

✓ CAPITOLA MALL MURDER 4-3-91 LB SSM

# Slaying at mall ruled first-degree murder

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A Santa Cruz County Superior Court judge Tuesday found 18-year-old Christopher McCarthy guilty of first-degree murder in connection with the killing of an elderly woman last August outside the Capitola Mall.

Ending a hearing in juvenile court, Judge Thomas Black sided with District

Attorney Art Danner, who has argued for months that McCarthy bludgeoned to death Emily Shaw, 78, during a failed robbery attempt.

The Capitola teen-ager's attorneys had argued for a second-degree murder conviction on the grounds that McCarthy



McCarthy

did not plan the crime but rather snapped emotionally during an argument with Shaw.

Defense witnesses at several hearings have said McCarthy had only intended to vandalize Shaw's Honda but he lost control. The attack was not a premeditated act, they said.

But Danner discounted that testimony by focusing on coroner's reports that showed Shaw was struck from behind with

a piece of firewood.

Because McCarthy had admitted the crime months ago, Monday's decision was little more than a technical addendum, rather than the climax of a trial. The turning point in the case came March 1, when Black ruled that McCarthy — a suicidal and mentally unbalanced teen-ager with no prior police record — would be tried in juvenile, rather than adult court.

That decision ensured that the maximum sentence McCarthy could serve would be confinement in a California Youth Authority camp until his 25th birthday, rather than life in state prison.

After losing at that key juncture, prosecutors sought this week to pin a first-degree murder conviction on McCarthy to ensure he would not be released early for good behavior.