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Pair get 8 years' probation in racing death

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In a trial that tested a new law targeting street racing, two young men were each sentenced to eight years of probation Wednesday for their part in a deadly crash on Texas 16 last year. It took jurors in the 227th District Court less than two hours to decide the punishment for Jonathan Peña and Gary Garcia, both 21.

That same jury Tuesday found Peña and Garcia guilty of racing in separate cars on the divided four-lane highway and causing the death of Felipe Rodriguez, a 71-year-old motorist.

As a term of each defendants' probation, Judge Philip Kazen ordered them to serve 180 days in jail. They had faced a maximum of 20 years in prison.

After the judge read the jury verdict, the victim's daughter, Debra Cortez, and a son spoke to the defendants about the hurt they have caused.

An emotional Cortez spoke of the night of Feb. 20, 2004, when she saw her father lying dead on the ground at the crash site. She told Peña and Garcia they took away someone very important, all because they decided to race and drive recklessly.

"It was not worth it," she said sternly.

A refueling attendant at Stinson Municipal Airport, Felipe Rodriguez was heading home from work during 5 p.m. rush hour when his pickup was struck from behind by Peña's 1995 Nissan Maxima. Rodriguez was thrown from the truck and died instantly.

Prosecutors Lisa Rodriguez-Duron and Marty Barrera presented witnesses who testified that Peña and Garcia were racing and weaving through traffic right before the crash.

The case marked the first prosecution in Bexar County under a 2003 state law that imposed harsher penalties for street racing with fatal results.

Rep. Trey Martinez Fischer, D-San Antonio, pushed for the legislation after a string of racing fatalities. The trial, he said, exemplifies how the law can work to prosecute both racers involved in a fatality, not just the one who has the collision.

During the trial's penalty phase, each defendant expressed remorse for Rodriguez's death. They pleaded with jurors to give them a second chance and not to send them to prison for an unintentional mistake.

"Even if I go to prison or if I don't, I'm still going to live with this for the rest of my life," Peña said, choking back sobs.

"If I could trade places with Mr. Rodriguez I would. ... I wish I was the one that died that day," Peña said.

Defense attorneys Roy Barrera Jr., Pat Hancock and Ron Rangel asked jurors to consider probation for their clients, portraying them as good, hard-working, responsible young men who love their families and had never been in serious trouble before.

"It was just 90 seconds" of their lives, Hancock told the jury, referring to the time shortly before the collision.

But, prosecutor Rodriguez-Duron countered, "because of those 90 seconds, we have lost a dear man."

Rangel, who represented Garcia, said while their heart goes out to the Rodriguez family, there's no possible way to bring him back.

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