

IN THE UTAH COURT OF APPEALS

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Eddie Ray Bozarth Jr.,	)	PER CURIAM DECISION	
	)		
Plaintiff and Appellant,	)	Case No. 20110608-CA	
	)		
v.	)	F I L E D	
	)	(September 29, 2011)	
Iron County Jail,	)		
	)	<table border="1"><tr><td>2011 UT App 327</td></tr></table>	2011 UT App 327
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Defendant and Appellee.	)		

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Fifth District, Cedar City Department, 100501003  
The Honorable John R. Anderson

Attorneys: Eddie Ray Bozarth Jr., Vernal, Appellant Pro Se

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Before Judges Orme, Thorne, and Christiansen.

¶1 Eddie Ray Bozarth Jr. seeks to appeal the district court’s order entered on June 23, 2011. This matter is before the court on a sua sponte motion for summary disposition. We dismiss the appeal without prejudice.

¶2 Generally, “[a]n appeal is improper if it is taken from an order or judgment that is not final.” *Bradbury v. Valencia*, 2000 UT 50, ¶ 9, 5 P.3d 649. Indeed, this court lacks jurisdiction to consider an appeal unless it is taken from a final, appealable order. *See id.* ¶ 8. Previously, a signed minute entry could be considered to constitute a final, appealable order so long as it specified with certainty a final determination of the rights of the parties and was susceptible to enforcement. *See Dove v. Cude*, 710 P.2d 170, 171 (Utah 1985).

¶3 The Utah Supreme Court has determined that the prior framework for analyzing the finality of a minute entry or order for purposes of appeal was unworkable. *See Giusti v. Sterling Wentworth Corp.*, 2009 UT 2, ¶¶ 30-36, 201 P.3d 966. Pursuant to the supreme court’s decision in *Giusti*, to be appealable, a minute entry or order contemplated as final by the district court “must explicitly direct that no additional order is necessary.” *Id.* ¶ 32. Otherwise, when the district court does not expressly direct that its order is the final order of the court, rule 7(f)(2) of the Utah Rules of Civil Procedure requires the prevailing party to prepare and file an order to trigger finality for purposes of appeal. *See id.* ¶ 30. If the prevailing party does not prepare and file an order in accordance with rule 7(f)(2), the non-prevailing party must do so. *See id.* ¶ 38.

¶4 The June 23, 2011 order does not satisfy the requirements set forth in *Giusti*. The district court did not expressly indicate that the June 23, 2011 order was the final order of the court. Furthermore, neither party prepared and submitted a proposed final order that would satisfy the requirements set forth in rule 7(f)(2) of the Utah Rules of Civil Procedure and *Giusti*. *See id.* Thus, the June 23, 2011 order is not final for purposes of appeal, and this court lacks jurisdiction to consider the appeal. *See Bradbury*, 2000 UT 50, ¶ 9. When this court lacks jurisdiction, we have only the authority to dismiss the appeal. *See Varian-Eimac, Inc. v. Lamoreaux*, 767 P.2d 569, 570 (Utah Ct. App. 1989).

¶5 Accordingly, the appeal is dismissed without prejudice to the filing of a timely appeal from a final order.

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Gregory K. Orme, Judge

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William A. Thorne Jr., Judge

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Michele M. Christiansen, Judge