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APPELLANT PRO SE:

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ATTORNEYS FOR APPELLEE:

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**IN THE  
COURT OF APPEALS OF INDIANA**

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LOUIS R. LAWSON, )  
 )  
 Appellant-Defendant, )  
 )  
 vs. ) No. 02A03-0512-CR-590  
 )  
 STATE OF INDIANA, )  
 )  
 Appellee-Plaintiff. )

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APPEAL FROM THE ALLEN SUPERIOR COURT  
The Honorable John F. Surbeck, Jr., Judge  
Cause No. 02D04-0410-FC-170

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**October 31, 2006**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**FRIEDLANDER, Judge**

The trial court sentenced Louis R. Lawson to an eight-year term of imprisonment following his conviction of forgery, a class C felony, and his adjudication as an habitual offender. Lawson filed a motion to correct erroneous sentence, which the trial court denied. Lawson now appeals *pro se*, and raises the following issue: Did the trial court improperly deny his motion to correct erroneous sentence?

We affirm.

The relevant facts are brief and undisputed. The State charged Lawson with forgery and alleged he was an habitual offender, to which Lawson pleaded guilty and admitted, respectively. Consequently, the trial court sentenced Lawson to four years of imprisonment for the forgery conviction and enhanced Lawson's sentence by four years upon a determination that he is an habitual offender. The "Judgment of Conviction" states, in pertinent part:

1. That the plea agreement is accepted.
2. [Lawson] is guilty of Count I, Forgery, a Class C felony and Count II, Habitual Offender.

\* \* \*

IT IS THEREFORE ORDERED that [Lawson] be committed to the Indiana Department of Corrections for classification and confinement for a period of 4 years on Count I and 4 years on Count II. Said Sentences to run consecutive to each other.

*Appellant's Appendix* at 103.

Thereafter, "Lawson was transported to the Indiana State Prison . . . , where he began to read Thompson and West's Indiana Case Law. Lawson [] discovered his conviction and sentence for habit-ual offender w[ere] without statutory authorization. On

November 3, 2005, Lawson filed a pro se Motion to Correct Erroneous Sentence . . . .” *Appellant’s Brief* at 2. The trial court denied Lawson’s motion, and Lawson appeals.

Lawson alleges the trial court imposed an erroneous sentence because: (1) “a dealing in cocaine conviction does not qualify as a prior un-related conviction for the purposes of habitual offender enhancement, when the dealing in cocaine conviction was not cl[a]ssified as a crime of violence, and the defendant has only one (1) or no prior convictions for illegal drug dealing[;]” and (2) he “has only one (1) prior conviction for dealing in cocaine, and it was not clas-sified as a crime of violence[.]” *Id.* at 3. Based upon these allegations, Lawson contends the trial court erred when it denied his motion to correct erroneous sentence.

A trial court’s ruling upon a motion to correct sentence is subject to appeal through normal appellate procedures. *Strowmatt v. State*, 779 N.E.2d 971 (Ind. Ct. App. 2002). While a motion to correct an erroneous sentence is available as an alternate remedy to either post-conviction relief or a direct appeal, it is appropriate only when the sentence is erroneous on its face. *Robinson v. State*, 805 N.E.2d 783 (Ind. 2004). When a claim of a sentencing error requires consideration of matters outside the face of the sentencing judgment, including “matters in . . . the record,” it is best addressed promptly on direct appeal and thereafter, where applicable, via post-conviction relief proceedings. *Id.* at 788. “Use of the statutory motion to correct sentence should thus be narrowly confined to claims apparent from the face of the sentencing judgment, and the ‘facially erroneous’ prerequisite should [] be strictly applied.” *Id.* at 787. “Claims that require

consideration of the proceedings before, during, or after trial may not be presented by way of a motion to correct sentence.” *Id.*

Lawson relies upon Ind. Code Ann. § 35-50-2-8(d)(3) (West, PREMISE through 2006 2<sup>nd</sup> Regular Sess.) as the basis for his contentions that the trial court erroneously determined him to be an habitual offender and that his sentence is illegal. I.C. § 35-50-2-8(d)(3) delineates the conditions under which a conviction does not constitute a prior felony conviction for purposes of determining one’s status as an habitual offender. Pursuant to this statute, Lawson asserts his prior conviction for dealing in cocaine does not constitute a prior unrelated felony. The trial court’s sentencing statement indicates merely that it determined Lawson to be an habitual offender, but does not detail the basis upon which that determination rests. In order to address Lawson’s contention, therefore, we would be required to conduct a review of matters extraneous to the trial court’s sentencing statement. Notwithstanding the merits of Lawson’s contention, if any, a motion to correct an erroneous sentence was an improper procedural vehicle through which to challenge his sentence. Lawson should have directly appealed his sentence or filed a petition for post-conviction relief. In any event, the trial court did not err when it denied Lawson’s motion to correct erroneous sentence.

Judgment affirmed.

NAJAM, J., and DARDEN, J., concur.