



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-10-00123-CR

MISTY SCOTT BEENE, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 241st Judicial District Court
Smith County, Texas
Trial Court No. 241-0243-08

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Chief Justice Morriss

MEMORANDUM OPINION

Misty Scott Beene appealed the adjudication of her sentence and revocation of her community supervision. She was adjudicated guilty of fraud regarding a controlled substance or prescription medication, and her community supervision was revoked in Smith County¹ on June 7, 2010. Her notice of appeal was filed June 21, 2010.

Beene's counsel has now filed a motion to permanently abate the appeal, stating that Beene has died. Counsel has attached to his motion a copy of her obituary.

The death of an appellant during the pendency of his or her appeal deprives this Court of jurisdiction. TEX. R. APP. P. 7.1(a)(2); *Whitmire v. State*, 943 S.W.2d 894 (Tex. Crim. App. 1997); *Rheinlander v. State*, 918 S.W.2d 527, 528 (Tex. Crim. App. 1996).

Accordingly, we grant the motion and permanently abate this appeal.

Josh R. Morriss, III
Chief Justice

Date Submitted: August 31, 2010
Date Decided: September 1, 2010

Do Not Publish

¹Originally appealed to the Twelfth Court of Appeals, this case was transferred to this Court by the Texas Supreme Court pursuant to its docket equalization efforts. See TEX. GOV'T CODE ANN. § 73.001 (Vernon 2005).