

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

State of Utah,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20100763-CA	
v.)		
)	F I L E D	
Calvin Paul Stewart,)	(December 16, 2010)	
)		
Defendant and Appellant.)	<table border="1"><tr><td>2010 UT App 367</td></tr></table>	2010 UT App 367
2010 UT App 367			

Fourth District, Provo Department, 011403597
The Honorable Lynn W. Davis

Attorneys: Calvin Paul Stewart, Manila, Appellant Pro Se
Mark L. Shurtleff and Marian Decker, Salt Lake City,
for Appellee

Before Judges Davis, Orme and Roth.

PER CURIAM:

Calvin Paul Stewart appeals the district court's August 19, 2010 order denying his motion for relief from judgment. This matter is before the court on its own motion for summary disposition on the basis that the grounds for review are so insubstantial as not to merit further proceedings and consideration by this court.

Stewart filed a motion for relief from judgment pursuant to rule 60 of the Utah Rules of Civil Procedure in his criminal case despite being sentenced in 2003. The rules of civil procedure are not applicable in criminal cases; accordingly, such a motion was improper and the motion could have been denied on that ground. However, the claims Stewart sought to assert in the motion were improperly raised in the criminal case for an even more fundamental reason.

In his motion, Stewart set forth several reasons why he believed that the district court had originally lacked jurisdiction over his case or otherwise required reversal of his conviction, including alleged violations of the Americans with Disabilities Act, issues relating to his arraignment, and issues relating to the amendment of the information. Despite Stewart's

attempts to label such claims as jurisdictional, the claims were required to have been brought in a petition for post-conviction relief because they relate to his original conviction.

The Post-Convictions Remedies Act is the "sole remedy for any person who challenges a conviction for a criminal offense and who has exhausted all other legal remedies, including a direct appeal." Utah Code Ann. § 78B-9-102(1) (2008). The only actions excepted from this provision are (1) "habeas corpus petitions that do not challenge a conviction or sentence for a criminal offense," (2) "motions to correct a sentence pursuant to Rule 22(e), Utah Rules of Criminal Procedure," and (3) "actions taken by the Board of Pardons and Parole." Id. § 78B-9-102(2).

All of the claims Stewart brought in his motion relate to his underlying conviction. As such, Stewart's sole remedy was to raise the issues in a petition for post-conviction relief. See id. § 78B-9-102(1). Accordingly, the district court correctly determined that it did not have jurisdiction to resolve the claims set forth by Stewart in his motion.

Affirmed.

James Z. Davis,
Presiding Judge

Gregory K. Orme, Judge

Stephen L. Roth, Judge