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TO

RE State of LA v. Patrick Kennedy  
SCt No. 2005-KA-1981

From

Martin A. Stern

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### MESSAGE

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TO: Jelpi P. Picou, Jr.  
G. Benjamin Cohen

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# ADAMS AND REESE LLP

**Attorneys at Law**  
Baton Rouge  
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13 June 2006

Hon. John Tarlton Olivier, Clerk of Court  
Supreme Court of the State of Louisiana  
400 Royal Street, Suite 4200  
New Orleans, LA 70130-8102

**Martin A. Stern**  
Also admitted in  
the District of Columbia  
(504) 585-0289  
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RE: State of Louisiana, Plaintiff-Appellee v.  
Patrick Kennedy, Defendant-Appellant  
State of Louisiana Supreme Court No. 2005-KA-1981

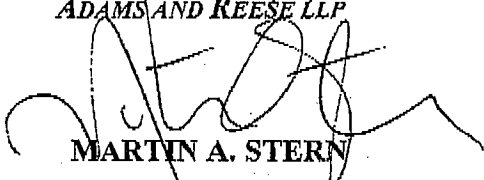
Dear Mr. Olivier:

Pursuant to Rule VII, Section 11.2, undersigned counsel write on behalf of Appellant, Patrick Kennedy, to inform the Court of a recent development since the filing of their principal and supplemental briefs on May 22, 2006. This development is relevant to the argument set forth at page 5 of the supplemental brief, namely, the states of Oklahoma and South Carolina have enacted laws that permit the death penalty for rape of persons under ages 14 and 11, respectively. Specifically, Oklahoma SB 1800 (2006) modified Section 7115 of Chapter 10 of the Oklahoma Statutes to add Section 1(I) to provide that a defendant convicted of rape of a child under age 14 subsequent to a prior conviction for the same offense is subject to a penalty of death or life without the possibility of parole. 10 Okl. St. § 7115 (2005). The South Carolina law is even more limited, permitting the death penalty only where the defendant has already been convicted of the same offense and where the state proves beyond a reasonable doubt an aggravating circumstance above and beyond the rape of the child. *See* S.C. S.B. 997 amending S.C. Code Ann. § 16-3-655 (2005). Like the law in Montana, the only other state that has such a law that has not been declared unconstitutional, these new laws are dissimilar from the law applied in this case, have never been applied, and their constitutionality never tested.

With an expression of our respect, we are

Very truly yours,

ADAMS AND REESE LLP



MARTIN A. STERN

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JELPI P. PICOU, JR.  
G. BEN COHEN  
THE CAPITAL APPEALS PROJECT  
636 Baronne Street  
New Orleans, LA 70113

2006 JUN 13 PM 4:05  
CLERK OF COURT  
SUPREME COURT  
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MAS/meb  
cc: All counsel of record via telefax and 1<sup>st</sup> class mail