

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case Nos. 20080033-CA,
v.)	20080035-CA, and 20080036-CA
)	
Michael Ray Prisbrey,)	F I L E D
)	(March 13, 2008)
)	
Defendant and Appellant.)	2008 UT App 80

Sixth District, Richfield Department, 061600187, 071600014, 071600192
The Honorable Wallace A. Lee

Attorneys: Michael Ray Prisbrey, Richfield, Appellant Pro Se
Mark L. Shurtleff and Kris C. Leonard, Salt Lake
City, for Appellee

Before Judges Greenwood, Thorne, and Billings.

PER CURIAM:

This matter is before the court on its sua sponte motion for summary disposition based upon the lack of final appealable orders. See Utah R. App. P. 10.

This court does not have jurisdiction to consider an appeal unless it is taken from a final judgment or order, see Utah R. App. P. 3(a), or qualifies for an exception to the final judgment rule, see Loffredo v. Holt, 2001 UT 97, ¶¶ 10, 15, 37 P.3d 1070. An order is final only if it disposes of the case as to all parties and "finally dispose[s] of the subject-matter of the litigation on the merits of the case." Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649 (internal quotation marks and citation omitted).

Prisbrey seeks to appeal the district court's order denying his motion for new counsel. The district court entered the order denying the motion for new counsel in all three of Prisbrey's cases on November 26, 2007. Prisbrey filed his notices of appeal two days later. However, the order does not qualify as a final appealable order in any of the cases. Specifically, in one case (trial court case number 071600192) a trial was held on January 7 and 8, 2008, at which a jury convicted Prisbrey. Sentencing on

that matter was set for March 4, 2008. In the other two cases (trial court case numbers 061600187 and 071600014) Prisbrey's trial date is April 10, 2008. Thus, it is clear that the order appealed from did not dispose of the subject-matter of the litigation in any of the three cases. See State v. Bowers, 2002 UT 100, ¶ 4, 57 P.3d 1065 (stating that in a criminal case it is the sentence which constitutes the final judgment from which to appeal). Accordingly, because the order appealed from is not a final order, and because Prisbrey fails to demonstrate that the order qualifies for an exception to the final order rule, this court lacks jurisdiction to consider the appeals. When this court lacks jurisdiction, it has no choice but to dismiss the appeal. See Loffredo, 2001 UT 97, ¶ 11.

Therefore, the appeals are dismissed without prejudice to the filing of timely notices of appeal after the entry of final orders.

Pamela T. Greenwood,
Presiding Judge

William A. Thorne Jr.,
Associate Presiding Judge

Judith M. Billings, Judge