

IN THE UTAH COURT OF APPEALS

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| Central Utah Water Conservancy District, |) | MEMORANDUM DECISION |
| |) | (Not For Official Publication) |
| |) | |
| Plaintiff and Appellee, |) | Case No. 20100485-CA |
| |) | |
| v. |) | |
| |) | F I L E D |
| |) | (September 23, 2010) |
| <u>Frank Lamm</u> and Robin Lamm, |) | |
| |) | 2010 UT App 263 |
| Defendant and Appellant. |) | |

Eighth District, Duchesne Department, 060800069
The Honorable Edwin T. Peterson

Attorneys: Frank Lamm, Grand Junction, Colorado, Appellant Pro Se
Perrin R. Love, Wendy Bowden Crowther, and Joseph D. Kesler, Salt Lake City, for Appellee

Before Judges Davis, Voros, and Roth.

PER CURIAM:

Appellant Frank Lamm appeals the district court's May 13, 2010 order granting the Central Utah Water Conservancy District's (CUWCD) motion for a default judgment. That order directed counsel for CUWCD to prepare a judgment.¹

Rule 3(a) of the Utah Rules of Appellate Procedure states that "[a]n appeal may be taken from a district . . . court to the appellate court with jurisdiction over the appeal from all final orders and judgments." Utah R. App. P. 3(a). An appeal taken from an order that is not final must be dismissed for lack of appellate jurisdiction. See Bradbury v. Valencia, 2000 UT 50, ¶ 8, 5 P.3d 649. An order is final and appealable when it disposes of all of the claims against all parties on the merits. See id. ¶ 9; see also Loffredo v. Holt, 2001 UT 97, ¶ 12, 37 P.3d 1070.

¹Although CUWCD's counsel prepared and filed a proposed judgment of condemnation, it has not been entered as a result of this pending appeal.

The order entered on May 13, 2010, is not final and appealable because, although the order granted the motion for a default judgment, it directed counsel for CUWCD to prepare a final judgment. The proposed final judgment of condemnation, when and if it is signed and entered, will be the final, appealable judgment of the district court. Furthermore, that final judgment will constitute the complete adjudication of the condemnation case by setting out the property description, purchase price, and requisites to allow the judgment to be recorded to vest title in CUWCD.

The order Lamm seeks to appeal is an interlocutory order. He did not timely seek or obtain permission to appeal under rule 5 of the Utah Rules of Appellate Procedure, nor was the order certified as final and appealable under rule 54(b) of the Utah Rules of Civil Procedure.

Once a court has determined that it 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 for lack of jurisdiction, without prejudice to an appeal filed after the entry of the final judgment.

James Z. Davis,
Presiding Judge

J. Frederic Voros Jr., Judge

Stephen L. Roth, Judge