

Aaron (Israel) Isby, pro se, appeals the denial of his Motion to Correct Sentence. He presents the following consolidated and restated issue for review: Did the trial court err in denying his motion?

We affirm.

In 1992, a jury found Isby guilty of two counts of attempted murder, class A felonies, and one count of battery, as a class A misdemeanor. These convictions were the result of events that occurred on October 12, 1990, while Isby was incarcerated at the Indiana Reformatory in Pendleton, Indiana. The trial court sentenced Isby to concurrent terms of forty years and thirty years in prison for the attempted murder convictions. The court further sentenced Isby to one year in prison for the battery conviction and ordered that it be served consecutive to the forty-year sentence for attempted murder. The trial court expressly awarded Isby “zero (0) days of pretrial detention credit.” *Appendix* at 20. This was apparently because Isby had been serving the sentence for his prior convictions¹ during the pendency of this case and, by statute, the sentence imposed was required to be served consecutive to the prior term of imprisonment.²

¹ At the sentencing hearing, the State indicated that Isby “is and has been in the process of serving the prior convictions and sentences.” *Id.* at 55. The trial court responded, “Yeah, so he gets zero days of pre-trial credit.” *Id.*

² The trial court explained at sentencing: “I’m required to link your sentence consecutive. I don’t think it’s discretionary when you, when you commit an offense in the Department of Correction it has to be a consecutive sentence.” *Id.* at 46-47; *see also* Ind. Code Ann. § 35-50-1-2(d) (West, PREMISE through 2006 2nd Regular Sess.) (if a person commits another crime “before the person is discharged from...a term of imprisonment imposed for the first crime...the terms of imprisonment for the crimes shall be served consecutively”); *Corn v. State*, 659 N.E.2d 554 (Ind. 1995).

Isby's convictions were subsequently affirmed by this court on direct appeal. *Isby v. State*, No. 48A02-9402-CR-58 (April 6, 1995). Thereafter, he filed a petition for post-conviction relief that, in 2001, was granted in part, resulting in his conviction for battery being reduced to a class B misdemeanor. His sentence for that conviction was, therefore, reduced to six months. On May 1, 2006, Isby filed his pro se motion to correct sentence, claiming he was entitled to "679 days credit for time served and credit time, by detainer, of pre-sentence time." *Appendix* at 23. The trial court summarily denied the motion on May 11. Isby now appeals.

In *Robinson v. State*, 805 N.E.2d 783 (Ind. 2004), our Supreme Court clarified the circumstances under which a defendant may raise sentencing errors in a motion to correct sentence. The Court held 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 statutory authority." *Id.* at 787. As to sentencing claims that require consideration of matters outside the face of the sentencing judgment (including those that only require review of the trial court's record), the motion to correct sentence is an improper remedy. *Robinson v. State*, 805 N.E.2d 783. "Such claims may be raised only on direct appeal and, where appropriate, by post-conviction proceedings." *Id.* at 787.

In the instant case, Isby alleges that he is entitled to credit for the time he served in prison prior to sentencing. He asserts the claimed error is apparent on the face of the sentencing judgment. On the contrary, Isby's motion clearly requires consideration of matters outside the face of the sentencing judgment to determine whether the trial court properly awarded him "zero (0) days of pretrial detention credit." *Appendix* at 20. Thus,

his claim may not be presented by way of a motion to correct sentence. *See Robinson v. State*, 805 N.E.2d 783. His motion was, therefore, properly denied.

Judgment affirmed.

KIRSCH, C.J., and RILEY, J., concur.