

Michigan prosecutes 13-year-old as an adult

Closing arguments due in murder trial of Nathaniel Abraham

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10 November 1999

The defense in the Nathaniel Abraham trial rested its case yesterday, and closing arguments are expected today. Abraham is on trial in Pontiac, Michigan, charged with first-degree murder in the October 29, 1997 shooting death of Ronnie Greene. He is also accused of assault with intent to murder Michael Hudack.

Under a 1997 Michigan law, which allows children of any age to be prosecuted as adults for serious and violent offenses, Nathaniel has been charged as an adult and could be sentenced to life in prison if convicted. Eleven years old at the time of the shooting, he is the youngest child in the US to face prosecution as an adult for first-degree murder.

In the prosecution phase of the trial Abraham's defense team, headed by attorney Geoffrey Fieger, effectively exposed the prosecution's inability to prove a motive, intent, or to put forward any physical evidence to substantiate their claims that Nathaniel Abraham deliberately set out to kill Ronnie Greene. The defense has not denied that Nathaniel shot the bullet that killed Greene, but maintains that his death was the accidental outcome of Nathaniel shooting at a cluster of trees.

The defense began putting forward its case last Thursday. Fieger called a number of witnesses to bolster his contention that Nathaniel—who had the mental capacities of a six- to eight-year-old at the time of the shooting—could not have formed the necessary intent to deliberately execute such a crime.

Most commentators, including those from Court TV, which has been broadcasting live from the trial, concurred that the prosecution made little headway in countering the defense's case.

The defense began by taking the jury to the scene of the shooting outside a Pontiac convenience store. They were shown the spot where Nathaniel was standing at the time of the shooting, more than 200 feet away from the victim—with a cluster of trees obstructing his view—making it next to impossible for the 4-foot 8-inch child to see Greene.

The jury was also able to view the area around the houses of both Nathaniel and his neighbor Michael Hudack. The prosecution has charged that Nathaniel attempted to shoot Hudack as he stood on his porch earlier on the evening of October 29, 1997, and failing to do so, carried out the shooting of Greene later that night to satisfy his desire to "kill somebody." The narrow space through which a bullet fired from Nathaniel's backyard would have to pass to hit Hudack makes it highly unlikely that Nathaniel could have taken aim at his neighbor.

In the course of four days of testimony the defense called a series of witnesses to substantiate their case, including mental health professionals, a forensic pathologist and other physicians, as well as an expert marksman. The prosecution chose to not even challenge a number of the defense witnesses, claiming they had already "proven their case."

Dr. Gerald Shiener, a forensic psychiatrist, explained that an 11-year-old child—let alone one functioning at the level of a 6- to 8-year-old—is incapable of forming intent, based both upon his mental state and the physical development of his brain. (*See Forensic psychiatrist speaks on the Abraham case*: "When Nathaniel needed a system there was no system there for him")

Other witnesses who testified to Nathaniel's mental state included psychologist Michael Abramsky who said the child, with an IQ of 75, did not have the mental capability to form intent. Psychiatrist Kathleen Sullivan compared Abraham to a "lost puppy" who asked her following her interview whether she could help him get out of detention at Children's Village, the juvenile facility where he is being held.

World skeet-shooting champion Elmer Magyar testified that the weapon fired by Nathaniel was in such poor shape that it was nearly impossible to aim it and hit a target. The 30-year-old .22 caliber rifle did not have a stock, and the end of the barrel was damaged. "If I could hit a target like that one in a thousand tries, I would be amazed," Magyar said,

adding that nighttime conditions would make it "nearly impossible."

Dr. Werner Spitz, a world-renowned forensic pathologist, testified regarding the shot that hit Ronnie Greene that "the trajectory of the bullet was undoubtedly downward," indicating that the bullet most likely hit a tree and ricocheted down towards the victim. Spitz examined Greene's x-rays and CAT scans as well as the scene of the shooting. Placing an x-ray of Greene's skull on a light table, he explained how the bullet struck the right side of the top of the head, one inch above the hairline, and ended at the back of the skull at a 90-degree angle.

