

Interview with attorney of 12-year-old charged with murder in Michigan

"This is a test case to try any child as an adult"

Tim Nichols
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The *World Socialist Web Site* interviewed William Lansat, the attorney for 12-year-old Nathaniel Abraham, one of the youngest children in the US to be tried as an adult for murder. Abraham's case is currently under way in Pontiac, Michigan. He is charged in the shooting of 18-year-old Ronnie Green, who died from a gunshot wound from a 22-caliber rifle. Nathaniel has admitted firing the gun, but denies aiming it at Green.

Many states in the US permit the prosecution of children as young as 14 as adults, but Michigan is the only state where children of any age can be placed in the adult criminal justice system.

The Michigan Court of Appeals has agreed to hear arguments by the prosecutor's office to determine if a confession statement obtained by the police from Abraham--thrown out as inadmissible in an earlier ruling--will be allowed during the court trial. The earlier ruling by Judge Eugene Moore of the Oakland Family Court followed evaluations by two psychologists who stated the 12-year-old had the learning and emotional abilities of a 6- to 8-year-old child.

Moore stated in his ruling that young Abraham could not have understood the meaning of his statements, 'or understood the consequences of what he said,' to the police. The confession was thrown out as well because the police did not inform Nathaniel's mother that he was facing murder charges.

The appeals process has pushed back the trial date. Nathaniel has been held in prison since late October 1997, and the trial could be delayed until the end of the year.

WSWS: What is the significance of this case?

Lansat: This is the test case for the Michigan statute which makes it possible for the state to try any child, no matter how young, as an adult. This statute also makes it possible, and even mandatory, for the state to give young offenders adult criminal sentences.

Until this statute became law in October of 1997, any child under the age of 14 would be treated as a juvenile. Prior to this law, there were two ways in which teenagers could be treated

as adults. The first was an automatic waiver of juvenile justice protections triggered by the nature of the offense, such as armed robbery and certain other specific violent crimes. The second was the judicial waiver in which the judge would decide that a certain individual should go to criminal court.

Now this thing comes along. In actuality it targets children younger than 14 because they already had the automatic waiver provision for those 14 and over. Furthermore, the child will no longer have the chance to be sentenced as a juvenile would be. The legislature has taken away from the judges the ability to sentence a delinquent to a juvenile facility.

Traditionally, the juvenile courts in Michigan never had the option of sentencing any juvenile as an adult. Under the doctrine of *Parens Patriae*, the court took on the role of the child's parents, which is protecting and guiding as opposed to executing a sentence. But as of January 1, 1998, the legislature removed these functions from Probate court and put them into Circuit Court in what is now called the Family Division. In my opinion, this violates the Michigan constitution because it eliminates the constitutional separation between the Circuit Court and Probate Court without a constitutional amendment.

Children charged with capital crimes are now assigned to a regular court that has criminal jurisdiction where judges can impose criminal sentences.

The trick in this statute is that if you are convicted, the court can (1) treat you as a juvenile, (2) treat you as an adult, or (3) delay sentence until you are 19 or 20. If the sentence is delayed and during the period of delay between trial and sentencing, you are convicted of a felony, then the Family Court judge has no option but to impose the criminal sentence required by the original conviction.

The truth is that Nate Abraham is barely functioning as a child, let alone as an adult.

WSWS: Is it constitutionally permissible to treat an 11-year-old as an adult?

Lansat: We had to make an argument to a court that did not agree with us that this is not an adult. This statute is not going

to make him an adult. What triggers this statute is the nature of the offense, not the nature of the offender. The prosecutor can mandate a criminal process simply on the basis of the charge, without any guidelines, or a hearing.

WSWS: Could you explain your motion to quash?

Lansat: Judge Silver made a mistake. The elements of first degree murder were not met. When you think of premeditation and deliberation, the defendant knows the victim, stalks the victim, plans the crime. That is not what happened. To be guilty of first-degree murder, you have to have thought and planning, preparation, as well as deliberate execution of the crime. These are the necessary elements of first degree murder: facts about how and what the defendant did before the killing, his planning, his motive, facts about how the killing was done that lead the jury to infer a motive.

WSWS: What is the legal concept of intent, and how does it apply to Nathaniel Abraham?

Lansat: Specific intent means that you actually and knowingly intend a specific result. They are saying that this child deliberately planned to carry out this murder. There is a serious question as to his capacity for planning. In the statement that the prosecutor attempted unsuccessfully to use as a confession, Nathaniel states plainly that he was shooting at trees, not at people.

WSWS: Why are you challenging the due process implications of the law applied in this case?

Lansat: There was no hearing in the determination to treat him as an adult. There are no guidelines for the prosecutor, nothing. The only safeguards take effect during sentencing, and I've explained how tricky that can be.

WSWS: What is the legal responsibility of the state with regard to youth?

Lansat: Under the doctrine of *Parens Patriae*, the court is given a protective role, as opposed to the executive role it takes in relation to adults. You have abused kids who have no real parents. The court takes on that role. The court had that duty to help the child, even in a delinquency setting. Jail was never an option in Michigan. This is still the rule in most states.

I see a trend now that looking out for the best interests of the kids is going to go by the wayside. From a public policy perspective, I ask: 'Is this really the way we want to go?'

At what age are we going to draw the line? The US Supreme Court has said that you cannot execute anyone 15 years old, or younger.

WSWS: Please explain the legal difference between youth and adults.

Lansat: The legislature is constantly seeking restrictions on youth, but when they want to impose criminal prosecutions they see no contradiction. From everything that has been admitted into evidence, it's mind-boggling that we had to argue before a court of law to tell the court and the prosecutor that this is not an adult.

In the beginning, kids were slaves. The first juvenile court

came into existence in Chicago a hundred years ago. Only then did we begin to realize that we needed to protect children.

WSWS: In relation to educational services for the learning-impaired and local mental health services, how do the recent policy shifts impact on Nathaniel Abraham's case?

Lansat: What mental health services? Clinton Valley Hospital was closed. We are seeing more and more underlying mental health problems coupled with juvenile delinquency. We are very limited with these kids. Nathaniel has never had the treatment he should get. His mother tried to get help. This is the biggest problem we have. We simply don't have any way of treating these kids.

WSWS: Who is responsible for providing mental health services for children?

Lansat: Fairlawn was closed and that was for kids. There are some deeply troubled kids out there. You've got to separate those from the kids who go out joy riding.

It does go to the heart and soul of what you are going to do with delinquents. We are saying: 'Wait a minute. This is a kid. Are you going to impose draconian forms of punishment which never were contemplated before?'

WSWS: Why is the trial taking place? Is it fair to say that the state is looking for a scapegoat to blame for its failure to provide for the next generation?

Lansat: I think there is an outcry based upon the perception that 11 and 10 year olds are doing this type of crime. If it happened every day you would not have publicity on this. I don't know what they are trying to target with this case. Calling for a crackdown on young people is an easy position to take politically.

No one is condoning what happened to the victim and his family. It is a terrible tragedy.

See Also:

The case of Nathaniel Abraham: background to the prosecution of a child for murder

[2 July 1998]

Prosecutors, media distorted case against Chicago boys charged with murder

[15 August 1998]



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