

IN THE UTAH COURT OF APPEALS

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Roger Bryner,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Petitioner and Appellant,)		
)	Case No. 20080107-CA	
v.)		
)	F I L E D	
Lana Bryner,)	(May 1, 2008)	
)		
Respondent and Appellee.)	<table border="1"><tr><td>2008 UT App 158</td></tr></table>	2008 UT App 158
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Third District, Salt Lake Department, 044904183
The Honorable Denise P. Lindberg

Attorneys: Roger Bryner, Midvale, Appellant Pro Se

Before Judges Greenwood, Billings, and McHugh.

PER CURIAM:

Roger Bryner seeks to appeal from the oral announcements of rulings in the district court. This is before the court on its own motion for summary disposition based on lack of jurisdiction due to the absence of a final order.

A hearing on contempt issues was held on January 24, 2008. Bryner filed his notice of appeal from rulings made at the January 24 hearing on January 30, 2008. Bryner acknowledges that there is no order entered reflecting the rulings of the trial court.

Appeals may be taken from final orders and judgments. See Utah R. App. P. 3. A notice of appeal must be filed within thirty days after the entry of the order appealed. See Utah R. App. P. 4(a). "The law is well settled in the state that the statements made by a trial judge are not the judgment of the case and it is only the signed judgment that prevails." State v. Gerrard, 584 P.2d 885, 887 (Utah 1978). Appeals from oral pronouncements of the court are not properly taken. See id. Rather, the time for appeal commences only after the entry of the final order. See Utah R. App. P. 4(a).

Bryner asserts that rule 4(c) of the Utah Rules of Appellate Procedure applies to his appeal because he filed his notice of appeal after a decision was announced but before an order was

entered. The result from this application of the rule is that the appeal would be held open indefinitely pending the entry of a final order, which only then would start the time for appeal. This interpretation and application of the rule is untenable.

Rule 4(c) provides that a "notice of appeal filed after the announcement of a decision, judgment, or order but before entry of the judgment or order shall be treated as filed after such entry and on the day thereof." Utah R. App. P. 4(c). When interpreting rules, the court looks first to the plain language of the rule. See Board of Educ. v. Sandy City Corp., 2004 UT 37, ¶ 9, 94 P.3d 234. We will read the plain language of the rule as a whole and interpret its provisions in harmony with other rules. See id. Rules should be given a reasonable and sensible construction and should not lead to absurd results. See id.

In the context of the appellate rules as a whole, rule 4(c) is a savings provision for appellants who inadvertently file a notice of appeal prematurely. The rule does not extend to maintain an open appeal for appellants who knowingly file an appeal before a final order is entered. To give rule 4(c) the scope that Bryner suggests would eviscerate the final judgment rule. Any pronouncement by a trial court would effectively be immediately appealable, an absurd result under the rules. Therefore, we decline to expand the scope of the rule so far, and note that the rule is intended to protect the appeals of appellants who, in good faith, file appeals prematurely. This reading is consistent with the rules as a whole and supports the requirement of finality as required under the rules.

Accordingly, this appeal is dismissed without prejudice to the filing of a timely notice of appeal after a final order is entered.¹

Pamela T. Greenwood,
Associate Presiding Judge

Judith M. Billings, Judge

Carolyn B. McHugh, Judge

1. Based on the dismissal for lack of jurisdiction, Bryner's motions are denied as moot.