

Free research paper about capital punishment kennedy v. louisiana

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The case is between Kennedy v. Louisiana when Kennedy raped a child who was lucky enough to be alive. Kennedy happened to rape his own step daughter which led him to being sentenced to death. Kennedy, the petitioner had just got home but found out that the daughter had been raped and decided to call the police. He narrates the story that he had escorted his son to school only to find his daughter in the yard bleeding. He goes ahead to reveal his perceived suspects who were two boys who were just from around their residence (Melusky, Joseph, and Keith 96). The police had to rush the victim to the hospital for the medical attention where it was affirmed by the health professionals that she had been sexually harassed to prevent the bleeding. However, the petitioner had already interfered with the evidence as he had already wiped the blood from the girl. The court had the obligation to deliver a sound judgment based on the case presented.

The judges from the Louisiana court passed that; molesting a minor needed capital punishment to both deter and serve as a lesson to the potential rapists. The constitution had outlined the rights that children were entitled to. The adults were the ones who were supposed to protect the children but Kennedy happened to do totally the opposite. Nevertheless, Kennedy felt that the punishment was very harsh for him and he opted to file a petition against the Supreme Court citing that the judges had violated his rights. He based his argument on the eighth amendment that prohibited capital punishment for the rape offenders. After several investigations, the police confirmed that the petitioner was indeed the one who had defiled the child. The issues presented before the court was; that the eighth amendment barred the Louisiana Supreme Court from delivering such a judgment. The

nation was also not in support of capital punishments for the sex offenders as they perceived that it was too much for them. Upon the challenge of its sentence, the judges further argued that they the Supreme Court was an independent body hence the freedom to deliver the rulings in all the cases presented to them (Melusky, Joseph, and Keith 128). It had been difficult for the court to determine who the real offender was due to the conflicting statements given by both the girl and the petitioner. The girl kept on insisting that the dad did not defile her. But relying on their expertise in the investigation department, they applied their skills and at the end, they discovered the rapist.

Nevertheless, it became easy for the court to determine whether the perpetrator had committed the heinous act. In close examination on the petitioner's evidence, they noted a lot of inconsistency that created the urge in them to dig deeper only to realize that he was the one who had assaulted the girl. There was a lot of evidence that convinced the police that the act had not taken place at the yard as earlier cited for instance, the mattress where the girl lied on was soaked in blood. It was also unclear where the petitioner was at the time of rape bearing in mind that he had already informed his employer that he would not be available at work that day (Melusky, Joseph, and Keith 274). The phone conversation also directed to him as he had earlier asked one of his colleagues on how to remove blood from a white carpet so as to erase all the possible evidence that would point fingers at him.

It is this reason why the judges convicted Kennedy of aggregated rape since he had really damaged the girl's reproductive organs. The judges delivered

their judgment citing that the victim was a minor and that it was against her consensus. However, the sexual assaulters would be convicted of life imprisonment but since it was a special case that involved a minor who was below the age of twelve years, the court provided for capital punishment. The judges cited that the perpetrator deserved more than what he got. They acknowledged that the act was a heinous one, and that he deserved something worse than that had there been any. However, when challenged by the high court, the Supreme Court argues in its defense, that the case that Kennedy was relying on involved rape of an adult and not a child as it was in his case (Melusky, Joseph, and Keith 293). There was a very big difference between adults being assaulted and the children. Children are generally weak and, therefore, cannot defend themselves from any danger. Capital punishments would only be narrowed to the offenders who would commit slim categories of the serious crimes. This was because; the judges did not want to create a rift between the public and the courts as it would affect the confidence the public had upon them. However, the Supreme Court could rely on a previous judgment involving a case of the same nature but the courts had the responsibility to alter the ruling to suit the case at hand. For instance, in the case of *Roper v. Atkins* where the parties were retarded people, the judgment of death was not appropriate since; it would have been professed as a violation of the fourth amendment provision. Death punishments were always imposed on the persons who committed murder, but in our case the girl did not die adding more dilemmas to the ruling. Nonetheless, in cases where the convicts contributed in the murder of a person in one way or another, the court would base its rulings on the

objective indicia of humanity's standards (Melusky, Joseph, and Keith 156).

The high court ruled out the Supreme Court's judgment despite the being an independent organ in the government. Hence, it was necessary for the Supreme Court to look keenly into the matter to be able to pass a fair judgment on Kennedy.

The judge's came into a conclusion after several deliberations in the court. Kennedy, the petitioner's rights had been being violated as death punishment would only be adopted where it had occurred. Kennedy did not contemplate on killing of his step daughter hence; the death sentence would not be applicable in his case. The punishment was cruel and unusual thus the necessity to revise for it to fit the constitutional terms and provisions.

The high court recommended the revision of the death sentence to something else. The high court judges seemed to act in favor of Kennedy to have his sentence revised by the Supreme Court as they had acted unconstitutionally. The Supreme Court acted in conformity with other six states that were in in agreement of death sentence to anyone who violated children. At last, the Supreme Court came into agreement that the eighth amendment had barred them from imposing such a penalty on a sexual perpetrator where the child did not die (Melusky, Joseph, and Keith 305). To be sentenced to death, the other states required the perpetrator to have previously committed rape or any heinous act. At the end, Kennedy was granted life imprisonment without bail by the district court.

