

NO. 07-07-0442-CR
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL C
MARCH 10, 2008

MARK EDWARD HENDERSON, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

FROM THE COUNTY COURT OF HUTCHINSON COUNTY;

NO. 34,675; HONORABLE FAYE BLANKS, JUDGE

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

PERMANENT ABATEMENT

Appellant was convicted of deadly conduct and assessed punishment at two years probation. After a revocation hearing, appellant was sentenced to 180 days in the county jail and a fine of \$1500. Appellant perfected an appeal, but a mandate has not yet been issued by this court.

Appellant's counsel has filed a Motion for Permanent Abatement of Appeal indicating that appellant is now deceased. The death of the appellant during the pendency of his criminal appeal deprives this court of jurisdiction. *Freeman v. State*, 11 S.W.3d 240

(Tex.Crim.App. 2000); *Ryan v. State*, 891 S.W.2d 275 (Tex.Crim.App. 1994); Tex. R. App. P. 7.1(a)(2). The proper action is abatement of the appeal. See Tex. R. App. P. 7.1(a)(2).

Accordingly, appellant's counsel's motion is granted and this appeal is permanently abated.

Mackey K. Hancock
Justice

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