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**IN THE
COURT OF APPEALS OF INDIANA**

JERRY C. WILSON,)
)
Appellant-Defendant,)
)
vs.) No. 09A05-0602-PC-62
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE CASS CIRCUIT COURT
The Honorable Julian L. Ridlen, Judge
Cause No. 09C01-9108-CF-85

OCTOBER 24, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

GARRARD, Senior Judge

In 1992 Wilson was convicted on two counts of attempted murder and one count of possession of an explosive or inflammable substance. He was sentenced to fifty years on each count of attempted murder and eight years on the possession count, with all sentences to run consecutively.

On direct appeal the court vacated the sentence for possession as barred by double jeopardy and affirmed the convictions and one hundred year aggregate sentence for the two attempted murder convictions. *Wilson v. State*, 611 N.E.2d 160 (Ind. Ct. App. 1993).

Wilson later petitioned for post-conviction relief, and that petition was denied in January, 2001.

In February, 2003, Wilson filed a Motion to Correct Erroneous Sentence. The present appeal is from the denial of that motion.

In its order the trial court considered whether Wilson's motion constituted a direct review in the sense used by the court in *Smylie v. State*, 823 N.E.2d 679 (Ind. 2005) when it determined which cases might be subject to the requirements of *Blakely v. Washington*, 542 U.S. ___, 124 S.Ct. 2531. The court concluded that it was not, and that *Blakely* had no application. The court was correct. Wilson's direct review terminated when transfer was denied in his direct appeal in 1993. *State v. Mohler*, 694 N.E.2d 1129, 1133 (Ind. 1998); *Robbins v. State*, 839 N.E.2d 1196, 1199 (Ind. Ct. App. 2005).

Wilson's additional arguments to the trial court consist of two categories: (1) that the sentencing court relied on improper aggravators, (2) that the sentence was manifestly unreasonable. In addition he attempts to argue that the sentence was not permissible under Ind. Code § 35-50-1-2.

The primary answer to the first two categories is that they are not reviewable on a motion to correct erroneous sentence because they do not appear on the face of the sentence. 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. *Robinson v. State*, 805 N.E.2d 783, 786-787 (Ind. 2004). Additionally, we note that these claims are barred by principles of res judicata and waiver following Wilson’s unsuccessful direct appeal (which rejected his claim that the sentence was excessive) and unsuccessful petition for post-conviction relief.

Wilson, also, attempts to argue that his sentence was contrary to law under the requirements of I.C. 35-50-2-1, although this question was not presented in his motion to correct erroneous sentence. Aside from issues of waiver, the argument has no merit. His reliance on *Ellis v. State*, 736 N.E.2d 731 (Ind. 2000) is misplaced. In *Ellis* the court was considering a version of I.C. 35-50-2-1 enacted substantially after Wilson was sentenced in 1992. Wilson’s sentence was within the parameters of the version in force when he was sentenced¹. He was not entitled to the benefit of the subsequent amendments. *Pritscher v. State*, 675 N.E.2d 727, 734 (Ind. Ct. App. 1996).

The judgment denying relief is affirmed.

RILEY, J., and BAKER, J., concur.

¹ At that time the statute simply provided, “the court shall determine whether terms of imprisonment shall be served concurrently or consecutively.”