

IN THE UTAH COURT OF APPEALS

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William Sherratt,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Petitioner and Appellant,)		
)	Case No. 20100247-CA	
v.)		
)	F I L E D	
State of Utah,)	(June 17, 2010)	
)		
Respondent and Appellee.)	<table border="1"><tr><td>2010 UT App 167</td></tr></table>	2010 UT App 167
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Fifth District, Cedar City Department, 090500196
The Honorable John J. Walton

Attorneys: William Sherratt, Draper, Appellant Pro Se

Before Judges Davis, McHugh, and Roth.

PER CURIAM:

William Sherratt appeals the trial court's dismissal of his complaint. This is before the court on its own motion for summary disposition based on the lack of a substantial question for review.

For at least the third time after his conviction was affirmed on direct appeal, Sherratt challenges the jurisdiction of the trial court in his criminal case. He asserts that the trial court lacked jurisdiction over him because the information initiating the case against him was unsworn. His arguments have been rejected twice before, and the matter has been conclusively decided. See Sherratt v. Friel, 2006 UT App 286U (mem.) (per curiam); Sherratt v. Friel, 2003 UT App 269U (mem.) (per curiam).

It is well-settled law in Utah that any challenge to an allegedly defective information must be raised before trial. See Utah R. Crim. P. 12(c)(1)(A) (requiring objections based on defects in the information to be raised at least five days before trial); State v. Hall, 671 P.2d 201, 202 (Utah 1983) (noting that failure to comply with rule 12 of the Utah Rules of Criminal Procedure by objecting to a defect in the information prior to trial precludes the issue from being raised on appeal). Sherratt's claim that the information was defective was not raised before trial. Accordingly, it is waived.

Furthermore, Sherratt's attempt to construe the allegedly defective information as a jurisdictional bar is without merit. He argues that his arrest was based on a defective information and was therefore illegal. Even if we accepted that premise, an illegal arrest does not preclude a trial and conviction on the charges. See State v. Schreuder, 712 P.2d 264, 271 (Utah 1985). In State v. Schreuder, the defendant argued that an illegal arrest cannot provide a trial court with jurisdiction over the defendant for trial on criminal charges. See id. Utah has adopted the majority rule, however, that an illegal arrest does not void a subsequent conviction. See id. "[A]n error at the preliminary stage is cured if the defendant is later convicted beyond a reasonable doubt." State v. Quas, 837 P.2d 565, 566 (Utah Ct. App. 1992). Accordingly, even if there was a defect in the probable cause statement prior to Sherratt's arrest, that does not void his conviction because the standard for conviction is beyond a reasonable doubt, which is more stringent than the pretrial requirements. See id.

In sum, Sherratt's challenge to the trial court's jurisdiction is conclusively determined, waived, and without merit.

Affirmed.

James Z. Davis,
Presiding Judge

Carolyn B. McHugh,
Associate Presiding Judge

Stephen L. Roth, Judge