



In the Missouri Court of Appeals Western District

STATE OF MISSOURI,	)	
	Respondent,)	
v.	)	WD78556
	)	
JAMES RAULERSON,	)	
	Appellant.)	FILED: December 5, 2017

**APPEAL FROM THE CIRCUIT COURT OF CLAY COUNTY
THE HONORABLE JANET L. SUTTON, JUDGE**

**BEFORE DIVISION TWO: CYNTHIA L. MARTIN, PRESIDING JUDGE,
LISA WHITE HARDWICK AND ALOK AHUJA, JUDGES**

James Raulerson was convicted of first-degree child molestation and sentenced to a term of 20 years in prison. On June 27, 2017, we affirmed his conviction but vacated his sentence and remanded the case to the circuit court for resentencing. The State subsequently filed a motion in this court for rehearing or transfer to the Supreme Court. On July 26, 2017, Raulerson's counsel informed this court that Raulerson had died on July 23, 2017, and she asked us to stay our ruling on the State's motion for rehearing or transfer until after she obtained a death certificate confirming Raulerson's death. We granted the stay. On October 24, 2017, Raulerson's counsel filed a copy of his death certificate along with a

motion to lift the stay and remand the case to the circuit court with instructions to dismiss the underlying criminal case.

The stay is lifted. Because Raulerson died while his appeal was still pending, he was never finally convicted of the charged crime of first-degree child molestation during his lifetime, and his death served to abate the prosecution against him. *State v. Macklin*, 560 S.W.2d 69, 70 (Mo. App. 1977); *State v. Benítez*, 412 S.W.3d 451, 452 (Mo. App. 2013). Therefore, we withdraw our opinion, filed on June 27, 2017, and remand this case to the circuit court with directions to dismiss the underlying criminal case.



LISA WHITE HARDWICK, JUDGE

ALL CONCUR.