

IN THE UTAH COURT OF APPEALS

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West Bountiful City,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	Case No. 20090491-CA
)	
v.)	F I L E D
)	(February 19, 2010)
Michael William Strand,)	
)	
Defendant and Appellant.)	2010 UT App 41

Second District, Farmington Department, 081701415
The Honorable Thomas L. Kay

Attorneys: Michael William Strand, Centerville, Appellant Pro Se
D. Michael Nielsen, Bountiful, for Appellee

Before Judges Davis, McHugh, and Bench.¹

PER CURIAM:

Michael William Strand appeals his convictions of two class B misdemeanors. This case is before the court on a sua sponte motion for summary disposition based upon lack of jurisdiction.

Utah Code section 78A-7-118(7) states that "the decision of the district court [in a case originating in a 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. § 78A-7-118(7) (2008). 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). The record indicates that Strand pleaded guilty to class B misdemeanors in the justice court. Strand then requested a trial de novo in the district court. The district court conducted a trial de novo, and Strand was found guilty of "simple assault" and "threat against life/property," both class B misdemeanors.

¹The Honorable Russell W. Bench, Senior Judge, sat by special assignment pursuant to Utah Code section 78A-3-102 (2008) and rule 11-201(6) of the Utah Rules of Judicial Administration.

The record does not indicate that the district court "ruled on the constitutionality of a statute or ordinance." Therefore, because this case originally arose in justice court and the district court did not rule on the constitutionality of a statute or ordinance, 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.

James Z. Davis,
Presiding Judge

Carolyn B. McHugh,
Associate Presiding Judge

Russell W. Bench, Senior Judge