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Convicted killer's penalty phase set to start

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Jurors will consider whether man who caused Metrolink crash should get death sentence.

By Jeremy Oberstein

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GLENDAL — The fate of Juan Manuel Alvarez now hangs in the balance of a jury that will decide between sentencing him to life in prison or death as part of the trial's penalty phase, which is slated to begin today.

Alvarez, 29, was convicted last week of 11 counts of first-degree murder for his role in the fiery January 2005 Metrolink train derailment that occurred 125 feet from the Chevy Chase crossing in Glendale and injured 184 passengers and crew members.

Scores of victims' family members are expected to testify during the penalty phase. Some family members have called for the death penalty after Alvarez was convicted June 26, while others are seemingly uneasy with the prospect of a death sentence.

Many of the family members attended the daily proceedings of the eight-week trial in plain view of the nine-woman, three-man jury, with prosecutors pointing to them as living reminders of the fatal train crash.

The defense is scheduled to call 12 witnesses, including Alvarez's relatives, psychiatric officials who dealt with Alvarez in jail, and others who can testify to the many cases of documented abuse Alvarez suffered as a child at the hands of his father and uncle, defense attorney Michael Belter said.

"The theme is about showing the background," Belter said. "It's difficult to predict what the jury will do, but I will hope they see this as an unintended killing. I would stand firm that Mr. Alvarez didn't intend to kill anybody. This was a confluence of tragic circumstances. Juan Alvarez does not see himself as a murderer. He was really disappointed."

Attempts by the defense to humanize Alvarez and opposing efforts by the prosecution to demonize him may end up canceling each other out in the minds of jurors, and some could view the death penalty as too heavy-handed, said Paul Bergman, a trial advocacy and evidence professor at UCLA's school of law

"They might think, 'This person did a horrible thing, and society needs to be protected, but the death penalty may be inappropriate,'" Bergman said. "You use that for people acting murderous and willfully. This doesn't strike me off-hand as a death penalty case. [Jurors] might want to make sure he's never in a position to harm anyone ever again."

Though he will not administer the sentence, the death penalty is not an unfamiliar topic for Los Angeles Superior Court Judge William Ponders, who has presided over months of testimony and pretrial motions in the Alvarez case.

Chester Turner was sentenced to death for the murders of 10 women, most of them prostitutes, in Ponders' courtroom in July 2007. Turner was often described as one of the worst serial killers in Los Angeles for the torture and debasement he inflicted on his victims, leading Ponders to say at the time, "I don't think any jury would arrive at a different conclusion." Ponders approved a death sentence for convicted double murderer Santiago Pineda in February 2007.

But Ponders does not decide on a defendant's fate. That task is reserved for jurors who, in this case, might have a more difficult time handing down a death sentence for Alvarez because of the trial's inherent uniqueness, Bergman said.

"When 11 people are killed, it's often a serial-killer scenario," he said. "Someone who kills 11 people on separate occasions, in many instances, would likely get the death penalty. But this is almost inexplicable."

California is one of 36 states in the nation to impose the death penalty, and it has 669 inmates on death row, according to the nonprofit Death Penalty Information Center based in Washington, D.C.

Recently, the state's death penalty system came under fire by the California Commission on the Fair Administration of Justice, which released a 107-page report on June 30 detailing the state's capital punishment system, calling it "dysfunctional" and "broken."

The commission, chaired by former state Atty. Gen. John Van de Kamp, concluded that California would save hundreds of millions of dollars if capital punishment was eliminated.

The study found that the state spends \$137 million a year on administering the death penalty, including the costs of appeals, attorneys and specially outfitted jail cells. Cost associated with imposing a maximum sentence of life totaled \$11.5 million.

That may be fodder for politicians and society at large, but a debate about the death penalty may not play a role in Alvarez's defense, Berger said.

"The financial cost of the death penalty is starting to sink into the public perception, but I doubt that's an argument the defense is willing to make," he said.

After the defense and prosecution completes this portion of the case, and after jury deliberations are complete, jurors will then make a recommendation to Pounders that he is expected to uphold.

"The jury is advisory in the sense that if they recommend death, the judge can recommend something less severe. But if they recommend life without parole, the judge can't give a death sentence," Berger said. "Judges normally follow what the jury says."

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