the statutory witness fees in that regard. My request to the Court, though, in view of the fact that Ms. Stoeckley has frankly stated that she did not want to be here and that she was so difficult to locate, I would ask the Court to advise Ms. Stoeckley of the importance of honoring the subpoena and the fact that the Court does fully expect her to return here as needed pursuant to this subpoena.

THE COURT: Well, I will say to the witness, Ms. Stoeckley, first of all, I hope you will understand that the Court, when called upon to do so in a case of a witness who is apparently reluctant to come to Court or is evading process of the Court, had to, in this instance, take some necessary action to insure your presence here.

Insofar as the Court is concerned, of course, you have discharged that duty and you will be free from further arrest at this time. What counsel is telling you, though, is that conceivably he might want you to testify further at some later time in the trial, and in that event, he is serving you with a subpoena at this time for your continued appearance or at such time as he will let you know. Of course, that is the

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process of the Court and failure to comply with it

could result in sanctions of one kind or another

against you, so you will understand that. I am sure

that counsel will not call you unless he feels that it

is essential to the defense of his client, but if he

does, of course, you will be expected to comply.

MR. SEGAL: Is that clear, Ms.

Stoeckley?

MS. STOECKLEY: Yes, sir.

MR. SEGAL: Do we have your word

that you will appear as required?

MS. STOECKLEY: Yes, sir.

MR. SEGAL: Thank you, Your Honor.

THE COURT: All right, you have an

hour and two minutes in which to do your voir dire

examination. I am not suggesting that you use it all,

but you, at least, have that much available right now.

Call your first witness.

MR. SMITH: Jane Zillioux.

(Whereupon,

JANE ZILLIOUX

was called as a witness, duly sworn, and testified as

follows:)

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THE COURT: Get right on with it.

MR. SMITH: Your Honor, Mr. Segal

and I have divided these witnesses, and Ms. Zillioux is his witness. If I begin that examination, could you permit him to take over.

THE COURT: All right, why don't you just make a statement as to who she is and then go right on into the questioning.

MR. SMITH: All right, Your Honor. This witness is Jane Zillioux. You already have the spelling of her last name. Let me get her address and so forth.

D I R E C T E X A M I N A T I O N 1:59 p.m.

BY MR. SMITH:

Q Where do you live, Ms. Zillioux?

A Miami, Florida.

Q How long have you lived in Miami?

A Since 1972.

Q Where did you live before you moved to Miami?

THE COURT: She lived across the street from this Stoeckley witness. I said get right on into the thing.

MR. SMITH: I am moving right to it