

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

Helen Snell,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellant,)		
)	Case No. 20070884-CA	
v.)		
)	F I L E D	
Iva Larsen,)	(February 14, 2008)	
)		
Defendant and Appellee.)	<table border="1"><tr><td>2008 UT App 42</td></tr></table>	2008 UT App 42
2008 UT App 42			

First District, Brigham City Department, 070100709
The Honorable Ben H. Hadfield

Attorneys: Helen Snell, Roy, Appellant Pro Se
 Sherlynn W. Fenstermaker and Christopher M. Ault,
 Provo, for Appellee

Before Judges Davis, McHugh, and Orme.

PER CURIAM:

Appellant Helen Snell filed a notice of appeal challenging an interlocutory order requiring her to submit to an independent medical examination under rule 35 of the Utah Rules of Civil Procedure, and denying all of Snell's motions regarding that independent medical examination, including her motion for a protective order. This case is before the court on a sua sponte motion for summary disposition for lack of jurisdiction.

It is undisputed that the district court has not entered a final judgment resolving the underlying case. An appeal of right may be taken only from a judgment that disposes "of the case as to all the 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. In other words, an appeal of right may be taken only from an order or judgment that "ends the controversy between the parties litigant." Id. Because no final, appealable judgment has been entered, we lack jurisdiction to consider the appeal on the merits and retain only the authority to dismiss the appeal. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

Snell concedes that this appeal is taken from an interlocutory order, but she claims that the court incorrectly treated the appeal as a direct appeal and that her case should be allowed to proceed as an interlocutory appeal. This claim is without merit. Snell initiated her purported appeal by filing a notice of appeal in the district court and not by filing a petition for permission to appeal in this court, as required by rule 5 of the Utah Rules of Appellate Procedure. See Utah R. App. P. 5(a). An interlocutory appeal is discretionary and can be pursued only if the appellate court grants permission under rule 5. See id. R. 5(e). Furthermore, the appellate courts are precluded from suspending or modifying the specific requirements of rule 5. See id. R. 2.

We dismiss the appeal for lack of jurisdiction because it is not taken from a final, appealable order and this court has not granted permission to appeal from an interlocutory order under rule 5. Our disposition makes it unnecessary to consider the alternative grounds for summary disposition stated in the sua sponte motion. Because we dismiss the appeal for lack of jurisdiction, Snell's motions seeking summary reversal and sanctions are rendered moot.

James Z. Davis, Judge

Carolyn B. McHugh, Judge

Gregory K. Orme, Judge