

IN THE UTAH COURT OF APPEALS

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Brian R. Ballard,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellee,)	
)	Case No. 20080622-CA
v.)	
)	
Jamie R. Ballard nka Jamie R.)	F I L E D
Robinson,)	(November 20, 2008)
)	
)	2008 UT App 421
Respondent and Appellant.)	

Seventh District, Moab Department, 004700136
The Honorable Lyle R. Anderson

Attorneys: Jamie R. Ballard nka Jamie R. Robinson, McKinney,
Appellant Pro Se
Craig C. Halls, Blanding, for Appellee

Before Judges Billings, Davis, and McHugh.

PER CURIAM:

Jamie R. Ballard nka Jamie R. Robinson, appeals from several postjudgment orders which were entered by the district court on July 1, 2008. This case is before the court on its sua sponte motion for summary disposition based on lack of jurisdiction.

"An appeal is improper if it is taken from an order or judgment that is not final, see Utah R. App. P. 3(a), unless it fits within an exception to the final judgment rule." Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649. "For an order or judgment to be final, it must dispose of the case as to all the parties, and finally dispose of the subject-matter of the litigation on the merits of the case." Id. (citation and internal quotation marks omitted). "In other words, a judgment is final when it ends the controversy between the parties litigant." Id. (citation and internal quotation marks omitted). Accordingly, "[a] judgment is not final if the trial court has failed to determine whether attorney fees should be awarded." Loffredo v. Holt, 2001 UT 97, ¶ 12, 37 P.3d 1070.

There is no final appealable order because at the time the notice of appeal was filed the district court had yet to resolve

the issue of whether Brian R. Ballard was entitled to attorney fees and, if so, in what amount. The district court's July 8, 2008 ruling on attorney fees specifically reserved this issue for an August hearing. Therefore, because the district court had not yet resolved Ballard's claim for attorney fees, the judgment from which Robinson appeals is not final. See id. Accordingly, we lack jurisdiction over the appeal and "retain only the authority to dismiss the action." Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989). We dismiss the appeal for lack of jurisdiction, without prejudice to a timely appeal after entry of a final judgment.

Judith M. Billings, Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge