

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20060352-CA	
v.)		
)	F I L E D	
Mitch Tomlinson,)	(August 10, 2006)	
)		
Defendant and Appellant.)	<table border="1"><tr><td>2006 UT App 333</td></tr></table>	2006 UT App 333
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Third District, Salt Lake Department, 051908897
The Honorable Stephen L. Henriod

Attorneys: Mitch Tomlinson, Salt Lake City, Appellant Pro Se

Before Judges Greenwood, Davis, and Orme.

PER CURIAM:

Mitch Tomlinson appeals his conviction of disorderly conduct following a trial de novo. The case is before the court on a sua sponte motion for summary disposition.

Utah Code section 78-5-120(7) states that "the decision of the district court [in a case originating in 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. § 78-5-120(7) (2002). 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). Tomlinson was found guilty of disorderly conduct by a jury in justice court. Tomlinson then filed a notice of appeal for a trial de novo with the district court. The district court conducted a trial and Tomlinson was again found guilty of disorderly conduct. Tomlinson raises numerous issues on appeal, including whether the State violated his right to a speedy trial. However, none of the issues presented concern the constitutionality of a statute or ordinance, nor did the district court rule on such an issue. Accordingly, 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.

Pamela T. Greenwood,
Associate Presiding Judge

James Z. Davis, Judge

Gregory K. Orme, Judge