

Plea bargain for supervisors in farmworker's death

By GOSIA WOZNIACKA, The Associated Press
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Photo courtesy of the family

MADERA, Calif. -- A day before she started work pruning grapevines in a California vineyard, 17-year-old Maria Isavel Vasquez Jimenez called her family in Mexico, giddy about her first job in the U.S. and the paycheck she would soon be wiring home.

Three days later, the pregnant teen fell to the ground after working in 100-degree heat. Maria Isavel and her unborn child later succumbed to heat stroke from laboring more than nine hours in a San Joaquin County vineyard. A judge was expected to accept a plea deal Wednesday from the teen's employers - the owner and safety director of contractor Merced Farm Labor.

Maria Isavel's death has become a symbol of a system gone wrong, outraging the farmworker community and leading to the first ever criminal case over a farmworker's heat-related death in

the country. Heat regulations, which California introduced in 2005 as the nation's first, were in place to protect the state's 450,000 seasonal workers, but farmworker advocates say the rules were routinely violated.

Maria De Los Angeles Colunga, owner of Merced Farm Labor, and her brother, Elias Armenta, the company's safety director, were charged with involuntary manslaughter in Maria Isavel's death. Farmworkers advocates say their plea bargain, which carries community service hours but no jail time, is unacceptable and could undermine the 2005 law.

"It's hard to imagine that... the only action against the employers is some type of community service and a small fine," United Farm Workers President Arturo Rodriguez. "That does not demonstrate any commitment to laws that protect workers."

Mari, as the family called her, grew up in the Mixteca town of San Sebastian Nopalera, population 5,000. When she was 8, her father was killed in a land dispute, plunging the family into poverty.

As the eldest daughter, Maria Isavel helped care for five siblings. Mother and daughter made and sold tamales and other food, her family said, and she also toiled in the fields, earning about 50 pesos or \$4 per day.

"She was always ready to work," her mother, Jovita Margarita Jimenez, said in a phone interview. "She was full of ideas. We were always talking, planning what to do next. We confided in each other and worked together to survive."

Maria Isavel aspired to be a hair stylist; her friends came to her to have their hair fixed. After graduating from junior high school in 2005 with exemplary grades, she enrolled in a trade school but couldn't afford the fees, so she dropped out.

Her brother, Roberto Valentin, said the teen saw townspeople

who worked in the U.S. with new cars and homes, while her family struggled to buy food. She decided to follow in the footsteps of her fiance and her brother to California.

"She told me, 'Mom, I need to earn some money. I don't want my brothers and sisters to suffer anymore. I don't want others to humiliate them because we're poor,'" her mother recalled.

Over her family's protests, Maria Isavel went to Putla, about three hours away, where she contacted a smuggler. After one failed attempt of crossing the desert to Arizona, she made it to Phoenix, then joined her fiance in Madera, Calif.

Working in the almond orchards, her fiance, Florentino Bautista, saved enough for a silver engagement ring. But two never married; Maria Isavel, who was two months pregnant, died five days after Mother's Day 2008.

Bautista testified that when the teen collapsed, no one called 911, and the foreman recommended that she rest in a hot van and be revived with a wet towel and rubbing alcohol. Inspectors later found that Merced Farm Labor failed to provide water, shade and safety training.

In 2008, an Associated Press investigation found that the understaffed California Division of Occupational Safety and Health failed to consistently hold employers accountable for workers' deaths. Since 2005, 13 farmworkers have died of heat stroke.

Merced Labor had previous worker safety citations, and after Maria Isavel's death, it surrendered its license. The agricultural firm also was hit by a record \$262,700 fine.

Defense attorney Randy Thomas could not be reached for comment, but he has said that "enough time has elapsed, and everyone needs to move along with their lives. My clients are very, very nice people and very remorseful."

Since the teen's death, Cal-OSHA has ramped up enforcement of heat regulations and offered training to farm employers and contractors, said Len Welsh, the agency's chief. The number of heat-related fatalities was three in 2008, including Maria Isavel, none in 2009 and one in 2010. The agency also shut down about 20 agricultural employers.

"If we find them without water, shade or training, we will shut them down," Welsh said.

Lester Fleming, who prosecuted Maria Isavel's case, said he agreed to the plea bargain because trying the case would likely yield the same result. It was hard to find witnesses to testify, he said, because most farmworkers are not English speakers and many are in the country illegally.

"From our point of view, the fact that we even prosecuted it is a big thing," Fleming said. "We see that as a stepping stone. A felony is not a good thing to have on your record. And that contractor will never be able to do farm work again."

Michael Vitiello, a professor at McGeorge School of Law in Sacramento, said it is rare in any industry for an employer to be prosecuted criminally for a worker's death, because proving gross negligence is very difficult.

Maria Isavel was buried in her hometown cemetery, wearing the dress intended for her wedding.

"She didn't deserve to die," her mother said. #