

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20050116-CA
v.)	
)	F I L E D
Daniel Lamont Hodges,)	(December 8, 2005)
)	
Defendant and Appellant.)	2005 UT App 529

Third District, Salt Lake Department, 011909070
The Honorable Sheila K. McCleve

Attorneys: Joan C. Watt, Salt Lake City, for Appellant
Mark L. Shurtleff and Christine F. Soltis, Salt Lake
City, for Appellee

Before Judges Bench, Greenwood, and McHugh.

PER CURIAM:

Daniel Lamont Hodges appeals from the revocation of his probation and his confinement to prison. Hodges asserts that the district court did not have jurisdiction because a delay in filing charges against him violated his due process rights.

Hodges first challenged the district court's jurisdiction on interlocutory appeal. The Utah Supreme Court determined that the district court had subject matter jurisdiction over the proceedings because Hodges was twenty-one when the charges were filed, placing him within the jurisdiction of the district court under the plain language of Utah's statutes. See State v. Hodges, 2002 UT 117, 63 P.3d 66. Based on Hodges, the district court conclusively has subject matter jurisdiction over this case.¹

¹The supreme court declined to address constitutional issues raised in Hodges because they were not raised in the trial court. See State v. Hodges, 2002 UT 117, ¶5. After the interlocutory appeal, Hodges did not raise the issues to the trial court before pleading guilty.

Hodges asserts on appeal that his due process rights were violated by a delay between the time the crime was discovered and the filing of the charges against him. Hodges pleaded guilty to a single charge in exchange for the dismissal of several other charges. He did not move to withdraw his plea. A guilty plea constitutes a waiver of the right to appeal all nonjurisdictional issues.² See State v. Smith, 833 P.2d 371, 372 (Utah Ct. App. 1992). The general rule in criminal proceedings is that by pleading guilty, a defendant is deemed to have admitted all of the essential elements of the crime charged and thereby waives all nonjurisdictional defects, including alleged preplea constitutional violations. See State v. Parsons, 781 P.2d 1275, 1277 (Utah 1989). Because Hodges pleaded guilty, he has waived the right to appeal his claim of a due process violation.

Moreover, in the motion to reinstate probation, Hodges did not raise the issues he now asserts on appeal. Generally, "issues not raised [in the district court] cannot be argued for the first time on appeal," including constitutional issues. Hodges, 2002 UT 117 at ¶5 (alteration in original).

Accordingly, the trial court's order is affirmed.

Russell W. Bench,
Associate Presiding Judge

Pamela T. Greenwood, Judge

Carolyn B. McHugh, Judge

²Hodges asserts that a due process violation defeats subject matter jurisdiction, and therefore he can raise this issue on appeal. "Subject matter jurisdiction is the power and authority of the court to determine a controversy and without which it cannot proceed." State v. Norris, 2004 UT App 267, ¶5, 97 P.3d 732 (quotations and citation omitted). The due process violation alleged here does not affect the authority of the district court to preside over these proceedings, but impacts only whether this case could go forward with this defendant consistent with constitutional requirements. The subject matter jurisdiction of the district court is defined by Utah law. See Utah Code Ann. § 78-3-4 (2002).