



NUMBER 13-03-00707-CR

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

SERGIO VELA BARRERA,

Appellant,

v.

THE STATE OF TEXAS,

Appellee.

**On appeal from the 389th District Court
of Hidalgo County, Texas.**

**MEMORANDUM OPINION
Before Justices Yañez, Rodriguez, and Garza**

MEMORANDUM OPINION PER CURIAM

In 2007, this Court issued an opinion in this case.¹ The State appealed, and the court of criminal appeals reversed a portion of our judgment and remanded to the trial court.²

¹ *Barrera v. State*, 235 S.W.3d 326, 332-33 (Tex. App.—Corpus Christi 2007), *rev'd* No. PD-1642-07, 2008 Tex. Crim. App. LEXIS 857 (Tex. Crim. App. Sept. 10, 2008).

² *Barrera*, 2008 Tex. Crim. App. LEXIS 857 at *8.

criminal appeals reversed a portion of our judgment and remanded to the trial court.

The court of criminal appeals announced that appellant died on May 1, 2008.³ Noting that “[t]he death of an appellant during the pendency of an appeal deprives both [the court of criminal appeals] and the court of appeals of jurisdiction,” the court of criminal appeals withdrew its opinion in the case and ordered all further proceedings in the case permanently abated.⁴

Similarly, in accordance with Texas Rule of Appellate Procedure 7.1(a)(2), we withdraw our opinion in this case, and order the appeal permanently ABATED.⁵

PER CURIAM

Do not publish
TEX R. APP. P. 47.2(b)

Delivered and filed
the 11th day of March, 2010.

³ *Barrera*, No. PD-1642-07, 2008 Tex. Crim. App. Unpub. LEXIS 897, at *2 (Tex. Crim. App. Nov. 26, 2008) (per curiam)

⁴ *Id.* (citing *Garcia v. State*, 840 S.W.2d 957, 958 (Tex. Crim. App. 1992)); see also *Rheinlander v. State*, 918 S.W.2d 527, 527 (Tex. Crim. App. 1996) (per curiam).

⁵ See TEX. R. APP. P. 7.1 (a)(2) (“If the appellant in a criminal case dies after an appeal is perfected but before the appellate court issues the mandate, the appeal will be permanently abated.”); *Barrera*, 2008 Tex. Crim. App. Unpub. LEXIS 897, at *2 .