

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 11-09-2010
RUTH WILLINGHAM,
ACTING CLERK
BY: GH

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

DALE WILSON,) 1 CA-CV 09-0783
)
Plaintiff/Appellant,) DEPARTMENT D
)
v.) **MEMORANDUM DECISION**
) (Not for Publication - Rule
YARNELL JUSTICE COURT and) 28, Arizona Rules of Civil
WILLIAM KUNISCH,) Appellate Procedure)
)
Defendants/Appellees.)
)

Appeal from the Superior Court in Yavapai County

Cause No. P1300CV200901691

The Honorable Tina R. Ainley, Judge

AFFIRMED

Dale T. Wilson
Plaintiff/Appellant, *In Propria Persona*

Kirkland

Sheila Polk, Yavapai County Attorney
By William A. Kunisch, Deputy County Attorney
Attorneys for Defendants/Appellees

Prescott

N O R R I S, Judge

¶1 This appeal arises out of a superior court order declining to accept special action jurisdiction over a justice court order denying defendant/appellant Dale T. Wilson's challenge to the justice court's subject matter jurisdiction

over his prosecution for various misdemeanor offenses. The superior court refused to accept special action jurisdiction because the justice court acted "within its discretion" in denying Wilson's challenge. We agree with the superior court and hold it did not abuse its discretion in declining special action jurisdiction.

¶12 When a party appeals from a special action initiated in the superior court, we conduct a bifurcated review. *Bilagody v. Thorneycroft*, 125 Ariz. 88, 92, 607 P.2d 965, 969 (App. 1979). We must first determine whether the superior court exercised its discretion to assume jurisdiction over the merits of the claim. *Id.* If so, we may consider the claim's merits. *Id.* If not -- as is the case here -- the sole issue for our review is whether the superior court abused its discretion in declining to accept jurisdiction.¹ *Id.*

¶13 "Acceptance of special action jurisdiction is highly discretionary." *Pompa v. Superior Court*, 187 Ariz. 531, 533, 931 P.2d 431, 433 (App. 1997). "Jurisdiction is generally accepted only in those cases in which 'justice cannot be satisfactorily obtained by other means.'" *Id.* (quoting *King v. Superior Court*, 138 Ariz. 147, 149, 673 P.2d 787, 789 (1983)).

¹In his briefing, Wilson raises myriad other issues related to the proceedings in the justice court. Those issues, however, are not properly before us on appeal. If convicted, Wilson may appeal to the superior court in accordance with Arizona Revised Statutes section 22-261 (2002).

¶4 In this case, the superior court correctly recognized the "highly discretionary" nature of special action relief and chose to deny special action jurisdiction. Additionally, the superior court correctly recognized justice courts have subject matter jurisdiction over misdemeanor and criminal offenses with penalties up to \$2500 in fines and six months in jail. See Ariz. Rev. Stat. ("A.R.S.") § 22-301 (Supp. 2009); *Rogers v. Cota*, 223 Ariz. 44, 46, ¶ 5, 219 P.3d 254, 256 (App. 2009). Further, Wilson's challenge to subject matter jurisdiction can be raised on appeal to the superior court if he is convicted. See generally A.R.S. § 22-371(A) (2002).

¶5 Because the superior court did not abuse its discretion in declining to accept special action jurisdiction, we affirm the order of the superior court.

/s/

PATRICIA K. NORRIS, Judge

CONCURRING:

/s/

LAWRENCE F. WINTHROP, Presiding Judge

/s/

PATRICK IRVINE, Judge