

IN THE UTAH COURT OF APPEALS

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Ogden City,	)	PER CURIAM DECISION	
	)		
Plaintiff and Appellee,	)	Case No. 20110814-CA	
	)		
v.	)	F I L E D	
	)	(November 10, 2011)	
William A. Ward,	)		
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Defendant and Appellant.	)		

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Second District, Ogden Department, 115900033  
The Honorable Scott M. Hadley

Attorneys: William A. Ward, Ogden, Appellant Pro Se

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Before Judges Orme, Thorne, and Voros.

¶1 William A. Ward appeals his convictions of the infractions of driving on a denied license, speeding, and no proof of insurance following a trial de novo in the district court on appeal from convictions originating in the Ogden City Justice Court. This case is before the court on a sua sponte motion for summary disposition.

¶2 When a case originates in a justice court, a defendant may appeal the judgment and conviction from the justice court and obtain a trial de novo in the district court. See Utah Code Ann. § 78A-7-118(1) (Supp. 2011) (providing that a defendant is entitled to a trial de novo in district court if the defendant files a notice of appeal within thirty days after sentencing by the justice court). Utah Code section 78A-7-118(8) provides, “The decision of the district court [following a trial de novo] is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.” *Id.* § 78A-7-118(8). By enacting section 78A-7-118(8), “the Utah Legislature . . . specifically

and intentionally limited the issues that may be appealed from a district court's judgment." *State v. Hinson*, 966 P.2d 273, 276 (Utah Ct. App. 1998). Accordingly, "absent an issue regarding the constitutionality of a statute or ordinance, the decision of the district court is final and this court has no jurisdiction to hear an appeal thereof." *Id.* at 277-78. Our "appellate jurisdiction is limited to only those issues attacking the validity or constitutionality of an ordinance or statute." *Id.* at 277. Since July 1, 1997, appeals allowed in cases originating in justice court have been limited to those cases where the district court "rules on the constitutionality of a statute or ordinance." *Kanab v. Guskey*, 965 P.2d 1065, 1067-68 (Utah Ct. App. 1998); *see also Saratoga Springs v. Wayman*, 2011 UT App 22, ¶ 4, 246 P.3d 1222 (per curiam) (dismissing appeal in which the district court did not rule on the constitutionality of a statute or ordinance during de novo proceedings).

¶3 There is no indication in the record that the district court ruled upon a challenge to the constitutionality of a statute or ordinance. Because our jurisdiction is limited by section 78A-7-118(8) to those cases where the district court "rules on the constitutionality of a statute or ordinance," we lack jurisdiction to consider this appeal. Once a court has determined that it lacks jurisdiction, it "retains only the authority to dismiss the action." *Varian-Eimac, Inc. v. Lamoreaux*, 767 P.2d 569, 570 (Utah Ct. App. 1989). Accordingly, we dismiss this appeal for lack of jurisdiction.

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Gregory K. Orme, Judge

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William A. Thorne Jr., Judge

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J. Frederic Voros Jr., Judge