

For Publication.

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

EDUARDO CARMONA, JR.,)	
)	
Appellant/Defendant,)	S. Ct. Crim. No. 2008-044
)	
v.)	Re: Super. Ct. Crim. No. 286/2007
)	
PEOPLE OF THE VIRGIN ISLANDS,)	
)	
Appellee/Plaintiff.)	
)	

On Appeal from the Superior Court of the Virgin Islands
Considered and Filed: March 25, 2009

ORDER OF THE COURT

PER CURIAM.

THIS MATTER is before the Court on March 6, 2009 motions for dismissal of appeal and to withdraw as counsel filed by Appellant’s counsel. In its motions, counsel states that Edwardo Carmona, Jr., the Appellant in this matter, died after the notice of appeal in this matter was filed, and requests that this Court dismiss the appeal, remand the matter to the Superior Court so that it may vacate Appellant’s conviction, and allow counsel to withdraw from the matter. The Appellee has not filed an opposition to these motions.

Courts have consistently held that the death of a criminal defendant after a notice of appeal has been filed moots the appeal and requires that the underlying convictions be vacated and the information dismissed upon remand, for “death has deprived the accused of his right” to appellate review and “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 finally adjudicating guilt or innocence.” *United States v. Moehlenkamp*, 557 F.2d 126, 128 (7th Cir.

1977); *see also United States v. Christopher*, 273 F.3d 294, 296-97 (3d Cir. 2001), *cert. denied*, 536 U.S. 964, 122 S.Ct. 2764, 153 L.Ed.2d 847 (2002); *United States v. Pogue*, 19 F.3d 663, 665 (D.C. Cir. 1994) (collecting cases). According, it is hereby

ORDERED that Appellant's convictions are **VACATED**. It is further

ORDERED that Appellant's motion for dismissal of appeal is **GRANTED**. It is further

ORDERED that the instant appeal is **DISMISSED AS MOOT**. It is further

ORDERED that Appellant's motion to withdraw as counsel is **DENIED AS MOOT**. It is further

ORDERED that the matter is **REMANDED** to the Superior Court for proceedings consistent with this Order. It is further

ORDERED that copies of this Order be served on the parties' counsel.

SO ORDERED this 25th day of March, 2009.

ATTEST:
VERONICA J. HANDY, ESQ.
Clerk of the Court