



Rudolph v. Alabama (1963). Certiorari denied. DISSENT: Justice Goldberg / Douglas / Brennan...I would grant certiorari..to consider whether the Eighth and Fourteenth Amendments to the United States Constitution permit the imposition of the death penalty on a convicted rapist who has neither taken nor endangered human life.

The following questions seem relevant and worthy of argument and consideration:

- (1) In light of the trend both in this country and throughout the world against punishing rape by death, does the imposition of the death penalty by those States which retain it for rape violate "evolving standards of decency that mark the progress of our maturing society" or "standards of decency more or less universally accepted" ?
- (2) Is the taking of human life to protect a value other than human life consistent with the constitutional proscription against "punishments which by their excessive...severity are greatly disproportioned to the offenses charged"?
- (3) Can the permissible aims of punishment (*e.g.*, deterrence, isolation, rehabilitation) be achieved as effectively by punishing rape less severely than by death (*e.g.*, by life imprisonment); if so, does the imposition of the death penalty for rape constitute "unnecessary cruelty"?

