

NO. 07-07-0376-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL D
JANUARY 28, 2008

HEATH JAMES GRIMES,

Appellant

v.

THE STATE OF TEXAS,

Appellee

FROM THE COUNTY COURT AT LAW NO. 2 OF RANDALL COUNTY;
NO. 2006-1659-L; HON. RONALD WALKER, JR., PRESIDING

Memorandum Opinion

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

Appellant Heath James Grimes was convicted of misdemeanor theft of property of the value of \$50 or more but less than \$500. On September 4, 2007, appellant filed a notice of appeal. The State has filed a motion to permanently abate this appeal and

attached a death certificate stating that appellant died on January 5, 2008. At the time of his death, no mandate from this appellate court had been issued.

If an appellant in a criminal case dies after an appeal is perfected but before the mandate of the appellate court is issued, the appeal should be permanently abated. TEX. R. APP. P. 7.1(a)(2). The death of an appellant during the pendency of his appeal deprives an appellate court of jurisdiction. *Hanson v. State*, 790 S.W.2d 646 (Tex. Crim. App. 1990). The appeal and any further proceedings are ordered permanently abated.

Brian Quinn
Chief Justice

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