

Richard Creedon, Jr., appeals the trial court's denial of his motion for credit time. Creedon raises one issue, which we restate as whether the trial court erred by denying Creedon's motion for credit time. We affirm.

The relevant facts follow. In May 2006, the State charged Creedon in Cause No. 49G05-0605-FC-96106 ("Cause No. 106") with three counts of forgery as class C felonies and two counts of theft as class D felonies. In August 2006, the State charged Creedon in Cause No. 49G05-0608-FD-144509 ("Cause No. 509") with theft as a class D felony. Creedon pled guilty in Cause No. 106 to three counts of forgery as class C felonies, and he pled guilty in Cause No. 509 to theft as a class D felony. In Cause No. 106, the trial court sentenced Creedon to three years suspended with two years of probation. In Cause No. 509, the trial court sentenced Creedon to one year suspended to probation. The sentence in Cause 509 was ordered to be served consecutive to the sentence in Cause 106.

Creedon violated his probation in Cause No. 509, and the trial court revoked his probation and imposed the one-year suspended sentence. The parties "agree[d] upon 34 days jail time credit." Appellant's Appendix at 14. Creedon violated his probation in Cause No. 106, and the trial court revoked his probation and imposed the three-year suspended sentence. The trial court awarded Creedon "jail credit of 219 days as agreed upon by both parties. 163 days good time and 112 home detention days (days for day) =

219 days.”¹ Id. at 34. The trial court later modified Creedon’s sentence to three years of probation and placement at the Beacon House. Creedon again violated his probation, and, in Cause No. 106, the trial court revoked his probation and ordered him to serve 275 days of the previously suspended sentence. The parties “agree[d] upon 0 days jail time credit.” Id. at 38.

Creedon then filed a petition for credit time in both causes. Creedon argued that the Indiana Department of Correction gave him credit for 163 days rather than 219 days and that he was also entitled to additional days of credit time. After a hearing, the trial court denied Creedon’s petition for credit time.

The sole issue is whether the trial court properly denied Creedon’s motion for credit time. Creedon argues that the Indiana Department of Correction awarded him only credit time of 163 days rather than the 219 days ordered by the trial court, that he was entitled to 394 days of credit time in Cause No. 106 rather than the zero days ordered by the trial court, and that he was entitled to 66 days of credit time in Cause No. 509 rather than the 34 days ordered by the trial court.

We first note that Creedon did not present his argument by way of a petition for post-conviction relief.² Rather, in essence, he filed a motion to correct sentence. See

¹ We note that 163 days plus 56 days (one-half of 112 days) is 219 days. See Ind. Code § 35-38-2.5-5(d) (“A person’s term of confinement on home detention [as a condition of probation] is computed on the basis of the actual days the person spends on home detention.”).

² Creedon titled the motion as a “Verified Petition for the Imposition of Unaccredited Credit Time,” and Creedon testified at the hearing that he signed the petition. However, the motion in Appellant’s Appendix was signed by Creedon’s attorney and was not verified by Creedon. See Ind. Post-

Murfitt v. State, 812 N.E.2d 809, 810 (Ind. Ct. App. 2004) (holding that a “Motion for Pretrial Credit for Time Served” was in essence a motion to correct sentence under Ind. Code § 35-38-1-15). In Robinson v. State, 805 N.E.2d 783, 787 (Ind. 2004), the Indiana Supreme Court addressed the difference between a motion to correct erroneous sentence and a petition for post-conviction relief. The Court held that a motion to correct erroneous sentence may only be used to correct sentencing errors that are clear from the face of the judgment. Id. 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. Sentencing claims that are not facially apparent “may be raised only on direct appeal and, where appropriate, by post-conviction proceedings.” Id.

Resolution of Creedon’s credit time arguments necessarily requires consideration of factors outside the face of the judgments. As noted above, a motion to correct erroneous sentence is “available only to correct sentencing errors clear from the face of the judgment.” Robinson, 805 N.E.2d at 794. These arguments are not properly presented by way of a motion to correct erroneous sentence (or a motion for credit time). As a result, we cannot say that the trial court abused its discretion by denying Creedon’s motion for credit time. See, e.g., Murfitt, 812 N.E.2d at 811 (holding that the trial court properly denied the defendant’s motion for credit time because such a claim must be

Conviction Rule 1(3) (requiring a petition for post-conviction relief to be “made under oath and the petitioner shall verify the correctness of the petition . . .”).

presented by way of a petition for post-conviction relief). Creedon, of course, has the option of raising his arguments by filing a proper petition for post-conviction relief.

For the foregoing reasons, we affirm the trial court's denial of Creedon's motion for credit time.

Affirmed.

BAKER, C. J. and MATHIAS, J. concur