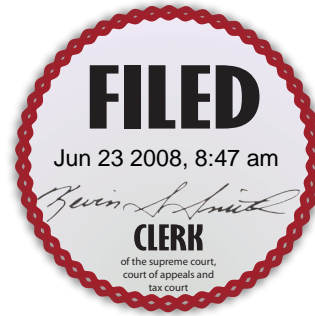


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

JOSHUA HAWKINS,)
)
Appellant-Petitioner,)
)
vs.) No. 02A03-0710-CR-481
)
STATE OF INDIANA,)
)
Appellee-Respondent.)

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Frances C. Gull, Judge
Cause No. 02D04-0105-CF-178

June 23, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

Bradford, Judge

Appellant/Petitioner Joshua Hawkins appeals from the trial court's denial of his motion to correct erroneous sentence and his request for leave to file a belated notice of appeal. We affirm.

FACTS AND PROCEDURAL HISTORY

On September 18, 2002, a jury found Hawkins guilty of two counts of Class A felony attempted murder, Class A felony robbery, Class A felony attempted robbery, two counts of Class B felony criminal confinement, Class C felony carrying a handgun without a license, and Class D felony auto theft. On October 21, 2002, the trial court reduced the Class A felony robbery and Class A felony attempted robbery convictions to Class C felonies and sentenced Hawkins to an aggregate sentence of 122 years of incarceration. *Hawkins v. State*, 794 N.E.2d 1158, 1161 (Ind. Ct. App. 2003). On direct appeal, this court affirmed Hawkins's convictions and remanded for resentencing.

On December 19, 2003, the trial court resentenced Hawkins to an aggregate sentence of fifty-five years of incarceration. On May 4, 2007, Hawkins requested leave to file a belated notice of appeal. On August 2, 2007, Hawkins filed a motion to correct erroneous sentence. On August 7, 2007, the post-conviction court denied Hawkins's request for leave to file a belated notice of appeal and his motion to correct erroneous sentence, from which denial Hawkins now appeals.

DISCUSSION AND DECISION

I. Motion to Correct Erroneous Sentence

Indiana Code section 35-38-1-15 (2007), which governs motions to correct erroneous sentences, provides as follows:

If the convicted person is erroneously sentenced, the mistake does not render the sentence void. The sentence shall be corrected after written notice is given to the convicted person. The convicted person and his counsel must be present when the corrected sentence is ordered. A motion to correct sentence must be in writing and supported by a memorandum of law specifically pointing out the defect in the original sentence.

In *Robinson v. State*, 805 N.E.2d 783, 794 (Ind. 2004), the Indiana Supreme Court emphasized that “a motion to correct sentence is available only to correct sentencing errors clear from the face of the judgment.”

When claims of sentencing errors require consideration of matters outside the face of the sentencing judgment, they are best addressed promptly on direct appeal and thereafter via post-conviction relief proceedings where applicable. 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 henceforth be strictly applied.... We therefore hold that a motion to correct 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. 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. at 787.

Hawkins contends that the trial court exceeded statutory authority in imposing a sentence of fifty-five years, apparently arguing that he actually received a sentence for murder (for which fifty-five years was the presumptive sentence in 2001), a crime for which he was not convicted. Indiana Code section 35-50-1-2(c) (2000) governs the imposition of consecutive sentences and provided at the time Hawkins committed his crimes as follows:

[E]xcept for crimes of violence, the total of the consecutive terms of imprisonment ... to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the presumptive sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted.

Also at that time, none of the crimes for which Hawkins was convicted qualified as a “crime of violence” under Indiana Code section 35-50-1-2(a) (2000). Therefore, Hawkins’s sentence, as all of his crimes arose from a single episode of criminal conduct, was limited to a maximum aggregate of fifty-five years, the presumptive sentence for murder. *Fight v. State*, 768 N.E.2d 881, 882 (Ind. 2002). Hawkins did, in fact, receive a sentence of fifty-five years, which was clearly authorized by Indiana Code section 35-50-1-2(c). Because Hawkins’s sentence is not facially erroneous, the post-conviction court correctly denied his motion to correct erroneous sentence.

II. Denial of Leave to File Belated Notice of Appeal

Although Hawkins claims that the trial court wrongly denied his request for leave to file a belated notice of appeal, he develops no argument and cites no authority to support this contention. Because Hawkins failed to develop a cogent argument or cite relevant authority on this point, he has waived this issue for appellate review. *See, e.g., Smith v. State*, 822 N.E.2d 193, 202-03 (Ind. Ct. App. 2005), *trans. denied*.

We affirm the judgment of the lower court.

BARNES, J., and CRONE, J., concur.