

IN THE UTAH COURT OF APPEALS

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Roger Bryner,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Petitioner and Appellant,)		
)	Case No. 20070006-CA	
v.)		
)	F I L E D	
Lana Bryner,)	(March 15, 2007)	
)		
Respondent and Appellee.)	<table border="1"><tr><td>2007 UT App 95</td></tr></table>	2007 UT App 95
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Third District, Salt Lake Department, 044904183
The Honorable Denise P. Lindberg

Attorneys: Roger Bryner, Midvale, Appellant Pro Se
Emily Broadhead Smoak and Thomas J. Burns, Salt Lake
City, for Appellee

Before Judges Bench, Billings, and Orme.

PER CURIAM:

Roger Bryner seeks to appeal the trial court's order entered January 18, 2007, regarding cross motions for summary judgment and the enforcement of a settlement agreement. This is before the court on its own motion for summary disposition based on lack of jurisdiction due to the absence of a final appealable order.

Generally, "[a]n appeal is improper if it is taken from an order or judgment that is not final." Bradbury v. Valencia, 2000 UT 50, ¶9, 5 P.3d 649. "To be final, the trial court's order or judgment must dispose of all parties and claims to an action." Id. at ¶10. In domestic cases, because trial courts retain continuing jurisdiction, more than one order may be final and appealable in a single case. See Copier v. Copier, 939 P.2d 202, 203 (Utah Ct. App. 1997) (per curiam). However, to be a final appealable order in a domestic case, the order must resolve the controversy between the parties. See id.

Here, the trial court's order did not resolve the controversy between the parties. Although the order addressed several issues, it expressly reserved the primary issue, custody

of the children, for trial. As a result, it is not a final appealable order. See id.

Bryner asserts that the order is final because it dismissed all claims. He is incorrect. The order specifically reserved the issue of child custody for future consideration. Therefore, not all claims were resolved. Additionally, none of the issues identified by Bryner regard the claims dismissed pursuant to the agreement. Rather, each issue relates to matters that remain ongoing in the proceeding, aligned with the child custody matter. The key issue Bryner apparently seeks to reach regards child custody matters that remain pending before the court.

In sum, the trial court's order is not a final appealable order. As a result, this court lacks jurisdiction over this appeal and must dismiss it. See Bradbury, 2000 UT 50 at ¶8.

Accordingly, this appeal is dismissed without prejudice to the filing of a timely notice of appeal after the entry of a final order.

Russell W. Bench,
Presiding Judge

Judith M. Billings, Judge

Gregory K. Orme, Judge