

IN THE UTAH COURT OF APPEALS

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Jeffrey Russell Finlayson,)	MEMORANDUM DECISION	
)	(Not For Official Publication	
Petitioner and Appellant,)		
)	Case No. 20051058-CA	
v.)		
)	F I L E D	
State of Utah,)	(March 9, 2006)	
)		
Respondent and Appellee.)	<table border="1"><tr><td>2006 UT App 95</td></tr></table>	2006 UT App 95
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Third District, Salt Lake Department, 050901691
The Honorable Stephen L. Henriod

Attorneys: Jeffrey Russell Finlayson, Gunnison, Appellant Pro Se
Mark L. Shurtleff and Kris C. Leonard, Salt Lake
City, for Appellee

Before Judges Bench, Greenwood, and McHugh.

PER CURIAM:

Jeffrey Russell Finlayson appeals the district court's order dismissing his petition for postconviction relief without prejudice. This case is before the court on its own motion for summary dismissal for lack of jurisdiction due to the absence of a final, appealable order or judgment. See Utah R. App. P. 3(a).

This court does not have jurisdiction to consider an appeal unless it is taken from a final judgment or order, see id., or qualifies for an exception to the final judgment rule. See Loffredo v. Holt, 2001 UT 97, ¶¶10, 15, 37 P.3d 1070. An order is final only if it disposes of the case as to all parties and "finally dispose[s] of the subject-matter of the litigation on the merits of the case." Bradbury v. Valencia, 2000 UT 50, ¶9, 5 P.3d 649 (quotations and citation omitted).

Here, the district court's order dismissed Finlayson's petition without prejudice and granted an additional thirty days to file an amended petition. This order clearly does not dispose of all the parties nor all the issues in the litigation. See id. As a result, the order is not final. Furthermore, Finlayson has not raised any exception to the final judgment rule in this case. See id. at ¶12.

Because the order appealed from is not a final order, this court lacks jurisdiction to hear this appeal. When this court lacks jurisdiction it must dismiss the appeal. See Loffredo, 2001 UT 97 at ¶11.

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

Russell W. Bench,
Presiding Judge

Pamela T. Greenwood,
Associate Presiding Judge

Carolyn B. McHugh, Judge