

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-20175
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GARY ARTHUR,

Defendant-Appellant.

Appeal from the United States District Court for
the Southern District of Texas
(CR-H-94-120-4)

November 17, 1995

Before POLITZ, Chief Judge, REAVLEY and SMITH, Circuit Judges.

PER CURIAM:*

Gary Arthur appealed his criminal conviction to this court. Subsequent to his appeal, he died. "When a defendant dies pending direct appeal of his criminal conviction, not only the appeal but also all proceedings had in the prosecution from its inception are abated." United States v. Cammarata, 721 F.2d 134 (5th Cir. 1983).

*Local rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

We have been provided Arthur's death certificate. Arthur's attorney has filed a motion to dismiss the appeal based upon Cammarata. The government agrees. Therefore, the motion is granted, the appeal is dismissed as moot, and the case is remanded with directions to the District Court to vacate the judgment and dismiss the superseding indictment in United States v. Arthur, Docket No. CR-H-94-120-4, United States District Court, Southern District of Texas, Houston Division.

REMANDED WITH DIRECTIONS.