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**IN THE
COURT OF APPEALS OF INDIANA**

JOSEPH BAUER,)
)
 Appellant-Defendant,)
)
 vs.) No. 02A03-0704-PC-164
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

APPEAL FROM THE ALLEN CIRCUIT COURT
The Honorable Thomas J. Felts, Judge
Cause No. 02C01-0205-FD-326

NOVEMBER 5, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

HOFFMAN, Senior Judge

Defendant-Appellant Joseph Bauer appeals the trial court's denial of his motion to correct erroneous sentence. We affirm.

Bauer attempts to raise issues pertaining to the constitutionality of his sentence and the effectiveness of trial counsel. The following issue, however, is dispositive: Whether the trial court erred in denying Bauer's motion to correct erroneous sentence because the issue raised therein did not arise from the face of the sentencing order.

On May 9, 2002, Bauer was charged with numerous counts relating to the operation of a vehicle while intoxicated. Included in the charging information were two counts stating that Bauer was a habitual controlled substance offender because he had two previous convictions for operation of a vehicle while intoxicated. On July 21, 2003, Bauer pled guilty to the Class D felony of operating a vehicle while intoxicated and to his status as a habitual controlled substance offender. On the same day, the trial court sentenced Bauer to an aggregate sentence of six years imprisonment, with five and one-half years suspended.

Over three years later, on December 8, 2006, Bauer filed a motion to correct erroneous sentence. The trial court denied the motion, and Bauer now appeals.

Bauer's motion to correct erroneous sentence is not an example of clarity, but it appears to raise the single issue of whether his sentence should be set aside because the State failed to comply with Ind. Code § 35-50-2-10(b). Specifically, Bauer's motion contends that the sentence should be set aside because the State failed to allege his habitual substance offender status on a page separate from the rest of the charging instrument.

A motion to correct erroneous sentence may only be used to correct sentencing errors that are clear from the face of the judgment imposing the sentence in light of the statutory authority for that sentence. *Robinson v. State*, 805 N.E.2d 783, 785 (Ind. 2004). Claims that require consideration of the proceedings before, during, or after trial may not be presented by way of a motion to correct erroneous sentence. *Id.* The preferred method of challenging a sentence is by way of a petition for post-conviction relief. *Id.*

Here, the motion for erroneous sentence requested that the trial court review the charging instruments. Thus, it required the court to consider pre-trial proceedings. The trial court was correct in determining that it could not consider Bauer's motion. Furthermore, Bauer cannot raise new issues on appeal that were not raised in his motion below.¹

Affirmed.

RILEY, J., and BAILEY, J., concur.

¹ In this appeal, Bauer attempts to raise issues pertaining to double jeopardy and effective assistance of counsel.