

By Michael KieferThe Republic | azcentral.comFri Nov 16, 2012 5:20 PM

Michael Jakscht, the dumptruck driver who plowed his rig into a group of motorcyclists in March 2010, killing four and injuring five, was sentenced to 26 years in prison Friday in Maricopa County Superior Court.

Jakscht, 49, has argued that the crash was an accident, but in August, a jury found that he was under the influence of methamphetamine, and convicted him of four counts of manslaughter, five counts of aggravated assault and four counts of endangerment.

The prosecutor in the case, Deputy County Attorney Aaron Harder, asked Judge Joseph Welty to impose the maximum penalty for each offense and run the sentences consecutively. That would have resulted in a sentence of 128 years.

But Welty balked, saying that sentencing must take the defendant's state of mind into account. By definition, manslaughter is a reckless crime, not an intentional crime.

"How does the state propose a sentence of 128 for what they proved was reckless conduct?" he asked Harder.

On March 25, 2010, Jakscht was driving an 11 1/2 ton roll-off dumptruck on Carefree Highway in north Phoenix, six hours into his shift, when he rolled up behind 10 motorcyclists who were stopped at a red light.

Jakscht claimed that he looked away for an instant and then hit the brakes so that the truck skidded out of his control and into the lane where the bikes were stopped.

The bikes exploded, and several of the motorcyclists were incinerated. Killed were Dayle Downs Totonchi, 47; Clyde Nachand, 67; Stephen Punch, 52; and Daniel Butler, 35.

Jakscht was burned trying to aid the victims. Police felt he performed badly on roadside sobriety tests, and when Jakscht tested positive for meth, he was charged with manslaughter, aggravated assault and endangerment.

But since there are no set standards for methamphetamine intoxication as for alcohol, prosecutors had to prove to the jury that Jakscht was impaired in order for them to find him guilty of manslaughter or aggravated assault. If not, the deaths and injuries would be considered accidental.

A first jury deadlocked on whether Jakscht was guilty in August 2011. A second jury reached a unanimous guilty verdict, although at Friday's hearing, a juror from the second trial, who was designated an alternate and could not participate in deliberations, addressed the court on Jakscht's behalf. Afterward, he told reporters that he did not believe Jakscht was impaired.

Both trials were tense and emotional, with one side of the courtroom frequently packed with angry survivors and victims, many of whom belong to the motorcycle club that was on a weekend drive when the accident occurred.

Friday's hearing was no different. Some of the bikers glared at the defendant, and one removed a vest to reveal a t-shirt that said, "Can you see me now, (expletive)?" in large block letters on its back.

"Michael Jakscht was the judge, jury and executioner, and he sent four people to death," said Ernie Lizarraga, a Phoenix fire captain who was disabled in the crash.

His wife, Lorri, told the court how doctors did not expect Ernie to survive his injuries.

"Instead of traveling the world as we planned, Ernie will now be traveling to physical therapy," she said. "I would sentence the defendant to a life with a traumatic brain injury."

One after another, the victims and their family members asked Welty to sentence Jakscht to the maximum possible, except for one, Barbara Rich, the mother of Dayle Totonchi.

"He's punished enough. He's going to be punished for the rest of his life," Rich said, implying that he will be haunted by the same horrific memories of the carnage.

One of his attorneys, Robyn Varcoe, quoted Jakscht as telling her, "No one will be able to understand the four ghosts I have running around my head every day."

Jakscht, who attended the hearing in jail stripes and handcuffs, said as much.

"I understand this from a very intimate point of view," he said as he apologized to the victims and the families. "I was there. I may have scars on my hands, but the scars inside are worse."

"I am terribly sorry for this accident that occurred and my heart goes out to those who died and those who were injured," he said.

But Welty disagreed.

"This is not an accident," he said. "This is a crime, this is reckless."

Welty said he felt the prosecutors had proven that Jakscht was "impaired to a slight degree." He detailed the aggravating factors, including the ongoing suffering of the surviving victims.

Varcoe and her co-counsel, Jennifer Willmott, asked the judge to sentence Jakscht to 10 1/2 years in prison. Welty felt the crimes deserved more time.

He sentenced Jakscht to 10 1/2 years each for two of the deaths, and 18 years each for the other two. Those four sentences will run concurrently, with nearly three years credit for the time Jakscht has already served. He will have to serve 85 percent of the remaining time to be eligible for parole.

But then the sentences for the remaining counts kick in: eight years each for five aggravated assaults; 2 1/2 years for one of the endangerment counts and six months each for the remaining three endangerments. All of those sentences will run concurrent to each other but consecutive to the manslaughter sentences.