



# In wake of suicide, Aaron Hernandez conviction could be voided

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In the eyes of the state of Massachusetts, the death of former New England Patriots star Aaron Hernandez could make him an innocent man, thanks to a legal principle called “abatement ab initio,” said Martin W. Healy, chief legal counsel to the Massachusetts Bar Association.

Although Hernandez was convicted in 2015 of murdering Odin L. Lloyd of Boston, Hernandez’s appeal was not complete. Abatement ab initio means “from the beginning,” Healy said, and it means that upon a person’s death, if they have not exhausted their legal appeals, their case reverts to its status at the beginning — it’s as if the trial and conviction never happened.

“Unfortunately, in the Odin Lloyd matter, for the family, there won’t be any real closure,” said Healy. “Aaron Hernandez will go to his death an innocent man.”

Hernandez’s appellate attorney, John M. Thompson, said in a telephone interview Wednesday that he will file the appropriate paperwork once a death certificate is available. Thompson, who would not discuss his interactions with Hernandez, called his death “totally unexpected.”

Thompson, citing lawyer-client privilege, declined to say when he last met with Hernandez. But he said that until Wednesday, his office had been preparing the appeal in the Lloyd homicide.

“We were dedicated to getting his appeal going,” Thompson said. “The trial is not the final step. Everyone is entitled to an appeal, and in particular entitled to an appeal in a first-degree murder case.”

Thompson noted that Bristol County District Attorney Thomas M. Quinn III's office could challenge the motion to vacate the conviction. Quinn's office prosecuted the former professional football star and obtained the first-degree murder conviction and the life without parole sentence it carried. Lloyd's family could also petition the court not to vacate the conviction and to keep the appeal alive, said Daniel S. Medwed, a Northeastern University criminal law professor.

Quinn spokesman Gregg Miliote declined to comment on that issue Wednesday. However, Quinn issued a brief statement about Hernandez's death.

"This is a shocking and sad end to a very tragic series of events that has negatively impacted a number of families," Quinn said.

Douglas K. Sheff, a wrongful death attorney representing Lloyd's family in their civil suit against Hernandez, said the first thing he did Wednesday morning was call Lloyd's mother, Ursula Ward. Ward forgave Hernandez after his conviction.

"Ursula Ward is one of the strongest, most resolute, most decent women I have ever known," said Sheff. "She is also a very religious woman, and relayed to me that this, in her opinion, was God's will."

In the wrongful death suit, Sheff said, the court has already handed down a judgment in favor of Ward. Only damages are left to be argued.

Though Hernandez's criminal conviction was introduced as part of the liability portion of the civil suit, Sheff said, he does not believe that the abatement of the conviction will affect the court's judgment in favor of Ward.

"We hope, and expect, that the judge will respect and honor that motion," he said.

The abatement ab initio principle stems from English common law, Healy said, and is observed by several of the older states in the nation. It rarely comes up in practice, he said, and people forget it exists.

It came up in the case of John C. Salvi III, who was convicted of killing two women in a shooting spree at two reproductive clinics in Brookline in 1994 but died by suicide in his prison cell nine months into his sentence, before his appeals were completed.

In that case, Healy said, abatement ab initio complicated the civil proceedings that followed.

The Salvi abatement also sparked an effort in 1997 by the Legislature to block the courts from clearing the records of inmates who die before their appeals are heard. The legislation passed in the Senate but not the House.

The principle also came into play in the case of John Geoghan, a priest convicted of sex abuse who was murdered by a fellow inmate while imprisoned at the Souza-Baranowski Correctional Center, the same prison where Hernandez apparently killed himself Wednesday.

The principle means that going forward, no evidence established during Hernandez's criminal trial can be presented in civil court, Healy said.

In states that have abandoned abatement ab initio, Healy said, the move came after high-profile killers had their histories wiped clean. Healy said he would not be surprised if a lawmaker again introduced legislation in Massachusetts to change the law.

But Medwed, the Northeastern professor, said the principle rests on the state's belief that the appeal process is not secondary but an essential component of a conviction.

Imagine a case in which the defendant's guilt is less compelling than Hernandez's, said Medwed, who is a former appellate and post-conviction litigator on the defense side. Perhaps a case where there are indications of government misconduct, and a defendant died by other means.

"We have to create law that applies to all cases, even ones that aren't especially sympathetic," he said.

To many Hernandez observers, the law will not change their views.

"In the court of public opinion, Hernandez, Salvi, and Geoghan will be judged accordingly," said Healy. "But in a court of law, under legal principles, [Hernandez] died an innocent man."

*If you or someone you know is having thoughts of suicide, call the National Suicide Prevention Lifeline at 1-800-273-8255.*

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