

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20050452-CA	
v.)		
)	F I L E D	
Tony-Alexander Hamilton,)	(September 29, 2005)	
)		
Defendant and Appellant.)	<table border="1"><tr><td>2005 UT App 415</td></tr></table>	2005 UT App 415
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Fifth District, Beaver Department, 991500129
The Honorable K.L. McIff

Attorneys: Tony-Alexander Hamilton, Gunnison, Appellant Pro Se
Von J. Christiansen, Beaver, for Appellee

Before Judges Bench, Greenwood, and Thorne.

PER CURIAM:

Tony-Alexander Hamilton appeals from the district court's order disposing of certain firearms used as evidence in Hamilton's trial. We affirm.

After the Utah Supreme Court affirmed Hamilton's convictions for attempted aggravated murder, aggravated assault, killing a police service animal, interfering with a legal arrest, and criminal trespass, the State filed a motion with the district court seeking to return certain weapons and ammunition from evidence to the Beaver County Sheriff's Office for destruction. The district court held a hearing on June 14, 2004, and determined that Hamilton, as a convicted felon, was not authorized to receive the firearms. However, before returning the evidence to the Beaver County Sheriff's Office, the district court ordered that other potential owners of the weapons should be notified and given an opportunity to prove their ownership of the weapons. Accordingly, an evidentiary hearing was later held to determine ownership of the weapons.

At the close of the hearing, the district court found satisfactory proof of ownership and the ability to lawfully possess certain weapons, and ordered those weapons released to the specified claimants. However, the district court found that no satisfactory proof of ownership existed for five of the

firearms and ordered that they be released to the Beaver County Sheriff's Office for disposal.

Hamilton claims the district court erred in determining that evidence of ownership of some of the weapons was insufficient. The district court's determination of ownership of the weapons is a finding of fact. Findings of fact are reviewed under the clearly erroneous standard. See State v. Norton, 2003 UT App 88, ¶9, 67 P.3d 1050. The district court's findings are contained in its minute entry on the date of the hearing and the subsequent order disposing of the property. Appellant has failed to provide this court with a transcript of the evidentiary hearing. When there is no transcript of a proceeding, findings of fact are assumed to be correct. See Wilderness Bldg. Sys., Inc. v. Chapman, 699 P.2d 766, 769 (Utah 1985); see also State v. Miller, 718 P.2d 403, 405 (Utah 1986) (per curiam) (concluding that in the face of "an inadequate record on appeal, [we] must assume the regularity of the proceedings below." (citations omitted)). Because Hamilton has not provided this court with a copy of the transcript, we must presume the correctness of the findings of fact concerning the ownership of the weapons. Therefore, Hamilton has failed to demonstrate that the district court's findings were clearly erroneous.

Hamilton also seems to argue that the order should be reversed because the "Brady Bill," under which the State performed background checks on potential gun owners, is unconstitutional. However, this argument is not properly before us because the record is clear that no individual claiming ownership of the weapons was denied possession based upon a "Brady Bill" background check. Thus, Hamilton's argument is moot. See State v. Sims, 881 P.2d 840, 841 (Utah 1998) ("An issue on appeal is considered moot when the requested judicial relief cannot affect the rights of the litigants. . . . When an issue is moot, judicial policy dictates against our rendering an advisory opinion." (citations and quotations omitted)).

We therefore affirm.

Russell W. Bench,
Associate Presiding Judge

Pamela T. Greenwood, Judge

William A. Thorne Jr., Judge