

IN THE UTAH COURT OF APPEALS

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Enterprise City,	)	MEMORANDUM DECISION	
	)	(Not For Official Publication)	
Plaintiff and Appellee,	)		
	)	Case No. 20090963-CA	
v.	)		
	)	F I L E D	
Chance David Ence,	)	(March 11, 2010)	
	)		
Defendant and Appellant.	)	<table border="1"><tr><td>2010 UT App 60</td></tr></table>	2010 UT App 60
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Fifth District, St. George Department, 091501135  
The Honorable James L. Shumate

Attorneys: Chance David Ence, St. George, Appellant Pro Se  
Eric R. Gentry, St. George, for Appellee

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Before Judges Davis, McHugh, and Bench.<sup>1</sup>

PER CURIAM:

Chance David Ence appeals his convictions based upon the improper tinting of his vehicle's windows and failure to appear on a citation. This matter is before the court on its sua sponte motion for summary disposition based upon lack of jurisdiction.

Utah Code section 78A-7-118(7) states that "the decision of the district court [in a case originating in a justice court] is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance." Utah Code Ann. § 78A-7-118(7) (2008). 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." State v. Hinson, 966 P.2d 273, 277 (Utah Ct. App. 1998). Ence was initially charged and later convicted of the crimes in the Enterprise City Justice Court. Ence appealed, requesting a trial de novo with the district court. The district court conducted a trial on October 29, 2009, and found Ence guilty of the same crimes.

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<sup>1</sup>The Honorable Russell W. Bench, Senior Judge, sat by special assignment pursuant to Utah Code section 78A-3-103 (2008) and rule 11-201(6) of the Utah Rules of Judicial Administration.

Ence seeks review of the district court's decision. However, the record does not demonstrate that the district court ruled on the constitutionality of any statute or ordinance. Therefore, because this case originated in a justice court and the district court did not rule on the constitutionality of a statute or ordinance, this court lacks jurisdiction to hear the appeal. See id. When a court 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, we dismiss the appeal.

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James Z. Davis,  
Presiding Judge

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Carolyn B. McHugh,  
Associate Presiding Judge

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Russell W. Bench,  
Senior Judge