

IN THE UTAH COURT OF APPEALS

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State of Utah,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellee,	)	
	)	Case No. 20070393-CA
v.	)	
	)	F I L E D
Sarabeth York,	)	(August 2, 2007)
	)	
Defendant and Appellant.	)	<span style="border: 1px solid black; padding: 2px;">2007 UT App 270</span>

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Fourth District, Fillmore Department, 075700002  
The Honorable Donald J. Eyre Jr.

Attorneys: Sarabeth York, Delta, Appellant Pro Se  
            Kaela P. Jackson, Delta, for Appellee

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Before Judges Bench, Davis, and McHugh.

PER CURIAM:

Sarabeth York appeals her convictions for two traffic infractions. 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). York was found guilty in justice court of passing in an intersection and driving without proper registration. York then filed a notice of appeal with the district court. The district court conducted a trial de novo, and York was again found guilty of the same infractions.

York raises numerous issues on appeal; however, a careful review of the record demonstrates that the district court never

ruled on the constitutionality of a statute or an ordinance.<sup>1</sup> Therefore, 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.

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Russell W. Bench,  
Presiding Judge

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James Z. Davis, Judge

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Carolyn B. McHugh, Judge

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<sup>1</sup>On appeal, York attacks the constitutionality of Utah Code section 78-5-120, arguing that it denies her a right to an appeal. However, York did not raise this as a constitutional issue below. Instead, she asked that the trial de novo in district court be treated as an appeal. Although the district court did not rule on the constitutionality of Utah Code section 78-5-120, we note for the benefit of the parties that the constitutionality of the statute and that of Utah's two-tiered judicial system in general, have repeatedly been upheld. See, e.g., Bernat v. Allphin, 2005 UT 1, ¶42, 106 P.3d 707.