

MIAMI BEACH

Judge weighs death for man who killed partygoers

The fate of the man who admitted killing three Miami Beach partygoers in 2003 for playing loud music is in the hands of a judge.

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Kevin Evers, right, with Stephen Harper, one of his public defenders. Evers has pleaded guilty to three counts of murder and two counts of attempted murder.

When Kevin Evers shot and killed three revelers at a Miami Beach birthday party in 2003, people here and abroad were shocked: Two young fathers from Argentina and a Brazilian woman died because Evers thought the music was too loud, sending him into a rage.

Now five years later, Evers awaits his fate: Life in prison or the death penalty.

The penalty phase of his case ended with closing arguments Thursday. Judge Stanford Blake will weigh Evers' actions that night and his criminal history against his mental health and childhood.

Evers pleaded guilty to three murders and two counts of attempted murder. His attorneys tried without success to persuade prosecutors to accept a plea deal for five consecutive life sentences, one for each victim and survivor.

PASSED ON JURY TRIAL

Evers gave up his right to a jury trial and instead asked Blake alone to hear the sentencing phase. In most death-penalty cases, a jury decides guilt, then has another hearing to recommend a sentence. The judge then issues the final sentence.

Prosecutor Reid Rubin on Thursday argued that two factors aggravated Evers' crime, justifying the death penalty: his previous violent criminal history, and the fact that his actions that night put many people at great risk.

Evers was charged with kidnapping with a weapon in Nevada in the 1990s, and served a three-year sentence after pleading guilty to lesser charges.

"We're not talking about rehabilitation here -- we're talking about punishment," Rubin said.

Rubin stressed that as many as 20 people could have been killed at the 2003 party, when Evers confronted the revelers with a loaded gun. He was carrying extra ammunition. "He opened fire on them like they were animals," Rubin said.

Defense attorney Steven Yermish argued that other factors mitigated Evers' crime, warranting a life sentence: a bipolar disorder, psychotic episodes, neurological brain damage that impairs his ability to restrain his impulses, and a childhood scarred by abuse and neglect by alcoholic parents.

Yermish said Evers knows he will die in prison. "The only question is when and by whose hand: the state of Florida or God," he said.

ILLNESS AND STRESS

Yermish recounted defense testimony by three medical experts that Evers suffers from mental illness, which influenced him the night he opened fire on the revelers.

"He was in need of hospitalization to prevent harm to others," Yermish said.

The defense argued that traumatic events in Evers' life triggered a downward spiral: the death of his wife in childbirth and giving up their daughter for adoption a few months before the shooting.

During the final arguments, Evers sat quietly, flanked by his team of defense attorneys. After the court appearance, he changed from a collared shirt and thick gray sweater into a bright orange prison uniform.

Blake is expected to sentence Evers later this summer.

Since taking the bench in 1995, Blake has given the death sentence once: He followed a jury's recommendation in 2003 and sentenced Michael Seibert to death for murdering an 18-year-old high school student and then butchering her body.