

**STATE V. CRUMP, 1918-NMSC-041, 24 N.M. 331, 171 P. 502 (S. Ct. 1918)**

**STATE  
vs.  
CRUMP.**

No. 2194

SUPREME COURT OF NEW MEXICO

1918-NMSC-041, 24 N.M. 331, 171 P. 502

March 04, 1918, Decided

Appeal from District Court, Roosevelt County; Richardson, Judge.

Thomas Crump was convicted of assault with a deadly weapon, and he appeals, and, upon his death pending appeal, his administratrix, Bessie L. Crump, applied to be substituted as appellant. Proceeding ordered to abate.

**SYLLABUS**

SYLLABUS BY THE COURT.

A judgment imposing a fine in a criminal case abates on the death of the defendant pending an appeal or writ of error, and the fine imposed cannot be enforced against the estate.

**COUNSEL**

GEORGE L. REESE, of Portales, for appellant. HARRY L. PATTON, Atty. Gen., for the State.

**JUDGES**

HANNA, C. J. PARKER and ROBERTS, JJ., concur.

**AUTHOR:** HANNA

**OPINION**

{\*331} {1} OPINION OF THE COURT. HANNA, C. J. Thomas Crump was convicted of assault with a deadly weapon in the district court for {\*332} Roosevelt county. He was fined \$ 200 and costs and from that sentence he has perfected this appeal.

{2} During the pendency of this appeal Crump died. Bessie L. Crump, administratrix of the estate of Thomas Crump, has applied here to be substituted as appellant.

{3} The general rule is that a judgment imposing a fine in a criminal case abates on the death of the defendant pending an appeal or writ of error, and the fine imposed cannot be enforced against the estate. 8 R. C. L. "Criminal Law," § 283. See, also, United States v. Dunne, 173 F. 254, 97 C. C. A. 420, 19 Ann. Cas. 1145, and cases collected in note thereto. The reasons which underlie the rule are discussed therein.

{4} For the reasons stated, the proceedings in this action will abate; and it is so ordered.

PARKER and ROBERTS, JJ., concur.