

IN THE UTAH COURT OF APPEALS

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Cedar City,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20080521-CA
v.)	
)	F I L E D
William Hale,)	(October 23, 2008)
)	
Defendant and Appellant.)	2008 UT App 380

Fifth District, Cedar City Department, 065500049
The Honorable John J. Walton

Attorneys: William Hale, Enoch, Appellant Pro Se
 Paul A. Bittmenn and Randall K. McUne, Cedar City,
 for Appellee

Before Judges Greenwood, Thorne, and Orme.

PER CURIAM:

William Hale appeals his convictions for driving under the influence of alcohol and speeding. The case is before the court on a sua sponte motion for summary disposition.

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) (Supp. 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). Hale was originally found guilty in justice court of driving under the influence of alcohol and speeding. Hale then filed a request for a trial de novo with the district court. The district court conducted a trial de novo, and Hale was again found guilty of both counts.

Hale raises numerous issues on appeal, including whether he was subjected to double jeopardy. However, none of the issues presented concern the constitutionality of a statute or ordinance, nor does the record demonstrate that the district

court ruled on any such issue. See Pleasant Grove v. Orvis, 2007 UT App 74, ¶ 16, 157 P.3d 355 (stating that in cases arising in justice court, appellate courts cannot even review constitutional issues unless district court ruled on the constitutionality of a statute or ordinance). Therefore, this court lacks jurisdiction to hear the appeal. See Hinson, 966 P.2d at 277. 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.

Pamela T. Greenwood,
Presiding Judge

William A. Thorne Jr.,
Associate Presiding Judge

Gregory K. Orme, Judge