

IN THE UTAH COURT OF APPEALS

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Salt Lake City,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)	Case No. 20080997-CA	
)		
v.)	F I L E D	
)	(March 5, 2009)	
Roger Bryner,)		
)	<table border="1"><tr><td>2009 UT App 62</td></tr></table>	2009 UT App 62
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Defendant and Appellant.)		

Second District, Farmington Department, 081701357
The Honorable John R. Morris

Attorneys: Roger Bryner, Midvale, Appellant Pro Se
Simarjit S. Gill and Joshua S. Baron, Salt Lake City,
for Appellee

Before Judges Greenwood, Thorne, and Orme.

PER CURIAM:

Roger Bryner appeals the district court order dismissing his appeal and remanding the case to justice court. This is before the court on its own motion for summary disposition based on lack of jurisdiction due to the absence of a final order or, alternatively, because the case originated in justice court.

Bryner was found guilty of charges in justice court. Before the justice court sentenced Bryner, he filed a notice of appeal. Accordingly, the justice court determined that it lost jurisdiction pending the appeal. In the district court, the appeal was dismissed as untimely because Bryner had not been sentenced. The district court remanded the case back to the justice court. Bryner then appealed that order to this court.

This court lacks jurisdiction over this appeal at this stage for two reasons. First, because Bryner has not been sentenced, there is no final order from which to appeal. In criminal matters, it is the sentence itself which constitutes the final judgment from which a defendant has the right to appeal. See State v. Bowers, 2002 UT 100, ¶ 4, 57 P.3d 1065. Bryner filed his appeal in district court before he was sentenced, thereby

making his appeal premature. The district court correctly determined that it did not have jurisdiction and remanded the case to justice court. Once Bryner is sentenced, he may perfect his appeal by filing his notice of appeal to the district court from the final order.

Second, appeals from justice court cases are limited. Utah Code section 78A-7-118 provides for appeals from justice courts. See Utah Code Ann. § 78A-7-118 (2008). An appeal from a justice court case is by a trial de novo in the district court. See id. "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." Id. § 78A-7-118(7).

Although Bryner has attempted to raise constitutional issues, the district court did not rule on those issues because it found it lacked jurisdiction. Absent the narrow circumstance under which a district court ruling may be further appealed, this court lacks jurisdiction over appeals from cases originating in justice court. See id.

Dismissed.¹

Pamela T. Greenwood,
Presiding Judge

William A. Thorne Jr.,
Associate Presiding Judge

Gregory K. Orme, Judge

¹Because we dismiss for lack of jurisdiction, we do not reach Bryner's motion for summary disposition on constitutional issues.