

Top court ruling 'inevitable': judge

Double-killer as minor will face gallows

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The Supreme Court upheld the death penalty Monday for a man convicted of strangling and then raping a young mother and murdering her 11-month-old daughter in 1999 in Yamaguchi Prefecture when he was 18.

The high-profile trial has sparked a lengthy legal debate over whether someone who committed such extremely cruel acts as a minor should be sent to the gallows. Initial lower court trials resulted in life imprisonment.

The top court's 1st Petty Bench, presided over by Justice Seishi Kanetsuki, branded the crime "very evil" and said hanging is "inevitable," as there was no room for leniency even though the defendant, Takayuki Otsuki, was a minor when he committed the crimes.

Otsuki, 30, was convicted of murdering and raping Yayoi Motomura, 23, and killing her baby daughter, Yuka, in Hikari, Yamaguchi Prefecture, on April 14, 1999.

Otsuki, who lived nearby, broke into the apartment of Hiroshi Motomura while he was away and strangled Motomura's wife and raped her, the Hiroshima High Court said, adding that he entered the dwelling intent on committing rape.

Otsuki was 18 years and one month old at the time of the crimes, thus his name was withheld because he was a minor. But with Monday's top court ruling, it has been made public.

The Juvenile Law stipulates that someone younger than 18 must not be sentenced to death, but with 20 being the age of majority, the way sentences are meted out to 18- and 19-year-old offenders tends to be controversial.

Motomura's husband, 35, has been urging capital punishment and has effectively been a public figure calling for a rethink of how the judicial system handles juvenile offenders.

"The death sentence was what I had demanded and therefore is satisfactory. But I don't feel glad. I just solemnly accept the outcome," the husband told reporters Monday.

"I believe judges weighed whether the defendant showed remorse or had the potential to be rehabilitated much more than merely considering that he was 18," Motomura said, adding he is not sure if age should be where the line is drawn between those sentenced to hang and those who are spared.

Otsuki's trial started before the Yamaguchi District Court, which sentenced him to life. The Hiroshima High Court upheld that sentence, but the Supreme Court in 2006 ordered a high court retrial, saying, "It cannot be said that the age at the time of the criminal act can be a deciding factor to avoid the death sentence."

In April 2008, the high court reversed itself and sentenced Otsuki to death, arguing at the time: "There is no reason to avoid capital punishment." Otsuki's counsel then appealed.

The Monday ruling will be finalized in 10 days unless Otsuki's attorneys file an appeal, which the top court can either reject or replace with a different ruling.

Other than Otsuki, five other people who were 18 or 19 when they committed murder have been sentenced to death, and one of them was hanged in 1997. The others are currently in prison.

Each of the five were convicted of killing more than two people.

Courts tend to equate the cruelty of the crimes with the number of victims. Thus Otsuki is the first one who was younger than 20 when he committed his crimes to get the death sentence for killing two people.

After the ruling, defense attorneys said the court made the wrong decision. "It is extremely unjust," they said in a statement.

The attorneys argued that Otsuki, who was abused as a child, tried to hug Yayoi Motomura, as he regarded her as a mother figure, but then he fatally overpowered her with his right hand, panicked and killed the baby. They said he had no intention to rape or kill.

Amnesty International official Teruo Hayashi said the group opposes the death sentence no matter what the age of the criminal is. "We understand the cruelty of the act and the feeling of next of kin. But we oppose the death sentence because it is against people's right to live," he said.

The Japan Times: Tuesday, Feb. 21, 2012

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