

IN THE UTAH COURT OF APPEALS

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Springville City,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20090202-CA
v.)	
)	F I L E D
Ward Kaae Turner,)	(April 23, 2009)
)	
Defendant and Appellant.)	2009 UT App 106

Fourth District, Spanish Fork Department, 085304129
The Honorable Howard H. Maetani

Attorneys: Ward Kaae Turner, Payson, Appellant Pro Se
Paul F. DeWitt, Springville, for Appellee

Before Judges Greenwood, Davis, and McHugh.

PER CURIAM:

Ward Kaae Turner appeals his conviction for failure to yield, a class C misdemeanor. The 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) (Supp. 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). Turner was originally found guilty in justice court for failure to yield. Turner then filed a request for a trial de novo with the district court. The district court conducted a trial de novo, and Turner was again found guilty.

Turner alleges that there was insufficient evidence to support his conviction. Turner does not assert that any statute or ordinance is unconstitutional. Further, the record does not demonstrate that the district court ruled on any such issue.

Therefore, because this case originated in a 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.

Pamela T. Greenwood,
Presiding Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge