

IN THE UTAH COURT OF APPEALS

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Lynn A. Jenkins,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellant,)	
)	Case No. 20080483-CA
v.)	
)	F I L E D
Clearfield City,)	(September 5, 2008)
)	
Defendant and Appellee.)	2008 UT App 325

Second District, Farmington Department, 060700543
The Honorable Rodney S. Page

Attorneys: Lynn A. Jenkins, Bountiful, Appellant Pro Se
Jody K. Burnett and Robert C. Keller, Salt Lake City,
for Appellee

Before Judges Thorne, Bench, and Orme.

PER CURIAM:

Lynn A. Jenkins appeals the district court's Findings and Order on Right to Condemn and Immediate Occupancy. This matter is before the court on its own motion for summary disposition based upon the lack of a final appealable order. See Utah R. App. P. 10.

This court does not have jurisdiction to consider an appeal unless it is taken from a final judgment or order, see Utah R. App. P. 3(a), or qualifies for an exception to the final judgment rule. See Loffredo v. Holt, 2001 UT 97, ¶¶ 10, 15, 37 P.3d 1070. An order is final only if it disposes of the case as to all parties and "finally dispose[s] of the subject-matter of the litigation on the merits of the case." Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649 (internal quotation marks omitted).

The order appealed from is not a final appealable order because it does not dispose of all issues in the litigation. The district court entered an order based upon the stipulation of the parties that, among other things, condemned the property in question and gave Clearfield City the right to immediate

occupancy.¹ However, the order did not resolve the amount of compensation to which Jenkins is entitled. In fact, the order specifically stated "Mr. Jenkins' claims regarding the amount of just compensation to be paid to him and the highest and best use for the subject property are preserved for later determination and trial." Accordingly, not all issues relating to the subject matter of the litigation have been resolved. As a result, this court lacks jurisdiction to hear this appeal. When this court lacks jurisdiction, it must dismiss the appeal. See id. at ¶ 11.

Therefore, the appeal is dismissed without prejudice to the filing of a timely appeal after a final order has been entered by the district court.

William A. Thorne Jr.,
Associate Presiding Judge

Russell W. Bench, Judge

Gregory K. Orme, Judge

¹Jenkins filed a motion to revoke his stipulation shortly before the district court entered its order.