

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20100165-CA
v.)	
)	F I L E D
Dana Lydell Smith,)	(June 17, 2010)
)	
Defendant and Appellant.)	2010 UT App 165

Second District, Ogden Department, 041906201
The Honorable Ernest W. Jones

Attorneys: Dana Lydell Smith, Boise, Idaho, Appellant Pro Se
Mark L. Shurtleff and Kenneth A. Bronston, Salt Lake
City, for Appellee

Before Judges Davis, McHugh, and Roth.

PER CURIAM:

Appellant Dana Lydell Smith seeks to appeal from a June 1, 2005 decision denying a petition for writ of habeas corpus and ordering that he be held without bail.¹ The underlying case was dismissed by an order signed on June 30, 2005, and entered on July 13, 2005. Smith filed a notice of appeal on February 22, 2010. This case is before the court on a sua sponte motion for summary disposition.

Smith was charged in this case with being a fugitive from justice from another state (Idaho). In June 2005, Smith signed a waiver of extradition, which resulted in his extradition to Idaho. Following extradition, the district court dismissed the Utah case on the State's motion. There is no statutory basis allowing Smith to an appeal of right from the dismissal of the

¹Our review of the district court record reveals that the only ruling made in this case on June 1, 2005, was an unsigned minute entry that (1) denied a writ of habeas corpus filed within the criminal case and (2) ordered Smith to be held without bail. The district court's interlocutory ruling was not reduced to a signed order.

charges against him. See Utah Code Ann. § 77-18a-1(1) (2008). Accordingly, there is no order or judgment from which an appeal can be taken.

This appeal is not timely taken from any order or judgment entered in the underlying case. Smith filed his notice of appeal almost five years after the district court dismissed the underlying case. Because the appeal is untimely, we also lack jurisdiction to consider it. See Serrato v. Utah Transit Auth., 2000 UT App 299, ¶ 7, 13 P.3d 616.

We dismiss the appeal for lack of jurisdiction.

James Z. Davis,
Presiding Judge

Carolyn B. McHugh,
Associate Presiding Judge

Stephen L. Roth, Judge