

IN THE UTAH COURT OF APPEALS

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William John McCloskey,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellant,)	
)	Case No. 20100548-CA
v.)	
)	
Kellene Bishop and Blue Screen)	F I L E D
Marketing,)	(October 15, 2010)
)	
)	2010 UT App 287
Defendants and Appellees.)	

Fourth District, Provo Department, 086405813
The Honorable Lynn W. Davis

Attorneys: William John McCloskey, Philadelphia, Pennsylvania,
Appellant Pro Se
Sidney Balthasar Unrau, Provo, for Appellees.

Before Judges Davis, Voros, and Roth.

PER CURIAM:

William John McCloskey appeals the district court's order entered on April 15, 2010. This matter is before the court on a sua sponte motion for summary disposition. We dismiss the appeal without prejudice.

Generally, "[a]n appeal is improper if it is taken from an order or judgment that is not final." Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649. This court lacks jurisdiction to consider an appeal unless it is taken from a final, appealable order. See id. ¶ 8.

Previously, a signed minute entry could be considered a final, appealable order so long as it specified with certainty a final determination of the rights of the parties and was susceptible of enforcement. See Dove v. Cude, 710 P.2d 170, 171 (Utah 1985); see also Cannon v. Keller, 692 P.2d 7140, 741 (Utah 1984). The Utah Supreme Court has since determined that the prior framework for analyzing the finality of a minute entry or order for purposes of appeal was unworkable. See Giusti v. Sterling Wentworth Corp., 2009 UT 2, ¶¶ 30-36, 201 P.3d 966. Under Giusti, a minute entry or order contemplated as final by

the district court "must explicitly direct that no additional order is necessary." Id. ¶ 32. Otherwise, when the district court does not expressly direct that its order is the final order of the court, rule 7(f)(2) of the Utah Rules of Civil Procedure requires the parties to prepare and file an order to trigger finality for purposes of appeal. See id. ¶ 30.

The April 15, 2010 ruling does not satisfy the requirements set forth in Giusti. The district court did not expressly indicate that it was the final order of the court. Furthermore, neither party prepared a final order as required by rule 7(f)(2) of the Utah Rules of Civil Procedure. Thus, the April 15, 2010 ruling is not final for purposes of appeal and this court is required to dismiss the appeal.¹

Accordingly, the appeal is dismissed without prejudice to the filing of a timely appeal from a final order.

James Z. Davis,
Presiding Judge

J. Frederic Voros Jr., Judge

Stephen L. Roth, Judge

¹For the same reasons, the January 29, 2010 ruling also failed to constitute a final, appealable order.