Justices hostile to lawyer for 12 year old charged with murder

Appeals court hearing on Nathaniel Abraham confession

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A three-judge panel of the Michigan State Court of Appeals heard arguments last week on the admissibility of a confession obtained by Pontiac police from Nathaniel Abraham, the 12-year-old boy who is one of the youngest children in the US to be charged as an adult for murder.

Last May Probate Court Judge Eugene Moore threw out the confession on the grounds that Nathaniel could not have understood that he was waiving his Miranda rights while he was in the custody of the police. Two psychologists determined that Nathaniel had learning and emotional disabilities that allowed him to function only at the level of a child of six to eight years old. When Nathaniel was asked by his attorney during testimony before Moore if he understood what the right to remain silent was, he replied, "Can't go no where?"

Police obtained the confession in the shooting of 18-year-old Ronnie Green after picking up Nathaniel from school. They told him they wanted to question him about a gun. "[The detective] never told him that he was a suspect in a murder case," Moore wrote in his ruling. "The mother stated up front that if she had known he was a suspect in a murder case, she would never have signed the Miranda form."

Nathaniel's ability to understand he was waiving his Miranda rights--his right to remain silent, or have a lawyer present during questioning--was the central issue of dispute at the appeals hearing. Oakland County Assistant Prosecutor John Pallas maintained that despite an IQ of 78, Abraham had demonstrated intelligence by giving four different versions of the shooting to the police, only one of which was taped.

At the Appeals Court session, two of three judges, Joel Hoekstra and Peter O'Connell, expressed open support for the prosecution in regard to the rights of the mentally impaired child. Hoekstra said he was troubled by the four versions the prosecutor said Abraham gave the police.

O'Connell upbraided Abraham's lawyer William Lansat in the most acid manner, saying it didn't matter that the young boy did not know the consequences of talking to the police or why he was interviewed. "We have already established that knowing the consequences is not a factor," the judge said.

O'Connell particularly attacked the notion that a defendant had the right to clearly understand his rights when interrogated by the police, even if we are speaking of a child with learning disabilities. In an exchange with Lansat, O'Connell said, "You said that he did not know clearly what the words meant. Well, that indicates that he knew what the words meant but that he wasn't 100 percent, absolutely positive he knew what the words meant. There are no requirements that a person clearly understand what is meant."

At the end of the session O'Connell again attacked the notion that a defendant had the right to clearly understand his rights. "The problem with the word 'clearly'," stated O'Connell, "is I am of the opinion that when it comes to legal explanations to lay people that we can't clearly explain those invocations or those words."

Lansat opposed this view, explaining that "clearly understanding" your rights is the law, and adding that the police were not honest about their questioning when they did not tell the child and his mother they were being questioned about a shooting death and not just about a gun.

Following the hearing Lansat, obviously upset about

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the conduct of the appeals court judges, was asked by this reporter about their dismissive interpretation of the Miranda rule requiring the defendant to clearly understand his rights. "It appears to be that way," said Lansat, "but that is not the law. You have to have an understanding and ability to understand what you are waiving."

Relatives of Nathaniel, also present at the hearing, spoke to the *WSWS*. Tommy Williams, Nathaniel's grandfather, said, "Why would they take him to the crime scene after the interview at the police station instead of taking him directly to Children's Village?" Indicating that the police engaged in heavy-handed intimidation of the child, he said, "There are a lot of things that have happened that have not been brought out."

Gloria Abraham, Nathaniel's mother, also became the object of attack during the hearing. Judge Hoekstra all but accused her of negligence for not stopping the police interrogation if she felt it was wrong. Ms. Abraham told the *WSWS* after the hearing that she was never told the interview was about a murder. "They should have told me this about murder when I first came in. I had to ask. It wasn't until different aspects of the story began to be pieced together that I asked, 'Did someone get killed?' That was already very late into the interview."

The Michigan Court of Appeals is expected to take as long as a month to decide on the admissibility of the police confession, a critical piece of evidence the prosecutors want reinstated before the case goes to trial sometime this year. Nathaniel Abraham is the first child to be charged under the newly passed Juvenile Justice Reform Act, sponsored by Republican Governor John Engler, which allows children to be tried as adults. If convicted he faces the possibility of imprisonment for life.

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