

## Surfer's slaying case to focus on fatal fight

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Author: Dana Littlefield

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### Document Text

After days of testimony about other violent altercations, investigators are expected to testify this week about a fight that led to a professional surfer's death in La Jolla.

A key question in the case -- along with whether five young men charged with murder are members of a gang called the Bird Rock Bandits -- has to do with whether the fight was a group brawl or a one-on-one confrontation.

The difference matters in terms of whether the men could face a lesser charge such as involuntary manslaughter. However, prosecutors still could argue for a murder charge under a theory of conspiracy or aiding and abetting the crime.

San Diego Superior Court Judge John S. Einhorn is expected to decide at the end of the preliminary hearing, which began Wednesday, whether there is enough evidence for the men to stand trial.

The men -- Seth Cravens, 22; Eric House, 21; Orlando Osuna, 23; Matthew Yanke, 21; and Henri "Hank" Hendricks, 22 -- were arrested last year in connection with the attack May 24 on Emery Kauanui Jr., 24.

Prosecutors said Kauanui was beaten by a group of individuals who punched and kicked him repeatedly. Defense lawyers said Kauanui squared off first with House and then with Cravens, but was not touched after he was knocked to the ground.

"Independent witnesses do not say that this was a group effort," attorney Mary Ellen Attridge, who represents Cravens, said in court. "Nobody did anything to Emery after he fell."

If convicted of murder, assault and battery and allegations they acted on behalf of a street gang, the men could be sent to prison for life.

Last week, a succession of witnesses -- most of them investigators -- testified about earlier fights and confrontations, which they attribute to the Bird Rock Bandits. The incidents occurred at parties, on the beach and in bars around La Jolla between 2004 and last year, according to testimony.

Prosecutor Sophia Roach said she expects to finish presenting her evidence tomorrow. Lawyers for the defendants have indicated they may call witnesses, although they are not required to do so at a preliminary hearing.

Attorney Kerry Steigerwalt, who represents Yanke, said in court that an expert will testify that the gang allegations in this case are "an absurd stretch of the statute." Like other attorneys in the case, Steigerwalt has said his client is not a gang member.

Steigerwalt said in an interview that he and other lawyers have witnesses under subpoena, but it is unclear whether

they will testify.

Prosecutors say the defendants and Kauanui were at a La Jolla bar the evening of May 23. About 1 a.m., Kauanui spilled beer on House and the two argued.

Later, House and others drove to Kauanui's house on Draper Avenue. Kauanui and House fought outside and House lost a tooth. Kauanui's girlfriend told police that Cravens stepped in and punched Kauanui, knocking him to the ground.

Kauanui suffered a cracked skull and died at a hospital four days later.

According to transcripts of recorded interviews obtained by The San Diego Union-Tribune, a witness -- described as Kauanui's friend -- told authorities he saw Kauanui getting kicked as he lay on the ground. Then Kauanui got up and began talking to one of his assailants.

"They were really yelling at each other," the witness said, adding that both men were "talking with their hands" until Kauanui was punched in the face.

"And did you see anybody kicking Emery in any way after he fell?" the investigator asked.

"No," the witness said.

Defense lawyer Michael Crowley, who is not involved in the case, said if defense attorneys can convince a judge that this was not a group melee, it could add weight to their argument that the gang allegations should be dismissed.

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#### **Abstract** (Document Summary)

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