

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20050780-CA	
v.)		
)	F I L E D	
Rocendo R. Borraro,)	(March 2, 2006)	
)		
Defendant and Appellant.)	<table border="1"><tr><td>2006 UT App 84</td></tr></table>	2006 UT App 84
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Third District, Salt Lake Department, 991912815, 991913591
The Honorable Paul G. Maughan

Attorneys: Rocendo R. Borraro, Youngstown, Ohio, Appellant
 Pro Se
 Mark L. Shurtleff and Matthew D. Bates, Salt Lake
 City, for Appellee

Before Judges Bench, Greenwood, and McHugh.

PER CURIAM:

Rocendo R. Borraro appeals the district court's denial of his petition to reduce judgment (the petition). Borraro also appeals from the apparent denial of a motion for reconsideration of the petition. This matter is before the court on the State of Utah's motion for summary disposition based on an untimely notice of appeal.

On July 26, 2005, the district court denied Borraro's petition pursuant to a signed minute entry (the minute entry). On August 23, 2005, Borraro filed a motion to reconsider this ruling. No order appears in the record disposing of this motion. Borraro subsequently filed a notice of appeal from both the minute entry denying his petition and the denial of his motion to reconsider.

Generally, an appeal may be taken only from a final order or judgment. See Utah R. App. P. 3(a). A notice of appeal must be filed within thirty days from the entry of the final order or judgment. See Utah R. App. P. 4(a). It is well established that a signed minute entry "may be a final order for purposes of appeal." Dove v. Cude, 710 P.2d 170, 171 n.1 (Utah 1985); see

also Cannon v. Keller, 692 P.2d 740, 741 n.1 (Utah 1984). A signed minute entry may be final if "the ruling specifies with certainty a final determination of the rights of the parties and is susceptible of enforcement." Cannon, 692 P.2d at 741 n.1.

In this case, the minute entry disposed of Borraro's petition and gave a rationale for the court's decision. It determined the rights of the parties without requiring any further action. Cf. State v. Leatherbury, 2003 UT 2, ¶9, 65 P.3d 1180 (noting minute entry not a final order where further action contemplated by the express language of the order requiring counsel to prepare findings). As a result, it is a final order for purposes of appeal and the time for filing the notice of appeal began to run once it was entered. See Utah R. App. P. 4(b).

Borraro did not file his notice of appeal within thirty days after entry of the minute entry. Therefore, insofar as Borraro seeks to appeal the minute entry, his appeal is untimely and this court lacks jurisdiction. See Utah R. App. P. 4; Serrato v. Utah Transit Auth., 2000 UT App 299, ¶7, 13 P.3d 616. The failure to timely file a notice of appeal from the denial of his petition extinguishes Borraro's right to appeal this order.

However, to the extent Borraro appeals the denial of his motion to reconsider, his appeal is premature, but his right to appeal is not extinguished. While the district court clearly disposed of the petition, it did not enter a final order disposing of the motion to reconsider.¹ Thus, insofar as Borraro appeals the denial of his motion to reconsider, this court lacks jurisdiction over the appeal because there is no final, appealable order. See Utah R. App. P. 3(a).

Once this court determines 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). Therefore, we dismiss this appeal for lack of jurisdiction. While dismissal of the appeal of the minute entry is with

1. The district court docket bears an entry on August 25, 2005, that the court "denies reconsideration and orders sentence originally imposed to remain." However, as noted herein, review of the record reveals no such order. A notation in the docket alone is insufficient to confer jurisdiction upon this court. See, e.g., Salt Lake City v. Griffin, 750 P.2d 194, 194 (Utah Ct. App. 1988) (per curiam) (dismissing case for lack of jurisdiction when "review of the record reveal[ed] no judgment or sentencing order signed by the trial court supporting the computerized docket entry provided by appellant").

prejudice, dismissal of the appeal of the motion to reconsider is without prejudice to the filing of a timely appeal after a final order or judgment has been entered.

Russell W. Bench,
Presiding Judge

Pamela T. Greenwood,
Associate Presiding Judge

Carolyn B. McHugh, Judge