

'Unheard-of' Plea

Convict Asks To Risk Death

By Stephen Cook

In an unusual legal maneuver, the lawyer for a San Quentin prisoner accused of stabbing another inmate has demanded that his client go to trial under threat of the death penalty.

The move was made yesterday by Douglas Vaughn, attorney for convicted armed robber Luis Talamantez, 28, who is awaiting trial on a charge of stabbing fellow prisoner Gonsalvo Hernandez March 12, 1970.

Hernandez survived but since Talamantez already is serving a 10 year to life sentence, under the law the death penalty could be invoked if the defendant were convicted.

Waiver Repudiated

Marin Deputy District Attorney Joshua Thomas moved to waive the death penalty in the case, but Vaughn and Talamantez immediately objected.

Thomas said he was "astounded" by the tactic. District Attorney Bruce Bales said today he also was stunned by the move, called it "unheard of" and added that he felt Vaughn had been "trifling with his client's life."

Judge E. Warren McGuire, who is sitting in the case, said he had never heard of such a legal ploy in all his years as a practicing attorney and as a judge.

He denied Vaughn's motion that the death penalty waiver be dropped.

Challenges

Vaughn, a court-appointed attorney, said one reason he wanted the possibility of the death penalty in the case was that it would give him 20 per-

emptory jury challenges. "If he (Thomas) had asked for the death penalty, we could have used it against him," he explained.

He added: "It's an assinine case."

Talamantez obviously supported his lawyer. "We insist on the (possibility of) the death penalty," he told the judge at one point.

In another case, Talamantez is one of six inmates who are awaiting trial on murder-conspiracy charges arising from the alleged breakout attempt at San Quentin last Aug. 21.

Three guards and three prisoners — including so-called "Soledad Brother" George Jackson — were killed that day.

Bumper Strips

Prison observers say that Talamantez apparently is attempting to assume a leadership role among the defendants in the breakout case. A Talamantez Defense Committee has been formed and "Free Talamantez" bumper strips have been distributed.

Thomas outlined several technical reasons for his decision to waive the death penalty in the stabbing case. Another factor, he said, was that the inmate who was attacked recovered.

He said the District Attorney's Office also wants to keep the stabbing case and the breakout case separate. He explained that if a death penalty hung over the first trial, then other defendants in the second case would have to be called as witnesses.