However, the penalty passed on Kennedy would be just to the offended but in real life, the judgment was too harsh in the human race especially then that the girl had not died. The harsh penalties should never be passed on the

first time committers as one should first be warned imposing a heavy penalty on them before the capital punishment. I would suggest that it was better if Kennedy was sentenced to serve life imprisonment in jail rather than facing death. The Supreme Court would be providing justice to the child who had been defiled but they should also consider equality in both parties.

Sentencing to death would not solve the problem and neither was it a fair hearing since everyone has the right to life.

Being human enough, it was really hard for someone to wish the other dead.

Therefore, if the judges had upheld their previous ruling, it would have negatively affected the society at large but, the rape cases would have reduced drastically since the victims knew what the judgments would be.

The victims would also fear to be alienated from the society by being stereotyped as the wicked ones who could never forgive and forget. They would suffer rejection from within the communities which would further implicate on their health issues besides the rape. Conflicts would also arise between the family members and the friends of both the perpetrator and the victim (Melusky, Joseph, and Keith 340). They would prime to an upsurge of hatred, grudge and revenge among the people to the extent of even killing or raping the victim again. Therefore, the death sentence would have caused more harm than relief to the victim and the society. Everyone deserves a second chance for instance, some of the communities decided that the perpetrators be secluded from the community as a way of keeping them off from the wrath of the victim's families and the friends.

The death sentence would instill fear on people, thus most of the rape cases would go unreported to the authorities. In return, the rape cases would

increase as the victims would not dare to report the case to the authorities especially if no death occurred, it would be hard for the parties to forward the case to the police or they would interfere with the judgment as a way of preventing the perpetrator from the cruel sentence. The Supreme Court might have thought that they are defending the victim while in real sense they would be hurting them. Therefore, death sentence would not have been an operational way to deal with rape cases. On the contrary, it seemed to be in support of the act as people would be compelled to not reporting the case to avoid all the attention from the community. There is no way death sentence would be comparative to rape.

Rather than being of help to the society, it instigated and cultivated hatred which again is against the ethics of the lawyers and judges profession. It tainted their public image of being fair and reasonable to being the merciless ones with no human heart. The sentence would erode the connectivity and respect they shared with the public, thus restraining their work. The public would develop a negative attitude against them making it hard for them to get evidence from the people in times of crisis as it would become hard to convict a law offender without evidence from the people leading to them becoming irrelevant in their job (Melusky, Joseph, and Keith 206).

It was against the society morals to rape someone and at the same time it was immoral to have them killed. The morals of the society seemed to conflict at some point. They advocated for justice to prevail and at the same time dictating that death penalty was extreme. It brought a lot of confusion on how people should behave in occurrence of such cases. The morals were tight and anyone who would violate them would face serious consequences

from the community leaders thus so much tension. The decency of the human life had to prevail in such times. There is no way one could preach water and drink wine hence compelling the society to not approve the death penalty as they were against any type of murder (Melusky, Joseph, and Keith 168). The community argued that the death penalty would deprive dignity to the criminals, something that was not acceptable in the community rules. More conflict arose as the people were divided between the dignity of the victims and that of the perpetrators.

The moral issue would have acted in favor of the criminals as it would have encouraged them to conduct the heinous act as it would not be punishable by the society giving a reprieve to them. The community seemed to applaud the act in the name of the society morals at the expense of the victim's justice. However, is it really justifiable to deny the victims' justice due to the dignity of the perpetrators who seemed not to be concerned of the dignity others? The community might have failed in some part because; it fails to draw the line between the effects of rape and the prevalence of justice. The community was supposed to offer the moral support to the victims by ensuring that the perpetrators were brought to book but this is not the case (Melusky, Joseph, and Keith 264). Bearing in mind that rape was a psychosomatic, emotive and physical in nature, the community ought to have looked into the matter with the plights of the victims in mind. It would have helped them in making sound decisions that would have been relied on in the future by the generations to follow.

The public opinion was deemed to be different from that of the Supreme Court since they termed the judgment as extreme. They admitted that the

criminals deserved to be punished but not with death sentence. The social and political consequences were diverse. The politicians argued that the act deserved to be treated with some degree of humanity. However bad the act was, they stated that death was applicable. For example, president Obama condemned the high court of acting the way they did in demanding the supreme court to review their judgment . John Mc Cain seconded president Obama's sentiments stating that it was unfortunate to see those who should be delivering fair justice would term the ruling undeserved. President Obama said that the Supreme Court had not in any way violated the constitution hence conflicting with the society members who believed that the judgment was unfair.

Nevertheless, rape cases should be handled with a lot of care as a way of protecting the victims. Despite the death sentence being the ultimate penalty, the humanitarian organizations should consider creating awareness on how the adults should protect the children. The environment should be well guarded to provide the security to the residents. The police should also be given adequate training to establish when a kid is undergoing some kind of trauma. They should find a calm way of associating with the adults especially the parents or the guardians when wanting to get details of the conditions of the children (Melusky, Joseph, and Keith 353). The children departments should also be involved in providing the necessary support to the victims. There should also be serious consequences for the children officers who receive bribes from the criminals to avoid bringing them to book. Corruption has turned out to be a vice that has denied justice to most of the victims especially when the rapist happens to be rich and the victim is

poor. The affluent people have an effect on the governance of the society due to their high social status. The victims are left at the mercies of their creator.

Work cited:

Melusky, Joseph A, and Keith A. Pesto. Capital Punishment. Santa Barbara, Calif: Greenwood, 2011. Print.