

IN THE UTAH COURT OF APPEALS

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Thabo Mzilikazi,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellant,)	
)	Case No. 20091011-CA
v.)	
)	
Mark A. White, Timothy N.)	F I L E D
Croft, and Derek B. Gregston,)	(July 1, 2010)
)	
Defendants and Appellees.)	2010 UT App 178

Third District, Salt Lake Department, 020901653
The Honorable Sandra N. Peuler

Attorneys: Kevin M. Sheff, Salt Lake City, for Appellant
Michael S. Eldredge, Riverdale, for Appellees

Before Judges Orme, Thorne, and Voros.

PER CURIAM:

Thabo Mzilikazi appeals the district court's October 27, 2009 order. We dismiss the appeal for lack of jurisdiction.

Issues regarding this court's jurisdiction may be raised by the court or either party at any time. See Bradbury v. Valencia, 2000 UT 50, ¶ 8, 5 P.3d 649. This court lacks jurisdiction to consider an appeal unless it is taken from a final, appealable order. See id. For an order to be a final, appealable order, the order must "dispose of all parties or claims to an action." Id. ¶ 10. An order granting a rule 60(b) motion that sets aside a judgment is not a final, appealable order if the order contemplates further proceedings in the district court. Sittner v. Schriever, 2000 UT 45, ¶ 22, 2 P.3d 442. A party may directly appeal an order granting a rule 60(b) motion if the district court contemporaneously enters a new judgment "so there is nothing further to be decided by the district court." Id.

Although the parties do not address the jurisdictional issue, upon review of the record, it is apparent that this court lacks jurisdiction due to the lack of a final, appealable order. The district court's October 27, 2009 order granted White's rule 60(b) motion to vacate the judgment. By setting aside the

judgment, the parties' claims remain pending before the district court. Thus, the October 27, 2009 order is not a final, appealable order under the final judgment rule. See Bradbury, 2000 UT App 50, ¶ 8.

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

Gregory K. Orme, Judge

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge