

Justices will review executing child rapists

Though 45 states ban execution for any kind of rape, 5 allow it for child rapists.

Mark Sherman | The Associated Press
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WASHINGTON - The Supreme Court agreed Friday to decide whether a state can execute someone convicted of raping a child, one of the few remaining crimes that does not require the death of the victim to result in capital punishment.

Patrick Kennedy, 43, was sentenced to death for the rape of his 8-year-old stepdaughter in Louisiana.

He is one of two people in the United States, both in Louisiana, who have been condemned to death for a rape that was not also accompanied by a killing.

The Supreme Court banned executions for rape in 1977 in a case in which the victim was an adult woman.

Kennedy's lawyers say the death penalty for child rape violates the Eighth Amendment protection against cruel and unusual punishment.

The justices were scheduled to hear arguments in the case in April.

The last executions for rape or any other crime that did not include a victim's death were in 1964.

Forty-five states ban the death penalty for any kind of rape, and the other five states allow it for child rapists.

Kennedy's case is the only time a state has sought to execute someone. Montana, Oklahoma, South Carolina and Texas allow executions in such cases.

The child-rape case is the second capital-punishment case from Louisiana this term at the Supreme Court. The justices already are considering whether a prosecutor improperly excluded blacks from a jury and then inflamed the all-white panel with references to the O.J. Simpson case.

Kennedy was convicted in 2003 of raping his stepdaughter at their home in suburban

New Orleans. The girl initially told police she was sorting Girl Scout cookies in the garage when two boys assaulted her.

Police arrested Kennedy a couple of weeks after the March 1998 rape, but more than 20 months passed before the girl identified him as her attacker.

His defense attorney at the time argued that blood testing was inconclusive and that the victim was pressured to change her story.

Kennedy's Supreme Court lawyers also pointed out that Kennedy is black and that nearly 90 percent of people executed for rape in the United States were black.

Last month, jurors in Caddo Parish, which includes Shreveport, sentenced Richard Davis, 35, to death for repeatedly raping a 5-year-old girl.