

IN THE UTAH COURT OF APPEALS

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Murray City,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20060523-CA	
v.)		
)	F I L E D	
Robert Markosian Sr.,)	(August 17, 2006)	
)		
Defendant and Appellant.)	<table border="1"><tr><td>2006 UT App 342</td></tr></table>	2006 UT App 342
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Third District, Salt Lake Department, 065900070
The Honorable Ann Boyden

Attorneys: Benjamin A. Hamilton, Salt Lake City, for Appellant
 Brian E. Brower, Murray, for Appellee

Before Judges Davis, McHugh, and Orme.

PER CURIAM:

Robert Markosian Sr. appeals from the district court's order denying his motion to strike Murray City's appeal for a hearing de novo. The case is before the court on a sua sponte motion for summary disposition.

Utah Code section 78-5-120(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. § 78-5-120(7) (2002). 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). Markosian was charged with two misdemeanors in justice court. During the proceedings, the justice court granted Markosian's motion to suppress certain evidence. Murray City then appealed the case to the district court. See Utah Code Ann. § 78-5-120(4)(3) (allowing prosecutor to appeal for a trial de novo when a pretrial order excludes evidence and the prosecutor certifies that the exclusion of that evidence prevents further prosecution). As a result, Markosian filed a motion to strike the appeal. The district court denied

the motion, which Markosian appeals. Markosian fails to raise any issues concerning the constitutionality of a statute or ordinance, nor did the district court rule on such an issue. Accordingly, this court lacks jurisdiction to hear the appeal.¹ 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.

James Z. Davis, Judge

Carolyn B. McHugh, Judge

Gregory K. Orme, Judge

¹Further, the order from which Markosian appeals is not a final order as it did not fully resolve the controversy between the parties. See Bradbury v. Valencia, 2000 UT 50, ¶9, 5 P.3d 649. Therefore, even if this court otherwise had jurisdiction to review the issues in the case, because the order was not final, the court would lack jurisdiction on that ground. See Loffredo v. Holt, 2001 UT 97, ¶10, 37 P.3d 1070.