

IN THE UTAH COURT OF APPEALS

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State of Utah,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellee,	)	
	)	Case No. 20080834-CA
v.	)	
	)	F I L E D
Jacob M. Bolith,	)	(November 6, 2008)
	)	
Defendant and Appellant.	)	2008 UT App 401

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Third District, Salt Lake Department, 071904959  
The Honorable Robin W. Reese

Attorneys: Herschel Bullen, Salt Lake City, for Appellant  
Mark L. Shurtleff and Kris C. Leonard, Salt Lake  
City, for Appellee

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Before Judges Billings, Davis, and McHugh.

PER CURIAM:

Appellant Jacob M. Bolith appeals his conviction, which was based upon a guilty plea to forcible sexual abuse, a second degree felony. This case is before the court on a sua sponte motion for summary disposition on the basis that we lack jurisdiction to consider the claims raised on appeal because no timely motion to withdraw the plea was filed prior to sentencing.

Bolith pleaded guilty on June 16, 2008, and was sentenced on August 25, 2008. He did not make a motion seeking to withdraw his guilty plea prior to the time of sentencing. "A request to withdraw a plea of guilty or no contest shall be made by motion before sentence is announced." Utah Code Ann. § 77-13-6(2)(b) (Supp. 2008). Failure to file a timely motion to withdraw a guilty plea "extinguishes a defendant's right to challenge the validity of the guilty plea on appeal." State v. Reyes, 2002 UT 13, ¶ 3, 40 P.3d 630; see also Grimmett v. State, 2007 UT 11, ¶ 8, 152 P.3d 306. Where no timely motion to withdraw a guilty plea is filed in the trial court, the appellate court has no jurisdiction to consider a challenge to the validity of the plea. See State v. Gall, 2007 UT App 85, ¶ 10, 158 P.3d 1105; see also State v. Briggs, 2006 UT App 448, ¶ 6, 147 P.3d 969 ("[B]ecause Defendant failed to timely file a motion to withdraw his guilty

plea, this court lacks jurisdiction to consider his ineffective assistance of counsel claim."). Any challenge to a guilty plea not made within the time specified "shall be pursued under [the] Post-Conviction Remedies Act, and Rule 65C, Utah Rules of Civil Procedure." Utah Code Ann. § 77-13-6(2)(c).

Bolith's failure to comply with Utah Code section 77-13-6 deprives this court of jurisdiction to review the only issues he has raised on appeal, which issues concern whether the guilty plea was knowing and voluntary and whether trial counsel provided effective assistance in connection with entry of that plea. Accordingly, we dismiss the appeal because we lack jurisdiction to consider the merits of the appeal.

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Judith M. Billings, Judge

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James Z. Davis, Judge

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Carolyn B. McHugh, Judge