

IN THE UTAH COURT OF APPEALS

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Draper City,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20060426-CA
v.)	
)	F I L E D
Timothy Brooks,)	(July 28, 2006)
)	
Defendant and Appellant.)	2006 UT App 318

Third District, West Jordan Department, 041400538
The Honorable Terry Christiansen

Attorneys: Jeffrey J. Noland, Salt Lake City, for Appellant
 Melanie Serrassio, Draper, for Appellee

Before Judges Greenwood, Davis, and Orme.

PER CURIAM:

Timothy Brooks appeals from his conviction in the district court in a case originating in justice court. This is before the court on its own motion for summary disposition based on lack of jurisdiction.

Utah Code section 78-5-120 provides for criminal appeals from justice courts. See Utah Code Ann. § 78-5-120 (2002). If a defendant files a timely notice of appeal from a justice court conviction, "a defendant is entitled to a trial de novo in the district court." Id. § 78-5-120(1). "The right to an 'appeal' from a court not of record is satisfied by provision for a trial de novo in a court of record." Dean v. Henriod, 1999 UT App 50, ¶9, 975 P.2d 946. "The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance." Utah Code Ann. § 78-5-120(7).

Brooks's case originated in justice court. He had his appeal by a trial de novo in the district court. The district court did not rule on the constitutionality of a statute or

ordinance. As a result, the decision of the district court is final and this court has no jurisdiction over the appeal. See id.

Accordingly, this appeal is dismissed.¹

Pamela T. Greenwood,
Associate Presiding Judge

James Z. Davis, Judge

Gregory K. Orme, Judge

¹Brooks's motion for a stay pending appeal is also denied for lack of jurisdiction.