

IN THE UTAH COURT OF APPEALS

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Murray City,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)	Case No. 20090044-CA	
)		
v.)		
)		
<u>S. Steven Maese</u> and Utah)	F I L E D	
State Records Committee,)	(April 9, 2009)	
)		
Defendants and Appellant.)	<table border="1"><tr><td>2009 UT App 92</td></tr></table>	2009 UT App 92
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Third District, Salt Lake Department, 080912185
The Honorable Michele Christiansen

Attorneys: S. Steven Maese, Holladay, Appellant Pro Se
Andrew M. Morse and R. Scott Young, Salt Lake City,
for Appellee

Before Judges Greenwood, Orme, and Davis.

PER CURIAM:

Defendant S. Steven Maese appeals the order dismissing his counterclaim. This case is before the court on a sua sponte motion for summary dismissal for lack of jurisdiction.

Plaintiff Murray City filed a procedurally incorrect motion in the district court seeking summary disposition of Maese's notice of appeal. The district court lacks jurisdiction to dispose of an appeal pending in this court. See Utah R. App. P. 10 (stating that a motion for summary disposition for lack of jurisdiction shall be filed in the appropriate appellate court). Although Murray City and Defendant Utah State Records Committee state that the district court purported to grant the motion for summary disposition of this appeal, we conclude that the district court's ruling went no further than to deny Maese's request for certification of the order as final for purposes of appeal under rule 54(b) of the Utah Rules of Civil Procedure, which was a request properly made in the district court. See Utah R. Civ. P. 54(b) (allowing a trial court to certify an order resolving a separate claim or all claims against a party as final for purposes of appeal).

The order dismissing Maese's counterclaim was not final and appealable because it did not fully resolve the case pending in the district court. A final judgment for purposes of appeal is one that resolves all claims, counterclaims, cross-claims, and third-party complaints before the court and fully and finally resolves the case. See Houston v. Intermountain Health Care, 933 P.2d 403, 406 (Utah Ct. App. 1997) ("Generally, a judgment is not a final, appealable order if it does not dispose of all the claims in a case, including counterclaims."). The claims in Murray City's complaint remain pending in the district court. In addition, Maese did not file a timely petition for permission to appeal from that interlocutory order in this court, and it follows that we did not grant permission to appeal. See generally Utah R. App. P. 5. Finally, the district court did not certify the order dismissing Maese's counterclaims as final for purposes of appeal pursuant to rule 54(b).

A court's first inquiry is always to determine whether the court has jurisdiction over the matter before it. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989). "When a matter is outside the court's jurisdiction, it retains only the authority to dismiss the action." Id. Accordingly, we dismiss the appeal for lack of jurisdiction.

Pamela T. Greenwood,
Presiding Judge

Gregory K. Orme, Judge

James Z. Davis, Judge