In cross examination of Spitz, prosecutor Lisa Halushka attempted to dispute the contention that the bullet had come from above, suggesting that perhaps Greene had been bending down or tying his shoes when he was struck in the head.

This theory was dismissed by the testimony of Dr. Peter Fragatos, chief of trauma surgery at Pontiac Osteopathic Hospital, who treated Greene after the shooting. He said that based upon the 90-degree angle of the bullet as it entered the victim's head, that it must have come from above, while Greene was standing upright. The bullet had entered the brain and gone directly to the stem, the back part of the brain above the neck. He said that if Greene had been bending over, the bullet would have passed through the head in a straight line rather than landing in the brain stem.

Fragatos is named in Ronnie Greene's medical report as the treating physician. Nevertheless, as Fieger was able to establish in his questioning of Fragatos, he was never interviewed by the prosecution as part of their investigation.

The trial has shown that there is no evidentiary basis to support the prosecution's charge of first-degree murder. It has underscored the fact that the prosecution seized on the shooting of Greene as an opportunity to set a precedent and legitimize the 1997 Michigan law. The state began with a politically motivated intention of railroading an 11-year-old to prison on a murder charge, and then set about to concoct a case in accordance with this aim.

The Nathaniel Abraham case has generated a considerable amount of national interest. Last Sunday evening CBS television broadcast a segment on the case as part of its "60 Minutes" new magazine, the effect of which was undoubtedly damaging to the prosecution.

Reporter Ed Bradley interviewed Nathaniel, who clearly came across as a confused and troubled child. Asked what it means when someone is read their Miranda rights, he replied that it meant "you were being arrested." When asked if he knew what rights were, he replied, "Not particularly."

Oakland County Prosecutor David Gorcyca, who made the decision to prosecute Nathaniel as an adult, told Bradley that

Nathaniel "was intent on killing somebody, he didn't care who it was." He went on to justify prosecuting an 11-year-old as an adult for murder with the assertion that his four-year-old twins knew the difference between right and wrong.

When asked whether he thought Nathaniel was being judged by a jury of his peers, as guaranteed by the US Constitution, Gorcyca admitted, "No, not a true group of his peers."

Bradley also interviewed Michigan State Senator William Van Regenmorter, the author of the law which allows the prosecution of juveniles as adults. An exchange with Regenmorter provided a chilling indication of the political reaction and outright cruelty that underlies this law and the campaign to criminalize the youth.

When Bradley asked him: "This law could apply to someone who's 11, 10, 7?" a sneering Regenmorter emphatically replied: "Yes." He said that in regard to some children, "whether they are rehabilitatable is secondary to the extreme danger that they represent."

An issue that has emerged out of the trial proceedings is the complete lack of mental health and other social services for troubled and deprived youth and their families. It has exposed the extremely cruel way in which this society treats its children.

The emergence of this issue, compounded by the evident hollowness of the prosecution's case, has raised concerns among the political and media establishment in Michigan. This was indicated in an editorial published by the *Detroit Free Press* last Saturday entitled, "Nate Abraham: Too bad the system can't be on trial, too," in which it wrote that "the adult charges filed against Nathaniel Abraham will haunt Michigan for years to come." It called attention to the lack of help available to the child, commenting, "Nate is a child who needed, and still needs, a whole spectrum of juvenile services."

Comments posted to a Court TV message board are no doubt representative of the feelings of many as they follow the trial, with the overwhelming majority of postings rejecting the prosecution's case. One woman wrote: "I have a five-year-old. If he got his hands on a gun (God forbid) and accidentally shot someone, would he be tried as an adult? People, where will this end? This is 1999 in the USA!... Nate Abraham is a child! He may need help, but he definitely does not need to be sitting in a courtroom being tried as an adult!"



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