

SUPREME COURT OF LOUISIANA

No. 08-KA-1378

STATE OF LOUISIANA

v.

RICHARD L. DAVIS

Appeal from the First Judicial District Court
Parish of Caddo
Honorable Scott J. Crichton, Judge

PER CURIAM:

Defendant has appealed to this Court from his conviction and sentence to death for the aggravated rape of a child under the age of 13 years. La.R.S. 14:42(D)(2)(a). The victim survived the sexual assault and testified at trial.

In light of the Supreme Court's holding in Kennedy v. Louisiana, ___ U.S. ___, ___, 128 S.Ct. 2641, 2659, 171 L.Ed.2d 929 (2008), that even in cases involving the rape of a child, "[a]s it relates to crimes against individuals . . . the death penalty should not be expanded to instances where the victim's life was not taken," we are constrained to set aside defendant's death sentence and to remand the case to the First Judicial District Court for the resentencing of defendant to life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. As this case will no longer be one in which a penalty of death has actually been imposed for purposes of this Court's appellate jurisdiction as a matter of La. Const. art. 5, § 5(D), the appeal shall then be lodged in the Second Circuit Court of Appeal.