



## Accused King shooter to be tried as adult

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Fourteen-year-old Brandon McInerney, the accused slayer of 15-year-old gay classmate Lawrence King, will be tried as an adult, a Ventura County, Calif. judge ruled Thursday.

Superior Court Judge Douglas Daily denied a defense motion to transfer the case to juvenile court on constitutional grounds.

McInerney's arraignment, also set for Thursday, was postponed to Aug. 8 to let his attorney seek immediate appeal of the ruling that means McInerney, if convicted and given the maximum sentence, would be sent up for 51 years to life.

Witnesses say McInerney shot King in the head Feb. 12 during first period in a packed classroom at E.O. Green Junior High School in Oxnard, a blue-collar port city of 200,000 about 60 miles north of Los Angeles.

McInerney was charged as an adult with premeditated murder with a special hate-crime allegation under Prop. 21, a controversial 2000 law enacted by ballot initiative that affords district attorneys more or less unfettered discretion to try juveniles as young as 14 as adults for certain felonies.

The motion to try McInerney as a juvenile rested on the argument that charging "Brandon as an adult to result in a 51 [years]-to-life sentence [would be] cruel and unusual punishment" under the Eighth Amendment to the U.S. Constitution.

His attorney, Senior Deputy Public Defender William Quest, acknowledged in June that previous challenges to Prop. 21 had failed, but said none had been based on Eighth Amendment grounds.

At Thursday's hearing, Quest contended that, if McInerney were convicted, the judge would be required to impose the 51-to-life sentence and would not be permitted to take into account mitigating circumstances such as "what was going on in [McInerney's] life" or the victim's conduct.

"You are in effect neutered by the law," Quest told the judge. Quest argued that, while this might be permissible with adult defendants, it constitutes cruel and unusual punishment when applied to a juvenile.

Before the hearing, Senior Deputy District Attorney Maeve Fox, who is prosecuting the case, told The Advocate that Quest's chances were "slim to none" and that the issues it raised "have all been ironed out" in previous cases.

In court, Fox said, "The law doesn't allow murder at any age." She contended it would be inappropriate for the court to make any decision based on McInerney's alleged "special circumstances" before any evidence had even been taken in the case.

Daily agreed and denied the motion, expressly holding Prop. 21 constitutional.

Fox's decision to charge McInerney as an adult has been controversial, even among LGBTs.

In a widely reported April letter to district attorney Greg Totten, more than 20 LGBT groups, including Lambda Legal, the National Center for Lesbian Rights, the Transgender Law Center, the Los Angeles Gay & Lesbian Center and the **National Gay and Lesbian Task Force**, call on prosecutors "not to compound this tragedy with another wrong."

Fox adamantly defends the decision. "Do you want [McInerney] living next door to you at 21?" she asked The Advocate.

"When you were 14, when you were 10, when you were 8, did you know it was wrong to kill someone? The answer inevitably is yes.

"And I understand that he's 14, but for someone, at that age, to premeditate and deliberate this kind of crime and pull it off in front of their entire class I think is cause for serious alarm. And I understand that people are compassionate towards him, and I am compassionate towards him, and I don't necessarily think he should spend the entirety of his life behind bars, but he should spend a good long time behind bars."

Fox has pointed out that 14- and 15-year-olds can't receive life without parole in California, meaning McInerney could be freed at some point even if given the maximum sentence.

Quest sees the issue differently. "If you ask a 10-year-old, 'Is it wrong to steal?' typically they'll say yes," he said. "But . . . let's say they're at a store and they may have these urges [and] they don't think it through, they don't have the ability to go through a cost-benefit analysis that you do as you get older. And so it's kind of like hot-and-cold cognition, and there's a lot of research on that.

"If you ask them while they're eating breakfast, in a very calm situation, 'Right or wrong?' generally kids can say that. Obviously, is murder wrong? Yes. But in a hot situation . . . the emotional and physical capacity to think things [through] clearly is limited when you're an adolescent. Therefore, you have diminished culpability."

Asked how McInerney's having allegedly premeditated King's murder by bringing a gun from home to school squared with notions of "hot and cold cognition," Quest responded, "Obviously I'm going to have to defend this case if we go in adult court. And how I do that, I don't want to get into it. . . . It's going to be a difficult case within the laws that govern adults."

An Aug. 11 hearing is scheduled on Quest's bid to obtain King's records from the school and from Casa Pacifica, a residential facility for troubled children where King was living at the time of the murder.