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APPELLANT PRO SE:

**TIMOTHY WRIGHT**  
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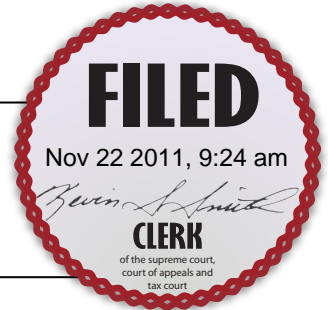
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**IN THE  
COURT OF APPEALS OF INDIANA**

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TIMOTHY WRIGHT, )  
 )  
Appellant-Defendant, )  
 )  
vs. ) No. 18A02-1105-CR-490  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

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APPEAL FROM THE DELAWARE CIRCUIT COURT  
The Honorable Linda R. Wolf, Judge  
Cause No. 18C03-0603-FB-12

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**November 22, 2011**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BROWN, Judge**

Timothy Wright, *pro se*, appeals the trial court's denial of his motion to correct erroneous sentence. Wright raises one issue which we revise and restate as whether the trial court erred by denying Wright's motion to correct erroneous sentence. We affirm.

The relevant facts follow. Wright pled guilty to attempted robbery as a class C felony and four counts of robbery as class C felonies, and one count was dismissed.<sup>1</sup> The court sentenced Wright to five years for three counts of robbery, three years for one count of robbery, and five years for attempted robbery, and ordered the sentences to be served consecutive to each other. At some point, Wright filed a *pro se* motion to correct erroneous sentence.<sup>2</sup> The State filed a request to deny Wright's motion, which the court granted.

The issue is whether the trial court erred by denying Wright's motion to correct erroneous sentence. We review a trial court's decision on a motion to correct erroneous sentence only for an abuse of discretion. Fry v. State, 939 N.E.2d 687, 689 (Ind. Ct. App. 2010). An abuse of discretion occurs when the trial court's decision is against the logic and effect of the facts and circumstances before it. Myers v. State, 718 N.E.2d 783, 789 (Ind. Ct. App. 1999).

An inmate who believes he has been erroneously sentenced may file a motion to correct the sentence pursuant to Ind. Code § 35-38-1-15. Neff v. State, 888 N.E.2d 1249, 1250-1251 (Ind. 2008). Ind. Code § 35-38-1-15 provides:

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<sup>1</sup> The record does not reveal the charge related to the count that was dismissed.

<sup>2</sup> The record does not contain a copy of Wright's motion to correct 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.

In Robinson v. State, the Indiana Supreme Court noted that a motion to correct erroneous sentence is available only when the sentence is “erroneous on its face.” 805 N.E.2d 783, 786 (Ind. 2004) (citations omitted). 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. See id. at 787. Sentencing claims that are not facially apparent “may be raised only on direct appeal and, where appropriate, by post-conviction proceedings.” Id. “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 . . . be strictly applied . . . .” Id.

Wright argues that his sentence is erroneous based upon Ind. Code § 35-50-1-2(c) which provides that:

[E]xcept for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the advisory 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.

Wright argues that all of his offenses constituted an episode of criminal conduct, which means “offenses or a connected series of offenses that are closely related in time, place, and circumstance.” Ind. Code § 35-50-1-2(b) (Supp. 2008). Wright points to the charging information to support his argument that the robberies were committed within a

twenty-nine hour window. The State argues that Wright’s claims “are not appropriately raised in a motion to correct erroneous sentence.” Appellee’s Brief at 3.

Resolution of the issue necessarily requires consideration of factors outside of the face of the judgment. Specifically, to determine whether Wright’s offenses were closely related in time, place, and circumstance, it is necessary to examine the charging informations and the specific facts underlying each count. 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. Thus, Wright’s argument is not properly presented by way of a motion to correct erroneous sentence. As a result, we cannot say that the trial court abused its discretion by denying Wright’s motion. See Jackson v. State, 806 N.E.2d 773, 774 (Ind. 2004) (holding that the trial court properly denied the defendant’s motion to correct erroneous sentence and noting that a motion to correct erroneous sentence is available only to correct sentencing errors clear from the face of the judgment); Bauer v. State, 875 N.E.2d 744, 746 (Ind. Ct. App. 2007) (noting that the defendant’s claims required consideration of matters in the record outside the face of the judgment and accordingly they are not the types of claims that are properly presented in a motion to correct erroneous sentence), trans. denied.

For the foregoing reasons, we affirm the denial of Wright’s motion to correct erroneous sentence without prejudice to his right to seek post-conviction relief.

Affirmed.

BAKER, J., and KIRSCH, J., concur.