

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20090799-CA
v.)	
)	F I L E D
Craig Ivan Gilbert,)	(December 24, 2009)
)	
Defendant and Appellant.)	2009 UT App 391

Third District, Salt Lake Department, 091904291
The Honorable Judith S. Atherton

Attorneys: Craig Ivan Gilbert, Provo, Appellant Pro Se
Mark L. Shurtleff and Laura B. Dupaix, Salt Lake
City, for Appellee

Before Judges Greenwood, Davis, and Thorne.

PER CURIAM:

Craig Ivan Gilbert appeals from the September 3, 2009 order adjudicating his competency to proceed further in a pending prosecution. This matter is before the court on a sua sponte motion for summary disposition. We affirm.

A criminal defendant may appeal an order adjudicating his or her competency to proceed further in a pending prosecution. See Utah Code Ann. § 77-18a-1(1)(c) (2008). The district court's September 3, 2009 order adjudicated Gilbert as incompetent and determined that Gilbert's mental disorders resulted in his inability to engage in reasoned choices regarding legal strategies with counsel and participate in the proceedings against him with a reasonable degree of rational understanding.

On appeal, Gilbert does not challenge the district court's findings regarding his competency to stand trial, whether the competency proceedings appropriately complied with the relevant statutes, or the content or the accuracy of the competency evaluations. Rather, Gilbert seeks an appellate ruling on matters outside the scope of the commitment order. In sum, Gilbert asserts: (1) that he is a victim of human trafficking, and as such, has an absolute defense to the burglary, criminal

mischief, and intoxication charges; and (2) that he is an agent working for the U.S. Constitution under the defense clause to review whether citizens are being deprived of equal access and subject to a monarchical government.

The district court did not rule on these issues in its commitment order. Rather, the district court referenced Gilbert's "human trafficking" defense and his assertion that he is an agent working for the Constitution merely as examples of Gilbert's inability to meaningfully participate in his defense. Because the issues raised by Gilbert are outside the scope of the commitment order, they present insubstantial questions for appellate review. Thus, we decline to address them. See Utah R. App. P. 10.

Gilbert next asserts that his counsel was ineffective for failing to appeal the issues raised by Gilbert. The Utah Supreme Court has determined that counsel's failure to take certain actions in representing a client's interests does not constitute ineffective assistance of counsel if such action would have been futile. See State v. White, 1999 UT 96, ¶ 34, 989 P.2d 52. Because the issues raised by Gilbert are outside the scope of the commitment order, we cannot say that Gilbert's counsel rendered ineffective assistance for failing to appeal such issues.

Affirmed.¹

Pamela T. Greenwood,
Presiding Judge

James Z. Davis, Judge

William A. Thorne Jr., Judge

¹To the extent that Gilbert has raised other issues not specifically addressed above, we determine that such issues lack merit, and we decline to address them further. See State v. Carter, 888 P.2d 629, 648 (Utah 1994).