

IN THE UTAH COURT OF APPEALS

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Hannah Song Stott,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Petitioner and Appellee,	)	
	)	Case No. 20080968-CA
v.	)	
	)	F I L E D
Mitchell D. Tomlinson,	)	(April 16, 2009)
	)	
Respondent and Appellant.	)	<span style="border: 1px solid black; padding: 2px;">2009 UT App 102</span>

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Third District, Salt Lake Department, 084902362  
The Honorable Randall N. Skanchy

Attorneys: Mitchell D. Tomlinson, Salt Lake City, Appellant Pro Se  
            Hannah Song Stott, Salt Lake City, Appellee Pro Se

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Before Judges Greenwood, Davis, and McHugh.

PER CURIAM:

Mitchell D. Tomlinson appeals the district court's October 15, 2008 order denying his rule 60(b) motion to set aside a protective order. This matter is before the court on its own motion for summary disposition.

A ruling on a rule 60(b) motion is a separate, appealable order. See Amica Mut. Ins. Co. v. Shettler, 768 P.2d 950, 970 (Utah Ct. App. 1989). An appeal from a rule 60(b) motion is narrow in scope and addresses only the propriety of the denial or grant of relief from a judgment or order. See Franklin Covey Client Sales, Inc. v. Melvin, 2000 UT App 110, ¶ 19, 2 P.3d 451. The appeal does not generally reach the merits of the underlying order from which relief was sought or provide a basis for this court to review the legal issues previously adjudicated by the district court. See id. ¶ 23. This court will reverse a district court's ruling on a rule 60(b) motion only where it is demonstrated that the district court abused its discretion. See id. ¶ 9.

The basis for Tomlinson's rule 60(b) motion was that he mistakenly filed his objection to the protective order in his separate divorce action. Utah Code section 78B-7-107(1)(f)

provides that if a hearing on a petition for a protective order is heard by a commissioner, either the petitioner or respondent may file an objection to the commissioner's recommendation within ten days after the entry of the commissioner's recommended order. See Utah Code Ann. § 78B-7-107(1)(f) (2008). If a proper objection to the commissioner's recommendation is timely filed, the assigned judge shall hold a hearing within twenty days of the filing of the objection.

The record indicates that Tomlinson failed to timely file an objection to the commissioner's recommendations. Rather, Tomlinson filed an objection to the protective order one day before the hearing on the protective order. Tomlinson's objection was also filed in a separate civil matter. Tomlinson does not demonstrate that the district court abused its discretion by determining that Tomlinson did not timely file an objection to the commissioner's recommendations as required by Utah Code section 78B-7-107(1)(f).

Tomlinson was also present at the hearing on the protective order, and he had the ability to present the arguments that he raised in his objection to the protective order. Thus, he was not prejudiced by mistakenly filing his objection in his divorce proceeding. Tomlinson has not demonstrated that the district court clearly abused its discretion by denying his rule 60(b) motion to set aside the protective order.

Accordingly, the district court's October 15, 2008 order is affirmed.

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Pamela T. Greenwood,  
Presiding Judge

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James Z. Davis, Judge

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Carolyn B. McHugh, Judge