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Jury Selection Won't Be Easy

By Kara Spak, Daily Herald Legal Affairs Writer

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Jury selection begins today in the trial of Juan Luna, the first of two long-awaited trials of the men accused of the 1993 murders at the Palatine Brown's Chicken & Pasta restaurant.

That process alone is expected to last up to two weeks as attorneys seek to find jurors who aren't swayed by media coverage of the case, are open to capital punishment if there is a conviction, are willing to listen with an open mind and are able to work from noon until 8 p.m., the hours Cook County Judge Vincent Gaughan has set for testimony.

The trial, held at the Cook County Criminal Courthouse on Chicago's West Side, could last as long as two months. Prospective jurors will be the first in Cook County criminal court history to fill out an extensive questionnaire as part of the jury selection process, said Stephen Richards, one of Luna's attorneys.

The questionnaire, written by attorneys on both sides, was placed under seal by Gaughan.

The document is an increasingly popular tool for helping select an impartial jury, especially on a high-profile case, said Dr. Joseph Rice, president of the Jury Research Institute. Rice has advised attorneys selecting juries in Cook County civil cases.

"Research suggests jurors are more candid on a questionnaire than in open [courtroom questioning]," Rice said. "That has really developed in the last 20 years."

Jury questionnaires – which typically include questions about past brushes with the law, experiences in court, or family or social histories – recently came under scrutiny in the 2005-06 federal racketeering trial of former Gov. George Ryan. Two jurors failed to disclose criminal backgrounds as requested on their questionnaires, and the omissions were not discovered until after deliberations began.

The jurors were dismissed and replaced with alternates, but Ryan's appeal is based in part on allegations of jury misconduct.

Richards said he isn't worried about that scenario in Cook County because prosecutors routinely do criminal background checks on all prospective jurors in a big case.

Potential jurors in the Luna trial will be asked about their attitudes toward capital punishment, as prosecutors have indicated they will seek the ultimate punishment if he is convicted.

Under law, someone with strong anti-capital punishment views will be automatically eliminated from the jury pool, a process Rice said helps prosecutors.

"A good juror for the defense in the death penalty [case] is one who will entertain [the sentence] in the right case," he said.

He said jury selection in a case like the Brown's Chicken murders is "very delicate" for defense attorneys. They need to be on the lookout, Rice said, for people who are aggressively pro-death penalty.

"These are people that not only support the death penalty but here's a chance for them to do it," Rice said.

Daniel Wolfe, director of trial consultancy for Chicago-based TrialGraphix and past president of the American Society of Trial Consultants, said prosecutors will be looking for people with "authoritarian personalities" to serve on the jury.

"These are people who have great respect for law and authority," Wolfe said.

All jurors will be asked about experiences as crime victims, Wolfe predicted, though he said just because someone was a crime victim doesn't mean he will automatically be pro-prosecution.

"You may find a lot of these people have a lot of distrust over the judicial system [because of the way their case was handled]," he said. "These are the kinds of things they (attorneys) want to flush out."

Sam Amirante, a defense attorney, former Cook County judge in the Rolling Meadows branch of Cook County Circuit Court, and the attorney who defended serial killer John Wayne Gacy in the 1970s, said every lawyer is looking for a juror willing to treat the evidence with an open mind.

Most criminal defense lawyers, he said, prefer a jury of people from urban rather than suburban areas.

"They tend to be a little more liberal in their thinking, a little more critical of the police and less accepting of what the police do," he said. "An urban juror is the preference in any criminal case, whether it's the Brown's Chicken case or any criminal case."

In a potential death penalty case, Amirante said he personally would seek out older jurors. "Generally in a death penalty case, you like to have someone who's been around for a long time, is closer to their maker," he said