

CASE NO. 4-26-0566

IN THE APPELLATE COURT OF ILLINOIS
FOURTH JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF	)	
ILLINOIS,	)	
	)	Appeal from the Circuit Court for
	)	the Seventh Judicial Circuit,
Plaintiff-Appellee,	)	Sangamon County, Illinois
	)	
v.	)	Case No. 2024-CF-909
	)	
SEAN GRAYSON,	)	Honorable Ryan Cadagin,
	)	Presiding Judge
Defendant-Appellant.	)	

AGREED MOTION TO ABATE DEFENDANT'S
APPEAL AND CONVICTION *AB INITIO*

NOW COMES SEAN GRAYSON, by and through his attorneys, Daniel L. Fultz and Natalia Galica of Brown, Hay & Stephens, LLP, and Mark Wykoff, Sr. of the Wykoff Law Office LLC, and respectfully moves this Honorable Court to abate the instant appeal and Grayson's conviction *ab initio*. In support thereof, Defendant respectfully states as follows:

FACTUAL BACKGROUND

1. On October 29, 2025, at the conclusion of a jury trial, the Defendant was adjudged guilty of second-degree murder. On January 29, 2026, the trial court sentenced Defendant to the maximum of twenty years imprisonment.

2. Following the denial of his Motion to Reconsider Sentence, Defendant timely filed his notice of appeal on May 14, 2026, to this Honorable Court. Defendant's opening brief is currently due on September 16, 2026.

3. During the pendency of the instant appeal, on August 23, 2026, Defendant died while in the custody of the Illinois Department of Corrections as a result of his medical conditions.¹

4. Based on long-standing Illinois precedent, Defendant now requests this Honorable Court to abate both the appellate proceedings and vacate his conviction *ab initio*.

5. On September 10, 2026, Counsel conferred with the State's Attorneys Appellate Prosecutor, who does not object to this motion.

ANALYSIS

When a criminal defendant dies while his direct appeal remains pending, the Illinois Supreme Court has unequivocally held that both the appeal and the underlying conviction abate *ab initio*. *People v. Mazzone*, 74 Ill. 2d 44, 47 (1978). The Court reaffirmed that principle in *People v. Robinson*, 187 Ill. 2d 461, 464 (1999), stating: "The rule established in *Mazzone* that a defendant's conviction abates *ab initio* if defendant dies while his direct appeal is pending has been the law in Illinois for over twenty years and should be deemed controlling until and unless the General Assembly provides otherwise." In *Robinson*, the Illinois Supreme Court reversed the appellate court precisely because it dismissed the appeals yet refused to vacate the convictions. *Robinson*, 187 Ill. 2d at 464.

Abatement derives from the fundamental principle of our jurisprudence that a criminal conviction is not final until resolution of the defendant's appeal as a matter of

¹ The Illinois Department of Corrections (IDOC) has confirmed that Defendant died in its custody at an out-of-state facility. See J. Bizzle, *Sean Grayson, Former Sangamon County Deputy Convicted in Killing of Sonya Massey, Dies in Prison, Attorney Says*, CBS News, <https://www.cbsnews.com/chicago/news/sean-grayson-former-sangamon-county-deputy-dies-in-prison/> (last accessed Sept. 10, 2026). Due to the secretive nature of Defendant's confinement, Counsel has been unable to obtain his death certificate as of the date of this filing. However, Counsel will supplement this Motion once the death certificate becomes available.

right. *See Griffin v. Illinois*, 351 U.S. 12, 18 (1956); *see also United States v. Reynolds*, 98 F.4th 62, 71 (1st Cir. 2024) (outlining the history of the doctrine of abatement and noting it “is not a novel doctrine”). The Seventh Circuit has explained, “when an appeal has been taken from a criminal conviction to the court of appeals and death has deprived the accused of his right to our decision, the interests of justice ordinarily require that he not stand convicted without resolution of the merits of his appeal, which is an ‘integral part of our system for adjudicating his guilt or innocence.’” *United States v. Moehlenkamp*, 557 F.2d 126, 128 (7th Cir. 1977) (internal alterations accepted), *quoting Griffin*, 351 U.S. at 18. The Seventh Circuit went on to apply the doctrine of abatement *ab initio* and emphasized, “as a matter of law, fairness requires more than simply dismissing his appeal as moot.” *Id.*

The doctrine of abatement *ab initio* applies squarely to this case. Defendant timely invoked his right to direct appeal on May 14, 2026. That appeal remained pending and unresolved when he died on August 23, 2026. Those undisputed facts place this matter directly within *Mazzone* and *Robinson*. Dismissing the appeal alone would deny Defendant the right to appeal and would be contrary to those well-established principles, and any invitation to preserve the conviction is foreclosed by *Robinson*. Accordingly, because Defendant died before this Court could resolve his direct appeal, the only disposition consistent with binding Illinois precedent is to abate the appeal, and vacate the conviction and all underlying criminal proceedings *ab initio*.

PRAYER FOR RELIEF

WHEREFORE, Defendant Sean Grayson respectfully prays, for all of the reasons set forth herein, that this Honorable Court abate the instant appeal and Defendant's conviction *ab initio*, and for any and all other relief as this Honorable Court deems just and equitable.

Respectfully Submitted:

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CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2026, I electronically filed the foregoing with the Clerk of the Court using the ODYSSEY EfileIL system, which will send notification of such filing to the following:

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