

## Case 9

Patrick O' Neal Kennedy was sentenced to death by Louisiana courts in August 2003 because he raped his eight-year old step-daughter on March 2, 1998. Mr. Kennedy's conviction was based on the 1997 revised statute 14:42, by which the state legislature made capital the crime of aggravated rape of a child under the age of 12. Under these circumstances, the jury may award one of 2 possible punishments: the death penalty or life imprisonment at hard labor without the possibility of parole. In Mr. Kennedy's case, the jury, deeming the circumstances of the crime especially heinous and having heard additional testimony from another victim also raped by the defendant 14 years ago, returned with a death sentence.

The last rape-related execution in the United States occurred in 1964. In 1972, the death penalty was suspended and although it was reinstated by the U.S. Supreme Court in 1976, there have been no executions for crimes that do not involve killings since then. Statistical analysis for rape-related crimes dating back to 1608 calculates 947 executions, 588 of which took place from 1909-1991. 89% of the executed men were black, sentenced for the rape of white women.

Rape is not the only crime not causing a victim's death for which various states provide the death penalty. Other capital crimes include drug trafficking, treason and airplane hijacking. In 1977, however, the U.S. Supreme Court ruled the execution in cases of rape of adult women as unconstitutional claiming that "life is over for the victim of the murderer; for the rape victim, life may not be nearly so happy as it was, but it is not over and normally is not beyond repair". The Court's opinion was based on the 8<sup>th</sup> Amendment of the Constitution, which prohibits "excessive and unusual punishments". While legal experts predict that the Louisiana Supreme Court will uphold Mr. Kennedy's conviction, the case is expected to land on the U.S. Supreme Court's docket sooner rather than later.

© Association for Practical and Professional Ethics 2004