

IN THE UTAH COURT OF APPEALS

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Jimmy Dean Meinhard,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellant,)	
)	Case No. 20090247-CA
v.)	
)	F I L E D
Steven Turley,)	(June 4, 2009)
)	
Respondent.)	2009 UT App 150

Third District, Tooele Department, 090300103
The Honorable Stephen L. Henriod

Attorneys: Jimmy Dean Meinhard, Draper, Appellant Pro Se

Before Judges Bench, Davis, and McHugh.

PER CURIAM:

Jimmy Dean Meinhard appeals the trial court's denial of his petition for relief under rule 65C of the Utah Rules of Civil Procedure and his motion to vacate under rule 60(b) of the Utah Rules of Civil Procedure. This is before the court on its own motion for summary disposition based on the lack of a substantial question for review. We affirm.

Meinhard asserts that the original criminal trial court lacked jurisdiction over him because the charging information was not sworn. Any objection based on defects in the information must be raised at least five days before trial. See Utah R. Crim. P. 12(c)(1)(A). "[F]ailure to make a timely objection to defects in the information constitutes a waiver." State v. Smith, 700 P.2d 1106, 1109 (Utah 1985). Meinhard did not timely raise any alleged defects in the information and has thus waived this issue. Furthermore, this same issue was decided against Meinhard in a prior appeal. See State v. Meinhard, 2006 UT App 320U (per curiam).

Additionally, for the first time, Meinhard challenges the search warrants issued in 1997. However, that issue is not properly before the court. Meinhard did not raise the issue on direct appeal, nor did he pursue a petition for post-conviction relief within the permitted time frame. Under the Post-

Conviction Remedies Act, a person is not eligible for relief on any ground that could have been raised on direct appeal. See Utah Code Ann. § 78B-9-106(1)(c) (2008). Furthermore, a person is not eligible for relief unless he files a petition within one year after the action has accrued. See id. § 78B-9-107(1). For Meinhard's purposes, any action accrued no later than November 15, 2002, one year after the Utah Supreme Court denied his petition for certiorari. See id. § 78B-9-107(2)(d). Accordingly, the issue about the sufficiency of the search warrants has been waived.

Affirmed.

Russell W. Bench, Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge