

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 38177

STATE OF IDAHO,)	2011 Unpublished Opinion No. 422
)	
Plaintiff-Respondent,)	Filed: April 1, 2011
)	
v.)	Stephen W. Kenyon, Clerk
)	
KENNETH EDWARD ELCOCK,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Order denying motion to withdraw guilty pleas, affirmed.

Kenneth Edward Elcock, Boise, pro se appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before GRATTON, Chief Judge; LANSING, Judge;
and GUTIERREZ, Judge

PER CURIAM

In October 2006, Kenneth Edward Elcock pled guilty to second degree murder, aggravated assault, and three counts of aggravated battery. The district court sentenced Elcock to an aggregate unified life term, with a minimum period of confinement of forty years. Elcock appealed and this Court affirmed in an unpublished opinion. *State v. Elcock*, Docket No. 33861 (Ct. App. Feb. 28, 2008). A remittitur was issued on May 20, 2008. On August 2, 2010, more than two years later, Elcock filed an I.C.R. 33 motion to withdraw his guilty pleas, which the district court denied. Elcock appeals.

A trial court lacks jurisdiction to consider an I.C.R. 33(c) motion to withdraw a guilty plea after the judgment in the criminal case has become final. *State v. Jakoski*, 139 Idaho 352, 355, 79 P.3d 711, 714 (2003). Elcock’s judgment became final on May 20, 2008--the date in

which this Court issued its remittitur in Elcock's direct appeal. The district court did not have jurisdiction to consider, grant, or deny Elcock's motion to withdraw his guilty pleas. Therefore, the district court's order denying Elcock's motion to withdraw his guilty pleas is affirmed.