

IN THE UTAH COURT OF APPEALS

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Ogden City,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20051099-CA
v.)	
)	F I L E D
Bruce Edwards,)	(February 2, 2006)
)	
Defendant and Appellant.)	2006 UT App 32

Second District, Ogden Department, 051902071
The Honorable W. Brent West

Attorneys: Bruce Edwards, Ogden, Appellant Pro Se

Before Judges Greenwood, McHugh, and Orme.

PER CURIAM:

Bruce Edwards appeals an order of the district court. This matter is before the court on a sua sponte motion for summary dismissal for lack of jurisdiction due to the absence of a final order or judgment.

Edwards was charged with one count of obstruction of justice and one count of child abuse. Upon Edwards's motion, the district court dismissed the count of obstruction of justice without prejudice, granting Ogden City leave to file an amended information. On appeal, Edwards challenges the district court's decision to dismiss the obstruction count without prejudice.

Generally, an appeal may be taken only from a final judgment. See Utah R. App. P. 3(a). "In a criminal case, it is 'the sentence itself which constitutes a final judgment from which the appellant has the right to appeal.'" State v. Bower, 2002 UT 100, ¶4, 57 P.3d 1065 (quoting State v. Gerrard, 584 P.2d 885, 886 (Utah 1978)); see also State v. Walker, 2002 UT App 290, ¶11, 55 P.3d 1165 (holding that "under Utah law a trial court must impose a sentence in order to create a final, appealable order").

Edwards has not been sentenced in this matter. Indeed, Edwards has not even been tried on the additional count of child abuse. Therefore, there is no final, appealable order in place. In the absence of a final order, this court lacks jurisdiction and must dismiss the appeal. See Loffredo v. Holt, 2001 UT 97, ¶11, 37 P.3d 1070.

Accordingly, this appeal is dismissed, without prejudice to the filing of a timely appeal after a final judgment has been entered.

Pamela T. Greenwood,
Associate Presiding Judge

Carolyn B. McHugh, Judge

Gregory K. Orme, Judge