

PER CURIAM

Opinion delivered December 18, 1972

Petitioner, Jerry Wayne Baumgarner, has filed herein a petition, which we treat as a writ of certiorari, seeking to overturn the trial court's ruling that an indictment for first degree rape is not aailable offense. Since *Furman v. Georgia*, 408 U. S. 238 (1972), the death penalty cannot, under our present law, be assessed—thus the maximum penalty assessable is a life sentence. In *Walker v. State*, 137 Ark. 402, 209 S. W. 86 (1919), we held that a life sentence is aailable offense under Art. 2, § 8. Consequently, the trial court erroneously held that the offense here was notailable. See *Graham v. State*, 253 Ark. 462, 486 S.W. 2d 678, and *State v. Johnson*, 61 N.J. 351, 294 S. 2d 245 (1972).

Reversed and remanded to trial court with directions to fix bail.