

IN THE UTAH COURT OF APPEALS

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| Murray City,             | ) | MEMORANDUM DECISION   |
|                          | ) | (Not For Official Publication)  |
| Plaintiff and Appellee,  | ) |   |
|                          | ) | Case No. 20070742-CA  |
| v.                       | ) |   |
|                          | ) | F I L E D   |
| Jennifer Lee Orr,        | ) | (October 25, 2007)  |
|                          | ) |   |
| Defendant and Appellant. | ) | <span style="border: 1px solid black; padding: 2px;">2007 UT App 352</span> |

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Third District, Salt Lake Department, 075900114  
The Honorable Paul G. Maughan  
The Honorable Randall N. Skanchy

Attorneys: W. Andrew McCullough, Midvale, for Appellant  
Frank Nakamura and Briant J. Farnsworth, Murray, for Appellee

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Before Judges Bench, Billings, and Thorne.

PER CURIAM:

Jennifer Lee Orr appeals her conviction for driving without insurance. 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 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). Orr was originally found guilty in justice court of driving without insurance. Orr then filed a request for a trial de novo with the district court. However, because Orr failed to appear at a pretrial hearing, the district court dismissed the appeal. Orr sought reinstatement of the appeal based upon excusable neglect, i.e., alleging that her counsel misread the court's docket. The district court denied the motion because it determined that it no longer had jurisdiction over the matter because the matter had been remanded to the justice court.

On appeal, Orr claims that the district court erred in dismissing her appeal for a trial de novo and in refusing to reinstate the appeal for excusable neglect. However, the record is clear that the district court never ruled on the constitutionality of a statute or ordinance. Accordingly, this court lacks jurisdiction to hear the appeal. See id. 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.

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Russell W. Bench,  
Presiding Judge

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Judith M. Billings, Judge

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William A. Thorne Jr., Judge