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APPELLANT PRO SE:

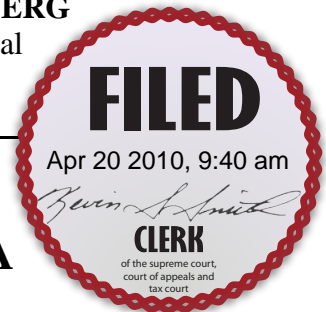
MARK R. FISH
Pendleton, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

KARL M. SCHARNBERG
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**



MARK R. FISH,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 71A03-0910-CR-460

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable Jane Woodward Miller, Judge
Cause No. 71D04-9507-CF-337

April 20, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Mark R. Fish appeals the denial of his motion to correct erroneous sentence, raising the following issue: whether the trial court abused its discretion when it denied his motion. We affirm.

Fish was arrested for murder on July 31, 1995 and convicted after a jury trial. He was sentenced to fifty-five years executed on September 3, 1996 and given 402 days jail time credit. On April 14, 2009, Fish filed a motion to correct erroneous sentence, arguing that he was not given credit time earned from his assignment to Credit Class I. This motion was denied by the trial court. Fish now appeals.

In *Robinson v. State*, 805 N.E.2d 783, 792 (Ind. 2004), our Supreme Court held:

Sentencing judgments that report only days spent in pre-sentence confinement and fail to expressly designate credit time earned shall be understood by courts and by the Department of Correction automatically to award the number of credit time days equal to the number of pre-sentence confinement days Because the omission of designation of the statutory credit time entitlement is thus corrected by this presumption, such omission may not be raised as an erroneous sentence.

Id. The trial court properly followed the direction of our Supreme Court in *Robinson* and did not abuse its discretion in denying Fish's motion to correct erroneous sentence.¹

Affirmed.

FRIEDLANDER, J., and ROBB, J., concur.

¹ To the extent that Fish is arguing that the Department of Correction has not applied the 402 days of good time credit to his sentence, a motion to correct erroneous sentence is not the proper vehicle for such a claim as it requires consideration of matters outside the face of the judgment. "If a claim requires consideration of proceedings before, during, or after trial, such claims may not be presented by way of a motion to correct erroneous sentence." *Fulkrod v. State*, 855 N.E.2d 1064, 1066 (Ind. Ct. App. 2006). A motion to correct erroneous sentence is "a procedural mechanism which may be used to challenge a sentence that is erroneous on its face." *Id.*