

Wednesday, October 18, 2006

### **Kenneth Lay's conviction dismissed by abatement doctrine.**

On October 17, 2006, a federal trial judge dismissed the late Enron founder Kenneth Lay's entire prosecution, even though he already had been convicted. The judge found that this result was necessitated by the abatement doctrine, which requires dismissing a criminal conviction when the defendant dies pending conclusion of a direct criminal appeal, and treats the matter as having never even been prosecuted. The trial judge found that, pursuant to governing appellate caselaw, the abatement doctrine applies equally here, even though Mr. Lay died before being sentenced. The trial judge confirmed the option of Mr. Lay's alleged victims to sue his estate in civil court. However, the judge found he had no jurisdiction in this criminal case even to freeze the assets of Mr. Lay's estate. Hopefully it is farfetched that some convicted defendants will commit suicide while their direct appeals are pending, just to try to vindicate their names. However, I imagine some convicted defendants will at least entertain the thought. This case is USA v. Causey, et al., Crim. No. 4:04-cr-00025 (S.D. TX). The order dismissing Mr. Lay's case is [here](#). The Washington Post's report is [here](#), including the reaction of people who suffered from the Enron scandal, and a brief discussion of former Enron chief executive Jeffrey Skilling, who is to be sentenced October 23, 2006. Jon Katz.

Posted by Jon Katz in Criminal Defense at 00:00