

Trailside case goes to jury

By JOHN McNICHOLAS

Sentinel Staff Writer

LOS ANGELES — The prosecutors in the Trailside Killer trial expect a conviction on first-degree murder charges before the weekend, they said after the jury began its deliberations Tuesday afternoon.

The jurors deliberated about two hours Tuesday before recessing until Thursday. The trial was moved here because of pre-trial publicity.

Santa Cruz County District Attorney Art Danner and Assistant District Attorney Jim Berglund said they also expect the jury to find David Joseph Carpenter, 54, guilty of special circumstances which could send him to the gas chamber at San Quentin.

"We expect to be moving on to the next phase, and toward what we want in this case," Danner said. He is seeking the death penalty.

Public Defender Larry Biggam Monday admitted to the jury in his closing arguments his client killed two women and shot the companion of one of the women in the Santa Cruz Mountains in 1981.

But, he argued, Carpenter is not guilty of either first degree murder or the special circumstances that make the death penalty a possibility.

Carpenter is a "mess," Biggam said, "a damaged human being" who is incapable of the premeditation and deliberation required for a first-degree conviction.

Instead, the killings are second degree murder by a man who was "out of control," Biggam told the eight-woman, four-man jury. (It was incorrectly reported in an earlier story the jury was evenly divided between men and women.)

It is up to the jury to decide the degree of the murders, and whether the special circumstances were a part of the killings.

Carpenter is charged with the murder and attempted rape of Ellen Marie Hansen and the attempted murder of her boyfriend Steven Haertle in a hail of bullets on a hiking trail in Henry Cowell State Park March 29, 1981.

He also is charged with the murder and rape of Heather Scaggs, a co-worker in a Hayward trade school, whose nude, decomposing body was found in Big Basin State Park. She had disappeared while on a trip to Santa Cruz with Carpenter.

All the victims were age 20 at the time of the shootings.

The jury must decide whether Carpenter deliberately planned those murders, or if he killed the women while committing a crime likely to cause great danger to a person, such as rape.

If they find such is the case in either of the killings, that killing is first degree murder, and they must then decide whether the special circumstances apply.

The special circumstances charged are that Carpenter lay in wait for Hansen, that he killed her while attempting to rape her and that he killed Scaggs during a rape.

If at least one of the murders is found to be first degree, then Carpenter is guilty of committing multiple murders, the other special circumstance charged.

The ex-convict, who has spent 17 years behind bars for kidnap, rape, assault and robbery, also is charged with using a firearm and causing great bodily injury to Haertle. But Danner paid these little at-

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tention during his closing arguments Monday.

Haertle, now an economist for PG&E, survived a bullet which tore into his neck and lodged under his breastbone. He testified against Carpenter in the trial.

If the jury brings back a first degree conviction with any of the special circumstances, a separate penalty phase will begin Aug. 15. A second jury will hear that phase, and will decide whether Carpenter should die or live out his life in prison.

Biggam said outside court he would count it a success if he and Deputy Public Defender Steve Wright save Carpenter from the gas chamber. It will be during that penalty phase, if one is needed, that the defense team makes it fight. Biggam offered only a one-day defense in the guilt phase, concentrating on the degree and the special circumstances.

Attorneys have estimated the penalty phase could last a month, but Superior Court Judge Dion Morrow said Tuesday he expects it to last two to three weeks.

Carpenter is also charged in a separate case with five murders on hiking trails in Marin County, committed before the Santa Cruz killings and dubbed the "Trailside Slayings."

And although he has not been tried, or even arraigned on those charges, the jury deciding on the degree of his guilt must also decide whether they believe he committed three of them.

Ballistics tests show the gun Biggam admitted Carpenter used in the Santa Cruz killings was used to kill the Marin County victims, investigators say.

Danner Monday told the jury for three

of those killings, "They're similar in many, many ways to the killings we've had in Santa Cruz County."

Anne Alderson was raped, a pathologist said, then shot executionstyle in the head and left naked in the brush off a trail. Her killing matches closely that of Heather Scaggs, Danner said.

Cynthia Moreland was with her boyfriend Richard Stowers when she was raped. Both were shot in the head and killed.

That is what would have happened to Haertle and Hansen, Danner said, if the UC Davis co-ed had not refused to obey Carpenter and ruined his plans by resisting. Danner said outside court he believes she was shot while going for the gun Carpenter held on her.

Danner argued that the similarities help show Carpenter intended to rape and kill his Santa Cruz victims and that he had a plan and a method to do so. The jury may consider the Marin killings in this light.

But before the jurors can consider them at all, they must first determine if they believe a preponderance of evidence shows Carpenter is guilty of the killings.

Danner said outside court that Carpenter later could be acquitted of those killings, and it would have no effect on this decision.

But Biggam urged the jury in his closing arguments to be careful in their considerations. He said Danner had introduced the Marin killings only to prejudice and bias the jury against Carpenter.

"The question is are we talking about a homicide, or a mass murder here?" he asked after court today. He vowed to appeal the judge's decision to allow the jury to hear of the unproven killings.