

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

December 5, 2007

Before

Hon. FRANK H. EASTERBROOK, Chief Judge

Hon. KENNETH F. RIPPLE, Circuit Judge

Hon. DANIEL A. MANION, Circuit Judge

No. 07-1086

NORMAN TIMBERLAKE,
Petitioner-Appellant,

v.

EDWIN G. BUSS, Superintendent,
Respondent-Appellee.

Appeal from the United
States District Court for the
Southern District of
Indiana, Indianapolis
Division.

No. 06 C 1841
Richard L. Young, *Judge.*

No. 07-3228

NORMAN TIMBERLAKE,
Plaintiff-Appellant,

v.

EDWIN G. BUSS, Superintendent, and J.
DAVID DONAHUE, Commissioner Indiana
Department of Correction,
Defendants-Appellees.

Appeal from the United
States District Court for the
Southern District of
Indiana, Indianapolis
Division.

No. 06 C 1859
Richard L. Young, *Judge.*

Order

Norman Timberlake, who was not only the petitioner in a federal collateral attack on his state sentence but also the plaintiff in an action under 42 U.S.C. §1983 contesting the manner in which the state proposed to carry out the capital sentence, died on November 10, 2007, while appeals in both proceedings were pending in this court. Appeal No. 07-1086, which concerns the proceeding under 28 U.S.C. §2254, has abated and is dismissed. See *Johnson v. Tennessee*, 214 U.S. 485 (1909). The §1983 action has become moot, and the district court's judgment is vacated and the case remanded with instructions to dismiss for lack of a case or controversy. See *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950).