

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20060956-CA	
v.)		
)	F I L E D	
Denis Besic,)	(February 15, 2007)	
)		
Defendant and Appellant.)	<table border="1"><tr><td>2007 UT App 53</td></tr></table>	2007 UT App 53
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Third District, Salt Lake Department, 061901181
The Honorable Leslie A. Lewis

Attorneys: Lori J. Seppi and Heather Brereton, Salt Lake City,
 for Appellant
 Mark L. Shurtleff and Kris C. Leonard, Salt Lake
 City, for Appellee

Before Judges Bench, McHugh, and Thorne.

PER CURIAM:

Denis Besic petitioned for permission to appeal the trial court's order denying his motion to quash bindover on a charge of aggravated robbery. The petition was granted and Besic was permitted to appeal the order. This is before the court on the State's motion to dismiss in light of a recent decision.

Subsequent to this court's granting of permission to appeal the interlocutory order denying Besic's motion to quash, this court addressed the issue raised in Besic's petition, whether the right to confrontation applied in preliminary hearings. See State v. Rhinehart, 2006 UT App 517. In Rhinehart, defendant argued that the Sixth Amendment and Crawford v. Washington, 541 U.S. 36 (2004), "provide criminal defendants with the right to confront and cross-examine the witnesses against them at preliminary hearings." Rhinehart, 2006 UT App 517 at ¶11. This court held that "[t]he Confrontation Clause pertains to a criminal defendant's right to confront and cross-examine the witnesses against the defendant at trial; it does not afford the right to confront and cross-examine witnesses at a preliminary hearing." Id. at ¶14. Additionally, we held that Crawford did not make the Confrontation Clause applicable to preliminary

hearings. See id. This holding squarely disposes of the issue Basic raises in his petition.

Basic asserted that his Sixth Amendment right to confront witnesses against him was violated at his preliminary hearing when a witness refused to answer questions on cross-examination. Under Rhinehart, however, there was no violation because the right to confrontation does not apply to preliminary hearings. See id. Basic did not have a constitutional right to cross-examine the witness at the preliminary hearing.

Because the issue raised in Basic's petition for permission to appeal an interlocutory order has now been resolved, we dismiss the petition.

Dismissed.

Russell W. Bench,
Presiding Judge

Carolyn B. McHugh, Judge

William A. Thorne Jr., Judge