

IN THE UTAH COURT OF APPEALS

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Oscar Anderson,	)	MEMORANDUM DECISION	
	)	(Not For Official Publication)	
Plaintiff and Appellee,	)		
	)	Case No. 20080179-CA	
v.	)		
	)	F I L E D	
Wayne Stout,	)	(April 17, 2008)	
	)		
Defendant and Appellant.	)	<table border="1"><tr><td>2008 UT App 135</td></tr></table>	2008 UT App 135
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Seventh District, Moab Department, 070700147  
The Honorable Lyle R. Anderson

Attorneys: Terry R. Spencer, Sandy, for Appellant  
Earl G. Rhodes, Grand Junction, Colorado, for  
Appellee

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Before Judges Greenwood, Davis, and McHugh.

PER CURIAM:

Wayne Stout appeals the district court's order entered on February 4, 2008. This matter is before the court on a motion for summary disposition for lack of jurisdiction due to the absence of a final order.

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. The only exceptions to this requirement are where: (1) an appeal is permitted under the circumstances by statute; (2) the appellate court grants interlocutory appeal under rule 5 of the Utah Rules of Appellate Procedure; or (3) the trial court certifies the order as final under rule 54(b) of the Utah Rules of Civil Procedure. See id. ¶ 12.

Stout argues that the district court's order denying his motion to dismiss was a final order. However, an order or judgment is final only when it disposes of the case as to all parties and ends the subject matter of the litigation on its merits. See id. ¶ 9. The district court's order denying the motion to dismiss did not dispose of the case, but, on the contrary, permitted the case to move forward. Thus, the district court's order was not final.

Stout next argues that if the district court's order was not final, his appeal could be construed as a petition for interlocutory appeal.<sup>1</sup> However, Stout has not complied with the steps outlined in rule 5 of the Utah Rules of Appellate Procedure. See Utah R. App. P. 5. Stout's appeal is not taken from a final order or judgment and does not meet the foregoing exceptions. Thus, this court lacks jurisdiction and must dismiss the appeal. See Bradbury, 2000 UT 50, ¶ 8.

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

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Pamela T. Greenwood,  
Presiding Judge

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James Z. Davis, Judge

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Carolyn B. McHugh, Judge

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1. Stout does not argue that his appeal qualifies for the other exceptions to the final judgment rule. Thus, we decline to address them.