

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40351

STATE OF IDAHO,	)	2013 Unpublished Opinion No. 616
	)	
<b>Plaintiff-Respondent,</b>	)	<b>Filed: August 6, 2013</b>
	)	
v.	)	<b>Stephen W. Kenyon, Clerk</b>
	)	
LARRY J. MUNYON,	)	<b>THIS IS AN UNPUBLISHED</b>
	)	<b>OPINION AND SHALL NOT</b>
<b>Defendant-Appellant.</b>	)	<b>BE CITED AS AUTHORITY</b>
	)	

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Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. John R. Stegner, District Judge. Hon. James D. Stow, Magistrate.

Order of the district court, in its appellate capacity, affirming the magistrate court’s denial of motion to withdraw guilty plea, affirmed.

R. D. Watson, Coeur d’Alene, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Daphne J. Huang, Deputy Attorney General, Boise, for respondent.

GRATTON, Judge

Larry J. Munyon appeals from the district court’s order affirming the magistrate court’s denial of his motion to withdraw guilty plea. We affirm.

Munyon pled guilty to misdemeanor driving under the influence and requested a withheld judgment. The magistrate accepted his guilty plea, but denied his request for a withheld judgment. Judgment was entered on November 21, 2011. On January 3, 2012, Munyon filed a motion to withdraw his guilty plea which the magistrate denied. Munyon appealed the denial of his motion to withdraw guilty plea, and the district court affirmed. This appeal followed.

As the State points out, the magistrate court did not have jurisdiction to hear Munyon’s motion to withdraw guilty plea. “Absent a statute or rule extending its jurisdiction,” the trial court’s jurisdiction ends “either by expiration of the time for appeal or affirmance of the judgment on appeal.” *State v. Jakoski*, 139 Idaho 352, 355, 79 P.3d 711, 714 (2003). Since the judgment in this matter was entered on November 21, 2011, pursuant to Idaho Appellate

Rule 14(a), the magistrate court's jurisdiction expired forty-two (42) days later, or on January 2, 2012. Idaho Criminal Rule 33(c) does not include any provision extending the jurisdiction of the trial court for the purpose of hearing a motion to withdraw a guilty plea. *Jakoski*, 139 Idaho at 355, 79 P.3d at 714. Therefore, the magistrate court did not have jurisdiction to consider Munyon's motion to withdraw guilty plea filed on January 3, 2012.<sup>1</sup>

The magistrate court lacked jurisdiction to hear Munyon's motion and therefore, we affirm the district court's order, in its appellate capacity, affirming the magistrate court's denial of Munyon's motion to withdraw guilty plea.

Chief Judge GUTIERREZ and Judge LANSING **CONCUR.**

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<sup>1</sup> Munyon also filed a notice of appeal on February 28, 2012, purportedly from the November 21, 2011, judgment. This notice of appeal was similarly not timely. *See* I.A.R. 14(a).