

IN THE UTAH COURT OF APPEALS

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Riverton City,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20030983-CA
v.)	
)	F I L E D
Shane R. Christensen,)	August 18, 2005
)	
Defendant and Appellant.)	<u>2005 UT App 354</u>

Third District, Sandy Department, 031400353
The Honorable Michael K. Burton

Attorneys: Shane R. Christensen, St. George, Appellant Pro Se

Before Judges Bench, Davis, and McHugh.

PER CURIAM:

This case originated in the Riverton Justice Court. Shane R. Christensen appealed the decision of that court to the district court. Following a trial de novo, Christensen was convicted of two infractions. Christensen appeals this decision. Based upon a review of the entire record, we dismiss for lack of jurisdiction.

Utah Code section 78-5-120 governs appeals from justice courts. See Utah Code Ann. § 78-5-120 (2002). Section 78-5-120(7) states that "[t]he 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. § 78-5-120(7). "By enacting [section 78-5-120] the Utah Legislature . . . specifically and intentionally limited the issues that may be appealed from a district court's judgment." State v. Hinson, 966 P.2d 273, 276 (Utah Ct. App. 1998). Accordingly, "absent an issue regarding the constitutionality of a statute or ordinance, the decision of the district court is final and this court has no jurisdiction to hear an appeal thereof." Id. at 277.

Although Christensen now alleges violations of various constitutional provisions, these allegations were not pursued below and were not decided by the district court. Therefore,

this appeal is not taken from a district court ruling on the constitutionality of a statute or ordinance.

As a result, this appeal is not within our appellate jurisdiction. Once this court has determined 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).

Accordingly, this appeal is dismissed.

Russell W. Bench,
Associate Presiding Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge