

IN THE UTAH COURT OF APPEALS

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Spanish Fork City,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20061145-CA
v.)	
)	F I L E D
Todd Rupper,)	(February 23, 2007)
)	
Defendant and Appellant.)	2007 UT App 57

Fourth District, Spanish Fork Department, 061300365
The Honorable Howard H. Maetani

Attorneys: Todd Rupper, Woodland Hills, Appellant Pro Se
Christine S. Johnson, Spanish Fork, for Appellee

Before Judges Bench, Orme, and Thorne.

PER CURIAM:

Appellant Todd Rupper appeals his conviction of attempted violation of a protective order, an infraction. This case is before the court on a sua sponte motion for summary disposition.

When we received the district court record, it contained a written judgment that had been stamped with the trial judge's signature in a manner that was not in compliance with rule 4-403(2) of the Utah Rules of Judicial Administration. Following a temporary remand, the district court judge signed the judgment. Accordingly, Rupper's notice of appeal is timely under rule 4(c) of the Utah Rules of Appellate Procedure, and we have jurisdiction. See Utah R. App. P. 4(c) (stating a notice of appeal filed after announcement of the judgment, but before entry of a signed judgment, will be deemed to have been filed on the date of entry of the signed judgment).

Rupper filed a certificate under rule 11(e)(1) of the Utah Rules of Appellate Procedure stating that no transcript was required, but purportedly reserving the right to order a transcript if Appellee Spanish Fork City contests the facts stated in Rupper's docketing statement. See Utah R. App. P. 11(e)(1) (requiring an appellant to either order a transcript of relevant evidence or certify that no transcript will be required). However, an appellant's obligation to provide an

adequate record, including a transcript of the evidence presented at trial, is fixed by the appellate rules. Rule 11(e)(2) of the Utah Rules of Appellate Procedure states:

If the appellant intends to urge on appeal that a finding or conclusion is unsupported by or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion. Neither the court, nor the appellee is obligated to correct appellant's deficiencies in providing the relevant portions of the transcript.

Utah R. App. P. 11(e)(2).

Rupper challenges the verdict in his bench trial, claiming that the district court erred in determining that he knowingly and intentionally attempted to violate a protective order. An appellant challenging a conviction following a bench trial must demonstrate that the judgment is clearly erroneous. See State v. Goodman, 763 P.2d 786, 787 (Utah 1988). "When reviewing a bench trial for sufficiency of the evidence, we must sustain the trial court's judgment unless it is 'against the clear weight of the evidence, or if the appellate court otherwise reaches a definite and firm conviction that a mistake has been made.'" Id. at 786 (quoting State v. Walker, 743 P.2d 191, 193 (Utah 1987)). However, an appellate court is unable to conduct a review of the sufficiency of the evidence to support a judgment in the absence of an adequate record. Where an appellant fails to provide a transcript, "we are unable to ascertain whether the trial court's findings were based upon sufficient evidence," and the appellant's "claim of error is merely an unsupported, unilateral allegation which we cannot resolve." Horton v. Gem State Mut., 794 P.2d 847, 849 (Utah Ct. App. 1990). Where an appellant fails to provide a transcript of the relevant evidence supporting the challenges raised on appeal "we can only presume that the judgment was supported by sufficient evidence." Id. at 849.

We affirm the judgment.

Russell W. Bench,
Presiding Judge

Gregory K. Orme, Judge

William A. Thorne Jr., Judge