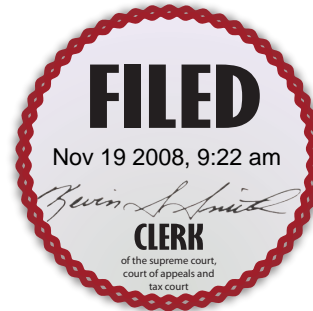


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

STEVIE W. DAVIS-EL,
Appellant-Petitioner,

vs.

STATE OF INDIANA,
Appellee-Respondent.

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No. 20A05-0803-PC-139

APPEAL FROM THE ELKHART SUPERIOR COURT
The Honorable George W. Biddlecome, Jr., Judge
Cause No.20D03-0107-CF-76

November 19, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issue

Stevie Davis-El pled guilty to dealing in cocaine, a Class B felony, and the trial court sentenced him to twenty years executed. On appeal, Davis-El raises four issues, which we consolidate and restate as whether the trial court abused its discretion when it denied Davis-El's motion to correct erroneous sentence. Concluding the trial court's denial was not an abuse of discretion, we affirm.

Facts and Procedural History

On July 6, 2001, the State charged Davis-El with dealing in cocaine, a Class A felony; delivery or financing of cocaine, a Class A felony; and receiving stolen property, a Class D felony. On November 8, 2001, Davis-El entered into a plea agreement under which he agreed to plead guilty to dealing in cocaine as a Class B felony, and the State agreed to dismiss the remaining charges. On December 21, 2001, the trial court sentenced Davis-El to twenty years executed. Over the next several years, Davis-El filed several motions with the trial court, including two motions for sentence modification, a motion for credit time, and a motion for post-conviction relief, which he later withdrew. Finally, on December 7, 2007, Davis-El filed a motion to correct erroneous sentence, but the trial court denied that motion based on a finding that "the sentence imposed . . . is within the statutory parameters fixed by the legislature" Appellant's Appendix at 14. Davis-El now appeals.

Discussion and Decision

Davis-El argues the trial court improperly denied his motion to correct erroneous sentence. This court reviews the trial court's decision to grant or deny a motion to correct erroneous sentence for an abuse of discretion. Brattain v. State, 777 N.E.2d 774, 776 (Ind. Ct. App. 2002). An abuse of discretion occurs if the trial court's decision is clearly against the logic and effect of the facts and circumstances before it. Id.

Indiana Code section 35-38-1-15 governs the procedures a defendant may invoke to correct an erroneous sentence:

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.

Our supreme court has cautioned that 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. Claims that require consideration of the proceedings before, during, or after trial may not be presented by way of a motion to correct sentence.

Robinson v. State, 805 N.E.2d 783, 787 (Ind. 2004).

Davis-El does not challenge the trial court's finding that "the sentence imposed . . . is within the statutory parameters fixed by the legislature" Appellant's App. at 14. The concession is well-taken, as the trial court clearly had authority to sentence Davis-El to a maximum term of twenty years for a Class B felony. See Ind. Code § 35-50-2-5 (1998). Instead, Davis-El cites four claims to support his argument that the trial court improperly denied his motion to correct erroneous sentence: 1) the trial court

enhanced his sentence based on improper aggravating circumstances; 2) the trial court breached the terms of the plea agreement; 3) the trial court's sentence is manifestly unreasonable; and 4) the trial court's finding of aggravating circumstances violated his Sixth Amendment rights as articulated in Blakely v. Washington, 524 U.S. 296 (2004). However, Davis-El overlooks that each of these claims cannot be resolved by consulting only the trial court's sentencing order. Thus, consistent with Robinson, Davis-El's claims are not cognizable as a motion to correct erroneous sentence, and it follows that the trial court's denial was not improper.

Conclusion

The trial court did not abuse its discretion when it denied Davis-El's motion to correct erroneous sentence.

Affirmed.

NAJAM, J., and MAY, J., concur.