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REPRINTS & PERMISSIONS

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Trial could turn on hearing today

By Martin Kasindorf, USA TODAY

SANTA MARIA, Calif. — In what could be a pivotal legal decision in the Michael Jackson child molestation trial, a judge Monday will hear arguments on whether to allow witnesses for the prosecution who allege that the singer committed five previous sex offenses.

Santa Barbara County District Attorney Tom Sneddon wants the jury to hear from two men, now in their 20s, who got millions of dollars in the 1990s to settle claims Jackson sexually abused them.

Sneddon also wants testimony from three former workers at Jackson's Neverland Valley Ranch. They alleged in a 1995 civil suit that they saw Jackson act inappropriately with three other young boys. Jackson was not charged in those cases.

The stakes are high for Jackson. His defense team punched holes in the alleged victim's testimony in the first month of a trial that could run five months. But Jackson could have trouble overcoming the added weight of allegations that he

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is a serial sexual predator. (**Related story:** [Jackson declares innocence to fans](#))

"It's not an overstatement to say that the judge could have the entire trial in his hands" at Monday's hearing, says Jim Hammer, a former prosecutor analyzing the trial for Fox News.

Superior Court Judge Rodney Melville said he'll decide the issue after hearing three hours of arguments by attorneys without the jury present. If the judge rules for Sneddon, at least one of two young men involved in the earlier incidents could take the witness stand today.

Jackson, 46, is charged with molesting a 13-year-old boy four times at Neverland in 2003. He's also charged with plying the boy with alcohol to molest him, and with conspiring to commit child abduction, false imprisonment and extortion. Conviction on all counts could send him to prison for 20 years. Jackson has pleaded innocent and says the boy's family made up the allegations to get money from him.

At today's hearing, Sneddon is relying on a 1995 California law. It allows prosecutors in sex-offense trials to offer testimony alleging previous sexual misconduct to show that a defendant has the "propensity" to commit the crime.

Sneddon is trying to show a track record of molestations to bolster the testimony from the alleged victim, now 15, and his brother, 14. The credibility of their descriptions of what happened was weakened in cross-examination by Tom Mesereau, Jackson's lawyer. Mesereau presented inconsistent statements the brothers made to authorities before the trial.

"In this case, you have a very mediocre accuser," says Ronald Richards, a Los Angeles lawyer who is commenting on the trial for NBC. "The accuser's testimony is not going to win it for the prosecution."

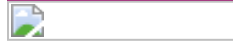
Sneddon has run into problems with another potential witness: Chris Carter, who was Jackson's bodyguard in 2003. Carter testified at a pretrial hearing that he saw Jackson and the alleged victim drinking from a soda can filled with wine during a plane ride from Miami to Neverland.

Carter, 25, was jailed in Las Vegas last month on unrelated charges of burglary, robbery and kidnapping. Sneddon has summoned him to testify April 4. His arrest gives Jackson's lawyers a

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chance to attack Carter's credibility.

Carter's vulnerability helps make the proposed testimony alleging past sex offenses by Jackson "the second-most-important part of the trial after the kid testifying himself, because it ties in and it could back him up," Hammer says.

Richards says jurors often doubt alleged victims. The California law was intended to help shore up their testimony by allowing allegations of past misconduct, he says.

"Young victims sometimes need assistance in buttressing their testimony," Richards says. "There's a public policy that we shouldn't let predators get off simply because the victim is young. If the defendant has done it before, then the jury should know that."

The witnesses Sneddon wants to call:

- A 25-year-old New York City man. He was 13 in 1993 when he said in a sworn statement that the entertainer groped him. Sneddon led a criminal investigation of the incident, but it was derailed in 1994 after Jackson paid \$20 million to settle a lawsuit for damages. The boy refused to testify against the singer.
- A 27-year-old man from California. His mother, a former maid at Neverland, alleged in a lawsuit that she discovered her then-12-year-old son lying next to Jackson in a darkened room at the ranch in 1990. She found \$300 stuffed into her son's clothing, she said. Jackson agreed to a \$2 million settlement. The alleged victim was willing to testify in Sneddon's investigation but demurred after the other child stopped cooperating.
- A former security guard and two former housekeepers at Neverland. They were among five former employees who sued Jackson in 1995, saying he wrongfully fired them for telling a grand jury they'd seen the singer showering with boys. A jury sided with Jackson in 1997, awarding him \$1.5 million. The plaintiffs filed for bankruptcy and never paid.

According to a brief filed by Jackson's lawyers opposing today's hearing, "a collection of disgruntled former employees" would mislead jurors.

Mesereau says Jackson acknowledges paying the two children but blames business managers for bad advice. He says Jackson wishes he had fought the allegations.

The man who got the larger settlement is reluctant to testify, Richards says. With his wealth, "he can draft an army of lawyers to delay this until after the trial is over," Richards says. The other man "is under subpoena, and he's cooperating. He's the most likely witness," Richards says.

Earlier this month, a deputy prosecutor mentioned in court the name of one of the alleged victims in the earlier investigation. Mesereau moved for a mistrial, but the judge denied the motion by saying the jury knows about the investigation.

Sneddon said last week that comedian George Lopez will be a witness today. Lopez befriended the alleged victim and his family when the boy was diagnosed with cancer.

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